

# CONSTITUTION OF KENYA REVIEW COMMISSION

## NOTES ON RIFT VALLEY PROVINCE PROVINCIAL VISIT – 20.07.01

### CONSULTATIVE MEETING AT PATEL BROTHERHOOD HALL

#### PRESENT:

Prof. Yash Pal Ghai	-	Chairperson
Prof. A. Idha Salim	-	1 <sup>st</sup> Vice-Chairperson
Mrs. Abida Ali-Aroni	-	Vice-Chairperson
Pastor Zablon Ayonga	-	Commissioner
Dr. M.A. Swazuri	-	“
Mr. Isaac Lenaola	-	“
Mr. Riunga Raiji	-	“
Dr. Charles Maranga	-	“
Mr. John M. Kangu	-	“
Ms. Nancy Baraza	-	“
Mr. Ahamed I. Hassan	-	“
Bishop Kariuki Njoroge	-	“
Mr. Zein Abubakar	-	“
Dr. Abdirizak Arale Nunow	-	“
Dr. Mosonik arap Korir	-	“
Mr. Domiziano Ratanya	-	“
Hon. Mrs. Phoebe Asiyo	-	“
Mr. Paul M. Wambua	-	“
Ms. Salome Muigai	-	“
Ms. Kavetsa Adagala	-	“
Mrs. Alice Yano	-	“
Mr. Ibrahim Lethome	-	“
Mr. Keriako Tobiko	-	“
Mr. Arthur Okoth-Owiro	-	“

#### ABSENT WITH APOLOGY:

Dr. Oki Ooko Ombaka	-	Vice-Chairperson
Dr. Wanjiku Kabira	-	Commissioner
Mr. Githu Muigai	-	“
Prof. H.W.O. Okoth-Ogendo	-	“
Hon. Amos Wako	-	Ex-Officio

Com. Mutakha Kangu called the meeting to order at 10.15 a.m.

Mr. James Riria, District Commissioner, Nakuru welcomed the Commissioners and invited prayers which were said by a Christian and a Muslim. He then invited Com. Mutakha Kangu to proceed with the programme.

Commissioners introduced themselves.

Com. Mutakha Kangu then invited Prof. Yash Pal Ghai to make opening remarks.

Prof. Ghai said the Commission was visiting all capitals and it was happy to be in Nakuru. He said the purpose of the meeting was to tell the people its mandate and describe the work it has been given to do and the procedures set out for the work. The Commission is to give the people an idea of the constitutional issues that it has to examine and the timetable it has established for the review process. He said the Commission will be visiting all provinces and every constituency in order to receive opinions and recommendations from the people on the new constitution. He said the Commission is required to provide civic education so that all Kenyans are familiar with its mandate as well as have some knowledge of the present constitution. The Commission wants to find out how it can be provided and find out the role of social groups, CBO's, NGO's, religious groups, professional groups, women groups etc.

He said the Commission also has to establish documentation centres where material will be available and the public will be able to review progress of civic education process and become familiar with the work of the Commission. He said those present have been invited because the Commission believes they have a great deal to contribute to this topic.

He said the Constitution Review Act under which the Commission was operating places special importance on the participation of the people in the review process. People driven constitution meant that the most important element in the review process is the opinion of the people of this country.

He said this was the first time in the history of the nation that Kenyans have been given the opportunity to participate in the making of the constitution and for the Commission to pay attention to the views of the people and this is why it was called people-driven constitution. He said the present constitution was made in Lancaster House by a few leaders who met secretly. He said the Commission was taking its work very seriously and that it will only succeed if people participate fully.

He said when the Commission comes later to hear views, the people should speak from their hearts and tell the Commission what they see as problems in the present constitution and what problems they face in their every day lives because they have a chance to choose the values they want to live by, what institutions will be able to uphold those values and determine what kind of Kenya they want.

He said the review process starts with the work of Commission which is made up of 29 members two of whom are ex-officio members, the Attorney-General and the Secretary. He said although all the provinces are represented, the Commission does not represent any particular group and that they represented the people of Kenya. He said the Commission is independent and have a responsibility to make recommendations based on what the people tell it.

He mentioned two aspects of consultation with the provinces the first being that the Commission has to establish district documentation centers where the people can go and find out the progress it had made in discharging its work. He said there would be documents placed in these centers which will give people information about the work of the Commission and also documents that are received from all over the country so that people of one district can have an idea of what people in other districts are proposing.

Prof. Ghai said the second aspect was the establishment of constitutional forums at constituency level. He said the Commission has to visit every constituency to receive ideas at constituency level and before that visit, it will establish a mechanism whereby people can meet and discuss the future constitution which the Commission will receive during its visit.

He said that visit should be used to discuss the way in which these two institutions can be established as quickly as possible.

Then a number of meetings will be organised throughout the country where the Commission will seek people's comments on the draft constitution. Once this report is ready and people's comments have been received, the Commission will convene a national constitutional conference which will be a body of just under 500 people including all the Members of Parliament, three representatives from every district, representatives of religious groups, professional bodies, political parties, women's groups and NGO's. The Commissioners will be members but they will not have a right to vote. This body will have the primary responsibility for making decisions on the future constitution. If that conference is able to reach a consensus on the constitution the draft constitution will be sent to Parliament for enactment. If, however, the conference is not able to agree on the draft constitution, there will be a referendum at which all registered voters will be able to decide on which version of the constitution to adopt. He said the result of the referendum along with the draft constitution and the recommendations of the constitutional conference will be sent to Parliament so that the constitution can be adopted.

He said if there is a referendum, it will be the first time in the history of Kenya that there has been a referendum.

He said the constitution review process is divided into different stages. The first stage is one in which the Commissioners will study their own terms of reference, take steps to facilitate the participation of the people in particular by providing civic education so that people are familiar with the issues that have to be examined. The Commission has to write its report on the basis of the ideas the people give because it is the views of the people that must be reflected in the draft constitution. He said once the Commission has published its report and the draft bill, the first stage of the process comes to an end and using its own experience and as independent experts, the Commission will make recommendations. He said the Commission is supposed to be independent in its work, it does not take orders or instructions from anyone. He said the independence of the Commission is extremely important in ensuring that Kenya has a good constitution which reflects the diversity of the views of the people and which is rooted in the aspirations of the people.

He said the second stage of the process is negotiations which is where different groups will meet in the constitution conference and negotiate on the basis of the draft constitution. He said at that stage the importance of the Commission will be reduced and it will become a secretariat of the constitutional conference. The final stage he said will be enactment by Parliament. He said each stage has different mechanisms and dynamics but that at each level the people themselves will play an important role.

He said the Commission has been meeting to decide the time within which the whole process can be completed. He said the Act requires the Commission to complete the process by September 2002. If it is not possible for the Commission to do this despite working very hard, then after October this year it can request Parliament for extension of time. He however said that Parliament is not obliged to concede this request and that the Commission's primary responsibility at this stage is to make sure that it completes the process by September next year.

Prof. Ghai said that the Act said the constitution that emerges must ultimately be one which reflects the views of the people but also sets out some values and principles which must be included in the new constitution. He said these are about democracy, the rule of law, the protection of human rights and recognising the diversity of the people of Kenya. He said Kenya is made up of different communities with different religions, different languages, different traditions and the constitution must respect all these cultural, religious and social differences. These principles and values can be incorporated in the constitution in different ways and that is why consultation with the people becomes important. By way of example, he said the Commission is required to

make a constitution that is democratic but there could be many ways which are democratic e.g. the parliamentary system of government in India, the presidential system of government in America and the system in Switzerland of power sharing are all democratic. He said in the review process the Commission would seek the people's ideas as to what kind of democracy is most appropriate for this country.

He said the Commission is also required to make recommendations on the distribution of power because sometimes it is thought that too much power is concentrated in Nairobi and provinces and districts should be given power. He said there are many possibilities on the kind of system that should be adopted in the distribution of power. He said that although the Act sets out principles and values to be included in the constitution there are many choices to be made and this will be the responsibility of the people together with the Commission to develop these options and develop them.

He said the Commission will try to facilitate participation of people in the review process and under the Act it had to provide, conduct and promote civic education. This is education on the constitution, the role of the constitution, history of the constitution, different mechanisms that are used in constitutions to establish systems of governments, to subject the exercise of power to public scrutiny and accountability of officials to the public. He said there are other issues that are important in the process like relationships between different organs of government, for example, the Executive, Parliament, Judiciary, provincial administration and how they relate to each other is important to the constitution. He said that the Commission has to set up a mechanism whereby civic education can be conducted throughout the country and make sure that every part of the country, however remote, has an opportunity for civic education. He said the Commission wanted to discuss with the participants how civic education can be conducted. He said the Commission did not necessarily support the idea that the only people with knowledge are the people in Nairobi to come and tell the people about civic education. He said the Commission wants to find out the institutions that exist in the province and in districts that are able to conduct civic education. He said the Commission would very much like to use community based organisations like the ones represented at the meeting but that the groups used must have the capacity to do the work.

He said that in Commission meetings, a national curriculum has been developed as the Commission believed that the same issues should be discussed all over the country so that when it goes round the country it has a common frame work for discussion. He said civic education will have different stages to correspond to the stages of the review process. He said the first phase of civic education will focus on general civic education which is a broad introduction to constitution concepts. Before the Commission starts receiving people's ideas, it will have had discussions on the issues it is required to consider under the Act, for example, whether Kenya should be a unitary or federal state, what is the most effective way of protecting human rights, how can policy and institutions be arranged so that every Kenyan's basic rights are met, that is education, health, food, shelter. The Commission would like to stimulate public debate to find out what people think about these issues.

He said the second stage of civic education will be after the Commission's report has been published in that the Commission has to ensure that the people of Kenya understand the proposals it has put forward. The Commission will make summaries of the proposals and it would like to translate them into as many languages as possible. It will use the media, television, radio, newspapers and so on to explain its recommendations.

He said the third stage of the civic education will be if the constitutional conference rejects the Commission's recommendations

and substitutes them, it will make sure that the public knows about the changes made. If there is to be a referendum, the people of Kenya must understand the issues on which they are to vote and this will be very important because the people will decide directly by voting.

He said finally when the constitution is made it will be important that people's knowledge of the constitution continues to grow because a good constitution will only become effective if people understand and if they are willing to use the mechanisms that it provides. If it has mechanisms to protect human rights, rights of communities and rights about land, the people must know how to use it, how to complain and how to go to court. He said the institutions represented have a very important role to continue civic education after the constitution is put in place.

Prof. Ghai said that when the Commission goes to constituencies it will be listening to the people not to talk to them and it therefore wants to make sure that the process of civic education is effective. He said that people should speak very frankly from their hearts that tell the Commission what they find wrong with the present constitution and explain it in their own language, what they find wrong in their every day lives, relationships with the government, relationships with provincial administration, district administration, medical policies and what they would like to see in the future of this country. He said the Commission would make sure that these views are be accommodated in the new constitution.

He said under the Review Act, the Commission is required to complete its work by September 2002. In this respect, the Commission has drawn up a Strategic Plan setting out a timetable for the review process. He said the law also give the Commission authority to request for extra time if it does not finish its work on time but that there is no guarantee that this request would be granted. If the Commission has to ask for extension of time, it may have to recommend to Parliament what to do in the interim because this will mean that the work of the Commission will not be complete. He said the Commission will discuss with the people what should happen in terms of elections. He said there are different options like if Parliament should be extended, or have elections and the work of the Commission continues after the elections. He gave an example of South Africa when they were not able to finish the review on time and they decided to have an interim constitution which he said was not the same as minimum changes. The Commission can also recommend a government of national unity. He, however said the Commission was not thinking about these options at the moment because it intends to work very hard and finish its work by the time stipulated. These questions will only arise if the Commission is unable to meet the deadline. He said that at every stage the Commission will refer to the people.

He ended by emphasising responsible reporting on the part of the media. He said the work of the Commission is very sensitive and irresponsible reporting can do a lot of damage. He referred to two items appearing in the press which were misreported in the People and the Nation. He said provincial administration has a very important role to play in the Commission's work in providing infrastructure so that everyone has access to documents.

Prof. Ghai acknowledged the presence of Ministers Biwott, Sunkuli and Kosgey who had joined the meeting.

Com. Mutakha Kangu then invited Com. Abida Ali-Aroni to give a Kiswahili translation of the Chairperson's speech.

Com. Mutakha Kangu said that those people who did not have a chance to speak at the County Hall would be given a chance to speak at the stadium and invited Com. Yano to conduct the proceedings of the forum.

Com. Yano thanked everyone who was present for coming and requested them to speak only on civic education, constituency

forums and documentation centres and timeframe.

The districts represented included Kericho, Laikipia, Kerio, Nandi, Kajiado, Narok, West Pokot, Baringo, Samburu, Trans Nzoia, Uasin Gishu, Bomet, Trans Mara, Marakwet, Gureet and two other districts. Groups represented were Cabinet Ministers, MP's, Provincial Administration, NGO's, institutions of higher learning, teachers' organisations, religious organisations, women's organisations, youth organisations, political parties, CBO's, people who were at Lancaster House, local authorities, parastatals, professional bodies, people with disabilities, pastoralists, indigenous groups and people from the informal sector.

**Joshua Toroitich** of Nakuru thanked the Commission for going to Nakuru and assured it that they had confidence in the Commission. He appreciated the fact that Parliament had entrusted the Chairperson to conduct this very special process.

On civic education he said the Commission should establish centres in every location to serve as field collection centres to which the common mwananchi can take his views. He said many Kenyans do not understand the present constitution and he knows it has disadvantages and advantages. He said amendments should be made to the present constitution to enhance democracy, human rights and cultural issues. He said people have diverse views which they can only give through locational forums. He said Nakuru is a cosmopolitan town with different cultures and values and that the new constitution should enhance all these values so that people can live together. He said if the Commission is not able to finish its work on time, minimum changes should be made and elections should continue as scheduled.

**A speaker from Nakuru** said human rights and democracy should be strengthened. On timeframe, he said the Commission should try to finish its work on time and find ways to collect views from the people and that Parliament should be limited to five years and not to be extended.

**Magdalene** representing of National Council of People of Kenya and Maendeleo ya Wanawake appreciated the appointment of women Commissioners. She said civic education should be at grassroots and it should be done by local NGO's and CBO's because they have methods of conducting this education and they know where everybody is located. She said documentation centres should be in schools, chiefs' and DO's offices. With respect to timeframe, she said if the Commission has not completed its work there should be minimum reforms and elections should be carried out as scheduled. She said power is centralised in Nairobi and this power should be taken to the people and she proposed a majimbo government.

**Joseph Kirui a District Youth Leader from Kericho** said civic education should go to every tribe and enhance all their cultures and it should be carried out by people from those tribes. There should be a uniform curriculum. NGO's and CBO's carrying out this education should be local and not brought from Nairobi. He said the Commission can ask for extension but elections should go ahead next year. He also said that people have been reading about problems in the Commission and asked that if there are problems, they should not be publicised because this makes people lose respect for the Commission.

**Peter Koech of Kericho** said the old constitution is very selfish and that under Prof. Ghai there will be a better constitution in this country. He said civic education should be done at locational level by religious organisations, women organisations and agricultural bodies. He said documentation centres should at district level and that Parliament should not be extended.

**Councillor Rono of Kericho** said civic should start in rural areas from the grassroots. He said Parliament should be extended. (Shouting).

Com. Yano said if there is so much shouting, nothing will be achieved and that everyone is free to express their views.

**J. ole Sairwa, Chairman Trans Mara County Council** said civic education should be done by people chosen by residents especially religious groups like SDA, AIC and other churches that have many followers. It should also be conducted by already existing NGO's that are known by the residents and Councillors. If the Commission has not finished its work the people should be asked what they want.

Com. Yano asked people with memoranda to hand them in.

**The Chairperson of Maendeleo ya Wanawake, Trans Mara**, said civic education should start at grassroots level by local NGO's because they are familiar with the local people. If the Commission does not complete its work on time wananchi should be asked whether the time should be extended or not.

**David of West Pokot** said people should be given the curriculum for civic education so that they can discuss it. He said civic education should be done by local organisations that already exist like churches, NGO's. It should be done through KBC radio which reaches many areas. He said documentation centres should be at locational level. On timeframe he said Parliament should not be extended.

**Mrs. Katina of West Pokot representing CBO's** said civic education should be conducted at grassroots and power should be taken to the people and not concentrated in Nairobi and Nakuru so that wananchi will know what their government is doing and how it is spending government money. She said if the Commission does not completed its work on time there should be minimum changes and elections should go ahead.

**Dr. Misoi former Member of Parliament from Uasin Gishu** congratulated Prof. Ghai for bringing the two commissions together. He said people can now see a light at the end of the tunnel and the Commission should try and finish its work on time. He said Kenyans know their rights and they know what they want. He said civic education should be at grassroots level and conducted by women's groups, youth groups and religious organisations. He said all civic education materials should be translated into the mother tongues of the people so that can understand. He said documentation centres should be at divisional

level, district level and locational level. The media should be used to disseminate this education and that there should be a local curriculum and not a national one. He said the constitution should be translated into the language of the people. He said if the Commission has not finished its work there should be minimum reforms and that it is not right that the President leaves the seat before the constitution is amended as this will confuse the people.

**A lady from Uasin Gishu representing Maendeleo ya Wanawake** said this animal called constitution is not know at the grassroots and that that is where civic education should start because divisions and districts are too large. She said she wanted a constitution for everyone, youth and mothers and there is KBC radio and local NGO's to conduct this education. She said women affairs should be given attention and power should be decentralised.

**A youth member from Samburu** said civic education should be done by churches, teachers and administration and it should start at sub-location level. It should be done in local languages by local people so that wananchi can understand.

**A speaker from Samburu** said that children's issues should be taken into consideration and that NGO's and institutions dealing with children affairs should be given a chance to give their views as children have been forgotten in the current constitution.

**M. arap Maina from Keiyo** said documentation centres should be decentralised to locational level so that wananchi can have a say and they can have easy access to the centres and that these centres should have all the material required for civic education. He said civic education is very important because people are supposed to understand what they are doing. He said this should be done from the grassroots by churches, NGO's and CBO's and in the language that local people can understand. He said he does not want partisan NGO's to be brought in for this exercise. He said local people should be consulted on constituency forums and he preferred majimbo government. He said Kenyans should make their own constitution without referring to constitutions from other countries.

**Mrs. Rhoda Masit of Maendeleo ya Wanawake, Keiyo** said she was happy to see Prof. Ghai whom she had only heard about. She said civic education should at sub-location level by local people and in local languages. She said there are NGO's that just propose projects but when they are given money the projects never take off and so they should not be involved in this education, She said Parliament should not be extended and the Commission should complete its work.

**John Kiplagat arap Koech of Nandi** commended Prof. Ghai and the Commission for the work they are doing. He said reviewing the constitution is very important and it should be done carefully. He said Kenyans should use the existing laws, the laws in the Bible and that elections should go ahead and review process done slowly. He preferred majimbo government.

**Senior Chief J. Sugut of Nandi** said Prof. Ghai had spoken well and that civic education should be done in local language



that the local people can understand because many people do not understand the constitution. He said documentation centres should be at grassroots level and enough material should be available because the new constitution will be for young people and their children and therefore they must understand the constitution. He said the local people are ready to help the Commission to make a people-driven constitution.

**Councillor Daniel ole Muyaa of Kajiado** thanked the Commission for going to Nakuru to hear people's views. He said civic education should be done at divisional level and down to locational level in the local language so that the local people can understand. He said the constitution should be amended so that there can be national unity. He said Parliament should not be extended. On time frame he said if the Commission does not finish its work on time, elections should go ahead and the review process should continue. He said if the president is popular he should continue his work and if he is out of the country, the vice-president should not be acting president but that the Speaker of the National Assembly should act for a period of 90 days because he is an impartial person. He said documentation centres should be at divisional level and the chairmen of local authorities and mayors should be elected by the people direct.

Councillor Daniel Lasso of Kajiado said civic education should not be done by NGO's or churches because they have become business enterprises. He said NGO's and churches should provide CBO' with transport in order to conduct civic education. He said during the work of the Eradication of Poverty, CBO's mobilised the whole district in two weeks and this should also happen with the work on the constitution review. He said documentation centres should be at village level and information should come direct from the Commission because if there is anyone in between there is always breakdown of communication and the local people do not get the right information. On timeframe, he said Parliament should not be extended and the best constitution is the one that supports majimbo.

**Joseph M. of Lodwar** said if a president is good he should not be removed from power. He said civic education should start at the grassroots so that the local person will know what is going on and it should be conducted by local people.

**Agnes Chacha of Turkana District** said civic education should first be taught to students and children in schools because this constitution is for their future.

**James Cheboi of Marakwet** said the people believe that the Commission will lead them through the review process to a good constitution. He said to make a good constitution will take a long time and the time given to the Commission is not enough because this could make the Commission rush through the process. He said some of the local people need a long time to be taught civic education before they can participate in the process. He said the time for the work of the Commission should be extended. On documentation centres, he said these should be at locational level because this where views of the local people can be obtained. On constituency forums, he said these should be through location barazas and all resources should be put into this exercise in order to get a people-driven constitution. He said civic education should be conducted by local people like

local-based NGO's, churches, etc.

**Kipkoech** said civic education should be conducted in every location by local people and that NGO's and DO's should not be used. He said the Commission should draw up a uniform, national curriculum for civic education. He said in Kenya there are a lot of people who understand the constitution like retired teachers, KNUT and so on. On documentation centres, he said these should be at county council centres and not at provincial administration offices because wananchi fear these offices. If the Commission does not finish its work on time, he said elections should not go ahead with the present constitution which Members of Parliament have taken advantage of. He said there should be an interim constitution to enable the Commission to complete its work but elections should go ahead as scheduled.

**Josphat Ng'ang'a of Laikipia** said civic education can be hijacked if it is conducted by the provincial administration, NGO's or politicians and that these bodies should keep off from this process. He said that when there is a constitution that protects the rights of an individual then there can be national unity. He said the people do not want to read headlines which say things like "The people of the Rift Valley decided-----" and that civic education should be done by local people at the grassroots level. He said the people believe that the Commission will finish its work on time but if it does not there should be minimum reforms but Parliament should not be extended and different people should have a chance to go to Parliament.

**David from Nanyuki** said there are people with disabilities in Kenya but there was no interpreter at the meeting. He said civic education should be conducted by all Kenyans irrespective of who they are. Civil services offices and schools can be used for documentation centres from where all local people in the location can get it. He said there should be a uniform national curriculum. If the Commission has not finished its work, he said there should be a national referendum and Kenyans should decide whether elections or a new constitution first.

Harold Kipchumba of Baringo said the agreement reached at Safari Park should be followed that civic education should be conducted by three people at location level and this number should include a woman and a youth. These people should not be in the provincial administration or politicians at the local level but should be people of integrity, morally upright and people with knowledge. He said locals do not get involved in civic education because of lack of communication and suggested that material should also be in Braille so that blind people can also read it. He said provincial administration and NGO's should not be allowed to conduct civic education because they only appear to help during elections and do not help the people. This work should be done by CBO's. On documentation centres, he said there are national libraries, district documentation centres but that Kenyans do not read and that the Commission will have to work out a strategy on how to get material to the people and suggested that volunteers can be used to take them to the people. He said facilities must be accessible to people with disabilities and mentioned the change in venue of the meeting that day. He said Parliament should not be extended.

**Mr. Henry arap Cheboiwo from Kabartonjo** commended Prof. Ghai for his work and said Kenyans have told what to do

for a long time but now they have a chance to make their own constitution. He said Kanu start from the grassroots, goes to locations, divisions and districts and civic education should be done in the same way and by the local people. He said the Commission should finish its work and it has the support of the people. Parliament should not be extended but the review process should continue.

**Councillor Ole Nampaso, Chairman of Narok South** said documentation centres should be at location level. Parliament should not be extended. He said people have confidence in churches and in teachers and they will be able to conduct civic education in local areas and in local languages. On constituency forums and the national forum he wanted to know who will choose people to man them and suggested that wananchi should elect their own representatives at location level. He said provincial administration and county councils should not be included in the constitutional review process because if they cannot manage their own affairs they cannot manage the process review.

**Lorna from Narok** congratulated the Lady Commissioners. She said documentation centres should be at locational level so that every mwananchi can be informed. She said materials should be translated into local languages and Braille. Civic education should be done at grassroots level by local people. Women and old people should be given special consideration and that Parliament should not be extended.

**Samuel Moibei of Trans Nzoia** said he wanted a constitution that protects smaller tribes. He said NGO's should be struck out from the review process. He said Kenyans at the grassroots know what they want and civic education should not be done by churches because some churches worship the devil. He said there are many communities in Rift Valley and they wanted to live in peace and everyone should be given a chance to say what they want.

**A lady speaker from Trans Nzoia** said the constitution must be changed and civic education should be done from the grassroots. It should be conducted by volunteers, retired teachers and retired civil servants who are ready to do it without payment. She also said some NGO's are doing good work at grassroots level and those who are able should be allowed to conduct civic education as well. She said Parliament should not be extended.

**Joseph arap Moge of Bomet** said there is no freedom in Bomet, they do not see their brothers from Baringo and they wanted majimbo government. He said Parliament should not be extended.

**Joseph Naboso** representing people with disabilities said civic education for disabled persons should be considered. In the constitution there should be a clause to protect people with disabilities. The blind and the deaf should be given interpreters so that they can understand what is going on. They should be allowed to enter universities and colleges. People with disabilities should also teach civic education.

**Richard Chesang of Koibatek** said civic education will be delayed if it is done by NGO's. It should be done by teachers and lawyers and educated people. He said the term of Parliament is laid out but that the people who made that rule have broken it and that he would like a regional government. He said the Commission should not be scared of doing its work and it should complete the process.

**Philip arap Seroney from Koibatek** congratulated the Chairperson for clarifying the stand of the Commission because the media has sent wrong signals to the people. He wanted to know what the donor community has to do with the Commission although the Chairperson says the Commission is independent. He said the donor community should be left out of the Commission. He said civic education should be done at the grassroots and by retired civil servants and teachers and unemployed graduates. CBO's and administration should not be used. He said NGO's and churches have become political and the people should be left to decide what they want. He said Parliament should not be extended and elections should be conducted on 29<sup>th</sup> December, 2002.

**Salima Suge of Maendeleo ya Wanawake** said civic education is understood by many people but said that in districts there should be meetings for women only on civic education because even from the women representation at the meeting, it was clear a lot of women do not understand civic education. She said this should be taken to the women at the grassroots. She said there is a lot of poverty because the people elected go to make money and they don't care about women affairs. She said she preferred majimbo so that women affairs can be attended to. She said the people who conduct civic education should be respected people in the local areas.

**Edwin Kimetto of Nguret** said in many occasions Kenyans are not sincere to themselves. He said that a few years ago some people said they wanted people-driven constitution while they had already prepared a constitution. He said he wanted to know if the Commission is sincere about finishing its work next year, whether it will be acting independently and prepare a constitution based on the views from the public. He said independent Kenya has not had a constitutional review and therefore the process should not be rushed and the Commission should complete its life. He said the process should not be tied to the 2002 elections but the Commission should produce a good constitution. He said civic education should be done at district centres with district coordinators who are respected within the district. There should be facilitators at trading centres and civic education should be done by teachers because they will not be biased. He said people trust their children with teachers and therefore they can trust them to conduct civic education. He said the curriculum should be simple and workable. He asked the Commission to start working immediately with the money available, it should not be divided because it has been appointed by an Act of Parliament and it should work independently.

**Cecilia Ngetich of Nguret** said while documentation centres should be at locational level there should be pamphlets to be distributed in schools because once the children have understood civic education they can explain to their parents. She said offices should be opened at locational level where people can seek further information. She said there are certain cultures that

do not allow women to express their views and that should be considered and maybe isolate women into groups and have a woman leader to collect their views. She said NGO's and churches should not be condemned wholesale because some of them have done very good jobs and these should be identified and given an opportunity to teach civic education. She said local comedians like Vitimbi should be used to teach through their comedies.

**Hon. Sunkuli** said that after the people have spoken, Members of Parliament have very little to add. He said although they have offices in Nairobi they speak the language of the people. He said the people have said there are ways in which civic education cannot be conducted and that it should be conducted by the people themselves. It cannot be said that there are not enough Turkana to train Turkana because there are those who are educated enough to do the training. He said there are many artificial NGO's who have been promoted and that if NGO's are to be used, they must be NGO's in the actual districts. He also said some churches have become partisan and they speak the language of politicians and anyone not prepared to be neutral should not be allowed to conduct civic education. He said the Commission is supposed to be a fair Commission and when it goes round the country it should not collect views that have undergone the process of cross pollination where people from one province have come and pollinated the people of another province because this will mean that the Commission is collecting the same views. He said the people have to be assured that political cross pollination of ideas does not happen. He said the strong churches who have been called stakeholders, have not played their role in areas like Kisii and Trans Mara and that the churches in those areas are the ones who should be involved in civic education. He said civic education is the most important part of the review process and before the Commission starts collecting views from the people, they must be taught about the constitution and taught correctly. He said there groups that are ready to be used like retired teachers. He said although there are people who do not like provincial administration in some areas one cannot hold a meeting without the leaders of that area and there are areas where chiefs are the popular leaders and if is used, the process will succeed. He said local leaders will call barazas to tell people about civic education. He gave an example of Masailand where the people who do not go to church are more than the people who go to church and that a comprehensive network should be developed that will enable everyone to get information.

**Hon. Biwott** welcomed the Commission to Rift Valley . He said the people knew that the Chairperson was a highly reputable individual as a Professor and a man who has participated in similar process elsewhere and that his participation in this process will enhance the status of the review. He said that MP's have grown up in their areas and when they speak they reflect the people's views. He requested that the Chairperson's opening remarks should be circulated to Kenyans. Hon. Biwott said he was happy to hear the Chairperson's clarification on several issues like advocacy and that the Commission is independent. He said in this country there are some provinces that do not appreciate the role of chiefs and they have reasons for this, and others appreciate the role of chiefs. He said there is a lot of distortion of ideas by people who move from one province to another and everyone should stay in their own areas and keep their opinions there. On the question of partnership, he said that the people must feel that their views are being considered and this will be reflected in the final product.

He NGO's are not interested in serving the mwananchi and are only motivated by money and civic education should be done

by volunteers from the local community at locational level.

He said what is needed is a dynamic political system which will fit in the global world and for this purpose people should be given a copy of the Lancaster House constitution so that they know what sections to address. He said the people would like to see a parliamentary system of government and that wananchi should have access to the processes that affect their daily lives. There should also be checks and balances which will guarantee human rights of every individual and every marginalised group and politics, whether through churches or whatever organisation should be avoided to make the system neutral. He said the Commission should set an example by having unity among themselves.

**Hon. Kosgey** said he wanted to be sure that the Commission was actually independent and prepared to collect and collate views from all Kenyans irrespective of the social standing. He said the Commissioners come from a Kenyan society that is biased and that they should divorce themselves from politics and do a job that will be appreciated by all Kenyans.

On civic education, he said that the Commission should have produced the curriculum mentioned so that the leaders will ensure that what is contained therein is what they would like their people to go over. He said he wanted to know that there is no imposition of ideas on the people and he asked who had drafted the curriculum. He said civic education has already been hijacked and people are teaching their own things and that civic education should be done by the local people and not by NGO's.

## **NYAYO GARDENS, NAKURU – P.M.**

The meeting assembled at 2.30 p.m.

Com. Kangu welcomed those present and asked that the first stanza of the National Anthem be sung by way of prayers. Commissioners introduced themselves.

### **PRESENT:**

Prof. Yash Pal Ghai	-	Chairperson
Prof. A. Idha Salim	-	1 <sup>st</sup> Vice-Chairperson
Mrs. Abida Ali-Aroni	-	Vice-Chairperson
Ms. Salome Muigai	-	Commissioner
Ms. Nancy Baraza	-	“
Mr. Ahmed Isaac Hassan	-	“
Mrs. Alice Yano	-	“
Dr. Mosonik arap Koech	-	“
Mr. Ibrahim Lethome Asman	-	“
Hon. Mrs. Pheobe Asiyo	-	“
Dr. Abdirizak Arale Nunow	-	“
Dr. Charles Maranga	-	“
Ms. Kavetsa Adagala	-	“

Dr. M.A. Swazuri	-	“
Mr. Domiziano Ratanya	-	“
Mr. Mutakha Kangu	-	“
Mr. Abubakar Zein Abubakar	-	“
Mr. Isaac Lenaola	-	“

Com. Kangu reminded those present that the topics were civic education, documentation centres, constituency forums and timeframe for the Commission. He invited Com. Mosonik to conduct the forum.

Com. Mosonik invited the people to give their views according to group representation but the people said this was a “raia” forum.

**Mr. Onchiri of Nakuru** thanked the Commission for coming to Nakuru and commended Prof. Ghai for the work he has been given. He said civic education should be conducted by recognised NGO’s at locational level and taught by respected retired teachers. He said elections should go ahead as scheduled and if the Commission has not completed its work, it should go back to the people to request extension. He said he wants a constitution that will guide this country for a long time. He said the Chairperson should assure the people present that the constitution will go to Parliament after completion and not get lost like has happened with reports of other commissions.

**Kasangani of Ongiek Community** said civic education should be conducted in every community. He said even in the Ongiek community there are people who are literate and they should be taught about the constitution and given a chance to give their views. He said Ongiek community has been disinherited and they live in the forest and this is because of a bad constitution. He said civic education should be in the local language and done by young people who are unemployed. He said Parliament should not be extended and said that the Commission has the people’s mandate and they should not fear. He asked the Commission to sort out their differences quietly and not make them public.

**Selina Sego** said the people of Nakuru were happy to see Prof. Ghai and Commission in Nakuru. He said when civic education goes to districts, divisions and locations, women, young people and the elderly should be given special attention. She said this education should be conducted by young school leavers and women and men of local areas. She said there should be no outsiders working on the constitution because the people had confidence in Prof. Ghai and the Commissioners. She said Parliament should not be extended.

**Susan of Ongiek Community** said the community should be represented in Parliament and that chiefs should not be selected by the DC but they should be elected by the people and serve for five years.

**A speaker from Laikipia** said civic education should be done by everyone who can teach, be it churches, mosques, NGO’s because Kenyans are wise people and they will take in the good things. He said he does not want majimbo at the moment. On documentation centres, he said these should be at chiefs centres. Civic education should be done on all radio stations, not on

KBC, and by matatu posters. He said there is no union between Parliament and the Commission and Parliament should not be extended and the Commission should ensure that there is a constitution in place by next September.

**Barnabas Kiplagat** said civic education should be done by NGO's because government has no money and this body will do the job without payment. Churches should also do this job because they have money and they have followers. He said the Commission should finish its work in the stipulated time. He said civic education should be done through the radio and television.

**Lawrence Gitobu, Methodist Church Kajiado** and also representing NCK, Kajiado said civic education should start at the grassroots and the Commission should work with the NGO's to train young people to do this job at locational level and in local languages. He said documentation centres should be in churches and asked all Kenyans to pray for this process.

**Issa Gichangi of the Muslim community** commended the Commission for its work. He said Kenyans want one Kenya, one government, one president for two terms. He said the Commission should not change the people's views. He said civic education should start at the grassroots level and in mosques. He said the Commission's report must be given to the people first so that they can ensure that it contains their views. Elections should go ahead and the Commission left to finish its work and the new constitution should not be amended in Parliament. Documentation centres should be in churches, mosques, social halls and in public barazas for those who have no religion. He said all Muslims wish the Commission well and they are praying for them.

**Irene Kendabosi of Marakwet** said civic education should start at grassroots level by local people: young people, old people and women can do this work without interference. Documentation centres should be in every district because from there it will go to every division and every location in that district and also in churches and schools. Term of Parliament should be two terms and she said there should be majimbo.

**Nicholas Muchemi representing people with disabilities** said there is no mention of people with disabilities in the constitution and they are treated like outcasts. He said they should be considered and given seats in Parliament and county councils. He said they should also get 10,000/= each per month. He said civic education should be done in churches and mosques and documentation centres should also be in churches and mosques.

**Daniel of Uasin Gishu District** said civic education should not be done by NGO's as some of these are one-man offices. These should be done in a neutral, transparent manner at locational level and through provincial administration. (Shouting). The new constitution should have a clause saying that if Parliament is to be extended there has to be a referendum. He said documentation centres should be through radio stations and people who want to have pamphlets for civic education should be allowed to do so. He said constituency forums should be through identified people according to their knowledge.



(Shouting)

**Kibue Wahome, Manamba** commended the Chairperson and the Commissioners for coming to Nakuru. He said they should also be represented in civic education. (Shouting)

**Dominic Omende Bula** said NGO's and churches may not have the ability to disseminate civic education as required and said he did not want people who can be compromised. It should be done by organisations that are free and fair. Documentation centres should be at places selected by wananchi. He said Kenya has a lot of money and the Commission should not say there is no money for its work and the Commission has the people's mandate. He also said the constitution should be completed by September next year and Parliament should not be extended.

**Beatrice Wambua** said in civic education the youth and the children should not be forgotten because they are the ones who will be affected by the constitution in 20 or 30 years to come.

**Simon Morara** said civic education should not be done by provincial administration but by churches and mosques. He said documentation centres should be within churches and mosques. He said the Commission should be independent and told Prof. Ghai that although the people have confidence in him some of the Commissioners may not be genuine and may have godfathers but that they should remember they are answerable to the public.

**Hon. Manyara, M.P. for Nakuru** welcomed the Commission to Nakuru. He said civic education should be conducted in churches, mosques, NGO's, professional bodies and retired teachers. He said it should also be done by representatives of all political parties so that everyone is represented in this exercise. He said Parliament should not be extended. He said in municipal and county councils, offices should be identified as documentation centres manned by independent people. He said the constitution is for all tribes in Kenya and in the review process, people should bear that in mind.

**Mama Chelaite** commended the Commission for coming to Nakuru when it said it would and commented about the change of venue of the meeting. She said civic education is very important but people do not know what it is because people have not been exposed to it in Rift Valley Province and said it should start at the grassroots and people should be told how long it will take. She said the curriculum should be circulated as soon as possible so that people can read for themselves. She said there should be special forums for women because in some areas tradition does not allow women to speak in the presence of men. Also there should be special forums for people with disabilities. She said documentation centres should be at division level because locations are very many. They should be in institutions that represent the interests of a lot of people like churches, schools and mosques. She said when people hand in memoranda to the Commission, they should hand in two copies which will be stamped and one copy returned to the presenter so that memoranda cannot be changed. All the documents should be in all languages so that people can understand. She said the time stipulated is not enough because if the process is rushed politicians

will interfere with it and manouvre the elections. She said Parliament term should be 5 years only. She said Prof. Ghai has taken a long time to put the people together and the Treasury should give the Commission enough money to finish its work. She said women's interests should be given attention in the new constitution.

**Shikuku of Youth Reconciliation Awareness Forum** said this is the most important process in the history of this country. He said there are a lot of organised youth groups who will conduct civic education and make sure it reaches everyone in this country. These are a unemployed youth who have gone to school, who know what is required and they have the capacity. He said documentation centres should be in offices of local authorities where they can identify offices for this work, schools and churches can also be used. He said if the Commission does not finish its work on time, elections should go ahead and the Commission's work should continue but Parliament should not be extended.

Com. Mosonik invited Prof. Ghai to say a few things.

**Prof. Ghai** first apologised to those present because of change of venue of the morning's meeting without notice. He said the Commission was very happy that so many people have attended the two meetings and noted the enthusiasm with which they have participated in the proceedings. He said they have expressed their feelings with great vigour and that this was extremely good for the process. He said if they continued with the same degree of interest in the process Kenya will have a good constitution. He reiterated that the responsibility of making a good constitution is heavier on the people than on the Commission and that for the process to be people-driven, the people have to continue to take an interest in the process and be as vigourous as they were in expressing their ideas. He said the Commission was very encouraged by the people's responses, by their participation and that it will come back to receive their ideas. He said the Commission would also take two copies of the memoranda and assured them that everything they present will be entered in a register and available to anyone in the country or overseas who wants to see the evidence given and all the memoranda will be placed in the documentation centres. He said the Commission has no intention of hiding any memorandum or change it.

He said the Commission had gone to Nakuru to listen to the people and not to defend itself or answer back. The Commissioners were taking notes of what was said and when and after all the provincial visits the Commission will study all the ideas that have been put forward which are very interesting. The Commission will think about them before making the final plan for civic education and other aspects of its work.

From the provincial meetings the Commission has had, it had become clear that civic education has become a matter of great controversy. Prof. Ghai said he had worked in many countries on constitution making and civic education has never been as controversial as it is in Kenya. He said this was because of the political divisions in the country. He said the people should let the Commission develop a programme after hearing views from the whole country which takes into account the interests of all Kenyans. He said an important part of the work of the Commission is to try and find common ground in all points of view. He hoped the people will trust the judgement of the Commission and its independence when it announces the programme for civic education. He said the Commission wanted to provide a system which is fair, which does not attack or defend the government

or any other group and that it has some idea of civic education that will best promote the review process. He said while the Commission was glad to hear views, he hoped the people will not put too much pressure on it. He repeated what one Minister had said in the morning that the Commission was completely independent on the one hand and the very next moment said he would veto the curriculum if it does not suit him. Being independent means not to put too much pressure on the Commission and that people should leave the Commission to do its work as an independent body but that they should participate in it because it is important to find a system where everyone has a role to play either as a provider or recipient of civic education.

Prof. Ghai said although it is not easy to be independent in a country like Kenya, the Commission will ensure that it maintains its independence despite any pressure that can compromise its integrity. He however said this will only happen if the people become involved in the process and that the independence of the Commission is in the hands of the people. They have to be involved in a transparent way so that everybody can see what is going on.

Prof. Ghai said it is difficult to tell how long the process will take. The Commission thinks it can complete its work in the stipulated time but it will review progress and the different targets it has and if it appears that more time is needed, the Commission will not hesitate to request for extra time. He said the Commission will not take any short cuts and that all the people will be given opportunity to express their views. If more time is required, the Commission will have to demonstrate that it has done its best.

He said the current meetings and the meetings that the people will have in constituency forums are meetings to exchange ideas. He said that at the moment the country is divided and there are a lot of views on different matters and that the only way the review process will be successful is if these differences are respected. He said these meetings should not be used to insult other people and all groups should be respected and a way for a consensus should be found. This is the only way a good constitution can be made and a foundation laid in society in which a good constitution can grow.

He concluded by thanking the people again and said the Commission looked forward to coming back to receive their recommendations.

**Com. Abida Ali-Aroni** gave a Kiswahili translation of Prof. Ghai's remarks.

**A speaker** asked who the Commission answers to or if anyone can dismiss the Chairman or the Commission at any time?

**Prof. Ghai** said the Commission works under the institution of the Kenya Review Act and that it is independent under that Act and nobody can give it direction. He said the Commission reports to the people of Kenya and that it will give its report to the people to study over a period of two months and give feedback to the Commission.

The meeting closed at 6.00 p.m.