

CONSTITUTION OF KENYA REVIEW COMMISSION

NOTES ON WESTERN PROVINCE

PROVINCIAL VISIT – 25.07.01

CONSULTATIVE MEETING AT KAKAMEGA TOWN HALL

Meeting started at 10.00 a.m. with a Christian and a Muslim prayer.

Com. Mutakha Kangu (MC) welcomed the participants to the meeting. He also recognised the presence of Members of Parliament Hon. Munyasia and Hon. Anangwe and the Mayor of Kakamega.

PRESENT:

Prof. Yash Pal Ghai	-	Chairperson
Prof. A. Idha Salim	-	1 st Vice-Chairperson
Mrs. Abida Ali-Aroni	-	Vice-Chairperson
Prof. H.W.O. Okoth-Ogendo	-	“
Ms. Nancy Baraza	-	“
Mr. Ahamed I. Hassan	-	“
Dr. M.A. Swazuri	-	“
Ms. Kavetsa Adagala	-	“
Mr. Domiziano Ratanya	-	“
Ms. Salome Wairimu Muigai	-	“
Mr. Isaac Lenaola	-	“
Hon. Amos Wako	-	Ex-Officio
Pastor Zablon Ayonga	-	Commissioner
Dr. Mosonik arap Korir	-	“
Mr. John Mutakha Kangu	-	“
Dr. Abdirizak Arale Nunow	-	“
Mr. Abubakar Zein Abubakar	-	“
Mr. Ibrahim Lethome Asman	-	“
Bishop Kariuki Njoroge	-	“
Mr. Paul M. Wambua	-	“
Dr. Charles Maranga	-	“
Mrs. Alice Yano	-	“
Mr. Arthur Okoth-Owiro	-	Commission Secretary

ABSENT WITH APOLOGY:

Dr. Oki Ooko Ombaka	-	Vice-Chairperson
Dr. Wanjiku Kabira	-	Commissioner
Mr. Githu Muigai	-	“
Mr. Keriako Tobiko	-	“
Hon. Mrs. Phoebe Asiyo	-	“
Mr. Riungu Raiji	-	“

Com. Mutakha Kangu invited Prof. Ghai to give opening remarks.

Prof. Ghai said the Commission welcomed the participants to the meeting. He said this was the fifth provincial visit and that

the Commission will be returning to all districts and all constituencies later in the year to receive recommendations and suggestions from the people.. He said the purpose of the visits was to meet with the people to tell them about the mandate that Parliament has given to the Commission, its responsibility in the review process and to give the public some idea of the process and the procedures to be followed. He also said the Commission had to come to hear the views of the public on the process and talk to religious, professional and social groups that have an interest in providing civic education or becoming involved in the review process. He said the Commission would also talk with provincial administration on its needs like providing documentation centres, disseminating information about the Commission's work and to set up mechanisms for consultation with the people.

Prof. Ghai said the Legislation requires the Commission to visit every constituency in the country seeking public opinion and it has to establish a constitutional forum in every constituency which will be the basis for discussion among the constituents about the review and their ideas about the new constitution. He said this aspect of the Commission's work is very important and the Commission would like the people's idea on how to organise these forums and how information can be disseminated. The Commission also wanted to know how to make available the documentation that it produces and the documentation that is given to the Commission by other people in the country. He said the Commission would like to share with all Kenyans the information that it gathers.

Prof. Ghai said the Commission wants to establish contact and begin to think how it can discharge its obligations. He said after the Commission has listened to the people, it will take the information back to Nairobi and after considering all the information received, it will finalise the programme of civic education and consultation with the people. He said the Commission will undertake longer visits later in the year when it visits every constituency after there has been opportunity for people to become familiar with the Commission's process and terms of reference.

Prof. Ghai said the Commission operates under Review Act and its responsibilities include stimulating public awareness of constitution issues and discussion of those issues, consult with the people on the issues and on the basis of the recommendations that people make to the Commission, it will make its own report and write the first draft of the constitution. He emphasised the extreme importance of the participation of the people in the review process. He said that this is the first time that Kenyans have been given an opportunity to shape their own constitution. He said a people-driven constitution means that people must get involved at every stage of the process of review and therefore the task of civic education and consultation are extremely important. He urged people to become engaged in the process and participate fully in different ways in providing civic education and as recipients of civic education, in forming discussion groups among themselves and subsequently debating the Commission's recommendation. He said this is the only way that Kenya will get a good constitution. He said that although the responsibility of the Commission is very heavy, the responsibility of the wananchi is even heavier because the Commission can only make recommendations in its final report on the basis of what the people say. He therefore said the people must tell the Commissioners what they are thinking and their hopes for the country so that at the end of the process all Kenyans must feel that the document from the process belongs to them. If they do not do this, their views will not be reflected in the constitution and it will be a failure on their part. He said the process will go on for many months but that the people must stay engaged throughout the process and they must make sure that the Commission does not deviate from the path that Parliament has laid

down for it.

Prof. Ghai said there are several organs of review although the people had only heard about the Commission through the media.

He however said the Commission is only one part of several institutions responsible for the review of the constitution. He said apart from the Commission there has to be constituency forums in every constituency, then there will be a national constitutional conference. He said this will be a body of about 500 people, including all Members of Parliament, three representatives from every district, delegates from religious groups, political parties, professional organisations, the youth, women groups, people with disabilities, NGO's etc. The Commissioners will be members but they will not have a vote. He said this will be the most representative body ever formed in Kenya for the purpose of constitution making and it will be the responsibility of this Conference to make key decisions about the new constitution.

He said the other organ of the review is a referendum which means the people. If the constitutional conference is unable to reach consensus on all the aspects of the new constitution then the outstanding points will be referred to the people directly for their decision when every registered voter will have a right to choose between the options offered.

He said the final organ of review is Parliament. He said if the constitutional conference reaches agreement the draft bill will go directly to Parliament through the Attorney General and it will be their responsibility to enact the constitution.

Prof. Ghai said that throughout the process of review the emphasis is on consensus and so wherever decisions have to be made be it in the Commission or constitutional conference or Parliament, people must try to discuss their differences, listen to others and try to bridge those differences so that everybody supports the final product. He said the constitution is fundamental to the country as all the laws spring from it, it spreads out the framework of the government, the way in which government policy is made, the way in which differences among the people are resolved and it contains values by which people want to live. He said unless there is a constitution to which most of the people are committed, it will not serve all these functions. He therefore said the commitment of the people to the final product is very important to the success of the process and effectiveness of the product that comes from it. He said that throughout the emphasis is on consensus and even the Commission has to work through consensus and he hoped that throughout the process decisions would be reached by consensus. He said that some of the issues to be discussed at the meeting could be controversial but that people should not insult each other or shout at each other. He said people should listen with respect to different points of view, persuade each other by voice of reason and be willing to make compromise. He said the whole purpose of the process of review is to bring people closer together.

Prof. Ghai said the process starts with meetings like the one in session where people become familiar with the mandate of the Commission and continues until a constitution is made.

He said the Commission is independent and it was appointed because the President and the Parliament thought the Commissioners have the capacity, ability and knowledge to make recommendations on the constitution. He said the Commission will only focus on what is best for the nation and try to create national unity while standing above any favouritism. The Commission is not supposed to work with any Minister, any politician or religious leaders but it is supposed to be independent and use its own judgement.

He said the Commission will try to translate its report into as many languages as possible and use the media to disseminate its recommendations. After that it has to allow 2 months for the people to study the report and then hold meetings to get feedback from the people and this together with the Commission recommendations will go to the national constitutional conference which will be the decision making body. Although everyone is focusing on the Commission at the moment, once it has written its report the responsibility for the actual decisions passes on to the national constitution and the Commission becomes a Secretariat to that conference. The Commission's work will be to make sure that decisions of the conference are reduced to a draft constitution. He said at every stage of the process there are different groups in the driving seat.

Prof. Ghai said what is to be the constitution is yet to be determined and it is hard to say what the final product will be but that the Review Act gives instructions on what should be among the fundamental principles of the constitution and all the organs of the constitution are required to make sure that the new constitution serves certain purposes and upholds certain values. He said the organs are required to make a constitution that enhances national unity and strengthens the integrity of the Republic, which protects the country from internal and external enemies. He said within that it has to be a democratic constitution with full participation of the people, uphold the rule of law and the constitution itself has to be fundamental and supreme law. The constitution has to ensure that the rights of the people are protected, that social, ethnic and religious diversities are respected and maintained. He said Kenyans have many identities like Luos, Catholics, Muslims, Hindus, different identities through professions and languages. All these must be protected under the constitution as well as protecting minority groups. Prof. Ghai said first and foremost Kenyans are citizens of this country with equal rights and obligations and that must be guarded. He said it is within that that differences of language, traditions, religions must be accommodated in a respectful manner so that nobody feels alienated.

He said the Commission has to recommend a constitution that meets the basic needs of all Kenyans and make sure that every Kenyan has food, shelter, children can go to school and there is access to medicine. It has to try to find mechanism to distribute resources to make sure that every Kenyan basic needs are met. There also has to be mechanism for the re-distribution of power so that there is not too much power concentrated in Nairobi and that more power should come to provinces, districts, divisions, locations or even sub-locations: it could even be decided that more power should be given to local authorities.

Prof. Ghai said the constitution has to be democratic but that there are many ways of being democratic. He said India has a parliamentary system which is democratic, USA has a presidential system which is democratic and Switzerland has a power sharing system which is democratic and Kenya has to decide which democratic system is good for her people. He said although all these fundamental principles are laid down in the Act, how they are implemented is very important. He said that these goals have always been in the Review Act and the principles were agreed in Safari Park where all groups were represented.

He said the meeting was to discuss how to take this process forward and the first way to do this is to conduct civic education.

The Review Act says that the Constitution of Kenya Review Commission must conduct, facilitate and promote civic education with the purpose of stimulating public awareness and debate about constitutional issues. He said civic education covers many aspects and it is a life long process. He said there are many institutions that are involved in civic education such as churches, mosques, temples, institutions and schools. He said civic education is even learnt from parents and elders. He said in the case of the constitution the scope and role of civic education are limited to facilitate the review process to enable the participation of the people in the process. He said the more institutions get involved in the process, the better the decision should be. He said the Commission has a choice whether to conduct civic education itself or to do it in partnership with other institutions. He said since the emphasis of the whole process is to be inclusive, participatory and democratic, the Commission believes it can involve more people and groups if it shares with them the responsibility of civic education. He said there was 2-day workshop in Mbagathi with different groups to discuss this aspect and in the provinces visited so far civic education has been the primary point of discussion. He said the Commission has a statutory responsibility to see that all groups in Kenya have an opportunity of civic education however remote they may be. The Commission also has the responsibility to ensure that all constitutional issues are included in the curriculum of civic education which will include mention of the present constitution.

He said the Commission has decided to have a common, national curriculum for every group and copies of this would be given out. He said the Commission required providers for civic education. It had to ensure that civic education is provided in an impartial, objective manner and that it should not be used as political propaganda. A code of conduct is being developed which all civic education providers have to abide by in order to remain in partnership with the Commission. Within the frame work of that curriculum the Commission wants to encourage groups that have capacity and are willing to become involved.

He said the Commission also wanted to discuss with the participants how to set up documentation centres because the Legislation requires that they be set up in every district where information about the Commission's work can be obtained especially for people who have no access to TV or any other media. He said there have been requests for documentation centres to be taken down to locational level and the Commission will find out how the provincial administration or schools can help in establishing these centres at this level.

He said that the Commission also has to set up constituency forums in every constituency and he asked participants to give their ideas as to how this can be done. He said the Commission will give whatever assistance it can but that the setting up of these forums is the people's responsibility because the Commission does not want to impose itself on the different communities. He said the Commission will produce a number of documents by way of material to be sent to the different centres telling the people what the options are, what the strategies are, what other countries have done and so on. Many people have said that they do not even know what the present constitution says and the Commission is producing a constitution document in simple language that will shortly be distributed widely.

Prof. Ghai said according to the timetable laid down the whole process has to be completed by September 2002. The

Commission has an obligation to complete its work but that Parliament has also said that if the work is not completed by this time, the Commission can ask for extension although they do not give a guarantee that they will grant the request. He said the next question is what happens if the Commission has not completed its work by election time next year, should the elections go ahead while the Commission continues with its work or should there be an interim constitution which is different from minimum changes. He said in South Africa they decided on an interim constitution and agreed that after elections Parliament would continue its work. He said the final SA constitution was very similar to the interim constitution. Prof. Ghai said there are many possibilities but the Commission was not considering them seriously because it believed it will complete its work within the stipulated time. He said for the time being the Commission wanted ideas on civic education and that it had come to listen to the people.

He then invited Com. Abida Ali-Aroni to make a brief translation of his remarks in Kiswahili.

Com. Mutakha Kangu recognised the presence of Hon. Musalia Mudavadi, Hon. Khaniri, Hon. Okemo, Hon. Masakhalia, Hon. Ekirapa, Hon. Chanzu and Hon. Mugalla and welcomed them to the meeting. He said this was the first place to receive such a large number of Members of Parliament which showed that the leaders are taking the Commission seriously and they want to share with the wananchi in presenting their views.

He then invited Com. Kavetsa Adagala to conduct the next part of the programme.

Com. Adagala(MC

explained to the people that she would call speakers according to the districts represented i.e. Vihiga, Busia, Bungoma, Teso, Elgon, Butere/Mumias, Kakamega and Lugari.

Ibrahim Wamwere of Vihiga handed in his memorandum.

Mareng of Vihiga and a lawyer in Kakamega pointed out that according to the papers there have been differences a month the 29 Commissioners and that the Commissioners should sit together and iron out their differences so that they can approach their task with seriousness. He said people will benefit from the review if they are given sufficient time in civic education so that they know what the constitution is and the requirements are. He said civic education should be carried out by local people like local NGO's, local professionals because they are best placed in reaching the maximum number of people. He said if the Commission does not finish its work on time it should ask for extra time and that Parliament should not be extended. He said elections should be carried out as laid down in the present constitution.

Margaret Mukuthi (?), retired lecturer living in Tiriki East said civic education should disseminate through competent educators who understand what people expect for themselves and the youth. She said the churches are already involved and

they must continue to be used and NGO's that keep the community moving. She said the problems in schools these days point at the kind of laws in the country and the kind of discipline the youth have been brought up to accept and they should be taught civic education until they understand that they are the future leaders.

She said documentation centres should be set up in places that have facilities especially district headquarters.

With regard to constituency forums she said there should be committees in constituencies to organise how best information can be collected and disseminated to the people.

Bridget Wakula of Vihiga said civic education should start in schools so that young people can understand the constitution and that existing NGO's who have worked with youth and children should conduct the exercise together with churches.

(Shouting)

Com. Mutakha Kangu said the people wanted a democratic constitution. He said that views of other people must be respected. He said even if one does not like the views of another person, he should let the speaker finish his speech and when he gets his turn he will be free to criticise the speech. He said people should not shout each other down and that democracy begins with listening to other people's views whether one likes them or not.

Hon. Mudavadi said they had decided that parliamentarian are part and parcel of provincial visits and that they underscored the importance of the process that the Commission is undertaking. He appealed, as a Member of Parliament of the area, that it is absolutely important that what is said by the community is given enough thought and asked everyone to be very serious in their contributions.

He concurred with a previous opinion that they are not against civic education and people should undergo a process of very efficient, thorough and balanced civic education. He said for this to be done efficiently, it is important to recognise the resources invested in particular area. He said local NGO's should be given a chance to conduct the education. He said there are many people in the education fraternity like KNUT and they are very effective and also the churches and it should be done in the local languages. He said media houses should be the first avenues in which to launch civic education and that they should have a code of ethics to be adopted early enough.

He said constituency forums should be conducted over a minimum of two days because some constituencies are very large. He asked the Commission to develop some guidelines for the operation of these forums.

He recommended that the Commission should be flexible in connection with documentation centres because although some districts are compact and the headquarters is sufficient some districts are so large that it will be difficult to have everyone to access this information at district headquarters. In this case some centres should be shifted to divisional headquarters.

He said the people are looking forward to the Commission helping in improving the constitutional process in the country and that it should have a united front so that it will receive credibility wherever it goes and its recommendations will emanate from a base that is truly appreciated by all Kenyans.

Hon. Khaniri said that the leaders of Western Province are committed to the review process and the Commission has their support.

He said the life of Parliament and review process should not be tied together and when the life of Parliament comes to an end there should be elections and the Commission work continues.

He said civic education should be done by local NGO's who understand the language.

He said documentation centres should at divisional level because most people cannot travel to district headquarters.

Hon. Chanzu said the review process should be broad based and civic education should be at constituency level and said devolution of power will come in handy at this time.

He concurred with Hon. Khaniri that the process should not be tied to the general elections.

He said there clear channels should be established for the purpose of collecting views and language should be taken into consideration.

He said civic education should also be done by retired teachers, civil servants and church leaders

He said documentation should be at divisional level.

Steve Ogale Achoka of Busia said documentation centres should be at district level and at divisional level where districts are too large.

He said civic education should be at grassroots level by churches, local NGO's and other registered organisations in the local language. He said chiefs and assistant chiefs should be involved in this process in order to facilitate the work.

He said the present constitution should be included in the curriculum so that people can understand it first.

He said KBC should help in disseminating information through radio and television.

Prof. Christine Mango of Busia and Professor at Maseno University said the language for civic education needs to be simplified so that everyone can understand the constitution. She said teachers, provincial administrators, police and AP's need to be sensitised about the constitution and human rights and then take part in this process. She said churches, women groups and youth groups should also take part.

She said forums should be at constituency forums and all stakeholders should participate with the local MP as an ex-officio to stop intimidation.

As for documentation centres, she said the institutions in provinces should be utilised because in some cases the district may not have the capacity. She said a place like Maseno University has a department of African languages with computers that can be used to compile and standardise materials.

Antony Ogutu of Busia said civic education should be conducted by church leaders and youth groups. He said electronic media should be used to disseminate information especially to the youth who prefer this method. He said if the Commission has

not finished its work by the time stipulated, it should come up with an interim constitution, elections should proceed and the review process can continue.

Hon. Masakhalia said it is not often people are given an opportunity to contribute to a document that affects everyone in the nation and that the public is privileged to give views to the Commission. He said the Commission should take its time in this process. He said the Americans have a constitution that has lasted them 200 years with very few amendments and therefore the Commission should come up with a constitution that will look after this nation for a long time.

He said forums should be at district level and documentation should be in Kiswahili and local languages.

Hon. Okemo said wananchi do not understand the constitution as it is today and it should be translated and explained and this should form the integral part of the curriculum.

He said civic education is important but that media reports cast doubts as to how it is to be carried out. He said this should be at a level to reach and be understood by the common man. He said methods used will vary from place to place because in some places there are no NGO's, in all places there are churches, provincial administrators, schools and these can be used utilising local resources and manpower. He said the unemployed youth should be used for the process rather than using retired people.

He said documentation centres should be at district level in churches and schools, but that each district should be taken on its own merit.

He said constitution making is an important process but from newspaper reports, it appears as if Western Province is not in Kenya because there is not enough comments from that part of Kenya and urged the people to give their opinions.

Moses Wetangula of Bungoma said when talking about civic education, it is about alleviating poverty among the people and that it has to be done by local people because outsiders will be resisted. It must be in a language that people understand.

On constituency forums he said the Commission should hire a local person who will be the coordinator to tell people where to take documents and give them all the information that they require. He said there should be several documentation centres.

On time frame he said the review process should not be tied to the elections and that the Commission must take its time and give Kenyans a constitution that will withstand the test of time and last a long time. If the Commission has not completed its work by September next year, it should ask for extension and that people are ready to be taxed again if there is shortage of resources in order to get a document that will last a long time.

He said when the Commission talks about local resources it should not leave out any organisation and should include churches, mosques, teacher's unions, retired people and everybody who has the capacity to help. He said the final document must include all views collected from the people.

Yonina Ogumba of Bungoma said civic education should be at grassroots level involving village local leaders in sub-locations.

Information can be disseminated at public barazas, educational institutions and religious meetings. He said religious

organisations are available everywhere and people are always going to church, they have the knowledge and have been giving civic education and the people trust them because they are non-partisan. She said NGO's can be used in some areas because they resources, personnel and material. She said CBO's should also be used.

She churches and schools should be used for documentation centres. She said the Commission should not only supervise but be involved in educating the people.

Henry Wasilwa of Bungoma said civic education should be disseminated by the Commissioners on national radio on a daily basis. He said the Commission should divide itself into panels of about 5 Commissioners to visit different places rather than the whole Commission going to one place at the same time. He commended the Commissioners for going to Kakamega in matatus instead of Mercedes and four wheel drives. He said the Commission should establish a website for communication with those who have the facilities.

Hon. Munyasia of Teso expressed his confidence in the Commission especially the Chairperson. He said the Commission is compromised and its task is to compromise the views of Kenyans into a constitution acceptable to all Kenyans.

He said that asking about constituency forums is the first blunder the Commission has made. He said the Commission is not supposed to constitute constituency forum and that the people who made the law meant to keep the constituency open without saying that one particular area would be represented by one person. He said people should come as individuals or groups before the Commission.

He said documentation centres should be at constituency level, libraries should be established and the youth should be employed to man the centres.

He said when the 2- year period was agreed upon it was assumed that work would start in October 2000 but that at that time even the compromise process had not started until a year later and it is obvious that the process will be finished in the remaining year. He said civic education alone might take 5-6 months. He said if too much emphasis is put on elections and it is decided to hold them under the old constitution, it means whoever gets the presidency will hold the post for five years. If the new constitution recommends that the president be in power for seven years and that constitution is completed two years after swearing in the president in on the old constitution, he wondered what would happen. He said if the constitution lengthens the term of the presidency, he will welcome the recommendation, but if it reduces the powers of the presidency like Kenyans want, then there will be resistance on the part of the president.

Moses Omolo of Teso said many people do not understand the old constitution and therefore civic education should start at the grassroots level in a language that will be understood in every sub-location.

He said documentation centres should be in every district.

He said some areas do not have NGO's and this education should be conducted in churches and use chiefs and assistant chiefs.

Coun. May Revenia of Teso said civic education should start at the grassroots through churches, schools, public barazas,

women groups, youth groups and disabled persons. People should be told whether they are to change the whole constitution or some sections of it.

She said documents should be in a language that will be understood by people in Teso and Elgon because they do not understand Kiluhya.

She said documentation centres should at divisional level.

On time frame, she said the review process should not be rushed and if the work is not finished on time elections should go ahead and the review process continues even if it is for an extra five years.

Anne Ogandia of Teso said civic education should be disseminated to the youth and children in primary schools, secondary schools and in a language they can understand. She said media groups should have programmes to teach youth and children and newspapers should teach through cartoons so that even small children can understand.

Hon. Ekirapa of Teso said the process was a unique opportunity for Kenyans and hoped that everyone would have a chance to express their views so the country gets a constitution that will remain for many years.

He said civic education is vital and hoped that the Commission has standard information to be passed to the local people who must be involved in civic education. He said there are no NGO's in Teso and they do not want the exercise hijacked. He said civic education should be conducted by local churches who work with the people, retired officers, unemployed youth and use schools and local institutions and it should be done in the local language.

He said documentation centres should be in schools and churches at divisional and district headquarters. He said the coordinator should be at district level.

He said he hoped the Commission will live up to the expectation of Kenyans and produce a good constitution that will last the country many years and if by the end of next year the work is not completed, the Commission should ask for more time.

Wilberforce Kisiero of Mt. Elgon said the people of Mt. Elgon are grateful to the President and Parliament for constituting the Commission because whereas in the Lancaster constitution only a few privileged people went to London, this review process is embracing everybody and all the tribes of Kenya will have a chance to contribute.

He said they have a lot of youth available to disseminate civic education rather than NGO's and churches and that the Commission should train trainers to train people at constituency level.

He said Kenyans are very eager to have a new constitution quickly and he hoped that the Commission will finish its work in the stipulated time but if this is not possible, the Commission should look at the old constitution to find out what went wrong with it and maybe correct it so that elections are not delayed. He said there should be no interim constitution.

He said documents should be in all local languages taking into consideration small tribes that do not speak Luhya like Saboats and Teso.

Because of the difficult terrain, the Commission would need a period of 2 to 3 days in the area when they go to collect views from wananchi.

Titus Aramaiye of Mt. Elgon said civic education should start at grassroots level by the youth in local languages. He said the youth are strong and will move around quickly in the difficult terrain to disseminate the information.

He said civic education is a continuous process and that there should be a time frame so that people will see if it is possible to reach all wananchi in that period. He said all literature should be given out quickly so that the exercise can start.

He said there are some people who are moving a motion to prolong Parliament because they do not want a new constitution but that wananchi have been fighting to have a new constitution.

He wondered what criteria would be used when selecting district coordinators due to the level of corruption in the country and urged the Commission to be sincere in the selection.

He said when talking about the constitution, people should not talk about a constitution belonging to different parties but about a Kenyan constitution.

Mr. Ismail Njugule(?) of Butere/Mumias said civic education should target the common man at the grassroots, it should be in the local language and it should be done by those institutions that are able starting with church leaders, mosques, local NGO's, schools and all education institutions.

Documentation centres should be at locations that are accessible to everyone.

He said the Commission should give guidelines about constituency forums taking into consideration number of residents in the area and accessibility of the venues.

He appealed to people of Butere/Mumias to give top priority to the constitution review process.

Rita Katamu of Butere/Mumias said citizens from village level should be sensitised about civic education. She said many people had not attended the meeting because they had not received information. She said villagers should be available to be trained. She said those who train trainers should be well trained themselves and should include Maendeleo ya Wanawake, NGO's, qualified unemployed teachers, churches, public sectors, youth and the disabled. She said local leaders should give citizens direction on the way forward on constitutional reform. She said the process should be gender sensitive so that women are equally represented because they are the people in the background and that media should be used to disseminate information. Documents should be in local language so that everyone can understand.

Roslyn Eshikumo of Butere/Mumias representing the youth said civic education is education for life. She said there is suspicion among Kenyans and this is what is causing controversy on civic education. She said civic education should begin with the big people before going to juniors. She said people do not accept one another and that Kenyans should appreciate the value of love. Civic education should be given to willing people by people who are willing to do it and NGO's, churches and anyone who is willing to do it and has Kenya at heart. She said these people should be trained to train others in order to educate the electorate.

She said constituency forums should be decentralised and they should go down to sub-location level because most people

cannot afford transport to go district centres.

Document centres should be at places that are accessible to everyone at sub-location level.

Hon. Anangwe of Butere/Mumias expressed apologies from Hon. Osundwa, Hon. Amukwaya and Hon. Odongo. He said civic education should be further defined so that it does not only mean seminars and workshops but to mean all kinds of communication including radio, pamphlets and so on in order to inform the whole population.

He said there is a difference between facilitation and delivery and that local NGO's, churches, Maendeleo ya Wanawake, KNUT, KUPPET can facilitate by organising venues, modalities and so on but that delivery should be done by people who can teach civic education. He said there some unemployed youth who are very qualified and teachers who have done history and government and they should be used to dissemination civic education. He said international NGO's will overwhelm local NGO's at local level and that they are not representative. He said local NGO's, churches and local based organisations elect their committees as opposed to Nairobi based NGO's that survive on donor assistance.

He said the draft curriculum is too loaded with academic objectives and that it should be simplified as there are people who cannot spend a whole day studying it.

He said constituency forums should target leaders of NGO's, churches, civic societies and so on who can relay the message to the rest of the people because the areas are vast.

As for time frame he said Kenyans want to have elections as scheduled and people are open minded on the extension of the process but that Kenyans it finished by September 2002.

Baraza of Kabras said Luhyas have been left behind.

Brown Makhotsi of Kakamega said the most important item is the constitutional forum He said the Strategic Plan does not emphasise the fact the actual constitution making process will take place the constitutional forum. He said it is not possible that all 500 delegates will have an input in the report and that the plan should be revised to reflect the importance of that forum.

He said people should be given a longer time to give their views before they go to constituency forums. He said the curriculum should be standardised so that facilitators at constituency level are speaking at the same wavelength.

On documentation centres, he said these should be constituted by the same people disseminating civic education and that the Commission should provide all the material needed.

Edith Mukolwe of Kakamega said civic education should be carried out by local NGO's, churches and women groups.

She said the timetable for review process should be extended if it is not completed on time but it should not interfere with elections.

She said documentation centres should be at divisional levels.

Maikuva Sitana (?) of Kakamega said civic education should through churches, educational institutions and local NGO's.

Documentation centres should be at divisional level.

He said constitutional review process should not be tied to the life of Parliament and that the Commission should start its work with the section of the constitution that deals with government structure and make minimum amendments before elections.

John Chairman of Kakamega County Council said civic education should start at grassroots level to divisional level then to district level.

He said young men should be trained to conduct the education and not retired people.

He said the Commission should try and finish its work in the stipulated time and its work should not be tied to the life of Parliament.

Documentation centres should be at divisional level.

Mugalla of Kakamega wondered how churches will disseminate civic education when they have different times for their services. He said the community of a location or sub-location should form committees to agree on a programme of civic education with churches acting as facilitators. The committees should then advise the Commission who will conduct civic education for training.

Peter Kiilu, PC, Kakamega welcomed the Commissioners to the Province. He said there should be no fear that members of provincial administration will interfere in the review process. He said the Commission is independent and even provincial administrators are citizens of this country and should express their views. He said he will facilitate the process and mobilise as many people as possible in the administration to go to venues to give their views.

David Fonde a farmer from Kakamega said people of this country do not know the constitution and they should be educated before they make their views.

He said documentation centres should be near the people at locational level and if possible sub-location level. He said institutions like secondary schools should be used.

Amaswache Caleb said there are no NGO's in Western Province. He said the youth should conduct civic education. He complained that advertisements for jobs in the Commission are being done through Manpower Services in Nairobi and they are likely to select Nairobi candidates. He said KBC is used to spread propaganda and they should report positively on issues. He said civic education should be conducted in local languages.

Roslinda Mukoyave said civic education should be at grassroots level.

Documentation centres should be at divisional level and where possible sub-location level because some ladies cannot travel to division centres.

She said elections should go ahead as scheduled and the review process should continue.

She said there is an education centre for Women in Democracy which is conducting civic education on human rights and it can conduct the exercise on constitutional issues. She said this job should be done by volunteers and people should pray God for wisdom to make a good constitution.

Burundi Nabwera, a farmer, thanked the Chairperson for uniting the two statutory groups into one Commission. He said the Commission is not a compromise Commission but a Commission by compromise. He appealed to the leaders, Members of Parliament and people of Kenya to let the Commission do its work and see the end result.

He said political parties and tribes must develop tolerance and learn how to live with each other as every tribe cannot have a president.

He said people of Western Province have no problem and civic education should be conducted by everybody, churches, mosques, Hindu temples, NGO's, chiefs and so on. He said everyone should unite and look to the future with hope.

He said the Commission is being too ambitious to think it can produce a constitution by September 2002. He said elections should not be held under the current constitution and to ensure that there is no corruption and petition cases after elections, a new constitution should be in place before the next elections. The Commission should be given more time if it does not finish its work on time because the process should not be hurried.

Com. Khavesta Adagala asked the people to attend the afternoon session at Bhukungu Stadium. She invited Prof. Ghai to close the session.

Prof. Ghai said the Commission had received a lot of good ideas and thanked the people for them. He said with regard to timing, the Commission has an option to request for an extension if it does not finish its work by September 2002 and that it will continue to review progress to see if this was necessary.

With regard to forum, he said it is not the Commission's intention to have a small group of people constituting a forum but to decide on who should have the responsibility of setting it up and what its procedures should be.

Prof. Ghai said the Commission is looking into ways of helping the training of trainers. He said people doing the training must be competent. Some people may not be competent but may have the infrastructure or a group that meets regularly that could be use to provide education.

He said the Commission will not be working with advocacy groups but groups that have non-partisan views and have capacity.

The meeting closed at 2.00 p.m.

BHUKUNGU STADIUM - P.M.

By way of prayer, the first stanza of the National Anthem was sung.

PRESENT:

Prof. Yash Pal Ghai	-	Chairperson
Prof. A. Idha Salim	-	1 st Vice-Chairperson
Mrs. Abida Ali-Aroni	-	Vice-Chairperson
Prof. H.W.O. Okoth-Ogendo	-	“
Ms. Nancy Baraza	-	“
Mr. Ahamed I. Hassan	-	“
Dr. M.A. Swazuri	-	“
Ms. Kavetsa Adagala	-	“
Mr. Domiziano Ratanya	-	“
Ms. Salome Wairimu Muigai	-	“
Mr. Isaac Lenaola	-	“
Pastor Zablon Ayonga	-	Commissioner
Dr. Mosonik arap Korir	-	“
Mr. John Mutakha Kangu	-	“
Dr. Abdirizak Arale Nunow	-	“
Mr. Abubakar Zein Abubakar	-	“
Mr. Ibrahim Lethome Asman	-	“
Dr. Charles Maranga	-	“

Com. Mutakha Kangu invited the Chairman to make opening remarks.

Prof. Ghai said the Commission was pleased to be in Kakamega and that it will be returning later in the year for a longer period to visit every constituency to receive the people's opinions of the new constitution and their expectations on what should be contained in the constitution.

He said the purpose of the visit was to tell the people briefly about the work of the Commission, the procedures to be followed and to seek their views as to how to facilitate participation of the people in the review process. He said the Review Act under which the Commission operates places special emphasis on the participation of the people in the making of the constitution. He said this is the first time in Kenya that people have been invited to participate in this process.

He said the constitution should reflect the people's ideas and hope for the future. He said it is the function of the Commission that it listens to the people and on the basis of the suggestions they give, it writes a report and drafts a constitution. He said the people's role is much more important than the Commission's role because they have to think up ideas and suggest how to get a better constitution. He said the more the people got involved in the process the constitution will reflect the wishes of Kenyans.

He said as the law requires the Commission to facilitate the people's participation, it wanted to discuss how to get that participation by providing civic education, materials about the present constitution, changes that might be made and even of more importance, for the people to tell the Commission how they think they can participate in the process.

He invited Com. Abida Ali-Aroni to translate his morning session opening remarks.

Com. Mutakha Kangu explained to the people about the topics of the meeting, civic education, documentation centres, constituency forums and handed over to Com. Nancy Baraza to conduct the session.

Com. Baraza (MC) asked people to respect each other's views and invited Com. Zein Abubakar to conduct the session in Kiswahili.

Com. Zein (MC) re-emphasised the topics of discussion and invited groups to give their views.

Joseph Musanga said civic education should be conducted by NGO's and churches at grassroots level. He said Catholic churches have done a lot of work and they can conduct this exercise. He said retired teachers, unemployed educated youth and retired civil servants can also do this work and it should be done at grassroots level.

He said the electorate should decide who should form constituency forums.

He said documentation centres should be at constituency level and where these are too large other centres should be identified.

He said time frame should be left to the Commission under Prof. Ghai's competent chairmanship but that Parliament should not be extended.

Hezekiah said civic education should be done by NGO's. (Shouting) He said Jua Kali have a lot of problems and that MP's should represent them properly.

A youth speaker said before they start giving views, they should be told what the constitution is as otherwise they will get mixed up.

Margaret Ombaso for NGO's in Vihiga said civic education should start at grassroots level.

She said documentation centres should be in churches, schools, disabled persons centres which are always forgotten. She said NGO's in Vihiga have information on civic education.

On constitutional forums she said churches, schools and local organisations to train their followers who can then go out and reach people at sub-locational level. She said meetings should be organised by local MP's to tell people about civic education.

Eric Wambasi said civic education should be conducted by everyone who is willing to give it. He said the church has capacity and provincial administration and it should be done at divisional level.

He said documentation centres should be at divisional level because some constituencies are too large.

On time frame, he said the Commission should take its time and produce a good constitution that will last for a long time and that Parliament should not be extended with minimum amendments.

He said although somebody said there are no NGO's in Mt. Elgon there are NGO's working on the ground and they are very close to the people. He said party differences should be put aside and people should talk as Kenyans so that there can be a good constitution.

Rev. William Sando of Lugari said civic educators should be non-partisan. It should start with local administrators including police officers should be given civic education so that they can then be facilitators. He said PC's, DC's, DO's should revise their knowledge on governance so that they can appreciate this process.

On time frame, he said elections should not be held with the current constitution and that there should be a neutral document in place.

Pastor Fanuel Kanga said there is language problem when people mix English and Kiswahili and that only Kiswahili should be used.

He said people do not know the present constitution and they should first be educated on this.

Rev. Ben Sagala Okumu of the Anglican Church said civic education should be fully managed by the Commission itself and handled by people with capacity, infrastructure and knowledge.

He said documentation centres should be at division level.

He said constituency forums should be representative of everyone, disabled, women, youth and religious groups.

As for extension of Parliament he said Kenyans should decide.

Com. Zein explained to the people that the Commissioners who were leaving were only going to a meeting with the PC.

(Shouting)

Ali Majimba said civic education should reach everyone and teachers, educated retired people, youth, religious leaders both Christian and Muslim should conduct the exercise. They should have offices for meeting to review the exercise.

He said documentation centres should at grassroots level accessible to everyone especially for the benefit of those who do not go to church or to the mosque.

Constituency forums at sub-location and location levels and even villages and in local languages. He said PC, DC, DO and Chief should be elected by the people to serve for a term of 5 years.

Kassim Sabwa, Muslim from Kakamega said that people should be elected from sub-locations, teachers, NGO's, and educated on civic education so that they can teach the other people in the sub-location.

Documentation centres should be in the offices of the county council where they will be safe.

He said the Commission should not be tied to life of Parliament and the process should continue.

Wekesa of Kakamega said the Commission should train people in churches and NGO's to conduct civic education. He said the Commission should give photocopies of current constitution to the people so that they can read it.

On minimum reforms he said there are problems with the police and current Electoral Commission and said that police should

be stopped from getting involved in election matters. He said Commissioners should divide themselves into panels so that they can cover districts faster.

He said documentation centres should be at division centres.

Martin Wanyonyi co-ordinator Centre for Human Rights and Democracy, Western Province said the constitution review process is supreme and should not be manipulated by anyone.

He said a consortium of non-partisan NGO's and church organisations should conduct civic education throughout the country on constitution review, human rights and principles of democracy. For an ideal process to thrive all Kenyans must unite to ensure that obstacles are overcome. He said provincial administration must not be involved in civic education because they are government servants.

Naaman Magari of Kakamega said there is a constitution that needs to be changed. (Shouting)

He said since the constitution was written, young people have been educated and now they are not employed. He said there is a lot of poverty while some people have grabbed everything.

Nyongesa Banguli said that there have been a lot of commissions that have not succeeded. He said the new constitution should have chapters starting with civic education parliamentary elections and presidential elections. That should be completed first and then continue with the review process.

Juliana Adagawa of Kakamega CBDA and AOSA said there should be more women in the Commission. She said that during civic education, there should be security and non-violence workshops should be arranged because people are talking with bitterness and they should be calmed down first.

She said civic education should start with village elders because they will be able to organise the people in the village with expert guidance, then continue up to district and constituency level.

Angatia said civic education providers wanted to know the contents of the curriculum so that they will know in advance what to teach. He said providers from churches, NGO's, politicians, police administration or whoever should apply and there should be one woman, one youth, one elder in every sub-location but that these people should not be biased. This education should start at sub-location level and the provider should have a programme to educate all the people in the sub-location through public barazas, funerals, churches and schools. There should be a district coordinator to go round and see what the providers are teaching.

On time frame, he said the Commission should complete the process but Parliament should not be extended and elections should go ahead with an interim constitution.

Documentation centres should be at division level with a district coordinator to receive the material that will be collected from

the divisions.

Dr. Machanja Likavo of Ford Kenya said he supports civic education that is being done by churches and other leaders.

He said documentation centres should be in location and division centres for accessibility.

He said the Commission should finish the process in time and elections should not be delayed because of the process as people do not want elections under the old constitution.

He said provincial administration should be removed from the new constitution.

Daniel Murunga of Busia said civic education should be done by unemployed teachers.

Documentation centres should be at location level.

On time frame, he said the Commission should take its time so that they can come up with a constitution that Kenyans will not regret.

John Matiti of Busia said civic education should be done by everyone. He said there is no need to waste time going through the whole constitution but only pick the sections that need to be changed so that elections can go ahead.

Documentation centres should be at location level and the Commission should select people to man them. Provincial administration should not be given the job.

He said constituency forums should be at divisional level and even uneducated people who understand the constitution should be utilised.

Bedeo Obondo of Busia said civic education should be done by young people who are educated.

He said the Commission should finish its work on time because this country will not progress without a new constitution.

Documentation centres should be at division level and material should be in local languages.

John Wesonga of Butere/Mumias said there have been many commissions in this country that do not report what people have said and hoped the people's views will be taken into consideration. He said the Commission should let people know what should be changed. He said the people do not want to see another exercise of public relations that only make the people poorer and what people are saying should be reflected in the Commission's report.

He said civic education should start at village level without chiefs and police and the people should be left to manage their own affairs. He said any government that does not appreciate the efforts of the church is evil and civic education should be done by churches and other stakeholders.

He said documentation centres should be in reliable offices.

The next government should be a government of national unity and reconciliation. Resources of this country must be distributed properly and the Commission should be given time to put a constitution in place that will cater for the common man.

Ikulu said that the Commission should start looking at issues concerning elections so that if it has not completed its work by election time people know what they are supposed to do. The Commission should be in a position to sue anybody who disturbs it.

Chacha Oweche said the Commission should be independent and if any Commissioner is influenced by a leader, the whole Commission should resign. He said some Commissioners are idle and they should divide themselves into groups so that they can all be doing something at different places. He said Commissioners should not leave for meetings with the PC.

Sarah Were, a teacher at Moi University, said civic education should be conducted by non-partisan parties and reach all the people they want to reach like the illiterate people who can read, those who go to church and those who do not go to church. She said the Commission is the only organ that should carry out civic education because it is non-partisan. She said civic leaders have short memories and they are short sighted because when Section 2(a) was repealed, they forgot that there are other sections that go with section 2(a) which means they gave KANU a blank cheque. Parliament should not be extended and she appealed to the Commission to finish its work on time and if this is not possible, it should start with the section that deals with elections so that we go to elections with minimum reforms in 2002.

Makhoka Nabwera from Lugari said composition of civic education should be the first item and an educator should be someone well informed, well experienced, with understanding and quite partisan.

He said documentation centres should depend on the size of districts and constituencies and even where the district is large, this should be at location level.

On time frame said if Kenya is not careful it will play into the hands of the hyena. If the Commission does not complete its job on time it must use an alternative plan and he proposed that the Commission should follow the South African way and have an interim constitution and if Kenyans do not like that system, then elections should be carried out with minimum reforms.

Michael Mafunga of Lugari said civic education should disseminated through radio. He said teachers and churches should also be used.

Stephen Kasigane from Lugari said young people are bitter because reforms started a long time ago. He said the process is being rushed because elections are near. He said civic education needs a lot of time in order to make the common man understand the constitution whatever method is used. He said the Commission should take its time and complete its work.

Douglas Wanyama said the people are not happy with the present government and if the Commission does not complete its work on time the Speaker of the National Assembly should take over until a new constitution is in place.

Rev. Kamandi Jumba from Vihiga Word of Faith said the constitution should be written in local languages so that wananchi

can understand it. The curriculum should be availed to schools so that children can learn and understand their constitution.

He said the reason people are unhappy is that the government was given a contract it could not fulfil. He said the constitution should be flexible.

Luseno Lihayi of Kaimosi said civic education should be through TV programmes, churches and NGO's.

William Chogo of Vihiga said civic education should be conducted by NGO's and churches.

He said documentation centres should be at sub-location and location level.

He said the Commission should complete its work by September, 2002 and do its work freely.

Com. Zein invited Com. Mutakha Kangu to give a vote of thanks.

Com. Mutakha Kangu, on behalf of the Commissioners, thanked those present for their views which will assist the Commission in its work. He invited Prof. Ghai to make a few remarks.

Prof. Ghai thanked everyone for their views and their patience. He said the Commission was encouraged by their involvement and participation. He said the success of the constitution depends on the people's participation and hoped that this will continue to the end of the process.

He said the purpose of the meeting was to get the people's opinions and ideas and the Commission was grateful for those ideas.

After the provincial visits, the views will be reviewed and a final decision made on the basis of what the Commission has heard. He said the Commission will announce its plans as early as possible.

Prof. Ghai said he had noted the point that the Commission should break up into panels and said that that is what the Commission intends to do. He said it was important for these first provincial visits for the whole Commission to go and meet the people and for the people to meet the whole Commission. He said further visits by the Commission will be conducted in panels so that we can spend more time in each constituency.

He noted the suggestion to promote civic education through electronic media, TV, radio and said that the Commission will do that. He said programmes will be started in a number of languages. He said the Commission will also think seriously about establishing documentation centres below district level although the Act requires them to be at district level. He said documentation will be provided to the constituency forums because that is where debate will take place. He also noted the suggestion to take into consideration the size of districts and said it would be taken into consideration.

He said the Commission will produce material relating to the review and said there will be two documents, one of which will be a discussion document giving information and analysis. He said the Commission was preparing a summary in simple language

analysing the present constitution and that this will be translated into Kiswahili. He said the second paper will be a consultation paper exploring the Commission's terms of reference. This will discuss the pros and cons of, for example, the systems of governments – parliamentary system, presidential system, something in between and so on. He said these papers will be short and easy to read and at the end there will be questions so that when the Commission visits the districts, it will be possible to have a dialogue. There will also be papers on the points you have raised like devolution of power, provincial administration and so on.

He said the Legislation that provides for the review process is excellent and it gives the Commission complete independence and financial resources and that if everybody follows the Legislation the Commission will be very independence. He said according to the Legislation, no one can interfere with the Commission and if any Commissioner takes orders from outside the Commission, they can be removed. He said the terms of reference of the Commission come to an end only when a constitution is made and no one can throw out the Commissioners before the process is complete. He said when the Commission write its report it will be sent to the people at the same time it is sent to the President and to Parliament. He said the Commission will convene the national constitutional conference and the Commission sends the draft report direct to Parliament. He said most of the Commissioners are very dedicated to the review process and the Commission knows it can only do a good job if it is independent.

He said civic education is very important in the review process and it continues even after the constitution is enacted so that every Kenyan knows how they can use the constitution to protect their rights.

He agreed that the constitution should be in simple language because every Kenyan must be able to understand the it and that the Commission will make every effort to write in very simple language.

On time frame, he said the Commission had listened very carefully and taken note of their comments about the necessity to have a constitution in place before elections and about the options available.

He said the people had a very good idea about the strengths and weaknesses of the present constitution and that they are able to give their views without a long civic education because from the number of memoranda received it was obvious they know what they want to see in the constitution. He said the people should tell the Commission what they find difficult in their everyday lives, problems with provincial administration, their hopes for the future of the country and that the Commission will translate those ideas into constitution form. He said the Commission would return soon to receive the ideas.

Prof. Ghai said if the people are concerned about the independence of the Commission, the only way to ensure that independence is by their participation in the review process. He said the whole process of the review is a way of bringing about national unity and that is only possible if people become involved in the process and participate fully.

He thanked the people again for their patience and contributions.

The meeting closed at 5.30 p.m.

