

# CONSTITUTION OF KENYA REVIEW COMMISSION

## NOTES ON COAST PROVINCE PROVINCIAL VISIT – 31.07.01

### CONSULTATIVE MEETING AT TONONOKA HALL

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

**Com. Swazuri (MC)** welcomed the participants to the meeting.

#### **PRESENT:**

Prof. Yash Pal Ghai	-	Chairperson
Prof. A. Idha Salim	-	1 <sup>st</sup> Vice-Chairperson
Mrs. Abida Ali-Aroni	-	Vice-Chairperson
Ms. Nancy Baraza	-	“
Mr. Ahamed I. Hassan	-	“
Dr. M.A. Swazuri	-	“
Mr. John Mutakha Kangu	-	“
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	-	“
Dr. Abdirizak Arale Nunow	-	“
Mr. Abubakar Zein Abubakar	-	“
Mr. Ibrahim Lethome Asman	-	“
Bishop Kariuki Njoroge	-	“
Dr. Charles Maranga	-	“
Mrs. Alice Yano	-	“
Mr. Riungu Raiji	-	“
Mr. Keriako Tobiko	-	“
Dr. Wanjiku Kabira	-	“
Hon. Mrs. Phoebe Asiyo	-	“
Mr. Githu Muigai	-	“
Mr. Arthur Okoth-Owiro	-	Commission Secretary

#### **ABSENT WITH APOLOGY:**

Dr. Oki Ooko Ombaka	-	Vice-Chairperson
Mr. Paul M. Wambua	-	Commissioner
Prof. W.H.O. Okoth-Ogendo	-	“

**Com. Swazuri** invited Prof. Ghai to give his opening remarks.

**Prof. Ghai** said the Commission was happy to be in Mombasa and that the purpose of the short visit is to meet the people to tell them something about the work of the Commission and the procedure that the Commission will use in discharging its responsibilities. It is also an opportunity to hear the people's suggestions as to how the Commission can conduct its work. He said the Commission will be asking for specific suggestions about civic education, setting up of documentation centres and the establishment of constituency forums in every constituency. He said when the Commission returns to Nairobi at the end of the visits, it will review all the suggestions that have been made and finalise the programme for civic education and method of setting up forums.

He said the legislation under which the Commission operates lays down guidance on the review process, the different stages of review, organs of review and in particular where people will play a direct role in the process. He mentioned five organs of review and the way in which the review process is to be conducted and that if the people are familiar with these their participation will be more effective.

He said this is the first time the people of Kenya have been given an opportunity to participate in the making of a constitution. He said this is a big responsibility because it helps to shape the values and the destiny of any country. He said the present constitution was made in London when a few leaders went to Lancaster House and under the chairmanship of the British Government they made certain agreements which became a constitution. The people of Kenya were not consulted in any meaningful way and the British idea of constitutions made for colonies seemed to be that if they get the leaders as far away as possible from their own people they would guarantee a good constitution. He said that idea is completely rejected in the Act under which the Commission is operating. The process of review in Kenya today has sometimes been called a people-driven process by which he means that the public of Kenya must play a fundamental role in the making of the constitution. He said the constitution must reflect the views of the people of Kenya and it must relate to the realities, the problems and the aspirations of the people.

He said the fact the review process is meant to be people driven means that the people of Kenya have a very big responsibility. He said the responsibility that the people have in the making of a good constitution is greater than that of the Commission and that the role of the Commission is limited.

He said that so far much of the attention of the public and the media has focused on the Commission, its deeds and misdeeds, but that it is important to see the role of the Commission in the perspective of the whole process. The Constitution Review Act says that the Commission must conduct, promote and facilitate civic education with a view to stimulating public awareness and discussion on the constitutional issue. For this purpose the Commission must travel throughout the country and visit every constituency and consult with the people and it must make a report on the recommendations made by the public. He said the Commission is therefore required to listen to the people and make proposals on what the people say. He said that unless the people come to the Commission and give their ideas it will not be able to recommend a constitution which truly reflects the wishes, aspirations and hopes of the people. He said he hoped that every Kenyan feels that they can give the Commission their comments and suggestions without fear or favour. The Review Act requires every political party, every religious group, the Commission itself and the government to ensure that the review process can take place in peace, people's rights of expression and assembly are protected, that meetings are not broken up by the police or other groups so that there can be proper exchange of ideas and hopefully develop a consensus. He again asked the people to give their ideas to the Commission and emphasised that the meeting is not to receive ideas on the constitution but on civic education. He however said those who have memoranda can hand them over to the Commission who will distribute them to all the documentation centres that will be established and on the website.

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 the responsibility of the Commission is to analyse the terms of the Legislation to establish its mandate such facilitating civic education, consulting with the people and on the basis of the recommendations made, to prepare a draft constitution. He said once the draft constitution has

been published the role of the Commission becomes subsidiary to other organs of review in particular the national constitutional conference. This body, he said will consist of about 500 people including all the Members of Parliament, three representatives from every district, representatives of religious groups, professional bodies, political parties, youth groups, women's groups and NGO's. The Commissioners will be members but they will not have a right to vote but will essentially serve as a Secretariat of the conference. He said the Act makes a distinction between the Commission which is supposed to be an independent and expert body not linked to any particular group, community, religion or profession. He said the Commission has to stand above all sections and divisions because the draft constitution it recommends should reflect the overall interests of the all the people of Kenya. He said the conference is much more of a negotiating body where different interest groups will be represented to look after the interests of those groups. He said this is the body that will have the primary responsibility for making decisions on the future constitution. He said the Commission will facilitate the work of the conference in a number of ways like allowing the public 2 to 3 months to read and debate its recommendations. It will then collect all the views given on the draft constitution and present these to the constitution conference along with the Commission's own recommendations.

He said the third organ of the review is the constituency constitutional forums to be established in every constituency. He said the purpose of these forums is to facilitate debate and discussion on the constitution within the constituency and this will facilitate the Commission's discussion with the people during its constituency visits. He said the work of the constituency forums is very important because they will be the institutions where debate takes place throughout the country about the next constitution. While the Commission will provide guidance to these forums, it believes that is for the people and their leaders in the constituency to establish mechanisms they think are best suited for promoting discussion and collecting ideas to present to the Commission.

He said the next organ of review is the referendum which is the process where people vote directly on proposals for the constitution. The Act says that if the constitution conference is able to reach a consensus on the constitution the draft constitution will be sent to Parliament for enactment and there will be no need for a referendum. 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 the final organ of review is the National Assembly and the President but that the results of the national conference or the referendum will be binding on Parliament.

Prof. Ghai said that through these different organs of the review, the emphasis is on consensus and all these organs must seek to make their decisions through consensus. If a consensus cannot be reached the decisions of the organs should be made by two-thirds of the members of the organ. He said the reason why the Act places a lot of importance on the consensus is that the constitution is supposed to belong to everyone, it is the central rule by which people come together, create national unity and set down rules by which they want to be governed. It is the document that sets the rules for the rights and obligations of citizens. He said it also establishes the way in which people want to live such hopes and aspirations for the future, it sets up mechanisms whereby disputes between the people and different organs of the government are resolved. He said because of the important function of the constitution it is important that as many people as possible support the constitution and have a say in its making. He therefore said consensus is very important because unlike other laws this is a fundamental law and every other law has to be consistent with the constitution. He said although at the moment the country is divided politically and ethnically the constitution must ensure that every Kenyan has basic needs of life.

He said although the review process is to get a good constitution, it is also to give every Kenyan an opportunity to express their ideas and also to generate a consensus among the people about system of government, values by which people want to live their lives. He said it is an opportunity to heal the differences that people might have and try to establish an understanding of different points of view and acknowledge differences at the same time. He hoped that at the meeting participants will let speakers speak without shouting them down however different the ideas are. He said throughout the process there must be respect for differences while at the same time trying to develop a consensus.

Prof. Ghai said the Act says that there are certain values and institutions that must be respected in constitution making. The purpose of review is to ensure that in the new constitution there is national unity and that it must be protected. He said this is one of the most fundamental roles of the new constitution. The Act also says that the constitution must recognise and provide for the social, religious and ethnic diversity of the people. He said Kenyans speak many languages, adhere to different religions, come from different parts of the country, have different histories and divisions and all these must be respected and ensure that they continue to develop. He said the constitution must ensure a sense of belonging for all Kenyans and at the most acknowledge differences and how people identify to communities and not do anything to distract that identity. The constitution must balance all these identities. He said the Commission will be interested to hear the people's views on these subjects. He said the new constitution must allow for a democratic political system, protection for human rights, rule of law and provide for devolution of power and see whether more power should be given to provinces, districts or other units. The new constitution has to see that basic needs of the people are met, that every person should have food, shelter, access to medicine, opportunity to go to school and university and perhaps this could be done through re-distribution of resources. He said 57% of Kenyans live below the poverty line and poverty and corruption have become major issues of this country and the new constitution should eradicate corruption and ensure every Kenyan a decent standard of living. He said the Act also requires the Commission to consider other issues drawn from these values like how to increase the accountability of public institutions to the people, how to promote greater participation of people in the government during elections. He said there are a number of issues to be considered under the review process. He said when the Commission goes round the country later in the year, it will consider all the issues that need to be examined and it will prepare a paper discussing all these issues and raising questions that need to be considered.

Prof. Ghai said the purpose of the visit is to get the people's ideas on the institutions and procedures that have to be implemented soon as part of the review process. He said the Commission has the responsibility to conduct and promote civic education. He said civic education is ideas about the way the government works, the different processes of government, the way the government relates to the people, the rights and responsibilities of the people, the way in which public policy is made and implemented, the way in the people's rights are

perfected and the public values of the government. He said civic education is broader than just constitutional issues but that the mandate of the Commission is to focus on constitutional issues. He said civic education conducted in different ways starting at home learning from parents, in schools how to be responsible citizens, in mosques, temples and churches, people learn about ethics in professional organisations.

Prof. Ghai said the Commission has been considering how much civic education it can conduct directly and how much can be conducted in partnership with other institutions like religious organisations, professional bodies, women groups, community based organisations, NGO's, schools, universities, through the media, through meetings and so on. He said the Commission has consulted many groups and received a lot of ideas which it will review. He said the purpose of the meeting was to get ideas of those present on what kind of civic education should be provided and who will provide it. He said the Commission does not have enough resources or skills to conduct civic education throughout the country. He said civic education must be conducted throughout the review process.

He said the Commission has to make sure that people in all parts of Kenya have an opportunity to get civic education and that it covers the constitution issues that have to be examined. The Commission also has to ensure that civic education is conducted in a fair and impartial way so that it does not become advocacy or propaganda against or for the government, against or for the opposition, against or for religious groups. He said the Commission will produce a code of conduct which every provider will have to adhere to ensure that the exercise is carried out as responsibly and as objectively as possible.

He said the Commission will also produce a national curriculum that every provider will have to follow.

Prof. Ghai said that the Commission has to set up documentation centres in every district. He said the purpose of these centres is to provide civic education material, material about the present constitution, material on experience of other country's constitutions, material about the Legislation under which the Commission is operating. He said the Commission is in the process of producing a paper that summarises the present constitution because everywhere in the country

people have said they do not know what it says. This document will be published in English and Kiswahili and maybe in other languages later. He said there will also be short consultation papers on the issues the Commission is required to examine like devolving power, systems of government like federal system or unitary system. These centres will have views from other districts so that everybody knows the views of other people. The Commission wants ideas as to where these centres should be located either in public libraries, district offices and what kind of material and documents the people would like to see. He said the Commission will use electronic media, TV and radio stations. He said it has been suggested that these centres should be below district level because of the long distances and the Commission would welcome views on that.

He said the Commission is also required to establish constituency forums in every constituency but that it will not have any rules on how to set these up but will leave it to the people and their leaders to decide how they want to organise these.

Prof. Ghai said that the Commission will be appointing district coordinators shortly to assist the local community in setting up documentation centres.

He said the Review Act requires the Commission to ensure that the whole process is concluded by September 2002 and also says that if the Commission considers that more time is needed, it can request an extension. He said the Commission cannot make this request until after October 2001. He said the Commission will work very hard and hoped that the other organs of the review would do the same so that process can be completed in time. He said that the Commission has a Strategic Plan that sets out the different stage of the process with a timetable against each stage and the programme will be reviewed periodically and should it appear that the process will not be finished on time, the Commission will start thinking about requesting Parliament for an extension. He said that if the Commission asks for extension other questions will arise, for example, whether Parliament should be suspended or whether elections should be held in December 2002. He said there is the option of having minimal changes to the constitutions, have elections and the Commission continues with its work. There is also the option of an interim constitution which is more than minimal changes, have elections and the Commission finishes its work. He said the Commission is not discussing these options in detail

because it believes that it will finish the process by September 2002. He said the Commission would like to know what the people think about these options.

He then invited Com. Abida Ali-Aroni to translate the remarks in Kiswahili.

**Com. Swazuri** recognised the presence of Members of Parliament present and reminded the participants that the topics of the meeting were civic education, documentation centres, constituency forums and time frame. He then invited groups to give their views starting with religious groups. He requested those with memoranda to hand them in.

**A speaker from Muslim Council** said civic education should be conducted by institutions that have done civic education for over 2 years but that it should not be done by civil servants.

**Bishop Njenga of Catholic Diocese of Mombasa** welcomed the Commission to Mombasa and assured it of their support. He said the Catholic Church has been conducting civic education. He said civic education should be conducted by as many Kenyans possible who are already involved and in all languages including sign language.

He said the Commission should work as a team and solve its differences in private.

He said the Commission should be independent.

He said constituency forums should at sub-location and location level and that political parties have a role to play in the process.

**Raymond** (?) said civic education should be conducted in vernacular and the Commission should collect views from as many people as possible. He said the Commission should account for the money allocated to it.

He said the review process should not be tied to parliamentary elections.

He said the Commission should work with the many institutions already conducting civic education and ensure that all views are included in their report.

**A Speaker** said the Commission will not be able to finish its work in the stipulated time and that there should be a government of national unity under an interim constitution.

He said Commissioners should be Kenya citizens.

He said politicians should not interfere with the Commission's work to ensure its complete independence.

**George of Coast Peace and Justice** said his organisation is already conducting civic education and asked the material be distributed to the public before the Commission visits the constituencies. He said that the constitution should be translated into local languages so that Kenyans can understand it and provincial administration and police should not be involved.

He said documentation centres should be at constituency level.

He said if the Commission does not finish its work on time, Parliament should be extended.

**Priscilla Charo, a women leader from Kilifi** said civic education should be done in Kiswahili at the grassroots level by local people so that people can understand it. She said seminars should be held for about one week so that people can ask questions on points they do not understand and that there should be a common syllabus.

**Namashiumbe(?), chairperson of Maendeleo ya Wanawake in Coast Province** said women should be represented in all institutions in the constituencies and districts and appreciated the fact that there was gender balance in the Commission.

She said the Commission should finish its work by September 2002 so that the question of extending Parliament does not arise.

**A lady speaker** appreciated the fact that Prof. Idha Salim was a Vice-Chair and that there are ladies in the Commission.

She said women should be involved in policy making bodies in civic education and that there should be enough security.

She said women's affairs should be provided for the new constitution especially widows, orphans and single mothers.

She said indigenous Coast women should be fully involved in civic education and that it should be done over a period of about a week.

**Samuel of Muslim Youth Network** said there should be no interference with the Commission's work from provincial administration and that the Commission must finish its work by July 2002.

He said the Commission should appoint coordinators for civic education and provide education materials to the youth and that coverage of all areas should be ensured. He handed in a memorandum.

**A youth speaker** asked the Commission to provide pre-paid envelopes to the public in which to send views.

**Jedida representing youth in Taita** said review process should include children and youth who will be the beneficiaries of the constitution.

She said civic education should be conducted in schools, colleges and universities by teachers. She said a website should also be set up so that people can get information on civic education and the constitution and that the media should also be used to disseminate information in Kiswahili and other local languages. She also said there should be columns in newspapers on civic education in Kiswahili.

**Saidi coordinator of Kenya Society for the Handicapped, Coast Province** said civic education should also be written in Braille and Masai languages. He suggested that civic education should also be done by the handicapped.

Constituency forums should also be done through the handicapped people.

He said if the Commission does not finish its work on time there should be an interim constitution so that elections can go ahead.

(A lot of shouting after Com. Swazuri proposed to give a chance to politicians)

**Com. Zein Abubakar** explained to the people that even politicians present are from the Coast Province and that individual views should be respected.

**Hon. Shariff** said he was happy the Commission has gone to the Coast. He said Kenya should have a unique constitution and that everyone should give their views.

Hon. Darius Mbela said civic education should he is not qualified to conduct civic education because he is a politician and that there is a difference between advocacy and civic education.

He said Parliament should not be extended if the Commission does finish its work on time and that there should be an interim constitution.

He said documentation centres should be at location level because some districts are too large.

He said there should not be boardroom constitutions but that Kenyans would like to see a home-grown constitution.

**Hon. Mohamed Hirji, MP for Lamu** said NGO's are Nairobi institutions and they should not be used in civic education and that the Commission should take views from everyone at grassroots level. He said in Kenya there are poor and rich people and there are marginalised groups and that all these people should be able to give their views.

**Hon. Karissa** said Mombasa people should be commended because they have attended the meeting even after the poverty they have been forced into by the government. He said President Clinton was popular because when he collected taxes he returned it to the local people for their development.

He said in civic education, the Commission has to take into consideration that Coast Province is different from other provinces because even when Kenya was a colonial state, Coast Province was a Protectorate and the constitution of Kenya does not recognise the Coast Province. He said the people of Coast Province should be given civic education. All the funds raised in Coast Province go to the central government. He said he preferred majimbo so that the province can manage its own resources.

Hon. Keah said the Commission should be united, professional, fair, independent and consider all views and not be mercenary in its financial demands.

He said for the common mwananchi to participate in the review process, the syllabus should be uniform and in vernacular and be conducted by the indigenous people whether they are NGO's, civil society, churches operating in the constituency. He said funds to facilitate civic education should be allocated to each constituency and that the material should be produced in English, Swahili and vernacular so that the local people can understand it.

He said district coordinators should be local people who understand Kiswahili and vernacular and that there should also be constituency coordinators to assist the district coordinators and their duties should be known.

He said civic education should be over a period of 3-4 days in constituencies and there should be a constituency constitution workshop so that people can study the present constitution clause by clause and make the necessary changes.

All material should include the present constitution translated in Kiswahili.

He said the constituency constitution workshop should synchronise submissions in preparation for the national forum and that views from every district should be circulated throughout the Republic.

He said the format of all issues should be uniform to facilitate easier coordination.

He said Parliament is the supreme authority for changing the constitution. (Shouting).

He said the new constitution should ensure equal distribution of resources.

**Najib, Mayor of Mombasa** said the Commission is not political and it has a historic role to play because the new constitution will belong to the Uhuru generation of Kenya and therefore they should be included in the process.

He said civic education should be inclusive of all wananchi and it should be continuous. He said it should be conducted by local NGO's .

He said constitution forums should be by able leaders selected by the Commission.

He said documentation centres should be independent at local level by local people.

He wanted to know who will select representatives to the national conference and suggested that the local people should select their own representatives. He also wondered how 500 people will be able to represent the whole country.

He said Parliament should not be extended.

**Beatrice Mwalinda of Kilifi** said there were very few women in the gathering although they are the majority voters.

She said there should be separate civic education forums for women at grassroots level so that they can understand the importance of the process and that it should be conducted by women's groups. She said the curriculum should be in Kiswahili and vernacular so that the women in the villages can understand it.

**Ali Maalim of Mombasa** said the new constitution should clarify who is a citizen and who is not a citizen.

He preferred majimbo government.

He said civic education should be conducted by trained providers.

He said documentation centres should be manned by people who know how to pass information properly to the people.

He said constituency forums should include councillors and the youth should be given opportunity to select their representatives in the forums. He said MP's should not be included in these forums and the local people should decide who will represent them.

He said the Commission should finish its work on time but it is not possible there should be a government of national unity.

**Ali Sheikh** asked the Chairperson to do his work properly, that Kenyans do not want to go to elections without a new constitution and preferred majimbo system of government.

**Hon. Ngala** said that this review process is historical. He said civic education should be done at grassroots level because the local people are the ones who know what they want. He said there are women groups, teachers, Maendeleo ya Wanawake who can conduct this exercise.

He said documentation centres should be at constituency level.

He said Commission should be above the law and be united because people do not like what they are reading in the press.

He said this process should be completed on time but if it is not possible elections should be carried out under minimum reforms and Parliament should not be extended.

**Speaker** said civic education should be conducted by individuals and not by CBO's or NGO's.

Dr. Muga Chokwe speaking as a professional said the Government of Kenya does not recognise professionals and the feel they are being sidelined. He said professionals should be given a chance to conduct civic education because in some cases they are advised by people who have not gone to school but have been given positions with authority.

He said it should also be done by NGO's include women groups, youth groups and even individuals and these groups should be used.

He said the Chairperson, as a profession and highly education person, should know if the Commission will finish its work on time or not and he should tell the people what they should do to ensure free and fair elections.

**Prof. Ghai** in response to some points first thanked the participants for their views. He said the purpose of the visit is to listen to the people and that the Commission had taken careful notes of the views put forward which will be considered when making a plan for civic education.

He reassured the people of the Commission's independence and that the people should watch the Commission and to make sure it maintains its independence.

On financial responsibilities, he said the Commission will exercise its authority over the finances at its discretion carefully but mentioned that review process is expensive. He also informed the people that the 4.5 billion shillings is not only going to the Commission but that it is also to be used for national constitutional conference and if there is no consensus at the conference some of the money will go into the referendum. He said the cost of a referendum is as large as that of a general elections. He also said constituency forums have to be established. He said the costs will be kept down and if the Commission does not use its resources carefully that the public should criticise the Commission and say where it is going wrong because the Commission is accountable to the people of Kenya and the people will get the report as soon as it ready.

He said the Commission will be responsible of convening the national constitutional conference and when the report is ready to go to Parliament it will go through the Attorney-General direct to Parliament. He hoped that the Bill will be passed without delay.

He noted the point about documents being published in Kiswahili and vernacular and said this would be done resources allowing. He said the Commission has a commitment to write the constitution in simple language that every Kenyan can understand.

He said the Commission is required to finish its work within the time stipulated and if it is not possible, it can ask for extension but assured the people that it will work extremely hard to finish the process in time. He noted the comments the people had made and said they would be taken into consideration. Prof. Ghai also said it was important to remember that the Commission can only control the time that it was doing its work, reminding the people that the process could be delayed when it passed on to other stages being controlled by other organs.

He thanked the participants again and expressed gratitude for all the views presented.

## **TONONOKA GROUNDS - P.M.**

Com. Maranga (MC) welcomed those present and introduced the Commissioners.

### **PRESENT:**

Prof. Yash Pal Ghai	-	Chairperson
Prof. A. Idha Salim	-	1 <sup>st</sup> Vice-Chairperson
Mrs. Abida Ali-Aroni	-	Vice-Chairperson
Ms. Nancy Baraza	-	“
Mr. Ahamed I. Hassan	-	“
Dr. M.A. Swazuri	-	“
Mr. John Mutakha Kangu	-	“
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	-	“
Dr. Abdirizak Arale Nunow	-	“
Mr. Abubakar Zein Abubakar	-	“
Mr. Ibrahim Lethome Asman	-	“
Bishop Kariuki Njoroge	-	“
Dr. Charles Maranga	-	“
Mrs. Alice Yano	-	“
Mr. Riungu Raiji	-	“
Mr. Keriako Tobiko	-	“
Dr. Wanjiku Kabira	-	“
Hon. Mrs. Phoebe Asiyo	-	“
Mr. Githu Muigai	-	“
Mr. Arthur Okoth-Owiro	-	Commission Secretary

**Com. Maranga** invited Prof. Ghai to make a few remarks.

Prof. Ghai said the Commission was happy to be in Mombasa. He said although this was a short visit, the Commission would be returning later in the year to receive the people's suggestions and recommendations for the new constitution.

He said the purpose of the visit was to introduce the Commissioners and tell the people about the Commission's work and procedures that it will follow in making the new constitution. He said the Commission also wants to hear from the people on how to implement the procedures for constitution making and in particular their views about civic education, the way in which to establish district documentation centres and how to establish constitutional forums. He said the Review Act requires the Commission to visit every constituency to seek public views and the purpose of the short visit is also to make arrangements so that people become familiar with the issues that have to be discussed so that when the Commission returns, there can be a good exchange of ideas.

He said he had explained in the morning session the Review Act, the procedures to be followed in the making of the constitution, the different organs of review and discussed the time frame in which the Commission has to complete its work. Instead of repeating those remarks, he invited Com. Abida Ali-Aroni to give a summary in Kiswahili.

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

**Com. Maranga** reminded the people that the topics were civic education, documentation centres, constituency forums and time frame for the process. He also asked people to respect each other's views.

**Zainab Shizuga, Maendeleo ya Wanawake and a women leader from Kwale** said civic education should be conducted by residents of the province and residents should be consulted in choosing the people to conduct the education. She said civic education should go up to village level.

She said documentation centres should at locational level because of transport problems as some areas do not have roads.

She said constituency forum should be at locational level and if the Commission did not have enough time, there should be at least two forums in every location so that every Kenya in every corner can be educated.

She preferred majimbo and said that if other people live in Coast Province they should respect the local people.

**Angilwa** said the Commission should get copies of the old constitution for everybody so that they can know what they are changing.

He said documentation centres should be at location level so that they are accessible to everybody.

He said constituency forums should be at village level in the local language.

**Immanuel Dennis Kombo** said he wanted a constitution that takes care of the youth and children because they are the ones who benefit in the future. He said these groups should be provided with protection rights, development rights, participation rights and survival.

He said documentation centres should be in schools, colleges and universities in order to reach most young people.

He said the media, newspapers, TV, radio should be used to disseminate information and this information should be in vernacular and it should be simplified so that everyone can understand it.

He said the youth are energetic enough to conduct civic education in every place.

**Mwakio Mbau of KAYO Ecological and Cultural Organisation** said the time frame of the Commission is not enough but that elections should go ahead and the Commission continues with its work. He said civic education should not be for less than 6 months so that even the woman in the village knows that civil servants are there to serve them.

He said there are people waiting to bring their own people to conduct civic education and that it should be done by churches or NGO's. He said facilitators should be chosen from village level and that local people should select their representatives, then sub-location residents will do the same thing. He said even the lowest people in society like watchmen, house helpers, messengers, labourers and hawkers should not be forgotten in this process because these are the people who experience serious problems in their jobs and their views should be heard.

He said the old constitution has no mention of God and that constitutions of other countries always start with the name of God. He said the constitution must respect every tribe, every Kenyan and every organisation in Kenya.

**Mwamboji Mwambura from Chonyi** said documentation centres should be at grassroots level. He said civic education should be done by the local people. He said the problems with the constitution were brought about by Mzee Jomo Kenyatta but now people can tell the Commission their views and the bitterness they have.

He said if the Commission does not finish its work on time, there should be an interim constitution.

**Abubakar Halal(?) of IPK** said strategic planning concerns the pattern, planning, programme and the ploy. He said every time Kenyans talk about the constitution there is something that is hidden from them. He said the present constitution was written by the colonialist so that he could control the economy, then it was amended many times. In 1976, there was an effort to amend the constitution to stop Moi from becoming president but it did not succeed. He therefore said every process has a hidden agenda and when the Commission says it may not finish its work on time, there might be a hidden agenda. He said Kenyans are tired of commissions and that the Commission should tell the president that it needs 5 years to finish its work. He said elections should go ahead but after five years all MP's and the president should vacate their seats. He said after that civic education should be done all over the country for one and a half years by churches, NGO's and after three years a new constitution will be written and passed.

**Coun. Amina Kisoso of Kilifi** said she was sad because there is no lady Commissioner from the Coast.

She said civic education should start from the grassroots and should be done through the radio so that everybody knows what they are changing.

**Mama Janet Mbete, youth coordinator from Kwale** said civic education should not involve Members of Parliament. She said district coordination, workshops and collection of views should be done by local CBO's at the grassroots.

She documentation should go through district administration to schools and health centres.

She said Coast people should not lose heart because Com. Abida Ali and Com. Swazuri are from the Coast and the province is well represented in the Commission.

She said all Kenyans should live together like brothers and sisters.

**Bakari Omar** said there people from upcountry in the Coast Province but there are no Coast Province residents upcountry.

**Morris Wekesa** said people should live together as Kenyans not as Coast people and upcountry people.

He said civic education should be conducted through the channels that already exist as KBC does not tell them the truth.

He said Kenyans are tired of politicians and they know the government can interfere with the Commission. He asked the Commission to stand firm.

He said the present constitution has no motto and it does not define who is a citizen.

He said documentation centres should be at polling stations because many Kenyans know these stations. He asked that Kenyans should be given the old constitution to read so that they understand what they should change. He said at the moment there is no constitution in Kenya so this process is for writing and not amending the constitution, so the new constitution should be a good one for Kenyans and by Kenyans for many years to come.

He said politicians should not interfere with Commissioners. He said the newspapers have been reporting that there are some Commissioners colluding with the government and this will make the people lose confidence with the Commission and if this is true such a Commissioner should be excluded from the Commission.

**Beatrice Mwanzilwa of Shimba Hills** said civic education should be done by Kenyans themselves because they know Kenyan problems.

She said women interests should be considered. She said freedom of worship should be protected. She said there should be strict laws against rapists.

**Mwasambo Mwabosa Mwakani (?)**of **Shirikisho** said the Commission has independent Commissioners but that it is not an independent Commission and asked Prof. Ghai to reassure the public on the independence of the Commission.

He said civic education should be done at workshops and seminars by local people. He said local NGO's and churches should conduct the education.

**Msechu Simeon Rogers** said documentation centres should be in centres that are accessible to the residents of an area.

He said the Commission should change only sections of the present constitution according to the wishes of the people. He said unless political fear is removed from the community, there will never be a good constitution.

**Leonard Ndume Kenya, chairperson of Remote Society Mazeras,** said the people who want to lead this country should reduce their salaries by 40% and this money should be deposited into cooperative societies so that the poor people can get loans.

**Lady Councillor from Ganjoni** said civic education should start at locational level by women's groups, then go to division level and district level. She said the present constitution is for the rich and it does not give consideration to women's affairs and that the new constitution must give equal rights to men and women.

**Danson Muya Mungatana of Law Society of Kenya from Tana River** said politicians have always wanted to hijack constituency forums and the people do not want them in these forums. He said chiefs, DO's, DC's and the police are feared by the local people and they should not be in these forums.

He said the Commission should be completely free and fair.

**Hilary Mainga, Director of People's Movement for Human Rights,** said that the views of the people should be reflected in the new constitution and if they are not, he will personally lead demonstration.

**Sauti Shiluba of National Commission on the Status of Women, Kwale District,** said documentation centres should be at village level and the villagers should decide exactly where the centres should be. There should be material on children and young people's interests and rights of the disabled so that they can also participate in constitution making.

**Moses Mwini of Kilifi** said the constitution should be made fairly and should not only favour the rich who are stealing people's money and those who have stolen money should be made to return it.

**Zainab Noormohamed ex-ward Secretary of Kanu** said even if the Commission has not completed its work in time, elections should go ahead and the Commission should continue with its work. She said there have been many commissions in Kenya and nothing has been implemented. She said these commissions have been a waste of money. She said Kenyans do not have human rights especially the less fortunate people and even when the President visits the country, small people do not get a chance to see him. She said ID's are very important documents but they do not seem to be recognised in Kenya and people are arrested even when they produce them. She said Kenya is not a poor country, but it is poor because it lacks reliable leaders.

**Njoya** said civic education should be given to street children, beggars and illegitimate children as they need to be aware of the constitution.

**Joseph Onyango a Trade Unionist** said that trade unions have been left out of the constitution. He said the people present were workers not employers. He asked the Commission to incorporate labour movement representation so that workers are also given civic education. He said the existing labour laws should be overhauled so that the worker in Kenya can work in an enabling environment. He said NGO's and churches should not get involved in civic education.

**Joseph Rotich from Rift Valley** said disabled people have been ignored in Kenya and they must be given their rights.

He said disabled people have only Thika School for the Blind in Kenya and yet MP's are increasing their salaries. He said the national constitutional conference should include at least two disabled people, a man and a woman. He said documents should also be in Braille so that the blind can read.

He said churches should be included in civic education.

**Joshua Momanyi** said the President's powers are too many. He said many people present were young jobless people while there are people earning a lot of money.

**Evans Gachie** said there is only one young person in the Commission and there should be many more. He said this was the first Commission he has seen young people speaking but he was scared that they would be beaten after speaking. He said chiefs should be given civic education so that they allow young people to get involved in the process. He said the youth should be given their right and that there should be a national youth policy with young people speaking for the youth.

He said young people are harassed by the police and that there should be an ombudsman where young people can report cases of harassment.

**Hassan Mohammed from Lamu** said Prof. Ghai has done a good job. He said from what was happening at the meeting he could see that the review process will result in a referendum but that some communities were very small and he was afraid that the views of the bigger communities would be given priority.

**Kivuli Jana from Kilifi** said he farms mnazi but the government does not allow the use of mnazi. He wanted to know why miraa business is allowed while mnazi is prohibited.

**Mwangoe of Taita** said there are people who have large farms when others have none and the Commission should look into that so that everyone has two acres to be able to look after their families. He said farms should not be allocated by the Government but by elders.

He said there is no work these days because one cannot get a job unless they know someone.

**Com. Maranga** reminded those present to speak on the relevant topics.

**Ali Omare** said all the problems in the country have been brought about by President Moi. He said the Lancaster House constitution is a majimbo constitution. He said if the Commission has not finished its work on time there should be an interim government and elections should go on as scheduled.

**Bia Mombasa** said when the President goes to Mombasa the public do not see him. He said leaders should be educated people. She said there have been many commissions that have not produced any results but that the people wanted to see the results of this Commission. She said workers in Mombasa have not been paid for 4 months and that many people in Kenya do not want the present government.

**Margaret coordinator of that National Commission of the Status of Women, Kilifi,** said civic education should from the grassroots level and women interests should be given special attention because they have a lot of problems.

**Comrade Edward, a businessman,** said the ordinary mwananchi should be educated so that he can understand the constitution. He said the present constitution should be made available to the people so that they can study it.

He said civic education should start at grassroots level by local people, women groups and youth groups. There should be local seminars to educate the people.

He said documentation centres should be at polling stations and the media should be used to disseminate information. He said all people should be treated equally.

**A speaker from Kwale** said the present constitution has brought a lot of problems and people do not want it. He said Coast Province has been ruled by many different people who have taken everything from the mwananchi. He said Coast Province should rule itself and that Mombasa should be divided into two locations with three ministers in every location.

**A speaker** said civic education should start at grassroots level and should be done by churches. He said this country used to be one but was divided during the tribal clashes and Kenya is a wounded nation. He said there is a lot of hatred but that even as people differ they have to build bridges of peace so that Kenyans can move anywhere in Kenya and be accepted by the community in that area.

Kenneth Mutegi said the present constitution was written by the colonialists. He said he was happy that the people can give their views on the constitution they want and the new constitution

should help every mwananchi. He said the constitution should take of those who cannot take of themselves.

**Rashid Karissa** said he finished Form Four last year but he still has not got his certificate because he has a balance on his fees and he said there a lot of young people who are in the same position and this forces them to sell and use drugs because they have nothing to do.

**Com. Maranga** invited Prof. Ghai to make closing remarks.

**Prof. Ghai** thanked the people for coming and giving their views. He said the views given will be very useful when the Commission makes its terms for civic education. He said the Commission will act independently and make decisions in the interests of the nation. The views of the people would be the driving force in the review process.

He said the large number of documents already received will be studied. The fact that so many people had prepared submissions and memoranda was a very good sign because it showed that people are extremely keen to participate in the process. He said the Commission looked forward to their continued participation in the process.

He said the whole purpose of the meeting was to listen to the people's ideas and reflect upon them and that the Commission would do that.

The meeting was closed at 5.40 p.m. with a Muslim prayer.