

**WORKING DOCUMENTS FOR
THE NATIONAL
CONSTITUTIONAL CONFERENCE**

**DOCUMENT IV: AN OUTLINE OF
LEGISLATION WHICH WILL REQUIRE
ENACTMENT, AMENDMENT, REVISION
OR REPEAL**

**APPROVED AND ISSUED BY THE COMMISSION AT A SPECIAL COMMISSION
MEETING HELD ON 17TH APRIL, 2003**

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FOREWORD

AFFIRMATIVE ACTION ACT

[ART 14 (11), 35, 109,76(6) 281, 288(1) (d)]

A Bill for an Act of Parliament to provide for programmes of affirmative action in favour of certain marginalized groups.

PART I- PRELIMINARY

1. Short title
2. Interpretation and commencement
3. Application

PART II- SUBSTANTIVE PROVISIONS

4. Definition and the philosophy of affirmative action
5. Guiding principles of affirmative action
6. Objectives and purposes of affirmative action
7. Affirmative action towards gender equality
8. Affirmative action and the bill of right
9. Affirmative action as positive discrimination
10. Affirmative action for the women, person with disability, orphaned children, and other vulnerable groups
11. Affirmative action in the Parliament and Devolved Levels of Government and in Political Parties
12. Affirmative action in appointment to the public office, education, health and employment
13. Methods of affirmative action to promote gender equality e.g. one third representation of women
14. Affirmative action in the private sector
15. Prohibition of discrimination in all its forms
16. Duration of the affirmative action
17. Exceptions to the affirmative action

PART 111- ADMINISTRATIVE PROVISIONS

18. Power and role of the Commission on Human Rights and Administrative Justice as the administrator, overseer and implementer of affirmative action e.g. under the Gender Commission

19. Protection from liability in actions taken in good faith
20. Nominating and vetting panels to determine the best beneficiaries of the affirmative action
21. Gender advisers and gender education
22. Complaints mechanisms
23. Evaluation report of status, efficacy and progress in the implementation of the affirmative action
24. Offences
25. Power to make Regulations
26. Transitional

CIVIL SOCIETY ACT

[ARTICLE 14(9)]

An Act of parliament to make provision for the registration and coordination of civil society and the role of the civil society in governance and connected purposes.

PART I - PRELIMINARY

1. Short title
2. Interpretation ‘ civil society’

PART II - FORMATION OF SOCIETY ORGANIZATIONS

3. Formation- running concern must be lawful
4. Registration of civil societies (Art 48(5))
5. Certificate of registration
6. Renewal of certificate
7. Deregistration (Art 48(5f))

PART III - REGULATION OF CIVIL SOCIETY ORGANIZATIONS THE GOVERNMENT

8. Role of the Minister
9. Regulations
10. Limitation to Government regulation

PART IV- CIVIL SOCIETY FINANCES

11. Sources of funds
12. Books of accounts
13. Audit of accounts
- 13 Offences and penalties
14. Taxable income
15. Tax exemptions and reliefs
16. Transitional and repeals (NGO Act)

CONSULAR AND DIPLOMATIC PRIVILEGES ACT

[ARTICLE 151(5)(B)]

An Act of Parliament to provide for the privileges and immunities of diplomatic missions, consulates and international organizations and for implementation of the Vienna Conventions on Diplomatic and Consular Relations and for matters incidental to and connected therewith.

PART I

PRELIMINARY

1. Short title
2. Interpretation

PART II

DIPLOMATIC MISSIONS

3. Diplomatic missions agreements
4. Diplomatic missions agreements subject to approval of Parliament
5. Application of Convention
6. Privileges, immunities and benefits
7. Limitations and waiver
8. Order of waiver as conducive

PART III

CONSULATES

9. Consular agreements
10. Consular agreements subject to approval by parliament
11. Application of Convention
12. Privileges, immunities and benefits
13. Limitations and waiver
14. Order of waiver as conducive

PART IV

INTERNATIONAL ORGANIZATIONS

15. International organizations agreements
16. International organizations agreements subject to approval by parliament
17. Privileges, immunities and benefits
18. Limitation and waiver
19. Order of waiver as conducive
20. Modifications in respect to the united nation organization
21. Reciprocal treatment
22. Representatives at International Conferences

PART V

MISCELLANEOUS

23. Oaths and notarial acts
24. Scheduling of agreement to this Act
25. Powers of the Minister
26. Annual report and special report of minister to Parliament on the conduct of beneficiaries of this Act
27. Repeals and savings

SCHEDULES

28. All existing agreements to be scheduled here

CRIMINAL PROSECUTIONS ACT

(ARTICLE 209)

An act of Parliament to make provisions for the investigation and prosecution of criminal conduct

1. Short title
2. Interpretation provisions
3. Who may prosecute
 - The Director of Public Prosecutions
 - Private citizens
 - Appropriate Governmental bodies and entities
 - Police

4. Director of Public Prosecutions

Functions

- Directing investigations of a criminal nature
- Investigations must be conducted within reasonable time and in cases where the DPP has been serving with notice of public prosecution within three months of the said notice
- Instituting criminal proceedings
- Taking over and continuing any criminal proceedings

5. Appointment of prosecutors

- Statutory power a requisite in the case of governmental bodies and entities
- Power of the DPP to delegate authority to prosecute

6. Police Prosecutors

- Limited to misdemeanours
- Requirement that police prosecutors receive training on prosecution

7. Withdrawal of prosecutions

- Only by order of the court and limited to misdemeanours with the full understanding and consent of the victim(s)
- Prosecutors may not withdraw/ DPP may not enter nolle prosequi in felonies or cases that are of public interest

8. Private prosecutions

- Anyone with an interest
- Circumstances allowing for private prosecutions- where the Director of Public Prosecutions fails to prosecute three months after demand by anyone with an interest in the prosecution

9. The obligation of a prosecutor

- To act in good faith – ensure that prosecution is not used as a means to realizing individual interest
- To be just
- To ensure that the law is not violated
- Prosecutor under duty to ensure that the rights of the accused person are not violated

10. Offences and penalties

- Offences for an authorized investigator to fail to conduct investigations when a breach of law has been reported
- Offences for person (save those exempted under that Evidence Act e.g. spouses) to fail to give information to an investigating officer
- Offence to obtain evidence illegally
- Offence to secure witnesses through fraudulent and corrupt means
- Offence to conduct prosecutions without due diligence
- Offence to coerce victim to withdraw a case
- Offence to knowingly lead a witness to give false evidence

CUSTOMARY MARRIAGE ACT

[ARTICLE 38, 35]

An Act of Parliament to allow for registration of customary marriages; to specify the requirements for a valid marriage; to provide for the equal status and capacity of spouses in customary marriages and for matters connected therewith.

1. Short title

2. Interpretation

Customary marriage defined as a marriage negotiated, celebrated or concluded according to any of the systems of indigenous African Customary Law which exist in Kenya, and does not include a marriage conducted in accordance with Christian, Muslim, Hindu or other religious rites.

3. Recognition of customary marriages

- Valid customary marriages at the time of commencement of Act
- Customary marriages entered into after the commencement of Act which comply with the requirements of the Act

4. Requirements for validity of customary marriages

- Spouses to be above 18 years
- Must consent to marry each other under customary laws
- Marriage must be negotiated / entered into and / or celebrated under customary laws
- Spouses in a statutory marriage

5. Registration of customary marriages

- Duty on spouses to register marriage
- Registration officers
- Marriage entered into after commencement of Act to be registered within three months
- Marriages entered into before commencement of Act to be registered within two years after commencement of Act

6. Age

- Determination of age of minor- registration officer to accept identity document or sworn statement in respect of person who is allegedly a minor or refer matter to Magistrates Courts

7. Equal status and capacity of spouses

Art 35

8. Dissolution of customary marriages

9. Offences

- Failure to register a customary marriage
- Fraud/ deceit

10. Regulations

11. Amendments

- Schedules

ELECTORAL AND ADMINISTRATIVE BOUNDARIES ACT

[ARTICLE 86]

An Act of parliament to make provision for the Electoral and Administrative Boundaries, and their review and for connected purposes

PART I- PRELIMINARY

1. Short title
2. Interpretation

PART II – ADMINISTRATIVE BOUNDARIES

3. Provincial boundaries
4. District boundaries
5. Locational boundaries
6. Village boundaries
7. The Capital City
8. Other local authorities

PART III – CONSTITUENCY BOUNDARIES

9. Demarcation
10. Review of constituency boundaries
11. Operation of order of Electoral Commission on delimitation of constituencies

PART IV- POWERS OF THE ELECTORAL COMMISSION

12. Establishment of all electoral and administrative boundaries
13. Consultations
14. Inspection of maps

PART VI- MISCELLANEOUS

15. Offences and penalties
16. Transitional provisions

SCHEDULES

ELECTORAL ACT

[ARTICLE 76-85]

PART I

1. Short title and commencement
2. Interpretation
3. Application

PART II- SUBSTANTIVE PROVISIONS

REGISTRATION OF VOTERS AND VOTERS ROLL

4. National common voter roll
5. Persons who may apply for registration as a voter
6. Application for registration as a voters
7. Registration
8. Application for change of registration detail
9. Application for deregistration as a voter
10. Amendments to voters roll by Chief Electoral Officer
11. Notification by chief electoral officer
12. Appeal against decisions
13. Continuous registration of voters
14. Voters cards
15. General registration of voters
16. Publication and copies of voters roll

PROCLAMATION AND PREPARATIONS FOR ELECTIONS

17. Proclamation of elections to the National Assembly
18. Proclamation of the election to National Council
19. Proclamation of civic elections
20. Election date and timetables
21. General postponement of elections
22. Voters roll for elections
23. Requirement for parties to contest in an election

24. Submission of list candidates
25. Non- compliance concerning submission of list of candidates
26. Inspection of copies of list
27. Objection to list of candidates
28. Further regulating of election at the district level and the provincial level
29. Declaration of votes

ELECTION

30. Voting
31. Officers at voting stations
32. Hours of voting
33. Initial procedures
34. Voting procedures
35. Assistance to certain voters
36. Issue of new ballot papers
37. Objections concerning voting
38. Sealing of full ballot boxes
39. Completion of form and sealing of voting materials
40. Mobile voting stations
41. Counting of votes at polling stations
42. Time of counting the votes
43. Determinations of the provisional results
44. Objections concerning the sorting of ballot boxes
45. Party agents
46. Objections concerning counting of votes and determination of provisional results
47. Procedure concerning provisional results and voting material
48. Counting of votes at a place other than the voting station
49. Objections material to final results of the election
50. Powers of the commission and the Electoral Court
51. Determination and declaration of the final result of an election
52. Power and duties of agents

ADMINISTRATION

53. Establishment of voting districts

54. Factors for determining voting district boundaries
55. Consultation with party liaison committee
56. Inspection and copies of maps of voting district
57. Establishment of voting stations
58. Relocation of voting stations in emergencies
59. Organization of voting stations
60. Ballot papers
61. Ballot boxes
62. Voting compartments
63. Appointment of returning officers
64. Powers and duties of the returning officers
65. Appointment of presiding officers
66. Powers and duties of presiding officers
67. Appointment of counting clerks
68. Power and duties of counting clerks
69. Appointment of additional persons
70. Powers and duties of the additional persons
71. General provisions concerning the appointment of officers
72. Accreditation of observers
73. Powers and duties of the accredited observers
74. Accreditation of persons providing voter education
75. Prohibited conduct
76. Undue influence
77. Impersonation
78. Intentional false statements
79. Infringement of secrecy
80. Prohibitions concerning voting and election material
81. Prohibitions concerning placards and billboards during election
82. Obstruction of or non-compliance with the direction of the commission's, Chief Electoral Officer and other Officers
83. Contravention of code
84. Institution of and intervention in civil proceeding by Chief Electoral Officer
85. Jurisdiction and power of the Election Court and the Supreme Court
86. Additional powers and duties of the Electoral commission

87. Electoral code of the conduct and other codes
88. Regulations
89. Assignment of power and the duties of the commission
90. Powers to decide objections and appeals
91. Access to private places
92. Ownership of voting and election materials and disposal
93. Return of forfeiture and deposit
94. Offences and penalties
95. General provisions
96. Schedules

THE ELECTORAL COMMISSION

97. Qualification of the members
98. Procedure for appointment of the members
99. Secretary to the commission
100. Oaths of office
101. Temporary vacancies in the office of the Chairperson or any of the members
102. Vacancies or defects in composition not to invalidate proceedings of the commission
103. Principal office, meetings and procedure of the commission

(F) FINANCIAL PROVISIONS

104. Financial Funds of the commission
105. Bank accounts of the commission
106. Investment of the commission's funds
107. Annual estimates
108. Accounts and audits

(G) MISCELLANEOUS

109. Protection from liability in actions taken in good faith
110. Power to make regulations
111. Transitional

EMERGENCY POWERS ACT

[ARTICLE 151(4)(a), 71]

An Act of Parliament to make provision for the exercise of emergency power as they relate to war, other public orders emergencies and disturbances and natural calamities and disasters and connected purposes

PART I- PRELIMINARY

1. Short title
2. Interpretation- ‘ state of emergency’, ‘war, ‘public order emergency’, public order disturbance’, ‘natural calamity’

PART II – EXERCISE OF EMERGENCY POWERS

3. Only in accordance with the Constitution
4. Circumstances in which a state of emergency may be declared
5. State of emergency to have broad based national application or localized geographical application
6. State of emergency to automatically lapse if not approved by Parliament within 21 days
7. Parliament not to be prorogued or dissolve during the existence of the State of Emergency
8. All action taken in request of a state of emergency to lapse when state of emergency lapses
9. Limitation of emergency powers

PART III- POWER OF PARLIAMENT

10. Extending a state of emergency
11. Revocation of declaration of a state of emergency
12. Limitation of Parliament’s powers
13. Situation where a State Of Emergency is declare when Parliament is prorogued or after it is dissolved (Parliament shall reconvene within 14 days (as in the case of dissolution of the last Parliament)

PART IV- POWER OF THE NATIONAL SECURITY COUNCIL

14. Advise the president

15. Deployment of Police Service in liaison with the Public Service Commission and Defence Forces to deal with the Emergency

PART V- PUBLIC AND VOLUNTARY ORGANIZATION

16. Special circumstances and limitation in which citizens may be called upon to help quell a natural disaster or public emergency
17. Voluntary organizations
18. Parliament may make Regulations for the voluntary organization

PART VI- POWER OF THE COURT

19. Judicial review of executive and legislative power as they relate to declaration or extension of state of emergency

PART VII- OFFENCES

20. Offences to exercise exceptional power after lapse of state of emergency

FOREIGN SOVEREIGN IMMUNITIES ACT

[ARTICLE 14(17)]

An Act of Parliament to define the jurisdiction of the court's in suit against foreign states, the circumstances in which foreign states are immune from suits, and execution in suits and for connected purposes

PART I- PRELIMINARY

1. Short title
2. Interpretation

PART II- IMMUNITY FROM JURISDICTION

3. State immunity
4. Court to give effect to immunity
5. Waiver of immunity
 - Submission to jurisdiction by commencing suits, intervening in suit or consenting to third party to counter claims proceedings
6. Commercial transactions
7. Contracts of employment
8. Personal injury and damage to property
9. Ownership, possession and use of property
10. Copyrights, patent and trademarks
11. Membership of bodies corporate
12. Action *in rem*
13. Bills of exchange
14. Taxes
15. Arbitrations
16. Related or consequential proceedings
17. Extent of liability

PART III- PUBLIC COMPLAINT

18. Rights of citizen to petition Minister
19. Action of the Minister
 - Investigation, arbitration, joint suit

PART IV- SERVICE OF SUMMONS AND JUDGMENT

20. Service of summons by agreement
21. Service through diplomatic channel
22. Date of service
23. Waiver of objection to service
24. Judgment in default of appearance
25. Enforcement of default judgments
26. Power to grant reliefs

PART IV ENFORCEMENT

27. Immunity from execution
28. Waiver of immunity from execution
29. Execution against immovable property
30. Restriction on certain other relief

PART IV- MISCELLANEOUS

31. Power to set aside process
32. Discovery
33. Certificates as to foreign states
34. Restriction and extensions of immunities and privileges
35. Regulations

IMPLEMENTATION OF TREATIES ACT

[ARTICLE 151]

An Act of Parliament to provide for the implementation of treaties and for matters incidental to and for connected purposes therewith

PART I- PRELIMINARY

1. Short title
2. Interpretation

PART II – PROCEDURE IN PARLIAMENT

3. Laying of treaty, before parliament
4. Resolution of parliament on treaty
5. Implementation to be by Act of parliament
6. Bills to implement treaties
7. Existing treaties
8. Formal resolution of Parliament on existing treaties
9. Report on implementation

PART III- MISCELLANEOUS

10. Jurisdiction of courts
11. Savings
12. Regulations

KENYA CORRECTIONAL SERVICES ACT

[ARTICLE 268]

PART I- PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Application

PART II- SUBSTANTIVE PROVISIONS

4. Duty of the executive arm of Government to create and maintain Correctional Services
5. Guiding principles and objectives of the Correctional Service
6. Rights of persons held in the custody of the Correctional Services
7. Functions of the Correctional Services i.e. correctional, rehabilitative, punitive
8. Duty of the state to observe the law and respect human rights, professionalism, zero tolerance on corruption, minimal use of force, competence and accountability
9. Confinement of suspects, convicts and juvenile and hardcore criminals
10. Incorporation of rehabilitation methods, counselling and spiritual nourishment
11. Vocational training and remuneration in the Correctional Services
12. Recreational activity
13. Protection from inhuman treatment and torture and corporal punishment
14. Minimum basic needs that must be afforded i.e. adequate food, water, sanitation. Medical care, air, clothing, bedding and shelter
15. Exclusion of the petty, misdemeanor offenders, the genuinely poverty- stricken fine defaulters, those above 70 years of age, from confinement in the Correctional Services
16. Special protection of the expectant, children born to convicts, persons with disability, the aged, the terminally sick and those with infectious diseases while in the Correctional Services
17. Duty of the inmates to obey Correctional Services and Regulations
18. Discipline
19. Fair trial and punishment for offences committed in the Correctional Service
20. Prohibition of the commission of certain acts e.g. homosexuality
21. Inspection
22. Pardon

23. Fair consideration for and during parole
24. Post- Correctional Services custody rehabilitation
25. Death in the Correctional Services or custody
26. Prohibition of the use of abusive language and harassment
27. Unlimited access by judicial officers and recognized human rights body monitors

PART III- PROCEDURAL

28. Duties of the director of the Correctional Services including the custodial and recording roles of the persons and documents held within the correctional service
29. Recruitment of Staff
30. Administration and security in the Correctional Services
31. Meetings and procedures
32. Funding of the Correctional Services
33. Accounts and audit
34. Supervisory role of the Parliamentary Committee
35. Coordination with the Committee on the Prerogative of Mercy
36. Complaint mechanism
37. Annual report on the status and development of the Correctional Services
38. Protection from liability for action taken in good faith

PART IV- FINAL

39. Power to make Regulations
40. Repeals and savings
41. Transitional
42. Schedules

PARLIAMENTARY PRIVILEGES AND IMMUNITIES ACT

(ARTICLE 145)

An Act of Parliament to provide for the powers and privileges of members of the National Assembly and National Council, Committees of Parliament and for incidental and consequential matters

PART I – PRELIMINARY

1. Short title
2. Interpretation

PART II- POWER AND PRIVILEGES OF MEMBERS OF PARLIAMENT

3. Freedom of speech and participation
4. Extent of immunity (functional immunity)
5. Immunity from legal proceedings
6. Freedom from arrest for civil debt during session
7. Service of process
- 7a Waiver of immunity (Speaker's prerogative upon consultation)
8. Speaker's orders
9. Suspension of members
10. Prohibited contractual dealing and compensation
11. Penalty for contravention
12. Recovery of penalty
13. Exceptions
14. Code of conduct
15. Committee of privileges

PART III- POWERS, PRIVILEGES OF PARLIAMENTARY COMMITTEES

16. Privileges in general
17. Power of committees
18. Power to investigate, assess and evaluate
19. Power to collect evidence
20. Power to order attendance of witnesses

21. Summons of attendance
22. Oathing and affirmation of witnesses
23. Proceedings in camera
24. Privileges of witnesses
25. Leave to produce evidence of proceedings
26. False evidence
27. Other offences
28. Committee regulations
29. Chairman to table Committee regulations
30. Coming into force of Committee regulations

PART IV- MISCELLANEOUS

31. Publication of proceedings by Parliament
32. Proceedings printed by order of Parliament
33. Penalty for printing false copy of Act, proceedings etc
34. Protection of persons responsible for publications authorized by Assembly
35. Court not to exercise jurisdictions in respect of acts of Speaker and officers of the Assembly
36. Officers of the Assembly to have power of police officers
37. Cognizable offences
38. Attorney General to sanction prosecutions

PERSONS WITH DISABILITIES ACT

[ARTICLE 39]

An Act of Parliament to provide for the welfare of persons with disabilities and for connected purposes

PART I

1. Short title
2. Interpretation- define 'disability', 'discrimination'

PART II- RIGHTS AND PRIVILEGES OF PERSONS WITH DISABILITIES

3. Women with disabilities
4. Equal opportunities
5. Apprenticeship
6. Discrimination by employees prohibited
7. Incentives to employers
8. Records for job placement
9. Education for persons with disabilities
10. Auxiliary services
11. Assistance to students with disabilities
12. Special education
13. Health
14. Accessibility
15. Public building and amenities (39 (d))
16. Public service vehicles
17. Adjustments orders
18. Denial of entry into premises
19. Institutions run by the government
20. Sports and recreation

PART III- CIVIL RIGHTS

21. Voting
22. Polling stations

PART IV- INSTITUTIONS RELATING TO PERSONS WITH DISABILITIES

- 23. The Commission on Human Rights and Administrative Justice
- 24. Voluntary organizations and NGOs with persons with disabilities

PART V – NATIONAL DEVELOPMENT FUND FOR PERSONS WITH DISABILITIES

- 25. The Fund
- 26. Source of funds

PART VI- RELIEFS AND INCENTIVES

- 27. Exemptions
- 28. Tax incentives

PART VII- MISCELLANEOUS

- 29. Legal aid and services
- 30. Broadcast media
- 31. Telephone services
- 32. Postal services
- 33. General inspectorate units
- 34. Regulations

PART VIII- OFFENCES AND PENALTIES

- 35. Concealment of persons with disabilities
- 36. Offences relating to adjustment orders and discrimination
- 37. Negligence by doctors
- 38. Use of derogatory and demeaning language
- 39. False information
- 40. Prohibited practices and customs
- 41. Potential violations
- 42. Remedies

SCHEDULE

PRESIDENTIAL PRIVILEGES AND IMMUNITIES ACT

[ARTICLE 161]

An Act of Parliament to provide for the privileges and immunities of the President and for connected purposes

PART I - PRELIMINARY

1. Short title
2. Interpretation

PART II- PRIVILEGES AND IMMUNITIES

3. Immunity in respect of criminal proceedings
4. Immunity in respect of lawful matters in the official duty of the President
5. Immunity in respect of civil proceedings
6. Exceptions to immunity in respect of civil proceedings
7. Extent of presidential immunities
8. Time limitation in respect of suit against the President

PART III- MISCELLANEOUS

9. Approval of presidential immunities and privileges by Parliament
10. Precedence of statute over other laws

CAPITAL TERRITORY ACT

[ARTICLE 8]

An Act of Parliament to provide for the management of the capital territory, to establish the Nairobi Management Authority and provide for its functions and for connected purposes

PART I- PRELIMINARY

1. Short title
2. Interpretation

PART II- STATUS OF THE CAPITAL

3. Status of the capital
4. Principles for the management of the capital
5. Capital to host certain organizations, offices etc

PART III- NAIROBI MANAGEMENT AUTHORITY

6. Establishment of the Authority

PART IV- GENERAL FUNCTIONS AND PROCEDURE OF THE AUTHORITY

PART V- FINANCE OF THE AUTHORITY

7. Taxes
8. Rates
9. Grants and donations
10. Emergency financial assistance
11. Revenue accounts and capital audit
12. Financial administration accounts and audit

PART VI- TRANSPORT

13. Road travel
14. Railway travel
15. Cycling
16. Travel fares

17. Travel concessions
18. Traffic control system

PART VII- PUBLIC – PRIVATE PARTNERSHIP AGREEMENTS

PART VIII- METROPOLITAN POLICE AND OTHER SERVICES

19. Metropolitan police
20. Metropolitan fire brigade

PART IX- PLANNING

PART X- ENVIRONMENT

PART XI- INFRASTRUCTURE

PART XII- WATER

PART XIII- SPORT CULTURE AND TOURISM

PART XIV- MISCELLANEOUS

SCHEDULE

CONSUMER PROTECTION ACT

[ARTICLE 64)

An Act of Parliament to consolidate the law relating to Consumer Protection, to provide for the establishment of the Consumer Protection Board; and for incidental matters and connected purposes

PART I – PRELIMINARY

1. Short title
2. Interpretation

PART II- PRINCIPLES OF CONSUMER PROTECTION

3. The purpose of the Act – promote protection of consumers in respect to:-
 - Safety, quality. Purity, potency, healthfulness, durability, performance, reparability, effectiveness, truthfulness, dependability, availability, and cost of any real or personal property or tangible or intangible goods, service etc
 - Protect consumer choices and competitive trade
 - Preventions of unfair and deceptive trade practices
 - Truthfulness in advertisement promotion and sale
 - Furnishing of full accurate and clear instruction warnings and information by producers of goods, services credit or property
 - Protection of legal rights and remedies of the consumer
4. The rights of consumers
5. Duties of manufacturers/ service providers
 - Safety / quality/ information

PART II- ESTABLISHMENT AND POWER OF THE BOARD

6. Establishment of the Board
 - State representation
 - Consumer organizations
 - Producers, manufacturers and service providers

7. Membership of the Board
8. Meetings and procedure of the Board
9. Seal and execution of documents
10. Committees and working groups of the Board
11. Functions, powers and duties of the Board

- Promulgate a consumer protection policy
- Conduct studies on matters relating to consumers
- Establish and enforce standards of safety
- Carry out investigations and periodic inspections to enforce the safety etc standards
- Report to Parliament annually on the state of consumer protection in Kenya
- Civic education on consumer rights and promotion of consumer rights
- Address consumer complaints and settlement of consumer disputes
- Coordinate activities of both government and private sector on issues relating to consumers

PART III- ADMINISTRATION

12. Appointment and remunerations of staff
13. Secretary to the Board
14. Functions of the Secretary
15. Annual report to Parliament
16. Special report

PART IV- FINANCIAL RESOURCES CONTROL AND AUDIT

17. Funds of the Board
18. Accounts and audits
19. Annual reports

PART V – CONSUMER COMPLAINTS AND REPRESENTATION

20. Consumer complaints
21. Form of consumer complaints
22. Investigations

23. Decisions of the Board
24. Appeal from the Board
25. Enforcement of Board decisions
26. Prosecutions
27. Consumer lead agencies
28. Public participation

PART VI- MISCELLANEOUS

29. Regulations
30. Evidence
31. Modifications to give effect to international agreements
32. Onus of proof
33. Consequential Amendments
 - Standards Act
 - Services Acts (water, electricity, telephone, professional services)
 - Petroleum Act
 - Sale of Goods Act
 - Pest control Act
 - Pharmacy and poisons Act
34. Transitional Provisions
35. Savings

SCHEDULES

Schedule one Consumer Protection Board (Complaints) Rules

DEVOLUTION ACT

[ARTICLE 213-219]

An Act to provide for the operation of the devolution units and for connected purposes

ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Objects of the Act
 - (i) Purpose;
 - (ii) Relationship to chapter 10 of the draft Bill;
 - (iii) Based on guiding principles in article 213 and 214 of the draft Bill;
 - (iv) The Act as implementation of the provisions of article 230 of the Constitution.

PART II – ESTABLISHMENT OF LEVELS AND UNITS OF DEVOLUTION

4. Definition of the levels of devolved Government (Article 215 of the draft Bill)
5. Identifying the actual units of Government established at each level
6. Procedures for adjustment of boundaries of units of devolved Government
7. Establishment of a Boundaries Commission (Article 221 and 230(4)(q) of the draft Bill).
 - (i) membership and method of appointment
 - (ii) chairperson including method of appointment
 - (iii) procedures
 - (iv) functions and responsibilities.

PART III – VILLAGE GOVERNMENT – Articles 230(1), 230(3)(l) and 216

8. Councils: size and composition
9. Elections to councils
10. Qualifications of council members
11. Provision to ensure at least one-third council members are women
12. Functions and powers of councils and procedures in councils
13. Village administrator-roles
14. Election of village administrator

15. Qualifications
16. Accounting of village administrator
17. Functions and responsibilities of village administrator.

PART IV – LOCATION GOVERNMENT – Articles 230(1), 230(3)(p), 217

18. Council: size and composition
19. Indirect elections to councils
20. Qualifications of council members
21. Provisions to ensure one-third council members are women
22. Functions and powers of councils
23. Procedure in councils
24. Location chief-executive – roles
25. Elections of location chief-executive
26. Qualifications
27. Accountability of location chief-executive
28. Functions and responsibilities

PART V – DISTRICT GOVERNMENT – Articles 230(1), 230(4)(p), 218, 220

29. Council: size and composition
30. Elections to councils
31. Qualifications of council members
32. Provisions to ensure at least one-third of council members are women
33. Functions and powers of councils
34. Procedure in councils
35. District chief-executive – role
36. Election of district chief-executive
37. Qualifications
38. Accountability of district chief-executive
39. Functions and responsibilities of district chief-executive

PART VI– PROVINCIAL GOVERNMENT

40. Council: size and composition
41. Election to councils
42. Qualifications of council members

43. Provisions to ensure at least one-third of council members are women
44. Functions and powers of councils
45. Procedure in councils
46. Provincial chief-executive – role
47. Election of provincial chief-executive
48. Qualifications
49. Accountability of provincial chief-executive
50. Functions and responsibilities of provincial chief-executive

PART VII– ADAPTATIONS FOR URBAN CENTRES – Article 222(2) and (3)

51. Criteria for classification of cities (Article 230(4), (5) of the draft Bill)
52. Adaptations of provisions for district Governments to meet particular urban circumstances (Article 230(4)(5) of the draft Bill)
53. Criteria for classification of towns (Article 230(4)(t) of the draft Bill)
54. Adaptations of provisions for location Governments to meet particular urban circumstances (Article 230(4)(t) of the draft Bill)

PART VIII– NAIROBI – Article 222(1)

55. Recognition of special status as national capital and economic, administrative and social center
56. Provisions relating to role of national Government in governance of Nairobi
57. Provisions for recognizing local dimensions and demographic participation of citizens.

PART IX– GENERAL PROVISIONS APPLYING TO ALL DEVOLVED GOVERNMENTS

58. Representation of women in councils and executive bodies (Article 230(4)(f) of the draft Bill)
59. Staffing (Article 223 of the draft Bill)
60. Representation of minorities and mechanisms for their protection and promotion of their rights and interests (Article 230(4)(m) of the draft Bill)
61. Application of chapter 17 (Articles 276 and 277 of the draft Bill) to all devolved Governments
62. Prohibition against holding elected office at national and devolved levels (Article 228 of the draft Bill)
63. Terms of office (Article 219 of the draft Bill)

**PART X - FINANCIAL ARRANGEMENTS – Articles 230(4)(h), 224, 225
and 226**

64. Criteria to be applied by the Commission on Local Government Finance for allocation of levy, collection and receipt of taxes, for unconditional grants, for conditional grants
65. Allocation of taxing powers
66. Costs of salaries of councillors and chief executives to be met from revenues of devolved Governments
67. Audit requirements

**PART XI– POWERS ASSIGNED TO DISTRICT GOVERNMENTS -
Articles 227 and the Seventh Schedule**

68. Application of Seventh Schedule
69. District administration of national legislation on matters in third (Concurrent) list of Seventh Schedule
70. Procedures for directions by central Government where national legislation on matters in List III of Seventh Schedule is administered by districts

PART XII– INTER-GOVERNMENTAL RELATIONS – Article 228

71. Application of principles (Article 230(4)(f) and 228(1) of the draft Bill)
72. Dispute avoidance (Articles 230(4)(g), 228(2) & (3) of the draft Bill)
73. Dispute resolution (Article 230(4)(f) & (g), 228(4) of the draft Bill)
74. Provisions for delegation or recall of delegation (Article 230(4)(b), (d), (e) of the draft Bill)
75. Provisions for phased transfer of functions, powers and resources (Article 230(4)(e) of the draft Bill)
76. Provisions for posting public servants (Article 228 (7) of the draft Bill)

PART XIII– EMERGENCY PROVISIONS – Article 228(10-13), 230(4)(k)

77. Provisions for suspension of district Government
78. Provisions for Commission to advise before suspension of district Government (Article 230(5) of the draft Bill)

PART XIV– MISCELLANEOUS

- 79. Time limit for implementation of Devolution Act
- 80. Transitional provisions
- 81. Interpretation
- 82. Special provisions for amendment of this Act (Article 230(2) of the draft Bill)

ECONOMIC AND SOCIAL COUNCIL ACT

[ARTICLE 257]

An Act of Parliament to provide for the operation of the Economic and Social Council and for connected purposes

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Economic and Social Council
4. Object, power and functions of the Council
5. Committee of the Council
6. Staff of the Council
7. Finances of the Council
8. Report of the Council
9. Offences and penalties
10. Regulations

ETHICS AND INTEGRITY ACT

[ARTICLE 276, 277 & 289]

An Act to give effect to the Leadership And Integrity Code Of Conduct, to operationalize the Ethics And Integrity Commission and for the connected purposes

Arrangement of section

PART I – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Application of the Act (officers bound by the provisions of this Act) *Art 279 of the draft bill*

PART II- LEADERSHIP AND INTEGRITY

5. Responsibilities of public officer (*Art 277 of the draft Bill*)
6. The Leadership and Integrity Code of Conduct (*Fifth schedule of the draft Bill*)

PART III- THE ETHICS AND INTEGRITY COMMISSION

7. Membership of the Commission
8. Qualification of the members
9. Procedure for appointment of the members
10. Secretary to the Commission
11. Oaths of office
12. Temporal vacancies of the office of the Chairperson or any of the members
13. Vacancies or effects in the composition not to invalidate proceedings of the Commission
14. Principal office, Meetings and Procedure of the Commission

PART IV- FINANCIAL PROVISIONS

15. Funds of the commission (*Article 285 of the Draft Bill*)
16. Bank accounts of the Commission
17. Investment of the Commission
18. Annual estimates

19. Accounts and audit

PART V- MISCELLANEOUS

20. Protection from liability in actions taken in good faith

21. Power to make regulations

22. Transitional

THE FAIR ADMINISTRATION ACT

[ARTICLE 65]

An Act of Parliament to provide for the promotion of fair and efficient administrative action and for connected purposes

OUTLINE OF PROPOSED ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Application of the Act
4. Procedurally fair administrative action affecting any person
5. Administrative action affecting the public
6. Judicial review of administrative action
7. Procedure for judicial review
8. Remedies in proceedings for judicial review
9. Offences and penalties
10. Regulations

THE HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE ACT

[ARTICLE 288]

PART I –PRELIMINARY

1. Long title and commencement
2. Interpretation
3. Application provisions

PART II- SUBSTANTIVE PROVISIONS

4. Definition, nature and content of human rights
5. Recognition, protection and upholding of human rights
6. Standards of enjoyment of human rights
7. Timing for the enjoyment of human rights
8. Protection of non-derogable rights
9. Indivisibility of the human rights
10. Upholding of the rule of law and the principles of natural justice
11. Enforcement, jurisdiction and determination of human rights
12. Past human rights abuses
13. Complaints mechanism, *locus standi and amicus curiae*
14. Status and development of the human rights in Kenya and their enjoyment
15. Civic education

PART III –ADMINISTRATIVE PROVISIONS – POWERS AND FUNCTIONS OF THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE

16. Membership of the Commission and Departmental structure
17. Secretary to the Commission
18. Vacancies not to invalidate the proceedings of the Commission
19. Principal office, meetings and procedure of the Commission
20. Offices and other Staff of the Commission
21. Powers generally of the Commission
22. Concurrent jurisdiction of the courts
23. Powers relating to investigation

24. Annual reports of the Commission
25. Inquiry into complaints
26. Persons likely to be prejudiced or affected to be heard
27. Statements made by persons to the Commission
28. Steps after inquiry

PART III- FINANCIAL PROVISIONS

29. Finances of the Commission
30. Bank Accounts
31. Investment of funds
32. Financial year
33. Annual Estimates
34. Accounts and Audit

PART IV- MISCELLANEOUS PROVISIONS

35. Exclusion of certain matters
36. Protection of actions taken in good Faith
37. Immunities and privileges
38. Transfer of property to the Commission
39. Rules and Regulations
40. Transitional mechanisms-Status of the Standing Committee on Human Rights and the Kenya National Commission on Human Rights

THE JUDICIAL SERVICE COMMISSION ACT
[ARTICLE 204]

An Act to operationalize the Judicial Service Commission and for connected purposes

Arrangement of sections

PART I- PRELIMINARY

1. Short title
2. Commencement
3. Interpretations

PART II- THE JUDICIAL SERVICE COMMISSION

4. Procedure for appointment of the members
5. Secretary to the commission
6. Oaths of office
7. Terms of office of the chairperson and the members
8. Removal of the chairperson or a member in certain circumstances
9. Temporary vacancies in the office of the chairperson or any of the members
10. Vacancies or defects in composition not to invalidate proceedings of the commission
11. Principal office, meetings and procedure of the Commission

PART IV – FINANCIAL PROVISIONS

12. Funds of the Commission (Art 285)
13. Bank accounts of the Commission
14. Investment of the Commission’s funds
15. Annual estimates
16. Accounts and audits

PART V- MISCELLANEOUS

17. Protection from liability in actions taken in good faith
18. Power to make Regulations
19. Transitional

THE LAW REFORM ACT

[ARTICLE 292]

An Act of Parliament to establish the Law Reform Commission and for connected purposes

PART I – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation

PART II – THE LAW REFORM COMMISSION

4. Qualifications of the members
5. Procedure for appointment of the members
6. Secretary to the Commission
7. Oaths of office
8. Temporary vacancies in the office of the chairperson or any of the members
9. Vacancies or defects in composition not to invalidate proceedings of the Commission
10. Principal office, meetings and procedure of the Commission
11. Officers and other staff of the Commission

PART IV – FINANCIAL PROVISIONS

12. Funds of the Commission (*Art 285 of the draft bill*)
13. Bank accounts of the Commission
14. Investment of the Commission's funds
15. Annual estimates
16. Accounts and audits

PART V- MISCELLANEOUS

17. Protection from liability in actions taken in good faith
18. Power to make regulations
19. Transitional

THE NATIONAL LAND COMMISSION ACT

[ARTICLE 237]

An Act to operationalize the National Land Commission and for connected purposes

PART I – PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II- THE NATIONAL LAND COMMISSION

3. Qualifications of the members
4. Procedure for appointment of the members
5. Secretary to the commission
6. Oaths of office
7. Removal of the Chairperson and the member in certain circumstances
8. Temporary vacancies in the office of the Chairperson or any of the members
9. Vacancies or defects in composition not to invalidate proceedings of the commission
10. Principal office, meetings and procedure of the commission

PART IV – FINANCIAL PROVISIONS

11. Funds of the Commission (Art 285)
12. Bank accounts of the Commission
13. Investment of the Commission's funds
14. Annual estimates
15. Accounts and audits

PART V- MISCELLANEOUS

16. Protection from liability in actions taken in good faith
17. Power to make regulations
18. Transitional

THE POLITICAL PARTIES ACT
[ARTICLE 87-100]

An Act of Parliament to provide for the formation, registration, role, functions, governance and funding of political parties and for connected purposes

OUTLINE OF PROPOSED ACT

ARRANGEMENT OF SECTIONS

Section

PART 1- PRELIMINARY

1. Short title
2. Interpretation

PART II-FORMATION, ROLES AND FUNCTIONS OF POLITICAL PARTIES

3. Formation of a political party
4. Register of political parties

PART III- GOVERNANCE OF POLITICAL PARTIES

5. Internal democracy
6. Party discipline
7. Oversight of political parties (by Electoral Commission)

PART IV-SOURCES AND PURPOSES OF PARTY FINANCES

8. Sources of party finances
9. General purposes for which party finances may be applied

PART V-DONATIONS

10. Meaning of donation
11. Payments, services, etc not to be regarded as donations
12. Permissible donors (restrictions on foreign donors)
13. Register of recordable donations (ceilings on donations)
14. Offences relating to donations

PART VI- THE POLITICAL PARTIES FUND

15. Establishment and management of the Fund
16. Sources of the finances for the Fund
17. Banking account and investment of the Fund
18. General purpose and allocation from the Fund (which parties qualify for funding)
19. Purposes for which the Fund may or may not be used

PART VII- BEHAVIORAL AND FINANCIAL AUDIT OF THE FUND

20. Evidence of general compliance by a party
21. Recovery of moneys spent irregularly
22. Accounting for moneys allocated to a party
23. Suspension of allocation for non-compliance with the Act
24. Commission to report to the National Assembly
25. Surplus moneys of the Fund

PART VIII- MISCELLANEOUS

26. Inter-party co-operation
27. Establishment of inter-party Disputes Resolution Committee
28. Powers of the Committee relating to evidence
29. Refusal or failure to give evidence
30. Penalties
31. Regulations
32. Transitional

THE REFUGEE ACT

[ARTICLE 52(3)]

The Act of Parliament to make provisions for refugees in Kenya, their asylum protection and for connected purposes

1. Short title

2. Interpretation provisions

- Define ‘refugee’
- Define ‘council’, ‘country of nationality’, ‘authorized officer’ ‘protected family’

3. Rights and duties of refugees and protected persons within Kenya

4. Establishment of National Council for Refugees

- Composition
- Refugees coordinator who is secretary to the National Council and chair to the Committee on Refugee Status
- Overall responsibility of the Council to co-ordinate refugee matters and responsible to the minister

5. Establishment of Committee on Refugee Status

- Composition
- Functions of the committee

6. Recognition as Refugees

- Power in the National Council for Refugees and residual power in the Minister

7. Residence in Kenya ending recognition as Refugees

- Designation areas for refugees
- Management of refugee camps vis-a-vis the local citizens

8. Withdrawal of Recognition of Refugee status

- Special circumstance that can lead to withdrawal of recognition of refugees where it is believed that the refugee should not have been recognized and the refugee has ceased to be a refugee under the Act
- Expulsion of refugees

9. Authorized Officers

- Power of the authorized officers

10. Offence And Penalties

- Offence for a refugee to obtain recognition through fraudulent means
- Offence for a refugee to reside in an area other than the designated area without lawful authority
- Offence for an authorized officer to withhold information relating to a refugee or to give false information
- Offence to conceal a refugee

11. Regulations

- Minister to make Regulations relating to rules and procedures of Council and Committee and rules and procedures of Voluntary Organizations dealing with refugees in Kenya

12. Schedules

- List of international conventions and treaties relating to refugees that Kenya is a party to
- Various forms relating to refugees recognition

THE REGISTRY OF LAWS OF KENYA ACT

(ARTICLE 5)

An Act of Parliament to make provisions for the establishment of a public registry of Laws, public access to the laws, the serialization of laws and for connected purposes

1. Short title

2. Interpretation provisions

Define 'registry'

3. Establishment of public registry

- Functions- custody of the Laws of Kenya including international conventions and treaties that Kenya has ratified
- Registry of the laws under the Speaker of Parliament

4. Establishment of provincial and district network for the registry of the Laws of Kenya

5. Publication and the coming into operation of the Laws of Kenya

Speaker under obligation to ensure that there is proper documentation and serialization of the laws

6. The serialization of the Laws of Kenya

Repealed legislation

Spent legislation

7. District libraries to be supplied with the Laws of Kenya

8. Responsibilities of the Speaker

- To ensure that the provisions of Art 132 are complied with by Parliament

9. Registry under obligation to produce the Laws of Kenya whenever required to

10. Offences and penalties

Offence to fail to produce a law

THE SALARIES AND REMUNERATION COMMISSION ACT

[ARTICLE 290]

An Act to operationalize the Salaries and Remuneration Commission and for connected purposes

PART I – PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II- THE SALARIES AND REMUNERATION COMMISSION

3. Qualification of the members
4. Procedure for appointment of the members
5. Secretary to the Commission
6. Oaths of office
7. Temporary vacancies in the office of the chairperson or any of the members
8. Vacancies or defects in composition not to invalidate proceedings of the Commission
9. Principal office, meetings and procedure of the Commission

PART IV – FINANCIAL PROVISIONS

10. Funds of the Commission (*Art 285 of the draft bill*)
11. Bank accounts of the Commission
12. Investment of the Commission's funds
13. Annual estimates
14. Accounts and audits

PART V- MISCELLANEOUS

15. Protection from liability in actions taken in good faith
16. Power to make Regulations
17. Transitional

THE SMALL CLAIMS COURTS ACT

[ARTICLE 185]

An Act to provide for the establishment and operation of Small Claims Courts and for connected purposes

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II – ESTABLISHMENT OF SMALL CLAIMS COURTS

3. Establishment of small claims courts
4. Qualifications and appointment of officer
5. Sittings
6. Location of courts
7. Registry
8. Fees

PART III – JURISDICTION OF SMALL CLAIMS COURTS

9. Civil jurisdiction
10. Procedure

PART IV – STAFF AND FINANCES

11. Appointment of staff
12. Finances

PART V – MISCELLANEOUS

13. Offences and penalties
14. Savings and transitional

THE SUBORDINATE COURT ACT

[ARTICLE 198]

PART I PRELIMINARY

1. Short title and commencement
2. Enacting clause
3. Commencement
4. Interpretation

PART II

SUBSTANTIVE AND PROCEDURAL PROVISIONS

(For both magistrates and Kadhis courts)

5. Vesting of judicial power and the administrative power in the subordinate courts
6. Guiding principle, in the exercise of judicial power
7. Independence of the Judiciary
8. Definition of the subordinate courts
9. Hierarchical position of the courts
10. Qualifications, appointment, tenure and removal of magistrates
11. Privileges and immunities
12. Oaths
13. Compliance with the Leadership and Integrity Code
14. Continuous legal education for magistrates

(A) RESIDENT MAGISTRATE'S

15. Establishment of the Resident Magistrate's Court
16. Criminal jurisdiction of the Resident Magistrate's Court
17. Civil jurisdiction of the Resident Magistrate's Court
18. Judicial and administrative power of the Resident Magistrates' Court

(B) DISTRICT MAGISTRATE'S COURT

19. Judicial and administrative power of a District Magistrate
20. Establishment of a District Magistrate Court
21. Criminal jurisdiction of the District Magistrates Court

22. Civil jurisdiction of the District Magistrate's Court

(C) JURISDICTION IN CERTAIN CASES RELATING TO LAND

23. Limitation of the jurisdiction and referral to the panel of elders

24. Composition of the panel of elders

25. Record of the decision to be filed in court

26. Power of court with regard to record

27. Judgment on record

28. Interpretation of part

(D) APPEAL FROM CERTAIN DISTRICT MAGISTRATE'S COURT

29. Appeal from certain District Magistrate's Courts in civil matters

30. Appeal from certain District Magistrate's Courts in criminal matters

31. Powers of Court of Appeal

(E) KADHIS' COURTS

32. Establishment and objective of the Kadhi court as a judicial instrument

33. Guiding principles in Kadhis' courts

34. Officers of the Kadhis' court

35. Sources of the Islamic law

36. Hierarchical structure of the Kadhis' courts

37. Jurisdiction of the Kadhis' court i.e. question on Muslim personal law, civil and commercial disputes (small claims) between Muslim parties, disputes arising from the administration of Wakf properties.

38. Right to go other court or tribunals with similar jurisdiction

39. Powers of the Kadhis

40. Number of Kadhis

41. Qualifications, appointment, tenure and removal of Kadhis

42. Appeals

43. Procedure

PART III- GENERAL

44. Place and time of sitting and distribution of business

45. Attorney General's power to determine places of sitting

46. Mobile courts
47. Procedure and practice
48. Rules of court
49. Evidence of customary laws
50. Records and returns
51. Supervision of the courts
52. Seals and stamps

SUPERIOR COURTS ACT

[ARTICLE 187-193]

An Act to provide for the operation of the superior courts and for connected purposes

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

3. Short Title
4. Interpretation

PART II – GENERAL PRINCIPLES

5. Precedence
6. Sittings and vacations
7. Procedure
8. Staff
9. Location of courts
10. Registry
11. Fees

PART III – THE SUPREME COURT

12. Precedence
13. Sittings and vacations
14. Procedure
15. Staff
16. Location of courts
17. Registry
18. Fees

PART IV – THE COURT OF APPEAL

19. Precedence
20. Sittings and vacations

- 21. Procedure
- 22. Staff
- 23. Location of courts
- 24. Registry
- 25. Fees

PART IV – THE HIGH COURT

- 26. Precedence
- 27. Divisions of the Court
- 28. Sittings and vacations
- 29. Procedure
- 30. Staff
- 31. Location of courts
- 32. Registry
- 33. Fees

PART V – MISCELLANEOUS

- 34. Offences and penalties
- 35. Rules Committee
- 36. Savings and transitional

APPENDIX

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER ONE SOVEREIGNTY OF THE PEOPLE & SUPREMACY OF THE CONSTITUTION	CIVIL LAW AND PROCEDURE	Enforcement of the Constitution (Article 3)	The Civil Procedure CAP 21	Amend by adding a new provision (Order) to prescribe remedies and to govern constitutional applications having regard to the new flexibility principles.
	CRIMINAL LAW AND PROCEDURE	Defence of the Constitution (Article 4)	The Penal Code CAP 63 The Criminal Procedure Code	Amend by adding new provisions to define and prescribe punishment and procedure for actions that may be deemed offensive to the sovereignty of Kenya.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
	COURTS AND OFFICERS OF COURT	The laws of Kenya (Article 5) (See Article 30 and 151)	The Judicature Act CAP 8 New Act/Amend***	Amend S.3 to CAPture the new definition of the “Laws of Kenya” as provided by the Draft Enact a new statute (<i>the Implementation of Treaties Act</i>) to provide for the procedure of domestication and implementation international treaties to which Kenya is a party or signatory and the reporting of actions taken on treaties.
CHAPTER 2 THE REPUBLIC		Territory (Article 7)	The Maritimes zones Act	Amend Section 4 in order to correspond to the Territorial Sea and Exclusive Economic Zone’s Boundaries prescribed in Schedule 1.
			The District and Provinces Act, Act No. 5 of 1991	The Act and Schedule 2 need to be audited for concordance
	LOCAL GOVERNMENT	Capital (Article 8) (see article 222)	The Local Government Act	Amend Section 2 relating to the City of Nairobi and enacting a new detailed legislation to address the status and government of Nairobi.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
			New Act ****	Enact a new statute (the <i>CAPital Territory Act</i>) to provide for the status and management of Nairobi
	COURTS AND OFFICERS OF COURTS	Languages (Article 9)	The Civil Procedure Act CAP 21 New Act ****	Amend Section ***** to provide that the language of all Courts shall be English and Kiswahili. Enact a new statute (the Preservation and Promotion of Language and Culture Act) to make provisions for the promotion, development and use of Kiswahili, indigenous languages, sign language and Braille
		National Symbols (Article 11)	National Flag, Emblems and Names Act	Either amend Section 2 and the First Schedule by repealing the relevant sub –sections, or, amend both Sections by making the distinction between the Public Seal and the Court of Arms.
	GENERAL ADMINISTRATION	National Oaths and Affirmations (Article 12)	The Promissory Oaths Act	Repeal this Act all together as the Oaths are now a Schedule to the Draft Constitution (Schedule 4)

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
		National Days (Article 13)	The Public Holidays Act	Amend Section 2 and the Schedule to make the distinction made by the Draft Constitution between “National Days” and other “Public Holidays”
CHAPTER FOUR CITIZENSHIP CHAPTER FOUR CITIZENSHIP (CONTD.)	NATIONALITY- IMMIGRATION	General Principles concerning Citizenship (Article 16) Retention of Existing Citizenship (Article 17) Acquisition of citizenship (Article 18) Citizenship by Birth (Article 19)	The Kenya Citizenship Act	Amend by adding provisions relating the general principles governing citizenship including the duties and entitlements of Kenyan citizens as provided in the Draft Amend by consolidating the law and by adding new provisions relating to the stipulated modes and requirements for acquiring Kenyan citizenship. Repeal Part II

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
		Citizenship by Marriage (Article 20) Citizenship by Naturalization (Article 21) Children found in Kenya and adopted Children (Article 22) Dual citizenship (Article 23) Cessation of citizenship (Article 24)		
			Civil Procedure CAP 21	Amend to provide for the overriding principle in the civil procedure to be to realize substantive justice and the provisions of the Bill of Rights in priority over technicality or procedural propriety

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FIVE BILL OF RIGHTS CHAPTER FIVE BILL OF RIGHTS (CONTD.)	CIVIL LAW AND PROCEDURE		Limitation of Actions CAP 22	Amend to provide that the Act will not apply so as to bar a citizen from bringing an action in respect of the violation of a right recognized in the Bill of Rights
			Defamation	Delete Section 4 Delete proviso to section 6 that makes reference to seditious matter
			Government Proceedings	Amend to simplify the process of suing the Government.
	COURTS AND OFFICERS OF THE COURT		Records Disposal	Amend to harmonise with the right to access information as per Article 47
			Public Archives	Amend to harmonise with the right to access information as per Article 47
		Article 71(2), (3) and (7)	New legislation	Enact a new statute (<i>the State of Emergency Act</i>) to provide for the declaration of a state of emergency and consequent action.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
	PUBLIC ORDER AND SECURITY		Public Order CAP 56	<p>Section 2 – Merge the two definitions of “public meeting.”</p> <p>Section 3(2)- Delete.</p> <p>Amend Part III to require police to keep a register of notifications received which register shall be open at all reasonable times for public inspection</p> <p>Part IV on Curfew Orders and Curfew Restrictions –Repeal section 8 or require that a High Court order be obtained by the Commissioner of Police prior to imposing a curfew.</p> <p>Delete reference to Provincial Commissioner</p> <p>Section 9- Repeal.</p> <p>Section 13 –Repeal.</p> <p>Section 19 –Delete all references to the consent of the Attorney-General.</p> <p>Section 22(2) – Delete</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p>CHAPTER FIVE</p> <p>BILL OF RIGHTS</p> <p>(CONTD.)</p> <p>CHAPTER FIVE</p>	<p>CRIMINAL LAW AND PROCEDURE</p>		<p>Penal Code</p>	<p>Amend to substitute life imprisonment for the death penalty wherever it is prescribed. Delete all references to corporal punishment . Introduce new offences in terms of the Draft Repeal certain offences</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
BILL OF RIGHTS (CONTD.)			Probation of Offenders	Amend to harmonise the provision of the Draft Bill on → Art 31 on Limitation of Rights → Art 34 on Freedom from discrimination → Art 37 on children → Art 51 on freedom on freedom of movement and residence
			Election Offences	Art to harmonise with provisions of Art 50 Repeal offences not in line with provisions
			Prevention of Corruption	none
			Witchcraft	Section 6- Delete reference to “District Commissioner” and “chief” Section 8- Delete Section 9- Delete
			Chang’aa Prohibition	Repeal

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
			Criminal Procedure Code	<p>Amend the Act to achieve the fundamental need to subject the criminal process to the general principles of the Constitution.</p> <p>Amend sections 2 and 25 to conform with rights of arrested persons .</p> <p>Amend section 22 to conform to the right of Privacy</p> <p>Amend Sections 26 and 28 to conform to the Right to property</p> <p>Amend Sections 29, 31 and 33 to require all arrests be upon production of a warrant of arrest</p> <p>Repeal section 30</p> <p>Repeal section 36</p> <p>Amend Sections 43 to 46 to conform with the requirements of Articles 40 and 41</p> <p>Amend Part IV and V to conform with Articles 33, 40, 41, 43, 68, 69, and 70</p> <p>Amend Section 85 to require that police officers should not be prosecutors</p> <p>Amend Section 100 to conform it with the procedures of arrest stipulated in the Constitution</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p>CHAPTER FIVE</p> <p>BILL OF RIGHTS</p> <p>(CONTD.)</p>			<p>Criminal Procedure Code CAP 75</p>	<p>Amend Section 123 to conform to the general right to bail</p> <p>Repeal Sections 179 - 191 to conform with the right to fair trial</p> <p>Amend Section 194 to provide that illegally obtained evidence is inadmissible</p> <p>Review the provisions relating to Committal Proceedings (PART VIII) to allow for speedy prosecution.</p> <p>Part X be amended to conform with the abolition of both corporal and CAPITAL sentences</p> <p>PART XI be amended to provide for the right of Appeal to the Supreme Court</p> <p>Schedule 1 be reviewed to achieve the following: -</p> <ul style="list-style-type: none"> ▪ To replace the death sentence with life imprisonment ▪ To repeal corporal punishment ▪ To commute imprisonment terms of six months and below to community service

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER FIVE</p> <p align="center">BILL OF RIGHTS</p> <p align="center">(CONTD.)</p>			<p>Extradition(contiguous and foreign countries)</p> <p>Extradition (Commonwealth Countries)</p>	<p>Amend to conform with Art 52 on Refugees and Asylum Provide that Kenyans cannot be extradited to another country Prohibit extradition in cases where the penalty is death</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FIVE BILL OF RIGHTS (CONTD.)			Witness summonses (Reciprocal Enforcement)	None
			National Crime Research Centre	None
	EVIDENCE		Evidence Order in Council Applying the Evidence (Colonial Statutes) Act 1907	Amend to conform with Art 69 on fair trial as well as Art 43 on privacy and Art 47 on the right of access to information
	POLICE		Police Administration Police	Amend to conform with Art 68 on rights of arrested persons, Art 70 , Art 43 on privacy, Art 41 on freedom and security of the person and Art 66 on right not to obey unlawful instructions.
			Fugitive Offenders Pursuit	Amend to conform with bill of rights on arrest and disposal of suspects.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FIVE BILL OF RIGHTS (CONTD.)	PRISONS AND DETENTION OF PERSONS		Prisons	Amend to conform with Art 70.
			Borstal Institutions	Amend to conform with Art 37.
	GENERAL ADMINISTRATION		Commissions of Inquiry	Amend to conform with Articles 47 and 67 of the Draft Bill.
			Public Collections	
			Societies	Amend to conform with Art 58
			Books and newspapers	Repeal Part IV relating to publishing bonds for books and newspapers. Section 17 (1) –Delete the word “language” and insert the words “and Kiswahili languages.” Section 19 –Amend to require a court order prior to seizure of books and papers by police.
			Firearms	Section 23(1) –in he last line, delete the words “whose decision shall be final.” Section 35(1) – in the last line, delete the words “whose decision shall be final.”
			Housing	Amend to require the National Housing Corporation to itself construct or ensure the construction of a certain number of affordable residential houses every year or other pre-determined period, and to secure the protection of the right to housing
			Liquor licensing	Amend to conform with Art 64 on consumer rights, 65 on fair administration and 67 on access to courts.
			Traditional liquor	Repeal
	Chiefs CAP 128	Repeal		

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FIVE BILL OF RIGHTS (CONTD.)			Births and Deaths Registration	Amend to conform with Art 34 on freedom from discrimination, Art 37 on the rights of children. Art 47 on access to information and Art 63A(4)
			Physical Planning	Amend to conform with Articles 57 and 59
		Article 65	New Act ***	Enact a new statute (<i> the Fair Administration Act </i>) to require efficient public administration in all public sectors, to provide for the rights to fair and expeditious administrative action, and for judicial review of administrative action.
		Article 48 as read together with Article 30 (5)	Non-governmental Organizations Cordination New Act / Amend ***	Amend to conform with Article 48 on freedom of association. Enact a new statute (<i> the Civil Society Act </i>) to emphasize the role of civil society in the promotion and protection of the rights and freedoms in the Bill of Rights, to promote civil society’s participation in decision-making and management of public affairs and the principles to be adhered to in registration of civil society organizations
CHAPTER FIVE THE BILL OF	CHILDREN		Children, 2001 Legitimacy	Amend to conform with Art 37 on Children and to provide mechanisms for the implementation of the rights of the child as contained in the Constitution and international law Repeal
	PERSONS WITH DISABILITY	Article 39	New Act	Enact a new statute (<i> the persons with Disabilities Act </i>) to facilitate the enjoyment of rights and freedoms in the Bill of rights by persons with disability and women with disability and their participation in decision-making
	DISADVANTAGED /MINORITY GROUPS	Article 35, Article 14 (11)	New Act ****	Enact a new statute(<i> the Affirmative Action Act </i>) to provide measures to benefit disadvantaged individuals or groups and the promotion, protection and enforcement of those rights and especially the rights of women

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
RIGHTS (CONTD.)	FAMILY		Marriage Act New Act/amend****	Amend/ enact a new statute (<i>the Registration of Customary Marriages and Divorce Act</i>) to recognize marriages contracted under any system of personal law and religious traditions and to provide a system of registration in terms of Art 38 on the family.
			African Christian Marriage and Divorce	Consolidate with the Marriage Act and Repeal

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
			<ul style="list-style-type: none"> → Subordinate Courts (Separation and Maintenance) → Maintenance Orders → Enforcement Mohammedan Marriage and Divorce Registration. → Mohammedan Matrimonial Causes , Marriage Divorce and Succession → Hindu Marriage and Divorce 	<p>Amend all to conform with Art 33 on equality, Art 34 on freedom from discrimination, Art 35 on women and Art. 38 on the family</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FIVE (CONTD.)	SUCCESSION AND PROBATE ADMINISTRATION		→ Law of Succession	Amend to conform with Art 33 on equality, Art 34 on freedom from discrimination, Art 35 on women and Art 38 on the family

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER FIVE</p> <p align="center">THE BILL OF</p> <p align="center">RIGHTS</p> <p align="center">(CONTD.)</p>	<p align="center">NATIONALITY- IMMIGRATION</p>	<p>Articles 4(3), 16, 21 ,27 &28</p> <p>Article 26(1)&(2)</p> <p>Article 52</p>	<p>Registration of Persons</p> <p>Kenya Citizenship</p> <p>Immigration</p> <p>Aliens Restriction</p> <p>New Act / Amend ***</p>	<p>Amend to conform with Art 33, 34, 63A(4) & 65</p> <p>Amend to conform with Articles 33 on equality, and 34 on freedom from discrimination.</p> <p>Amend to provide for the duties , rights and benefits of citizenship, including the right to a passport , the conditions for citizenship by naturalization and other various issues regarding citizenship such as the Citizenship Registration Board</p> <p>Amend to conform with Art 51</p> <p>Amend the Act to stipulate conditions for entry and residence in Kenya, the entry and residence into Kenya of categories of persons other than those set out in Article 26(1) and the status of permanent residents.</p> <p>Amend to conform with Art 52</p> <p>Enact a new statute (<i> the Refugees and Asylum Seekers Act</i>) to implement international law relating to refugees and asylum seekers and to provide for the appurtenant issues in conformity with Art 52</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FIVE BILL OF RIGHTS (CONTD.)	THE CIVIL SERVICE		Official Secrets	Amend to conform with Art 31 on limitation of rights, Art 45 on freedom of expression and Art 47 on access to information
	PENSIONS AND PROVIDENT FUNDS		Pensions Pensions (Increase) Provident Fund Widows and Orphans Pension Asian officers' family Pensions Widows and children's Pensions Parliamentary Pensions Retirement Benefits Special Pensions	Amend all these statutes to conform with Article 33 on equality, Article 34 on freedom from discrimination, Article 36 on older members of society, Article 55 on labour relations ,Article 56 on social security and Article 65 on fair administration.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FIVE BILL OF RIGHTS (CONTD.)	DEFENCE		Geneva Conventions	None
			Armed Forces	Amend in particular, Section 9, to conform with Article 41 on freedom and security of the person and Article 66 on the right not to obey unlawful instructions
			Protected Areas	Amend to conform with Art 51 and Art 47
			National Youth Service (208)	Repeal Section 3 and clearly define protected areas without giving open power to the Minister
		National Security Intelligence Service	None	
				Amend to conform with Art 31, 41 and 43
EDUCATION AND SOCIAL INSTITUTIONS- ENTERTAINMENT			Universities (210B) Education	Part IV on Establishment of Private Universities –Amend to vest the power of approving the establishment of private universities and the grant of charters to such universities in the Commission for Higher Education rather than in the President.
			Higher Education Loans Fund (213)	Repealed
		Article 58	Education Act	Amend to set the standards for the achievement and provide for the realization and implementation of the right to education and regulations for independent educational institutions

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER FIVE BILL OF RIGHTS (CONTD.)</p>			Antiquities and Monuments	None
			National Museums	None
			Kenya Cultural Centre	Amend and provide as one of the functions of the Centre to work towards the realization of the right to language and culture provided for under Article 63A
			Kenya Broadcasting Corporation (221)	Repeal Part VI relating to licensing of broadcast receiving apparatus and connected functions of Corporation
			Films and Stage Plays	Amend to conform with Article 45 on freedom of expression
			Kenya National Library Service Board	Amend to provide for libraries to be used for the realization of the right of access to information provided for in Article 47
			Board of Adult Education (223)	Amend definition of adult education to provide for adult primary and secondary schools. Provide for free adult education

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER FIVE BILL OF RIGHTS (CONTD.)</p>	<p align="center">EMPLOYMENT</p>		<p>Employment</p> <p>Regulation of wages and Conditions of Employment</p> <p>Trade Unions</p> <p>Trade Disputes</p> <p>Workmen's Compensation</p> <p>Industrial Training</p>	<p>Amend these statutes to conform with Articles 34 on freedom from discrimination, Article 42 on slavery and forced labour, Article 55 on labour relations and Article 44 on freedom of religion , belief and opinion.</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
	PUBLIC HEALTH AND WELFARE	Art 57	Public Health Mental Health (248) Kenya Society for the Blind (251) Human Tissue (252) Medical Practitioners and Dentists National Hospital Insurance Fund Nurses National Social Security Fund Kenya Institute of Administration Narcotic Drugs and Psychotropic Substances (control)	Amend to conform with Article 57 on health. Amend to make provision for standards for the achievement, realization, implementation and enforcement of the right to health Amend to conform with Article 57 on health. Provide for state funding for the Society. Provide for tax exemptions in certain circumstances. None Amend to conform to Article 57 on health. Amend to secure health insurance for all Amend to conform to Article 57 on Health Provide for state funding for the Society. Amend to secure the right to social security provided for under Article 56 for all citizens whether in paid employment or not. Amend to make provision for standards for the achievement, realization, implementation and enforcement of the right to social security None Amend to conform with Article 43 on privacy, Article 54 on property, Article 67 on access to courts, Article 68 on rights of arrested persons Article 69 on fair trial and Article 70 on rights of persons held in custody.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FIVE BILL OF RIGHTS (CONTD.)		Article 64	New Act	Enact new statute (<i>the Consumer Protection Act</i>) to make provisions for Consumer rights, and to facilitate consultation of consumers and their organizations on consumer issues
	LOCAL GOVERNMENT		Local Government Valuation for Rating Rating Town Planning	(Recommended that the Act be repealed) None None Amend to conform with Art 57 & 59
	LAND		Rent Restriction Land Disputes Tribunal Sectional Properties Land Control Land Planning	Amend these statutes to reflect the provisions on the right to housing, property, the equal right of inheritance by both sexes, and Article 34 prohibiting discrimination.
	MINES AND MINERALS		Mining Petroleum (Exploration and Production) Continental Shelf	Amend all to conform with Art 63 on the right to a clean and healthy environment.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FIVE BILL OF RIGHTS (CONTD.)	WATER	Article 61	Maritime Zones Water Kenya Water Institute	Amend to conform with Art 63 Amend to provide for the standards for the achievement, realization, implementation and enforcement of the right to Water
	ENVIRONMENT	Article 63 Article 62 as read together with Article 30	Environmental Management and Coordination Forests	Amend these statutes to conform with Art 63 Amend to provide for the standards for the achievement, realization, implementation, and enforcement of the right to sanitation
	WAYS AND COMMUNICATION S		Kenya Communications	Amend to conform with Art 31 and 34
	TRADE AND COMMERCE		Standards	Amend to conform with Art 64, 45, 47 and 65
	INTELLECTUAL PROPERTY		Copyright Trade Descriptions Trademarks Industrial Property	Amend to conform with Art 45, 54 and 64

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER SIX</p> <p align="center">THE</p> <p align="center">REPRESENTATION</p> <p align="center">OF THE PEOPLE</p>	<p>THE LAWS</p>	<p>Article 78(2) as read together with Articles 50 (3) and 80 (1) (a) and (b)</p> <p>Article 87(4) as read together with Article 46 (6) and (7) , 89 (2) , 96</p>	<p>National Assembly (Powers of privileges) Act</p> <p>New Act/ Amend**</p> <p>New Act/ Amend***</p> <p>New Act/ Amend***</p>	<p>To be retained subject to minor adjustments</p> <p>Enact new statute to govern elections for various levels of devolved government setting out qualifications for the registration of voters</p> <p>Enact a new statute (<i>the Registration of voters Act</i>) to provide for the registration of voters, the restriction of the right to vote of prisoners serving sentences of more than two years including the grounds for disqualification from registration as a voter.</p> <p>Enact a new statute (<i>the Political Parties Act</i>) to provide for the following issues; allocation of air time to political parties, regulation of freedom to broadcast, censorship matters and an independent body for censorship, the duty of political parties to ensure that 1/3 representation of women is achieved, to establish the conditions that political parties should meet to obtain state funding, the general regulation of political parties, the maximum amount of contribution to a political party, regulation of party discipline including defections.</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER SEVEN LEGISLATURE		Article 77(1)	New Act/ Amend *** New Act/ Amend ***	Enact a new statute, (<i>the Electoral Commission of Kenya Act</i>) to provide for the matters specified in Articles 83 to 100 of the Draft Bill Enact a new statute (<i>the Electoral and Administrative Boundaries Act</i>) , to provide for the number of Constituencies, Provincial Councils, District Councils, Village Councils, and other local authorities.
	CRIMINAL LAW AND PROCEDURE		Election Offences Act CAP 66	Amend the meaning of “council” to cover elections for various structures of the devolved government Amend Section 2(1) to expand the meaning of “election” to cover election to the various levels of devolved government
	CONSTITUTIONAL		National Assemblies and Presidential Election Act CAP 7	Repeal and enact a new law to provide for elections to the office of the President and National Assembly

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER SEVEN LEGISLATURE (CONTD.)		Article 145	National Assembly (Powers of privileges) Act CAP 6 New Act/ Amend***	Amend to enable the Act apply to the National Council Enact new statute (<i>Parliamentary Privileges and Immunities Act</i>) to provide for the details of the Powers, privileges and immunities of Parliament, its committees and members. The procedures for the Committee on Good Governance and Public Participation should also be included to facilitate the work of the Committee.
			National Assembly Remuneration Act	Repeal (after the setting up of the Salaries and Remuneration Commission)
	PENSIONS AND PROVIDENT FUNDS		Parliamentary Pensions Act CAP 196	Repeal
CHAPTER SEVEN		147(3)(i)	Parliamentary Service Commission Enact new/ Amend***	Amend to include National Council Enact a new statute (<i>Parliamentary Service Commission Act</i>) to elaborate the power of the Parliamentary Service Commission to carry out functions to promote well being of members and staff of Parliament and other incidental powers.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">LEGISLATURE (CONTD.)</p> <p align="center">CHAPTER SEVEN THE LEGISLATURE (CONTD.)</p>	<p align="center">THE LAWS</p>	<p>Article 146 as read together with 129</p>	<p>New Act</p>	<p>Enact a new statute (<i>Public Participation in Legislative Processes Act</i>) to provide for the Right to petition Parliament and the manner and procedure of Public participation in legislation</p>
		<p>107(7)</p>	<p>New Act/ Amend***</p>	<p>To provide for the method of allocation of seat on the basis of party lists</p>
		<p>108(1)(f)</p>	<p>New Act/ Amend ***</p>	<p>To provide for the moral qualifications and other qualifications for election of MPS</p>
		<p>109(2)</p>	<p>New Act/ Amend***</p>	<p>Enact a new statute to provide for the requirement that one-third of all MPS shall be women (<i>affirmative action Act</i>)</p>
		<p>112(6)</p>	<p>New Act/amend ***</p>	<p>Enact a new statute to provide for the procedure of recall of MPS</p>
		<p>131(1)</p>	<p>New Act</p>	<p>Enact a new statute (<i>the Registry of Laws Act</i>) to make provisions for establishment and the management of a Public Registry of Kenyan laws and additional procedures for the coming into operation of and publication of Kenyan laws.</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER EIGHT THE EXECUTIVE</p>		Articles 155-158	National assembly and Presidential Elections	Amend to provide for the new election procedures of the President and Vice- President (Arts. 155-158)
	Articles 151 & 152	CAP 7 New Act	Enact a new legislation to provide for the exercise of presidential powers and duties set out in the two articles.	
	Article 151 (5) (b)	New Act/ Amend****	Enact a new statute (Consular and Diplomatic Privileges and Immunities Act) to provide for Status of diplomatic missions and international organizations and their staff and HQs agreements	
	Article 159		Repeal Presidential Oath as it appears as a schedule to the Draft Amend to provide detailed procedure for the prosecution of suits against the President	
	Art 161(2)	Promissory Oaths CAP 100	Enact a new statute (<i>Presidential Privileges and immunities Act</i>) to implement the provision granting the President or a person acting as President, immunity from civil proceedings that are not of a private nature.	
	Art 162	The Civil Procedure New Act		

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
	<p>CIVIL LAW AND PROCEDURE THE LAWS</p> <p>PUBLIC FINANCE</p>	<p>Art 169</p>	<p>National Assembly Remuneration Act (CAP 5)</p> <p>Constitutional Offices (Remuneration) Act CAP 423</p>	<p>Repeal</p> <p>Repeal</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER NINE: JUDICIAL AND LEGAL PROCESS		Article 185(3)(c)	New Act /Amend***	Enact a new statute (<i>the Small Claims Courts Act</i>) to provide for the establishment of traditional/ local tribunals and the functions and jurisdiction of subordinate courts
		Articles185 (3)(b) and 198(1) as read together with 74(2)	New Act Amend ***	Enact a new statute (<i>Subordinate Courts Act</i>) for the establishment of subordinate courts, provide for their jurisdiction including their duty to uphold and enforce the Bill of Rights. Repeal Section 7
CHAPTER NINE:		Art 196 (1) as read together with Article 74	Judicature CAP 8	Amend Section 9 by substituting “ sixty five years” for “ <i>seventy four years</i> ” Amend to provide for the new structure and jurisdiction of the High Court including the implementation of the Bill of Rights.
		Article 190 & 191(2)	Appellate Jurisdiction CAP 9	Amend the definition of Court of Appeal in Section 2 to reflect the relevant section of the new Constitution include under Section 3 that an appeal to the Court of Appeal lies as of right from a judgment/order of the High Court

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
JUDICIAL AND LEGAL PROCESS (CONTD.)		Article 188	New Act	Enact a new statute (<i>the Supreme Court Act</i>) to provide for the Supreme Court’s jurisdiction, organization and procedure
			Magistrates Court CAP 10	
		Article 198 & 205	Service Commissions Act, CAP 185 New Act	Repeal provisions relating to the Judicial Service Commission its composition and functions. Enact a new statute (<i>The Judicial Service Commission Act</i>) to provide for the restructured JSC, including its new functions, procedures and principles of operation.
	CHAPTER NINE: JUDICIAL AND	Articles 199(2), 199 & 200	Kadhis’ Courts CAP 11	Amend Sections 2 and 3 to reflect the relevant sections of the Bill . Amend section 3 by deleting “...in any case not less than three and not more than twelve” and substituting with”... <i>being in any case not less than thirty.</i> ” Repeal Section 4. Amend Section 5 on Jurisdiction of Kadhi Courts to reflect Art 200 of the Bill.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
LEGAL PROCESS (CONTD.)			Commissioners Of T Assize, CAP 12	REPEAL
			Records Disposal CAP 14	Amend to protect the right to access to information under Art. 47
			Law Society Of Kenya CAP 18	Amend to conform to Article 48(3) on the freedom of association.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER NINE: JUDICIAL AND LEGAL PROCESS (CONTD.)</p>		<p>Article 210</p>	<p>Civil Procedure Act, CAP 21 New Act</p>	<p>Repeal provision relating to pauper briefs and enact a new statute (<i>The Public Defender Act</i>) providing for the Public Defender and the institution and process of Legal Aid.</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER TEN: DEVOLUTION OF POWERS</p>		<p>Articles 213- 231</p> <p>Articles 224, 225, 226-</p>	<p>New Act</p> <p>Local Government Act CAP 265</p> <p>Loans Act CAP 270</p>	<p>Enact a new <i>Devolution Act</i> to provide for the structures, functions, procedures and details relating to Devolved Government including the financial arrangements and intergovernmental relations.</p> <p>Amend to the extent of the modifications by the Devolution Act.</p> <p>Act to remain intact with necessary amendments specifically, Sections 6, 7 and 8 to conform to the Devolution Act.</p>
		<p>Art 233(1)</p>	<p>Chief’s Act CAP 128</p>	<p>Repeal Act in terms of the provision of Article 223 (1).</p>
		<p>Schedule II</p>	<p>District and Provinces Act</p>	<p>Retain Act subject to the recommended terms of the proposed Boundaries Commission.</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER ELEVEN LAND AND PROPERTY	LAND	Article 237 as read together with Article 232	All land administration Acts New Act****	Enact a new statute (<i>the National Land Commission Act</i>) to provide for the Land Commission, its composition, functions and procedures, and to elaborate its mandate including the preliminary work of the revision, consolidation and rationalization of land laws, the production of a national land policy, establishment of land administration system, resettlement of the landless, establishment of the land fund and adjudication of communal land, and to review and assess all grants of government land and claims of unjust expropriation of land, within a determined period.
		Article 234 (2)(a) & (b) 235(1), 4(b)(i) and 237	Governments Lands Act, CAP 280	Retain Act, but amend specifically Sections 2 & 3 to reflect the provisions of Art. 234, 235 and 237
		Articles 234 (3)(a), 235(2) and 235 (4)	Trust Land Act, CAP 288	specifically, Sections 7-13 and Section 69 (a) Repeal Act, and vest the lands in communities in terms of Article 235(2)(a). (b) Title of the Act should reflect the “community” in terms of Article 235(2)(a).

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER ELEVEN LAND AND PROPERTY		Articles 233 (1), 234(1), 234 (3)(b), 235 (2)(a) & (b) and 235 (3).	Land (Group Representatives) Act, CAP. 287	Retain Act, but amend specifically Sections 9-15 to reflect the provisions o Article 235 (2)(a).
		Article 235(4)	Trusts of Land Act	Retain Act with necessary amendments in terms of Article 235 (4).
		Article 235(4)	Survey Act CAP 299	Retain Act with necessary amendments in terms of Article 235 (4).
		Articles 237 (2) and 237 (a)	Registered Land Act, CAP 300	Retain Act with amendments specifically at Sections 2-13.that may arise from the provisions of Article 235(4)(a)(i) and remove the powers of the Commissioner of Lands and replace with National Land Commission in terms of Article 237 (2)(a).

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
		Articles 232 (2)(f)	Land Disputes Tribunals Act 1991 Entire Act affected.	Retain Act subject to Art 232 (2)(f) & 235(4)
<i>CHAPTER TWELVE: ENVIRONMENT AND NATURAL RESOURCES</i>		Articles 239 (3)(a) and 242	Wildlife (Conservation And Management) Act, CAP. 376	Entire Act, but, specifically, Sections 4, 6 and 8. Amend Act to reflect the provisions of Articles 239 (2) and 239 (3).
			Timber Act, CAP 386	As in Forests Act
		Articles 239,240, 241, and 242 as read together with Articles 30(3) and 63	The Environmental Management and Co- ordination Act, CAP. 199	Retain Act, but amend Sections 9 and 10, and review specifically, Part V, VII, IX and XI, to reconstitute NEMA as the National Environmental Management Commission with the more elaborate mandate

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER THIRTEEN: PUBLIC FINANCE AND REVENUE MANAGEMENT</p>		<p>Articles 243, 245, 250, 254 and 255</p> <p>Article 246</p> <p>Articles 246B, 256(4) as read together with 224(1)</p>	<p>Exchequer and Audit, CAP 256</p> <p>Paymaster-General CAP 413</p> <p>New Act /Amend***</p>	<p>Retain Act, but amend but specifically, Parts II, III, IV,V and VII to reflect the provisions of Articles 245, 250, 254 and 255.</p> <p>Retain Act, but amend specifically the Paymaster-General Regulations to reflect the provisions of Article 246.</p> <p>Enact a new statute (<i>the Fiscal Management Act</i>) to make provision for the procedures and mechanisms for monitoring and control by Parliament of the Revenue and expenditure of the state , mechanisms to monitor accountability in collection of revenue by the National Government, the establishment of and operation of the Contingency Fund, and the preparation of financial year estimates.</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER THIRTEEN PUBLIC FINANCE AND REVENUE MANAGEMENT (CONTD.)</p>		Article 244	<p>The Provisional Collection of Taxes and Duties Act, CAP 415</p> <p>All Statutes applying Tax Measures (Revenue Statutes) Kenya Revenue Authority Act, CAP 469</p>	<p>Retain Act, but amend specifically Sections 2, 3 and 4 to reflect the provisions of Article 244.</p> <p>Generally amend them to prohibit the collection of taxes other than those imposed by law and to prohibit any body or person effecting tax variations or waivers without the Consent of Parliament.</p>
		Article 249	<p>General Loan and Stock, CAP 419</p> <p>New Act</p>	<p>Retain Act, but amend to conform to the provisions of Article 249.</p> <p>Enact a <i>new statute (The Public Debt Act)</i> to consolidate the law relating to public debt and to incorporate the principles stipulated in the Bill under that Section</p>
		Article 247	<p>Constitutional Offices (Remuneration) Act, CAP. 423</p>	<p>Retain Act, but amend to conform to the provisions of Article 247.</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER THIRTEEN PUBLIC FINANCE AND REVENUE MANAGEMENT (CONTD.) CHAPTER		Article 246 A	Civil Contingencies Fund CAP 425	Retain Act, but amend to conform to the provisions of Article 246 A.
		Article 249	The Specific Loan (Colonial Development Corporation) Act, CAP 440	Retain Act until full payment of the loan.
			Bretton Woods Agreements Act, CAP464	Retain Act, but amend subject to the Agreements to conform to the provisions of Article 249.
		Article 249&250	International Development Association Act, CAP 465	Retain Act, but amend subject to the Agreements to conform to the provisions of Article 249.
		Articles 243, 245 & 254	Kenya Revenue Authority Act, CAP 469 Entire Act, but	Retain Act, but amend specifically Part V and 1 st Schedule to the Act, to reflect the provisions of Articles 245 and 254.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FOURTEEN: THE PUBLIC SERVICE	CIVIL SERVICE		Service Commissions CAP 185	Amend by inserting a new Section requiring officers of the Judicial Service Commission and the Public Service Commission to comply with the provisions of the 5 th Schedule of the Draft on Leadership and Integrity Code of Conduct. Amend to provide for the new composition, functions and principles of operation stipulated in Articles 258 to 264
			Police CAP 84	Substitute “Police Force” with <i>Police Service</i> . Amend Part 1 of Schedule 1 by providing for two Deputy Commissioners in order to bring it in conformity with Art 266(4) of the Draft. Amend the Act to provide for the functions, organization and administration of the Police Service as stipulated in Article 265
			Administration Police CAP 85	Repeal

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER FOURTEEN THE PUBLIC SERVICE (CONTD.)</p>		<p>Articles 269(2), and 268(2) as read together with Article 70</p>	<p>Prisons</p> <p>New Act/ Amend ***</p>	<p>Amend title to <i>Correction and Rehabilitation Act</i>.</p> <p>Amend by making provisions on the Commissioner of the Kenya Correction Services and provide that s/he is subject to the Leadership and Integrity Code.</p> <p>(*The statute in the text refers to the Commissioner without setting out clear responsibilities and code of conduct for the office)</p> <p>Enact a new statute (<i>the Kenya Correctional Services Act</i>) to provide for the prisoners’ right to be protected against exploitation or abuse , the right to complain to prison authorities, Commission on Human Rights and Administrative Justice, other similar institutions and the right to communication with the press , mechanisms to ensure that standards of the prison system conforms to international standards Functions, organization and administration of the Kenya Correctional Service, mechanisms for accountability, governance and general regulation of the Kenya Correctional Services.</p>
			<p>Borstal CAP 92</p>	<p>Provide sections on Commissioner of Borstal Institutions and that they are subject to the Leadership and Integrity Code.</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER FOURTEEN THE PUBLIC SERVICE (CONTD.)			Pensions CAP 189	<p>*The Draft does not address the issue of Pensions of civil servants.</p> <p>Substitute Minister with Salaries and Remuneration Commission.</p> <p>Section 6: Make provision for the period within which pension, gratuity or other allowances are payable.</p> <p>Section 9(1) Amend by substituting President with Public Service commission</p> <p>Repeal Section 9 (1) (b)</p>
			Pensions Increase CAP 190	none
			Provident Fund	none

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
	Defence	Principles and objects of Defence and National security (Article 271)	The Armed Forces Act CAP 199	Amend the Act to incorporate the general principles of National Defence and Security proposed by the Draft Constitution especially those relating to conduct and training of officers.
	Defence	Establishment of the National Security Council (Article 272)	The Armed Forces Act	Amend by adding new provisions relating to the National Security Council its membership and procedures
	Defence	Functions of the National Security Council (Article 273)	The National Security Intelligence Service Act 1998, Act No. 11 of 1998	Amend Section 5 to reconcile the functions of the Service and the functions of the National Security Council as set under the Draft
		Defence Forces (Article 274)	The Armed Forces Act CAP 199	Amend Section 5 to rename and correct the membership of the Defence Forces Council so that it may be in <i>tandem</i> with the Draft Constitution. Amend to include the provision prohibiting the raising of a defence force or military or paramilitary organization by other persons other than the Government
		Commanding Officers (Article 275)		Amend Section 224 and the Regulations there under to reflect the role of the Defence Forces Council in the general administration and maintenance of the Armed Forces Amend Section 5 relating to the appointment of the CGS and Service Commanders, which shall be by the President on consultation with the National Council and the Defence Forces Council, respectively.
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RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER SIXTEEN LEADERSHIP AND INTEGRITY	EDUCATIONAL INSTITUTIONS	Article 277	Teachers Service Commission Act CAP 212	Amend by adding provisions relating to the general responsibilities of political and public office holders stipulated under the Article.
	THE CIVIL SERVICE	Article 277	Service Commission Act CAP 185	Amend by adding provisions relating to the general responsibilities of political and public office holders stipulated under the Article.
	THE LAWS	Article 277	The Parliamentary Service Commission Act, Act no 10/2000	Amend by adding provisions relating to the general responsibilities of political and public office holders stipulated under the Article.
CHAPTER SEVENTEEN CONSTITUTIONAL COMMISSIONS AND OFFICES	THE LAWS	Articles 278-286	The Parliamentary Service Commission Act, Act no 10/2000	Amend the Act to provide for incorporation, composition, general functions, procedures, funding and annual reporting of Constitutional Commissions as provided for in the Articles.
	THE CIVIL SERVICE	Articles 278-286	Service Commission Act CAP 185	Amend the Act to provide for incorporation, composition, general functions, procedures, funding and annual reporting of Constitutional Commissions as provided for in the Articles.
	EDUCATIONAL INSTITUTIONS	Articles 278-286	Teachers Service Commission Act CAP 212	Amend the Act to provide for incorporation, composition, general functions, procedures, funding and annual reporting of Constitutional Commissions as provided for in the Articles.
		Article 288	New Act	Enact a new statute to provide for the institution, functions and procedures of the Commission on Human Rights and Administration of Justice.

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER SEVENTEEN CONSTITUTIONAL COMMISSIONS AND OFFICES (CONTD.)</p>	<p align="center">THE LAWS</p>	Article 289	New Act	<p>Enact a new statute (<i>The Ethics and Integrity Commission</i>) to provide for the institution, functions and procedures of the Ethics and Integrity Commission. In addition, the new statute should also provide for the performance of functions of the Ethics and integrity Commission other than those set out in the Constitution, the management of its staff, the terms and conditions for availing, Commission, declarations made in accordance with the Leadership Code, the possible mechanisms of effecting the objectives of the leadership and integrity provisions.</p>
		Article 290	New Act	<p>Enact a new statute (<i>The Salaries and Remuneration Commission</i>) to provide for the institution, functions and procedures of the Salaries and Remuneration Commission. The new statute should also indicate the salaries chargeable on the consolidated fund in terms of Article 247</p>
	<p align="center">PUBLIC FINANCE</p>	Article 290	National Assembly Remuneration Act. CAP 5	<p>Repeal the Act.</p>
		Article 290	Constitutional Offices (Remuneration) Act, CAP 423	<p>Repeal the Act.</p>

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
<p align="center">CHAPTER SEVENTEEN CONSTITUTIONAL COMMISSIONS AND OFFICES (CONTD.)</p>	EDUCATIONAL INSTITUTIONS	Article 291	The Teachers Service Commission Act, CAP 212	Amend the Act by adding the new provisions stipulated by the Article while repealing those that are inconsistent.
	GENERAL ADMINISTRATION	Article 292 as read together with Article 5	New Act	Enact a new legislation (<i>the Constitution Commission Act</i>) to provide for the institution, procedures and functions of the Constitutional Commission including the bringing of the Laws of Kenya into conformity with the Constitution
		Article 293	The Statistics Act, CAP112	Amend to establish the office of Director of Central Bureau of Statistics as a Constitutional Office, and to apply to that office, the principles of Constitutional Office holders.
	PRISON AND DETENTION	Article 293	The Prisons Act, CAP 90	Amend to establish the office of Director of the Kenya Correctional Services as a Constitutional Office and to apply to that office, the principles of Constitutional Office holders.
	POLICE	Article 293	The Police Act, CAP 84	Amend to establish the office of Director of the Kenya Police Service as a Constitutional Office and to apply to that office, the principles of Constitutional Office holders.
CRIMINAL LAW AND PROCEDURE	Article 293	The Criminal Procedure Code CAP 75	Amend to establish the office of Director of Public Prosecutions as a Constitutional Office and to apply to that office, the principles of Constitutional Office holders.	

RECOMMENDATIONS FOR REVISION OF EXISTING LEGISLATION

CHAPTER NAME AND TITLE	THEMATIC STATUTORY AREA	CHAPTER DETAILS	AFFECTED LEGISLATION	RECOMMENDATIONS
CHAPTER SEVENTEEN CONSTITUTIONAL COMMISSIONS AND OFFICES (CONTD.)	COMMERCIAL AND FINANCIAL INSTITUTIONS	Article 293	Central Bank Act, CAP 491	Amend to establish the office of Governor of Central Bank as a Constitutional Office and to apply to that office, the principles of Constitutional Office holders.

LEGISLATION PROPOSED FOR REPEAL

1. The Promissory Oaths Act
2. The Chang'aa Prohibition Act
3. The Traditional Liquor Act
4. The Chief's Act
5. The Legitimacy Act
6. The African Christian Marriage and Divorce Act
7. The Local Government Act
8. The National Assemblies and Presidential Election Act
9. The National Assembly Remuneration Act
10. The Constitutional Officers (Remuneration) Act
11. The Commissioners of Assize Act
12. The Administration Police Act