

CONSTITUTION OF KENYA REVIEW COMMISSION

NOTES ON CENTRAL PROVINCE PROVINCIAL VISIT – 18.07.01

CONSULTATIVE MEETING AT NYERI COUNTY HALL

PRESENT:

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

ABSENT WITH APOLOGY:

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

The meeting assembled at 10.00 a.m. at Nyeri County Hall and was opened with Christian and Muslim prayers.

The Deputy PC welcomed the Commissioners to Nyeri.

The Commissioners introduced themselves and the participants also introduced themselves and included representatives from Mt. Kenya Law Society, Shelter Women of Kenya, Supkem, Safina, Sustainable Empowerment and Agricultural Network, Citizen Small and Medium Industries of Kenya, Build Kenya, Maendeleo ya Wanawake – Kiambu, Councillors, Catholic Dioceses, Justice and Peace, NGO's, Chamber of Commerce, Mau Mau Veterans Society, KNUT, DP, Churches and individuals.

Com. Lethome invited Prof. Ghai to give opening remarks on the Commission's work and civic education.

Prof. Ghai welcomed participants to the meeting and apologised for keeping them waiting as some of them had arrived as early as 8.00 a.m. This was the second provincial visit for the Commission after Embu.

He said that the Commission is operating under the Constitution of Kenya Review Act which places a great deal of importance on the participation of the people in the review process. He said this is the first review of the constitution in Kenya and it is the first time in the history of Kenya that people have been invited to play a central role in the making of the constitution. He said that people travelled to Lancaster and sat in secrecy to make the present constitution and this is the first time that the people have a chance to determine the new constitution. He said it is a heavy responsibility for the people and for the Commission to ensure there is participation from the whole community in this process. He said the Commission was determined to make sure that every Kenyan has an opportunity to participate in this process.

He said that the Act says that the Commission must consult people in every constituency and on the basis and ideas that the people make, it will draw up a constitution. He said the ideas that the people give are fundamental in shaping the Commission's recommendations and it is very important that people come out and tell the Commission what kind of constitution they want and what kind of Kenya they want for themselves, their children and their grandchildren.

He said the purpose of the visit was to tell the participants about the Commission's mandate, the responsibilities placed upon it by the Act and to give them some idea of review and the terms of

reference and to discuss with them ways in which the Commission can facilitate the participation of everyone in the review process. He said in the first place the Commission has to establish a documentation center in every district which will contain information of the Commission's work, the constitution and also memoranda received from the rest of the country so that these can be shared by everyone. He said the Commission will also be setting up a website through which information will be available. He said that people in Embu had said that district headquarters were too far away from the people and that documentation centers should be set up in divisions so that all people can have access to them.

Prof. Ghai said the second step is to set up constituency forums in every constituency in order to bring together all the institutions and individuals to discuss the work of the Commission and ideas for the review process. He said in due course the Commission will visit every constituency to meet with the constituency forums and receive the ideas that the people have generated in the constituencies. He said the constituency forum is a very important method of consulting with the people and the Commission would like ideas on how to set up these forums. He said these ideas will help the Commission in deciding what measures to take.

He said the Commission will get in touch with individuals and organisations and urged all participants to fill in a registration form.

He said the Commission has the responsibility to write a report on its work and to draft a constitution after consultation with the public for consideration by the people of Kenya. After two months in which the public will study and discuss the report among themselves, the Commission will convene a meeting of the national constitution conference. He said this conference will consist of all MP's, three representatives from every district, representatives of civic organisations, religious groups, professional bodies, political parties, women organisations and NGO's. The Commissioners will also be members but will not be voting members. He said it will be the responsibility of this conference to make decisions on the constitution on the Commission's recommendations. He said at this stage the Commission will become a secretariat of the conference helping to revise the draft constitution incorporating all the ideas put forward. Prof. Ghai said that if there is a consensus at the conference the draft constitution will go to Parliament for enactment. If there is no consensus then there will be a referendum where people will vote directly. He said if there is a referendum it would be the first time in the history of Kenya that people have gone directly to the polls to form a constitution and this is a heavy

responsibility on everyone. He said it is therefore important for the Commission to facilitate participation of the people in this process.

He said that the role of the Commission is not as important as it seems because after making the draft constitution the politicians and religious groups take over and make the decisions.

Prof. Ghai said that although the Commission has a Strategic Plan setting out a timetable, the Commission has control of that timetable only up to the time it publishes its draft constitution and after that other people control the timetable. He said the constitution is the instrument that binds together all citizens and non-citizens and it is therefore very important that it should have the support of all the people or at least a large majority of the people. He said there is a mechanism to resolve whatever differences the people may have. The people however have national values on how they want to live, how to relate to their neighbours, how to ensure that every citizen has enough food, right to education, access to schools, shelter and so on and there has to be consensus on these values otherwise the country will not be stable. He said it is therefore very important that all Kenyans are happy with the ultimate product of the constitution review process. He said even as decisions are made to implement the amended constitution, consensus will prevail and that this process will bring people together and heal any differences that may exist so that the country can emerge with a stronger sense of national unity.

Prof. Ghai said the Review Act provides for a system of consultation where people become directly involved in decision making. It also says that the constitution has to include a number of values such as democracy, protection of human rights, balance between different organs of government, for example between Parliament in Nairobi, between the Executive, the presidency, Judiciary, civil service and provincial administration so that no institution dominates the other. It also says that the constitution must recognise the social ethnic diversity of the people. This has to be done without endangering the rights of the citizens of Kenya because they have definite identities, for example, there are Catholics, Protestants, Muslims, Hindus and so on. He said the cultures and practices of communities have to be respected in the constitution and the Commission wanted views from the participants on how to keep this balance. Prof. Ghai said it was also important to have a constitution which will have good distribution of resources throughout the country and which ensures that basic needs of every Kenyan are met which means that there is food, clothing, means of earning a living. He said that at the moment the country has some very rich people but that the majority of the people are extremely poor.

A paper on poverty eradication recently shows that 57% of Kenyans live in poverty living on less than 70/= a day; a lot of children do not go to school, a lot of young people have no employment and there is no access to medicine. He said the Act is saying that ways to meet the needs of these very poor people have to be found.

He said that these are some of the issues that the Commission is required to include in the constitution. There are other requirements, he said, for example whether Kenya should be a unitary state or a federal state or have another system whereby power is shared. The Commission is required to recommend on the best system of government. He said there are many successful democratic governments like India which has a democratic parliamentary system of government, United States has a presidential democratic system of government and Switzerland has power sharing system. He said the question for Kenyans is what kind of democracy they want. Should it be majimbo system, federal system, should power be given to provinces, districts or lower offices? He said there are many choices and the participants should give their views.

He said that to facilitate full participation of people in the review process, the Act requires that the Commission conducts civic education. He said although many people present at the meeting had conducted civic education for a long time, the civic education for this process is one that stimulates awareness and discussion of constitution review the idea being that all Kenyans become aware of the review process, issues that are being debated, role of the Judiciary, role of the Attorney-General and so on. He said the Commission's responsibility is to facilitate, promote and if necessary conduct the civic education but that it did not have resources, knowledge or skills to conduct the civic education and that the Commission wants to share that responsibility with civic education providers. He said the Commission therefore wants to discuss with the providers how they think this civic education can be conducted but pointed out all issues relevant to constitution review should be covered. The Commission has developed a national curriculum to ensure that the civic education is provided impartially, objectively and not through propaganda and the providers will have to observe a code of conduct to ensure that these are achieved. He said a way will have to be found also to coordinate civic education providers throughout the country. He said this is a complex and controversial area and it is important to agree on uniform methodology and which providers are best placed to conduct civic education, e.g. community based organisations, teachers and so on.

He said the most important method of consulting will be the national constituency forums.

Prof. Ghai then mentioned the question of timing which has become quite controversial. He said the Commission is required to complete the whole process by September 2002. The legislation also says that if the Commission is unable to finish its work by that time it can request for extension any time after October 2001. He however said there is no guarantee that this request will be granted. He therefore said at the moment the Commission is operating on the assumption that it will complete its work by September 2002. He said the Commission has reviewed all the different tasks involved in the making of a constitution and it has decided that it is possible to complete the work in the stipulated time and a timetable is contained in the Strategic Plan indicating time allocated to different stages of the process. He said that since part of the programme is not under the Commission's control, it may be not be able to complete its work in time. The Commission will therefore continue to review its work constantly and if it appears that it cannot finish its work by September next year, it will request for extension from Parliament and may also suggest to Parliament the minimal changes that may be necessary to facilitate the process. He said, for example, if the Commission cannot finish its work until February 2003, the question was what would happen to the elections expected to take place in December 2002. Is it right to have elections and then continue with the work of the Commission, or have an interim constitution for Parliament to work on while waiting for the Commission to finish its work, or should elections be suspended to await the Commission report. Prof. Ghai said that the Commission is not giving much thought to these options at the moment as it was working on the basis that it will complete its work on time.

Prof. Ghai then invited Com. Abida Ali-Aroni to translate his remarks in Kiswahili.

Com. Abida Ali-Aroni - Swahili translation of opening remarks.

Com. Lethome said the topics for the meeting were constituency forums, civic education and documentation centers and that the consultative meeting was being held so that the Commission can get views from the people on these points. He said everyone would have a chance to speak and those who did not speak would be given a chance at the Stadium.

Com. Hon. Phoebe Asiyo then conducted the open forum. She said that were political parties representatives e.g. DP, Safina, Fork Kenya and Kanu. Church representatives were Catholic, IPCEA, AIC and PCEA. Professional societies representatives were LSK, doctors, lecturers and teachers. Muslims were represented by National Union of Kenya Muslims, SUPKEM and Islamic Council. Freedom groups were also represented by Mau Mau Union, Mau Mau War Veterans, Mr. Oscar Beuttah, there were individuals like Mau Mau Regional Trust, Farmers unions were also represented, KUPPET, Maendeleo ya Wanawake and CBO's from every district. She invited two people per district to speak.

Grace Njoroge of Maendeleo ya Wanawake, Kiambu District said people should not be retired at 45 but at 50 or 60 years.

Mr. Muguku of Mt. Kenya Law Society said that the society will cooperate with the Commission and suggested that civic education should be done from centers in locations and districts and that the Commission should recruit officers to represent it at that level. He said graduates who are jobless and teachers can conduct civic education. He also said unemployed graduates should be used to go round with questionnaires for people to give their views and then coordinate with the Commission's representatives at location and district offices. He said that should the timeframe of the Commission be extended there should be a coalition government to coordinate the government and opposition during the extension period. He said he would like to see a democratic government headed by elected governors and the central government should be headed by a non-executive president with an executive prime minister, a deputy prime minister and two vice-presidents with the elected governors forming the cabinet.

Mr. Gitonga of Biashara Ndogo, Nyeri, said reviewing the constitution needs people who understand what is being reviewed and people must know what the constitution being reviewed says. He said people like lawyers should form groups to educate people in their districts about the constitution because they understand it.

Mr. Francis Ndegwa from Nyeri that civic education should be done from the grassroots so that people are better informed. He said Parliament should be the supreme power in Kenya,

president and vice-president to be elected by voters for a term of 5 years or two terms of 5 years each, but that these two posts should be ceremonious. Executive prime minister and deputy prime minister to be elected from members of Parliament.

Com. Asiyo pointed out again to Mr. Ndegwa that there will be time for submissions later but that he should confine himself to civic education.

Dr. Simon Gichuru of Chamber of Commerce, Murang'a said the issue of constituency forum is very important because it goes to the grassroots. However he said that if there are no guidelines as to how to go about forming constituency forums, the process will be very difficult and it will take a long time. On time frame, he said if the Commission did not finish its work by September 2002, it will cause a lot of tension. He said Prof. Ghai being a university professor knows how to arrange a timetable so that students can finish an exam on time and not say that the syllabus is not complete. He said the Commission is a Kenyan syllabus and it should be completed in the stipulated time and the Commissioners should do what they can to achieve this. He said civic education should be done by organised groups at the grassroots such as churches, Chamber of Commerce and non-political groups.

A representative of SUPKEM, Nyeri, said civic education should be done through CBO's, religious groups like NCKK through churches and SUPKEM through mosques. He said also provincial administration should be used through assistant chiefs. He added that the Commission is doing a good job and Kenyans are very happy, but Parliament should not be extended. If the Commission does not complete its work in time, elections should be conducted and the Commission continues with its work without any rush.

Mr. Maina Gatimu of Citizen Small and Medium Enterprises, Thika and also representing the Kenya Redemption and Liberation Movement said that the documentation centers should be at district level and use NGO's established in the districts because they already have human infrastructure which would be useful in this process. With regard to time frame, he said the Commission should have confidence in their work because wananchi know what they want and collection of views in constituency will not be difficult except in the areas where transport is

difficult. He said questionnaires should not be used because they are complicated but that the Commission should have as much contact with the common people as possible. He suggested that Kenya should have a unitary government because it is the only government that will manage resources of the country effectively.

The Deputy Mayor of Thika said civic education should start at location level and there should be a curriculum for the providers. He said constituencies are very large and if civic education is done at this level, it will eliminate a lot of people who cannot travel to centers.

Mr. Charles Thuo of National Chamber of Commerce and Industry, Maragua said there have been a lot of Commissions in Kenya that have disappeared and he hoped this will not happen to this Commission. He said civic education is very important and it should start at sub-location level, then location, constituency up to district level. He said documentation centers should be at centers that have Post Offices. He constituency forums are very important and they should start at sub-location level and emphasised that everything should start from the bottom where the wananchi are.

Christine Ngari, Provincial Chairman Maendeleo ya Wanawake, Kirinyaga, said there should be coordination of the Commission and grassroots level. She said there should be provincial forums consisting of people from each district with representatives from bodies like NGO's, religious groups and so on. She said this forum should relate directly with the Commission and will coordinate the Commission's ideas in the provinces. She said there should be district forums to create documentation centers with the assistance of the provincial forums. She said the district forums should have sections representing each documentation center and there should be personnel to run these centers mostly people who understand the constitution. These people will then go down to division level and the lowest level possible so that everyone will know what is in the old constitution and how they want to change it and be governed. She said once these forums are in place, they should train people to conduct civic education and the people already doing civic education should be considered. In all this there should be gender consideration.

Mr. Daniel Mwangi Murage of Small Scale and Medium Enterprises, Chamber of Commerce and Industry, said civic education should be conducted at the grassroots maybe especially through churches because that is where the truth is told and civic education can be done through sermons. He said if the Commission failed in their job, they will have failed millions of people for ever. If it is time for elections before the Commission finishes its work, elections should be held but the Commission should continue with its work

Mr. Oscar Beuttah of Maragua said there was another commission and after giving views, no one knows what happened. He said it will be useless to say a lot of things at venue of the meeting which will not be published.

Mr. Michael Mwangi of Provincial Administration, Nyandarua said that Kenya could have a good constitution kept in the archives. He said Kenyans want a constitution that will be worked on and implemented and that the constitution should have checks and balances with the Judiciary, legislature and Executive checking each other's powers otherwise the constitution will be monopolised by one of them. He said Kenyans should be given about 10 years to review the constitution so that cultural, political and social dynamics can be included in the constitution.

Mr. Rueben Magoko said civic education should be done by churches and mosques. In churches there are parish ministers who will organise divisions and districts to conduct this process. He documentation centers should be at locational levels and sub-locational levels. He said if the Commission cannot finish its work in time, it should be granted an extension but Parliament should not be extended and elections should go ahead.

Mr. David Njoroge of Citizen Small Scale and Medium Enterprises, Thika said the civic education should be done by NGO's, civil societies, women groups, people with disabilities group which are registered in districts because they can reach people at grassroots level. He requested the Commission to provide a curriculum and provide resources for this process. He said documentation centers should be at district, division, location and sub-location levels.

Mr. A. J. Kariuki, Mt. Kenya Law Society said they wanted to register their presence. He said the Review Commission is a matter of law because it is established under an Act of Parliament and since the Law Society is also under an Act of Parliament it is required to assist the Commission and it is willing to assist. He said in civic education there is a curriculum, the question of the educator as well as those to be educated. He wanted the Commission to give guidelines as how it intended to go about this job. He said the Society has knowledge about the constitution and if the Commission wants to make use of the Society, it will be available. He said documentation centers are a question of management and administration and that it would be more effective and more viable if these are at constituency level. He said the people at constituency level will take care of locations, sub-locations and other areas within the constituency to make the process viable. He said the history of the role of the provincial administration is well known. The Commission is supposed to be independent and it will reach the people through constituencies, districts and provinces of Kenya without going through the provincial administration. He said lawyers are within the community, in local churches, in local mosques, within small scale farmers, they are members of cooperative societies, they live in the same localities and they would do this work as part and parcel of the communities they live in.

A representative of Catholic Diocese of Justice and Peace said civic education is the backbone of the review process and that they would fully participate in ensuring that the process is successful. He said the Commission should write an appropriate civic education curriculum which is tailor made for constitution review. He said that people should have trainers at constituency level so that they will hold awareness barazas in churches, mosques or whatever venue they think appropriate. Through these barazas the trainers will facilitate action within the community. At constituency level the trainers will facilitate organisation of interested groups at their local levels e.g. women groups, disabled persons, farmers, civil servants, business community, professionals, religious groups and so on. He also said that these groups will be facilitated to draw up memoranda and a time frame should be given for presenting these to the Commission. He also proposed that the presentation of these memoranda should be done at constituency level where possible or district level where constituencies have their headquarters at district headquarters. On documentation centers he said these should be at constituency level and

trainers from this level can disseminate the information to the other levels. He said the churches are there to help and they will go all the way.

Pastor Moses Otieno of Christ Church of Jesus, Nyeri said freedom of worship should be checked. He said the review process should not be rushed to be completed before elections, it should be done carefully and elections should go on as scheduled.

Pastor John Macharia of Seventh Day Adventist, Central Kenya said that a cross section of people from CBO's, churches and mosques should be trained and then they can be used to train the local people. In connection with the time frame, he said the Commission should not rush its work because the result of its work will affect Kenyans for the rest of their lives.

Rosalind Njeri said the Commission should elect locational committees reporting to district committees which will then report to the Commission

Mr. Rashid said the Commission should also look for ideas from the Islamic law.

Mr. Boniface Gachenga of Independent Church said the review should be suspended until after the elections.

Susan, a women organiser, said civic education should be done at grassroots level by churches and community workers because they have some knowledge of civic education. She said documentation centers should be very near to the ordinary mwananchi who has no means of getting to district headquarters.

Mr. Ondego of National Graduates Forum said there should be a district coordinator and liaison officers at constituency level. He said at location level there should be field assistants. On methodology he said public barazas, churches, schools, mosques, mobile videos, posters should be used and the groups to be used should be welfare groups and organised groups. On time frame he said if the Commission does not finish its work, elections should go ahead and the work of the Commission can be completed afterwards.

George Ndirangu of Kimathi Movement said that Kenyans are living in a delicate period and if this Commission does not succeed, Kenya may never have another commission. He said the Commission should ensure that the constitution it draws up will provide equal rights and justice and it should address corruption, bribery, tribalism, nepotism and such evils. He said the spirits of the founding fathers of the nation are hovering over the country calling for justice. He quoted a saying by Dedan Kimathi that Kenya's sacred duty is to fight for liberation of this beloved country, to free people from British imperialism, to bring permanent peace and security to the suffering people. He said there is no peace in villages and slums and that people might be arrested when they go outside because of speaking and therefore the Commission should bring permanent peace and security to the suffering people of Kenya.

A representative of Mau Mau Veterans Association said that the first step is always the hardest and went on to give Mau Mau history. He said the constitution should take care of fathers, mothers and children so that they can live in peace.

A representative of DP said Nyeri people have problems and if a young person has no ID they are arrested. He said the Commission should be granted an extension so that it does not rush through its work.

Mr. Suleiman said that the Commission should come up with a constitution that will stand the test of time, a constitution that participatory and inclusive and that will make Kenyans one despite their diversities. It should be a constitution that will guarantee all Kenyans their rights. To this end he said it is important to have good civic education from grassroots level in the villages because that is the population that must know what a constitution is. They should know what the current constitution contains, what are its weaknesses and its strengths, what the local people's input should be and how the mwananchi can articulate his ideas. This education should

be impartial and it will be best done by religious bodies, CBO's and NGO's. The ideal venues are churches and public barazas.

James Gatama of Safina, Nyeri said although the Commission was made up of very knowledgeable people, it seems that the government is overseeing its work. He said the government cannot be trusted because there have been many commissions that have not completed their work. He said Kenyans should demand for the creation of a transitional government of national unity to oversee the constitutional review process.

Abdulrahman Shikuku of Shirikisho said there is no hurry to finish the review process, if there is not enough time elections should be held but the review should not be rushed. He said civic education should be done the level of local wananchi. He said there are people who do not go to church or to the mosque although he is a stakeholder in the review process. He said documentation centers should not be at provincial headquarters because people are scared to go there and that these should be in the villages through videos and in market places.

Jeremiah Gateri of DP, Kirinyaga said he was very pleased when Prof. Ghai refused to take the oath until the two commissions merged because it showed that he wanted Kenyans to have a united constitution. He said the review process should be completed as soon as possible so that Kenyans can stop suffering. He said civic education should be conducted by the Commission through a committee from location level, districts and then provinces.

Mr. Timothy Kariuki of KUPPET, Nyeri Branch said the Commission should provide copies of the constitution in the proposed documentation centers so that the public can refer to them. He said these should be simplified and in local languages. He said documentation centers should be of two structures, one at district level for coordination purposes and another at constituency level. There should be civic education materials in various forms like pictures and posters to which people can refer. He said KUPPET has representatives at national level, provincial level, district level and division levels and they can provide civic education. He said there should be an enabling environment once civic education exercise begins and these should not be interrupted by provincial administration as had happened before. He said there should be an understanding between the Commission and those responsible for internal security and even invite them for

civic education to show them the importance of empowering the public with knowledge. He said also political parties should be invited for civic education.

Mr. Ephantus Ndegwa agreed with previous speakers who said civic education should be done by churches. He said there are many people who are deaf, blind, dumb and do not know what is going on. He said there are many unemployed people in every sub-location and these are the people who should be used to conduct civic education.

Mr. Ngaca Kariuki of Mau Mau Original Trust said there are two constitutions in Kenya: the first one was written by the first colonialists in 1923 and it did not help the ordinary mwananchi. The second one was written at Lancaster House in 1963 and this helped the mwananchi a little bit. He said since the Commission has been formed, it should finish the constitution review as soon as possible. He suggested that every Commissioner should be allocated about three districts so that views from the public can be collected simultaneously and thus the process will be completed in time. He said civic education should be conducted from the grassroots so that every mwananchi is able to contribute. He said documentation centers should be at location level and it is not necessary to go through the chief because the Commission should have its own clerks to conduct this process. He said this exercise should not be done by provincial administration but should be done by the young educated people in locations and divisions who are unemployed. When this constitution is drawn up it should have taken care of all human rights of all Kenyans. There should be level ground for every Kenyan to be able to participate fully and to express their views.

Naomi Wambui said she was very happy that the Commission had gone to Nyeri and that she had provided all the chairs being used in the venue and she was over 80 years old. She said her husband went to the forest to fight in 1952 and he never came back. She said she was left with her children and she brought them up well. She said she would like the Commission to listen to the cries of the wananchi as they expressed their problems.

Com. Hon. Phoebe Asiyo said the people who did not get a chance to speak would be given priority at Kamukunji Grounds in the afternoon. She then invited Prof. Ghai to respond to some of the points that had been raised.

Prof. Ghai thanked everyone for turning up and for their contribution. He said the Commission had come to collect the people's views which will be considered and after visiting all the provinces the Commission will decide on how to implement documents centers and constituency forums.

He said that wherever the Commission has gone people have said they do not know what the present says and therefore it is difficult to propose changes. He said the Commission has decided that it will produce pamphlets of 20 or 30 pages which will give a summary of the constitution and translate it into as many languages as possible. The actual constitution will be placed at documentation centers and he admitted that even after a long time, he finds it difficult to understand the constitution which is written in a very complex language. He said that the new constitution would be written in a very simple style so that every Kenyan can read and understand it.

He said some people have suggested that the Commission might not be able to write a report and compared us to other commissions that have not produced reports, but he assured the participants that it will as it is operating under an Act of Parliament and not a Commission of Enquiry. He said the duration of the Commission is determined by the law and that it will produce a draft constitution. On the time frame, he said it was possible to do a constitution in one year or 10 years: if it is done in 10 years the public is lost. The Commission has a commitment to produce a draft constitution by July 2002 and it will do that. He said from his experience in the constitution making, the time the Commission has is sufficient. He said from the two visits the Commission has made, he was impressed to see that the people of Kenya have given a lot of thought to the question of constitution review. He said the issue of constitution reform has been on the agenda for many years and many groups have already produced draft constitutions and the Commission will capitalise on their knowledge so that it can draft a constitution without rushing anyone.

He said the Commission has already produced a national curriculum to ensure that uniformity is maintained in all areas. He said the Commission may want to look at it again in view of the

comments that have been given. He said this curriculum had been produced after a workshop with civic education providers at Mbagathi and he requested those present to send their comments to the Commission after reading it.

He said the Commission had taken on board the proposals from Embu and Nyeri that documentation centers should be at levels below district level. He said although these things will cost money, the Commission will do its best.

On the question of an enabling environment, Prof. Ghai said that the Commission will be meeting with political parties after the provincial visits to address this matter. He said that this question had been raised before and that the Commission had got all the political parties to commit themselves to avoid use of violence and to let every Kenyan exercise their right of association and freedom of association. He said everyone had agreed that the meetings of the Commission would not be disrupted and no one will be victimised for expressing their views to the Commission. He said this agreement was drafted into a kind of law and Section 5, schedule 3 of the Review Act contains a detailed list of things we must do and things we must not do in order to enable good discussions in this review process. He said that this section binds together the Government of Kenya, the organs of constitution review, political parties, NGO's and all Kenyans and if there are disruptions of the review process, these are violations of the new Act and the Commission will see what can be done about that. He hoped that people would come and give their views frankly and freely because that is the only way in which there can be progress and consensus to ensure that Kenya has a constitution that truly reflects the wishes of the people.

Com. Lethome thanked the participants and asked the Deputy PC to close the morning session.

The Deputy PC thanked everyone and asked them to speak on the topics that they had been asked to speak on because there will be time at a later date for the other submissions.

KAMUKUNJI GROUNDS, NYERI – P.M.

The Meeting started at 3 p.m. and the Commissioners were welcomed to the Grounds. The first stanza of the National Anthem was sang by way of prayers.

Com. Lethome welcomed participants to the meeting and introduced the Commissioners who were the same as those attending the morning meeting.

He then invited Prof. Ghai to open the meeting.

Prof Ghai said the Commission had come to tell participants about its work and the procedure that it will use and also to make arrangements for future visits. He said the Commission would visit every district in Central Province and every constituency to receive the people's recommendations for the constitution. He said this time the Commission would tell the people about its programme and the kind of issues that need to be examined in order to make the constitution. He referred to the very good meeting held in the morning with representatives of different organisations and said the Commission would continue its discussions with the participants. He said the Commission had not come to lecture the people but to listen to them and hoped that the people would work with the Commission throughout the review process. He then invited Com. Abida Ali-Aroni to explain in Kiswahili the mandate of the Commission.

Com. Abida Ali-Aroni said the Commission was happy to see all the people who had attended the meeting and that this was a source of encouragement in its work which was not easy. She said this was the second province that the Commission had visited.

She said the Commission was made up 29 people and she assured the people that the Commission was there to serve them as the people of Kenya. She said the Commission had been mandated to seek views from the people to enable it to draft a constitution. She said the present constitution was written at Lancaster House more than 39 years ago and did not take into consideration the wishes of the people of Kenya. She said this was an important moment when the people can tell the Commission the constitution they would like to have. The constitution is the instrument that decides how the government should serve the public and therefore the public have an important role to play. She said the Commission is operating under an Act of

Parliament which requires it to hold constituency forums after which there will be a national constituency forum with about 500 people from all over the country. The next stage will be a referendum if there is no consensus at the national conference. If there is consensus at the national forum, the Commission will forward its report to Parliament for enactment but if there is no consensus the people will be asked to go to the polls.

She said the purpose of the meeting was to get views from the people on how to conduct civic education. After considering all the views, the Commission will visit every constituency to hear views from groups of people e.g. women's groups, religious organisations, youth organisations, professional bodies, etc on the kind of constitution they would like to see. She said the Commission will then write a draft report which will be given to the people to study for a period of two months before holding a national constitution conference.

On civic education, she said the Commission would like to hear views on whether to use churches, mosques, established institutions or any other groups. She said the Commission would like to complete its work before the next elections. The Act has allowed 24 months for the Commission to complete its work and it would like to do this. If the work is not completed within this time, the Commission would like to know what the people would like it to do, either to request for extension, to extend the life of Parliament or to hold elections and continue with its work after the elections. She said that although Kenyans come from different tribes, different religious groups, different cultures, it is important that they all live together peacefully as citizens of Kenya.

Com. Lethome said he hoped that the people now understood the mandate of the Commission and that there were three topics of the, that is documentation centers, constituency forums and civic education. He urged participants to stick to these topics. He then handed over to Com. Kangu to conduct the open forum.

Mr. Njue from Kirinyaga commended Prof. Ghai for uniting two commissions. He said people do not know the old constitution and he hoped that the new constitution would be easy. He said the constitution should not be based on constitutions from other countries but that it should be made by Kenyans. He said civic education should be done at location and sub-location level and

it should be conducted by chiefs, sub-chiefs, churches and unemployed, educated young people. It should be done in schools and market places.

John Wambugu said the person in charge of the country should not have a lot of powers. He said health is expensive and the economy of the country has collapsed.

A lady speaker from Murang'a District said documentation centres should be at sub-location level, locations, division and then up to district level.

She said constituency forum should be at division level because some constituencies are so large it is impossible to travel.

Civic education should be done through churches, women's groups, district NGO's, CBO's and any development organisations.

Robert Mwai of Mathari, Nyeri said education material on civic education should be sent to primary schools and churches.

He said constituency forums should be at division level to enable everyone to know what is going on.

He said the Commissioners should divide themselves so that they can visit different places, they should train people on civic education so that they can then go and teach in churches, mosques, primary schools and PTA meetings. On AOB, he thanked the Commission for going to Nyeri and asked that their submissions should not go to waste after spending a whole day with the Commission. He said the people do not want delaying tactics and he said even the police should be given a chance to give their views when the Commission begins collecting views from the public. He said if the Commission has not finished its work, elections should go ahead but Parliament should not be extended, but that there should be an interim constitution.

Suleman said everyone should be taught civic education. He said the constitution is an instrument to make all people equal under the law. There are some people with thousands and thousands of acres. He said civic education should be taught in primary schools and from sub-location level.

James Mwai of Nyeri representing people with disabilities said documentation centres should be in primary schools, secondary schools, churches and mosques. Documents should be translated in Braille and copies placed in libraries and in visually handicapped centers so that even the blind can read them.

With regard to civic education, he said history and government should be emphasised in schools to make civic education easier to teach. This should be done in churches and mosques and by unemployed teachers under supervision. He said provincial administration should not intimidate those who conduct civic education.

On time frame, he said Parliament should not be extended and if the Commission has not finished its work in the stipulated time, there should be an interim constitution or a provisional government.

Chris Nderi of Safina said his party has no confidence in the government and the Commission should be independent and should not be intimidated by provincial administration. He said the Education Act does not recognise traditional civic education but that it should be done by local people and not people from Nairobi.

Mary Ngecu said that civic education should also focus on economic structures, social structures, cultural structures and that the Commission should finish its work before the general elections. The Commission should also define civic education, what the people know and what they need to know so that they will know how to contribute to the constitution review debate. She said the present constitution should be translated in all languages and distributed to the people. She also said not everybody is able to attend meetings and newspapers should be used to disseminate civic education and that gender should be considered so that the women can also be heard.

A lady speaker said women are busy doing other chores and they should also be considered and the question of inheritance should be addressed so that even girls can inherit property.

Charles said the people of Kenya were happy to hear that Prof. Ghai has participated in making constitutions for other countries and that they were praying for the Review Commission as there

has been many other commissions that have not produced any results. He said Commissioners should not be divided as has been reported in the press because they are supposed to change the destiny of this country. He said civic education should be taught in schools.

A speaker representing insurance industry said that Parliament should not be extended and this country needed a government that will ensure people have jobs and there is security. He said people should be consulted before the country secured loans from IMF because it is the people who repay these loans in one way or another. He said the presidency should be accountable to the people and the Members of Parliament should not change anything without a referendum.

John Kihoro said there have been a lot of commissions in Kenya but no one knows what happens to the reports. He asked if this Commission was just like the other ones. He said if the Commission does not finish its work on time, Parliament should not be extended because this will be cheating the people. He said the Commission should not be rushed through its work but the time should be extended for it to complete its work and it should be independent because there are other people who have eaten “ugali”.

Prof. Ghai, through Com. Kangu responded that the Commission is under an Act of Parliament and not appointed by the President. He said no one can dissolve it before it completes its work.

Simon Maina of Youth Organisation said not all Kenyans are educated and some do not know what a constitution is. He said documentation centres should be at sub-location level and translated to local languages so that people can understand the constitution and know what they want to change. On civic education, he said there are cases where politicians have interfered with the exercise. He said everyone should be involved in this be they farmers or unemployed. He said there has been concern about the independence of the Commission and people would like to know the daily activities of the Commission.

Linda said she was happy to see lady Commissioners because this means women’s concerns will be addressed unlike during the Lancaster House constitution when women were not represented. She said civic education should be done from the grassroots. Documentation centres should be

at division level so that the ordinary mwananchi can access them. She said young people should be trained to conduct civic education but not to bring people from Nairobi. She said the Commission should continue and finish its work but Parliament should not be extended and elections should go on as scheduled.

Vincent Mwangi of Murang'a said documentation centres should be at the grassroots level. Constituency forums include a cross section of representatives of all groups, including the police. He said civic education should be done at sub-location level so that it is as close to the mwananchi as possible. In every sub-location there are churches, mosques and barazas and these venues should be used to disseminate civic education and local youth should be used for this exercise. He suggested that the Commission should first address the section of the constitution dealing with elections so that even if it has not finished their task, there will be guidance as to how the elections should be conducted and complete its work later.

A speaker representing street children and widows said these groups of people are neglected and there should be rehabilitation centres to care for them and also for Aids sufferers. She said civic education should be conducted in schools and at grassroots level.

A lady with a child said that people like her should be helped and their children provided with food.

Duncan Kinyua of Nyeri said in Nyeri there is a civic education group and they have knowledge to conduct civic education. He said this should be at grassroots level.

Com. Kangu reminded participants that if there is anyone or groups with memoranda they should send them to the Commission.

Com. Lethome assured the participants that the Commission would visit every constituency and collect views from the people and that the Commission was independent and all views would be considered. He thanked those present for their views.

The meeting closed at 5.45 p.m.

