

EXTENSION OF MANDATE OF THE CONSTITUTION OF KENYA REVIEW COMMISSION

INTRODUCTION

1. The Select Committee on the Constitution of Kenya Review is established under Section 10 of the Constitution of Kenya Review (Amendment) Act, 2000 (Cap. 3A) which states as follows:-

“ The National Assembly shall in accordance with its Standing Orders establish a Select Committee consisting of not less than five, and not more than twenty seven members”

The functions of the Select Committee as stipulated in Section 10(3) of the Act, include the following:-

- (a) To assist the National Assembly in its functions under the Act.
- (b) To recommend to the National Assembly suitable experienced persons for appointment as commissioners and secretary. On receipt of the recommendations, the National Assembly will submit the names to the President for appointment.
- (c) To resolve disputes arising in the course of the review process as may be referred to them by the National Assembly or by the Commission
- (d) To facilitate the work of the Commission.
- (e) To scrutinize and approve the budget of the Commission in consultation with the Minister for Finance.

- (f) To perform such other functions as the National Assembly may by a resolution assign.
2. The Constitution of Kenya Review Commission was appointed on 11th November 2000 as per Gazette Notice No. 3834 and was expected to complete the review process within a period of twenty four (24) months. However, the Civil Society was unhappy about the composition of the Commission, and accused the Government of ill-motive and inability of the Commission to produce a popular people driven constitution. The Civil Society under the umbrella of the All Faiths led Ufungamano Initiative, established their Commission to review the constitution.
 3. Due to the existence of two parallel Commissions, and the political pressure between the government on one side and the opposition parties and the Civil Society which were almost tearing the country apart, the Chairman of the Commission, Prof. Yash Pal Ghai refused to take oath of office.
 4. To put in place a united process, the Parliamentary Select Committee, spent half of the year 2001 negotiating the merger of the Parliamentary led commission and the Ufungamano Group. After protracted negotiations involving individual Members of the Committee, the Commission Chairman, leaders of opposition parties and the churches, the merger was finally concluded. The Government agreed to increase the number of commissioners from fifteen (15) to twenty seven (27) to accommodate the Ufungamano Group. The full commission comprised the initial fifteen (15) **(see Appendix I)**; two commissioners by the Parliamentary Group to provide representation

in North Eastern and Rift Valley provinces and ten (10) Commissioners from the Ufungamano Group **(see Appendix II)**.

5. The Commission regularly briefed the Committee on the progress of the review process as required by the Act through regular reports and joint sittings between the Committee and the Commission. Joint meetings were held to discuss the operations of the Civic Education Programme, Remuneration of Commissioners and the Management of the Constituency Forum. Throughout these consultations, the Committee was satisfied that the Commission was discharging its mandate as stipulated in the Act.

MEMORANDUM OF REQUEST FOR EXTENSION OF TIME

6. On Thursday, May 09, 2002, the Chairman of the Commission, Prof. Yash Pal Ghai submitted a memorandum of request for extension of time up to 15th May, 2003 under Section 26(3) of the Constitution of Kenya Review Act (Cap.3A) **(see Appendix III)**. The matter of extension of the mandate of the review process was hotly debated countrywide because a big section of the population wanted elections held under a new constitution as they did not expect any fair-play with the current constitution.

Sitting on May 31, 2002, the Select Committee agreed to extend the review process up to January 03, 2003 so that the exercise could be concluded with the life of the Eighth Parliament. This, in a way was to ensure that the new President does not govern using the current constitution.

7. The Commission made commendable efforts to operate within the time agreed by Parliament, and on Monday, September 30, 2002, the

Chairman of the Commission presented the draft Constitution and Report to the Select Committee. While countrywide debate on the draft constitution was going on, the Commission was busy organizing the National Constitutional Conference which was to start on Monday, October 28, 2002 at the Bomas of Kenya. Delegates were assembled at the Bomas of Kenya doing orientation when Parliament was dissolved on October 25, 2002. The Conference was disbanded until further notice.

SUPPLEMENTARY MEMORANDUM OF REQUEST FOR EXTENSION OF TIME (SEE APPENDIX IV)

8. The Parliamentary Select Committee on the Constitution Review of Kenya was established on Wednesday, March 05, 2003 by a resolution of the House and the Members are as follows:-

The Hon. Paul Kibugi Muite, M.P. - **Chairman**
The Hon. Michael Kijana Wamalwa, M.P.
The Hon. (Dr.) Christopher Murungaru, M.P.
The Hon. Kiraitu Murungi, M.P.
The Hon. Raila Odinga, M.P.
The Hon. Moody Awori, M.P.
The Hon. (Prof.) George Saitoti, M.P.
The Hon. Stephen K. Musyoka, M.P.
The Hon. Kipruto arap Kirwa, M.P.
The Hon. Musikari Kombo, M.P.
The Hon. Norman M.G.K. Nyagah, M.P.
The Hon. John Joseph Kamotho, M.P.
The Hon. (Prof.) Kivutha Kibwana, M.P.
The Hon. Njoki Ndung'u, M.P.
The Hon. Joe Khamisi, M.P.
The Hon. Moses Wetang'ula, M.P.

The Hon. Uhuru Kenyatta, M.P.
The Hon. (Dr.) Bonaya Godana, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. William Ruto, M.P.
The Hon. Justin Muturi, M.P.
The Hon. Mohammed Yusuf Haji, M.P.
The Hon. Moses Cheboi, M.P.
The Hon. Mutula Kilonzo, M.P.
The Hon. Henry Kosgey, M.P.
The Hon. Simeon Nyachae, M.P.
The Hon. Kipkalia Kones, M.P.

During the first sitting of the Committee on March 19, 2003, the Hon. Paul Kibugi Muite was elected Chairman in an election that was contested by the previous chairman. He thanked the previous Committees and particularly the former Chairman, the Hon. Raila Odinga, who was elected chairman unanimously by all the earlier Committees and for his immense contribution to the review process.

The first business of the Committee this session with regard to the review process, was to renew the mandate of the Commission because it had expired on 3rd January, 2003. To perform this task the Committee held a joint meeting with the Commission on Tuesday, March 25, 2003 to discuss the Supplementary Memorandum of Request to the National Assembly for Extension of Time under Section 26(3) of the Constitution of Kenya Review Act (Cap.3A) which was presented to the Clerk of the National Assembly on 24th March, 2003.

In the memorandum of request for extension to the National Assembly, the Commission presented two alternatives:

- (i) *The National Constitutional Conference commences on 28th April, 2003 and runs uninterrupted for two months up to the end of June 2003. In that event the review process will be completed by the end of August 2003 if there is no referendum held, and end of September 2003 if a referendum is held.*
- (ii) *Contemplates a situation where the National Constitutional Conference commences on 28th April, 2003, runs for five weeks and adjourns to enable the National Assembly debate the Budget and the Appropriation Bill in June and July 2003 and then resumes in August 2003. In this event the constitutional review process would be completed by the end of October 2003 if there is no referendum held and end of November if a referendum is held.*

The Commission also indicated to the Committee that it would be ready to begin the National Constitutional Conference on 28th April, 2003. On the advise of the Speaker, the Committee accepted **scenario (ii)** because it would allow Parliament to debate the Budget, which is a constitutional obligation.


On the commencement of the National Constitutional Conference (NCC), the Committee agreed with the Commission that NCC starts on 28th April, 2003 as by that time, it is expected that Parliament would have finalized with the urgent pending Bills that are listed for debate.

RECOMMENDATIONS TO THE NATIONAL ASSEMBLY

9. The Committee, therefore, recommends to the National Assembly that:-

- (a) The Commission convenes the National Constitutional Conference on 28th April, 2003.
- (b) The National Assembly extends the life of the Commission from 3rd January, 2003 to 30th November, 2003.

SIGNED:


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HON. PAUL KIBUGI MUI TE, M.P.
CHAIRMAN OF THE SELECT COMMITTEE
ON THE CONSTITUTION OF KENYA REVIEW

DATE:

31st March 2003
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APPENDIX I

THE CONSTITUTION OF KENYA REVIEW COMMISSION AS AT 11TH NOVEMBER, 2000

Prof. Yash Pal Ghai	-	Chairman
Prof. Hastings Okoth-Ogendo	-	Commissioner
Prof. Ahmed Idha Salim	-	Commissioner
Mrs. Phoebe Asiyo	-	Commissioner
Ms. Kavetsa Adagala	-	Commissioner
Mr. Keriako Tobiko	-	Commissioner
Mrs. Alice Yano	-	Commissioner
Mr. Domiziano Ratanya	-	Commissioner
Bishop Bernard Njoroge Kariuki	-	Commissioner
Mr. Paul Wambua	-	Commissioner
Mr. John Mutakha Kangu	-	Commissioner
Paster Zablon Ayonga	-	Commissioner
Mr. Githu Muigai	-	Commissioner
Dr. Mohamed A. Swazuri	-	Commissioner
Mr. Ahmed Isaack Hassan	-	Commissioner
Hon. Amos Wako	-	Ex-Officio Commissioner
Mr. Arthur Okoth Owiro	-	Secretary to the Commission

APPENDIX II

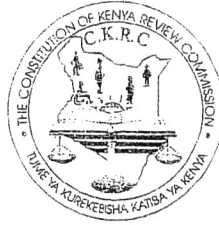
THE FULL LIST OF COMMISSIONERS AFTER THE MERGER AS AT 1ST JUNE 2001

Prof. Yash Pal Ghai	-	Chairman
Dr. Oki Ooko Ombaka	-	Vice Chairman
Prof. Ahmed Idha Salim	-	Vice Chairman
Mrs. Abida Ali-Aroni	-	Vice Chairperson
Mrs. Phoebe Asiyu	-	Commissioner
Dr. Charles Maranga Bagwasi	-	Commissioner
Ms. Salome Wairimu Muigai	-	Commissioner
Mrs. Alice Yano	-	Commissioner
Prof. Wanjiku Kabira	-	Commissioner
Dr. Abdirazak Arale Nunow	-	Commissioner
Bishop Bernard Njoroge Kariuki	-	Commissioner
Pastor Zablon Ayonga	-	Commissioner
Ms. Nancy Makokha Baraza	-	Commissioner
Mr. John Mutakha Kangu	-	Commissioner
Ms. Kavetsa Adagala	-	Commissioner
Mr. Paul Musili Wambua	-	Commissioner
Mr. Abubakar Zein Abubakar	-	Commissioner
Mr. Ahmed Issack Hassan	-	Commissioner
Mr. Riunga Raiji	-	Commissioner
Mr. Ibrahim Lethome	-	Commissioner
Mr. Keriako Tobiko	-	Commissioner
Mr. Githu Muigai	-	Commissioner
Mr. Isaac Lenaola	-	Commissioner
Prof. H.W.O. Okoth-Ogendo	-	Commissioner
Dr. K. Mosonik arap Korir	-	Commissioner
Mr. Domiziano Ratanya	-	Commissioner

Hon. Amos Wako - Ex-Officio Commissioner
Mr. Arthur Okoth Owiro - Commission Secretary

The following changes took place in the Commission on diverse dates;

Mr. Okoth Owiro was replaced by Mr. Patrick Lumumba as Secretary to the Commission through a Gazette Notice No. 7043 of October 19, 2001, and Dr. Oki Ooko-Ombaka who passed away on 15th July 2002 was replaced by Dr. Adronico Adede.



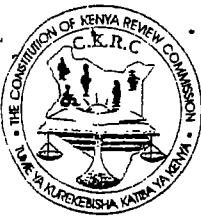
CONSTITUTION OF KENYA REVIEW COMMISSION

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CONSTITUTION OF KENYA REVIEW COMMISSION

MEMORANDUM OF REQUEST TO THE NATIONAL ASSEMBLY FOR EXTENSION OF TIME UNDER SECTION 26 (3) OF THE CONSTITUTION OF KENYA REVIEW ACT (CAP 3A)

1. The process of constitutional review, which began with the appointment of the Constitution of Kenya Review Commission (CKRC) in November 2000, will end when a new constitution is enacted by the National Assembly in accordance with Section 28(4) of the Constitution of Kenya Review Act (Cap 3A of the Laws of Kenya), (herein the Act). Upon enactment of a new constitution, the Attorney-General must, under Section 33(1) of the Act, table in Parliament, a Bill to repeal the Act. Upon enactment of that Bill, the CKRC will stand dissolved and the tenure of office of Commissioners will expire.
2. To facilitate the proper conduct of the review process Section 26 of the Act requires that certain aspects of CKRC's work must be completed within twenty-four months of the commencement of the Act i.e. October 4, 2002. Those aspects of the CKRC's work which must be so completed are:
 - visiting all constituencies in Kenya to take views from the public;
 - compiling reports of Constituency Constitutional Fora;
 - convening and conducting the National Constitutional Conference;
 - conducting and recording the decision of the Referendum, and



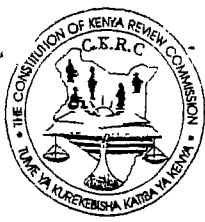
CONSTITUTION OF KENYA REVIEW COMMISSION

- drafting a Bill for presentation to Parliament.

Pursuant to that provision, the CKRC is required to perform the following specific tasks:

- collect views from all 210 constituencies in the country,
- collate and analyze those views;
- prepare constituency reports, and a national report;
- on the basis of the national report, draft a bill to alter the constitution;
- publish and disseminate the national report and draft bill throughout Kenya for a mandatory period of sixty days;
- facilitate public discussion and debate on the content of the national report and draft bill, by holding public hearings in all provinces;
- convene and conduct the National Constitutional Conference;
- revise the national report and draft bill if necessary;
- prepare for and conduct a national referendum on any matter in respect of which the National Constitution Conference has failed to agree;
- on the basis of the decision of the National Constitutional Conference and the Referendum, prepare the Final Report and draft Bill, and
- present the final report and draft bill to the Attorney-General for introduction to the National Assembly.

The Act provides in sub-section (3). however, that where the CKRC considers this period inadequate, it may, at least twelve (12) months after the commencement of its work, request an extension of that period by the National Assembly.



CONSTITUTION OF KENYA REVIEW COMMISSION

3. At its 50th Plenary meeting held on March 27, 2002, the CKRC discussed and announced that it was no longer possible to complete those aspects of its work set out above, by October 4, 2002 as anticipated by Section 26(1) of the Act. The CKRC therefore agreed that it would request extension of time, as required by the Act. After careful consideration of all relevant issues, the CKRC finally determined, at its 52nd Plenary meeting held on April 25, 2002, that it will be able to complete its part of the work on or about March 15, 2003, without a referendum, and May 15, 2003 should there be need for one. In making this determination, the Commission has considered a number of preliminary and substantive issues.
4. The preliminary issues the CKRC has considered are that:
 - between November 2000 and June 2001, the Commission was not in a position to execute any of the tasks listed in Section 26(2) of the Act because of the need to negotiate and conclude the merger with the Ufungamano Initiative;
 - before and during the execution of any of the tasks listed in Section 26(2), the Act requires the Commission to establish and operationalise a complex national infrastructure consisting, inter-alia, of:
 - ♦ establishment of a fully fledged national and constituency-based secretariat;
 - ♦ organization of work and procedures of the Commission;
 - ♦ establishment of documentation centres;
 - ♦ launching of infrastructure for civic education;
 - ♦ carrying out of studies, researches and evaluations;
 - ♦ deliberating upon and resolving the constitutional reform agenda and disseminating the same to the public; and



CONSTITUTION OF KENYA REVIEW COMMISSION

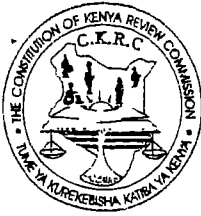
- ♦ there was need for the Commission itself to spend considerable time and resources in pursuance of its obligation under Section 17(a) to conduct and facilitate civic education in order to stimulate discussion and awareness of constitutional issues.

Concern with those issues meant that the Commission was not in a position to commence work on any of the activities listed in Section 26(2) until March, 2002.

5. The substantive issues the CKRC has considered are:

- the overall objective of the review process which is the comprehensive review of the Constitution by the people of Kenya;
- the obligation placed by Section 5(d) of the Act upon all organs of review, namely the CKRC, the Constituency Constitutional Forums, the National Constitutional Conference, the Referendum and the National Assembly, to ensure that the final outcome of review "faithfully reflects the wishes of the people of Kenya";
- the need for a technically, proficient and objective method of work including analysis and reporting;
- the absolute necessity to ensure that the provisions of the Act are followed and respected, and
- the need to provide the National Constitutional Conference, and the National Assembly with the transitional infrastructure necessary for the immediate operationalization of a new Constitution, once enacted.

6. Currently the CKRC is in the process of collecting views from all constituencies. That exercise is complete in Central Province and is scheduled to begin in the Coast Province on April 29, 2002. Concurrently with that exercise, the CKRC has established machinery for the analysis of all data and information so far received and for the drafting of those aspects of the National report that need not wait until constituency hearings are over. Advance planning for the National Constitutional Conference is also under way.



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7. As required by Section 26(2) of the Act, therefore, the CKRC is requesting the National Assembly for the extension of the period necessary for the completion of its work from October 4, 2002 upto and including May 15, 2003. This includes the time which will be required to conduct and record the decision of the people at a referendum, should need for this arise.
8. The CKRC wishes to emphasize that the enactment of a new Constitution for Kenya is the responsibility of all organs of review. Whereas the CKRC will work tirelessly towards that end, other organs and especially the National Constitutional Conference and the National Assembly also carry responsibility for ensuring that a new Constitution is enacted within that time frame.



CONSTITUTION OF KENYA REVIEW COMMISSION

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CKRC/S/CONF.03



24/3/2003

RECORDED HAND DELIVERY

Confidential

Mr. Samuel Ndindiri
Clerk to the National Assembly
Parliament Building
NAIROBI

Dear Sir,

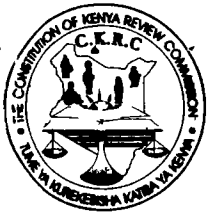
**RE: SUPPLEMENTARY MEMORANDUM OF REQUEST TO THE
NATIONAL ASSEMBLY FOR EXTENSION OF TIME UNDER
SECTION 26 (3) OF THE CONSTITUTION OF KENYA REVIEW
ACT (CAP 3A)**

=====

I refer to our last letter to you on this matter Ref. CKRC/S/CONF.02 dated 9th December, 2002, enclosing a memorandum of request for extension of time pursuant to Section 26 (3) of the Constitution of Kenya Review Act.

Duly instructed by the Constitution of Kenya Review Commission, I forward herewith a Supplementary Memorandum for the extension of the time mandated to the Commission to undertake its work under Section 26 (3) of the Act for consideration by the National Assembly. This Supplementary Memorandum has become necessary owing to developments well known to the National Assembly and needs to be read together with the earlier Memorandum.

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CONSTITUTION OF KENYA REVIEW COMMISSION

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I forward these documents for circulation to the members of the Parliamentary Select Committee on the Constitutional Review Process ahead of the meeting of that Committee with the Constitution of Kenya Review Commission set for tomorrow the **25th day of March, 2003.**

Yours faithfully,

PLO - LUMUMBA
COMMISSION SECRETARY

ENCLOSURE

CONSTITUTION OF KENYA REVIEW COMMISSION

SUPPLEMENTARY MEMORANDUM TO THE NATIONAL ASSEMBLY FOR FURTHER EXTENSION OF TIME UNDER SECTION 26 (3) OF THE CONSTITUTION OF KENYA REVIEW ACT (CAP 3A)

1. On December 9, 2002 and pursuant to a resolution passed at its 61st Plenary meeting held on November 27, 2002, the Constitution of Kenya Review Commission transmitted to the Clerk to the National Assembly, a memorandum requesting the House for extension of time to complete those of its functions specified under Section 26(1) of the Review Act from January 3, 2003 to July 31st, 2003. This memorandum is attached as Appendix A to this memorandum.
2. The Commission also presented a detailed work plan for the period upto and including July 31, 2003 consisting of the following activities -
 - completion of the process of preparation of the national report of the Commission in five volumes as follows –
 - Volume 1: The Main Report,
 - Volume II: The Draft Bill,
 - Volume III: The Commission's Method of Work,
 - Volume IV: Constituency Constitutional Forum Reports (210 of them),
 - Volume V: Technical Appendices.
 - annotation of the Draft Bill in the light of extensive comments received from the public;
 - preparation of Working Documents consisting of
 - outline of legislation which will require repeal, enactment, amendment or revision upon the coming into effect of the new constitution,
 - compendium of comments received from the public on the Draft Bill,
 - summary of the key Recommendations presented to the Commission by the public
 - continuous civic education as required by the review Act;
 - advance preparation for the National Constitutional Conference
 - verification and revalidation of the delegates list;
 - inspection and equipping of the Conference venue;

- preparation and publication of the Conference Brochure and Programme
- printing of all statutory and working documents of the conference.
- necessary logistical arrangements
- management of the National Constitutional Conference.
- Management of the national Referendum, if held.
- Preparation of the final Report and Draft Bill.

These activities were redefined by the Commission in February 2003 as indicated in Appendix B herein.

3. The Commission had expected that the House would be able to respond to that request within the month of January or February 2003. Although this did not happen, the Commission continued to execute its work as anticipated in that request as shown in the Progress Report attached as Appendix C herein.
4. Since the submission of request, changes arising from the general elections held on December 27, 2003 have fundamentally altered the basic assumptions underlying the work plan the Commission had proposed. The most important of these is that the expectation that a new Parliamentary Select Committee on constitutional review would be established in the course of January or February 2003 did not materialize.
5. The Commission therefore proposes a variation to its December 9, 2002 memorandum in terms of the following scenarios -
 - Scenario I is that the National Constitutional Conference commences on 28th April 2003 and runs uninterrupted for two months upto the end of June 2003. In that event the review process will be completed by the end of August 2003 if there is no referendum held, end of September 2003 if a referendum is held. This is the scenario which the Commission prefers.
 - Scenario II contemplates a situation where the National Constitutional Conference commences on April 28th 2003, runs for five weeks and adjourns to enable the National Assembly to debate the Budget and the Appropriation Bill in June and July 2003 and then resumes in August 2003. In this event the constitutional review process would be completed by the end of October 2003 if there is no referendum held and of November 2003 if a referendum is held. The Commission regards this as the next best scenario.

6. The scenarios are based on the following parameters -
- in the original memorandum of request the Commission had allocated a minimum of five weeks for the conclusion of the entire conference (including pre-conference activities). Upon reflection and realistic planning the Commission now believes that the Conference should now be planned for a minimum period of ten weeks. A detailed tentative Conference programme based on this assumption is attached as Appendix D herein,
 - the Act says that a referendum (if necessary) must be held within thirty days of the end of the Conference, and
 - in the case of Scenario II, the need to accommodate the calendar of the National Assembly as therein indicated.

A revised work plan setting out both of these Scenarios is included as Appendix E herein.

7. The Commission is aware that once the Conference starts under either Scenario, the responsibility for completing the review process will no longer be in the hands of the Commission. It will, rather be in the hands of the people of Kenya through -
- the Conference delegates,
 - the people's representatives in Parliament,
 - the position which the political establishment takes with regard to the process.

Consequently, it is entirely possible that the completion of the review process could be speeded up or delayed.

8. In the light of paragraph 7 above, it may be prudent for the PSC to recommend the grant of extension in terms coincident with the requirements of Section 26 as read with Section 33 of the review Act. In other words this supplementary memorandum is asking that the Commission's mandate be extended from January 3, 2003 upto and including such time as will enable the review process to be concluded as contemplated by Section 33 of the Act.
9. The revised work plan will have important budgetary implications. These will be worked out once approval of this report is given.

APPENDIX A

[Approved at the 61st Plenary of the Commission held on 27th November 2002]

MEMORANDUM OF REQUEST TO THE NATIONAL ASSEMBLY FOR FURTHER EXTENSION OF TIME UNDER SECTION 26(3) OF THE CONSTITUTION OF KENYA REVIEW ACT (CAP. 3.A)

1. The process of constitutional review, which began with the appointment of the Constitution of Kenya Review Commission (CKRC) in November 2000, will end when a new Constitution is enacted by the National Assembly in accordance with section 28(4) of the Constitution of Kenya Review Act (Cap. 3A of the Laws of Kenya, (hereinafter referred to as the Act). Upon the enactment of a new Constitution, the CKRC shall, within the meaning of section 33 of the Act as amended, stand dissolved and the tenure of office of Commissioners will thereupon expire.

2. The broad functions of the CKRC are set out in section 17 of the Act as follows:-
 - (a) to conduct and facilitate civic education in order to stimulate public discussion and awareness of constitutional issues;
 - (b) to collect and collate the views of the people of Kenya on proposals to alter the Constitution and on the basis thereof, to draft a Bill to alter the Constitution for presentation to the National Assembly; and
 - (c) to carry out or cause to be carried out such studies, researches and evaluations concerning the Constitution and other constitutions and constitutional systems as, in the Commission's opinion, may inform the Commission and the people of Kenya on the state of the Constitution of Kenya.

To facilitate the proper conduct of the review process, however, section 26 of the Act requires that those aspects of the CKRC's work which fall within section

17(b) must be completed within twenty-four months of the commencement of the Act i.e. October 4, 2002. These are:-

- visiting all constituencies in Kenya to take views from the public;
- compiling reports of Constituency Constitutional Fora;
- convening and conducting the National Constitutional Conference;
- conducting and recording the decision of the referendum; and
- drafting a Bill for presentation to Parliament.

In more precise terms those activities entail the performance of the following specific tasks:

- collect views from all the 210 constituencies in the country;
- collate and analyze those views;
- prepare constituency reports, and a national report;
- on the basis of the national report, draft a bill to alter the Constitution;
- publish and disseminate the national report and draft bill throughout Kenya for a mandatory period of thirty days;
- make the report and draft bill available to all persons or groups of persons conducting civic education;

- convene and conduct the National Constitutional Conference;
 - revise the national report and draft bill if necessary;
 - prepare for and conduct a national referendum on any matter in respect of which the National Constitutional Conference has failed to agree;
 - on the basis of the decision of the National Constitutional Conference and the referendum, prepare the final report and Draft Bill; and
 - present the final report and draft bill to the Attorney General for introduction to the National Assembly.
3. The Act provides in section 26(3), however, that where the CKRC considers this period inadequate, it may, at least twelve months after the commencement of its work, request for an extension of that period by the National Assembly. Pursuant to this provision the Commission in March 2002, determined that it was not possible to complete its work by 4th October 2002. Consequently, the CKRC requested the National Assembly to extend the period to March 2003. In exercise of its discretion the National Assembly responded to the request by extending time upto 3rd January, 2003.
4. While the CKRC was in the process of organizing to convene the National Constitutional Conference, the National Assembly was, on the 25th October 2002, dissolved for purposes of presidential, Parliamentary and civic elections, now scheduled for the 27th December 2002. As a result, it became legally impossible for the CKRC to constitute, convene and conduct the National Constitutional Conference to which members of Parliament are delegates.

5. The CKRC is currently busy with all outstanding aspects of its work, including those that fall under section 17 (a) and (c). Work currently underway includes:-
- completion of the process of documentation which include the finalization of the Report and Draft Bill in five volumes namely; the Main Report (Volume I), the Draft Bill to alter the Constitution (Volume II), the Commission's Method of Work (Volume III), the Constituency Constitutional Forum Reports (Volume IV), and the Technical Appendices (Volume V) ;
 - the finalization of the database by way of cleaning, access, indexing and copyrighting;
 - expert consultations on the Draft Bill;
 - the revision and possible republication of the Draft Bill taking into account the comments of the Kenyan people and changes in the political context of the review process; and
 - research on consequential legislation, including identification of legislation that requires enactment, amendment, revision and repeal and preparation of guidelines and outlines on and of the said legislations.
6. The CKRC, however, will not be able to enter into serious planning for the constitution, convention and management of the National Constitutional Conference until after the general elections and the commencement of the 9th session of Parliament.
7. At its 61st plenary meeting held on 27th November, 2002, the CKRC considered and determined that it was no longer possible, given the intervening circumstances mentioned above, to complete its work by 3rd January, 2003 as anticipated by

section 26(1) of the Act and Parliament through its resolution for extension up to 3rd January, 2003. The CKRC, therefore, agreed to request for further extension of time as required by the Act. It was the considered opinion of the CKRC that, subject to when the 9th Parliament commences its sessions and all other factors remaining constant, a further extension of time will be inevitable. In making this determination, the Commission has considered a number of issues.

8. The issues considered are that:

- although the elections will be held on the 27th December, 2002, the swearing in of the members of Parliament and commencement of the sessions of the 9th Parliament may not be held until late January 2003;
- the Parliamentary Select Committee on constitutional review will have to be reconstituted in accordance with section 10 of the Act, to enable the CKRC to consult with the National Assembly on various matters, including this request, for extension of time;
- elections of delegates/the filling of vacancies in the offices of delegates will have to be done before the conference is convened;
- the councilors, who are the electors, may need to be trained or retrained before participating in such elections;
- the new delegates will require, pre-conference workshops and activities to prepare them for effective participation in the conference;
- the timing of the conference will have to take into account the timetable and sessions of the 9th Parliament to avoid a conflict between the conference

and the sittings of Parliament to enable the members of Parliament to effectively participate in the conference; and

- up to one month of lapse time should the timelines indicated in the Work Plan be disrupted.

9. As required by section 26(2) of the Act, therefore, the CKRC is requesting the National Assembly for further extension of the period necessary for the completion of its work from 3rd January 2003 up to 31st July 2003, as per the attached Work Plan. As noted earlier this is, however, subject to a number of factors remaining constant.
10. The CKRC wishes to emphasize that the enactment of a new Constitution for Kenya is the responsibility of all organs of review. Whereas the CKRC will work tirelessly towards that end, other organs and, especially, the National Constitutional Conference and the National Assembly also carry responsibility for ensuring that a new Constitution is enacted within that time frame.

APPENDIX B

[Approved at the 64th Plenary of the Commission held on 13th February 2003]

PREPARATIONS IN ANTICIPATION OF THE NATIONAL CONSTITUTIONAL CONFERENCE

THE MANDATE OF THE COMMISSION AND OF THE CONFERENCE

The mandate of the Commission under the Review Act is to -

- convene,
- manage, and
- record the decision

of the National Constitutional Conference.

The Commission has the further mandate to revise the Report and Draft Bill on the basis of the decision of the Conference and (if held) the Referendum.

The sole mandate of the Conference, vide Section 27(1)(b) is to -

- discuss,
- debate,
- amend, and
- adopt

the report and draft bill prepared by the Commission.

It is crucial that the Commission should commence preparations in anticipation of the National Constitutional Conference immediately. At its 61st Plenary meeting held on November 27, 2002 the Commission agreed that immediate attention be paid to the following matters -

- completion of Conference documentation,
- revalidation and re-gazettement of Conference delegates,
- preparation of the Conference brochure and programme,

- detailed logistical arrangements for the Conference,
- press and publicity for the Conference,
- issue of notices convening the Conference,
- pre-Conference activities including consensus building, workshops for delegates, and training for Conference secretariat,
- management of the Conference,
- post-Conference activities,
- management of the Referendum,
- finalization of the Report and Draft Bill after the Conference/Referendum.

OUTLINE OF DETAILS

1. Conference Documentation

The Commission should generate three categories of documents for use by the Conference -

(a) Statutory Documents

The Commission is required by the Act to table before the Conference a report and draft bill published in accordance with Section 27(1)(a)(i). The Commission will in compliance thereof, table the following documents -

- The Main Report of the Commission published as Volume One and date-marked 18th September, 2002,
- The Draft Bill prepared by the Commission published as Volume Two and date-marked 27th September, 2002.

(b) Working Documents

In order to facilitate debate and deliberations at the Conference, the Commission should also table a number of working pre-Conference documents as follows:-

- Working Document I: The Short Version of Volume One of the Report of the Commission entitled **The People's Choice** and date-marked 18th September, 2002.
- Working Document II: **The Draft Constitution at-a-Glance**, date-marked October 2002.
- Working Document III: Summary of the Key Recommendations of the Commission extracted from the Main Report.
- Working Document IV: **An Annotated Version of the Draft Bill** dated-marked February, 2003.
- Working Document V: **The Commission's Method of Work** published as Volume Three of the Report of the Commission date-marked February, 2003.
- Working Document VI: **The Constituency Constitutional Forum Reports**, published as Volume Four of the Report of the Commission, date-marked February, 2003.
- Working Document VII: **Technical Appendices**, published as Volume Five of the Report of the Commission, date-marked February, 2003.
- Working Document VIII: Outline of legislation which will require repeal, enactment, amendment or revision upon the coming into force of the new Constitution, date-marked February, 2003
- Working Document IX: Compendium of comments received from the public on the Draft Bill prepared by the Commission, date-marked February, 2003.

(c) **Committee Documents**

It is expected that the Conference will generate substantial amounts of in-Conference documents by way of motions, amendments to the Report and the Draft Bill, and various types of discussion papers. It is important that the Commission should ensure that these are authenticated, processed and archived.

Responsibility for the preparation of these documents is with the Research, Drafting and Technical Support Committee and a progress report in respect thereof is attached as Appendix A.

2. Revalidation of Conference Delegates

A lot of changes have taken place since the publication of the delegates list in October, 2002. There is need for the Commission to ensure that –

- vacancies, where these exist, are filled,
- outstanding disputes about the appointment/nomination/election of some delegates are resolved, and
- the final and authentic list of delegates is re-gazetted.

The process of revalidation of delegates has already began in districts where the Commission has established that vacancies have indeed arisen. The special committee established for this purpose under the Chair of Commissioner Swazuri should complete this exercise with the assistance of the Secretariat.

At the Conference itself, the Commission will establish an Accreditation Committee to ensure that only persons certified as delegates by the Commission are sworn in.

3. The Conference Brochure and Programme

In October last year, the National Constitutional Conference was convened without a brochure or indeed a programme. This must not happen this time around. The Commission should design and publish a brochure setting out, inter alia

- a brief history of the process of constitutional review,
- the statutory mandate of the National Constitutional Conference,
- the list of statutory and working documents of the Conference,
- the management structure of the Conference,
- the list of official delegates to the Conference,
- the list of observers to the Conference,
- the programme of the Conference,
- the Conference Procedure Regulation.

- The Communication, Education Publicity and Information Committee working with the Mobilization and Outreach Committee should prepare a draft brochure, which the Commission can finalize.

4. Logistical Arrangements

The Commission needs to review a number of logistical arrangements in the light of the very brief experience it had with Bomas of Kenya last year. These include:-

- appropriate venue for Plenary proceedings of the Conference,
- venues for committees/working groups of the Conference,
- accommodation facilities for up-country delegates to the Conference,
- catering arrangements for the Conference,
- transportation details during the Conference,
- Conference security,
- welfare and safety of delegates,
- seating arrangements at the Conference,
- management of proceedings by all organs of the Conference,
- emergency and contingency arrangements during the Conference.

The Mobilization and Outreach Committee working with the Resource Development and Budgeting Committee should review these arrangements and present a report to the Commission for approval.

5. Press and Publicity for the Conference

The Commission needs to ensure that the Conference receives the widest and sustained press coverage and publicity. The following activities must therefore be in place -

- **Press and Publicity**
 - Adverts to the Press;
 - Press release and information for analysis;

- Civic education in the print and electronic media and to the National Constitutional Conference delegates;
- Develop Conference Information Booklet;
- Sign language and Braille facilities;
- Audio visual coverage of the Conference;
- Protocol and public relations;
- Press releases and interviews and information for analysis in the media;
- Press Centre and Gallery.
- **Civic Education**
 - Seminars and workshops for discussion, debate and dissemination;
 - Selection of Conference material.
- **Information**
 - Data input into the brochure;
 - Availing statistics when required (CCF);
 - Data information for press;
 - Archiving of data;
 - Preparing data for long-term use i.e. storage and retrieval;
 - Referendum – develop questionnaire, develop data collection tools, receive data, participate in analysis;
 - Information for press – continuous.

The Communication, Education, Publicity and Information Committee working with Research Drafting and Technical Support Committee should prepare a strategic programme for this purpose for approval by the Commission.

6. Notice to Convene the Conference

This time around, the Commission must hold widespread consultations with all stakeholders before it settles on a date for the Conference. Proper notice and appropriate advice must be given to delegates before formal deliberations begin. This will enable them to consult and develop their discreet positions on various aspects of the report and draft bill. Much time will be saved at the Conference if delegates are comfortable with the dates set aside from this exercise. A firm date for the Conference should be agreed on as soon as the Parliamentary Select Committee on Constitutional Review is in place.

7. Pre-Conference Activities/Workshops/Training

Pre-Conference activities including consensus-building workshops need to be thought through more carefully this time around. The one-week set aside last year was clearly not sufficient. The Commission must re-plan these activities with the aim, *inter alia*, of -

- ensuring that delegates understand the Report and Draft Bill,
- building consensus on contentious issues among delegates in advance of plenary discussions,
- securing appropriate representation in Conference Committees, Working Groups and Task Forces.

The involvement of all Committees of the Commission will be necessary for the success of these activities.

8. Management of the Conference

The primary instrument for the management of the Conference will be the legal instrument prepared in accordance with Section 34 (2)(b)(iv) of the Review Act.

Although the Commission approved a draft of regulations last year, these were never published and need has arisen for them to be revised before final publication. The need is to -

- ensure that the statutory functions of the Commission under the Review Act are not usurped,
- strengthen the management and record functions of the Commission in respect of the Conference,

- ensure full participation of Commissioners and the Secretariat of the Commission in the deliberations of the Conference,
- manage the process of revision of the report and draft bill in response to the decisions of the Conference, and
- regulate the flow of official documentation to the Conference.

The draft regulations are being revised to reflect this need.

The involvement of all organs established under the procedure regulations of the Conference will be crucial to the success of the Conference.

9. Post-Conference Activities

After the Conference but before the enactment of the Bill to alter the Constitution, the Commission will need to facilitate the following activities:-

- Media/Publicity Programmes consisting of -
 - phone-in/talk shows,
 - regional radio broadcasts,
 - interviews and debates,
 - dissemination of Conference decisions.
- Civic Education in anticipation of the Referendum consisting of -
 - constituency visits,
 - debates on issues to be put to the Referendum,
 - translation of Referendum issues into regional languages,
 - education on the modalities of the Referendum.
- Distribution of the final report and draft bill prepared by the Commission

All committees of the Commission will need to operationalize these activities.

10. Management of the Referendum

Should a referendum be required on any issue, the Review Act requires the Commission to -

- conduct a national referendum on any question or questions determined for that purpose within one month of the National Constitutional Conference,
- record the decision of the people on such question or questions,
- consult the Electoral Commission of Kenya in the preparation of regulations setting out the procedure for the holding of the referendum,

The Commission will need to determine –

- its precise role in the management of such a referendum,
- the structure and content of the issues to be determined by the referendum, and
- how the results of the referendum are to be recorded, interpreted and applied to the revision of the report and the draft bill.

The involvement of all committees of the Commission and liaison with the Electoral Commission of Kenya will be necessary for the success of this activity.

11. Preparation of Final Report and Draft Bill

The Commission has responsibility under Section 28(1),

on the basis of the decision of the people at the referendum and the Draft Bill as adopted by the National Constitutional Conference

to prepare the final report and draft bill and present them to the Attorney-General for transmission to the National Assembly. Although substantial amount of re-drafting will have been done during the Conference, the Commission will need to budget time after the Conference for this purpose.

The Research Drafting and Technical Support Committee will work out the modalities for this exercise.

ANNEX C

WORK PROGRESS REPORT NOVEMBER, 2002 – MARCH 2003

Since the National Constitutional Conference was put off on 28th October, 2002 following the dissolution of Parliament, the CKRC has been busy performing a number of activities that constitute part of its mandate under the Act. Some of these activities are finalized while others are still ongoing. They are as follows:-

Preparation for the National Constitutional Conference

1. Conference Documentation -

(a) Statutory Documents

The Commissions Report in the following volumes:-

- Volume I: (Main Report),
- Volume ii: (Draft Bill),
- Volume ii: (Method of Work),
- Volume iv: (Constituency Constitutional Reports),
- Volume v: (Technical Appendixes),

All these except volume iii on the method of work are complete.

(b) Working Documents

- the short version of volume one of the Report of the Commission;
- the Draft Constitution at a glance;
- summary of the key recommendations;
- compendium of comments on the Draft Bill;
- guidelines and outlines of consequential legislation that will require repeal, enactment, amendment or revision;
- an Annotated version of the Draft Bill.

Work on the first three items is complete while the last two items should be ready in the next two weeks

2. Revalidation of Conference Delegates

Following the December 2002 elections and other intervening circumstances, a lot of changes in the delegates list had to be attended to in the following manner:-

- Vacancies in a number of Districts have been filled. Only a few remain;
- outstanding disputes about the appointment/nomination/election of some of the delegates have also been attended to;
- the final list of authenticated delegates is yet to be re-gazetted,
- apart from the delegates the CKRC Regulations have made provision for observers at the conference. The process of Identification accreditation of the observers is in the final stages.

3. The conference Brochures and Programme

- A detailed day by day Conference Programme is in its final stages.
- There is ongoing work on Conference Brochures.

4. Conference Procedures

- Regulations and rules of procedure for the conduct of the conference have been finalized. They are pending with the Attorney General for Gazettement.

5. Logistical Arrangements

The venue of the conference has already been identified. But the process of identifying the needs in terms of facilities at the venue and ensuring that they are provided is on-going.

Arrangements on accommodation, transport, catering, security, seating arrangements and general welfare for the delegates are in progress.

Civic Education and dissemination of the Report and Draft Bill.

Under the Act civic education was envisaged to be continuous throughout the review process. As such, the commission has since November, 2002 continued with this aspect of its mandate as follows:-

Print media

- serialization of the Draft at a Glance in the People Newspaper;
- Editorials analysis in the Standard Newspapers;
- Other articles i.e. on Kadhi's Court.

Electronic media

- Determination of the Draft Bill for eight weeks on KBC Radio Sunday Programmes.
- Several Programmes on up close and candid on Nation TV, Third Opinion on KTN and Breakfast show on KTN;
- International Women's Day activities on IQRA, Family Radio, KBC
- Preparation of a strategic plan for further civic education
 - meetings with media houses;
 - meeting with Minister of Information and Tourism;
 - Further civic education in various institutions in Nairobi is currently in progress;
 - There is on going preparation of material for publicity for the conference.

Preparation for the referendum

- The Commission is in the process of preparing regulations for the conduct of a referendum. As required by the Act the first consultative meeting with the electoral commission of Kenya has already taken place and a second one is coming next week.

Afternoon

Session III: Statements by delegates
Session IV: Statements by delegates

Day 4

Morning

Session I: Consensus-building activities begin
Session II: Introduction of Volume I – the Main Report of the Commission

Afternoon

Session III: Delegates free to study the Report

Day 5

Morning

Session I: Introduction of Volume II: The Draft Bill
Session II: Delegates free to study the Draft Bill

Afternoon

Session III: Introduction of Volume III: The Commission's Method of Work
Session IV: Plenary responses to Volume I-III

WEEK TWO

Day 1

Morning

Session I: Presentation of the Rules of the Conference
Session II: Plenary discussion of the Rules

Afternoon

Session III: Plenary discussion of the Rules
Session IV: Delegates free to study the Rules

Day 2

Morning

Session I: Roles and responsibilities of the Conference Committees
Session II: Plenary discussion

Afternoon

Session II: Establishment of committees
Session IV: Establishment of committees

Day 3

Morning

Session I: Presentation of Chapters One and Two of the Report
Session II: Plenary debate on Chapters One and Two of the Report
Session III: Presentation of Chapters Three and Four of the Report
Session IV: Plenary debate on Chapters Three and Four of the Report

Day 4

Morning

Session I: Presentation of Chapter Five of the Report
Session II: Plenary debate on Chapter Five of the Report

Afternoon

Session III: Presentation of Chapter Six of the Report
Session IV: Plenary debate on Chapter Six of the Report

Day 5

Morning

Session I: Presentation of Chapter Seven of the Report.
Session II: Presentation of the Preamble and Chapters 1, 3, 4 and 15 of the Draft Bill

Afternoon

Session III: Plenary debate on morning presentations
Session IV: Plenary debate continues

WEEK THREE

DAY 1

Morning

Session I: Presentation of Chapter Eight of the Report
Session II: Presentation of Chapter 5 of the Draft Bill

Afternoon

Session III: Plenary debate on morning presentations
Session IV: Plenary debate continues

DAY 2

Morning

Session I: Presentation of Chapter Nine of the Report
Session II: Presentation of Chapter Nine continues

Afternoon

Session III: Presentation of Chapters 2, 6 and 7 of the Draft Bill
Session IV: Presentation continues

DAY 3

Morning

Session I: Plenary debate on Chapter Nine of the Report
Session II: Plenary debate continues

Afternoon

Session III: Plenary debate on Chapters 2, 6 and 7 of the Draft Bill
Session IV: Plenary debate continues

DAY 4

Morning

Session I: Presentation of Chapter Ten of the Report
Session II: Presentation of Chapter 6 of the Draft Bill

Afternoon

Session III: Plenary debate on Chapter Ten of the Report
Session IV: Plenary debate on Chapter 6 of the Draft Bill

DAY 5

Morning

Session I: Presentation of Chapter Eleven of the Report
Session II: Presentation continues

Afternoon

Session III: Presentation of Chapters 7, 8 and 9 of the Draft Bill
Session IV: Presentation continues

WEEK FOUR

DAY 1

Morning

Session I: Plenary debate on Chapter Eleven of the Report
Session II: Plenary debate on Chapters 7, 8 and 9 of the Draft Bill

DAY 2

Morning

Session I: Presentation of Chapter Twelve of the Report
Session II: Presentation of Chapter 10 and Tenth Schedule of the Draft Bill

Afternoon

Session III: Plenary debate Chapter Twelve of the Report
Session IV: Plenary debate on Chapter 10 of the Draft Bill

DAY 3

Morning

Session I: Presentation of Chapter Thirteen of the Report
Session II: Presentation of Chapter 12 of the Draft Bill

Afternoon

Session III: Plenary debate on Chapter Thirteen of the Report
Session IV: Plenary debate on Chapter 12 of the Draft Bill

DAY 4

Morning

Session I: Presentation of Chapter Fourteen of the Report
Session II: Presentation of Chapter 11 of the Draft Bill

Afternoon

Session III: Plenary debate on Chapter Fourteen of the Report
Session IV: Plenary debate on Chapter 11 of the Draft Bill

DAY 5

Morning

Session I: Presentation of Chapter Fifteen of the Report
Session II: Presentation of Chapter 13 of the Draft Bill

Afternoon

Session III: Plenary debate on Chapter Fifteen of the Report
Session IV: Plenary debate on Chapter 13 of the Draft Bill

WEEK FIVE

DAY 1

Morning

Session I: Presentation of Chapter Sixteen of the Report
Session II: Presentation of Chapter 13 of the Draft Bill

Afternoon

Session III: Plenary debate on Chapter Sixteen of the Report
Session IV: Plenary debate on Chapter 13 of the Draft Bill

DAY 2

Morning

Session I: Presentation of Chapter Seventeen of the Report
Session II: Presentation of Chapters 17 and 20 and the Sixth Schedule of the Draft Bill.

Afternoon

Session I: Debate on Chapter Seventeen of the Report
Session II: Debate on Chapters 17 and 20 and Sixth Schedule of the Draft Bill

DAY 3

Morning

Session I: Presentation of Chapter Eighteen of the Report
Session II: Plenary debate on Chapter Eighteen of the Report

Afternoon

Session III: Organisation of Committee Work Programme
Session IV: Organisation of Committee Work Programme

DAY 4

Morning

Session I: Work in Committees
Session II: Work in Committees

Afternoon

Session III: Work in Committees
Session IV: Work in Committees

DAY 5

Morning

Session I: Work in Committees
Session II: Work in Committees

Afternoon

Session III: Work in Committees
Session IV: Work in Committees

WEEK SIX

DAY 1

Morning

Session I: Work in Committees
Session II: Work in Committees

Afternoon

Session III: Work in Committees
Session IV: Work in Committees

DAY 2

Morning

Session I: Work in Committees

Session II: Work in Committees

Afternoon

Session III: Work in Committees

Session IV: Work in Committees

DAY 3

Morning

Session I: Work in Committees

Session II: Work in Committees

Afternoon

Session III: Work in Committees

Session IV: Work in Committees

DAY 4

Morning

Session I: Work in Committees

Session II: Work in Committees

Afternoon

Session III: Work in Committees

Session IV: Work in Committees

DAY 5

Morning

Session I: Work in Committees

Session II: Work in Committees

Afternoon

Session III: Work in Committees

Session IV: Work in Committees

WEEK SEVEN

DAY 1

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 2

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 3

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 4

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 5

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

WEEK EIGHT

DAY 1

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 2

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 3

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 4

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 5

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

WEEK NINE

DAY 1

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 2

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate

Session IV: Committees report to Plenary for debate

DAY 3

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 4

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

DAY 5

Morning

Session I: Committees report to Plenary for debate
Session II: Committees report to Plenary for debate

Afternoon

Session III: Committees report to Plenary for debate
Session IV: Committees report to Plenary for debate

WEEK TEN

DAY 1

Morning

Session I: Plenary debate on outstanding issues
Session II: Plenary debate on outstanding issues

Afternoon

Session III: Plenary debate on outstanding issues

Session IV: Plenary debate on outstanding issues

DAY 2

Morning

Session I: Plenary debate on outstanding issues

Session II: Plenary debate on outstanding issues

Afternoon

Session III: Plenary debate on outstanding issues

Session IV: Plenary debate on outstanding issues

DAY 3

Morning

Session I: Plenary debate on outstanding issues

Session II: Plenary debate on outstanding issues

Afternoon

Session III: Plenary debate on outstanding issues

Session IV: Plenary debate on outstanding issues

DAY 4

Morning

Session I: Presentation of technical drafts

Session II: Presentation of technical drafts

Afternoon

Session III: Presentation of technical drafts

Session IV: Presentation of technical drafts

DAY 5

Morning

Session I: Presentation of amended/revised Report and Draft Bill to Plenary for adoption

Session II: Presentation of amended/revised Report and Draft Bill to Plenary for adoption

Afternoon

Session III: Presentation of amended/revised Report and Draft Bill to Plenary for adoption

Session IV: Presentation of amended/revised Report and Draft Bill to
Plenary for adoption

Evening: Celebrations

Task	November 2002	December 2002	January 2003	February 2003	March 2003	April 2003	May 2003	June 2003	July 2003	August 2003	Sept. 2003	October 2003
2. Identification of comments requiring policy discussion/decision.												
C. Consequential Legislation												
1. Identification of legislation to be enacted, amended, revised or repealed.												
2. Preparation of outlines of the legislation.												
3. Identification of consequential policy and programme measures.												
D. Civic Education												
1. Further dissemination of the Draft Bill												
2. Use of print and electronic media												
3. Monitoring and evaluation of civic education activities												

Scenario I(a): Without Referendum

Task	November 2002	December 2002	January 2003	February 2003	March 2003	April 2003	May 2003	June 2003	July 2003	August 2003	Sept. 2003	October 2003
E. Advance preparation for the National Constitutional Conference												
1. <i>Filling of Vacancies and Re-gazettement of Delegates</i>				■	■							
2. <i>Preparation of detailed Programme and budget for the Conference.</i>				■	■							
3. <i>Preparation of Information Handbook and other Publicity Materials/Events</i>				■	■							
4. <i>Logistical Arrangements for the Conference</i>				■	■							
5. <i>Invitation of delegates and observers</i>					■	■						
6. <i>Revision, Finalization and Gazettement of Rules of Procedure.</i>				■	■							
7. <i>Training of Conference Secretariat</i>						■						
8. <i>National Constitutional Conference.</i>												
• Consensus building activities.							■					
• Workshop for Members of Parliament on Draft Bill						■						
• Workshops for Delegates.							■					
• Debate and adoption of the Main Report and Draft Bill							■	■				

Task	November 2002	December 2002	January 2003	February 2003	March 2003	April 2003	May 2003	June 2003	July 2003	August 2003	Sept. 2003	October 2003
F. Post-conference activities												
1. Preparation of Final Report and Draft Bill												
2. Presentation of the National Report and the Draft Bill to the National Assembly for enactment.												
G. Financial and Administrative Support												
1. Administrative support												
2. Audit and Inspection of assets and Finances												
3. Monthly Financial Statements												

Scenario I(b): With Referendum

Task	November 2002	December 2002	January 2003	February 2003	March 2003	April 2003	May 2003	June 2003	July 2003	August 2003	Sept. 2003	October 2003
H. Advance preparation for the National Constitutional Conference												
1. Filling of Vacancies and Re-gazettement of Delegates				■	■							
2. Preparation of detailed Programme and budget for the Conference.				■	■							
3. Preparation of Information Handbook and other Publicity Materials/Events				■	■							
4. Logistical Arrangements for the Conference				■	■							
5. Invitation of delegates and observers					■	■						
6. Revision, Finalization and Gazettement of Rules of Procedure.				■	■							
7. Training of Conference Secretariat						■						
8. National Constitutional Conference.												
<ul style="list-style-type: none"> Consensus building activities. Workshop for Members of Parliament on Draft Bill Workshops for Delegates. Debate and adoption of the Main Report and Draft Bill 												

Task	November 2002	December 2002	January 2003	February 2003	March 2003	April 2003	May 2003	June 2003	July 2003	August 2003	Sept. 2003	October 2003
I. Post-conference activities												
1. Referendum												
2. Preparation of Final Report and Draft Bill												
3. Presentation of the National Report and the Draft Bill to the National Assembly for enactment.												
J. Financial and Administrative Support												
1. Administrative support												
2. Audit and Inspection of assets and Finances												
3. Monthly Financial Statements												

Scenario II(a): With Adjournment and no referendum

Task	November 2002	December 2002	January 2003	February 2003	March 2003	April 2003	May 2003	June 2003	July 2003	August 2003	Sept. 2003	October 2003
K. Advance preparation for the National Constitutional Conference												
1. <i>Filling of Vacancies and Re-gazettement of Delegates</i>				■	■							
2. <i>Preparation of detailed Programme and budget for the Conference.</i>				■	■							
3. <i>Preparation of Information Handbook and other Publicity Materials/Events</i>				■	■							
4. <i>Logistical Arrangements for the Conference</i>				■	■							
5. <i>Invitation of delegates and observers</i>					■	■						
6. <i>Revision, Finalization and Gazettement of Rules of Procedure.</i>				■	■							
7. <i>Training of Conference Secretariat</i>						■						
8. <i>National Constitutional Conference.</i>												
<ul style="list-style-type: none"> • Consensus building activities. • Workshop for Members of Parliament on Draft Bill • Workshops for Delegates. • Debate and adoption of the Main Report and Draft Bill 						■	■	■				
(1st half)							■					

Task	November 2002	December 2002	January 2003	February 2003	March 2003	April 2003	May 2003	June 2003	July 2003	August 2003	Sept. 2003	October 2003
9. Further civic education and consensus building												
10. Debate and adoption of the Main Report and Draft Bill (2 nd half)												
L. Post-conference activities												
1. Preparation of Final Report and Draft Bill												
2. Presentation of the National Report and the Draft Bill to the National Assembly for enactment.												
M. Finalization of the database and Archiving												
N. Financial and Administrative Support												
1. Administrative support												
2. Audit and Inspection of assets and Finances												
3. Monthly Financial Statements												

Scenario II(b): With Adjournment and referendum

Task	November 2002	December 2002	January 2003	February 2003	March 2003	April 2003	May 2003	June 2003	July 2003	August 2003	Sept. 2003	October 2003
0. Advance preparation for the National Constitutional Conference												
1. Filling of Vacancies and Re-gazettement of Delegates				■	■							
2. Preparation of detailed Programme and budget for the Conference.				■	■							
3. Preparation of Information Handbook and other Publicity Materials/Events				■	■							
4. Logistical Arrangements for the Conference				■	■							
5. Invitation of delegates and observers					■	■						
6. Revision, Finalization and Gazettement of Rules of Procedure.				■	■							
7. Training of Conference Secretariat					■							
8. National Constitutional Conference.												
<ul style="list-style-type: none"> • Consensus building activities. • Workshop for Members of Parliament on Draft Bill • Workshops for Delegates. 						■	■					
<ul style="list-style-type: none"> • Debate and adoption of the Main Report and Draft Bill (1st half) 							■					

Task	December 2002	January 2003	February 2003	March 2003	April 2003	May 2003	June 2003	July 2003	August 2003	Sept. 2003	October 2003	Nov. 2003
9. Further civic education and consensus building												
10. Debate and adoption of the Main Report and Draft Bill (2 nd half)												
P. Post-conference activities												
1. Referendum												
2. Preparation of Final Report and Draft Bill												
3. Presentation of the National Report and the Draft Bill to the National Assembly for enactment.												
Q. Finalization of the database and Archiving												
R. Financial and Administrative Support												
1. Administrative support												
2. Audit and Inspection of assets and Finances												
3. Monthly Financial Statements												

APPENDIX V

MINUTES OF THE FIRST SITTING OF THE SELECT COMMITTEE ON THE CONSTITUTION OF KENYA REVIEW HELD ON WEDNESDAY 19, MARCH 2003, IN THE MAIN CONFERENCE HALL, FIRST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT: The following Members of the Committee were present:-

The Hon. Paul Kibugi Muite, M.P. - **Chairman**
The Hon. Michael Kijana Wamalwa, M.P.
The Hon. (Dr.) Christopher Murungaru, M.P.
The Hon. Kiraitu Murungi, M.P.
The Hon. Raila Odinga, M.P.
The Hon. Moody Awori, M.P.
The Hon. (Prof.) George Saitoti, M.P.
The Hon. Stephen K. Musyoka, M.P.
The Hon. Kipruto arap Kirwa, M.P.
The Hon. Musikari Kombo, M.P.
The Hon. Charity K. Ngilu, M.P.
The Hon. John Joseph Kamotho, M.P.
The Hon. (Prof.) Kivutha Kibwana, M.P.
The Hon. Njoki Ndung'u, M.P.
The Hon. Joe Khamisi, M.P.
The Hon. Moses Wetang'ula, M.P.
The Hon. Uhuru Kenyatta, M.P.
The Hon. (Dr.) Bonaya Godana, M.P.
The Hon. Otieno Kajwang', M.P.
The Hon. William Ruto, M.P.
The Hon. Justin Muturi, M.P.
The Hon. Mohammed Yusuf Haji, M.P.
The Hon. Moses Cheboi, M.P.
The Hon. Mutula Kilonzo, M.P.
The Hon. Henry Kosgey, M.P.
The Hon. Simeon Nyachae, M.P.
The Hon. Kipkalia Kones, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

Mr. S.W. Ndindiri - Clerk of the National Assembly
Mr. J.N. Bundi - Principal Clerk Assistant
Mr. David K. Ziah - Clerk Assistant

MINUTE NO. 01/2003:

ELECTION OF CHAIRMAN

The Clerk informed the meeting that Committee Chairmen are usually determined through consensus. Where more than one candidate is interested, the chairman is elected through First-Past-the-Post method by secret ballot.

The Clerk called for proposals for the position of chairman. The Hon. Moody Awori proposed the Hon. Raila Odinga, M.P. and was seconded by the Hon. Moses Cheboi, M.P. The Hon. Kipkalia Kones proposed the Hon. Paul Muite, M.P. and was seconded by the Hon. Kiraitu Murungi, M.P.

After the ballot, the Clerk announced the results as follows:-

The Hon. Raila Odinga, M.P. - 9 votes

The Hon. Paul Muite, M.P. - 18 votes

He declared Hon. Paul Muite the Chairman of the Committee.

The Hon. Paul Muite thanked the Members for the confidence they showed in him and promised that he would discharge duties of his office dispassionately.

MINUTE NO. 02/2003:

**MANDATE OF THE CONSTITUTION OF
KENYA REVIEW COMMISSION**

The Committee resolved that the Constitution of Kenya Review Commission (CKRC) should be retained as presently constituted. Members also agreed to meet with the CKRC to discuss the programme for the remaining phase of the review process.

MINUTE NO. 03/2003:

DATE OF NEXT SITTING

The Committee agreed to meet with the Constitution of Kenya Review Commission on Tuesday, March 25, 2003. It was also agreed that the Speaker of the National Assembly attends the Committee meeting to guide on the National Assembly calendar.

MINUTE NO. 04/2003:

ADJOURNMENT

The Chairman adjourned the meeting at 12.10 p.m. till Tuesday, March 25, 2003 at 10.00 a.m.

CONFIRMED:
(CHAIRMAN)

DATE:

**MINUTES OF THE SECOND SITTING OF THE SELECT COMMITTEE
ON THE CONSTITUTION OF KENYA REVIEW HELD ON TUESDAY,
MARCH 25, 2003, IN THE MAIN CONFERENCE HALL, FIRST FLOOR,
COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 A.M.**

PRESENT: The following Members of the Committee were present:-

The Hon. Paul Kibugi Muita, M.P. - **Chairman**
The Hon. Michael Kijana Wamalwa, M.P.
The Hon. (Dr.) Christopher Murungaru, M.P.
The Hon. Kiraitu Murungi, M.P.
The Hon. Stephen K. Musyoka, M.P.
The Hon. John Joseph Kamotho, M.P.
The Hon. (Prof.) Kivutha Kibwana, M.P.
The Hon. Joe Khamisi, M.P.
The Hon. Moses Wetang'ula, M.P.
The Hon. Uhuru Kenyatta, M.P.
The Hon. (Dr.) Bonaya Godana, M.P.
The Hon. William Ruto, M.P.
The Hon. Justin Muturi, M.P.
The Hon. Mohammed Yusuf Haji, M.P.
The Hon. Moses Cheboi, M.P.
The Hon. Mutula Kilonzo, M.P.
The Hon. Henry Kosgey, M.P.
The Hon. Simeon Nyachae, M.P.
The Hon. Kipkalia Kones, M.P.

ABSENT:

The Hon. Raila Odinga, M.P.
The Hon. Moody Awori, M.P.
The Hon. Kipruto arap Kirwa, M.P.
The Hon. (Prof.) George Saitoti, M.P.
The Hon. M.G.K. Nyagah, M.P.
The Hon. Musikari Kombo, M.P.
The Hon. Otieno Kajwang', M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

Hon. K.F.X. ole Kaparo - Speaker of the National Assembly
Mr. S.W. Ndindiri - Clerk of the National Assembly
Mr. J.N. Bundi - Principal Clerk Assistant

CONSTITUTION OF KENYA REVIEW COMMISSION (CKRC)

Prof. Ahmed Idha Salim	-	Vice-Chairman
Mrs. Abida Ali-Aroni	-	Vice-Chairperson
Prof. Hastings Okoth-Ogendo	-	Commissioner
Mrs. Phoebe Asiyu	-	Commissioner
Ms. Kavetsa Adagala	-	Commissioner
Mr. Keriako Tobiko	-	Commissioner
Mrs. Alice Yano	-	Commissioner
Mr. Domiziano Ratanya	-	Commissioner
Bishop Bernard Njoroge Kariuki	-	Commissioner
Mr. Paul Wambua	-	Commissioner
Mr. John Mutakha Kangu	-	Commissioner
Paster Zablon Ayonga	-	Commissioner
Mr. Githu Muigai	-	Commissioner
Dr. Mohamed A. Swazuri	-	Commissioner
Mr. Ahmed Isaack Hassan	-	Commissioner
Dr. Charles Maranga Bagwasi	-	Commissioner
Ms. Salome Wairimu Muigai	-	Commissioner
Prof. Wanjiku Kabira	-	Commissioner
Dr. Abdirazak Arale Nunow	-	Commissioner
Ms. Nancy Makokha Baraza	-	Commissioner
Mr. Abubakar Zein Abubakar	-	Commissioner
Mr. Riunga Raiji	-	Commissioner
Mr. Ibrahim Lethome	-	Commissioner
Mr. Isaac Lenaola	-	Commissioner
Dr. K. Mosonik arap Korir	-	Commissioner
Hon. Amos Wako	-	Ex-Officio
P.L.O. Lumumba	-	Secretary to the Commission

ABSENT WITH APOLOGY:

Prof. Yash Pal Ghai	-	Chairman
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MINUTE NO. 05/2003:

CONFIRMATION OF MINUTES

Minutes of the previous meeting were confirmed by the members present and signed by the Chairman.

MINUTE NO. 06/2003:

**CONSULTATION WITH THE
CONSTITUTION OF KENYA
REVIEW COMMISSION (CKRC)**

1. The CKRC requested the Committee to recommend to the National Assembly extension of mandate to enable it complete the remaining phase of the review process. The CKRC further indicated that they would be able to start the National Constitutional Conference (NCC) on Monday, April 28, 2003.
2. On the Parliamentary Calendar, the Speaker advised the meeting that due to the pending urgent business, Parliament would continue sitting the whole of April. He further advised that Parliament would have to be in session in mid-June to end of July 2003 to discuss the budget, which is a constitutional requirement.

The Speaker further informed the meeting that during the recess in the months of August and September, the watchdog committees namely Public Accounts Committee (PAC) and Public Investments Committee (PIC) would be sitting to scrutinize Government accounts, a necessary function of Parliament. According to the Speaker, the available time for the review process if Parliament pursues its normal calendar would be the whole of May and two weeks in June and a bit of time in the month of August and the whole of December 2003.

3. On the delegates to the National Constitutional Conference, the CKRC informed the Committee that the list of delegates was ready, other than a few replacements that were to be done. The Committee observed that while the composition of the delegates conference as gazetted last year should not be interfered with unnecessarily, consideration may be made to suit changes in community representation and leadership after the December 2002 General Elections.
4. After concluding consultations with the CKRC and the Speaker, the Committee resolved to recommend to the National Assembly as follows:-
 - (a) that the National Assembly extends the life of the Commission to 30th November, 2003

