

SPECIAL ISSUE



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GAZETTE NOTICE NO. 1406

THE CONSTITUTION OF KENYA

APPOINTMENT OF COMMITTEE OF EMINENT PERSONS

WHEREAS the Constitution of Kenya Review Act (Chapter 3A of the Laws of Kenya) which facilitated a comprehensive review of the Constitution by the people of Kenya, provided that the review process be conducted through the Constitution of Kenya Review Commission, the Constituency Constitutional Forum, the National Constitutional Conference, the National Assembly and the Referendum;

AND WHEREAS all the above organs have duly executed their mandates under the Act culminating in the referendum on the proposed Constitution of Kenya held on the 21st November, 2005, in which the people of Kenya did not ratify the proposed new Constitution;

AND WHEREAS the Constitution of Kenya Review Act has now lapsed;

RECOGNIZING that the people of Kenya are still desirous of a new Constitution and that the Government is committed to facilitating the review process; and,

TAKING INTO account that—

- (i) during the referendum debates, some issues which appeared not to have been adequately debated and resolved arose;
- (ii) substantial progress towards the development of a new constitution has been made and that all the records of the organs involved in the process are available;
- (iii) there is need to heal the nation from the divisions emerging during the referendum campaigns in order to create an enabling environment for a participatory process,

NOW THEREFORE, it is notified for general information that His Excellency Mwai Kibaki, President and Commander-in-Chief of the Armed Forces of the Republic of Kenya, has appointed a Committee of Eminent Persons to undertake an evaluation of the constitutional review process and provide a road map for the conclusion of the process.

1. The Committee shall comprise—

Bethuel Kiplagat (Amb.)—(Chairperson).

Members:

Onesmo Ole Moi Yoi (Prof.).
Karuti Kanyinga (Dr.)

Juma Mwachihi.
Mwambi Mwasaru.
Jacinta Muteshi (Dr.).
Richard Barasa (Dr.).
Peter Wambura (Eng.).
Nemwel Nyamwaka Bosire (Dr.).
Ngethe Njuguna (Prof.).
Patricia Kamari Mbote (Dr.).
Justice (Rtd.) Abdul Majid Cockar.
Wanza Kioko.
Kassim Farah (Prof.).

2. The members of the Committee have been appointed in their personal capacity and shall serve independently.
3. The members of the Committee shall elect a vice-chairperson from amongst their number.
4. The Committee may invite any person to be in attendance at any of its meetings.
5. The terms of reference of the Committee shall be to—
 - (a) facilitate the airing of views by the people of Kenya on the constitutional review process so far in terms of what Kenyans consider the weaknesses, strengths, successes or failures of the process, and make proposals on the way forward;
 - (b) identify any legal, political, social, economic, religious, governance or other issues or obstacles, whether past or present, which stood in the way and/or may stand in the way of achieving a successful conclusion of the constitutional review process;
 - (c) receive written memoranda and/or oral presentations by organized groups and individuals on all foregoing matters and matters incidental thereto;
 - (d) undertake consultations and receive advice from local, regional and international constitutional experts on all the foregoing issues and in particular, on how to establish an effective legal framework for the completion of the review process;
 - (e) prepare and submit a report of its findings to H.E. the President on the Committee's findings, on or before the 30th May, 2006, recommending:
 - (i) a process for national healing to facilitate reconciliation and fruitful dialogue;

- (ii) a process that will facilitate the resolution of contentious issues;
 - (iii) legislation that will underpin the review process and lead to a new Constitution of Kenya.
6. In the performance of its functions, the Committee—
- (a) shall hold such meetings, in Nairobi and at such times as the Committee shall consider necessary for the proper discharge of its functions;
 - (b) may, at its discretion, hold any meetings for the execution of its mandate under paragraph 5 (a) in private in order to instill confidence in the people appearing before the committee and allay their fears of adversity or reprisals;
 - (c) may use the official records of any of the organs of the review process under the Constitution of Kenya Review Act and other materials or records relevant to its mandate;
 - (d) may carry out or cause to be carried out such studies or research as may inform Committee on its mandate;
 - (e) subject to the foregoing, the Committee shall have all powers necessary or expedient for the proper execution of its mandate.
7. The Secretariat of the Committee shall be based at the 20th floor of the Co-operative Bank House, Haile Selassie Avenue, Nairobi.
- Dated the 24th February, 2006.
- MWAI KIBAKI,
President.