

As the new constitution comes into force, we must remember that the August 4th 2010 referendum was just but the first step. The overwhelming support shown at the referendum for a new constitution marks the beginning of the role we have as citizens, to push for and monitor enactment of legislation and implementation.

The new constitution has six schedules to deal with important matters required for the country to move forward governed by new legislation. Under these schedules, different issues are set to be in place within given time frames. The countdown is set from August 27th 2010, which is when the new constitution will be promulgated, thus coming into force.

This booklet lays out certain aspects of the schedules, with projected implementation dates based on the start date of August 27th. As citizens we must continue to invest in our future and be vigilant by taking on our civic duty as watchdogs in our democratic nation, Kenya.



THE FIRST SCHEDULE

This schedule will deal with setting out counties as detailed in the new constitution.

THE SECOND SCHEDULE

This schedule will deal with national symbols, which are: national flag, national anthem, coat of arms and the public seal. None of these symbols are going to change.

THE THIRD SCHEDULE

This schedule will deal with oaths and affirmations to be taken by public officials.

THE FOURTH SCHEDULE

This schedule will deal with the distribution of functions between the national government and county governments.

THE FIFTH SCHEDULE

This schedule deals with required legislation to be enacted by parliament in order to make the new constitution effective. As citizens, we ought to pay close attention to this schedule and be part of the process of ensuring that which needs to be in place, is put in place, within the stipulated time. The range of issues under the fifth schedule is to be done from six months to five years – at the latest. With August 27th 2010 as the start date, we should then expect matters to be in place as follows:



ONE YEAR

(August 27th 2010 - August 27th 2011)

Legislation on citizenship (Article 18)

The most pressing matter here is dual citizenship, which has been an issue raised for decades. There is no need for legislation on this matter to take longer than a year.

Kenya National Human Rights and Equality Commission (Article 59)

This commission will look into matters of equality, human rights and justice as observed (or not) by the state. Anybody can make a complaint to the commission and it may take up an investigation into the behavior of the state of its own accord.

Ethics and Anti-Corruption Commission (Article 79)

An independent Ethics and Anti-Corruption Commission will be formed to monitor and ensure compliance as set out in its mandate.

Legislation on Elections (Article 82)

Running of all elections is to be clearly stated. Voter registration will be a continuous exercise and Kenyans living outside the country are to be given the right to vote at the Kenyan embassies in the country where they reside. All elections are to be simple and transparent.

Electoral Disputes (Article 87)

Disputes are to be lodged within 28 days of the results and are to be settled in good time.

Independent Electoral and Boundaries Commission (Article 88)

This commission will be composed of members who do not hold any other public office. It will deal with voter registration, updating the voter database, regulating political party nominations, constituency and ward boundaries, voter education and facilitation of election monitoring among other duties as stated in its mandate.

Legislation on Political Parties (Article 92)

Political parties will be entitled to fair time on broadcast services. They will be regulated and supervised to ensure compliance with the law. They must have clearly spelt out roles and functions; and restrictions on use of public resources for their own promotion must be adhered to.

Vacation of Office of Members of Parliament (Article 103)

This governs when the office of a member of parliament will be declared vacant. Death, absenteeism from parliamentary sessions, resignation, changing political parties, end of term and disqualification will all serve as cases where an office is declared vacant.

Power of Mercy (Article 133)

The president may be petitioned to pardon a convict, substitute lesser punishment or postpone punishment. There will be an advisory committee on power of mercy whose members are stated in the constitution. Views of victims will be taken into account.

System of Courts (Article 162)

The court system will include superior courts – Supreme Court, Court of Appeal and High Court. Specific courts to deal with labour issues, environment issues etc will also be put in place.

Removal from Office (Article 168)

Judges will be removed from office for inability to perform because of physical or mental incapacity, breach of code of conduct, bankruptcy, incompetence and gross misconduct.

Vetting of Judges and Magistrates (6th schedule, section 23)

Judges and magistrates who are already in office will be vetted for capacity to continue to serve under the new constitution.

Speaker of a County Assembly (Article 178)

Persons elected as speaker of a county assembly will not be members of the assembly. Legislation is to be enacted to govern election and removal from office.



Haki yako urithi wako

Urban Areas and Cities (Article 184)

Legislation will establish criteria for demarcation of urban areas and cities. Governance and management of these areas will also be dealt with.

Contingencies Fund (Article 208)

The contingencies fund will advance money on budgets if the cabinet Finance Secretary is satisfied that there is urgent and unforeseen need for the money.

Loan Guarantees by National Government (Article 213)

Terms and conditions will be laid out for the circumstances and manner in which the national government can guarantee loans. A public report on guaranteed loans will be published annually.

ONE & A HALF YEARS

(August 27th 2010 - February 27th 2012)

Legislation on Land (Article 68)

Land laws will be revised and consolidated in accordance with the new constitution. Regulation and management of land will be implemented.

Removal of a County Governor (Article 181)

A county governor will be removed from office for gross violation of the law, crime under national or international law, abuse of office or physical or mental incapacity. Parliament will draft legislation on the procedure of removal from office.

Vacation of Office of Member of County Assembly (Article 194)

The office of a member of county assembly will be declared vacant in case of death, absenteeism from parliamentary sessions, resignation, changing political parties, end of term and disqualification

Legislation to Effect Chapter 11 (Article 200 and 6th schedule section 15)

This legislation will deal with governance of the capital, other cities and urban areas, transfer of functions and powers to county governments and procedure at sittings.

Revenue Funds for County Governments (Article 207)

Revenue funds in each county will hold all monies raised. Money will not be withdrawn without the approval of the Controller of Budget.

TWO YEARS

(August 27th 2010 - August 27th 2012)

Legislation on Leadership (Article 80)

Principles on leadership and integrity will be promoted and penalties prescribed to deal with any contravention.

Right of Recall (Article 104)

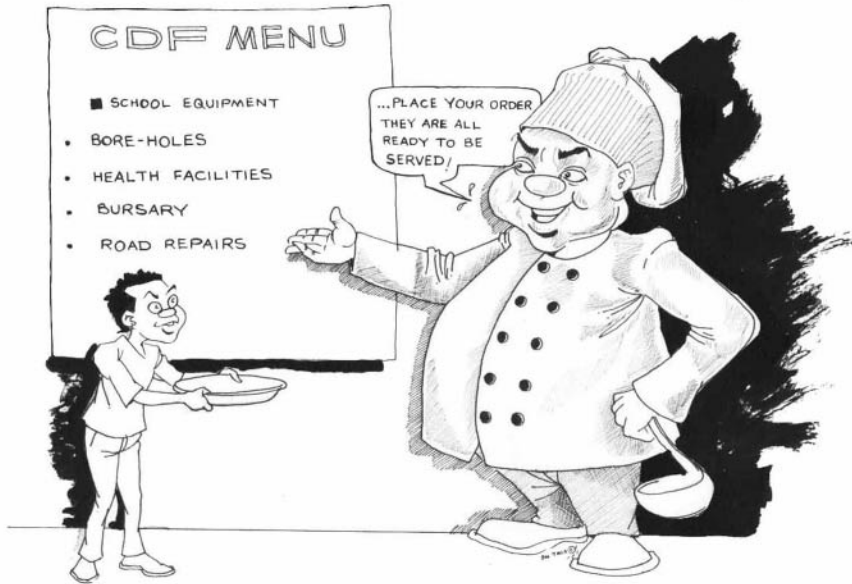
The people have a right to recall their representative. Parliament is to pass legislation on the terms of recall.

Determination of Questions of Membership of Parliament (Article 105)

The High Court will hear cases and determine the validity of membership of parliament. The case must be heard and determined within six months of lodging the petition.

Right to Petition Parliament (Article 119)

Anyone has the right to petition parliament on matters within its power. Parliament must make arrangements to ensure this right can be exercised.



Haki yako urithi wako

Assumption of Office of President (Article 141)

This legislation covers the swearing into office of the president, which must be public and on the specific date spelled out in the constitution.

Judiciary Fund (Article 173)

The fund will cover administrative expenses. Parliament will approve a budget presented annually by the Chief Registrar of the Judiciary.

Financial Control (Article 225)

Functions and responsibilities of the treasury will be established. Expenditure, control and transparency will be put in place. Mechanisms and circumstances under which funds can be stopped will be implemented.

National Security Organs (Article 239)

These organs are Kenya Defence Forces, National Intelligence Service and National Police Service. The security organs will promote and guarantee national security in a non-partisan manner. The security organs are subordinate to civilian authority.

Command of the National Police Service (Article 245)

The Inspector General will head the National Police Service. Kenya Police Service and Administration Police Service will each be headed by a Deputy Inspector General.

THREE YEARS

(August 27th 2010 - August 27th 2013)

Freedom of the media (Article 34)

The stakeholder inclusive independent media overseeing body will be put in place to deal with issues of regulation and freedom, which go hand in hand.

Support for County Governments (Article 190)

County governments will get the required support to enable them carry out duties effectively. Financial management systems will be put in place to comply with national legislation. The national government will intervene in county government procedures if the said county government is unable to carry out duties. This intervention is to last only until the county government can perform all functions effectively.

Public participation and County Assembly Powers, Privileges and Immunities (Article 196)

County Assembly business will be conducted in a public manner and the public will have the right to attend proceedings unless they are determined sensitive.

County Assembly Gender Balance and Diversity (Article 197)

This legislation will ensure gender balance and diversity in membership of the county government, which reflects the demographic of the county.

FOUR YEARS

(August 27th 2010 - August 27th 2014)

Consumer Protection (Article 46)

Consumers will be duly informed of hazards associated with any product or service. The right to sue for compensation in case of injury will be upheld

Fair Administrative Action (Article 47)

The right to administrative action that is efficient, timely and just will be upheld. People will also have the right to appeal against perceived unjust treatment to a court or if suitable, an independent tribunal.

Fair Hearing (Article 50)

The assumption of innocence until guilt is proven will stand. People will have all rights due them during a trial, including a lawyer, a trial without delays, not to testify if they so wish and other rights as set out in the new constitution.



Haki yako urithi wako

Rights of persons detained, held in custody or imprisoned (Article 51)

Anybody detained, held in custody or imprisoned must be treated humanely and according to international human rights standards.

Legislation Regarding the Environment (Article 72)

Legislation will be enacted by parliament to give full effect to protection of the environment.

Accounts and Audit of Public Entities (Article 226)

All public accounts will be audited by the Auditor General. Any holder of public office who approves use of funds against the law, will repay the money.

Procurement of Public Goods and Services (Article 227)

Public procurement must be fair, equitable, transparent, competitive and cost-effective. A public procurement and asset disposal policy will be enacted. Sub-standard goods and services will see contractors sanctioned.

Values and Principles of Public Service (Article 232)

The values and principles of public service are to be institutionalized, in order for more effective, efficient and customer friendly service provision.

FIVE YEARS

(August 27th 2010 - August 27th 2015)

Legislation in respect of culture (Article 11(3))

Culture is dynamic, and there are tens of cultural identities among Kenyans. This is therefore an issue that requires comprehensive appreciation in order to promote cultural pride and the contribution of various indigenous practices to progress.

Family (Article 45)

Marriage is to be recognized under any tradition or religion as long as these are not in conflict with provisions in the new constitution. Equal rights between those in a marriage are to be observed.

Community Land (Article 63)

Land lawfully registered, managed or used by a group with common interests and/or for various community related activities is recognized as community land. Unregistered community land will be held in trust for the relevant community by the county government.

Regulation of Land Use and Property (Article 66)

The state will regulate land use as required and when appropriate, while respecting the people's land rights.

Agreements Relating to National Resources (Article 71)

Parliament must ratify any transactions that involve the exploitation of natural resources in the country

Promotion of Representation of Marginalised Groups (Article 100)

Representation of marginalized groups in national and county assemblies is to be promoted through legislation. Women, persons with disabilities, youth, ethnic and other minorities and marginalized communities will have fair representation.

Any Other Legislation Required by This Constitution

Any other legislation necessary to bring sections of the new constitution into effect will be drafted and enacted within the stipulated time.



Haki yako urithi wako

THE SIXTH SCHEDULE

This schedule deals with transitional and consequential provisions. It covers interpretation of the constitution and suspension of certain provisions of the new constitution until after the first parliamentary election under it. It also sets out the manner in which transitions on items on in the new constitution will be effected.

National Anthem

O God of all creation
Bless this our land and nation
Justice be our shield and defender
May we dwell in unity
Peace and liberty
Plenty be found within our borders.

Let one and all arise
With hearts both strong and true
Service be our earnest endeavour
And our homeland of Kenya
Heritage of splendour
Firm may we stand to defend.

Let all with one accord
In common bond united
Build this our nation together
And the glory of Kenya
The fruit of our labour
Fill every heart with thanksgiving.

Wimbo wa Taifa

Ee Mungu nguvu yetu
Ilete baraka kwetu
Haki iwe ngao na mlinzi
Natukae na undugu
Amani na uhuru
Raha tupate na ustawi.

Amkeni ndugu zetu
Tufanye sote bidii
Nasi tujitoe kwa nguvu
Nchi yetu ya Kenya
Tunayoipenda
Tuwe tayari kuilinda

Natujenge taifa letu
Ee, ndio wajibu wetu
Kenya istahili heshima
Tuungane mikono
Pamoja kazini
Kila siku tuwe na shukrani