

**PRESS RELEASE**

***CAMPAIGN FOR THE ENACTMENT OF  
THE GHAI CONSTITUTION IN TIME FOR  
THE FORTHCOMING ELECTION AND TO  
COMPLETE THE ON-GOING REFORM  
AGENDA***

The Kenya Land Alliance takes this opportunity to congratulate the Constitution of Kenya Review Commission for a comprehensive constitution draft. The KLA fraternity is grateful that most of the constitutional principles they proposed were adopted and included in the draft constitution.

Since independence, Kenyans have put up with a compromise constitution drafted with the help of the former colonial power, which guaranteed the protection of private property by sanctifying 'willing-seller-willing-buyer' approach to the redistribution of freehold land. Since then, the Kenyan public has expressed outrage about more challenges related to land tenure security and effective land management to no avail. However, a quick reading of the Ghai draft constitution gives KLA hope that if the proposed constitutional principles on land reform are used as the basis of land policy and law formulation and rationalization in the future the main set of land problems which require policy attention will be sorted out.

The major areas of land policy reforms that we propose, include among others,

1. Land distribution problematized as inequitable and unjust access to land, limited rights/access for majority coupled with costly and cumbersome transfers of land.
2. Land utilization problematized as discriminatory regulations against customary tenures, speculative under utilization of freeholds, unsustainable use in crowded areas and coercive regulations in some tenures.
3. Land tenure, problematized as insecurity of some tenures, a discriminatory protection system and over-centralized regulations.
4. Land administration, problematized as coercive and centralized approach, dispersed institutions, lack of capacity and weak institutional support, poor representation of majority and weak transparency.
5. Land adjudication, problematized as biased towards market and state sectors, no restitution/victim compensation, merged powers of local courts and traditional authorities and inaccessible courts/mediation.

The KLA proposed constitutional principles on land reform as captured in the constitutional draft have become more pronounced with the approach of General Elections and the transition that is expected to see the departure of President Moi from leadership. We therefore, detest the frantic efforts to go to the forthcoming elections before adopting the Ghai draft constitution, because that will be endangering the aroused expectation that at long last we are on the road to sorting out land problems we have lived with since independence.

KLA opposes the holding of the whole country and its natural resource heritage at ransom in order to protect the few ruling elites narrow and illegitimate acts.

KLA appeals to the people of Kenya and the government to ensure the enactment of the draft constitution before rushing to hold the forthcoming elections, as this is a prerequisite for the survival of our nation and the sanctity of posterity. In this connection, we make an appeal to the government and the people of Kenya in the following terms:

1. That the draft constitution be discussed as planned and operationalized fully as a matter of urgency as a guide to the on-going transition and reforms.
2. That the on going squabbles for Moi succession be delinked from the constitutional review process.
3. That given the ongoing rethinking of our national constitutional and governance framework in the context of the constitutional review, as well as the transition envisaged by the scheduled retirement of President Moi, the government declares and ensures that constitutional review process is not hurried and the general elections are not held until a new constitutional is put in place. In the meantime, the current parliament remains in session until the new constitution is enacted as an integral part of the agenda of the constitutional review process.
4. That all stakeholders commit themselves to working together in pursuit of the above proposals.

For our part, we promise to do all in our powers, within the mandates of our umbrella network and associate institutions to mobilize the people of Kenya for the realization of these ideals, which we consider to be indispensable to the realization of land and environmental security and the survival of our nation.

**Dated at Nakuru this 19<sup>th</sup> day of September 2002**

**Signed by:**

**Odenda Lumumba,  
National Co-ordinator, Kenya Land Alliance (KLA)**

**And**

**Michael Ochieng'Odhiambo  
Board Member, Kenya Land Alliance (KLA)**