

PARLIAMENT
OF KENYA
LIBRARY

DRAFT

SESSIONAL PAPER NO.....OF.....1997

**ON THE ADOPTION OF THE ADMINISTRATIVE REFORMS
RECOMMENDED BY THE INTER-PARTIES PARLIAMENTARY
GROUP (IPPG)**

TABLE OF CONTENTS

1.	PREAMBLE	1
2.	ADMINISTRATION POLICE	2
3.	POLITICAL PRISONERS	2
4.	VICTIMS OF ETHNIC CLASHES, BANDITRY AND ELECTION VIOLENCE	3
5.	UNREGISTERED POLITICAL PARTIES	6
6.	PROVINCIAL ADMINISTRATION	6
7.	PRIVATE RADIO AND TELEVISION	7
8.	ELECTION ANNOUNCEMENTS	7
9.	SECURITY OF PRESIDENTIAL CANDIDATES	7
10.	ELECTORAL COMMISSION	8
11.	PEACE AND SECURITY	9
11.1	Alleviation of poverty and unemployment	9
11.2	Firearms, Cattle Rustling, Banditry and Highway Robbery	15

11.3	Street Children (Child welfare)	18
11.4	Drugs	19
11.5	Rule of Law	20
11.6	Structure of the Civil Service	21
11.7	Land Issues	23
12.	MAINTENANCE OF PEACE	26
12.1	Administration of Justice and Enforcement of Law	26
12.2	Human Rights	27
12.3	Enabling Environment	27
12.4	Repeal of Archaic and Irrelevant Laws	28
12.5	Use of Force by Police	29
12.6	Nepotism and Tribalism	29
12.7	Political Assassinations	30
12.8	Security Committees.....	30
12.9	Incentives for Hardship Areas	31

1. PREAMBLE

On the 17th September, 1997 Parliament, in a historic and memorable move, endorsed and adopted the recommendations of the Inter-Parties Parliamentary Group (IPPG) on Constitutional, Legal and Administrative Reforms. These minimum reforms were to be enacted and incorporated in the country's statutes before the forthcoming General Elections. The reforms are geared to paving the way and setting the pace for a new era of democracy for Kenya which is expected to propel and steer the country into the 21st century and beyond and generate an environment of peace, harmony, stability and prosperity in which the rights and privileges of every Kenyan are securely protected in the legal system. The recommended changes are further designed to foster and safeguard multi-party democracy, facilitate free and fair elections and enable individuals to elect leaders of their own choice.

Following the acceptance of the IPPG proposals, the next step is to address the issue of implementation. To this end, the Government has already tabled in Parliament the relevant Bills on the proposed constitutional and legal amendments. Further, the Government made a formal statement in Parliament on its stand on the recommended administrative reforms. This Sessional Paper outlines appropriate modalities for adopting and implementing the recommended administrative reforms. However, the IPPG recommendations relating to areas under the exclusive jurisdiction of the Electoral Commission are expected to be addressed by the Commission itself and are therefore not covered in this paper. These areas include preparation of an electoral code of conduct; registration of voters; supervision of nomination of candidates; management of campaign process; polling; counting; electoral offences; and demarcation of electoral boundaries.

2. ADMINISTRATION POLICE

The IPPG recommended that in the long term Administration Police Force be merged with the regular Police to harmonize the operations of the Police Force.

The Administration Police Force has in the past played an important role in the country and particularly in bandit-prone areas in controlling incidents of banditry and cattle rustling. The Force supplements the role of the Kenya Police and its specialized units, that is, the GSU and Anti Stock Theft Unit. However, in the recent past, a number of incidents have earned the Force a bad name.

To correct this situation, the Government has put in place a stronger command, control and training in order to improve the performance of the APs. The Government will look into the modalities of realigning the Administration Police Force and the Kenya Police Force in line with the security projections and requirements of the country.

3. POLITICAL PRISONERS

That in light of the recommendations for amending and/or repealing sections of our laws concerning illegal assembly and sedition and considering that we are committed to the process of national reconciliation and harmony, the Committee recommends that:-

- (i) *the Attorney-General moves expeditiously to facilitate clemency for Mr. Apiny Odhiambo.*

- (ii) *the Attorney-General reviews cases of all persons currently serving jail or facing trial on matters of sedition or participating in unlicensed meetings with a view to releasing them.*
- (iii) *the Attorney-General reviews all other pending cases which are of a political nature.*

Appropriate amendments to the sedition laws have been made through the Statute Law (Repeals & Miscellaneous Amendments) Bill, 1997. The right to constructive criticism will be encouraged as Kenyans enjoy the right to question activities of their Government and their leaders. In such criticism, Wananchi should be reminded that their rights must be exercised only with due regard to the rights of others as provided for in our laws.

The Government will review all cases of prisoners convicted of sedition and related offences.

4. VICTIMS OF ETHNIC CLASHES, BANDITRY AND ELECTION VIOLENCE

That all victims of ethnic clashes and banditry be resettled as soon as possible.

That political zoning based on party affiliation should be discouraged and totally outlawed. Any leader who incites a community against another should be charged in a court of law. The clause in the Constitution which gives right to a Kenyan to own property and live anywhere within the republic must be fully enforced without fear or favour.

That victims of tribal clashes should be returned and resettled on their own farms and land without any further delay and must be fully protected by the Government.

That press should report responsibly and accurately and avoid sensationalizing potentially explosive incidents.

That there must be political maturity among the political and administrative leaders. One people, one nation campaign should be encouraged. Arrogance should be discouraged and decent language should be the norm.

That the people should be encouraged to appreciate and respect each other communities' culture and way of life. In addition the Government, NGOs and the civil society should initiate campaigns to sensitize people that they have a responsibility towards each other and the nation.

That those in leadership positions who incite their supporters to commit crimes such as assault, rape or murder should be prosecuted.

That the electoral process must be transparent and civic education must be encouraged to enable people appreciate that change is inevitable and that any one individual or party can lose an election.

The Government is fully committed to the eradication of ethnic clashes, election violence and banditry and is determined to address the causes of these evils and will ensure that peace and security for every Kenyan prevails. Further, the Government is committed to enabling the affected people to resettle. Towards this end, adequate security has been provided to enable those not already resettled to take up their residence.

The Government will curb tribal clashes, banditry and election violence by taking the following measures:-

- (a) Contingency plans and precautionary measures to deal with eruption of violence related to tribal clashes generated by tribal animosities.
- (b) Police Commanders at all levels have been given firm instructions to deal with any tribal violence promptly and decisively and to ensure that its perpetrators are equally dealt with in accordance with the law.
- (c) Barazas to be held by the Provincial Administration to enlighten Wananchi on peaceful co-existence. The Government will therefore develop and publicise deliberate programmes to change the attitudes of Kenyans in order for them to appreciate and respect the cultural values of other communities and thus enable them co-exist peacefully.
- (d) Contingency plans have been drawn and instructions issued to Provincial and Divisional Police Commanders re-sensitising them on election Law and procedures, so as to prepare the Officers on the ground on the action to take in event of election violence.
- (e) Past incidents of violence have been highlighted to act as reference points and lessons to the Officers.
- (f) Workshops and seminars have been organised for the field Officers to sensitise them on their changing roles in the changing political scene.

5. UNREGISTERED POLITICAL PARTIES

That all political parties which have applied for registration be registered forthwith unless their registration would contravene the provisions of the Societies Act (Cap.108) and the refusal and reasons thereof are communicated in writing to the affected parties within 14 (fourteen) days.

The Registrar of Societies has already complied with these recommendation and dealt with all pending applications for registration of political parties. Eleven new political parties were registered and three were refused and the reasons thereof communicated in writing to the affected parties. The Registrar also issued a press statement to show that he had complied with the recommendation.

6. PROVINCIAL ADMINISTRATION

That PCs, DCs, DOs, Chiefs and other civil servants should be restrained from interfering with the electoral process.

Apart from coordination of Government business in the respective areas of jurisdiction, the Provincial Administration has in the past been involved in the conduct of general or bye elections. Its activities will now be strictly confined to Government and development matters. The Government will also ensure that civil servants in general and officers of the provincial administration in particular will be strictly guided by the amendments to the electoral law which criminalize public servants' involvement in partisan politics. Needless to state, the code of regulations has always forbidden such activities but the matter has now been given statutory backing and sanctions as recommended by the IPPG.

In this regard, the Government will issue appropriate instructions to all officers in the Provincial Administration and other departments concerned drawing their attention to their new roles. Further, firm disciplinary measures will be taken against any errant officers. In addition, appropriate re-training programmes will be mounted to enable the officers fully understand and identify themselves with these changes.

7. PRIVATE RADIO AND TELEVISION

That all pending applications be processed within 30 (thirty) days.

The Government appreciates the recommendation of the IPPG and the necessary institutional mechanism for processing applications received is being put in place.

8. ELECTION ANNOUNCEMENTS

That all matters and announcements relating to elections be left solely to the Electoral Commission.

The Government wishes to express its commitment to a free and independent Electoral Commission and accepts that all matters and announcements relating to elections be solely left to the Electoral Commission.

9. SECURITY OF PRESIDENTIAL CANDIDATES

That all Presidential candidates be given adequate security during the campaign period.

All Presidential candidates, duly nominated by the political parties and whose nominations have been submitted to the Electoral Commission in accordance with the electoral law, will be provided by the Government with appropriate security detail during the electioneering period upon application in writing.

10. ELECTORAL COMMISSION

The Committee recommends that the President do appoint the additional 10 Commissioners from a list of names submitted to him by parliamentary Opposition Parties.

That the Commissioners be adequately remunerated.

That the Electoral Commission be totally delinked from the Executive arm of the Government including the administration of funds for the Electoral Commission at local level.

That Parliament shall vote such moneys to be drawn from the Consolidated Fund every year to finance parliamentary political parties, proportionate to the number of seats held by such parties.

That such funds be subject to auditing by the Controller and Auditor General.

The Government recognises the need to enhance the independence of the Electoral Commission. In this regard, the Commission will be left to operate freely and will be facilitated to perform its functions without interference.

The President will appoint ten additional electoral commissioners from a list submitted by parliamentary opposition parties as recommended by the IPPG.

The Government has already implemented the salary aspects of a recent ad hoc Committee appointed to review the terms of service of Commissioners while the rest of the terms will be improved when the financial situation improves. Further, the Government agrees that moneys be drawn from the Consolidated Fund to finance parliamentary political parties, proportionate to the number of seats held by such parties and that such funds be subject to auditing by the Controller and Auditor General.

11. PEACE AND SECURITY

11.1 Alleviation of Poverty and Unemployment

11.1.1 Promotion of Rural Industrialization

The IPPG called upon the Government to promote rural industrialization by encouraging cottage industries, jua-kali enterprises, small scale irrigation schemes and by establishing the necessary physical and socio-economic infrastructure.

The Government has long recognised that an effective strategy for reducing poverty is to increase income generating opportunities for the poor through creation of wage or self employment. Past employment creation strategies have had a modest impact on the incidence of poverty in the country. This is largely due to poor implementation, rapidly growing population, rural-urban migration, slow economic growth and inadequate resources for providing enabling infrastructural environment.

Recognizing the need to assist and empower the poor to engage in income generating opportunities, the Government initiated the Social Dimensions of Development (SDD) Programme in 1994. The SDD Programme comprises short and medium-term broadly and narrowly targeted interventions aimed at addressing the needs of the poor and the vulnerable groups in society as well as those adversely affected by Structural Adjustment Programmes (SAPs), other socio-political changes and natural disasters. The Government will now focus more on the short-term measures that are intended to empower the poor and vulnerable groups to participate effectively in a competitive market environment.

Sessional Paper No. 2 of 1997 on Industrial Transformation to the Year 2020 has been tabled in Parliament. The Government hopes to implement the policies in the Paper, particularly those which address the promotion of small scale and Jua Kali enterprises.

The Government has carried out an assessment of *Sessional Paper No. 2 of 1992 on Small Scale and Jua Kali Enterprises (SSJKE)* with a view to identifying existing constraints and proposing strategies and new policy initiatives for follow-up action. In this regard, the growth of the Jua Kali sector will be enhanced through the following measures:-

- (a) Formulation of monetary and fiscal policies and strategies for enhancing investment in Jua Kali sector.
- (b) Provision of adequate land and infrastructure.
- (c) Developing mechanism for technology diversification.
- (d) Developing innovative mechanisms for enhancing Jua Kali access to finance.

- (e) Undertaking studies to identify investment potential and opportunities at district level.
- (f) Developing mechanisms for identifying innovative entrepreneurs and linking them to Jua Kali support institutions.
- (g) Enhancing Jua Kali access to finance, technology and market for business expansion and diversification.

In line with the Declaration and Programme of Action of the World Summit for Social Development Conference held in Copenhagen in 1995, the Government is preparing a national poverty eradication plan which will contain policies and strategies to reduce overall poverty and inequalities and eventually to eradicate absolute poverty by the year 2020. To implement the plan, consolidated three-year programmes will be prepared to meet intermediate poverty reduction targets.

The Government will endeavour to improve the standard of living in the rural areas so as to discourage rural-urban migration. In order to combat poverty in the rural areas, the Government established in 1997 the Community Development Trust Fund to provide financial support to targeted communities. The Rural Electrification Programme will be intensified, while more funds will be directed to provision of water and promotion of non-farm activities. Marketing of both farm and non-farm produce will be promoted by construction of all weather roads. Both local and foreign investors will be encouraged to invest in the rural rather than urban areas so as to create employment opportunities in the rural areas.

Further, the Government has formulated a strategic plan to address the maintenance of rural roads which will eliminate infrastructural constraints that inhibit the promotion of rural industrialization.

The Government gives priority to the proper management of water resources in the country to ensure sustained and rational exploitation. Water resources assessment studies will be carried out to determine the spatial distribution and availability. Water Conservation measures, including preservation and protection of water catchment areas will also be given increased attention. Appropriate strategies on pollution and quality control will continue to be put in place. The Government will assist rural smallholder farmers by encouraging and facilitating low cost irrigation technology and by designing irrigation schemes especially in arid and semi-arid areas.

11.1.2 Credit Facility/Loan Policy

That a scheme of credit facility or loan policy that would enable the needy to secure credit with or without collateral and thus boost the capital base be created. The Kenya Women's Finance Trust which disburses loans on more or less 'no collateral' basis is an exemplary scheme.

The poor and unemployed find it difficult to access credit because of stringent collateral requirements imposed by financial institutions. In order for the needy to easily secure funds, the Government has initiated the National Youth Development Fund and the National Women Development Fund. The Government will further strengthen the Kenya Industrial Estates which currently gives credit without collateral. Issuance of title deeds will be hastened so that they can be used as security for credit.

In *Sessional Paper No.1 of 1994 on Recovery and Sustainable Development to the year 2010*, a Social Dimensions Fund to finance targeted programmes was proposed. The Government will follow-up this idea by establishing an Anti-Poverty Trust Fund in collaboration with our development partners. The Anti-Poverty Trust Fund will be targeted to the poor. Its primary focus will be on promoting economic activities by the poor to create remunerative employment and incomes.

Already some commercial banks, non-bank financial institutions and NGOs are giving credit without stringent collateral requirements. Modalities of encouraging the establishment of more credit schemes that would enable the needy to easily secure funds will be worked out with all stake holders .

11.1.3 Impact of Structural Adjustment Programme

That implementation of the structural adjustment programmes in the liberalization of the economy must proceed with caution to avert the possibility of tampering with the progress of the local industrial pursuits, the latter of which should be buttressed by imposing relevant tariffs, quotas and other fiscal measures.

The Government is committed to the implementation of SAPs and other reforms. This will, however, continue to be done at a pace that is in line with the needs and aspirations of Kenyans. Consequently, the Government will re-examine the existing legislations and policies.

11.1.4 Employment of Foreigners/Expatriates

That full enforcement of the provision of the relevant laws governing employment

of foreigners or expatriates must be ensured; for instance the issuance of work permits must be confined to only those areas where local Kenyans expertise is absent.

Care will be taken to ensure that foreign investors employ Kenyans as much as possible. In this connection, issuance of work permits to foreigners will continue to be confined to only those areas where no suitable local persons can be found while ensuring that the primary interests of investors are catered for. The Inter-Ministerial Work Permits Committee will also be strengthened to enable it discharge its responsibility more effectively.

11.1.5 Acquisition of Citizenship

That strict control of granting citizenship must be implemented in order to prevent instances of undesirable and unqualified aliens from acquiring Kenya citizenship for the purpose of exploiting the country.

There have been instances where undesirable and unqualified aliens have used unorthodox methods to obtain Kenyan citizenship. Suspicious persons will therefore be strictly screened before they are cleared for granting citizenship.

11.1.6 Restitution as a Legal Remedy

That restitution as a legal remedy in the penal system must be accorded due emphasis, more especially where there is conviction for embezzling or mismanagement of public resources.

The Prevention of Corruption Act (Cap. 65) was recently amended to allow for the

establishment of an independent Anti-Corruption Authority. The Authority will particularly deal with cases relating to embezzling or mismanagement of public resources. Those convicted will be required to reconstitute the loss in addition to being fined and/or jailed.

11.1.7 Laws on Foreign Investment

That investment laws governing foreign investment into the country must be streamlined and effectively enforced to ensure joint-ventures with the nationals of Kenya do not unduly disfavour the latter.

While encouraging joint ventures through improved environment both for local and foreign investors, the Government will continue to review all laws governing foreign investment in the country to ensure that joint ventures do not unduly disfavour Kenyans.

11.2 Firearms, Cattle Rustling, Banditry and Highway Robbery

That security and law enforcement personnel in the cattle rustling zones must be well equipped, besides ensuring that such officers reflect the local identity in their appointment. In this respect the Community Policing and the Kenya Police Reserve are instructive.

That security along the national frontiers should be reinforced to curb the illegal influx of foreigners and the conduit of firearms into the country.

That further efforts should be made to ensure enhanced highway police patrols.

That the issuance of firearms licences must be strictly controlled and the Firearms

Act (Cap.114) amended to reflect this.

That serious steps should be taken to investigate the availability of illegal firearms and to retrieve them by all possible means including offering inducements.

That very stringent penalties be imposed for illegal possession of firearms.

The Government has done a lot in order to eradicate cattle rustling but this practice has persisted. To counter the proliferation of dangerous weapons and the illegal influx of foreigners, the Government will reinforce security surveillance at the airports and along the national frontiers. Further efforts will also be made to ensure enhanced highway police patrols. The following are some of the measures to deal with the problems:-

- (a) The concerned communities have been and will continue to be discouraged, through 'Barazas' from engaging in cattle rustling.
- (b) The Government will provide appropriate equipment to the security and law enforcement personnel in cattle rustling zones.
- (c) Rustlers will be required to surrender firearms failure to which they will have to be forcefully disarmed.
- (d) Firearms have been withdrawn from home guards to curb misuse.
- (e) Major security operations have been carried out to extract illegal firearms in possession of un-authorized persons.
- (f) Community Policing will be used, where appropriate, to deal with cattle rustlers.

- (g) Police Reservists have been recruited, some among the former homeguards, with the assistance from the elders. They have been properly trained by Police and equipped with uniforms and firearms to supplement Police efforts in dealing with the menace. The Government will make arrangements to pay the Reservists a token allowance as an appreciation for their voluntary service.
- (h) A new Police Unit called Rapid Anti-Banditry Unit (RABU) has been created to assist the local stations in tackling cattle rustling and banditry in general.
- (i) Vigilance has been stepped up along the border points and in the refugee camps to control entry and sale of illegal firearms. Measures will be put in place for closer monitoring of aliens and refugees movements.
- (j) Expansion of C.I.D. Flying Squads (specialized anti-robbery and car-jacking investigators) from two to eight units covering major towns in the country.
- (k) Widening of criminal intelligence collection leading to recovery of firearms and arrests particularly in urban areas.
- (l) Suspension of the licensing of firearms for civilians. Those already licensed are being censored to ensure they deserve the firearms and that they strictly conform with the provisions of the Firearms Licensing Act.
- (m) Highway patrols have been increased (including an additional Highway Mobile Flying Squad) to replace road blocks and to detect and curb highway crime.
- (n) Provision of armed escorts to road convoys, especially in banditry - prone areas.

- (o) The Firearms Act (Cap 114) will be appropriately reviewed to control possession of firearms more effectively.

11.3 Street Children

That elaborate laws should be enacted to provide for the rehabilitation of the street children which should include their training in vocational skills to enable them be self-reliant.

That further there is need for laws to promote and safeguard the economic and social interest of the single parents and their children as well as orphans.

The Government is aware of the growing problems of children and therefore ratified the 1989 Convention on the Rights of the Child in 1990 and appointed in 1991 a Task Force to review and update the law on the welfare of children. The recommendations of the Task Force have already been incorporated in the pending Children's Bill.

The Government further recognises that despite existence of various laws touching on children, the real root cause of the problems is socio-economic. The Government therefore undertakes to put in place such policies, programmes and administrative arrangements which will:-

- (a) prevent or minimize the plight of street children and other related cases.
- (b) ensure child rehabilitation by providing opportunities for generating income for self-reliance.

- (c) review and rationalize all laws relating to children in general with a view to recognizing the special rights and aspects of the welfare of the child.
- (d) promote and safeguard the socio-economic interests of the poor including single parents and their children as well as orphans.
- (e) provide rehabilitation centres at provincial and/or district levels, as passed by Parliament. Emphasis in these centres will be to place and maintain street children in primary and secondary schools. Those who cannot fit into formal schools will be trained in vocational skills to enable them be self-reliant.

11.4 **Drugs**

That the enforcement of anti-narcotics laws should be vigorously ensured, the social or political status of the offenders notwithstanding.

There is no doubt that drug abuse and trafficking is a volatile problem as the country is known to be a transit route for narcotics. It is an issue that demands inputs by all Kenyans to address its spread and consequent repercussions. The Government will continue to tackle the problem by:-

- (a) Having a well trained Anti-Narcotics Unit manning all the Airports and other entry points along the common borders. The Unit has done extremely well in detection of trafficking of such drugs as heroin and madrax.
- (b) Maintenance of close co-ordination and liaison with the Interpol, whose regional offices are based in Nairobi, in fighting the international battle against drug and

psychotropic substance abuse.

- (c) Strict enforcement of law on drugs and psychotropic substance abuse as contained in the Narcotic Drugs and Psychotropic Substance Control Act (Act. No.4/94).
- (d) Educating the populace against the dangers of cannabis sativa (bhang) which is locally obtained. These efforts have led to discovery of plantations growing the plant and to arrests that have resulted in prosecution.
- (e) The Government has established an Interministerial Drug Co-ordinating Committee which is charged with the duty of formulating and advising on the implementation of a national drug control policy as well as permanent scrutiny of the laws relevant to illegal trafficking in and abuse of narcotic drugs and psychotropic substances.

11.5 Rule Of Law

The legal concept of the rule of law is the cornerstone of good governance in any modern democracy and in this respect the Committee would observe as hereunder:-

That the cardinal principles of the rule of law have on some occasions been flagrantly disregarded by some political and administrative leaders, a fact which has had a tremendous negative impact in the enforcement of law generally thus providing perfect recipe for insecurity.

That the utterances and actions of certain public figures in the past have powerfully demonstrated lack of commitment to and respect for the preservation of peace and the rule of law generally.

That the central role played by the legal principle of the separation of powers of the three arms of the government namely the executive, legislature and the judiciary cannot be over-emphasized. The checks and balances of the powers of these three organs and their inter-dependence if soundly practised is healthy for the development of an ideal democratic culture. In this respect the Committee highly recommends the strict observance and enforcement of the separation of the powers.

The Government will ensure that the law of the land is respected, observed and applied to all Kenyans equally without fear or favour. The Police and any other institutions charged with the enforcement of the law have been directed to ensure that there is no discrimination in the application of the law and that any deviation from these directives are to be swiftly and firmly dealt with. The Government also expects that all leaders and other Kenyans in general respect the law and the rights of others.

The Government is cognisant of the need to operationalise the doctrine of separation of powers and in that regard, one of the functions of the Constitutional Review Commission which should be appointed upon enactment of the Constitution of Kenya Review Commission Bill is to examine and recommend the composition and functions of the organs of state namely the Executive, Legislature and the Judiciary and their operations aiming to maximise the mutual checks and balances and, as much as possible, secure their independence.

11.6 The Structure Of the Civil Service

That the selective implementation of the Ndegwa Report, which was not tabled in Parliament has been the root cause of indiscipline in the civil

service.

Accordingly, there is need to formulate a deliberate policy to reinstate the civil service to its status prior to the Ndegwa Report and more importantly to continually improve the terms and conditions of service of the civil service.

That the de-linking of the civil service from the activities and influence of political parties particularly in a multi-party system is essential to ensure a non-partisan and thus efficient civil service.

That the Kenya Police Force be de-linked from the Civil Service and a Police Service Commission be established to enhance the independence of the Police Force.

That the Directorate of Security Intelligence (Special Branch) be detached from the Regular Police Force to afford it the autonomy it deserves to ensure independence of its operations.

The Government is committed to the improvement of performance and productivity of the Civil Service. The Government therefore concurs with the IPPG recommendation on the need to continually improve the terms and conditions of service in order to motivate public servants to increase their productivity in service delivery. In this regard, it may be noted that since the Ndegwa Report, the Government has appointed various committees to look into the terms and conditions of service and has occasionally increased the salaries and allowances of civil servants directly. The Government has also regularly reviewed the wage guidelines and ensured that its employees are paid in line with the national minimum wage announced from time to time.

The Government has recently received the reports of the two committees appointed in December 1996 to look into the terms and conditions of Civil Servants and the Police Forces, Prisons Service and National Youth Service. The Government is preparing a sessional paper on the adoption of the recommendations contained in the two reports. In the meantime, the Government has, as an interim relief measure, increased the salaries of Civil Servants, including the Police, Administration Police, Prisons Service and National Youth Service. The other recommendations will be implemented as appropriate.

Further, as part of the on-going Structural Adjustment Programme, the Government is currently undertaking Civil Service Reforms whose main objective is to increase efficiency in the Civil Service.

The Government will work out the modalities of implementing the two recommendations regarding the independence of the Police Force and the autonomy of the Directorate of Security Intelligence.

11.7 Land Issues

The Committee expresses grave concern over the current system of land allocation that has had the resultant effect of marginalizing some communities and consequently rendering some persons landless.

That a comprehensive land policy be evolved or formulated to streamline land issues, which policy should incorporate prioritization of the interest of the nationals of Kenya in allocating land.

That a Committee to be defined by Parliament be set-up charged with the responsibility of allocating and dealing in public land, rather than leave this important responsibility to a single officer who might be susceptible to abuse.

That public land be allocated to citizens only.

Most importantly, land title deeds should be urgently issued in areas where they have not been fully issued. This is important as it could, inter alia, enable the land proprietors to have collateral for purposes of credit facilities.

That all land for public utilities must be protected against grabbers and public land already irregularly grabbed must immediately revert to the State.

That the continued trend of de-gazettement of forest land, water catchment areas and Kayas (Shrines) if proceeds unabated then great harm will be caused to this country.

In the ultimate analysis, therefore, the committee stresses great emphasis of a comprehensive policy to streamline all land issues in Kenya.

The concern of the IPPG on the manner in which land has been dealt with countrywide has been noted as issues affecting land are so fundamental and sensitive that they require very careful handling. The Government accepts the need for a comprehensive land policy aimed at streamlining land issues. In this connection, the Government will take into account the recommendations of the Task Forces appointed to consolidate land legislation.

Further, the Government is aware that land policies must aim at defining land use to ensure the efficient utilization of available land. It will therefore be necessary to work out modalities for establishing an independent national land commission to regulate land use and allocations. The Government will also ensure that a comprehensive policy that secures the overall interest of the citizens is put in place.

The Government proposes to set up elected local committees to deal with land allocation issues and to set up district and national committees to delve into issues of effective land use. Laws on disposal of family land will be amended and/or enacted to particularly incorporate family consent on such matters.

The Government will pursue the policy of allocating land primarily to citizens, but with due cognizance of the need to attract foreign investment into the country. It must however be noted that once citizens have been allocated land, it becomes their property which they can legally dispose at will.

The Government accepts that issuance of title deeds be accelerated and has already embarked on cancellation of all erroneous allocations without titles. The Government will further seek amendment to the relevant laws to facilitate the challenging of first registration on account of fraud and other errors.

The Government is aware that de-gazettement of forest land and water catchment areas has adverse ecological and social consequences and will carefully review any intended de-gazettement of such areas. Further, the Government will endeavour to discourage excision of gazetted forest land and Kayas unless for purposes of infrastructural development. In this regard, the Government will undertake an Environment Impact Assessment before such excision is allowed. Kenyans will also be encouraged to

participate in the afforestation of their private land.

In addition, the Government has initiated a Forestry Bill which proposes the establishment of a Forest Management Board to regulate gazetted forest land and Kayas.

12. MAINTENANCE OF PEACE

12.1 *Administration of Justice and Enforcement of Law*

That mob justice being a manifestation of lack of confidence, on the state law enforcement machinery, by the citizens is observed with grave concern. The administration of justice and the enforcement of law should be reinforced to ensure not only expedited dispensation of justice but also certainty and predictability in sound legal outcome in court cases.

The Government has in certain instances already taken remedial measures and will continue to do everything within its powers to ensure the promotion and maintenance of peace and tranquillity. It must, however, be borne in mind that positive participation of the people and especially of all leaders will go a long way in supporting Government efforts in this regard.

In the administration of justice, the terms and conditions of service of the Judiciary have recently been improved and there is an encouraging allocation of resources. New court houses have been built in Bungoma, Garissa and Limuru while existing facilities in Kisumu, Murang'a and Nyeri are being expanded. The newly established Milimani Commercial Courts in Nairobi will greatly improve the disposal of cases. Additional manpower resources have greatly minimised delays in the administration of justice.

Indeed, the establishment of Judges of the High Court and Judges of the Court of Appeal has already been increased by the Statute Law (Repeals and Miscellaneous Amendments) Bill, 1997.

The establishment of the National Council for Law Reporting will also facilitate the management of a sound system of Law Reporting.

12.2 Human Rights

That the respect of human rights as enshrined in the Bill of Rights of the Constitution and in other legal instruments must be respected at all times.

As already stated under the section on the *Rule of Law*, the Government will ensure that the law is respected, observed and applied fairly and equally and the Police have been directed to ensure that there is no discrimination in the application and enforcement of the law. The Government has plans under way to sensitize police officers on human rights by introducing a course on human rights at the Kenya Police Training College.

It should be noted that the Standing Committee on Human Rights was established to investigate complaints on violation of fundamental rights and freedoms, alleged injustice, abuse of power and unfair treatment as well as to educate the public on human rights and freedoms.

12.3 Enabling Environment

That there must be an enabling environment conducive to a free and fair elections in the country.

The Government is fully committed to the creation of an enabling environment conducive to free and fair elections. In this regard and as already stated under the section on *Provincial Administration*, clear instructions have been given to Government officers not to be involved in the electoral process.

The Government hopes that political parties will educate their members on the need to play their part in ensuring the creation of the expected enabling environment. However, the responsibility for creating such an environment cannot be left to the Government and political parties alone. Other leaders and Kenyans in general should respect the law and the rights of others.

12.4 Repeal of Archaic and Irrelevant Laws

That repeal of archaic and irrelevant laws or statutes is important in averting chaos arising from the enforcement of these laws. Such laws as the Vagrancy Act (Cap 58) which appears to have ceased to have local relevance must be repealed. Section 82, 90 and 91 of the Constitution of Kenya need to be examined with a view to repeal or amend as they are gender insensitive.

The review of the laws is a continuous process and there is a statutory body, namely, The Kenya Law Reform Commission, which is charged with review of all laws from time to time. Moreover, it is the intention of Government that a comprehensive review of the constitution which will no doubt touch on sections 82, 90 and 91 of the constitution, will be undertaken upon the enactment of the Constitution of Kenya Review Commission Bill.

12.5 Use of Force By Police

That the excessive use of force by the Police be stopped and the relevant Force Standing Orders be stringently enforced.

The prohibition of torture, inhuman or degrading punishment and other forms of mistreatment is enshrined in the Bill of Rights in the Constitution. The same is further contained in the Criminal Procedure Code, the Police Act and Chapter 49 of the Force Standing Orders which deal with care and custody of persons in Police custody. In all these documents, torture and all unfair methods of extracting information from witnesses and suspects are clearly outlawed. Instructions to all Provincial Commanders and their juniors have been given and any violations will result in disciplinary action or prosecution.

12.6 Nepotism and Tribalism

That the societal vices of nepotism and tribalism should be stopped and attempts at economic and political marginalization of some communities curbed.

The Government is committed to discouraging tribalism and nepotism and to promoting national unity. Hence the Government initiated policies and programmes such as posting of civil servants throughout the republic; quota system on recruitment in education and other sectors; district focus for rural development strategy; and social dimensions of development programme.

However, eradication of these social evils require change of attitudes by all Kenyans. Everyone is therefore called upon to respond effectively to this challenge of creating and sustaining a stable society. Special focus should be placed on the youth for achieving social harmony in the country. In this regard, the media have a special role to play in publicising the fight against these societal vices.

12.7 Political Assassinations

That cases of political assassinations do really disrupt the peace and strict action should be taken against the perpetrators of such crimes.

The Government does not condone political assassinations or other related crimes. In this regard, the Government will always deal firmly with such crimes by investigating and bringing the culprits to justice.

12.8 Security Committees

That the Locational, Divisional, District and Kenya Security Committees must be revised and reinforced in order to ensure that security problems are addressed promptly. The Kenya Security Committee should be the sole body to advise the country on security and not to have security responsibility placed on anyone single individual.

Security Committees and other administrative arrangements by the Government are vital instruments which advise the Government on various security aspects. The Government is reviewing its security machinery with a view to strengthening it to meet modern day security challenges.

12.9 Incentives for Hardship Areas

That the security personnel serving in 'hardship' areas should be provided with additional incentives such as allowances and special insurance cover to enable them keep up with the austere situation in those areas.

The Committee appointed to look into the terms and conditions of service of the Police Forces, Prisons Service and the National Youth Service made recommendations on incentives for officers working in hardship areas, among other recommendations. These recommendations are also contained in the sessional paper referred to in the section on the *Structure of the Civil Service*.

