

REMARKS BY MR. CHARLES NYACHAE, CHAIRPERSON OF THE
COMMISSION FOR THE IMPLEMENTATION OF THE CONSTITUTION
AT THE COLLEGE OF EDUCATION AND EXTERNAL, UNIVERSITY
OF NAIROBI DURING THE LAUNCH OF THE RAPID RESULTS
INITIATIVE ON

“THE ROLE OF THE UNIVERSITY IN THE IMPLEMENTATION OF THE
CONSTITUTION”

{ Speech read by Prof. Enos Njeru, Principal, College of Humanities and
social science }

Venue: LTB LECTURE HALL, LIBRARY HILL COMPLEX,
COLLEGE FO EDUCATION AND EXTERNAL STUDIES

DATE: AUGUST 20, 2013 AT 2.00 PM.

Distinguished Guests, Ladies and Gentlemen, It is a great honour for me to be at this launch of the rapid results initiative (RRI) on the role of the University of Nairobi in the implementation of the Constitution of Kenya 2010. It is indeed a commendable program that is key to the

implementation of the Constitution. It is noteworthy that the University of Nairobi has had a distinguished record in so many areas including research and professional excellence. It is also a fact that many great Kenyan leaders studied at the University of Nairobi and this should be your motivation to continue striving for excellence.

This rapid results initiative is therefore another stride towards excellence by the university despite the emergence of many other universities in recent years.

I also wish to take this opportunity to inform staff and students in the College of Education and External Studies and the people of Kenya in general including visitors assembled here, on the status of implementation of the Constitution of Kenya, 2010.

As you are aware, the Commission for the Implementation of the Constitution (CIC) is mandated to monitor, facilitate and oversee the development of legislation and administrative procedures required to implement the Constitution. CIC is also required to report on progress in the implementation, including any impediments. Indeed Section 15(2) (d) of the Sixth Schedule of the Constitution requires CIC to monitor the implementation of the devolved government effectively.

It is against this background that I wish to inform the people of Kenya through this College on the progress and commend the efforts of those who have been keen on ensuring that the Constitution of Kenya, 2010 is fully implemented.

I am happy to report that, in so far as legislation is concerned, we are on track and the legislation contemplated in the fifth schedule of the Constitution has been enacted within the required timeframes. It is also important to note that the institutions including commissions contemplated by the Constitution have been set up and operationalised; the latest being the National Land Commission. This development is key as it will ensure that these institutions are able to fully carry out their mandates. In terms of devolution, CIC has been working closely with various organs in its monitoring role to ensure that devolution is done effectively.

While strides have been made in the implementation, this has not been without challenges. CIC continues to address these challenges which include; the disregard of the constitutional implementation process and the mandate of CIC. A number of crucial bills were enacted without adherence to the laid down process yet have a bearing on the implementation of the Constitution. In some instances, bills were not subjected to public participation or were submitted late to CIC. We therefore urge you as Kenyans to be vigilant and vocal on issues that are set to undermine the full implementation of the constitution.

We at CIC are committed to exercising our functional independence as guaranteed in article 249 (2) as well as our constitutional mandate.

As a public institution, it is important to understand your role in the implementation of the Constitution of Kenya, 2010. As you are aware, there are many constitutional provisions that touch on education. Though not specific to universities in particular, these provisions apply to the education sector as a whole, of which you are part and parcel. The

role of education and training in the overall development of a country's social, economic and political spheres cannot be overemphasized.

The Constitution of Kenya 2010 recognizes education as a basic human right and offers a solid foundation for the state's commitment to education, and for extensive reforms in policy, legislation, and curriculum aspects of the education sector. You as members of the College should bear this in mind.

The Constitution also identifies the State as the primary custodian of human rights and welfare, including education and training. In particular, the Constitution outlines the following on the rights of individuals and obligations of the State in as far as the education sector is concerned.

- (1) Article 11 on culture recognizes the role of science and indigenous technologies in the development of the nation. It therefore touches on your various specializations as College members.
- (2) Article 33 specifies that every person has the right to freedom of expression, which includes:-
 - (a) freedom to seek, receive or impart information or ideas;
 - (b) freedom of artistic creativity; and
 - (c) academic freedom and freedom of scientific research.
- (3) Article 43 (1) (f) recognizes education as a basic socio-economic right for every person.

- (4) Article 53 provides for free and compulsory basic education as a human right to every Kenyan child.

5. Article 54 (1)(b) provides for the rights of persons with disabilities to access educational institutions and facilities integrated into society to the extent compatible with the interests of the person.

6. Similarly, Article 7(3) (b) of the Constitution requires the state to promote the use of Kenyan sign language, Braille or other communication formats and technologies accessible to persons with disabilities.

7. Article 55(a) requires the State to take measures, including affirmative action programmes, to ensure that the youth access relevant education and training.

8. Article 56(b) requires the state to put in place affirmative action programmes designed to ensure that minorities and marginalized groups are provided with special opportunities in educational and economic fields.

As you are aware, these constitutional provisions have to be read in the right context and it is for your College to identify the relevant provisions and work towards the realization of those rights.

As a public institution, it is expected that you will play a key role in the education reforms. In order to effectively carry out your role, it is important that everyone in the College understands his/her role clearly when it comes to the implementation of the Constitution and this can only be successfully done through a thorough sensitization which in your case, is through this rapid results initiative.

The rapid results initiative is indeed an ambitious but achievable task as the success of the initiative will mean the 63, 000 students, over 5000 academic and non-teaching staff and the 146,000 alumni will have been sensitized on the role of the university as an institution in the implementation of the Constitution and on their specific roles. The Commission for the Implementation of the Constitution will be keen to monitor the initiative as a model example that could be rolled out to other academic institutions. I am happy that the College of Education and External Studies is part of the process.

It also the expectation of CIC that the roles of the different actors in the universities as spelt out in the universities act, 2012 will be clearly understood and undertaken.

Ladies and gentlemen, I believe that the rapid results initiative aimed at sensitizing you on the constitution is the first to be rolled out in the universities in Kenya and it is an important starting point. As a College, it is almost impossible to successfully implement the constitution without understanding its provisions and the different roles assigned to the different institutions. It is only after understanding the Constitution in its entirety that one can be able to meaningfully implement the roles specified in the Constitution and in legislation.

The rapid results initiative and the Public Service Integrity programme are just but two avenues in which the College can contribute towards the implementation of the constitution.

There are other avenues through which the university as a whole, including this College can ensure the effective implementation of the Constitution of Kenya, 2010; such avenues include:

1. The university's participation in the review of bills: departments should endeavour to provide insight and recommendation in the development of relevant legislation, policies and administrative procedures.
2. As a College that carries out research, there is nothing that stops you from working with other relevant institutions especially on matters relating to research. This means that you should strive to partner with not only other public institutions but also the private sector which can give scholarships to students from needy backgrounds thus creating more opportunities for higher education to be realized.
3. The College must endeavour to align all the existing academic and administrative programmes to the Constitution and in the development of policies and systems, as well as adhere to the letter and spirit of the Constitution.

4. The College as part of a public institution is also expected to uphold the principles, values and standards set out by the Constitution.
5. Article 232 of the Constitution on values and principles of the public service is one of the very relevant articles for you.

You are expected when discharging your functions to follow the principles as laid out in Article 232 including;

- a) High standards of professional ethics;
- b) Efficient, effective and economic use of resources;
- c) Responsive, prompt, effective, impartial and equitable provision of services;
- d) Accountability for administrative acts;
- e) Transparency and provision to the public of timely, accurate information.

Many institutions have since the promulgation of the Constitution made efforts to ensure that when employing new members of the staff, the principle of not more than two-thirds of employees should be of the same gender is adhered to. It is my hope that this is the case in the College of Architecture and Engineering.

It is also expected that as contemplated in the same article;

- a) Fair competition and merit shall be the basis of appointments and promotions;
- b) There is representation of Kenya's diverse communities within the universities faculties; and
- c) Adequate and equal opportunities are afforded for appointment, training and advancement, at all levels of the public service (in this

case, CEES, of men and women; members of all ethnic groups; and persons with disabilities.

6. To the students, with your level of knowledge and language endowment skills, you will play a key role in ensuring the Constitution implementation process remains on course and attracts enough public participation.
7. If you are keen on fully understanding and appreciating the Constitution, you then should have the responsibility as a Kenyan citizen of disseminating the information to other Kenyans in your counties since you will be better placed to then inform and educate them.
8. With many upcoming universities and university colleges, the University of Nairobi and in particular College of Education and External Studies (CEES) has an opportunity to be the model institution in terms of ensuring that all members of your College, including students, fully understand the Constitution, and their roles in the implementation of the Constitution. They should be committed to promoting and adhering to the letter and spirit of the constitution.

A point of concern we must acknowledge is the challenge of ethnic divisions in the College. You must therefore embrace constitutionalism and patriotism if you will continue leading by way example.

As I conclude, I would like you to keep in mind the following critical questions:

1. What measures have been put in place by the College to prepare students to be leaders with integrity as envisioned in Chapter Six??
2. Does the College promote constitutionalism amongst its students and especially integrating the national values and principles of governance (article 10) and the values and principles of the public service (article 232) such as good governance, social justice, human rights, integrity, transparency and accountability in its programmes and activities?
3. How relevant are your the curricula, teaching styles and technologies, especially in your College which hosts science and engineering related fields?
4. Are the curricula, teaching styles and technologies adequately preparing our youth to effectively compete in the dynamic global markets?
5. How have you scored as a university in your efforts to adequately integrate persons with disabilities either as lecturers, students or employees of the university and in providing access to all the facilities?

Ladies and gentlemen it only when we all discharge our constitutional mandates that we can confidently say that the Constitution of Kenya 2010 is being fully implemented. However, despite the challenges faced in the constitution implementation process, we must stay true and steadfast to our Constitution and secure it for future generations.

Thank you.