

**TRAINING ON ELECTORAL SYSTEM
AND ELECTORAL BOUNDARIES
DELIMITATION FOR SOMALIA.**

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NAIROBI,

Ahmed Issack Hassan, CBS

(Former chairperson, IEBC Kenya)

LEGAL AND INSTITUTIONAL FRAMEWORK FOR BOUNDARY DELIMITATION

INTRODUCTION

Delimitation literally means the act or process of fixing limits or boundaries of territorial constituencies in a country or a province. Delineation and redistricting is also used to mean the same thing as delimitation. Redistricting is the process of drawing electoral district boundaries in the USA.

Delimitation of electoral boundaries therefore can be described as the way in which countries adjust their electoral areas to determine the voters who will elect their representatives.

In Africa, the politics of boundary delimitation can be said to have started with the scramble for Africa in the mid-19th century leading to the 1884 Berlin Conference for the partition of Africa by the European countries of France, Britain, Belgium, Germany, Spain and Portugal.

The Berlin Conference commenced the partition and delimitation of the continent into assigned politico-geographical zones. This later gave way to colonization in which the different colonial powers determined how the people they colonized were to be represented.

After independence, different countries undertook boundary delimitation of electoral areas, in accordance with their newly adopted independence constitutions.

Some adopted the methods of their colonial masters, with modifications to correct the wrongs by the colonial masters. For example at independence Kenya had a parliament of not more than 130 constituencies.

This number thereafter revised from time to time until 2007, when the country had 210 Members of Parliament elected from 210 constituencies.

LEGAL AND INSTITUTIONAL FRAMEWORK

The legal framework for boundary delimitation varies from country to country. Traditionally, parliaments have been responsible for drawing their own electoral districts like in the USA. However abuses of the process by parliaments or parties in power, who were seen to be pursuing partisan and self-interest resulting in gerrymandering and disproportionate electoral districts, resulted in some jurisdictions adopting a legal framework that was impartial and responsive.



There are guiding principles in settling on the legal framework for boundary delimitation for electoral areas that are universally accepted. They include the following:

- a) Representativeness – Voters should have an opportunity to elect those they feel truly represent them.
- b) Equality of Vote – Electoral boundaries should be drawn so that there is equality in the vote and those elected should represent equal number of people. This will ensure that all the voters should be able to cast a vote of equal strength.
- c) Non-discrimination of and respect for the right of minorities and marginalized groups.
- d) Public participation and transparency in the way the process is undertaken. The public is given an opportunity to give their views.

The independence of the Authority or person responsible for boundary delimitation is by the constitution or by a special law enacted by parliament. Majority of countries now give this mandate to an Independent Boundaries Commission or to the Electoral Commission. In some countries the legislature serves as the boundary authority while in some few, government agencies are charged with the task of delimitation of boundaries.

- ▶ The composition of a boundary commission can be persons recruited through a merit based process or nominated by political parties or other interest groups.
- ▶ The system of governance in a country will determine whether the boundary commission is centralized or decentralized. In federal countries, the boundaries commission may be limited to delimiting electoral boundaries for the federal level while the state level is left to a decentralized commission or one appointed by the states to deal with the electoral boundaries of state level elections.
- ▶ The legal framework will also provide for the authority of the Boundary Commission. Whether its report is final or is subject to parliamentary or executive oversight. In most cases, the decision of the Boundary commission is final with limited right of appeal to courts.

- ▶ The periodic review of the delimitation exercise is usually provided in the legal framework and can be every election cycle or population census.
- ▶ Public participation is provided for in the law and the procedure is given on how the public can have their input into the delimitation process.

The criteria to be applied in the delimitation process is often set in the legal framework. Some of these are:

- a) Recognition of administrative boundaries.
- b) Natural boundaries or features such as rivers, lakes, mountains, islands, etc
- c) Respect for community of interest such as shared racial or ethnic background, common history or culture, common religion or language and shared socio-economic ties such as transportation and communication networks; and
- d) Dense or sparsely populated areas.

- ▶ Finally the role of the courts in the boundary delimitation exercise is sometimes explicitly set out in the legal framework either in barring the courts totally or allowing a limited role in judicial review of any decision that can be shown to have been made either without jurisdiction or in excess of such authority.
- ▶ Following the successful conclusion of a boundary delimitation exercise, voting areas may need to be redrawn to take account of changes to the electoral boundaries.

CONCLUSION

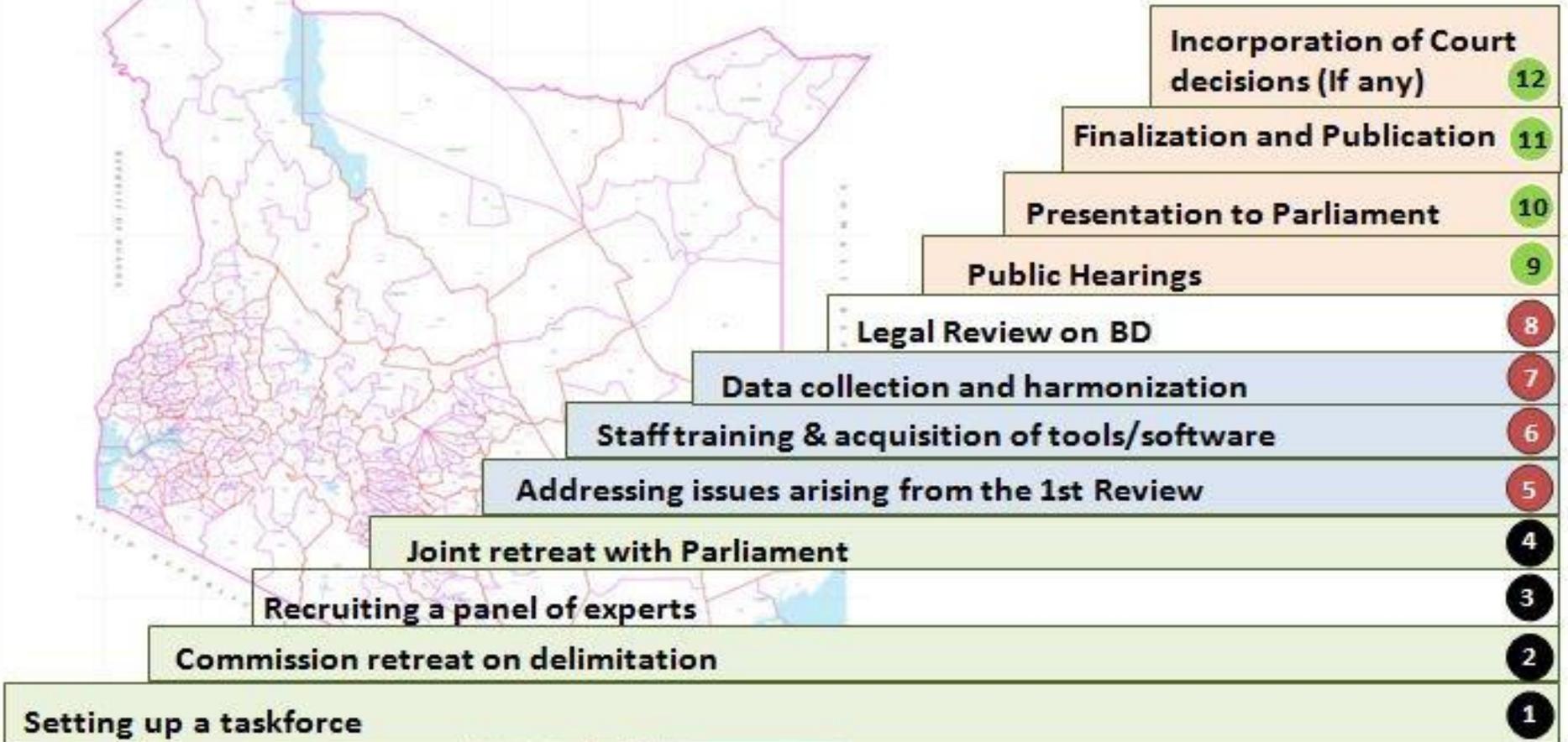
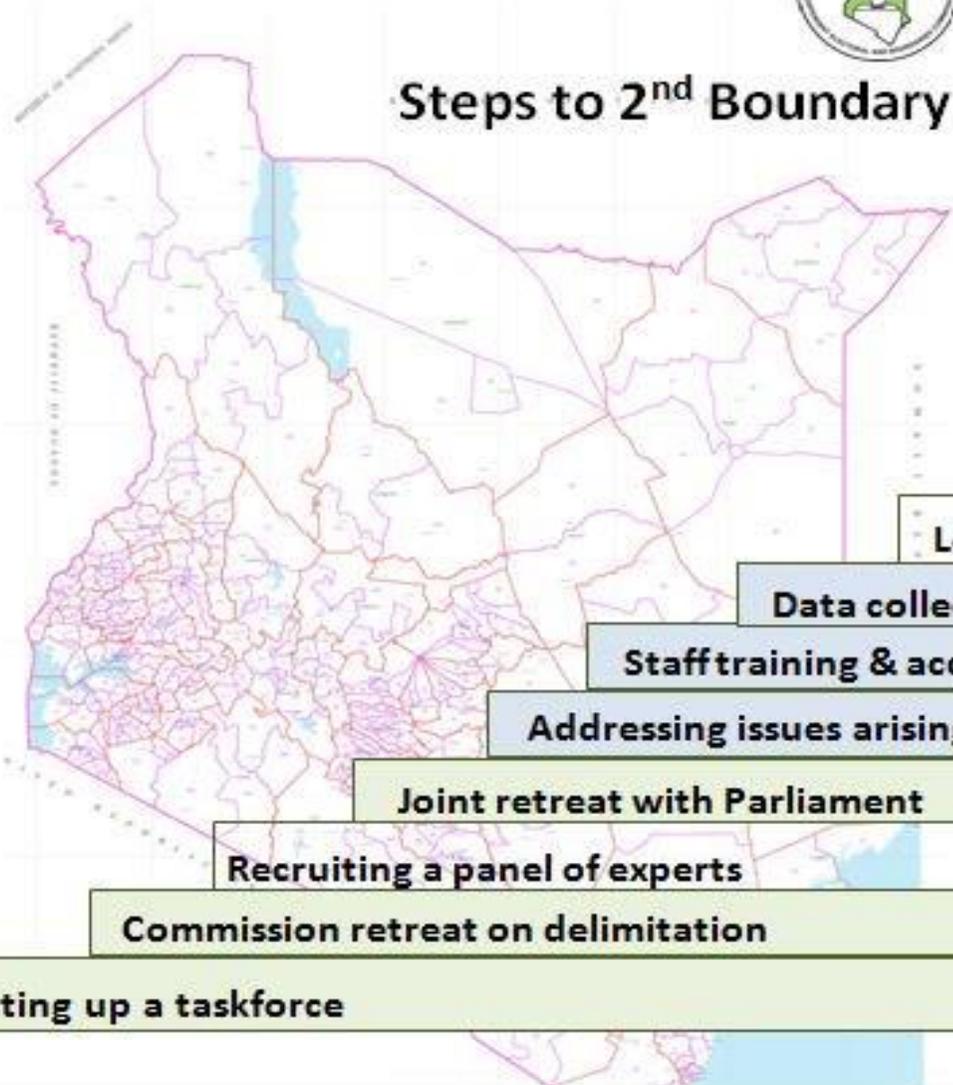
Chapter 10 of the Provisional Constitution of Somalia establishes Independent Commissions. Article 111E establishes the boundaries and Federation Commission with the mandate of recommending to the Federal parliament the demarcation of boundaries of federal member states. The criteria in delimiting the boundaries of the states is set out in 111E (3). The final authority lies with the federal parliament.

The National Independent Electoral Commission (NIEC) is established under article 111G of the Provisional Constitution with one of its functions being, “the delimitation of constituencies and wards.” This further restated in Article 14 of the NIEC law of February 2015 (adds “polling centres”).

There is therefore the legal and institutional framework for boundary delimitation in Somalia. There is some criteria listed and final authority is given to the Federal parliament. The BFC and NIEC appear to be given roles that appear overlapping, if not contradictory, in respect of the boundary delimitation. There is clearly a need to clarify the roles, remove ambiguities and promulgate more detailed legal provisions to govern the boundary delimitation exercise at both the federal, states and district level.



Steps to 2nd Boundary Delimitation- BD



THANK YOU