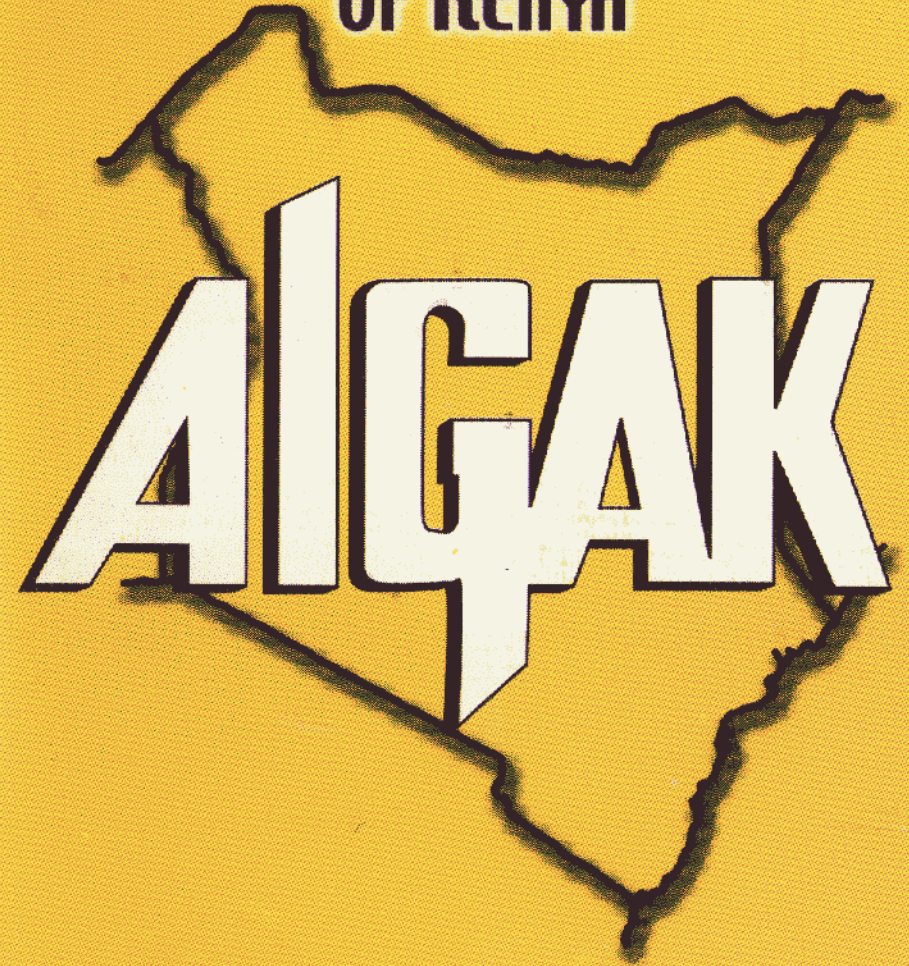


**ASSOCIATION OF
LOCAL GOVERNMENT AUTHORITIES
OF KENYA**



CONSTITUTION

Adopted in Malindi 2000



*Association of
Local Government Authorities of Kenya*

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This constitution was adopted at ALGAK's Annual
General Meeting, 15. December 2000, at Malindi.

It was registered by the Department of the Registrar-
General on the 12. September 2001.

Foreword by the Chairman of ALGAK

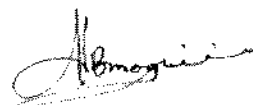
During ALGAK's Annual General Meeting, held in Eldoret in December 1999, concern was raised to the effect that ALGAK appeared to cater for the Municipalities and other Major urban centres at the expense of County and Town Councils. This came about because of a developed tradition of electing the Chairman and Vice Chairman from one category of Local Authorities. Members also observed that the Association is a highly centralized and that there was need for ALGAK to operate at the Provincial level so as to enhance its outreach to members.

The revised Constitution addresses the key issues of representation at various levels, i.e. City, Municipal, County and Town Council. The re-constituted Governing Council will be made up of 25 elected persons with representations from various categories. The revised Constitution provides for the increased representation of Women in the Governing Council and other ALGAK Committees. Each local authority category will get the chance of an elected official in the position of either Chairman, 1st Vice-Chairman or 2nd Vice Chairman.

The revised Constitution also contains a preamble that clearly defines ALGAK and its expected role and commitments towards creating an autonomous, sustainable and democratic local government system. The new Constitution creates membership at Associate and Life Membership levels.

It is my hope that members who deliberated and approved the contents of the revised Constitution at various stages, will now fully participate in the ALGAK activities in all the Committees and that the Association will be an all inclusive organization that adequately caters for its members.

Let me take the opportunity to thank all those who participated in the review process and in particular our Partner, Friedrich Ebert Stiftung (FES) who assisted in financing the related activities.



Clr Josiah K Magut
Chairman of ALGAK and mayor of Eldoret Municipal Council

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Article 1: Description of document

This Constitution is the Constitution of the Association of Local Government Authorities of Kenya, hereinafter referred to as ALGAK.

Article 2: Description of ALGAK

(1) ALGAK is a voluntary membership organization consisting of the following members:

- (a) Full members, who shall be drawn from all local authorities as legally recognized by the law;
- (b) Associate members, who shall comprise all those institutions, associations and organizations that are involved in local government theory and practice and are friendly to ALGAK;
- (c) Honorary members shall consist of individuals who have rendered distinguished service to ALGAK; and
- (d) Life members who are individuals who have served as honorary members for at least five years and are thereafter admitted as life members

(2) Provided that the decision to admit associate members, honorary members and life members shall be made by the Governing Council and ratified by the Annual General Meeting as hereinafter established under Article 4.

- (a) Any institution, association or organization desirous of being a member of ALGAK shall make a written application in which a detailed description of its vision, mission and objectives shall be spelt out.
- (b) This application shall be forwarded to the Operations,

Relationships and Public Affairs Committee as established under Article 4.

- (c) The Operations, Relationships and Public Affairs Committee shall scrutinize each application and make the necessary recommendations to the Governing Council on the suitability or otherwise of each applicant.
- (d) The Governing Council retains the discretion to admit or otherwise any application for membership.

Provided that this Sub-Article will not apply to any local authority wishing to join ALGAK whose membership will be automatic upon fulfilling any requirements laid down by the Governing Council.

(3) Except where otherwise expressly provided for, all members of ALGAK shall have equal rights, obligations and liabilities.

Article 3: Mandate of ALGAK

ALGAK shall undertake all peaceful activities leading to the establishment, functioning, sustenance and enhancement of autonomous, viable, sustainable and democratic local government system including but not limited to activities related to:

- (1) Promotion, enhancement, articulation and advocacy;
- (2) Defence;
- (3) Monitoring;
- (4) Lobbying; and
- (5) Mobilization.

Article 4: Organs of ALGAK

Subject to Article (5) hereof, the organs of ALGAK shall be

- (1) The Annual General Meeting;
- (2) The Governing Council;
- (3) The Committees namely: the Provincial Committee; the Finance Committee; the Local Development Committee; the Management Committee; the Operations, Relationships and Public Affairs Committee and the Personnel and Human Resources Committee; and
- (4) The Secretariat, which shall be headed by the Secretary-General.

Article 5:

Powers of the Governing Council to form other organs

Subject to ratification by the Annual General Meeting, nothing in the foregoing provisions shall prohibit the Governing Council from forming such organs of ALGAK as may be expedient for the achievement of the mandate of ALGAK.

Article 6:

Representation of member local authorities in ALGAK

- (1) The Mayor or Chairperson whatever the case, Town Clerk, the Treasurer and an elected Councillor, shall represent member local authorities at the Annual General Meeting or the Special General Meeting of ALGAK.
- (2) Each member local authority of ALGAK shall have only one vote at the Annual General Meeting or Special General Meeting of ALGAK.

- (3) Voting for those seeking election to the Governing Council and the Management Committee shall be by secret ballot whereas voting on all other matters at the Annual General Meeting or the Special General Meeting shall be by a show of hands unless a majority of members request that it be done by secret ballot.

- (4) New office bearers in the Governing Council of ALGAK shall assume office within 30 days of their election prior to which the incumbents shall continue holding office.

Article 7: Mandate of the Annual General Meeting

The Annual General Meeting shall:

- (1) Be the supreme organ of ALGAK and have powers to deliberate on all matters pertaining to ALGAK;
- (2) Adopt, repeal or amend the Constitution of ALGAK;
- (3) Ratify the names of officials elected to the Governing Council;
- (4) Recall members of the Governing Council where their performance is deemed unsatisfactory;
- (5) Receive and deliberate on reports from the members and organs of ALGAK as presented by the Governing Council including but not limited to the financial and audit reports, the Committee reports and the independent evaluation reports; and
- (6) Adopt or reject such resolutions as may be presented for ratification by the Governing Council.

Article 8:**Modalities of holding the Annual General Meeting**

- 1) The Annual General Meeting shall be held within 12 months of the previous Annual General Meeting.
- 2) The Annual General Meeting shall be convened by the Governing Council of ALGAK, which shall give a 21-day notice and disclose its agenda.
- 3) A Special General Meeting, in which shall be vested the same mandate as the Annual General Meeting, shall be convened by the Governing Council on its own motion or at the request in writing of one-third of the members of ALGAK after giving a 14-day notice and disclosing its agenda.
- 4) In the event that the Governing Council fails, refuses or neglects to convene an Annual General Meeting or a Special General Meeting as required, the Secretary-General shall convene them and where this fails, at least one-third of the ALGAK can convene an Annual General Meeting or Special General Meeting after fulfilling the same requirements on notice and disclosure of the agenda.

Article 9: Quorums at the Annual General Meeting

- (4) Subject to Sub-Article (2) of this Article and Article 22 (5) hereof no business shall be transacted at any Annual General Meeting or Special General Meeting unless there are present at least half of the members of ALGAK.
- (5) The adoption, repeal or amendment of the Constitution of ALGAK shall not be valid unless with the support of at least two-thirds of the members of ALGAK.

Article 10: Composition of the Governing Council

The Governing Council shall:

- (6) Consist of 25 persons, at least 8 of whom shall be women, elected by the members of ALGAK and at least one should be a Chief Officer of a member local authority;
- (7) Be elected in the following manner:
 - (a) Seven persons each, at least two of who shall be women, drawn from the following categories of local authorities, that is: municipal councils, county councils and town councils respectively; and
 - (b) One person each drawn from the city councils and one other person drawn from all the other classes of membership of ALGAK provided that one of these shall be a woman.
- (8) The Secretary-General shall be an *ex-officio* member of the Governing Council and will be charged with proper recording of the proceedings.

Article 11:**Election into the Governing Council, office-bearers, discipline and removal**

- 1) The election of members of the Governing Council and the Management Committee of ALGAK shall be conducted by the Secretariat every two years.
- 2) While discharging this function, the secretariat can appoint any impartial and reputable organization to conduct the elections.
- 3) Anyone seeking election as a member of the Governing Council of ALGAK shall:
 - (a) Be a Kenyan citizen;
 - (b) Be an official of a member of ALGAK;
 - (c) Have served as an elected official of the member local authority

of ALGAK or at least one term prior to seeking election into the Governing Council of ALGAK; and be sufficiently literate.

- 4) The Chair, First Vice-Chair, Second Vice-Chair and Honorary Treasurer shall be popularly elected through secret ballot by members at the Annual General Meeting from among the 25 persons elected to the Governing Council, provided that a Chief Officer of a member local authority shall hold the office of Honorary Treasurer.
- 5) The Chair shall be the ceremonial head of ALGAK and shall, *inter-alia*, undertake to articulate ALGAK policies and network locally and internationally advising the Secretariat accordingly.
- 6) The Chair shall serve for a maximum period of two terms.
- 7) (a) In cases where a member of the Governing Council is to be disciplined or dismissed, any 13 members of the Governing Council shall call a meeting to do so; giving a 14-day notice provided the petitioners represent the different categories of ALGAK membership.
 - (b) Any decision to discipline or dismiss a member of the Governing Council can only be reached by at least two-thirds of the members of the Governing Council.
 - (c) Any decision to discipline or dismiss a member of the Governing Council shall be ratified by the Annual General Meeting/Special General Meeting.

Article 12: Mandate of the Governing Council

The Governing Council shall perform the following functions:

- 1) Constitute Committees of ALGAK except the Management Committee, which shall be constituted as provided for by Article 15 (1) hereof;

- 2) Receive periodic reports from the Committees;
- 3) Meet on a half-yearly basis pursuant to a 14-day notice in which the agenda is disclosed save for cases where the chair may call an urgent meeting after giving a 7-day notice and disclosing the agenda for the meeting or where 4 members representing all categories of ALGAK membership under Article 2 I (a-d) call an urgent meeting in writing giving a 7-day's notice and disclosing the agenda;
- 4) Confirm any appointment or termination of members of the Secretariat by the Management Committee of ALGAK except the Secretary-General who shall be appointed, disciplined or removed directly by the Governing Council;
- 5) Appoint and recall members of the Committees of ALGAK;
- 6) Convene the Annual General Meeting or Special General Meeting of ALGAK;
- 7) Constitute *ad hoc* committees or create any other structure to facilitate the proper management of any issue that affects ALGAK;
- 8) Consider and recommend for approval of the annual ALGAK budget;
- 9) Appoint those members of the Governing Council who are not office bearers to chair each Committee save in the case of the Management Committee, which shall be constituted as provided for by Article 15 (1) hereof;
- 10) Recommend to the Annual General Meeting such disciplinary measures against defaulting members as necessary;

- 11) Make policy;
- 12) Admit members; and
- 13) Provide the agenda for the Annual General Meeting or Special General Meeting

**Article 13:
Quorum and facilitation of the Governing
Council meetings**

- (1) The quorum for every meeting of the Governing Council shall comprise at least 13 of its 25 members.
- (2) The Chair shall convene and facilitate the meetings of the Governing Council.
- (3) Where the Chair is unable the First Vice-Chair or Second Vice-Chair shall convene and facilitate the meetings of the Governing Council and where this is impossible, Honorary Treasurer shall do so.
- (4) In the case where the Chair, First Vice-Chair, Second Vice-Chair and Honorary Treasurer cannot convene and facilitate the meetings of the Governing Council, this shall be done by one of the members, who shall be elected to do so by the other members.

Article 14: The Committees

- (1) Subject to Articles 4 (1), 5, and 12 (6) hereof, the following, namely, the Provincial Committee, the Finance Committee, the Local Development Committee, the Management Committee, the Operations, Relationships and Public Affairs Committee and the Personnel and Human Resources Committee; shall be the Committees of ALGAK.
- (2) Each Committee can form sub-committees from among its

members.

- (a) Each Committee shall have a Chair who shall convene and facilitate all its meetings.
- (b) Where the Chair of a Committee is unable to discharge this role, the members of that Committee shall elect one among them to do so.
- (c) Meetings of all the Committees will be convened pursuant to a notice of 7 days in which the agenda will also have been detailed.

**Article 15:
Composition and Mandate of the Management
Committee**

- (1) The Management Committee shall be elected from among the members of the Governing Council.
- (2) The Management Committee shall consist of the Chair, First Vice-Chair, Second Vice-Chair and Honorary Treasurer.
- (3) The Management Committee shall supervise the running of the Secretariat including the appointment, discipline, welfare and removal of members of the Secretariat except the Secretary-General who shall be appointed, disciplined or removed as provided by Article 12(3).

**Article 16:
Composition and Mandate of the Provincial Committee**

- (1) The Provincial Committee shall consist of twenty-four members, three of whom shall be drawn from each province of Kenya to represent each category of local authority, namely the city

councils, the municipal councils, the county councils and the town councils respectively.

- (2) At least eight of the twenty-four members of the Provincial Committee shall be women, one of whom shall be drawn from each province of Kenya;
- (3) The mandate of the Provincial Committee shall be to ensure that ALGAK's vision and mission are consistently articulated and defended among the ALGAK's membership in each province by:
 - (a) Ensuring that the resolutions of ALGAK are communicated to each member;
 - (b) Explaining the vision and mission of ALGAK to each member local government where this is not clear;
 - (c) Closely monitoring the developments in each member local government to ensure that the vision and mission of ALGAK are not violated;
 - (d) Being a centre through which activities for the defence, promotion and enhancement of ALGAK's vision and mission can be undertaken and co-ordinated in the provinces; and
 - (e) Reporting half-yearly or as often as requested by the Governing Council on the development or otherwise of ALGAK's mission and vision in the provinces; and carrying out such other activities in the provinces related to the defence and promotion of the vision and mission of ALGAK as may be necessary.
- (4) The representatives on this Committee from each province shall elect a convenor from among themselves to facilitate their activities within the province; and
- (5) The representatives on this Committee from each province can co-opt a maximum of 5 other individuals to assist in the expeditious discharge of their duties.

Article 17:

Composition and Mandate of the Finance Committee; Local Development Committee; Operations, Relationships and Public Affairs Committee; and Personnel and Human Resources Committee

- 1) The Finance Committee; the Local Development Committee; the Operations, Relationships and Public Affairs Committee and the Personnel and Human Resources Committee shall consist of 5 members each, at least two of whom shall be women.
- 2) The Finance Committee shall oversee all financial matters related to ALGAK including but not limited to the preparation of the annual budget, the formulation and implementation of fundraising strategies, the establishment of proper financial systems and accounting procedures and auditing and shall be chaired by the Honorary Treasurer.
- 3) The Local Development Committee shall assist member local authorities in their planning and management of the development processes in their jurisdictions and also their provision of services.
- 4) The Operations, Relationships and Public Affairs Committee shall:
 - (a) Manage the constitutional and organizational development of ALGAK;
 - (b) Arbitrate in all disputes between the members of ALGAK; and
 - (c) Provide technical advice to the Governing Council on

ALGAK's relationship with central government and other partners.

5) The Personnel and Human Resources Committee shall:

- (a) Assist member local authorities to develop and implement standards for staff recruitment, training, deployment and motivation.
- (b) Assist in the training of councillors to enable them to better manage and sustain autonomous local authorities

Article 18:

Composition and Management of the Secretariat

(1) There shall be a Secretariat of ALGAK to be headed by the Secretary-General.

(2) The composition of the Secretariat of ALGAK shall reflect the ideal that ALGAK is an equal-opportunity employer.

(3) The Secretary-General of ALGAK shall:

- (a) Be a Kenyan citizen;
- (b) Be of high integrity;
- (c) Have at least five years experience in local authorities in a managerial capacity;
- (d) Share the vision and mission of ALGAK;
- (e) Have a proven track record for the defence and promotion of autonomous, viable and sustainable local authorities; and
- (f) Have a sound education background preferably a university degree or its equivalent from a recognized institution of

higher learning.

Article 19: Mandate of the Secretariat

The Secretariat of ALGAK shall:

- 1) Implement the recommendations of the Governing Council;
- 2) Conduct the elections of the Governing Council as provided for under Article 11 hereof at the expiry of the life of an incumbent Governing Council;
- 3) Assist the Committees in the realization of their mandates;
- 4) Develop and implement operational and strategic plans to fulfil the vision, mission, and mandate of ALGAK;
- 5) Network with national and international partners for the attainment of the vision, mission and mandate of ALGAK;
- 6) Identify and render services related to the vision, mission and mandate of ALGAK to member local authorities;
- 7) Undertake research into the issues that affect local authority;
- 8) Be a depository of information on local authority issues;
- 9) Raise funds and prepare the annual budget of ALGAK;
- 10) Prepare proper accounts, including a full audit report, of ALGAK for scrutiny by the Finance Committee and recommendation of the Governing Council; and
- 11) Cause the independent evaluation of the Secretariat of ALGAK and report on this to the Management Committee for transmission to the Governing Council.

Article 20:**General functions and requirements for Secretary-General**

- 1) Notwithstanding any provision of this Constitution that states otherwise, the Secretary-General shall be an ex-officio member of the Governing Council and an official member of all Committees of ALGAK.
- 2) The Secretary-General shall be the official spokesperson of ALGAK.
- 3) The Secretary-General can only serve for a maximum period of 2 five-year terms and is required to retire on the attainment of 60 years of age.

Article 21: Vacancies

- 1) Where the office of the Chair becomes vacant, the First Vice-Chair shall assume such office until the completion of the term.
- 2) Where the office of the First Vice-Chair, Second Vice-Chair or Honorary Treasurer becomes vacant, members of the Governing Council shall elect one among them to assume such office until the completion of the term.
- 3) Any vacancies arising in the Governing Council shall be filled at the subsequent Annual General Meeting/Special General Meeting unless their effect has been to such an extent as to deny quorum to the Governing Council in which case a Special General Meeting shall be convened.
- 4) Any vacancy in the office of the Secretary-General shall be filled within three (3) months.

Article 22: Finances

- 1) The financial year of ALGAK shall be from January to December.
- 2) The Secretary General, in consultation with the Finance Committee, shall prepare a budget which shall be presented to the Governing Council at its first meeting in a new financial year and in any event not more than three months from the commencement of the financial year.
- 3) The funds of ALGAK shall be expended only for purposes to achieve its vision, mission and objectives.
- 4) The Secretary-General or his or her delegate shall cause true accounts to be kept of the sums received and expended by ALGAK, the manner in which such receipts and expenditures take place, and of the assets and liabilities of the Association.
- 5) Within three months of the closing of every financial year, the Secretary-General shall lay before an auditor a statement of accounts for the past year and the auditor shall duly report his approval or otherwise of such accounts to the Governing Council.
- 6) A copy of the accounts for each year as certified by the auditor shall be forwarded to each member as an addendum to the agenda of every Annual General Meeting or Special General Meeting where such accounts are to be discussed.
- 7) ALGAK shall be free to accept gifts and donations in cash or kind from members and non-members and to raise funds by any other legal method.

Article 23: Subscriptions

- 1) All the member local authorities shall pay such annual subscriptions as may from time to time be determined by the Annual General Meeting on the advice of the Finance Committee of ALGAK.
- 2) Such subscription shall become payable on the first day of January and payable by March 31 in each year.
- 3) Any member who fails to meet subscription obligations for more than twelve months shall be excluded from taking part in the affairs of ALGAK.
- 4) Such a defaulting member shall be required to pay the full arrears plus a penalty of twenty per cent of the arrears due in order to be allowed to take part in the affairs of ALGAK.

Article 24: Withdrawal of membership

- 1) Any member of ALGAK may resign from membership by giving the Governing Council three months notice in writing of the member's intention to resign.
- 2) This notice to resign shall be deliberated upon by the Operations and Relationships Committee whose decision shall be communicated to the Governing Council within one month of the receipt of the notice.
- 3) The Governing Council shall consider the report from the Operations and Relationships Committee on the notice to resign in its deliberations and shall then communicate its decision to the resigning member local government within a maximum of three months subsequent to the receipt of the notice to resign.

- 4) Such resigning member shall be liable to pay its full membership subscription for the financial year in which it gives its notice to resign as well as outstanding arrears and the respective interest thereof, if any.
- 5) A member shall cease to be a member if, at an Annual General Meeting or Special General Meeting where such member has been given an opportunity to be heard, a resolution to the effect that it is undesirable for the member to be in that capacity is passed by a majority of two-thirds of total votes cast.
- 6) Any member upon cessation of its membership of ALGAK shall forfeit all rights to or claims upon ALGAK, its property and funds and ALGAK shall reserve the right to recover its dues or the member's share of responsibility towards liabilities incurred by ALGAK on behalf of members.

Article 25: Alteration of the Constitution

- 1) This Constitution may be added to, amended or repealed by resolution at an Annual General Meeting or Special General Meeting provided that three-quarters of the members present vote in favour of such alterations.
- 2) One months notice of the intention to propose any addition to or amendment or repeal of the Constitution shall be given to the Secretary-General who shall send notice of the same to every member of ALGAK at least 21 days before the meeting at which the proposal is to be considered.

Article 26: Dissolution

- 1) ALGAK may be dissolved at an Annual General Meeting or Special General Meeting in which three-quarters of the members agree to do so.
- 2) Subsequent to a resolution to dissolve ALGAK, the Governing Council shall realize its property and make arrangements with members for the discharge of ALGAK's liabilities and payment of compensation to employees on adequate terms
- 3) On the completion of such arrangements any fund balances may be transferred by the Governing Council to a recognized charity organization.
- 4) ALGAK shall then cease to exist.