

CONSTITUTION OF KENYA REVIEW COMMISSION

CKRC

VERBATIM REPORT OF

**CONSTITUENCY PUBLIC HEARINGS, KIGUMO CONSTITUENCY
AT KANGARE TRADING CENTRE**

ON

17th April 2002

**CONSTITUENCY PUBLIC HEARINGS – KIGUMO CONSTITUENCY,
AT KANGARE TRADING CENTRE ON 17th APRIL, 2002**

Present:

Dr. Charles Maranga - Commissioner
Ms. Nancy Baraza - “

Absent with apology:

Mr. Issac Lenaola - Commissioner

Secretariat Staff In Attendance:

Maimuma Mwidao - Program Officer
Charles Njenga - Asst. Program Officer
Vivian Muli - Verbatim Recorder
Eunice Kasisi - Sign Language Interpreter

Meeting was called to order at 9.00 a.m. with Com. Charles Maranga in the Chair.

District Coordinator, Mr. Eliud Kariuki: Okay let’s bow our heads for a word of prayer. Precious Lord we want to thank you this morning for the many gifts that you have accorded us in our lives and more so for the gifts of life this morning. We want to appreciate that it is by your power, that we are all assembled here and we want to trust that you are going to commence with us during our session here. Lord we pray that you may nourish us with your spirit, also we want to thank you for the Commissioners who have already arrived. We want to thank you for the committee which is here, and we also want to thank you for the members who are seated with us here. We pray Lord as we begin, that we want to go along with you and we seek your blessings this morning. More so we want to pray Oh Lord for those people who are yet to come and have prepared a

purpose to come here. We pray that Lord you be with them, you give them journey mercies as they travel or trek to this place, that Lord in this noble task of reviewing our Constitution, all that we propose to do will be for your own glory and for our prosperity as a nation. We want to thank you for the work of the Commission that is already done, and we want to thank you for their aspirations and the intentions of the same Commission, as they move on criss-crossing this nation, we pray that your blessings may be upon them, Oh Lord. In the final analysis we will come out with a document that will take us far, Oh Lord in the years to come. We want to beseech you Oh Lord that you bless us this morning and guide every step and every movement of this day and in this hall. When all these people come Oh Lord we pray, that we may all speak with one accord and at the end of it all, we shall surely say that Lord you have been with us and you have blessed us. Be with us Oh God, be with our Commissioners as they chair this meeting and guide us all through, for we pray this trusting and believing in the name of Jesus our Lord. Amen.

Com. Maranga: Thank you. I think I now want to declare this meeting a meeting of the Constitution of Kenya Review Commission, and this meeting is now constituted and so we will proceed. I will make a few announcements. First let me introduce my colleague Commissioner Nancy Baraza say hallo to the people.

Com. Baraza: Hamjambo wananchi.

Congregation: Hatujambo.

Com. Baraza: Hamjambo tena.

Congregation: Hatujambo.

Com. Baraza: Karibu sana mtupatie maoni yenu.

Com. Maranga: I also want to take this opportunity to introduce the District Coordinator who is here. I think the District Coordinator, can you introduce yourself. The District Coordinator, I want you to say hallo to the people.

District Coordinator, Mr. Eliud Kariuki: I would like to take this opportunity to welcome the Constitution Review Commissioners who are here. I think they have come through a lot of problems because of the rains and also the rough roads, but nevertheless they made it very early on time, and I would like thank them for that. I would also like to welcome those of you who have arrived, it has rained throughout the night and it was even raining this morning and even now it is raining, and that explains why there are few people, who have arrived but for those who have come, again I would like to thank you once again.

I would now like to introduce the Commissioners who are here with us

Com. Maranga: They have already been introduced.

District Coordinator, Mr. Eliud Kariuki: Okay they have been introduced but let me introduce my committee members. I will begin with the Chairman, Mr. Francis Mburu. Thank you, that is the Chairman. Then Reverend Ngumo, thank you. Then the Secretary Mrs. Beatrice Irungu, thank you. Then Mr. Henry Kamanga thank you. Those are the Committee Members who have arrived. The procedure we shall use for this hearing will be given to you by Commissioner Dr. Maranga. I now hand over back to him to continue with the procedure. Thank you.

Com. Maranga: Thank you very much Coordinator. Now I want introduce the staff from the National Secretariat and with us we have Maimuna, that is our Programme Officer, then we have Assistant Programme Officer Charles Njenga. Njenga, please wave to the people. Then we have Verbatim Recorder Vivian, then we have our Sign Interpreter Eunice Kasisi. That is our staff from the headquarters. So what I am going to announce now is the very brief procedure of what we are going to do today. Our business here today is to collect views from you people or the general public, we expect all members who are coming here to give views to register at that desk at the entrance. That is the list we are going to follow, so as you come in, you register and you indicate whether you want to give views or you just want to come and listen. If you are coming to listen, there is no problem, you register and say you have no views to give. But if you have views to give indicate that you are going to give views.

This is the way we are going to give our views. We are going to use English language, we are going to use Kiswahili, we are going to use your local language for those who cannot be able to express themselves in any of those in either English or Kiswahili. Then the other thing is that when you come to present here, we are going to give you five minutes if you have a memorandum you are presenting to us. But, if you do not have a memorandum we are going to give you ten minutes, to give a verbal presentation. When you come to present give your name in full and where you come from, so that it is recorded. Everything we are doing here is going to be recorded, so that is the simple procedure so may be can I see by show of hands who want to present views. Alright you go there and register then I will start giving you numbers, and after you have presented your views, there will be a place where you will register your name again. Where is the register? The register is right on this table, make sure you register and you sign. That's how we are going to proceed so that in future you will be able to see what you said before the Commission. Thank you very much. I give you five minutes to register then after that we will start the proceedings. Thank you.

Nafikiri sasa tuaanze kwa sababu ni vizuri vile vile kutumia lugha ya taifa. Sasa ningetaka kumuita wa kwanza kabisa Bwana Samuel Karanja Ngugi. Una dakika kumi za kutoa maoni yako. Una memorandum? Okay kama una memorandum tunakupa dakika tano. Lakini kwa sababu wewe ni mtu wa kwanza nitakupa kumi, lakini memorandum ni dakika tano. Asante. Samuel Ngugi Karanja; haya anza na majina yako.

Samuel Karanja Ngugi: I have got my own views or recommendations for the new constitution:-

- 1) The new constitution should see to it that the elections are free and fair.
- 2) All people should be issued with ID cards as soon as they attain the age of eighteen years.
- 3) (a) The President should be elected by all Kenyans and should attain more than 50% of all the votes in the country.
(b) He should not be a representative of any constituency.
(c) He should be between 35 and 60 years of age.
(d) He should be well-educated person not below form four standards and of good character.
(e) He should take office for two terms of five years each
- 4) The constitution should be written in the languages which all people understand including Wanjiku, Salim, Otieno and others.
- 5) (a) The Electoral Commission should be independent and should not be interfered with by anybody.
(b) There should not be more than three political parties in the country.
(c) The Parties should be given grants by the Government
(d) The Constitution should allow independent candidates during the elections if they so wish.
- 6) The Constitution should not have some people who have more freedom than others to say what they want. For example, “they should lay low like envelopes.” “ Wapende wasipende tutawatala,” “Tutawapiga kama panya,” na tena kusema, “ni wakati wetu wa kula,” such talks should be stopped completely.
- 7) The Constitution should provide:-
 - (a) Free education to all children upto form four and should be compulsory.
 - (b) Free medical treatment especially to the outpatients and also the Government should help the poor ones who are admitted and cannot afford to pay their bills.
- 8) Farmers should be helped to sell their harvest by the Government, both locally and outside the country.
- 9) The Attorney General should be appointed by Parliament, but not by the President.
- 10) The President should not be above the law, but should be well protected by the law.
- 11) There should be water in every house by the year 2020 if possible.
- 12) (a) Forests should be well protected and not curved to settle landless people, there are other places where people should be settled.
(b) Public land should not be given to private developers as this makes some people to be slaves of others.
- 13) The constituencies should have almost the same number of voters, but not having some Constituency with very many voters e.g. 50,000 while others have got just 10,000.
 - (a) The retirement age for Government workers should be changed from 55 years to 60 years.

(b) Their pensions should be reviewed together with the workers salaries every time, and if possible at least after every three years.

14) (a) The Constitution should provide the freedom of worship, but there should be commission to vet the mushrooming churches because of their spiritual dimensions.

(b) The mainstream churches should be given grants by the Government, because, the church members are taxpayers; Their contribution to the country is obvious. For example, if you talk about health, you have got some churches which have got hospitals like Kijabe, Mathari and Kikuyu hospitals. On the part of education we have got churches which have got schools such as Alliance, Mangu, the Salvation Army Thika for the blind and handicapped and very many others.

15) The Constitution should provide constituents with the right to vote out an MP or a Councillor if he/she abandons them after a time.

16) All citizens should have a right to live anywhere in Kenya and have a piece of land, building or property.

18) The Constitution should provide security to all citizens

19) The Constitution should provide the right of succession to both boys and un-married girls, that is both men and women who are brothers and sisters after their parents are dead have the right to inherit them.

20) The Constitution should lead the country to a creation of jobs for school leavers. Thank you

Com. Maranga: Thank you very much. Let me ask my colleague whether there is any point she wants you to clarify.

Com. Baraza: The one on you requiring that mainstream churches get grants from the Government. You did say that mainstream churches should be given grants from the Government. Wouldn't this comprise them? They have acted actually as checks and balances in our social order. You don't think if they now become part of the Government set-up, they will lose that very useful position they have occupied in our society?

Samuel Karanja Ngugi: I don't think there should be given full support, for example they don't have books, they should be given that support. That's what I meant.

Com. Maranga: Thank you very much. I think you should proceed and register and hand-in your memorandum. Now I want to call upon the next speaker Mr. Samuel Mwangi. Please start with your names so that we can record your names.

Hon. Onesmus Kihara Mwangi: Fast and foremost, let me say three things to those who had not come when I greeted people, and register my appreciation for your coming to Kigumo constituency, but Mr. Chairman I have got a complaint to

make against the Commission and that is, we have not been allowed enough time to have civic education, and when your Commissioner came here, Commissioner Salome Muigai, we made a request that we should be given at least three weeks so that we can have public meetings here and there, to enlighten people. When you look at this hall it is devastating, because the population of this area is very high. But the reason is that most of them do not know what we are talking about when we are talk about Constitutional Review.

I am wondering why there is this rush, I know there is a lot of crises within the Constitutional Review process. Some people don't want an extension others want extensions, but we know, and we are sure anybody with a straight mind should know, that a lot of time was wasted trying to merge the Ufungamano and the Parliamentary Committee, and that time should be paid back to the Commission, so that they can do a good job for this country. Because the Constitution is not being made only for a few days, it should actually not be made with the coming elections in mind. It should be made with a view of what is going to happen to this country for another 100 years that not withstanding Mr. Chairman, my full names are Honourable Onesmus Kihara Mwangi, Member of Parliament for Kigumo, and this are my recommendations for the new Constitution. I must beg Mr. Chairman to only give a verbal presentation, because I have not finished writing all what I want to include and I will submit my memorandum tomorrow, because you will still be in Kigumo tomorrow.

First and far most Mr. Chairman, may I thank you for affording this time. And then on the Commission, this question of the time limit, the time limit for the Commission to complete it's work should extended to December for the Commission month, not for the completion of the Constitution. But the work for the Commission should be extended to December so that there will be time for a Referendum, the National Constitutional Conference and it's enactment by Parliament. This will help the Commission to complete the Constitution by 31st March 2003, when Parliament will be dissolved. This does not amount to an extension of Parliament, because according to the current Constitution section 59, Parliament should be dissolved, unless sooner dissolved shall continue for five years from the day when the National Assembly first meets, after dissolution. That means the eighth Parliament, which is the current one, after dissolution held elections in December.

Speaker: Inhabited by Kenyans not by some Kenyans and others by full Kenyans. This rule or this clause in fact entrenches tribalism and therefore destroys national unity.

3) A sustainable method to banish the evil of tribalism from Kenya's politics in my view, is to accept the fact that tribes are a part of life in Kenya, and therefore there should be a second Chamber of Parliament, that is a Senate, or another upper house of Parliament, where all the tribes of this nations will be represented proportionally. The numerical strength of tribes should be determined by a national census which should be overseen by a Commission whose members are to be drawn from all political parties, thereby guaranteeing its independence, and therefore removing any suspicions of doctoring of numbers in favour or to the detriment of other tribes. Decisions in this assembly or the Senate should be passed by a 2/3 majority to ensure that the big tribes, such as the Kikuyu or the Luo and the like don't unite to the

detriment of the so-called minority tribes. Decisions in the lower house should be passed by a simple majority for general matters except for the amendment of the Constitution, where a 2/3 absolute majority rule should apply. This should also apply to the Senate or the upper house on matters concerning amendment of the Constitution.

- 4) The Constitution should provide a balance and a check on the powers of the President. A President should not be a Member of Parliament or a member of a political party. He should concern himself with ceremonial duties and act as a stabilizing force.
- 5) There should be an office of a Prime Minister, who should be the head of Government and a member of parliament. He should be responsible for the day to day running of the country.
- 6) Appointment of Judges of the high court, court of appeal, heads of state corporations, Ministers, Commissioners of the Electoral Commission, should be subject to the approval of both houses of Parliament so as to ensure that only people of good repute, trustworthy and capable are selected. After being proposed by the President or the Prime Minister an argument for an upper house of tribal representatives. Since independence Kenyans have been divided into big and small tribes and then into their individual tribes, each of these entities want to monopolize state power to their benefit and to the exclusion of all other members. This is a situation that is laden with danger and is a recipe for disaster. It led to the 1992, 1997 tribal clashes and maybe the 1982 attempted coup.

Our political parties also seem to have the same trait regardless of what they say. Uganda has tried the non party movement type of Government set-up to rid itself of the tribal phenomenon in their politics, but it still has problems because some tribes still feel left out and it seems that without Museveni Uganda would most likely degenerate into the chaotic state it was in prior to his coming to power. Therefore recognizing that Kenya is a union of different states will be a sustainable approach to our future, rather than hoping that somehow people will stop thinking of themselves as there are a particular tribe first, and Kenyans second.

- 7) The Prime Minister should be from the party with the majority of MPs in the lower house. Presidential and other elections should be separated by at least a space of three months, with the Presidential elections coming first, so that the President provides continuity of governance, and so that he can be there when the parliamentary elections are held to ask the winning head of a political party to form a Government.
- 8) Neither the President, nor the Prime Minister should have powers to prorogue Parliament, their powers should be limited to summoning them to convene in case of an emergency, and for the President to dissolve the same. They should be free to make time-tables of their operations.

- 9) The Prime Minister or the President should not commit or declare war on other nations, or declare a state of emergency in the country without due approval of both houses of parliament, that is they can be addressed jointly or and vote for the same jointly.
- 10) Presidential and Prime Ministerial terms should be limited to two terms in one's lifetime.
- 11) There should also be provision for a coalition Government, the number of nominated MPs and councillors should be shared proportionally to the number of elected members among different political parties.
- 12) There should also be a provision for a independent candidates and the President should not be above the law. There should be a clause in the Constitution such that he can be impeached.

Com. Maranga: Thank you. Com. Baraza, any clarification? Alright thank you very much and we are happy for that. Now the next speaker is Reverend Grace Kamau. Reverend Grace Kamua you have written I hope you will be able to summarize your written memorandum in five minutes because you have one. But you start by saying your names and please speak to the mike.

Reverend Grace Kamau: Thank you I am Pastor Grace Kamau I want to present a memorandum of views to the new Constitution of Kenya from ACC&S Pastors Kigumo Constituency.

Preamble – The new Constitution of Kenya should have a Preamble that should state the people of Kenya are sovereign. It should have objectives, vision and wishes of the people of Kenya. The current Constitution does not have the words ‘people’, ‘family’ and ‘God,’ therefore it should not ignore that the nation is dependent and accountable to God. It should have democratic principles that Kenyans should be committed to. State policy and principles, guiding principles the wealth of the country should be distributed because all the geographical regions of this country are entitled to equal development. All sexes are equal in dignity and rights, therefore children, young people and all vulnerable groups should be protected. Power and authority should be derived from the people of Kenya and they should be governed through their will and consent.

Citizenship – The automatic citizens of Kenya are, All people born in Kenya of parents who are both Kenyan citizens. All children born outside Kenya of parents who are both Kenyan citizens. All children born of one Kenyan regardless of the parent's gender. Spouses of Kenyan citizens regardless of gender must be entitled to automatic citizenship, even when they are still citizens of their own country. Dual citizenship should be given room in the new Constitution.

Structure and system of Government – Kenyans should have a ceremonial President who should be above party politics. He or she should be in office for more than two terms. The Vice President should be elected. The Constitution should create the

office of the Prime Minister, who should be in-charge of the daily running of government affairs. He or she should be elected. At least 50% of the levy collected by the local governments should be used by local government and the rest by the central government.

The Judiciary – The Constitution should establish a Constitutional Court. The judicial officers should be appointed through an established judicial service commission. The new Constitution must establish an independent prosecutor's office that is constitutionally protected to deal with wrong doers, who go scot free, either because they are well connected, or simply because they are politically correct. The Attorney General should be appointed by the Parliament. The Attorney General and the office of the director of public prosecutions should be separated.

Basic human rights – Human rights are inherited and God given and are not granted by the state or by law. The Constitution should protect the rights of minorities. Human rights education should be a right to every Kenyan. The female and male gender should be recognized as equal and complimentary by the state and the society. Mayors and Chairmen of county councils should be elected directly by the people.

The legislature – Parliament should appoint Ministers and Assistant Ministers. Ministers should be professionals and accountable. Parliament should appoint court judges through a parliamentary committee. Parliament should appoint public service commission officers. Parliament should have power to impeach the President in case of gross misconduct. Parliament should approve all expenditure. Public finances must be used for intended purposes and approved by Parliament. All corruption offenders should be made to pay back the money. The minimum age of the President should be fifty years, and maximum age should be seventy years. People who are not elected should not be nominated to Parliament. Nomination should be made from the disabled, women and the youth. The President should not have power to dissolve Parliament. The President must be of good morals, should be married, should declare his wealth at the time of election and from time to time. The law should emphasis that disability is not inability. Subjects that teach morals like social ethics and religious education should be compulsory.

Land and property – Kenyans should have a constitutional right to own land and property and settle in any part of this country. Family land ownership, the Title deed should bear the names of the two spouses and the land should never be sold without the consent of the family members. The Constitution should reclaim all public lands from grabbers. Use of natural resources: the Constitution should prohibit any further clearing of the remaining natural resources and a certain percentage of income from natural resources should be set aside for local communities. Water catchment areas should be protected. Thank you.

Com. Maranga: Thank you very much. Please remain there just incase Commissioner Baraza, has a question. She has no clarification. You said Parliament should appoint public service commissioners, is it to appoint or to vet? And also I want your clarification on what you said about Ministers.

Reverend Grace Kamau: Repeat your questions please.

Com. Maranga: We are asking for clarifications on what you said about Ministers and Assistant Ministers; and then you also said Parliament should appoint Public Service Commissioners or vet them?

Reverend Grace Kamau: Parliament should appoint Ministers and Assistant Ministers, and they should be professionals.

Com. Baraza: Will they be appointed from Parliament or from outside Parliament?

Reverend Grace Kamau: In Parliament.

Com. Baraza: They should be members of Parliament

Reverend Grace Kamau: They should be members of the parliament

Com. Baraza: Supposing Kenyans around the country have elected MPs who are not enterprising and do not have the expertise. How would you suggest they be selected if you are to pick them from the Parliament

Reverend Grace Kamau: I think they should be appointed by the executive

Com. Baraza: No, no, I don't want to confuse you, you had made your point quite clear; they must be competent. But, supposing all constituencies don't vote in professionals, where do we get these Ministers from?

Reverend Grace Kamau: I think where we are now in our country or lets say in the world, you know the country is changing like now we have a technology world and I would not expect us, at this point, for our country to elect members who are not educated.

Com. Baraza: What I am trying to say is, like in America, we have people who are educated but are not necessarily elected, they don't need to appoint them from within parliament. They don't need to be members of parliament. So they appoint professionals from out there who are competent. So lets not confuse you.

Reverend Grace Kamau: Yeah, it's okay.

Com. Maranga: Thank you very much, please record and give in your memorandum. The next presenter is Samuel Mwangi

Macharia. You have an oral presentation? Okay you have ten minutes. Thank you.

Samuel Mwangi Macharia: My names are Samuel Mwangi Macharia, am going to speak briefly. My first point is:-

- 1) Power above the law should be removed.
- 2) The Attorney General and Chief Justice, Chairmen of Parastatals should be selected by Parliament.
- 3) We should have a Coalition Government.
- 4) We should not have Majimbo, though it is very good, but leaders might have the conception that, one should remain in his/her birth's place.
- 5) Inheritance – (i) Women should be among the members to inherit goods of the husband together with the children, when the husband dies.
(ii) Women should not be inherited by the brothers of the dead husband.
- 6) Employees should have the right to give views without violence from the Government.
- 7) Employment should be given according to merit or level of education.
- 8) When we come to the budget, there should be a committee to see that the allocated money is spent on what it was allocated for.
- 9) Security in the country must be observed.
- 10) The Vice President should be elected by the Parliament. Thank you

Com. Maranga: Thank you Mr. Samuel Mwangi Macharia. Let me ask my fellow colleague whether there are any clarifications.

Com. Baraza: Yes, Mr. Macharia, you talked about inheritance in which you say women and children should both inherit the deceased husband. What about daughters and sons? What are your views, you have talked of mother and children, what are your views on daughters and sons?

Samuel Mwangi Macharia: The children should not be discriminated.

Com. Baraza: Okay, thanks.

Com. Maranga: I want to recognize the Member of Parliament for Kigumo maybe you can stand up they see that you are here. Maybe, say hallo, one word.

Hon. Onesmus Kihara Mwangi: Thank you Bwana Chairman, Commissioner Baraza na wote waliohudhuria; Ningetaka kuomba radhi kwa sababu nimechelewa kidogo lakini nitaongea zaidi wakati wangu wa kupeana maoni ukifika.

Com. Maranga: Thank you that's is honourable Mwangi who is Member of Parliament. Now the next presenter is, please, Mheshimiwa mobile phones interfere with our proceedings and I am requesting that mobile phones be put off please. Now the next presenter is Simon Wairagu Gachuhi, because the two Stephen Maina and Francis Mburu Mwangi said they are not presenting they are listening. Thank you.

May be now that there are more people here, you need to register yourself to be able to present to the Commission. The rules are very clear, as you come in, you indicate whether you want to give a memorandum in writing or which is written, or you want to give an oral presentation. And also before the Commission, you can present your views in any language you so desire, if you want to present yourself in a local language or in Kiswahili or in English then let us know in advance, if you want to present in a language the Commissioners cannot be able to understand. That means other than English and Kiswahili. Thank you. So can we have Gachuhi presenting?

Simon Wairangu Gachui: My names are Simon Wairagu Gachuhi from around this area. After thinking on how the Constitution should be written, I thought:-

- 1) Any recognized Bishop of a congregation in Kenya with over 10,000 followers should be given aid by the Kenya Government, either by giving the Bishop ten cars or ten lorries to help him run his dioceses. Even the Government can pay salaries to the catechists who teach religion to those people. Because the church help the Government a lot in moulding the peoples morals.
- 2) Our Constitution should include; factories should be owned by the Government, which will not be charging a lot of money when buying farm inputs from the factories. Therefore the Government should be part and parcel of helping the farmers buy cheaply.
- 3) The Government should have institutions where aged people and those children who are loitering about in the towns, will be given Makao Mazuri
- 4) All persons aged 18 and above should be given allowances by the government to help them live well even if they are not employed. They should be given a 1,000/= or 2,000/= or anything that the Government can find is appropriate.
- 5) We have got very many pieces of land which are lying idle, maybe the land is with me, and there is nothing that is growing there, it can be utilized by you, in society. Those pieces of land which are not utilized, or which are not developed should be given to society who can think on how they can be developed to help the nation as a whole, with the guidance of the Government. And those are my few points. Thank you.

Com. Maranga: Thank you very much Mr. Gachuhi. I want to ask my colleague if there is any clarification. Well if there is no clarification, I don't have any clarification for you, please proceed and register your name and next here I think there is a table. So thank you very much. Now the next presenter will be, okay there is Gabriel Maina, who said they have no presentation. Elizabeth Wanjiru, no presentation, then we have Alex K. Muriu, Alex K. Muriu please move forward and make your presentation. You have ten minutes. Thank you.

Alex Kamau Muriu: My presentation will be brief but to the point. First I want to comment on the current education system in Kenya. Education should be made free and compulsory to all Kenyans. That is, no child should be denied the right to education due to poverty, tribe or religion. The Kenyan institutions of higher learning to that extent we talk of Kenyan Universities, they should have their own Chancellors, and their own Vice Chancellors too. The Chancellors should not be appointed by the executive, they names should be forwarded to the executive and approved by the Parliament. That is the candidate should come from this Universities, the well-known scholars in our Kenyan Universities.

The other point about education is, bursaries should be awarded in a transparent manner. That is, we should have committee in each Constituency or District whereby well known stakeholders in the education sector, should point out the needy cases in the society. This will curtail cases of corruption and nepotism that is present in the education system.

The other one is the form of Government. I believe the best kind of Government that suits us is the proportional type of Government. That is people are represented according to their numbers, we want to have a situation whereby the majority rules and not the minority. There are regions with constituencies with around 50,000 people but they have one MP, others have 10,000 residents and they have equal votes in Parliament. In the Constitution we should have a clause that says, the President can be impeached anytime he does something that people feel he should be removed.

The other clause we should have in the Constitution is an MP can be removed before his time expires. If we feel that our MP has not been performing two years down the line after his election, we can be allowed to have a new MP who is going to perform, rather than have MP's coming back to us during the elections. Another point is we should have a Ministry for youth affairs within the Government, which will deal with unemployment and poverty. We understand that 65% of the population in Kenya is made up of youth. So unemployment and poverty afflicting the youth should be addressed effectively, and we feel in the current system we have been left out so much.

The other point is that we should have a clause saying a winning President should have on top of the 25% of each Province, he should have 50% of the total cast votes, that is of the registered voters, so that we can have the majority winning. Thank you.

Com. Maranga: Okay, please stay on. Any points of clarifications?

Com. Baraza: Did you say apart from the minimum at least 50% win, we retain the 25% by the five Provinces, what did you say about that?

Alex Kamau Muriu: We retain the 25% in each Province, but still on top of that we should have 50% of the cast votes.

Com. Maranga: Am asking you may be two questions or one. You said education should be free and compulsory to all Kenyans. What level are you thinking about? Upto what level? Primary level or you have a level in mind?

Alex Kamau Muriu: Primary education should compulsory and free. When you go to high school, it should be greatly subsidized such that it is not beyond the reach of the common man. When you go to the University, they are giving us loans, but when I go and graduate I have been given a loan of let's say 200,000/=, I graduate I become jobless, what will happen to me and yet the higher loans board wants this money back? I have not been given a job, they want the money. Why don't they just come up with something like, after I graduate am still given some loan maybe I start up some business somewhere. Because the Government cannot create jobs for all of us, so that I can be able to repay back their loan. Because if I graduate and I don't get a job, so I don't pay the loan.

Com. Maranga: Now the second question. Which method are you thinking of removing a sitting MP who is not performing?

Alex Kamau Murio: I have thought of a referendum, or rather we should have a clause within the two years of each elections, we create in all Constituencies an analysis. A mixture of analysis on the performance of the sitting MP, so that if all people feel that our MP has not been performing, then we can remove him.

Com. Baraza: Now you are scaring Mr. Mwangi here (laughter).

Com. Maranga: Thank you very much, proceed and register. Now the next speaker we have Bernard Kariuki Daniel, no presentation. Isaac Mwangi, no presentation. Reverend Grace Ng'ang'a. This is your time and although you have written, I will give you ten minutes to present. Please start with your names for the record.

Reverend Grace Ng'ang'a: I present my views on the new Constitution of Kenya from ICEP Kigumo Constituency.

Preamble – Supremacy of the people of Kenya should be emphasized in the Preamble. It should reflect the aims of Kenyans. It should place the people of Kenya above the Government organ. It should have objectives, visions and state the democratic principles that Kenyans should be committed to e.g. democracy, liberty, economic prosperity and equality.

Executive – The new constitution should define limits and distribute the powers of the Executive. It must limit the term of office to two terms of five years. Members of the cabinet should not be drawn from Parliament. Separation of powers – The cabinet should be answerable to parliament.

Com. Maranga: Excuse me. Please we are not getting you and we want you to repeat those points either the mike be adjusted so that you are able to speak into it nicely. I think there are some points you have made and we want get them.

Reverend Grace Ng'ang'a: Executive – The new constitution should define limit and distribute the powers of the Executive. It must limit the term of the office to two terms of five years. Members of the cabinet should not be drawn from Parliament that is separation of powers. The cabinet should be answerable to Parliament. Parliament must have power to impeach the President. The Head of the Government must attend the Parliament. The office of the Attorney General and Director of Public Prosecution should be separated and independent. Powers of the Parliament – Parliament must enact laws. Parliament should have the mandate to summon Ministers and other public servants. Parliament must have power to create and dissolve Ministries. Parliament must approve all Government expenditure. Parliament must determine its own calendar.

Judiciary – Appointment of the Chief Justice, Judges of appeal and any other judges should be approved by Parliament. All Judges should have security of tenure. The Judiciary should be independent from interference.

Rights of individuals – Human rights, there should be established, by the Constitution, an independent human rights Commission. The Constitution should provide for the basic rights safeguarding the rights of the people. All Kenyans should be provided with medical care. The Constitution should provide for free and compulsory primary education. Kenyans should have a right to civic education. Subjects that provide morals should be compulsory in schools e.g. Social Ethics and Religious Education. The new Constitution should outlaw capital punishment. The right of the disabled should be recognized and implemented by the state. Female and male gender should be recognized as equal. The new Constitution must make provisions for social, economic, cultural and development rights. All state organs should regard the promotion and protection of human rights as their primary responsibility. The Constitution should give effect to the rights of the children. Successful Government may promote affirmative action policy aimed at re-addressing inequality with regards to women.

Public wealth – The principles to be included in the new Constitution in management of public finances. Auditor General and controller should have the mandate to prosecute those who steal public finances. Controller and Auditor General to have security of tenure and be independent. All corrupt people should be banned from holding public offices. Public wealth must be approved by Parliament, and be used for intended purposes. Those involved in past corruption offences be prosecuted.

Natural resources - The new Constitution should ensure effective stewardship of natural resources e.g. on behalf of the public, successive Governments will be trustees and custodian of natural resources. All the grabbed and irregularly allocated public land should be recovered. The locals should be direct beneficiaries of the benefits of the resources found within their area and they should be given the chance to protect the resources through the establishment of a natural resources commission. Local authorities should be mandated to manage the resources within their areas of jurisdiction.

Local authorities – the principle of devolution of power must be declared by the new Constitution. 2/3 of the funds collected in a local authority should be used within the local authority. Mayors and Chairpersons of County Councils should be elected

directly by the people.

Independent, efficient and competitive civil services; the appointment should be on merit. An independent public service commission should be established. Civil servants should be non-partisan, they should be de-linked from the ruling party.

Citizenship – Those who should be regarded as Kenyan citizens are all people born in Kenya of parents who are Kenyan citizens. All children born outside Kenya of Kenyans parents regardless of parent's gender.

Land and property right – Kenyans should have a constitutional right to own land, property and settle in any part of the country.

The new Constitution should address the issue of the squatters. The Government should reclaim the big lands that are not properly used for economic development. Men and women should have equal access to land and property.

Political parties – the registration should be limited and should not be allowed to be based on tribal lines. The national outlook parties should be funded by the Government and recognized. Political parties should participate in educating the people, on issues such as poverty alleviation, civic education, development and revival of the Kenyan economy.

Elections and electoral procedures – The Constitution should provide free and fair elections. An independent and representative electoral commission should be established. Every Kenyan should be entitled to vote wherever he or she maybe.

For one to become head of the Government they must garner 50% of the total votes cast.

Freedom of worship – The new Constitution should protect the freedom of worship to God not to be abused by worshipping the devil. The worship should be only to the true God.

Constitutionalism – If the Constitution belongs to Kenyans and made by Kenyans, it should be in a language they can understand and it should become a part of the school curriculum, so that Kenyans grow with it. It should be translated in to local languages.

Com. Maranga: Thank you Reverend Grace Ng'ang'a. I am going to ask my colleague if there are any points of clarifications?

Com. Baraza: Just one question Reverend on the powers of the executive. I don't know which ones you had in mind that they should be removed from him? Because you said we need to limit the powers of the Executive. Which ones should be removed and where should we take them?

Reverend Grace Ng'ang'a: When the discussion was taking place it was that, those who are given Ministries should be

given that work to do without interference, and if there is any movement it should be limited, so that the finances should not be misused.

Com. Maranga: I have a few questions Reverend, one you said any grabbed land to be recovered or to be repossessed. Did you say that? Any grabbed land, did you say anything about resources or people who have taken things corruptly. Did you say we recover them or what did you say?

Reverend Grace Ng'ang'a: Yes, if there is any grabbed land, the new Constitution should take steps to see that the land is given back to its rightful owners.

Com. Maranga: Now there is another question. You said you may vote anywhere what does that mean? Does it mean that you should not for example, if take a vote in Kigumo Constituency, you need to say that you can vote anywhere else in the Country, not necessarily Kigumo. What does that mean?

Reverend Grace Ng'ang'a: Yes, I said that if somebody is in any part of Kenya during the election, they should be given the right to vote they are. Sometimes there is a lot of difficulties in this movements, and sometimes people do not cast votes because of those problems.

Com. Baraza: Like in Nairobi how everybody goes home for Christmas in December. Is that what you have in mind? General elections during December, Nairobi suffers because everybody goes home for Christmas and they are never to vote. Is that what you have in mind? That they can vote in Kakemega or they come back.

Reverend Grace Ng'ang'a: No, what we had in mind is that sometimes people maybe very far away from their own constituencies and sometimes, you find that, it seems as if they are not Kenyans. They are chased to their own places, so that is what we had in mind. Thank you

Com. Maranga: It seems like the people who are presenting are over now. So we wait for those people who are ready to come and present again because the list I have, we have Joseph Mwangi not presenting, Elijah Mwangi not presenting, Joseph Ruju is not presenting, Isaac Mwangi is not presenting, James Ngugi is not presenting, Daniel Kamau not presenting, Githinji Josephat is not presenting.

Hon. Onesmus Kihara Mwangi: Elections should fall anywhere in May next year or June or thereabout. The reason for that is that when the Parliament is dissolved in October, we normally have elections in December, which means there is that time, we require that time two, three months for preparations for elections. And therefore the election will come there without extending the life of Parliament.

Com. Baraza: We can go to June?

Hon. Onesmus Kihara Mwangi: You can go to June, because this Parliament is dissolved on 31st March. Then there would be time for preparation that will be April and May then we elect in June. And then that way we shall get a new Government under a new Constitution. That is the most interesting part of it.

Now the next one Mr. Chairman is on the bill of rights. There should be a bill of rights to define the extent and boundaries of Kenya, and the citizens of Kenya and also the aims and objectives of Kenyans within the borders of the country, irrespective of ethnicity, race, creed or office. Every Kenyan should be equal to the other before the law. On Parliament – First and foremost Mr. Chairman I would like to recommend that there should be thorough education to the Kenyan people on the role of parliament. Because as we have it today, the Government has abdicated its responsibility and placed it on the Member of Parliament. It is the Member of Parliament who should educate children, it's the Member of Parliament who should make roads, the Member of Parliament should build hospitals name it, anything concerning development. All development has been placed on the shoulders of the Member of Parliament. When the role of a Member of Parliament should be legislation and not implementation. The implementation is on the part of the Executive Government.

There should be a national assembly comprising of elected representatives of the people. Elected by the people on the basis of Constituencies which should be equal in terms of numbers of inhabitants to the extent, that no one constituency, should have more than 10% of inhabitants than any other. The Constituencies should have such boundaries and names as prescribed by the Electoral Commission. But Parliament should have power to review, to change, to alter, increase, or reduce such numbers and all boundaries.

Parliament should function in the following manner. It should have it's own calendar, to determine when it opens and closes, it should not be dissolved for any reason, rather than the normal holidays for members. It should be the only institution vested with legislative powers. It should determine it's own spending and should draw directly from the consolidated fund. It should have its own regulatory rules and form it's own committee. It should be managed by a Public Service Commission established under the Constitution by Parliament itself. All administrative functions of Parliament, printing, drafting, financing and hiring and firing should be done by Parliamentary Service Commission. This would ensure a democratic independent Parliament.

On the executive – the executive powers of the country should vest in the Presidency not on the President. There should be an elected President and Vice President, this powers should be limited and shared among other institutions of Government. The President should be elected directly by all Kenyans. The Presidential candidate to such an election should be nominated by a registered political party, which should also nominate a running mate for Vice President. For any Presidential candidate to be declared a winner, he should obtain at least 51% of the total votes cast. On the event of there not being an outright winner,

there should be a runoff between the two top contestants within 21 days thereof. The President and Vice President should not be members of Parliament. The President should be Commander in chief of the Armed Forces, but should not declare war or emergency without the approval of Parliament. All Presidential appointments must be approved by Parliament. The President should not authorize any Government expenditure without the approval of Parliament. The President should not have power to control the functions of Parliament. The President should serve for a maximum of two terms of five years each. Parliament should have power to impeach the President on proven misconduct or breach of any Constitutional provision provided that 65% all members of Parliament vote in favour of such impeachment. The President should address Parliament on important functions of Parliament.

The Vice President should deputize the President on the direction of the President and on the event of the demise resignation, or incapacitation of the President, the Vice should complete the term of the President. On the occasion of a vacancy in the Vice Presidents office, the President should appoint a person validly nominated by his party to fill the vacant position.

Prime Minister – I am recommending that there should be a Prime Minister, who is a Member of Parliament, and who should be appointed by the President. The Prime Minister should be leader of Government in Parliament. The Prime Minister should be appointed from the party having a majority in Parliament. The President should appoint Ministers in consultation with the Prime Minister in accordance with the Ministries approved by Parliament. That means, the Ministries to be filled by the Prime Minister, must first be approved by Parliament, to determine the numbers and what they are. The President should preside over all cabinet meetings and in his absence the Vice President. The Prime Minister and the Cabinet should be answerable to Parliament. Well what system of Government would be appropriate for Kenya? In my opinion, there should be a unitary system of Government in Kenya. That means, one solid Government, Central Government. There should be a Central Government headed by the President.

There should a strong Local Government system broken down into County Councils. The County Councils should be based on Counties which should be equal in terms of numbers of inhabitants, except the urban areas which could have higher populations.

The Chairmen to County Councils and the Mayors to urban councils for that matter should be the chief executives of those Local Authorities. And there should be no Provincial Administration whatsoever. The County Councils should comprise of elected Councillors who should make by-laws to govern the operations of the County. There should be departmental staff of the County Councils, cities and municipalities to help in the management of local authority.

There should never be a Majimbo structure of Government in Kenya. If there should be Majimbo at all, it should be total partition of the country for each Jimbo to be self-sufficient and boundaries of these Jimbos to be negotiated and defined. This would be to limit the desire and the will of some human beings who like tormenting others, and who would want to take advantage of the others. When they are not sufficient, if they happen to be in the Central Government and then there are Jimbos, then they use the Central Government to take resources from those Jimbos which are more efficient taking to the

others. That is why am saying, if there should any Majimbo whatsoever, then it should be total, that every Jimbo should be self sufficient economically, socially and politically. There should be no question of a Central Government and a Jimbo, it would be superfluous.

The Councillors should have minimum academic qualifications of form four. Because a lot of problems that we have with the local authority emanates from responsibility given to people who cannot make appropriate decision. Their interest is actually to enrich themselves, grab and steal and do all this things. That is why we should have an enlightened local authority. The Chairmen of the local authorities and the Mayors of cities and urban areas should be elected directly by the people.

The Judiciary – We have got a big problem currently with the judiciary of this country, emanating from the manner in which there are appointed. Because all judicial officers other than the Magistrates, the senior officials seem to be appointed by one party. They are appointed by the President, therefore their loyalty is not to the country, but to that person, and that is why they can afford to be corrupt. They can afford to be partisan, and therefore there is no justice whatsoever. Am recommending that all judicial officers should be appointed by a Judicial Service Commission, including Judges to the high court, to the court of appeal, to the Supreme Court and the rest. All the appointments should be subject to approval by Parliament, so that when the Judicial Commission recommends a Judge for appointment that recommendation should be taken to Parliament for approval.

There should be District Courts, High Courts, Court of Appeal and Supreme Courts and a Constitutional Court. The Supreme Court should be the highest Court of the land. So that disputes which have been determined by the lower courts and are not satisfactory, any party can find course to the high court.

On education – There should be universal, free and compulsory education for all Kenyan children. In this respect Mr. Chairman, a Kenyan child is anybody, any human being, according to the children's bill under the age of eighteen. Therefore when we say there should be universal free and compulsory education for all Kenyans, that is up to form four. The country cannot come and say it cannot afford, we can afford, we have afforded before, therefore I don't see why we cannot afford. It is only because our economy has been placed under the management of people who are corrupt, who don't care about the country, in fact who are more interested of taking the resources of the country, and deposit them outside, that is why we cannot afford it. But the new Constitution should recommend that we should have free and compulsory education, from nursery school to form four. Later, when the economy is stabilized then we can think about free University education. Entry into Secondary School or University should be by merit and not by ethnicity or geographical location like we have today. The quota system means it doesn't matter how well you have done, what matters is where you come from. If you come from Kigumo, and you had scored 600, you may not go to a national school, and a child maybe from Nyamira who has got 400 marks finds a way into a national school. So it should be on merit if you are talking about a Kenyan nation.

On the electoral system – There should be an Electoral Commission charged with the responsibility of organizing and

supervising Presidential, parliamentary and civic elections. There should be Constituencies, Kenya should be divided into Constituencies which are equal in terms of inhabitants, not in terms of Districts or Divisions or Locations like we have today. You have today, some Constituency which has got more than a hundred thousand registered voters, when others have got only seven thousand people. In fact our Minister for Agriculture was elected by less than three thousand people, and he is the Minister for Agriculture. When other people in Nairobi have been elected by more than a hundred thousand people. The Constituencies should be equal in terms of inhabitants, not in terms of the Districts, or the goats, or whatever you have there. The registration of voters should be continuous irrespective of whether one has got a Kipande, a Passport, a Birth certificate and what have you. It should only be a question of a proof that he has attained the age of eighteen, and from the age of eighteen, and he is a Kenyan, because if he has been going to school all this while, and we have said, rather registration in other laws that only Kenyan children can be in Kenyan Primary and Secondary Schools. And if he is known by the local chief, and if he has got a Birth certificate and the mother has got a Birth certificate and a Kipande and driving licence and a passport etc; that child after the attainment of the age of eighteen should be registered as a voter.

On the elections themselves, after the casting of votes, they should be counted at the polling station to avoid this question of transporting votes, others are stolen on the way, others are added on the way, so by the time you get to the counting hall, you find they will be more boxes for KANU than for DP.

So Mr. Chairman we that, I think I would like to end my verbal contribution now, because I have got other aspects which I have not put in place, which I would want to do and submit to you tomorrow, together with my written presentation. So thank you very much.

Com. Maranga: Thank you. Mheshimiwa remain in that place because we might seek points of clarifications and I want to give this chance to Commissioner Nancy Baraza.

Com. Baraza: Mheshimiwa, thank you very for your presentation, I would like your clarification on the elections and the electoral system. You do say that you want Constituencies drawn in accordance with population. That is there, and then the act, the Constitution of Kenya Review Act which you gave us to help us to facilitate this process that says that we have to look into the issue of marginalized people, of minorities it says that. And an observation as you made there has been the glamour of creating Constituencies in whichever manner to take into account that. I don't know if you have any alternative suggestion as to how we can deal with that issue of minorities and marginalized people in this country.

Hon. Onesmus Kihara Mwangi: I would first and foremost understand what you mean by minority, because in every area of this country whether, you would be talking about minorities on tribes, like the El Moro or the Dorobos. But they are living in an area where they are under people and we should not be talking about ethnicity when we are talking about elections or representation in Parliament. Because one is a member of the Luo community, what is wrong with him representing Luyhas?

What is wrong him representing the Kikuyus? You see like in Nairobi, we have Members of Parliament who are representing people across the board.

Com. Baraza: If I may just draw you back to the law, I don't think that is okay I don't know what you had in mind, I just want to post your mind on it.

Honourable Onesmus Kihara Mwangi: The law on the Constitution Review did not mandate you to determine the boundaries of the Constituencies, this are different. It is on your receiving views like you are doing today. You must take into account the minorities, you don't disregard them just because they are Dorobos or because they are disabled. That is what we were talking about, we were not talking the electoral boundaries. And in fact in my earlier presentation I had said no one Constituency should be more than 10% of the other. That would allow, if you went to a place like say one of the North Eastern areas, and you find the area is too large and the population is not that dense to allow for a constituency. Then you can consider that, but it should not be more than 10%, what I mean by that is there should be that minimum, because that will help to determine the number of members of Parliament. You don't have to have ten, let it be in the new Constitution, the current one allows for 210, but they don't have to be 210, they can be 300 or 400. Because it is going to serve this country for the better, what does it matter having 300 instead 200. So if the minimum is going to be 10,000 then in Kigumo here we have got 60,000 registered voters, so we should have at least 5 MPs, that is what it means. Thank you very much. And you remind me Commissioner, something I had forgotten, this is on section 27 of the review act. I remember we talked about it with you at Sabasaba, and I would like to talk about it now, that it is on the National Constitutional Conference, which will be towards of this end of this endeavor of creating a new Constitution, that the act provides that, there will be three representatives from every District. When Districts are just boundaries, some of them have no populations at all. You find a District with 50,000 people, you find another one with more than a million people. And you are saying that the delegates who are going to determine the Constitution of this country, should be three from one million and three from fifty thousand, and three from twenty thousand just because it is called a District. I have got a lot of misgivings with that. Thank you very much.

Com Maranga: Now let me first make a comment that you are complaining about, this is on civic education. I think as a Commission we have no problem we have not stopped our civic education. This will be addressed, we are going to collect views and civic education on the Constitutional report, civic education about the National Constitutional Conference, civic education for the National Referendum. So we have not stopped, but we need to start collecting views. You politicians are thethis, Kenyans are ready for us.

Honourable Onesmus Kihara Mwangi: No we are ready am saying Chairman am not one of them

Com Maranga: No it is alright. You have said and the other question is why do this in a rush? I am saying the members of the society who are actually trying to rush. The politicians are the ones who are trying to rush the review process, but we as the

Commission, the process has not ended and we hope to finish. Now my question is:- You have said that the President and the Vice President should not belong to a political party. How about a Presidential candidate who is supposed not to belong to any political party, that means an independent candidate? You did not commend about that, maybe what's your view on independent candidate?

Honourable Onesmus Kihara Mwangi: My opinion is that we should not necessarily have an independent Presidential candidate, they should come from any party.

Com. Maranga: Okay that is one point, another point is that you gave a minimum education for Councillors, and you forgot conveniently about your Parliamentary colleagues. What should be the minimum?

Honourable Onesmus Kihara Mwangi: Thank you for reminding me. The minimum requirement qualification for an MP should be University education

Com. Maranga: The last question I want to ask you, is about this unitary system of Government plus Provincial Administration. You said we abolish Provincial Administration, you know that Provincial Administration goes all the way to the Sub-location, whom do we put at the Sub-location level to manage the affairs.

Honourable Onesmus Kihara Mwangi: We have got the County Council. The County Council will be empowered. Chairman of the Council will be elected so that means there will be a procedure ...(inaudible)

Com. Maranga: Thank you Mheshimiwa. Thank you very much and I know we are going to interact with you tomorrow. So thank you very much, please register with us show that you have been able to present, and you will given a number; that's where you will see the verbatim report later on. Thank you very much.

Honourable Onesmus Kihara Mwangi: Am only wondering whether I will be entitled to present again?

Com. Maranga: It's okay we will decide when you come if there is any chance. You will give us points which you have not given us today. Thank you.

Honourable Onesmus Kihara Mwangi: Mr. Chairman I want to apply for my leave now. Because I want to rush back to Parliament, today is a full day at Parliament and I just stepped out.

Com. Maranga: Thank you very much for coming, leave granted. The next presenter is Anthony Marenye, Anthony Marenye you have a written memorandum and then you can present for five minutes if you have a written memorandum. Give

us the main points and you start by giving us your names.

Anthony Marenye Thuku: My name is Anthony Marenye and I have some views about the Constitution review.

First and foremost the President should not be above the law so that what he does he is liable and can he be sued in a free court of law. The Judiciary either the Judges and the Chief Justice and other judicial personnel should not be appointed by the President. This power should be granted to Parliament.

Voter registration should be continuous so as to register as many voters as possible. This will also pave way for a fair election free of rigging. Identity cards should be rendered to the Kenyan citizens who have birth certificate on the spot i.e. on the particular day, which the applicant applied for it, this will reduce corruption in the administration. Chiefs and Headmen should not waste the applicant's time when they go for signing.

The President should garner at least 52% of the total votes cast countrywide and have at least five provinces majority of cast votes.

Education should be free to every Kenyan citizen from primary, secondary and university and colleges. Health services should be free of charge. This would curtail the number of deaths, which occur if the nurses and doctors did not ask for the money prior of the service.

The traffic policemen should not be along the roads, because they facilitate corruption in one-way or another. They usually do not heed their motto and demand bribes; for example the vehicles being driven are in precarious conditions. They usually ask for bribes and let the vehicle go free. Chiefs and Headmen should be elected by the inhabitants of their locations.

The President should not be a Member of Parliament, so that development cannot be is not retarded in those areas where the opposition inhabit.

Youths should be given an allowance so as to earn a living. Basic rights should be rendered to the street children and this will curb crimes and idleness in the streets. Human rights should not be violated by anybody or the Government for whatever reason.

Devil worshippers should be prosecuted accordingly, and in my opinion they should be killed. Cigarettes and brews should not be advertised and in any case, they should be highly taxed and then banned to alleviate drug abuse and crimes, other drugs should also be banned e.g. Bhang and other additive drugs.

The Attorney General should be appointed by Parliament, the Auditor General should also follow suit. Television programs should favour children e.g. channel “O” and others like Bold and Beautiful should be removed in the local screens and radios. The President should not have supremacy in Parliament. The Speaker of the National Assembly should assume the power to prorogue and dissolve or open the house.

Separation of powers should be a thing to reckon with in the next Constitution i.e. the teachers union is under the Ministry of Education and there is no way that the Judiciary should temper with it, by dictating their salaries whatever circumstances. Double taxation should be terminated e.g. the owners of vehicles have to pay customs duty, then PSV and TLB among other burdensome taxes irrespective of their accountability in the Government. Anti-corruption firms and other Commissions should not suffer from abortor’s remittance infection and hence should be free from invaders. The Attorney General should have one tenure of office. Old people should be given free health services and support.

Com. Maranga: Thank you Mr. Marenye. Just sit am going to ask my colleague Nancy Baraza whether there are any issues to be clarified. None, I have none thank you very much. What you do, you register here and you will give us your memorandum. Thank you very much.

Simon Mitobio: The Constitution should guarantee security, health care, educational rights, gender equality, rights of farmers to determine the price of their crops in the market, right to protect their natural resources, good governance and the right of Kenyans have referendums in case of a national crisis.

On Constitutional supremacy Mr. Chairman, we should have the public involved in of electoral matters, security, Government appointments, the Executive, the Legislature, the Judiciary and also very importantly the Electoral Commission, should be conducting referendums when it comes to matters of national importance.

On national security, defence Mr. Chairman – the defence forces must be examined by the Constitution. Also there should be a Parliamentary Committee which must be disciplined by Parliament. The President should be the Commander-in-chief, but generals in the armed forces must be appointed with the approval of Parliament. Also Mr. Chairman, in time of war, the President should not have absolute authority of declaring war. If there is anything to go by, a referendum must be held in the country, with the consultation of Parliament. Also Parliament should have powers to invoke these powers.

On political parties, because I have this memorandum I will not dwell so much on them. But on the structures of the Government, we should adopt a Parliamentary system of Government, in which a Prime Minister is appointed from the party with a majority in Parliament. If the President will remain ceremonial, but if he is going to be an executive President, then even the Prime Minister should be elected by Kenyans directly.

On the other hand the authority between Prime Minister, if there is going to be any should be separated with that of the President. Also we should not retain a unitary system, therefore we should have separate Central Government and Local Authority powers. This one will in fact strengthen governance at the grassroots.

On the Legislative structure – the appointment to be vetted by Parliament are, which is very important Ministers. Even if they are appointed by the President they must be vetted by Parliament. The Chief of General Staff of the Armed Forces must also be vetted Parliament and his Commanders. Also the Police Commissioner should not be an appointee of the President. Commissioner of Prison, all Permanent Secretaries, all Parastatal Heads, Comptroller of State-house, which looks to be a very senior post, Auditor General, Ambassadors, Clerk to the National Assembly, Provincial Commissioners, Chiefs must be elected by the people. Because that is the grass-root of governance.

Also Chairman, Parliament should have unlimited powers to control its own procedures through standing orders. The age requirement of voting and contesting for the Presidency should be maximum of between 65 and 70 years and not more than that. The language test required for parliamentary contestants is sufficient, because not all Kenyans go to University, and does it not mean that if one does not go the University he cannot take other courses. Also Chairman, the people should have the right to recall their MP through a referendum conducted by the wananchi themselves, if he does not give services to its electorate. Also the MP should act on the basis of conscience and conviction on instructions from their constituents and the party, because he or she was elected by the manifesto of the particular party and the togetherness of the particular constituency. Also in the same paragraph we should retain nominations of MPs, particularly of people with disability.

I am proposing another chamber of parliament other than the lower house or the House of Representatives, and this one should be the upper house or Senate. Where the composition should be between five to eight senators from each province and the boundaries of those senators should not be drawn through administrative boundaries of the District, but must be drawn through the population distribution in that province. Also Chairman, Parliament should have power to remove the President and also he can be removed through a referendum or impeachment. Because I have this one I will leave the other points because you are going to go through it, but let me come to the Executive.

The Executive and the Prime Minister, if there is going to be any, must be a University graduate. The tenure of the President should be fixed by the Constitution to two terms of five years each. The functions of the President must be defined in the Constitution, because he is very important. I believe the President should be the Commander of the Armed Forces, and she or he should be the custodian of our Constitution. He should be the sample of unity in the country. The powers of the President must be limited in such a way that, he should not be executive authority of the Government.

Okay am just going through I will not be able to finish them, but let me come to the last one which in fact is the economic basic right, with your permission Chairman, because this is where all Kenyans life depends on. And this one Chairman is that – the

Constitution should guarantee the reserve price of all crops grown in Kenya, so that high quality and high production can be sustained. And especially coffee should have reserved price, tea should have reserved price, milk should have reserved price, cotton and sugarcane. Also importation of crops grown in Kenya should be prohibited by the Constitution, so that our people will not be in the kind of poverty they are in today. Also fertilizer should be tax free, because we want to raise our economy. Also farmers should be given mandate by the Constitution to be setting their prices. Brokers or middlemen should be prohibited by the Constitution.

Finally, in that economic basic right, I think no farmers money should be invested in the Government treasury bonds or any other business institutions, without considering the daily welfare of farmers, because I don't see why farmers money should be invested when children are not going to school, when children are going naked, and they are not having any food.

With those few remarks Chairman, I wish to conclude by highlighting the last one which is succession and transfer of power, which is very important. With this Chairman as our Constitution is today, and we are making our Constitution which will take us to the election in 2002. I am proposing to the new Constitution that the Chief Justice should hold power when we are going for elections, and in the meantime I am asking the Commissioner for the Chief Justice who will chair the power, when we go for elections, be elected by Parliament. Because the Chief Justice we have now is an appointee of the President. Because we want to have an independent Electoral Commission, the Commission we have today is answerable to the President. Therefore before we go to the elections, we should have another Electoral Commission, which will be answerable to the Commission and to the people.

And when we come to swearing the President in or declaring the results of a Presidential election. The Electoral Commission with the religious leaders should be the ones to announce the results of Presidential elections. The order of declaring the Presidential results should be three days after that election, and not more than three days. Also the Chief Justice, religious and leaders should swear the incoming President on a neutral ground, where all wananchi will attend that swearing. The instrument of power should be transferred to the new President immediately after he takes the oath of office.

The other one is that the mode of transfer of instruments of power is by naming the Cabinet and occupying the office the same day the swearing takes place, and the national seal should be given to the incoming President. When the President retires, the Constitution should give him security welfare and nothing more than that. Thank you very much.

Com. Maranga: Point of clarification by Commissioner Nancy Baraza.

Com. Baraza: I have one clarification am seeking, Mr. Mitobio. You do say that under basic rights, you are proposing that importation of crops grown in Kenya should be banned

Mitobio: Importation of crops like coffee, for example now the current coffee act we have section 28 in fact states that coffee can be imported from another country to this country, while the coffee we have in this country has not even met the market value

Com. Baraza: You know globalization and liberalization of the market. I don't know how we reconcile this?

Mitobio: In fact liberalization does not mean we abuse our own economy. By that I want to say, Japan is the country, which produces Toyota, and if Kenya now starts to produce Toyota, it cannot export those Toyota to Japan. Therefore we must have a section of the Constitution that is guaranteeing the safety of our economy.

Com. Maranga: I have one question. How do you want us to set an independent Electoral Commission?

Mitobio: The way of in fact putting in place an independent Commission is because, the kind of politics we have today, is politics of transition and because we have politics of transition, this is why we should have an independent Electoral Commission.

Com. Maranga: I am saying how do you want us to have that independent Commission?

Mitobio: By making Kenyans apply for those posts of Electoral Commission through Parliament. So that Parliament will nominate the Commissioners.

Com. Maranga: Thank you sign up your name and then you give in your memorandum. Now the next presenter is Mr. Micheal Muringi Maina. Let me remind those members who have come that you need to register with us at the entry, then from there we will be able to have the name. If you want to present then you indicate, if you want to come and listen fair enough, and if you have any written memoranda you will also give us.

Mimi na sema kwa wale ambao wamekuja yakua sasa wale ambao wanataka kuongea ni lazima muwe mumejiandikisha huko kwa mlango halafu ndio tutapata majina ili tuweze tukawaita sisi kama Makamishena. Lakini kama hutaki kuongea, sawa sawa unaweza ukangia ukaketi ukasikiliza. Kwa hivyo hatuna tashiwishi yeyote. Asanteni.

Micheal Muriithi Maina: Mimi nitatumia lugha ya Kiswahili. Jina langu ni Micheal Muriithi Maina. Nitazungumzia hali ya mashamba, kupunguza umasikini katika nchi yetu ni vizuri kila mwananchi au mtu yeyote ambaye ametimiza miaka ishirini, kuwa na sehemu ya shamba kama eka tatu, isipungue haca tatu, ili apate chakula na apate hata kuendeleza maisha yake. Yeyote ambaye atakuwa na shamba asizidishe ekari mia moja, sababu pahali pengine watu wana mashamba lakini hawayatumii na bado tunazidi kusema watu hawana mashamba, na kuna sehemu kubwa kubwa ambazo hazitumiki.

Hali ya kesi – Kesi za mashamba ningeonelea kesi zianze kwa wazee wa vijiji badala ya kuanza kwa ma-chief au assistant chief. Kwa sababu hata hawa watu wakati mwingine wananyanyasa wananchi.

Ukosefu wa kazi - Ukosefu wa kazi, nchi yetu ina kazi nyingi ya kufanya, vijana wake na waume, ambao wametimiza kama miaka ishirini na wanaweza kufanya kazi katika ma-forest au msituni yetu ya kiserikali, wanaweza kuandikwa kule na wafanye kazi ya kupanda miti na wapate riziki zao. Kwa hivyo hali ya kusema eti hakuna kazi, watu wengi wanaweza kufanya kazi msituni, sababu kuna nafasi nyingi za kazi.

Habari ya barabara – barabara zetu zote zitengenezwe na serikali badala ya kuambia raia watengeneze barabara pahali imeporomoka na bado tunatoa pesa ya kodi.

Habari ya masomo – Masomo ni vizuri watoto wote ambaye wamehitimu asome pahali popote, kulingana na uwezo wake, vile amehitimu bila kusema eti hii ni quota system, au hawezi kusomea pale sababu ya hali fulani.

Hali ya Mkanisa – ni vizuri kuchunguza makanisa, sababu makanisa mengine huwa kama uombaji wa shetani, na ikichunguzwa ionekane ni kweli, kuna mambo kama haya, hayo makanisa ifungwe na tuendeleo na yale makanisa ambao inafundisha watu ukweli wa mambo. Ningefikisha hapo Bwana mwenyekiti.

Com. Baraza: On your last issue, Sir you talked of freedom of worship what did you say about it? I did get it.

Micheal Muriithi Maina: Nasema kumewai kusikia kuna makanisa ya devil worship na ikichunguza iwe ni kweli, makanisa kama hayo yafungwe.

Com. Maranga: Swali la pili, unasema kila Mkenya ambaye amehitimu miaka ishirini awe amepata ekari tatu, ili aweze kujisaidia kwa chakula na vingineo. Je hizi ekari tatu tutatoa wapi? Swali la pili, umesema ni vizuri kila Mkenya awe na ekari mia moja ya shamba, wale ambao wako na zaidi ya mia moja, tutafanya aje?

Micheal Muriithi Maina: Kama ninao ekari zaidi ya mia moja, na pengine silimi, na bado tunazidi kusema umasikini, na hii shamba imekaa msitu. Sasa hii ni upendo gani tunao katika Serikali yetu? Lazima tuwe na upendo, ambao utasaidia kila mtu katika nchi, badala ya ku-grab kila kitu wewe peke yako.

Com. Maranga: Okay asante Bwana Micheal. Sasa unaweza ukaenda kwa ile desk uweze ukajiandikisha halafu utuwachie hiyo memorandum yako inaweza ikatusaidia, kwa hivyo usiende nayo. Asante sana. The next presenter is Patick Karanja, Patrick Karanja una memorandum, okay I give you five minutes to summarize please, give us the main points and then give us

the memorandum.

Patrick Karanja: Mine is very brief and I propose the below lines. So I want to propose that Constituency boundaries should be reviewed to make people fairly represented. That is the more populous a region, the more the Constituencies should be.

The second one is that the Chief's act must be reviewed. The Chiefs, DO's and DC's should go, because they are doing more harm than good to the public. And if there must be a Chief or a DO let them be elected by the public.

Government property, let's say income generating properties in an area should benefit that particular region. For example the Nyayo Tea Zones, forest etc should benefit the local people.

The fourth point Mr. Chairman is matters concerning the judiciary. It should be streamlined to give people access to their rights. The fees charged for filing a private case should be scrapped, because many people are unable to meet the costs. In case of arrest, one should not be forced to sign a statement written by a police officer, and let's say, if one is judged with drunkenness or smoking or taking drugs, he or she should be examined by a Doctor to prevent the so called 'planting' by corrupt officers. Torturing of people or suspects should be criminalized and the culprits be made to pay for the crime.

Concerning elections, I think the registration of voters should be made continuous to make as many people register as voters at any time. The other thing is the President should not appoint the Electoral Commission, it should be appointed by religious leaders. And during the period of election, a caretaker Government should take charge. I had only those points Mr. Chairman.

Com. Maranga: Thank you very much, but you remain seated, any points of clarification?

Com. Baraza: Thank you very much Mr. Karanja, I just wanted to inform you that the Chiefs' act was repealed following the 1977 IPPG, deal I think so. If they are still exercising those powers, then they are exercising them wrongly. You want the whole of it done away with, that's is what you want?

Patrick Karanja: Yeah we do away with it.

Com. Baraza: Okay fine

Com. Maranga: I don't have questions for you except to say thank you very much and now you proceed and register and give us your memoranda. Now am sorry I think there is a list here from 41 to 50 that is the one am going to proceed on. The next presenter is Thomas N. Wamugunda.

Thomas Njuguna Wamugunda: Thank you Mr. Chairman my presentation touches on agriculture. First and foremost I would like to say the appointment of Ministers should go according to academic qualifications, but not by party alignments or whatever.

My issue here is the Ministry of Agriculture, because it is the backbone of our country. We have so many boards e.g. tea board, coffee board, cotton board and others. All these boards are connected to the Central Agricultural Board, which is non-functional. I would like these boards to be de-linked from the Government, and its members should come from all those small boards. Government participation should have only a maximum of three members in that board.

This board should be constituted through an act of Parliament, which will empower this board to be the sole regulatory body of agricultural products coming into this country. Also to be the licensee of importation of farm inputs. In case of a national disaster or calamity, this board should be the one to advise the Government in which steps to take. Some times when a drought occurs in some areas, the farmers in that area are not compensated, because of their political alignment. So the Constitution should have a board which will consider of all Kenyans equal when a disaster occurs e.g., floods, drought or anything else. We have the Goldenburg case somebody was paid export compensation. Our country's backbone is agriculture, and the revenue it earns from foreign exchange is through agriculture. The farmers should be given subsidies to encourage them.

Finally Mr. Chairman, as I said, am only touching on agriculture. When farmers crops are destroyed by animals, they are paid peanuts, there should be law in the Constitution protecting farmers product when they are destroyed by animals; the compensations should be paid immediately and fairly. Currently, if you kill an elephant the penalty or the fine you will be asked to pay, is higher than what a farmer would be paid. So farmer's products should be seriously protected. My issue Mr. Chairman was on those small issues of farming because it is the backbone of this country, constituting of a law on Central Board. Thank you Mr. Chairman.

Com. Maranga: Thank you Thomas Wamugunda, I think your name suggests you are really a shamba man is that what it means Wamugunda in Kikuyu means? Mtu mwenye shamba ama namna gani? Thank you very much I want to ask Commissioner Nancy Baraza if there are any clarifications. I have no clarifications only to say thank you very much, and I want to request you to proceed and hand over your memorandum if you have it. Okay then you go down and then you register that you have given us views, because your views have taken a number in our proceedings.

And now nataka kuwaombeni wananchi kuwa, sisi kama Tume ya Kurekebisha Katiba sasa ni saa saba na dakika ishirini na tisa, tungetaka tupate break ya dakika arubaini na tano. Kwa hivyo tumesema tutarudi hapa saa nane na dakika kumi na tano, na wale ambao wanatakiwa kuongea, saa nane na dakika kumi na tano wa kwanza kabisa atakuwa Major Retired P. E. Gitau, followed by Councillor William N. Gingo, followed by Joseph Muiri, followed by James Gichuhi Kinuthia, followed by Edward

Kariuki Karobo. So please if you have heard your name, know that we are convening at 2.15 P.M.

Major Retired Peter Gitau: My name is Major Retired Peter Gitau and am from P.O.Box 99 Kangari. I have got a few presentations to give to the Commission.

To start with I have got an issue about the retirees pension review. The Government retirees in this country have been forgotten and get a maximum of Kenya shillings five hundred per month, therefore I would request the Commission to consider this issue and probably review the pensioners payment from time to time, with the aim of upgrading the standards of their living.

The other one is about the payment, the retirees payments should be hastened to shorten the time of suffering currently experienced by retirees. For example, I will give an example of my wife. My wife was employed initially by the Local Government, then she was transferred to the Ministry of Health in 1970. She has been working until sometimes last year July, when she retired from the civil service, to date she has never had any communication about her pension. And whenever we go to the Ministry all they tell us, is that she did have an appointment letter. But she was transferred from one Ministry to another, despite the fact that she has been getting her promotions as usual. She has got a right, according to my thinking, that has got the right of getting her benefits like any other Kenyan, she should not suffer for the mistakes of other Government officers who are supposed to have done their work properly, and she could have got her pay. Even today she has not even got that letter of appointment. Then we require something to be done about the retirees on their payment, because it is taking too long for somebody even to get their pay, and therefore they suffer out of the ignorance of others.

The other one is the welfare of the aged. We have lost so many aged people due to lack of basic necessities such as food, clothing, medical care and accommodation. This is due to the poverty experienced by these people. Poverty can be natural or man-made, therefore a provision should be made to cater for the aged e.g. giving some social welfare payments, or provision of necessities free of charge, through social welfare workers or through other Government means. As it is practical in many other countries of the world, so even in this country we can have a social welfare fund that will be helping the aged.

Also we have got our youth, we have got so many young people in the country, who are suffering very much due to unemployment, hence the current wave of increased insecurity in the country. Therefore our new Constitution should take care of our youth and unemployed persons. This can be done through some means of payment also, they can be getting some payment from our taxes. Also some welfare facilities should be constructed to be used by our youth for their past time and this will properly lessen insecurity. It is said that an idle mind is an evil mind, so when we have got so many young people doing nothing, and they are not getting anything, these people can be a problem to the nation.

The other one, and it is the last is the issue of trust land. We had cases here, where the community land is entrusted to the County Council and other local authorities. But they have abused the trust-hood that they have been given by the community.

There are new terminologies like developers, this terminologies are used in the abuses to enhance the abuses. The trust land is given to Councillors, their children, friends and other corrupt individuals at the expense of the community, which surrendered the land for a specific use. Therefore trust-hood should be withdrawn from the local authorities and be given to the community of the surrounding area, or the people who surrendered this land from their own land. We can have local tribunals to manage such lands. Even the markets, should not be given just to anybody. They are not following the procedure as it used to be, it used to be that all the available land was advertised.

Therefore what I was asking is that we have some tribunals for the security of this land, because they are now being misused and trust has been abused. So that trust should be withdrawn, and given to tribunals. The other thing is about corruption, it is all-over the country, if I report something, today to the police, the police are corrupt and no action is taken. We can have a tribunal composed of some few old people, who can be reported to on any deal that is corrupt and probably we might do away with this problem in the country. So I did not have much, otherwise I don't know whether I write this and bring it to you.

Com. Maranga: Yes, pass the memorandum and pass it over to our staff here, so that you can register in the book that you have presented your views to us before you leave. But then before you leave let me ask my fellow colleague Commissioner Nancy Baraza if she has any point of clarification. She doesn't have any, therefore I request you to step down and then give your memorandum to that person, thank you. The next presenter is Councillor William Kigo. He is not there, so the next is Mr. Joseph K. Mburu he is not either. The next is Samuel Ndumbi, Samuel Ndumbi you seem to have a memorandum, I request you to summarize your memorandum by giving us the highlights in five minutes. Thank you.

Samuel Ndumbi: My names are Samuel Ndumbi am presenting on behalf of The Rural Center for Human Rights and Civic Education. Hoping that the Constitution Review of Kenya process won't be a gimmick or just another public relations exercise, we in The Rural Center for Human Rights and Civic Education wish to present the following views, which we feel should be entrenched in the new Constitution of Kenya.

Chapter one should include a Preamble as an indicator of who makes or owns the Constitution, outlining the Kenyans as having the highest power for them to be able to safeguard it. The citizens, and not the Government should have the final authority. Wording – note carefully that the language of the Constitution should be very simple. We the people of Kenya need to own our Constitution to safeguard it, remembering the past social, economic, political and cultural degradation. We need to bind ourselves to the supreme covenant, aimed at uplifting our aforesaid tenets, in the interest of all Kenyans, regardless of their race, gender, tribe, political, religious or any other discriminative affiliation. The language should be simplified for a layman to understand. The Constitution is based on principles establishing the dignity of all Kenyans, guaranteeing unity, peace, equality, democracy and rule of law, freedom, social justice and progress, by encompassing all international human rights instruments which Kenya is a signatory to.

Chapter two – System of Government; To unite all the 42 tribes, the country needs to embrace the Government of national unity in a Presidential system. Total separation of powers should be enforced, this should be through making the legislature independent of the executive. The legislature should have full control of its own timetable. The executive should not have the right to either prolong or dissolve Parliament, without the advise of the Speaker and a 2/3 votes of all members. The various house, committees should be given powers to prosecute without necessarily taking the matter to the AG who might be reluctant to do so. Ministers should not be members of Parliament nor affiliated to any political party. The Constitution should provide for a maximum number of Ministers that Kenya should have to avoid duplication of duties, plus misuse of public funds. Ministerial appointments should conform with the necessary qualifications e.g. a mathematician should never be appointed to the Ministry of Health etc.

The President should be an ex-official member of Parliament for him to be impartial and a unifying factor. He should be advised by a Cabinet over which he should not have control. A system should be designed whereby due to gross misconduct, a code of conduct for Ministers and MPs should be put in place. A motion seeking their removal should be moved by a simple majority vote. The Senate should ratify the decision.

Parliament – Kenya should embrace the two Chamber system of Parliament. These are the Senate composed, unlike pronounced Majimbo system the kind of Government gives little regard to regionalism, however all the eight provinces should be represented. The composer of the Senate should be retired civil servants who have a good track record, proved professionals, social and religious groups, non-governmental organizations, and marginalized groups such as people with disability. These should not exceed thirty and not lower than twenty members. Members of the Senate should not belong to political parties. All interested groups should elect their members in regard with the institutional electoral system. However, provincial representative should be appointed by the President and ratified by Parliament. Gender sensitivity should be observed. Any interested individual should have a clean record in regard to any form of corruption, or any other criminal related offenses.

Laws – The defined laws of the Senate should include: advising the lower house in matters pertaining to professionalism, including preparing of budgetary estimates. The Senate should vet all bills before they are taken to the President for consent. The Presidential consent in this case would be a formality once the Senate passes the bill. The President should not reject it on any ground. The Senate should ensure that Government policies passed in the lower house are implemented. The Senate should ensure that there is equitable distribution of national resources. The Senate should advice the Government on political, social and economic matters among others.

Elections – Elections for the Senate should be done one year before the Presidential one. This is so as to ensure a smooth transition from one Government to another. The Senate should hold office for a period of four years, this should be done such that at no one time, the country will no parliamentary session either the Senate or the lower house. The Senate shall appoint

from among themselves a speaker. The quorum should be above 50% before the above is adopted.

The President shouldn't have the power to veto legislation passed by Parliament but instead the Senate should usurp this powers. Parliamentary elections should be held separately from Presidential and Senate elections such that when the lower is carrying out the election the Senate is in place and vice versa. Parliament should appoint all public office holders including Constitutional office. Commissions should forward the short listed applicant to the Parliament which will nominate one and only forward to the President to be sworn in.

All election losers should not be appointed into Parliament as this only demeans the electorate is constitutional right of choice. When a loser is eventually appointed, their right of choice is highly compromised. The Constitution should guarantee equal representation in Parliament this should be either through population considerations whereby all constituencies will have equal number of inhabitants thus redrawing constituency boundaries; through the proportional representation system whereby, the winning an MP is nominated. E.g. 1997 Presidential election case study, KANU had 2,355,744 opposition had 3,427,162 votes. The one million differences would have resulted to the combined opposition party nominating twenty members. Individual party performance would then be considered. The number of parliamentary seats should be dictated upon the method adopted in ten above.

Com. Maranga: Wind-up.

Before I wind-up I have some few comments to make. Personal freedoms expressions – The Constitution should protect all the electronic and print media from any form of censorship. The press should not be muzzled. The state owned media should not be biased as is the case today, it should not serve as the Government mouth piece.

Last but not least, I will talk about the political parties. The democratic process depends fundamentally on the state and health of political parties, if the parties themselves are not run democratically, the larger constitutional process will definitely reflect this.

When political parties main objectives are to ascend to power rather than safeguarding moral values or national interest, they will engage in violence. This is a common case nowadays. To strengthen the political party, the Constitution should make a democratic electoral system in all registered parties a prerequisite for its continuity. A Party which doesn't hold democratic election should be de-registered.

The Constitution should define democratic elections, since every party even the ones which bar some people from participating always claim the election was very democratic. The Constitution should also recognize the mode of election, that every party should adopt. This should be secret ballot, this would avoid suspicious modes of elections e.g. acclamation. In short there would be a uniform mode of elections for all parties. Thank you.

Com. Maranga: Thank you Samuel Ndumbi. Let me ask my colleague Commissioner to ask any points of clarification

Com. Baraza: Thank Mr. Ndumbi for your submission. You say that the Constitution should spell out the maximum number of Ministries?

Samuel Ndumbi: Yes

Com. Baraza: How many? In your mind how many do you think would be reasonable for this country?

Samuel Ndumbi: That is the Ministries, they should cover the most important areas and incorporate some of those areas which are necessarily not covered, or we should have Ministries which should cover other related areas e.g. Ministry of Health should cover all other Ministries which fall under it.

Com. Baraza: You don't have a specific number in the Ministries?

Samuel Ndumbi: No.

Com. Baraza: Okay.

Samuel Ndumbi: This one should be decided by the Parliament.

Com. Maranga: Thank you. You can give us your memorandum and please register with us, that you have presented and your memorandum will be given a number. Wacha wananchi niwaelezee ya kuwa sisi kama Tume ya Kurekebisha Katiba tunakubaliana na mtu yeyote, akina mama, akina baba, waje watoe maoni. Sisi hatujaona hapa akina mama wapande hii wakitoa maoni sana. Nimeona akina mama kama wawili tu, sijui mmoja, na mimi naona wengine wanakaa hapa, kama mna maoni ya kutoa, tafadhalini mjiandikishe ama mtuletee karatsi ili tuweze kuwapa nafasi mtoe maoni yenu. Msijemkasema akina mama walifungiwa nje, kwa hivyo ni akina mama nauulizia. Kwa hivyo tunazidi na yule ambaye anayefuata sasa ni James Njiru Kinuthia ako? James Kinuthia hayuko, Edward Kariuki Karugu? hayuko, Erastus Kungu Matu? hayuko, next tunaye Thomas Njoroge, okay welcome. Proceed start with your names full names for recording purposes, you have a memorandum?

Thomas Njoroge: Yes, I have.

Com. Maranga: Yeah that's a memorandum, I give you five minutes to summarize, give us the main points because we will read that memorandum

Thomas Njoroge: Am Thomas Njoroge here are my views. The next Government should be a Coalition Government consisting all parties. The President should have at least 50% of all votes for him to get to the office. We should have a Prime Minister. We should have a supreme court, dealing with Constitutional cases.

Citizens should be given freedom to talk their mind and to demonstrate wherever they feel oppressed or when their rights are violated. There should be no detention in a democratic country. Citizens should have a right to reject a corrupt government official, and that official should be sacked or demoted by higher authority.

The President should not appoint Electoral Commission members while in office. MPs should represent an equivalent number of voters in their Constituencies. Those small Constituencies should be joined and the large ones be divided.

Public lands should not be sub-divided without notifying the public surrounding that area. Family lands should not be transferred without consent between husband, wife and the children. Court orders should not overrule transfers of family lands.

Drugs advertisement through the media, posters and other ways to promote this business should be completely banned.

Government should change it's system of payment to it's employees from monthly salaries to hourly payment, except in some departments like the of Forces and those supervisors in all Government sectors and departments, only those should be permanent

Pre-martial or extra-martial affairs should be taken as a serious and a criminal offence. Those caught practicing it should be seriously dealt with.

Well established and known denomination leaders should have a council which should pave and design the kind of faith the little upcoming denominations or sects have. They should disqualify or qualify those small sects. Spiritual matters should be left to those who are true spiritual leaders.

Proved corrupt Government officials should be sacked. Those who are involved in forgery, bribery or any sort of fraud. Court bills, money paid by complainants for filing cases should be removed.

Both parents whether separated or together should support their children. That's all

Com. Maranga: Thank you. That is Njoroge thank you very much, and now I want to request my colleague Commissioner Nancy Baraza to ask for any clarifications. I have no clarification either, so please hand-over your memorandum and register, otherwise I say thank you very much. The next presenter is Kariuki Njoroge, Kariuki Njoroge is not there? Where is that

gentleman whom we left out? Okay, what is your name? Muchoki Kimani you know I want know that you are on this list. Okay Muchoki Kimani yes you are number 22, but you have said none. Okay you have memorandum I will give you five minutes please. Summarize then we will read the memorandum.

Muchoki Kimani: Okay, I am Muchoki Kimani, and I would like just to start with a Preamble. I feel our Constitution should start by recognizing the citizens, who should constitute the republic of Kenya, stating national boundaries. The Constitution should be for the people of Kenya, not Kenya for the people.

Citizenship – the Constitution should condemn emphasis on ethnicity, because here we have seen leaders do divide us on ethnic lines, in so doing they create a lot of hatred among ourselves, therefore I feel there should be a non ethnic Kenya. We should all belong to one ethnic group that is Kenyan; any other reference to ethnicity should be condemned. Ethnicity should be erased off our ID's. We are all Kenyans and should be equal, with equal rights and opportunities. Citizens should have a right to free medical treatment, free education and pension for the aged. The Constitution should give the citizen powers over everything including the Government, which should be for the people anyway. There should one citizenship only by birth, any other citizenship should be outlawed. Citizens should priority over any other persons in matters of employment, enterprises and other sectors. Non-citizens should not own land, or run businesses. They should only do that through the sponsorship of a Kenyan citizen, or a trustee, or goodwill for that matter. That means that any non-citizen should not operate any business of profit without the patronage of a citizen of this country. Non-citizens should stay in Kenya on a resident's permit, which should be renewable yearly.

The Presidency - The President should not be above the law. He should be subject to an impeachment through Parliament proceedings with a vote of 50% MPs, or a referendum on recommendation of Parliament by vote of 60%. He should be a University graduate with proven ability in public affairs. He should be of age between 35 and 60 years. He should serve only for two terms of five years. He should be elected from majority vote. He should not control Parliament. He should make appointments to executive posts, only on recommendation of Parliament, I am referring to Judiciary, Electoral Commission, Parastatal Heads, the Army Commanders those executive offices that determine the fate of Kenyans. He should be compelled to attend Parliament to answer questions relating to the way he is running the Government.

Elections – The Electoral Commission should be de-linked totally from the Government, with its funding from the consolidated fund. Registration of voters should be a continuous process, and we should do away with our electoral cards, instead we should use our national identity cards as an electoral card. The Electoral Commission should be appointed by Parliament, with recommendation from religious leaders. Parliament should approve the same with a percentage of 70%.

Parliament – Members of Parliament should be proportional with the number of the electorate. Every Constituency should have an equal number of voters. No Constituency should have less numbers of electorate than the other. This one will guarantee an

equal distribution of representation in parliament.

Agriculture – All our land should be put into economic use. No land should be left unused while others are suffering due to lack of the same. Kenya being an agricultural country, I feel farmers should be encouraged by the Government, by being given full support. This should be done through having no taxes on every input and subsidies that go towards farming. I feel the Government should encourage thorough research to increase the number of cash crops that we have in this country. The Government should be compelled to market the same with a guarantee to the farmer that he reaps the full benefit of his produce.

The Government should compensate farmers in case of natural calamities or anything that will make the farmer not feel that he is doing the work which is paying him. The Government should protect the farmer from unfair competition, by guaranteeing a market for their produce.

Local Authority – The members of respective county councils, should have a form four-certificate level of education and above.

The Chairmen, Mayors or those who head the respective County Councils, should be the Chief Executives of the same, and they should be directly elected by the electorate. The local authorities should have no express right over public land. I feel the public lands should all be patronized by the public. They should be well planned and vetted by the public, the respective communities right from the sub-location levels. And they should be the supreme authority over any allocation that should be made. The decision to determine what should be in any place should rest in their hands.

The Police- We should have one police force. We should do away with the traffic police. Our police should be well trained, competent to tackle every aspect of police work. An anti-corruption unit should be put in place, which should have a protection of tenure, and should have powers to prosecute without interference from the Attorney General.

Political Parties – Political parties should be reduced to three. They should be funded by the state per the number of representatives they have sent to Parliament. Members of Parliament should be of University education, and they should have offices right down from Parliament to sub-location level, so that they can represent the electorate well. Parliament should have its own calendar, it should not be controlled by any authority.

Com. Maranga: Wind-up.

Muchoki Kimani: I think that's all Bwana Chairman but I would like just to finish by saying that, I feel the citizen should be given enough freedoms so that he can exercise the same for the better of this country. Thank you.

Com. Maranga: Thank you Muchoki, still remain seated, maybe Commissioner Nancy Baraza wants clarification. She seems not to be having one. I want to ask you one and that is in connection with the police. You have said the police should be one force, what are you thinking about? Are you thinking about the police force in form of general service unit, anti stock/theft unit,

traffic police or are you talking about the administration police? What are you thinking about?

Muchoki Kimani: I am thinking about the regular policeman. I am just trying to de-link the traffic policeman from the GSU and anti-stock theft unit they are all necessary. But when we come to the regular police administration, I feel there should be no difference between the police and the traffic office.

Com. Maranga: Thank you very much and step down and hand over your memorandum. Now I want to repeat maybe for the last time, there are people here who are supposed to present and they did not appear, I want to repeat for the last time. If they are not there then I will not give them a chance, they will have to come tomorrow where will be. But let me ask whether they have come, do we have Councillor William Kigo has he come? Do we have Joseph Mburu, have you come? Not yet. Do we have Edward Kariuki Karobo? Erastus Kungu Matu. Edward Kariuki Karugu Okay it's your chance. You start by saying names fully. You have five minutes, you have a memorandum?

Edward Kariuki Karungu: Agriculture; liberalization – farmers should be independent to choose their representatives. There should be constant prices of farm produce to boost the morale of farmers. Water and a good road network should be provided.

Religion - Freedom of worshiping should be limited.

Com. Maranga: That's all.

Edward Kariuki Karungu: Yeah.

Com. Maranga: Thank you. Any clarification? Maybe I want to ask one question, what do you mean by freedom of worship to be limited? Can you expand on that?

Edward Kariuki Karungu: Because as we know the culture of this country, our grandparents were praying God for the Kenyan independence.

Com. Maranga: Okay now you register down there, so that your views are recorded then we will see on that. Now the next person is, has Kariuki Njoroge come? No. Then the next person is we have Moses Mugane Njuguna. Moses Mugane, then we have John Chege Nguru, good. You have a memorandum? yes please five minutes give us the highlights.

John Chege Nguru: My names are John Chege Nguru and here are my views to the Constitutional Review Commission. On the Government – we should have a unitary Government and the head of state should be the President. And who qualifies to be

the President? The person qualified to be the President of this country should have attained tertiary level of educational qualifications. He should be in the age bracket of 35 years to 69 years to seek election, and retire at the age of 74 years. He or she can run for only two consecutive five-year terms. When seeking election, the presidential hopeful should have a running mate who will qualify as the Vice President elected by the people. The two should not run for any parliamentary seats in the country. Upon death, incapacitation, impeachment, or resignation of the President, the Vice President should take over as the head of state. At no time should the President be out of the country at the same time with the Vice President. However should such happen the Speaker of the National Assembly should take over as the head of state?

We should have a Prime Ministerial post in the country, and it should be held by an elected Member of Parliament. He should be elected or appointed from the party with the majority MPs in the Chamber that is in Parliament and should be the head of the Government.

The Cabinet should have a total of 16 to 20 Ministries and an equivalent number of deputies that is the Assistant Ministers, and the same should go towards the Permanent Secretaries. The Permanent Secretaries should be appointed by the Prime Minister and be approved or be vetted by the Parliament. They should have security of tenure and can be sacked upon approval of a Ministerial report to Parliament and Parliament should approve this removal. The Permanent Secretary should be the head of the various Ministries. Ministers and their deputies should always be in Parliament, but at no time should both of them be outside the Parliament. This will facilitate their answering of questions posed by the various MPs in the Parliament.

Parliament should have elected and nominated MPs. Any Constituency should have a minimum of 20,000 registered voters and a maximum of 30,000 registered voters. And going by the number of the registered voters today in the country that is ten million registered voters approximately, we should have a total of at least 360 to 400 Constituencies in the country. Parliament should have an addition of 25% of this and that will include 90 to 100 nominated MPs. To be an elected MP you should have tertiary level of education. Be in the age bracket of 21 to 69 years of age. On nominated MPs, parties should nominate MPs depending on the total votes they received on all the Constituencies they had aspirants in the country. MPs will have powers to appoint or elect the Prime Minister, his/her deputy, impeach the President, elect the Speaker, the Chief Justice, the High Court and Appeal Court Judges. They will approve the people to be appointed as heads of parastatals, the Permanent Secretaries, the Ambassadors, the police Commissioner, the Commissioner of prisons, and Chancellors of all the state Universities on top of the normal legislations they undertake in Parliament. They should also approve any trip abroad by the head of state, or any other Government delegation.

No parliamentarian should receive his or her salary if he did attend 80% of all sitting time in Parliament for a particular month. If a parliamentarian is absent as such for two consecutive months his or her seat should be declared vacant by the Speaker of the National Assembly. For a parliamentarian to participate in voting on any motion, he or she should be present during the actual debate of a particular motion for a period not less than 65% of the all the time spent in that actual debate.

On Local Government I have this to say – Any County in the country should have at least 50,000 registered voters and as such, we should have, going by the number of the registered voters we have in the country, that is ten million voters in the country as per now. We should have at least 200 counties in the country. City Councils should have at least 250,000 registered voters. A Councillor should represent 2000 to 4000 registered voters. Any ward should have 2,000 to 4,000 registered voters and the Councillor should have ‘O’ level and above level of education. Any town with 4,000 and above registered voters should elect their Mayor directly. Any elected Councillor or Mayor should serve for a period of three years so the County Councils will be holding their elections after three years according to my view.

And a County, a City Council or a Municipal Council should surrender 50% of the collected taxes in an area to the Central Government, and should retain 50% of what they collect in that particular areas to provide such amenities as schools, hospitals. Various Counties and City Councils should have their police departments which will fall under that County.

Division of the Counties will depend on the economic activity of an area as such. They should be able to start their financial institutions to help the local people, to access loans cheaply.

Education – Free education at primary school level should be provided by the Government. Secondary education should be made affordable to all. All Local governments should be able to provide bursaries to the local students. A total of 50 national schools should be initiated by the Government, add to the 19 that we have in the country, and 25 of these should be girls schools. Universities should be headed by Chancellors approved by Parliament, not by Vice Chancellors. The education system should be reviewed after ten years to see whether the education being offered is relevant to the job market requirements.

Lastly I have some view on the youths – The Constitution should allow the youths to be nominated to Parliament by various parties, and ten percent of this should go to the youths. The Government should work out a mechanism whereby they can be able to access, low- rated loans, and they should not provide any collateral to get this loans. The Constitution should state the age bracket of the youths and as such, my view should be from eighteen years of age to thirty-five years of age. And they should be able to hold any office in the country, hence can be the Prime Minister, the heads of parastatals and private corporations heads etc. That’s my view.

Com. Maranga: Thank you very much, and let me ask my colleague if there is any clarification? She doesn’t have. I think the only thing maybe I wanted to ask you, is about eh! You said the Mayors should be elected for a period of three years, but I don’t know whether you wanted them to be elected directly, then who elects them again? You mean they go back for an election again?

John Chege Nguru: After three years they should seek the re-election.

Com. Maranga: Handover your memorandum and sign. Now the next presenter will be Sammy Mwangi, Sammy is he present? Okay, the next one is Francis Mugo.

Francis Mugo Maina: Thank you Mr. Chairman, my names are Francis Mugo Maina. I have a few presentations to make. The first one is concerning agriculture. As you know, our country depends on agriculture, many things have been mentioned concerning the usage of money, and without agriculture we can not earn anything. So the best method in which we can help our country in order to create more employment is by promoting irrigation. Most dry places don't even require fertilizer because the soil is very fertile, places like Ukambani, Masai-land, such areas like Marsabit, the soil is rich in minerals, but what lacks most is water. So, if our country put more emphasis on irrigation, water from Lake Victoria or any other fresh water lake can be pumped to higher areas like Timboroa. If we pump the water to Timboroa, it can be used to go to areas like Ukambani, Masai-land and other dry areas by using gravitational force. If we use gravitational force, more food will be obtained instead of using money, importing foods from other countries. Lets take an example of America, it supplies food to many countries. If we have food then our country will create more employment, we shall have more to export.

Com. Maranga: Sorry, please give him time air his views.

Francis Mugo Maina: If we have more Government land for the Government to grow such crops and forward them together with the farmers produce, then we will have enough food to export and to earn money, hence we shall have more income.

The other one is about the freedom of worship. Our Constitution does not state clearly what to worship, but it says everyone is guaranteed freedom of worship, there should be specific worship. A worshipping of God, but not the devil, there should be a restriction on devil worship, so it should be freedom of worshipping God.

The other one concern where we are now, whatever we are presenting are the records to be referred to in future. I would refer to you cap 14, which deals with the destroying of records. Some amendment is required in cap 14, such that when a record is being destroyed, the people concerned should be involved e.g. if it's a case, instead of throwing the file or burning the files, the concerned parties should be informed, instead of using the Kenya Gazette alone. Problems have been encountered by the destruction of court and other records. Our future people would also like to see these records.

The other one concerns the civil service pay.. We have experienced differences in salary implementation. The person who is the lowest grade is always on the oppression side. The percentage he gets cannot be compared with that of the person at the top part of it. For example the PS and the Ministers, if you look at the person below the PS, the Deputy PS, you cannot compare his salary that of with the PS. There is great variation, so this should be considered.

The other one to be considered is training. You can see a person being trained for two years, or three years, or even four years in different Ministries, but what they get is discouraging. A person getting two years training in hospital, his or her salary is different from a person training for the same two years in agriculture or in education. So this should be considered. I am suggesting there should be a common commission of employment, which shall be considering all this, so as to avoid future problems.

I would also comment on the guarantee of workers rights in trade unions. This should also be considered. Some workers feel oppressed by the current inflation, instead of getting their views listened to, action is taken against them, without even having listened to their problems. So this is the importance of allowing, the right of workers to have trade unions.

The one is concerning the pensioners. Pensioners they also suffer when they get the little pay they get from their employers. They should be considered when implementing the salary increments of those who are still working. So, there should a scheme of service to pensioners, so that they can also feel that they are really citizens, like other countries, like America, Britain where they enjoy that fruit.

In conclusion we have street children who are becoming a menace in our country. Today they are about four million street children, in ten years to come, they will be forty million. To avoid such a great menace, there should be technical institutions to deal with the problem of street children. There should be a law restricting the production of street children. They come as a result of prostitution, so there should be a strict law on how to deal with prostitution in the country. I think that is my final presentation.

Com. Maranga: Let me see whether Commissioner Baraza has any clarification. I don't have any clarification thank you very Mr. Maina give your memorandum for recording and sign. The next presenter and am going to limit the time, we have many people who want to present, we are giving you five minutes. Let is have Hezekial Karanja. Hezekial since you have a memorandum summarize it in five minutes.

Hezekial Mahungu Karanja: Jina langu ni Hezekial Mahungu Karanja. Sasa mimi ningekuliza kama mimi naweza kuzungumuza kigereza kidogo, kiswahili kidogo na kikuyu kidogo.

Com. Maranga: Sasa utaamua uzugumuze Kingereza na Kiswahili vile vile.

Hezekial Mahungu Karanja: Okay asante. Bwana Chairman mimi yangu ni kama amendment hivi na mimi ningeweza kama wewe ukiwa ni Commissioner mimi ningetaka tu nijue

Speaker: Muthigari uria ukinyitete gari yakwa tukorania ciuria.

Translator: Traffic cases used to be quick, if the wheel was bad and you are told so, it was determined there and there

Speaker: Cira unghithii igotini, muthigari uria uratwarire cira ucio igotini orio kiuria.

Translator: If the case went to court, the policeman who took over the case would be questioned

Speaker: No riu umuthi tiguu.

Translator: But today it is not the case.

Speaker: Gutiri na right ya mundu tondu ona ngari nguru kana tahiri njeru ikoragwo ni nguru na yagiriirwo nigukorwo ii njeru.

Translator: Today there no individual rights because even a new vehicle, or a new tyre would be said to be old, and it will be old even it is new.

Speaker: Thirikari niyagiriirwo kurora andu.

Translator: So the rights of the individual should be protected.

Speaker: Uhoro uria ungi niwa mai.

Translator: The next issue is on water.

Speaker: Mai maria tunyuaga matihuragwo na nduthi ya mundu.

Translator: The water we drink is not pumped with anybody's pump.

Speaker: Moimaga handu iguru.

Translator: It follows naturally from a source.

Speaker: Na mai mau matwaragwo na miferethi. Miferethi iyo ingi niikiritwo ni ithui ene.

Translator: And the water from the source is supplied through the main pipes. The other pipes have been installed by individuals.

Speaker: Mai macio turihagio ngiri igiri na magana meri mwaka.

Translator: But we pay about two thousand two hundred per annum.

Speaker: Twagiriirwo ni kuriha ciringi ikumi na ithano mweri nigetha thirikari igure dawa cia gwikira mai.

Translator: The proper charge should only be fifteen shillings per month to enable the Government to buy water treatment chemicals.

Speaker: Kuogwo marihi mau magiriirwo nikweherio tondu ona ithui nituthondekaga miferethi iyo na thirikari ndiikaga undu.

Translator: So any charges the money above that should be removed because we also repair the pipes and the Government does not do anything.

Speaker: Maundu maya makonii Mubunge.

Translator: The issue concerns the Member of Parliament.

Speaker: Korwo nonjurio uhoro wa MP.

Translator: If I am asked about the MP.

Speaker: Agiriirwo ni guthurwo thutha wa miaka itano tu.

Translator: The MP should be elected after five years only.

Speaker: Na akiaga guturutira wira thutha wa miaka iri akarutwo.

Translator: If we loose confidence in him after two years, he should be removed.

Speaker: Tondu arekwo arute wira miaka yake itano na agia na mbecha cia gucoka kiharo niekurugama ringi.

Translator: If he is allowed to continue, he will now get more money, to enable him to contest again.

Speaker: Ngurikiria hau tondu wa mathaa.

Translator: I will stop there because of the time factor.

Speaker: Ni nguthii na mbere twakinya Kigumo.

Translator: I will raise the other issues at the next venue.

Com. Maranga: Thank you, ngoja kwanza hatujui kama kuna maswali. Any? Do you have any? Okay, you can now step down and handover your memorandum then you can sign. Thank you. The next speaker, please keep to time, because we have many people who want to speak. Anybody am calling here I will be strictly observing the five minutes period, I want you to summarize the main points. Peter Maina Nguru, Peter Maina Nguru not present. Dickson Ngechu, okay.

Dickson Ngechu: Bwana Chairman, my names are Dickson Karabu Ngechu. I think the cardinal area concerns the Presidency. Trimming of presidential powers. The aspiring President should be of clean record. The aspiring candidate for the seat of the MP should also be probed and should declare his or her wealth.

The civil servants and teachers should be paid handsomely so that they are able to deliver effectively.

Civil education should be introduced to enable every Kenyan to understand his or her rights, and come out the dark, because the Government keeps the people in the dark, so that they are able to oppress them.

There should be independence in the three organs of the Government, the legislative, judiciary and the executive. The Judges should be appointed or elected by Parliament. Scrapping of Provincial Administration – The Government should create a system whereby every Kenyan takes the responsibility of this country. Bwana Chairman I am satisfied.

Com. Maranga: You have finished?

Dickson Geche: Yeah.

Com. Maranga: Thank you very much any clarification?

Com. Baraza: Mr. Ngechu, when we scrap the Provincial Administration do you have thoughts on what it should be replaced with?

Dickson Gheche: I would like to say that people should give views and give the system they would like to put in place.

Com. Baraza: Can you give me one suggestion?

Dickson Ngechu: The Parliamentary

Com. Maranga: Just a minute. You scrap the Provincial Administration, the chief is gone that is one, then you know there are other Administrative Committee. Who now takes care of what that committee used to do?

Dickson Ngechu: I did not mean to scrap it in that manner; it should be modified.

Com. Maranga: Okay, thank you. Now you can step down there and register. The next speaker is Moses Bungo, Moses, alright five minutes.

Moses Bungo: I am Moses Kibungo, thank you Bwana Chairman or the Coordinator for today I would suggest that we should have a Coalition Government. Where we have the President, the Prime Minister and Vice President. All these three should be elected by people. The Government will be a multiparty. A political party should reflect a national outlook and should be limited, not so many as we have today. The Electoral Commission should be independent.

The Government should be responsible for feeding the poor and the disabled people. The Government should be able to protect its citizens. There should be no harassment.

The President should not be above the law, as it is today. The President should rule for two five-year terms. He should also be educated upto University level. To be a winner in an election, the President should win by 50% of votes cast during the election. The President should not be a businessman, otherwise he will be living the Government to attend to his business. If a President fails to get 51% of the voters cast, there should be a runoff.

Heads of parastatal bodies, the ambassadors and commissioners should be elected by Parliament. The Chief Justice should also be elected by Parliament. Powers of dissolving Parliament should be within the Parliament not the President. No member of a party should defect before the end of his five years term, when the Parliament is on. All the Ministers should attend Parliament at all times, about 75% of the sessions. MPs salaries should be determined by a body which is independent, not like today whereby they go to Parliament and they set-up their own salaries, leading to the Ministries to be very poor.

Civil servants should be paid well to cop-up with the present economy. Otherwise they are left with almost nothing in their pockets. Police officers should not be in one station for more than six months, because they encourage thuggery, and if possible, a special agent should appointed to monitor their work.

Land grabbed by the local government should be returned to the owners. Local government land should be taken care off. This whereby you see the county councils, in the plots we are here, they are taking the land and giving or sharing to the people from other local areas.

Civil servants should be appointed as per their education and knowledge.

Creation of new Districts or Locations should depend with the population and if there is any that has been created politically should be abolished.

Minor theft cases should also carry minor penalties in the courts.

On liquor licenses, the Kenya bureau of standards should control the substandard brands for example the Kuguru brands, Keroche, kumi kumi, which are killing most of our people.

Taxes should be well utilized and not going to peoples pockets as we see it today.

Shooting to kill should be abolished and torture by the police officers should be abolished. Police officers should not be harassing traders, instead trade officers or health officers should be inspecting the licenses, not the police officers.

Freedom of press – The KBC should reflect national issue not only KANU issues, and the other stations should have the same unlimited powers. Today we see on KBC is only KANU, otherwise you go to “KAYU” and other stations they are not allowed to hold other businesses.

On side of education – Education and medical services should be free. The 8.4.4 system should be abolished and be replaced with the old system of 7.4.2.3. Today the 8.4.4. system is a burden to the teachers and the Ministry. Civic education should be introduced in schools so that pupils and students should know their human rights, while they are in school. If a new curriculum is to be developed for the Ministry, teachers or the stakeholders should be consulted first but not the KIE, which brings about material to the teachers, which are sometimes irrelevant.

The Government should stop importing foods that we grow, for example maize and milk. Farmers should have a union to be a watchdog of farmer’s related matters. Finally the market of goods produced by farmers should be well catered for by the Government. Thank you.

Com. Maranga: Thank you Mr. Bungo, points of clarification? I have none either, so thank you very much. You can now step down and please sign in our book and give us the memorandum. Thank you very much. The next presenter is John Mwangi Godfrey, John Mwangi Godfrey is not there. We have Joseph Kimani Njoroge, thank you.

Joseph Kimani Njoroge: Chairman Sir, my names are Joseph Kimani Njoroge. I have a few points to make:-

- 1) Parliament should be empowered to impeach the President of Prime Minister in cases economic mismanagement, and they should be taken to a court of law.
- 2) Kenya should be governed by three political parties, not fifty or sixty parties and it should be governed democratically
- 3) All appointments to the Government bodies e.g. parastatals, financial institutions should be referred to Parliament
- 4) No President in Kenya or future President should be above the law.
- 5) We should have a Coalition Government with all political parties involved
- 6) Appointment of Judges should be referred to parliament.
- 7) We should have a common pension system for all civil servants and parastatal employees.
- 8) Majimbo system of Government should be discouraged in Kenya, since it would promote tribalism, nationalism should be encouraged.
- 9) Dates of national elections should be discussed in Parliament and be known to all Kenyans, and should not be left to the President to know when we should hold national elections.

10) Citizenship should be approved by Parliament Mr. Chairman Sir those are my views.

Com. Maranga: Thank you. Thank you very much, now I have only one question. You have said that Majimbo system of Government encourages tribalism how about the unitary system, does it not encourage tribalism?

Joseph Kimani Njoroge: Majimbo system of Government encourages tribalism because if you can see the political parties that we have i.e. democratic party of Kenya seems to be a Kikuyu one. The former NDP was for Luos, the other one for Ngilu was for Wakamba that is why it encourages tribalism.

Com. Maranga: Thank you very much, now step down, register and give us your memorandum and sign up. Let me now call Mr. N. Njoroge five minutes.

Levisson Njoroge: Thank you Chairman, I will start with the Presidential powers. The appointment of the parastatal heads and heads of Government Corporations should be done by Parliament after advice from the Ministers concerned. The appointment of Commissions can be done by the President, but he cannot dissolve them, it should be done by Parliament. The report of the Commissions should be made public immediately after they complete their jobs. The transfer of the heads of the departments, should also be discussed by Parliament, and not be done arbitrarily by the President, without any reason being given to the public. The Attorney General should be selected by Parliament. The Controller and Auditor General should also be named by Parliament and his reports should be acted upon quickly by the Attorney General. That is in case there is misuse of the public funds, he should prosecute those involved.

Local Government officers should be answerable to the Mayors, but not to the Minister of Local Government.

The President or the Prime Minister should name his running mate in times of the elections, and not name him later on. Hence they should be scrutinized by Parliament.

The head of the Electoral Commission and the Commissioners should be selected by Parliament and they should be answerable to it. This is to allow free and fair elections. Thank you very much.

Com. Baraza: On the office of the Auditor General, you don't think he should be empowered to prosecute?

Levisson Njoroge: Not necessarily. The Attorney General should prosecute immediately after enquiry

Com. Maranga: You said the President and Prime Minister should name his or her running mate and should be scrutinized by Parliament, how? And those people are in for elections. Number two. You said the head of the Electoral Commission should

be appointed by Parliament and answerable to Parliament. What about when Parliament is not in session?

Levisson Njoroge: In case Parliament is not in session, there are certain duties, which can be performed by the Chief Justice on behalf of the public.

Com. Maranga: Okay thank you very much sign up. Now can we have Sammy Mwangi. Please if you have a memorandum, I want you to summarize it in five minutes and then give it to us. Give us the main points.

Sammy Njoroge Mwangi: My name is Sammy Njoroge Mwangi, I would like to suggest in the new Constitution, that all the public land or what we call the trust land, should be left to the Commissioner of Lands, rather than to the County Councils, who have encouraged grabbing.

The corruption - I have a feeling that in the new Constitution we should have a special unit that will be looking after the police. The unit should be under the Judiciary, to monitor even the charges that are preferred to court by the police. So that we can avoid the corruption in the police force.

The Provincial Administration – I think it should be maintained and be strengthened and even have more powers to check on the security in the villages. Because without the Provincial Administration people will be killed by thugs.

For the education in the new Constitution – I feel we should have free education up to University and a first degree should be compulsory in this country.

For Councillors to be elected, they should be from form four and form six and above, not lower than form four. For MPs, I feel that they should be all graduates and if need be they should have Masters.

For health – I still feel that we need to have free health services in this country, because of the poor people we have around, who cannot afford to go to these expensive hospitals, and they die in their villages. So we require free health services.

For the President and the Vice President – I have a feeling that they should be elected directly by the public including the Vice President, that he should be also elected directly by the public but not the President or the Parliament for that matter.

The Government in the new Constitution should also think of employment for the school leavers. A lot of education is wasted outside the villages, people are educated and they have no jobs. The Government should look for ways and means of employing the school leavers.

Freedom of worship – I have a feeling that there should be freedom of worship only to those people who worship the true God, but not the devil worshippers. The churches for devil worshippers should be demolished.

Taxes – When taxes are collected they should benefit the public directly, and especially when you get taxes from cash crops, for example tea, coffee, sisal, tobacco, sugar etc. It should first of all benefit those people who grow the cash crop in the particular area, then be extended to the other areas. Rather than to be taken to areas where there is no production. First of all maintain the production sector, so that you will be able now to maintain the other areas.

Marketing of these cash crops – Farmers should be let to sell their crops directly even exporting, rather than Government doing it for them. But they should pay taxes as required, and taxes should be utilized properly. And I think Mr. Chairman those are my feelings about the new Constitution. Thank you very much.

Com. Maranga: Thank you very much. Any clarifications?

Com. Baraza: You say that churches for devil worship should be demolished. How do we identify those devil worshippers and their churches?

Sammy Njoroge Mwangi: Commissioner there are these churches that people attend at night and they go there when they are naked. There is nowhere you would go to pray the true God when you are naked. This kind of churches should be demolished

Com. Baraza: Are they real? Have people seen them or it is what you hear. Have you seen them yourself?

Sammy Njoroge Mwangi: I have seen them, you go to Nyeri go Nairobi you will see them.

Com. Maranga: Thank you very much Mr. Mwangi sign up in our register. Now the next presenter we four more presenters to go and we need to finish at least by five and I want you to stick to five minutes. Now the four presenters are going to be Mwangi Ngumba, then do we have him? Kamau Mungai, alright then the last one, Lucy Njambi. Is Lucy there? Okay thank you very much.

Mwangi Ngumba: Mr. Chairman mine is not written but what we have just said and what I have heard from the time came to this place is okay, we have good presentations. But mine was only one point I wanted to put across, and I wanted the former speaker before he goes.

Mine is about the police versus the public, Kweli Serikali si mbaya, but we have always condemned the Government of the way

they try to solve things. For instance my shamba neighbour's Government land, when the elephants come and destroy everything, I cannot meet my Chief who is nearer to me or the Assistant-Chief, I have to go Kenya Wildlife Services. So one thing I would ask Mr. Chairman is that tuwe hukuna askari ya AP, ikiwa ni kitu kama kubomolea manyumba, tukienda kwa Chief atuchukulie hatua . What I want to say is that, tuwe na a uniform administrative act, tuseme iko AP act, iko nini, askari ni askari. Mr. Chairman, askari ni askari, tukienda huko tunaambiwa hapana, sisi ni Kenya Wildlife Service. Polisi wawe hawana act, tunajua who they are, and whom they represent.

The other one Mr. Chairman is that, the chiefs' act, is very good na inatumiwa vizuri, lakini tukiona huku ndani hawatumiye hiyo, wanatumii kwa wananchi. If it was strong as the Chiefs' was, to be applied to people at the top, there will be peace, but it is only applicable to we citizens. So the Chiefs' act isitumiwe lakini ikiwa itatumiwa, tutumia sote.

The last one Mr. Chairman, kile tunasema leo, na kile unambiwa na wananchi iwe applied. Tusizungumuze Mr. Chairman, nilikuja kusikiliza wewe, uminesikiliza, mimi najua haitakua sheria, lakini chukueni kutoke kitu kimoja kutoka Maragwa, kingine kitoke Baringo tusikizane. Tusiwe tulifanya kitu ambao haitasikizwa.

Mr. Chairman what has been said is what I know, and what is being said is alright. I had to come and present myself in front of you. Thank for coming to our Constituency and may God bless you. Thank you.

Com. Maranga: Alright sign our book to show that you have presented. Now the next is Kamau Mungai. You have five minutes

Kamau Mungai: Ha ritwa njitagwo Kamau Mungai na maoni makwa ni ta uu:

Translator: My name is Kamau Mungai and my views are as follows.

Kamau Mungai: Kabira thiini wa Kenya ni forty three.

Translator: Kenya consists of about forty-three tribes.

Kamau Mungai: Ni maakaga muno.

Translator: And I am surprised.

Kamau Mungai: And amwe ni makuaga siraha.

Translator: Because some people carry weapons, arms

Kamau Mungai: Matinyitagwo ni watho uria ukoragwo Kenya.

Translator: And they are not subjected to the laws governing the carrying of weapons

Kamau Mungai: Watho ocio ocejio wikirirwo kabira ciothe.

Translator: I would like this anomaly to be rectified, so that if we have to carry weapons all tribes do it, not certain tribes only

Kamau Mungai: Namba two.

Translator: The second point.

Kamau Mungai: No nyende.

Translator: I would like.

Kamau Mungai: Muthamaki uria ugwathana Kenya.

Translator: The next head of state.

Kamau Mungai: Ndagakorwo iguru ria watho.

Translator: Should not be above the law.

Kamau Mungai: Tondu Kenya.

Translator: Because Kenya.

Kamau Mungai: Ngwetete maita maingi muno gugathondekwo Commission teno ihaha.

Translator: We have had various Commissions

Kamau Mungai: Commission iyo ndiri wira irutaga.

Translator: Commissions have been set up and they have done work, but no results have come out.

Kamau Mungai: Tutionaga maciaro ma wira wao.

Translator: The findings of these Commissions have not been published

Kamau Mungai: No nyende tukorwo tugicenjerio Security.

Translator: I would also like changes to be made in our security system.

Kamau Mungai: Tugithii na njira ona akorwo ni utuku.

Translator: Because when we walk around especially during the nights.

Kamau Mungai: Andu aria maturangiraga ta porithi nio matuhuraga.

Translator: The people who are supposed to offer us protection turn out to be thugs, they turn against us they attack us.

Kamau Mungai: Nikio tukiite haha guthengia corruption thiini wa bururi witu.

Translator: Our main aim is to get rid of that abuse of power and also to eradicate corruption in the country.

Kamau Mungai: Ndiri na maingi.

Translator: I have finished. Thank you.

Com. Maranga: Thank you very much. Step down, sign our book now the lady Lucy Njambi.

Lucy Njambi: Maritwa makwa ni Lucy Njambi.

Translator: My name is Lucy Njambi.

Lucy Njambi: Woni wakwa wa mbeere, ni johi cia ibango, kamuhuri karia kandikitwo thigaraini koigaga ati ni njuru kwi mwiri wa mundu, kuoguo uria health igitie ona thirikari igirie indo ta icio.

Translator: My first view is that selling of the cheap brews and cigarettes should be banned. I am particularly concerned with cigarettes, because despite the warning on the packet of cigarettes, smoking is dangerous to our health. The selling of cigarettes still continues.

Lucy Njambi: Woni wakwa wa keru.

Translator: My second view.

Lucy Njambi: Ni uhoro wa mawakiri.

Translator: Concerns Lawyers.

Lucy Njambi: Thirikari ingihota kwandika arimu aa macukuru matekurihia yagiriirwo kuheana mawakiri matekurihia kuri andu athini nigetha mahote kuona macira mao.

Translator: If the Government can afford to employ teachers for schools, free of charge it should also be able to provide legal service free of charge to poor people, so that they are able to see their cases through.

Lucy Njambi: Uhoro wa githomo naguo kuri ciana ciothe kana ni airitu kana ni tuhii kuma nathari nginya university.

Translator: There should also be free primary education for all children irrespective of the Gender from nursery school to university.

Lucy Njambi: Muno kuri atumia kwagiriirwo ni gukorwo na githomo gia tuhu, nigetha atumia kana twana twa airitu tuheo

githomo kia tuhu. Kwa ngerekano niingiahota kwaria na githungu no ndingihota tondu ndiathire cukuru kana githomo kia andu agima.

Translator: Particularly for women there should be affirmative action, so that women or girl child is provided with free education. For example I would have been able to communicate in English but am unable because I didn't go to school, or I didn't acquire adult education.

Lucy Njambi: Gatiba iitu ituhe uhuru wa kuhoya. No tutiagiriirwo ni kuhoya ngoma.

Translator: Our Constitution provide us for freedom of worship, but I suggest that there should be a rider so that we do not worship the devil or anything else.

Lucy Njambi: Ni ndarikia.

Translator: That is the end of my presentation.

Com. Maranga: Any question or clarification?

Com. Baraza: Njambi you have spoken about affirmative action in education. What about women in leadership positions, women in Parliament, in local authorities, do you have any thoughts on that?

Lucy Njambi: Ndoiga area ciothe.

Translator: She means all round.

Com. Maranga: Thank you very much it is now 5.05 pm, I know we are very tired and we are also tired as Commissioners. We want to say we are very grateful for today's work, and we are saying we have come to the end of our session today. But there are some civic education materials which you are going to be given as you out., and we are requesting that you inform all those others, who have not spoken or who have not come before the Commission. They come before the Commission tomorrow at Kigumo Bendera High School starting from 8.30 a.m. Please avail yourself, if you feel you have issues you have not spoken about today, and you want to come and present them, you are welcome. But for now I want request one of the members to give us a word of prayer then we can close this meeting. Thank you.

District Coordinator, Mr. Eliud Kariuki: Let us pray God our heavenly father we want to thank you for a good day that has been a blessing to us, but Lord as we prayed in the morning you have being with us and you have seen us through. We especially want to thank you for the enablement that you have given our Commissioners, who have taken us all through the program that we had for the day. We thank you for the presentations and the concern that your people in this world and in this part of the country have for our Constitution. We pray that Lord all this work will be a blessing to this nation for many years to come. We thank you for having been with us and we pray that you dismiss us with your grace. As we travel back to our

