

CONSTITUTION OF KENYA REVIEW COMMISSION

CKRC

VERBATIM REPORT OF

**MARAGWA CONSTITUENCY PUBLIC HEARING (PILOT) HELD AT
SABA SABA CATHOLIC CHURCH HALL**

ON

4TH MARCH 2002

CONSTITUENCY PUBLIC HEARINGS (PILOT), MARAGWA CONSTITUENCY, HELD AT SABA SABA
CATHOLIC HALL ON 4TH MARCH 2002

Commissioners Present

1. Com. Bishop Bernard Njoroge

2. Com. Mosonik arap Korir
3. Com. Ibrahim A. Lethome
4. Com. Riunga Raiji.

Secretariat Staff in Attendance:

1. Mr. Peter Apamo - Programme Officer
2. Lucy Waindini - Asst. Programme Officer
3. Hellen Kanyora - Verbatim Recorder
4. Mr. Eliud Mwangi Kariuki - District Co-ordinator.

Meeting started at 9.45 a.m. with Com. Raiji Chairing.

Com. Raiji: Ladies and gentlemen, sasa ni wakati wa kuanza kikao cha Constitution of Kenya Review Commission, seating at Maragwa, today 4th Monday, March 2002. As is customary with all our session, tuta anza na maombi na tafadhali tuna muomba Rev. Muthamia, atuongoze kwa maombi.

Rev. Muthamia: Commissioners, ladies and gentlemen, before we pray, may I take this opportunity as the chairman of the constituency committee, to welcome you to this constituency, Maragwa, and you feel at home. We have people to present and others are coming, we will be having a number of them and feel at home. And those who want to present, please you are free to do that. Let us pray.

Prayer:

Our Father in Heaven we come before thy presence this morning, we want to welcome your Holy Spirit to come and guide us as we do the presentations, because Father we want to have a constitution that will help each and every one in this country, we want this country to be left the way you want Father, we want your presence here now, and we want to pray for those people who will be coming. Father bring them and take care of them as they come. For we pray this in Jesus name. Amen.

Com. Raiji: Thank you Reverend. I take this opportunity to introduce to you the commissioners who are here with us. On my right is Commissioner Ibrahim Lethome Asmani, my name is Commissioner Riunga Raiji and I will be chairing today's session, we expect some other commissioners who are held up on the way because of the conditions that you see. With me here are officers to the Commission, Mr. Apamo, the Programme Officer, and two young ladies: you can tell us your names.

Lucy Waindini: I am Lucy Waindini, Assistant Programme Officer.

Hellen Kanyora: I am Hellen Kanyora, Verbatim Recorder

Com. Raiji: Yes, probably before we start I will tell you the system that we use at the commission. First of all, all the proceedings of the commission are being taped. In addition to having verbatim recording, we are taping each and every presentation that is being made to us. Every presenter will be given about 10 minutes, to make their presentation, for now we may have to be a little bit flexible because we don't have a full house yet. Where you are presenting your memorandum we will expect you to probably try to summarize rather than read the whole of it, and for those commissioners who may wish to seek a point of clarification, that will be done immediately after your presentation. Commissioners will be free to seek clarifications from the presenters, and basically we shall expect all presenters to observe the rule of decorum to be respectful to everyone and to use - - to deal with respect to each and every person present here, and I think with that we can now commence this sitting. We will be following the list on a first come first serve basis, our officers are recording each and every presenter as he or she comes, and the first one on our list is Rev. Simon Kabiru, representing P.C.E.A Muranga Presbytery, I think, and he will be making a written as well as an oral presentation. Welcome Rev. Simon Kabiru. Yes, for language, you can use Kiswahili, English or if you are in particular wanting to use the local language, we can look for an interpreter. But we encourage those presenting to use either English or Kiswahili.

Rev. Simon K. Kabiru – P.C.E.A Muranga Presbytery: Thank you very much commissioners and my fellow members. This is Muranga Presbytery representing their views. We have prepared a document of 20 pages, but I am only going to highlight some. First is introduction. Kenyans are in dire need of a new constitution, which will be a true shield and defender, and which will facilitate sound management of the economy, social and political appearance, as the supreme law of the land of Kenya. For many years, since a formal system of government was established by colonialists, Kenyans have lived under authoritarian government where they have had no civil matter affecting their lives. In their authoritarian way of handling public affairs, successive government assumed that (inaudible) to the needs of the people, just like the colonialist. They continue ruling iron handedly by bringing their authority from the constitution which they amended as often as it suited them. The current constitution was not even what came from the Lancaster House. It is an oppression to those in power and serves the interest of the executive government and heads of state have had absolute power over the people. Really Kenyans are tired of authoritarian government and are crying for a good constitution, oriented to the people, rather than to government. The new constitution, must have the people it intended to serve as its focus. It must be centered around the people in context and the structure. It must be treated to the people's ethic, it must treat the people as masters and the government as servants and it must give the people powers to discipline the misbehaviour of their government and the people in public offices.

Section two, that was section one. Section two. The presidency. The president should be non executive, ceremonial Head of State, free from day to day running of the government. The president must be above party politics and must not be a member of parliament because he/she is expected to serve all Kenyans without bias. The president should be elected by the people directly, to ensure that the office is answerable to the people of Kenya. He/she should have a vice president as a running mate during presidential elections. The presidents elections, should be held separately from general elections. The term of office should be limited to two terms of five years each. Provision in the constitution should be made for impeachment for a president

who engages in acts of arbitrary, criminal or dishonourable while in office.

Two, executive. The executive arm of the government should comprise the prime minister, minister, deputy minister, permanent secretary and other public servants. The prime minister will be the leader of the political party with the majority in parliament and will be answerable to the parliament. The prime minister will be the head of government, and like the president, he/she may be impeached. Judges should be appointed by Judicial Service Commission and approved by the parliament. Provincial Administration should be done away with. In their place, the respective public servants like town clerks, treasurers, security people, would be hired by the local authority of councils, to whom such officers would be answerable. This would mean that the administrator, down to grassroots level, would be answerable to the people, through the various councils and not centrally answerable to the head of the government. The powers and authority to establish and fill public offices should be given to public service commission. Every person who holds a public office should do so at the pleasure of the people of Kenya, other than the president or prime minister.

Section eight. Electoral System. Among other things the following should be considered. Criteria of creating constituencies. Representative members should be represent the people, and not the geographical area. There should be no case where on constituency has only 10,000 people while the other one has 250 people. Two, independent candidate. This should be provided for in the new constitution. Three, limitation of term. MPs and councilors should not have more than two terms of five years each consecutively. Four, terms of service. The MPs should have their term of service, established by independent body, and not by themselves, for example, they should not be allowed to increase their own salaries and others. Five, compulsory voting. Every citizen has a right to vote and should be registered as a voter at the age of 18. Voting should be legally compulsory to all. Ballot boxes. Six . Of necessity the ballot boxes should be transparent so that, everyone can see the contains of the box even without opening it. Seven. Electronic voting in parliament. This should be introduced so that members vote freely and no one will know who voted for or against the motion.

Section Four, social welfare. This section will provide that every Kenyan will receive the basic needs of life and essential services without any discrimination. This will include food, housing, water, health, education, employment, legal representation.

Section five, natural resources and economy. The new constitution should ensure that natural resources like land, forests, water and other minerals are available to all inhabitants of Kenya, without any discrimination and that the management of, and the economy is managed in such a way that every Kenyan has an opportunity to develop him/her economically. The government should not for example the promotion of harmful drugs like alcohol, tobacco, which are injury to people's health, and which eventually are harmful to the economy of the country due to increased cost of health services to those who are poisoned by these drugs.

Kenya is not on sale. To avoid the situation where Kenyan foreign debt is so high, that the country is unable to service it, or government to (inaudible) it fully, discuss, and authorized by the parliament. Section six. The Bill of Rights. The constitution of Kenya should guarantee all Kenyans the right to life, citizenship, freedom of movement , earning livelihood, owning property,

compensation for wrongful imprisonment, compensation for torture, freedom of worship, and many other human rights. Commissioners, dear commissioners, those are just only the highlights, the full detailed paper, I hereby present to you.

Com. Raiji: Thank you very much Reverend of the presentation. We also take this opportunity to introduce to you Commissioner Bishop Bernard Njoroge, commissioner welcome. Now, its time now for - - if you can still resume your position, we are not quite through with you. We are now giving the opportunity to the commissioners to seek clarifications on any of the contributions you have made. Commissioner Lethome.

Com. Lethome: Ya, Reverend if you can go back. Just have a seat Reverend. Sasa haya maswali ambayo tutakayo kuuliza, yasi wababaishe wengine waone kuwa pengine tuna jaribu kuwa pima akili, ni clarification. We are seeking clarification. Tuna taka ufafanuzi ili tuweze kufahamu vizuri, maoni yenu. Ume zungumuzia habari ya judiciary, uka sema judges wana faa wawe wamechaguliwa na Judicial Service Commission. Ndivyo ulisema Reverend? Lakini tuna jua kuwa hata hivi sasa tuko na Judicial Service Commission ambaye ina simamiwa na chief justice kama chairman, ma-judge wawili kutoka high court ama court of appeal ambao pia wamechaguliwa na rais, na tunaye chairman wa public service commission, pia yeye yuko katika hiyo, judicial service commission. Sasa, kuna tuafauti gani baina ya hiyo judicial service commission ambayo una propose wewe, katika hii katiba mpya, na hii ambayo tuko nayo hivi sasa, ili tupate independence ya judiciary zaidi? Nafikiri ume fahamu. Haya. Tuingie katika Bills of Rights. Hiyo ni swali la kwanza. Bills of Rights. Ume zungumuzia habari ya freedom of worship. Ninge penda ufafanue zaidi hili neno worship. Kwa sababu, kuna mtu ambaye ana weza kutumia hiyo, ana kwenda kuabudu devil, na ana sema I have the freedom to worship, ambayo iko guaranteed katika katiba. Sasa katika hili neno lako worship, unge penda tuwe na definition ya worship katika katiba mpya, au tuache open, mtu akitaka kuabudu mawe, au mti au shetani, atumie hiyo na kusema "*I have the freedom to worship*" hayo ndiyo ufafanuzi ambao nina taka.

Rev. Simon Kabiru: Thank you very much commissioner. On the side of judges, when we were looking at this one, we only sometimes here, "*we have selected Kabiru to be the Chief Justice.*" Are we together? We only sometimes say and hear, Kabiru has being selected to be the Chief Justice of the Republic of Kenya. So, we don't know whether this is done by individual or done by the commission. That was the issue on that. I think we can leave it there. So that is what we had seen, because of these appointing, mainly it is somebody who appoints these judges and chief justice. So it is only that. On the Bill of Rights, this one, worship. In Kenya we are very much confused these days. These days we are very much confused because of worships. Tuna sikia kuna Kabiru ana toka America ana kuja, Philip Graham ana kuja, na tukisikia ile mambo - -lakini I am not blaming them. Una ona hata these people, Mungiki, they are licensed to worship where they are. I think you are in Nairobi. And this is not a denomination. We don't know where it came from, we only hear, they are licensed to worship. So they are changing. So, this should be defined completely, in the constitution. What type of worship are we having? Or should we have? Because also, I can now, - - because I am a minister, if at all I do immorality or within, I am sacked, I only go, and see the registrar, register my dini, it is called Kabiru Express. And you see me worshiping there, with (inaudible), so this should be defined completely because people of Kenya are confused today.

Com. Raiji: I have just one question for you Reverend. Now, there is this question of government borrowing and the debts. I didn't get you correctly. What is your proposal on - - how should they be incurred inside the new constitution? What would you like to see happening?

Rev. Simon Kibiru: Permit me commissioners, dear commissioners, even at home, I am married and you are married. If at all you are now going to borrow money in the bank, you have to consult your wife, and tell her "*because we want to buy this building - -there was a building I was called for, and since we don't have money, let us go and borrow money in the bank*" That consultation. It is not only somebody who goes Abroad and says that we get money on this. So parliament should be aware of everything that is going on, to be borrowed. For the sake of the country.

Rev Kuria: Can I add something on that?

Com. Raiji: O.K. we will give you - - normally what happens is that - - are you in the same group? O.K, then you can add something.

Rev Kuria: I think on borrowing dear commissioner, sometimes you here the minister of finance has gone Abroad, he talks of borrowing. The president goes, he talks of borrowing, he is meeting those people there, we would like the parliament to say, "*we want money for this, for something, for building this hall. We want money for the roads, we want money for this*", not just borrowing and them coming and dividing these money here. That is exactly what we want. The parliament.

Com. Raiji: Thank you very much. Now, I think my last clarification, is more or less what my colleague here had said. You mentioned something about the Judicial Service Commission appointing judges. Now, whom would you like to see included in that judicial commission for example? Who should be the new judicial commission in the new constitution? Because for your information at the moment, the judicial service commission is comprised of the chief justice, who is himself appointed by the president, the Attorney General who is also elected by the president, and the Head of the Public Service? And two other judges. So, are you satisfied with that or would you like to propose?

Rev. Simon Kabiru: No! No! you see we have reached the stage that, here is, everything comes from the president, and that is what we don't want. We want if it is the parliament to have the judicial service commission elected right from the parliament, not by the president. That is what we want.

Com. Raiji: Thank you very much members of the Maragwa Presbytery for this very elaborate presentation, we will take it with us to our head office, we shall analyze the views here and we will definitely include them when it comes to writing the new constitution. We remind members of the public, kwanza kama una taka kupeana maoni yako kama wewe binafsi au labda kama kikundi Fulani ambacho kime kutuma hapa, tafadhali u-register na programme officer, ili tuku patie nafasi. Now, wa pili ni bwana

Francis N. Mwangi, ambaye ni waku toka Kenya National Chambers of Commerce.

Francis Mwangi – Kenya National Chambers Of Commerce: Thank you bwana commissioners, my name is Francis Njoroge Mwangi, I represent Kenya National Chambers of Commerce and Industry. Kenya National Chambers of Commerce and Industry is non participant. It is a business body, presenting interests of business community irrespective of their political creed, religion, authenticity. The principal objective of KNCCI is to promote economic development in Kenya, is affiliated to the world wide organizations, international chambers of commerce and World Trade Organization. We recommend that the future constitution of Kenya, the law of the land should be supreme, covering social, economic, political or individual universal declaration rights, e.g. life, property, safety and security. Two, to develop programmes, e.g. social policy, state policy and economic policy. For our constitution, for us - - before we go to elections, we would like 11 contents of the current constitution to be amended and reviewed, as mentioned above in section one and two.

Executive, that is the president, should be elected by people, he should gather 51% and there must be somebody running with him. There should be a creation of a position of prime minister. Number of ministers should be fixed within the constitution, their responsibility being properly analyzed, and they are made accountable, within the constitution. It should also provide a number of deputy ministers, permanent secretary, number of judges, and their ages. Judge ages should be - - the minimum or starting point should be the age of 40, and the retiring age should be 70.

Auditor General. The position of Auditor General should be provided within the constitution and his functions and removal being properly documented. The same should be done for chief Justice and appointment of chief justice should be - - their should be a commission which should comprise law society of Kenya, AG's office, Members of the Parliament, to ensure that the person who is going to be elected or to be appointed as chief justice is a man who can be able to lead the nation.

Parliament. Parliament should be democratically represented with the wishes of the people. The constitution should provide democratic representation, the parliament should be in the hands of parliamentarians themselves, president and the cabinet. Number of MPs should be provided for within the constitution, and the position of the speaker and his role being provided for. Judiciary should be the guardian of the constitution of this country in future.

Independent Electoral Commission. There should be - - various offices should be created. Elections administrative directory, election monitoring directory, elections adjudication secretariat, electoral appeal tribunal, special electoral code. There is something else. That is independent media commission. That commission should be chaired by a retired judge, and commissioners should come from experienced in broadcasting sections.

Money Bills. Bills to borrow money, should be passed by the parliament by two thirds. Interest rates should be based on economic performance of the country, not somebody just wake up and decide that interest rates should be 75% or whatever it happens. To avoid the situation in 1972, and 1997, when money was printed in this country and interested rates rocketed to

75%. If we are going to borrow a leaf, U.S. and U.K., they have interested rates pegged on development of the country.

Appointment of Ambassadors. Appointment of Ambassadors should be appointed through the consultation of the cabinet not by president by himself. Honour. Presidential Honours, they should also be scrutinized by the entire cabinet before somebody is given an honour. Declaration of Emergency. There should be a consultation with the cabinet and a group of the parliament. Local authority. (inaudible) before a council is created, it must be viable. Deputy Mayor, Chairman of the County Council should be a graduate before he is elected. People should have power to impeach their chairman and to remove him from the office if he finds he is not competent. All councilors should have attained the level of form four. Accounts should be public to auditor general. Councilors must be made to comply with Health Act, public safety, environmental, and the stakeholders should be made to be a part and parcel of the council and there should be - - and the position of those to be elected, interested groups like farmers, Jua Kali, should be elected within the council as councilors.

Agriculture. We should renew or review our laws for agriculture. We have over 100 laws in this country covering agriculture. They should be reviewed. We know that they should be adapted to the new method in the world so that we will be able to fit in public and community, COMESA, EGAD, OAU and WPO. There should be - - we should create farmers bend, which will over wrong some rules, and low interest rates like any other developed worlds. Investment incentives. We should create a conducive climate in this country locally and we invite investors who will be able to process if its coffee, tea, they should be processed within the country to create more employment. Technology. We should create or allocate more funds for transfer of technology. We have to have at least to have funds to buy technology if we want to be industrialized. Research and development has to be increased, a lot of money has to be allocated which is not the case today. There are no funds being allocated to research besides we employ over 14,000 people, who are sitting in the offices doing nothing.

Debt. Parliament should amend law to control borrowing local or over seas borrowing. Interest rates which government should be able to pay, must be fixed that somebody doesn't wake up and say, "*we are going to pay you so much*". We had that example in 1990 upto 1997, minister for finance, somebody in the central bank just wakes up and he decided for this country, and that is why our industries have busted, people are in heavy debts, not because we are not working or we have not being working, because failure of two or three people. So in this case, parliament should be given power, to scrutinize this thing, and that an individual should not be allowed to commit the entire country, as we have being committed today. And all the debts which this country has being committed to, to be brought to the parliament to discuss, find out what should be done, because 100 years will not be able to pay the debt which we have accumulated.

Now, there is a very sensitive issue now, ladies and gentlemen. While Kenya largely averted wide spread conflict, we have our own share of land clashes that left casualties, displaced people and lead a burden of productive activities in agriculture especially in Rift Valley. Even though these clashes have being localized, they have potential excreting the whole scale war. However, as experience has shown elsewhere, past conflict is particularly distractive, and it is almost impossible to fight poverty under

condition of conflict. The role of government should guarantee security, property and life. That is the government should create mechanisms through which all members of society e.g. people's society, professionals, associations, farmers, men and women, can contribute fully, in the process of agriculture, development, in order to reduce poverty in this country. Thank you.

Com. Raiji: I will now take this opportunity, if you can hang on a little, to my fellow commissioners, to see if they want - - there is anything that they need clarified. You have that writing, please don't forget to give it to us, (interjection by Francis).. whatever it is called it is good.

Com. Bishop Bernard Njoroge: Interest rates. You are saying that it should reflect to the economy. Do you have certain proposals?

Francis Mwangi: I will make a right up and refer it to the co-ordinator. I don't know whether you would like me to elaborate further. O.K. Section 39 of Central Bank Act. It states quite clearly that the minister had power to review interest rates. Unfortunately, the former governor said, "*by the powers conferred to him....*" He review interest rates. He had no powers, neither the minister had the power to review interest rates without responses from the parliament, in the absence of the president. This is also abuse of the office, we have put this country into a lot of debts, somebody could have walked to the central bank with a 100 million, come out with 107 million, and this is what happened. We have (inaudible) who happened to steal our money in this country, and these are the people with money in this country now, this is what they did, you know very well, that this was a mistake, because we empowered people who should have not being empowered to take care of our resources. O.K. Banks. We in Kenya, we have very little say in the bank. The banks are owned by Europeans and Asians and other people in this country. The entire profit goes to Europe. Therefore, we work for these people, they have taken all the profits, this country is left without money. O.K. there is also a few people, I don't know whether we know how to negotiate. We were told the other day by European Union, we are nowhere near, we cannot be able to negotiate, and we know that, what they are talking about. Therefore, people with no capacity, should not be appointed to some positions and we know why we have gone wrong, because we appointed wrong people in positions which they cannot be able to handle. I think - -

Com. Lethome: Just a small clarification here. You said that we should have ministers and deputy ministers. You know right now we have assistant ministers, but I am sure it is deliberate that you said you want deputy ministers now. Why deputy ministers and not assistant ministers?

Francis Mwangi: O.K. we know very well, an assistant minister, he is just a ceremonial, and that is why we have many of them in the offices, they have no jobs. They should be assigned a job, if we are creating those positions, they should be having some roles to play within the ministry and not even that, we should be able to put that within the constitution. A ministry should have one deputy minister, who should be having certain functions within the ministry, not just bringing people to fill up the offices. And that should be properly stipulated within the constitution.

Com. Raiji: That you very much - -I think that was a beautiful presentation, and please give our programme officer your memorandum, so that we can make it as part of our achieves, for reference when we start writing the constituting, in addition to the notes that we are taking. The next one, now we will have a lady, Grace Beuttah, Maendeleo ya Wanawake.

Grace Beuttah – Maendeleo Ya Wanawake: Thank you very much commissioners, and my dear colleagues. Here I have few recommendations that we thought were to be included in our constitution. Now the first one, is that we need a preamble in our constitution. Nobody in the republic should be above the law. To avoid corruption, employment should be given according to merit. Policemen should move out of the roads, for they encourage corruption in matatu's. Importation of goods to our country should be discouraged where local goods are available, e.g. sugar, or milk. The government should check on how to control manambas at the matatu and bus park as they appear to be mayor consumers of money without actually producing it. Kenya should be a one state where every citizen can leave without harassment, and also you can own a property anywhere in the republic regardless of tribe or colour. Public land should be protected, and the people who have grabbed it, should give it back for the purposes allocated for. E.g. they are wealth, which are grabbed, road reserves, market places, rive side and banks, schools, church areas.

Marriage rights should be respected and our citizenship honoured, irrespective of tribe or colour. The judiciary, the executive and the parliament should not be under the president. I.e. section 59 should be quashed. The Chief Justice should be elected by the judges, lawyers and advocates. The attorney general should be elected by the judges. The president, should not be a dictator in parliament as far as the Bills are being made. We propose to have at least 3 political parties, in the country. The political parties should be able to fund themselves without getting funds from the government. The government should be able to build a institutions for the street children, disabled and mentally handicapped. The constitution should be written in all languages and sold at a reasonable price to enable the community to read and understand. We need a body that can help the voiceless, that is, by making a referendum. The clerk to the council should be employed by the local government and not the central government. Councilors should qualify to elections if they have attained at least form four grade. Mayors should be elected directly by the public not by the councilors. The president should be elected by the majority votes cast and not by the party that wins the polls, i.e. president should be elected by at least two thirds of all votes cast.

The president of Kenya must be educated upto the university and preferably, hold a political science law degree. Registration of persons and voter registration exercise should be done simultaneously once a Kenyan attains the age of 18. Every ministry should be reviewing the salaries of that ministry with the help of the minister after every three years, due to economical hiccups. Thank you.

Com. Raiji. Thank you very much Beuttah, I think we have afew clarifications from you.

Com. Lethome: Kama una fahamu Kiswahili, I would prefer tutumie Kiswahili. Asante sana kwa maoni yako. Ume zungumuzia habari ya citizenship. Sijui una maoni gani kuhusu kitu ina itwa dual citizenship, ambapo una weza kuwa ni mwananchi wa Kenya, na ukienda nchi ingine, ukawa pia ni mwananchi hiyo ambayo uko. Ya pili, ume citizenship iwe monarch. Katiba tuliyo nayo hivi sasa, inaheshimu uraiya. Lakini ina sema hivi; mimi niki oa mwanamke ambaye si mkenya, automatically ana pata uraiya wa Kenya. Wewe ukiolewa na mtu ambaye si mkenya, hapati uraiya kutokana na hiyo ndoa. (inaudible)

Grace Beuttah: Tuna sema ikiwa mwanamume ametoka ulaya na ana oa bibi huku, ana weza kukubalishwa kuwa ni mraiya wa Kenya, kwa sababu ana damu wetu.

Com. Lethome: (inaudible) Haya, na je, kuhusu hii mambo ya dual citizenship, muna maoni gani?

Grace Beuttah: Sisi katika hiyo citizenship, tuna ona ya kwamba, we in Kenya, some women like - - referring to Wambui Otieno, she is married here, she is a Kikuyu, but she was married by a Luo, and she was denied her right to burry her husband, and she had a marriage certifcate. Sasa tuka ona hapa, kulikuwa na masingamano. Wote ni wa Kenya, na haki yake ya kumzika bwanake hakupewa. Kwa hiyo tuliona serikali haikutumia haki, kwa mama huyu.

Com. Lethome: Swali lingine hapa. Tuna jua kama wakenya, kuna baadhi ya wakenya ambao wanaishi hizo sehumu za wana takikwa pamoja na kubeba kitambulisho kile ambacho wewe na mimi tuko nacho, ana beba ingine ina itwa screening card. Watu wale wangepanyanjanje, ili wasibebe hizo vitambulisho zingine zaidi, ama zote ni sawa?

Grace Beuttah: There should be a law that should govern those people, checking the right people who are Kenyan, and the people who are not Kenyans. Wachungwe sawa sawa. Ili watu wa Kenya, mkenya mhalisi ajulikane ni mgani, na asiye Mkenya arudi kwao.

Com. Lethome: Regarding traffic police. Ume sema hutaki traffic police barabarani, sasa magari zetu zita kuwa controlled na nani, barabara zetu zita angaliwa na nani?

Grace Beattah: It looks as if it has become a daily routine, to go at the road to collect money and not checking the vehicles. Why should they be there? Matatu ina jaa, watu wana simama, it is in bad condituoin, and yet, they are still on the road, but when they get something, kitu kidogo, gari ina ambiwa iondoke. Sasa wanafanya kazi gani? Hawa fuatwi.

Com. Bishop Bernard Njoroge: Ume sema mama, that nobody should be above the law. Which means, Hiyo ni kusema una taka rais akikosa sheria apelekwe kortini?

Grace Beuttah: Sindiyo! Yeye ni mwananchi kama wengine.

Com. Bishop Bernard Njoroge: O.k. Sawa. Hivyo ni kusema - - nataka tu kuelewa. Kama family si ni kweli? Kuna baba na mama na watoto. Si hiyo ni nchi? Una sema baba akikosa, apelekwe katika kortini. Huoni kama tutakuwa na shida kama president yule ambaye yuko akipelekwa kortini (inaudible).

Grace Beuttah: Hakuna shida ita patikana. Even today, hata bwana akipiga bibi lazima apelekwe kortini. We have heard that several times. Sasa, if we don't accuse the president, then he will be breaking the laws, na ana haki ya kusema, "Case ya Fulani, na itupwe, case ya Fulani, na itupwe". Sasa, tunataka ata yeye, awe chini ya sheria.

Com. Raiji: kwa sababu tume hili - - uongozi moja wa tume, ni kwamba ita jaribu ku-address pia wanawake, ili waingie katika siasa. Kwa sasa, uko na mapendekezo yeyote ambayo kama vile ume weza kuangalia, ili tusaidiye wanawake (inaudible).

Grace Beuttah: Ninge sema kuwe na viti, kama viti Fulani vitengwe, viwe ni vya wananwake peke yake, ili tuweze kuwa na wananwake wengi katika bunge.

Com. Raiji: Uko na -- labda pendekezo kama ni percentage Fulani unataka?

Grace Beuttah: At least one third.

Com. Raiji: Na kwa local government una taka pia wananwake wawe?

Grace Beuttah: Yes! Of course! Kote, tunataka kuingia.

Com. Raiji: O.k. Asante Mama kwa hayo mapendekezo. Tafadhali utupatie hiyo karatasi. Tuna taka kuwajulisha kuwa wale wana taka kutoa maoni, wako uhuru kujiandikisha. Sasa nafasi hii ni kwa mama Khadija Saidi.

Khadija Saidi - Maragwa Muslim Community: Mimi ninge penda kuzungumuzia kuhusu wamama wa Kiislamu. Yaani wanawake wote, wakike na wamama kuhusu - - kama ni upande wa kupewa vitambulisho, tukienda kupewa vitambulisho, tukipigwa ile picha ya passport, tuna ambiwa tutoe hii mitandio, na hii iko katika sheria yetu ya dini ya Kiislamu. Sasa hiyo tuna taka tuondolewe, tuwe tuna pigwa passport na mitandio yetu. Na tukienda kuchukuwa vitambulisho tusiwe tuna pewa taabu. Maanake tukiwa tume enda kupewa vitambulisho, ukionekana tu lile jina lako la Kiislamu, una sumbuliwa sana. Una ambiwa mara wewe ni Msomali, mara wewe ni mkabla gani, na wewe ni Mkenya. Pia passport pia tuna sumbuliwa hivyo hivyo. Pia tunge pendekeza watoto wetu Wakiislamu wakupalishwa wawe wakivaa mavazi ya Kiislamu wakienda shule. Siyo lazima

wavae vile wale wengine wana vaa. Na wao pia tupewe uhuru huwo wa kuvaa Kiislamu. Na katika shule zile wana soma, tusilazimishwe mambo yale wanafanywa. Kama mtoto ana somea skuli ambayo dini ile upatwa huko ni CPK, au Catholic, ana lazimishwa afuate hayo mambo. Kama ni Bible, tuna nunulishwa kwa lazima, na sisi hatutumii Bible, tuna tumia Koran, lakini tuna lazimishwa. Hayo mambo tunge omba sana tuondolewe mambo kama hayo katika watoto wetu wa Kiislamu.

Tena, kama ni habari ya kazi hivi, pia tunge penda na sisi tuka pata ma-councilor hata kama ni nominated, Muislamu, na sisi akaweza kutu saidia, tuka pata hata kama ni makazi. Tuna ona hata kama ni kwa council huko wapi, kume andikwa wamama wengi, hata wengi wa kufagia na ni wamama wazee, na sisi tuko hata na watoto wadogo wa Kiislamu, na wame soma na hawa pati. Kwa ile tu chuki ya Wislamu. Sasa, tunge penda sana na sisi, hapo pahali tuangaliwe sana, kwa sababu tuna ona tuna nyanyaswa kwa upande nyingi sana.

Com. Raiji: Ume maliza? Ngoja kidogo, ma-commissioners wange penda kuuliza maswali.

Com. Bishop Bernard Njoroge:

Khadija Saidi: Si itenge kihivyo, yaani katika watu wakichaguliwa pale, na sisi tukawa tuna moja wetu hapo.

Com. Bishop Bernard Njoroge:

Khadija Saidi: Una jua ana weza jisimamisha na asiingie. Sasa hapo asipo ingia ndiyo tuna sema, kwani hatuwezi kuwekewa tuchaguliwe mmoja tuka wekewa?

Com. Lethome: Ninge taka kukuuliza kuhusu maktaba hii ya kadhi. Ikiwa kuwa Waislamu wame wekewa maktaba ya kadhi ambayo lita shugulika na mambo ya ndoa, mambo ya talaka, na mambo ya urithi. Sijui, kama Waislamu, mume rithika na maktaba hiyo ilivyo sasa ama kuna jambo lolote ambalo munge penda liongezewe.

Khadija Saidi: Tunge pendekeza hata sisi, asiwe tu huyo Kadhi ni wa ndoa tu na talaka. Apewe mpaka jukumu za kuhukumu ma-case nyingine.

Com. Lethome: Pia ninge taka kuuliza kuhusu kazi za Kadhi. Muna jua hivi sasa Kadhi, pamoja na kuwa ama ajiriwa na idara ya mahakama, uta kuta pia ame ingilia katika mambo ya - - nyingine yasiyo husiana na mambo ya judiciary kabisa. Kama mwanzo ya Ramadhani na mwisho yake, siku za Idd kutangaza na nini. Ambayo tume ona kuwa saa ingine ina leta utatanishi. Sijui muna maoni gani kuhusu kazi ya Kadhi. Kadhi awe ni mtu wa Kortini peke yake, au pia awe ni kiongozi dini?

Khadija Saidi: Awe pia ni wa kortini na pia awe kiongozi wa kidini.

Com. Lethome: Haya mwisho kabisa kuhusu maktaba ya Kadhi, leo hii ukienda kwa korti ya Kadhi, pengine mambo yanayo shugulika na . Kadhi akisha kuhukumu, ikiwa huku ridhika, appeal yako una peleka high court. Sijui kama waislamu muna nini la kusema kuhusu jambo hili? Appeal ikitoka kwa kadhi iki pelekwa high court.

Khadija Saidi: Ndipo hapo na sema, kwani sisi hatuwezi kuwa hata na sisi appeal badala ya kupeleka huko high court na pia tuwe na wetu Muislamu tu pia? Zipendekezwe huko huko.

Com. Raiji: Uko na mapendekezo yoyote kuhusu vile namna ya kumchagua huyo kadhi? Au ume rithika na ile namna iko kwa sasa.

Khadija Saidi: Ah, Ah! Sija rithika nayo. Jambo la kwanza, ninge penda sana kadhi, aka chaguliwa kadhi, ambaye ame soma mambo yote. Sheria za kidini na sheria za kidunia. (interjection by Com. Raiji). Kwa sababu kwa sasa kile kina tusumbua sana, uta pata kama ni kadhi yule tuko naye, sana watu tuseme wa upande wa Pwani huko, huwa wana tudharau sisi watu wa Bara. Wana pendelea ati Kadhi, ni lazima atoke Pwani. Na hiyo kitu tuna ona haiwezekani. Lazima Kadhi atoke huko, lakini huku, akiwa ame toka huku, hawezi ati kuwa Kadhi. Hiyo tuna kataana nayo. Na hiyo ndiyo ina fanya ika leta taabu hiyo kama ni ya hizi habari za Idd, una sikia watu wengine wana swali leo, wengine wana swali kesho. Hiyo yote ina tokana na Kadhi, na ni kwa sababu ya hiyo. Sasa kwa hivyo tunge pendelea Kadhi ambaye, ame soma kabisa kisheria,dini pamoja. Lakini tusi pate ukabila wa huko ndani au kwa sababu ni Mwarabu ama ni Mgunya.

Com. Raiji: O.K. Asante sana kwa hayo maoni yako, tuta angalia na tuta jaribu kuya weka katika hiyo katiba mpya. Next ni Maimuna Mohid Hajad.

Kassa: Asante sana bwana commissioner. Eeh....

Com. Raiji: Ngoja kido, Maimuna, Maimuna ni jina la mama ..

Kassa : Kuna jina nilipeana hapo kwa kima kosa kidogo. Huyu Maimuna hata simama, nita sima mimi kwa sababu hilo jina lili andikwa kimakosa kidogo. Kassa, na iko chini yake sasa.

Com. Raiji: Kama iko, uta kuja tu ngoja kidogo.

Maimuna Mohid – Maragwa Muslim Community: Asante kwa kunipa nafasi kwa katiba, nime kuja hapa kuwa nina maoni kwa upande (interjection by Com. Raiji) .. kama upande ardhi. Kwa upande wetu sisi Waislamu, kwa upande wa ardhi ndiyo tume sema habari ya councilors wale tume wachagua na kwa upande wa kuzika. Makaburi yani hatuna. Councilors wakichaguliwa na ndiyo tuna sema tupewe hata kama ni ku-nominate-iwa councilor moja Muislamu, wakichaguliwa hakuna

pahali Waislamu wa ingilia. Tume kosa mpaka ardhi ya kustiliana sisi wenyewe. Ukienda upande wa kama councilor wakiwa katika kwao, hakuna mtu wa pande za kwetu wana - - kama mtu ametoka pande za Mugoiri, ame toka wapi, ame toka Kandara na ame ingiza katika council, yeye ame chukuwa watu wa upande wao tu, ana walete kwa kazi, lakini nyinyi wale wako hapo, hakuna mtu anaye itwa kwa kazi. Huko kuna mama - -watoto wame soma, wengine wako nyumbani hawana makazi. Hivyo hivyo hata upande wa kama health, uta kuta mtu kota - - mkubwa wa rural kama ndiye mkubwa rural, mtu atatoa watu kutoka mbali, lakini sisi watu wa area hiyo, hospitali wenyewe, na tume igenga sisi, hakuna mtoto hata mmoja ata pata nafasi. Watu wata kuwa wame toka mbali - - wengine wametoka pande za Thika, Gatanga, nini, hata kama ni kazi ya kufagia ama nini. Sasa kwa hivyo tuna omba kupata hata kama ni kazi, watu wote tuwe tume changanyika.

Na, habari ya watoto kuvaa mavazi ya Kishishindani shuleni. Kwa maana wakienda shuleni hata kama mtu yuko na nguo, wa vaa vile wengine wame vaa na ni mtoto wa Kiislamu. Sasa hata akija nyumbani ujaribu kumwambia ati siri, ita kuwa ni - -aona ni ngumu kwa kuzoea shuleni. Na sana twaomba tupewe kama walimu, wa kusomesha Islam katika mashule wale ina watoto wa Kiislamu. Kukawa huyo mwalimu ana somesha habari ya Islam. Kama wengine wana soma CRE, nao wa Kiislamu wana soma Islam. Kwa maana hata ime pitishwa, nafikiri ime pitishwa mtu aweza kufanya mtihani nayo. Sasa ukija upande wetu hakuna mtoto ana jua kusoma C.R.E. Sasa twaomba sana sana tupewe walimu wa kusomesha Islamic katika mashule yetu. Sote tuwe tume toshana mtu ikifika saa ya C.R.E. ana enda kwa C.R.E., wa Islamic pia. Sina mengi.

Com. Raiji: Mama nilikuwa na swali moja tu. Sijui kama ina fanyika hapa, lakini naona ikifanyika huko Nairobi, kwamba watoto wa Kiislamu wana tumiwa group ile ya Kiislamu, na kwa somo la dini (inaudible).

Maimuna Mohid: Eeh! Huku hawa someshwi. Hatuna walimu kama wa Islamic. Na tuna omba wakati wa Ijumaa, tuka pewa ruhusa katika Ijumaa watoto shule wakaja kuanza saa tano mpaka saa nane wame rudi. Kufuata Ijamaa, kwa maana nayo Ijumaa ndiyo wakati wetu wa Swali. Pia hata tukiwa makazini, hata uombe ruhusa ukiwa kazini, haupewi hiyo siku ya Ijumaa uende uka swali, kwa hivyo tuna taka tupewe hiyo siku ya Ijumaa, nayo tupate kwenda Mskitini mpaka saa nane.

Com. Raiji: O.K. asante sana. Sasa tuko na Hassan Hissa.

Hassan Hissa: O.K. Asante sana. Mimi kwa jina ni Hassa Hissa, na mimi nazungumuzia upande wa Kiislamu. Sisi waislamu, tuna shida kubwa sana kwa sababu wakati ambapo tuna wachagua ndungu zetu wakristo, na wana ingia katika Bunge, au wana ingia katika councilor, au wana ingia pahali pengine. Wao huwa hawa tuhusu sana, na watu wa dini ya kisilamu. Kama hivi juzi, (inaudible) kwa sababu wakati wao, kuna area hitwa, yaani hutengwa elsewhere, kama kwa makanisa, kwa hosipitali, wao hutenga (inaudible) kwa upande wa Kiislamu, hawawezi penda kama Madrassa. Kwa hivyo, tuna omba kwa sababu za

(inaudible) wana Kenya, tuwe tuna kubalishwa kama kuna patikana pahali ya kupatiwa, viwanja ya kanisa, nursery school, hata sisi tuwe tukipaita kama watu wale wengine tukiwa kama wakenya. Wakati huu, katika town, twa jua ya kwamba town zote, ziliyo katika Kenya nzima, watu wale wengi ni Waislamu, na ndiyo wame keti, katika huko town, na

watu hao hawana mashamba, na kutoka wakati wa pale mbeleni, kutoka wakati wa mbeberu, waislamu wao hupenda pahali pamoja, na wao hutaka ikiwezekana pahali pamoja, kwa sababu hiyo ni sheria ya kiislamu. Lakini wakati huu, kwa sababu tume ona kama serikali ime tutenga sisi Waiislamu, uki angalia kama upande wa kutoka sehemu hizi zetu, watu wengi waislamu wana hangaishwa sana na serikali kwa sababu ya kukosa pahali ya kaburi. Na sisi waislamu hatuwezi kwenda kuzikana na ile - - kama ile ya kule Muranga county council, tuko na makaburi kweli, na sisi dini yetu, haiwezi kuendeanana na watoto wao hapa. Kwa hivyo tunge omba, na serikali yetu waweze kukaa chini, waangalie sana, upande wa waislamu kwa sababu na wao waislamu wana sema.

Ya pili ninge taka kuzungumuzia, katika haki ya Islamu, wana takiwa wapatie, kama ile - - katika towns siku hizi kwa sababu tuna ambiwa ni maendeleo, maendeleo ime leta taabu, kwa sababu watu wa kuchinja ina julikana ya kwamba waislamu ndio huchinja katika towns zote. Siku hizi, wengine wame kwenda kusema ni maendeleo wame jichingia wao wenyewe. Huko ndani ya town, wame weka butchery za ngurue, na upande wa islamu, huwa ni haramu. Kwa hivyo tunge omba, hatu wazui wenye kula ngurue wale, lakini wawe butchery zao ziko kando na butchery ya ngumbo, na mbuzi , lakini za ngurue ziwe mbali. Lakini wakati huu, ukienda uta kuta hii ni butchery ya ngure, hii ni butchery ya ngombe, hii ni butchery ya mbuzi. Basi kwa hivyo mtoto aki tumwa kwenda kununua nyama katika butchery, watoto wengi wa Kiislamu wana pata taabu kwa sababu wakienda, wakiona nyama yenye kunona, wana sema hiyo ndiyo nyama nzuri. Uki rudi kufika nyumbani, ni nyama ya ngurue. Kwa hivyo tunge waomba butchery za ngurue ziwekwe kando na butchery za ngombe na mbuzi, kwa sababu na sisi tuna haki yetu katika Kenya, na sisi ni Wanakenya.

Ukiangalia upande wetu kama hiyo nime zungumuza, waislamu wengi, mpaka wa sasa, wana taabu hawana makaburi. Huenda kutafuta makaburi kwa njia ingine. Kama kwetu hivi Maragwa, sehemu ziliyo tengwa ya makaburi. Leo kwa hakika ina zika shimo moja watu watatu kwa sababu ya kukosa nafasi. Juzi health ame kuja Tetu, aka sema tu, ni makosa kutoa maiti ndani ya shimo urudi uweke maiti ndani, kwa sababu huyo ana weza kuwa na maradhi. Bais kwa vile sisi tuna taabu, tuna tafuta makaratasi ya nylon tuna weka mikononi, tuna toa yale mafuta ya zamani tuna weka chini, tuna rudi tuna weka mwili wa huyu marehemu chini, tuna rudisha mifupa. Kwa nini, kwa sababu serikali yetu, tukiingilia serikali yetu, tuki wauliza, hawa oni kama sisi ni watu, kwa hiyo, tunge pendelea tuwekwe katika orodha za wana Kenya kama watu wale wengine. Sisi ni wakikuyu, tena ile ni dini, mtu ana takiwa kusoma dini. Kwa hivyo, tufanyiwe kama wananchi wa Kenya.

Kile ninge penda kusema niki maliza, ninge omba katika maskuli, kama hiyo yule mama ame zungumuza hapa, waafrika tuna shida kwa sababu fimbo - - wakikuyu husema fimbo itengenezwe ikiwa mbichi. Na sisi tukipeleka watoto wetu katika nursery school, tuki peleka katika primary, tuki peleka katika secondary, ni kutengeneza fimbo yetu, au kutengeneza mtoto wetu. Lakini, mtoto wa Kiislamu akingia katika primary school, tuna ambiwa ni lazima tununue hii Bible yaitwa 'Kerekaniro' na hiyo hata ni niki nunua shillingi mia mbili, ama ata mia tano, kwangu nyumbani haitumiki kwa sababu mimi na tumia Koran. Kwa hivyo tunge omba, Waislamu wale wasoma katika maskuli haya ingine, wasiweze kulazimishwa, wawe wakinunua Bible, kwa sababu waki shaa nunua hizo bible, hazina kazi zina tusaidia sisi, na ni kazi ya kutupa habari ya dini yao. Kama sisi huwa na

madrassa, madrassa sisi watoto wetu husoma siku ya Jumamosi, Jumapili, au wakati ule shule zime fungwa. Tunge pendelea sisi, watoto wasitizamwe, wafundishwe islamu lakini wakiingia upande wa kizungu, wafundishwe kizungu, waweze kufundishwa habari ya kidini kingine.

Na tena kumalizia, hapo, nina mawili. Mambo haya mawili ni ya Kadhi. Nita zungumuzia, hata kama ishaa zungumuzwa na mwingine. Mambo ya kadhi. Kadhi ni muhimu katika dini ya kiislamu, na upande wa dini ya kiislamu, asimamie waislamu, na tuwe tukiona ya kwamba, huyo kadhi ana weze kuhubiri, ya dini na ya kisheria. Kwa hivyo akiajiliwa, aweze kuajiliwa upande juu ni wakiislamu, a-ajiriwe kama judge wale wengine . Na katika hao kadhi, tupewe nafasi, tuwe tukiwachagua sisi, siyo wawe wakisema ati mtu ame chaguliwa na rais au ame chaguliwa na mtu Fulani. Kwa sababu kama wakati huo, sisi watu wa central province au watu wa Kenya, waislamu, tuna ona ya kwamba, kwa sababu yule ame ajiriwa upande ule, upande wa dini, tuseme kukifika wakati wa siku ya Idi, una vuta watu siku ile haina kazi, kwa sababu kazi hiyo ndiyo ame ajiriwa. Lakini aangalie ati mwezi uli agana siku gani, kwa hivyo ni vizuri, hata wao wawe wakichaguliwa kama wengine. Asante sana.

Com. Raiji: Tumesema asante. Bwana Kaka Mohammed.

(Non-Verbatim)

Kaka Mohammed: Mr. Mohammed observed that prisons today were no longer meant for rehabilitation but rather were for punishing. He urged that persons in prisons should be treated humanely and not be given severe punishments, for this made them radicals.

Medical care had become very expensive and most people were dying simply because they could not afford treatment. Hospital fees should be made affordable.

Education too, had become too expensive. Certain schools were providing the old system of education, but were more prohibitive in their fees structure. It was therefore important that there be a uniform system of education: either we stick to 8-4-4- or revert to 7-4-2-3 for equality's sake.

Senior persons in the Government perpetrate corruption, and it was imperative that corruption is checked. In addition, no person should be above the law.

Comm. Lethome observed that it was now clear that all public schools would be free of charge. He sought Mr. Mohammed's suggestion as to the level to which education should be free.

Mr. Mohammed said that education should be totally free from Standard 1 to 8. Thereafter parents should pay a reasonable,

standard amount for Secondary education.

S. Irungu Mwangi: Mr. Mwangi reported that both the office of the president and that of the vice president should be seen to be seen as one and the same office, and that the maximum term for both should be two terms of five years each. After competition of the same, they should not be eligible for another term.

He noted that the number of Ministries and the ministers should be vetted in Parliament and all assistant Ministers should be referred to as Parliamentary Secretaries, as they will represent the Ministry in Parliament. There should be only one Parliamentary Secretary per Ministry.

The Prime Minister's office shall be the Ministry of Public Administration and shall contain the Judicial Service Commission, the Teachers Service Commission, the Public Service Commission e.t.c.

When a party wins a seat in Parliament, it should be deemed to hold that seat for five years, so that if the sitting Member of Parliament ceases to work, that party should elect another Member of Parliament.

As regards nominations in Parliament, Mr. Mwangi suggested that for every ten seats a party has in Parliament, it should nominate one Member of Parliament. In addition, parties can merge for purposes of nomination i.e. where they have less than ten seats each.

Members of Parliament should make a written oath to accompany their nomination papers, that the statements made therein are true to the best of their knowledge. This oath can in future be used as evidence against him.

Chiefs and Assistant Chiefs should, before appointment is done by Government, be nominated by Church Organizations in their area.

Mr. Mwangi reported that every Kenyan citizen had the right to own land. He observed that currently, land tends to be the preserve of the Local Authorities. He proposed that there should be established Provincial Land Tribunals, which should consist of all sitting Members of Parliament in the Province, and which shall be responsible for the approval of any alienation of land in the area.

Comm. Bishop Njoroge pointed out that the purpose of the review was to establish a democratic Constitution. Wouldn't this purpose be defeated if the President's, Prime Minister's and Vice President's offices were viewed as one and thus one denied to hold these offices successively?

In response, he said that this would act as a check, because if not in place, these offices could be abused.

Com. Bishop Njoroge was also of the view that it would be unfair on the electorate to be denied by-elections, and instead, the party given the power to elect a replacement of an MP who failed to clear his term. But Mr. Mwangi thought this was very fair, for by-electing a person, you also elected the party, which could also replace the MP. In addition, this would save on public resources for by-elections were very costly.

Councillor Anthony Njuguna: The Councillor reported that there was need to have a body which would be in charge of the creation of new districts and councils and that this should not be left to the Executive.

He further commented that there was also need to have a body to deal with the appointment of senior public officers such as Permanent Secretaries, the Attorney General, Comptroller and Auditor General e.t.c. Ministers should be given portfolios in accordance with their profession as currently most of the ministers were not qualified to run the ministries in which they had been appointed. Government policies should be communicated officially and in a systematic way to the public, by the Permanent Secretaries.

Daniel A Munde: Mr. Munde suggested in a bid to devolve power, Local authorities needed to be autonomous and that power devolved to them from the central government.

He reported that a president should be above party politics and in addition should not be a member of Parliament of any constituency and that Kenya should be his constituency. He further reported that there was need to have a ceremonial President, elected directly by the people and preferably a degree

The Vice President should be a running mate to the President. The Presidential elections, as well as those of the Vice President should be held on separate dates from that of Members of Parliament. Both the President and the Vice President have a maximum of two-five year terms and shall be subject to impeachment for improper conduct.

The Executive shall among others consist of the Prime Minister, the Ministers, Deputy Ministers and Permanent Secretaries, all of whom shall be liable to impeachment. The Prime Minister shall come from the political party with majority seats and Parliament shall be vested with authority to establish Ministries.

The Judicial Service Commission should be appointed by Parliament and it shall be responsible for the appointment of the Chief Justice, the Judges of Appeal and High Court Judges. The Chief Justice must be over fifty years of age and have worked as a Judge of Appeal for at least ten years and he shall have a maximum of two-five years terms.

The date of the general elections should be fixed by the Constitution and provision made for continuous registration of voters.

Constituency boundaries should be reviewed and candidates for Parliamentary elections should be aged between 30 to 70 years. In addition, there should be no nomination seats.

Mr. Munde also proposed that the Bill of Rights in the Constitution should state that all Kenyans are equal, and no one should be above the law. Every Kenyan should be entitled to free education as well as healthcare. Freedom of worship should be observed, but must be scrutinized by recognized churches. Every Kenyan over 18 years of age, should be given land.

Natural resources should benefit all Kenyans, and the Government was urged to device ways to boost agriculture. Farmers should be allowed to sell their products anywhere in Kenya.

Mr. Munde further pointed out that the land left adjacent to the railway line was too big and that it should be reduced to 50 feet on both sides, and the surplus given to the landless.

Mr. Munde had other proposals:

Kenyans should be involved in the making of the national budget.

Trade unions should be recognized by the Government.

The doctrine of separation of powers should be observed.

The offices of the Attorney General, the head of the Public Service Commission, the Comptroller and Auditor General should enjoy security of tenure.

The Provincial Administration should not be scraped, but should be de-linked from politics.

Upon the dissolution of Parliament, and in the interim period before new leaders take over, the Speaker should assume the role of the President.

To honour our founding fathers, their portraits should be used on our currencies.

All cases of religious matters should be left with the Church.

Government should honour all of its promises to Kenyans e.g. the salary scheme for teachers.

Comm. Lethome asked that in the event that there were to be no nominated seats in Parliament, what would happen to the marginalized groups?

The response was that Parliament should have ways of catering for these people e.g. employ people to look into the welfare of the marginalized groups.

Comm. Raiji sought to know whether a conflict of interests would not arise if the main churches were to scrutinize upcoming religious groups. He observed that a practical example was where a breakaway group sought to register itself as a Church, but

before then, had to be scrutinized, perhaps by the church from which it had broken away.

Mr. Munde submitted that since many churches were mushrooming today, they had to be probed.

Jane Ndung'u & Margaret Ngugi: Mrs. Ngugi thanked the Commissioners for having found time to come and collect their views and noted that this was important, for the Constitution represents persons of all walks of life. She noted that the Constitution had been reviewed 38 times, without even the knowledge of Kenyans. Her first proposal was that the new Constitution should be in simple language and be brief, for “Wanjiku” and her children to understand. She also suggested that any amendments made to the constitution should be through the people and not parliament.

She looked at the Executive and pointed out that the President must not be above the law and must not be a Member of Parliament. He should garner 75% of the total votes in every district.

The Parliament should have independence of thought and should be vested with the power to hire and fire Government appointees. It should have the power to debate and decide on Government expenditures, and Ministers should be obliged to present Ministerial budgets before Parliament for debate, before the same is taken to the Treasury.

Parliament should also have the power to debate on Ministerial appointments, to ensure that their portfolios tally with their professions. She gave the example of Hon. Kalonzo Musyoka who is a lawyer by profession, but who was Minister for Education – this was not in order.

Parliament should appoint the Attorney General, with the help of the Law Society of Kenya. And all taxes should be accounted for in Parliament.

Local Authorities funds should not be managed by the Central Government, but by respective Councils and the Transport Licensing Boarding should assist in the maintenance of roads.

As regards elections, she suggested that disciplinary action be taken on persons guilty of rigging and other election offences. Ballot boxes should be transparent and there should be a continuous issuance of identification and voters cards. The next general elections should not take place before the Constitution is ready.

She then proceeded to comment on basic human rights. First, she suggested that there be a Constitutional safeguard on education. There were other proposals too:

There should be free Primary education and proper teaching staff provided.

The Kenya School Equipment Scheme should be revived.

Money that formerly funded the Nyayo milk should now be used to buy books for pupils.

There should be no quota system of education.

The 8-4-4-4 system of education had failed and this had led to the establishment of foreign systems of education e.g. GCSE, in Kenyan schools. We should therefore revert to 7-4-2-3.

The Constitution should make provision for any other changes in education.

School sponsors should be empowered to ensure that subjects are chosen wisely, and religious education stressed on, for proper spiritual guidance.

Education on sex and family life should be reviewed, and parents consulted before the same is established in schools.

As regards shelter, she proposed that there be equitable distribution of land and the landless be settled.

On security, she had this to say:

All Kenyans should be protected regardless of their status.

All murders should be investigated keenly and no preferential treatment given to the murder of a prominent person.

No one should have such a power base that he can create havoc in society, and still remain untouchable.

The Police Commissioner should be a Member of Parliament and be elected in Parliament for the post.

Mrs. Jane Ndung'u began by commenting on the freedom of association and expression. She made these proposals :

Peaceful demonstration should be allowed without the police interfering.

The mass media should give equal coverage to all contestants for seats.

Vulnerable groups, such as women, should secure Constitutional protection on matters of property ownership, inheritance e.t.c.

Women should be involved in the decision making process e.g. by appointing them to serious offices.

Girls should be protected from Female Genital Mutilation and there should be women representations at the district level.

She also discussed the rights of the disabled and of children. There should be no child labour and this could be done by making education compulsory. Persons guilty of child abuse should receive severe punishment, and the law on affiliation should be revived.

Mrs. Ndung'u made a number of other proposals:

If KACA is revived, it should be empowered to prosecute grabbers of resources.

The President should not have a large convoy as this is a waste of public funds.

Rather than have by-elections that are often very costly, the runners-up of elections should take over the seats in the

absence of the winners.

The environment should be protected, water catchments be maintained and towns and cities kept clean.

Government offices should be decentralized. Currently most of these offices are in Nairobi, and so they should be spread out, and brought closer to the people.

The Government should honour its promises.

During Presidential elections, the Attorney General should take over the President's seat, so that no power vacuum exists, until a new President is sworn in.

Finally, Mrs. Ndung'u applauded the Constitution of Kenya Review Commission, as being the first Commission appointed, without omission, and expressed the fact that the public had so much confidence in this Commission.

Com. Raiji sought a clarification as to whether the proposal that the Affiliation Act be re-enacted was so that fathers would be made responsible for their children, and Mrs. Ndung'u agreed with him.

He then asked for specific recommendations to empower women and ensure that they owned property, inherited and got appointed in senior Government offices.

Mrs. Ndung'u pointed out that women should not be marginalized. There should be reserved Parliamentary seats for district women representatives. The mass should also be enlightened on the role of women in society.

Comm. Lethome pointed out that the Constitution had only been amended 38 times, not reviewed, and made it clear that amendments are effected by Parliament only.

To this, Mrs. Ngugi proposed that it be incorporated in the Constitution, that before amendments to the Constitution are done, people should be consulted e.g. through questionnaires.

Sixtus Muthuma:

He had four brief points:

We should have a system of Referendum entrenched in the new Constitution, so that no amendments are made to the Constitution without involving the public.

The Constitution should contain a preamble that indicates that the Constitution is home-grown.

The Constitution should specifically protect every person, especially, the marginalized groups.

Presidential and Parliamentary elections should be held at separate times.

Hon. Kamanda Mwangi, Mp Maragwa : The Member of Parliament began by pointing out that this process was being carried out for the benefit of the ordinary Kenyan. However, since the ordinary Kenyan did not possess knowledge of the Constitution, and civic education had not been done, he wondered whether Kenyans would get what they really deserved in the new Constitution.

He first addressed the qualifications of Member of Parliament and the President. MPs and Councillors should be persons of moral integrity. The same applies to the President, who should also be aged between 35-70 years and not be senile.

He noted that the current Constitution had loopholes, because although it provided for a President's term as a maximum of two five-year terms, when it went to Court for interpretation, the current President was allowed to serve another term. He hoped that the new Constitution should be clear on this matter.

The President should not be a Member of Parliament, and he should not be the Chairman of any political party.

There should be a clear separation of power and the Executive should not influence the Legislature. He pointed out that recently, when the fate of KACA was being debated in Parliament, the President came to Parliament as Member of Parliament for Baringo Central and this was intimidating.

The Government should be responsible for all Kenyans from birth to death and not just after obtaining an identity card.

He note that free and compulsory education was rendered senseless, unless the Government provided facilities for schools. The rich take their children to private schools, whereas those in public schools have no facilities.

He observed that Kenya is a multiparty country, but that the ruling party had always been favoured. For instance, the Kenya International Conference Centre, which is public property was given to KANU. The new Constitution should make it clear that all parties be treated equally and that they should be funded by the Government.

His other points consisted of the following:

No one should be above the law.

When traditional brews were banned, this gave leeway for other brews, which are now killing Kenyans.

The creation of districts or other Government institutions should be left to Parliament.

The Provincial Administration, inherited from the colonial government, no longer serves any purpose. It should be scraped,

and their functions done by Local Authorities.

The backbone of our economy is agriculture, thus the Government should protect and promote the interests of farmers in Kenya e.g. through the marketing and promotion of produce.

Interests of Kenyan workers should be safeguarded and their working conditions reviewed yearly.

The Constitution should place on the Government the duty to protect water resources.

Com. Lethome had a number of questions: Are there three separate arms of Government or is there an interface? If there is no separation of powers, what should be done?

Next he pointed out that if political parties were to be funded by Government, they would start to mushroom, most being interested only in the funding. How could this be avoided?

The MP proposed that for purposes of funding, a party should be one with at least five sitting Members of Parliament.

He also noted that in Kenya, separation of powers was only in the written form, but in practice there is a lot of interference from the Executive. He proposed that in future there should be a complete autonomy of Parliament in legislation and the Executive should only be involved in the implementation of laws made.

Com. Lethome also asked whether the Chief Justice, being an appointee of the President, could be independent. The Honourable admitted that the Chief Justice under such an appointment, could not be independent. He gave an example of the 1997 elections, when there was talk of mass rigging of votes, yet the Chief Justice rushed to go and swear-in the President. He therefore proposed that persons aspiring for the post should make an application, to be forwarded to Parliament which would then make an appointment after vetting.

James R Beuttah: He made the following submissions:

Cooperative movements were meant to assist their members eradicate poverty, but today that is not the position.

The Constitution should safeguard the interests of members of SACCOS. Interest should be given on dividends, and members' money used only with their acceptance.

Members of cooperative societies should have power to remove from office officials who do not perform their duties.

Johana Osako Representing The Views Of Six People: He began by pointing out that the Constitution needs a preamble, setting out our national vision. It should state that there should be equal opportunity for all.

The Constitution should make a distinction between democracy and principles of natural justice. The Constitution should be

subject to natural justice principles and not democracy, for democracy is not infallible, it can be corrupted and manipulated.

He pointed out that harambees should be discouraged for he described them as the wind that fans the flame of corruption. Harambee funds should be audited and their sources as well as uses should be determined.

There should be a President, elected by the people, and a Prime Minister elected by the Members of Parliament.

The Provincial Administration should be abolished and Local Authorities made semi-autonomous. Local Authorities should be in a position to generate their own funds, which the Central Government should only tax.

There should be a number of seats reserved for nominated Members of Parliament, and these should be left for special interest groups such as the youth, minority groups and children's representatives.

The Constitution should make provision for a coalition Government where no party has an absolute majority of seats.

Presidential and Parliamentary elections should be held on separate dates and Parliament should have its own calendar, so that dissolution is not done arbitrarily.

Mr. Osako had other proposals, some of which would ensure the devolution of power:

The appointment of Judges, the Chief Justice and the Attorney General should not be left to the Head of State but should involve Parliament. These offices should enjoy security of tenure.

The powers of the Attorney General to enter a nolle prosequi should be scrapped, as it has been used unfairly.

Chief officers should be employed by Local Authorities, and not by the central Government. And Local Authorities should not be dissolved, unless on proper evidence in Court.

There should be no tribal consideration in the formation of Constituencies, and the number of people in each Constituency should be more or less the same.

Provision should be made in the Constitution for single independent candidates.

Mr. Osako then discussed land rights and first of all pointed out that the ultimate owner of land should be the state, which can repossess land and decide how best to use it. There should be legislation, providing for the maximum amount of acreage that can be subdivided, and for this purpose, a distinction has to be made between agricultural land and land used for settlement. This will ensure that land is not divided into non-viable pieces.

Before public land is disposed of, there should be a debate in Parliament to vet and ratify the same.

At not time should ethnicity be a requirement by an institution to employ one, and even during population census, the forms should not reflect the population strength of a given ethnic group.

Mr. Osako further noted that there should be different election timetables for the Prime Minister, and the President so that the Prime Minister's term is concurrent with that of Parliament, but that of the President is different. The import of this would be that when presidential elections are held, since they shall be separate from Parliamentary elections, the Prime Minister shall be in power and so no power vacuum shall exist.

The Prime Minister and President must not be immune from prosecution, after leaving office.

Mr. Osako also proposed that when there is need for a public officer to be investigated for abuse of public funds on office, he should go on suspension and if found to be innocent, should be reinstated unconditionally, but if guilty, should lose his job and pay back the amount squandered.

The idea of free education is a theoretical concept and can only be real if parents are not required to pay any levy. Thus, the Government should either provide all required facilities or determine how much parents should contribute.

As regards public health, the Constitution should create a body to procure storage, distribution, etc of drugs and those guilty of misapplication of medical facilities, should be punished.

Comm. Bishop Njoroge had two concerns: first, how could devolution of power from the central Government be done and secondly, if the proposal not to subdivide land to pieces not viable for agriculture was to be followed, how would the problem of landlessness be addressed?

On devolution, Mr. Osako called for the dismantling of the Provincial Administration and the autonomisation of Local Authorities, which should be able to take in all income generated in their regions, only subject to taxation by the Central Government.

On the second question, he pointed out that no land should be left to lie idle; such land should be acquired by the Government and put to good use. However, farmers needed large pieces of land, if to make profitable agricultural practices.

He also pointed out that not all children had to inherit and subdivide ancestral land, others could inherit other sources of income.

Comm. Dr. Mosonik sought to know what would happen to culture and native languages if ethnicity were ignored. But Mr.

Osako made a distinction between abolishing ethnic identity and making ethnicity a prerequisite for the enjoyment of services and facilities. The latter, in his view, is what should be banned.

Albert Kamau Muiruri: Mr. Muiruri had these recommendations:

The powers of the President to hire and fire senior civil servants should be trimmed.

There should be an office of the Prime Minister, who should be in charge of the day to day running of the country.

Every Kenyan above 18 years should be eligible to vote, and the registration of voter should be a continuous exercise.

There should be a timetable for elections, stated in the Constitution.

Mayors and Chairmen of Councils should be elected directly by the people.

The counting of votes should be done at the polling stations.

The Provincial Administration should be scrapped, and in its place, we should have strong Local Authorities.

Margaret N Ng'ang'a: Mrs. Ng'ang'a observed that ours was a society that was culture based. Unfortunately, certain cultures were oppressive to women, and these, she pointed out, should be outlawed.

The Constitution should ensure gender equity in representations in Parliament, as well as on the appointment of Chiefs and their assistance.

The Constitution should also outlaw certain practices, which hinder the education of the girl child e.g. early marriages.

The police should take seriously, cases of rape and those of violence against women and if possible, women police officers should handle cases of rape.

She observed also, that our laws on Citizenship portrayed gender disparity. The Constitution should provide that a foreigner married to a Kenyan woman, or a child born to a Kenyan woman, qualifies for Kenyan Citizenship. In addition, evidence of one's husband's permission to travel abroad should not be required.

The Constitution should recognize women and children as custodians of environmental conservation, and special amenities should be provided for the less fortunate e.g. their offices should be on the ground floors.

Comm. Raiji sought proposals on how gender equity could be observed in elective positions, and was told that provision should be made to protect women aspirants from intimidating actions and languages of their male counterparts.

Comm. Dr. Mosonik asked whether there were any elements of culture that were worthy of protection, and was told that certain

aspects of culture were positive and worthy of protection.

Peter Muiruri: He was presenting his own views and also those of Mr. Charles Kirungu. He first read out Mr. Kirungu's views: -

Mr. Charles Kirungu pointed out the following: -

The Constitution should have a preamble, spelling out the Country's vision and guaranteeing peace and national unity. It should appreciate our cultural and regional diversity.

The Government should provide basic needs of its citizens, and there should be equitable access to natural resources.

The Constitution should provide for a Referendum so that the Citizens are able to vote for or against important issues affecting them.

Presidential elections should be de-linked from Parliamentary elections.

Development funds should be shared out according to administrative boundaries.

There should be state welfare funds set aside to cater for the unemployed.

Female Genital Mutilation should be outlawed.

The three arms of Government should be equal and independent.

The currency should be permanent, not changing with the change of Presidency.

The freedom of worship should be re-defined.

Mr. Peter Muiruri's views were as follows: -

Our leaders should have a clear vision.

There should be a Constitutional Conference for an open Constitutional review process.

Court cases should not take so long, suspects should have their cases determined within two months.

The Electoral Commission should be independent.

Com. Dr. Mosonik sought a clarification on what Mr. Muiruri meant by his second point. He also wanted to know who would appoint the Electoral Commissioners.

Mr. Muiruri stated that by the second point, he meant that the present Government should dissolve itself, and have an interim Government to oversee the review process, so that the same would be fair.

Com. Dr. Mosonik made it clear that the public should have no fears that the Government could compromise the review process. He explained that the Commissioners were collecting views, which would be taken before a National Constitutional

Conference consisting of about 600 people, representing each district. It is at this conference that provisions of the Constitution shall be debated on and passed.

Finally, Mr. Muiruri proposed that Electoral Commissioners should be appointed by Parliament.

Wilson N Ngugi - Kenya Association of Retired Officers (KARO): On behalf of his colleagues, Mr. Ngugi made the following proposals: -

The Constitution should be for all Kenyans, regardless of colour, race or tribe.

The Constitution must be respected and adhered to by the state.

To change any provisions of the Constitution i.e. to effect an amendment the requirement of 80% of the total votes in Parliament must be met.

Parliament should be allowed to amend the Constitution only once in five years or otherwise; a Constitutional Commission should carry out a Referendum.

The language of the Constitution should be simple.

The President should be of sound mind, aged between 45-65 years, be a degree holder and have motivation to lead. He shall not be above the law.

The President should have a running mate who shall become the Vice President. Both shall serve a maximum of two, five-year terms.

There should be a Constitutional Commission, vetted and appointed by Parliament. It shall be responsible for the appointment of the Attorney General.

The appointment of Ambassadors should be done by the Minister for External Affairs, Parliament having the power to vet the same.

The Cabinet should consist of between eleven to fifteen Ministers only and the President shall have no power to dissolve the Cabinet.

The President should not be the Chancellor of all public universities.

Administrative chiefs and their assistants should be elected directly by the people.

As regards the Legislature, he expressed the view that this body should be supreme in law making. The job of an MP should be a full time occupation, and Parliament should work five days a week.

Independent candidates should be allowed to contest for seats, and moral as well as ethical qualifications should be introduced for MPS. MPs should act on instructions from citizens and thus the electorate should reserve the right to recall their Members of Parliament who do not perform. The power to recall should be exercised by one tenth of the total number of voters.

For the Judiciary, the present structure should continue, with a few inclusions. There should be a Constitutional Court, whose officers shall be appointed by a Constitutional Commission. These officers shall have a term of five years, but which shall be renewable. There should also be introduced an economic crimes court. Finally, legal representation should be given freely for the poor.

The Constitution should recognize pensioners, and the old and weak pensioners should be given medical care. Benefit should be paid upon retirement, and when salaries of civil servants are being reviewed, pensions should be reviewed too.

As regards elections, Mr. Ngugi proposed the scraping of the 25 rules and the introduction of the rule that a Presidential candidate must garner 55% of the total votes cast. Defection should not be permitted. Seats in Parliament should be set-aside for interest groups, as follows: one percent for the disabled, five percent for women and another one percent for the youth.

Mr. Ngugi proposed that having proper transportation, having transparent ballot boxes and counting votes at the polling stations could improve the 2002 elections.

He further proposed that the Electoral Commission should be independent, consisting of 15 educated Kenyans, proposed and vetted by the Constitutional Commission. They should serve a term of five years. The Commission should be funded from the consolidated fund.

As regards land rights, there should be a ceiling to land holding, so that an individual can hold a maximum of 40 acres of land. Both men and women should have access to land holding and when one loses land to the state, he or she should be compensated promptly.

Finally, he pointed out that the distribution and management of natural resources should not be done by the Executive, and three quarters of the benefits reaped from such resources should go back to the area where the resources are found.

Comm. Bishop Njoroge sought an elaboration of the moral and ethical qualification to be required of a Member of Parliament.

Mr. Ngugi said that an MP should not have been guilty of corruption, land grabbing, adultery e.t.c.

Comm. Raiji sought to know how the power to recall a Member of Parliament would be exercised. Mr. Ngugi explained that if the number of electorates expressing dissatisfaction amounted to one-tenth of the registered voters, they had a right to elect a new Member of Parliament.

However, Comm. Bishop Njoroge expressed the view that there had to be valid reasons for the electorate to exercise its

power of recall, for otherwise it could even be bribed to pass a vote of no confidence in their MP.

Margaret Nyiha: This was an old woman who said that she fought for Kenya's independence. She noted that today many people were lazy and did not want to work. She found this strange for it was clear that a country could not run unless its citizens worked.

She called for the banning of illicit brews that were killing many.

Doctor Gichuru: Dr. Gichuru observed that the Executive had overwhelming powers. He pointed out that the President literally controlled all thirty million Kenyans.

It was his view that powers of the President should be reduced, especially those of appointment, but his rights should stay as they are.

He also observed that Presidential appointees such as the Vice President were not independent, and nominated Members of Parliament who were appointed, as Ministers could not act, as they should. He proposed that these persons should be vetted by Parliament and granted security of tenure.

Dr. Gicheru noted with concern that 63% of Kenyans were living below the poverty line. He proposed the establishment of a Ministry to deal with the reduction of poverty, which will have technocrats whose duties should entail carrying out fieldwork, to establish the causes of poverty.

Finally, he proposed that the creation of Ministries should reflect and be determined by the situation in the Country.

Councillor Cyrus J. Mwaura, Chairman Maragwa County Council: The Councillor proposed the establishment of a panel responsible for the nomination of officers such as the Provincial Commissioners and District Commissioners. It would nominate twice the number of officers required, and from these, the President should appoint. The same panel should be responsible for the discipline of the officers appointed.

The election date should be announced six months prior to the dissolution of Parliament.

As regards Local Authorities, his area of speciality, the Chairman proposed that Mayors and Chairmen of Local Authorities should be elected directly by the people. They should have at least O-Level qualifications.

There should be established District plot allocation Committees, chaired by Mayors and responsible for all land allocations

within their Jurisdiction. The Chairman of the Committee should be a signatory to all the documents for land allocation.

Local Authorities should have the power to hire and fire their chief officers, so that they are answerable to and paid by the Councils. There should also be established a body where an officer aggrieved by his dismissal can complain.

The freedom to worship has been abused so much that the Councillor proposed the establishment of a Committee to investigate religions that seek to be registered. The number of registered churches should be regulated and limited.

In a bid to devolve power, it would be desirable that 40% of all revenue collected from taxation is given to Local Authorities, in order of their sizes. Local Authorities should then account for such funds.

Finally, the Chairman expressed the view that the Government should be true to its words: since it had promised to provide free education, parent should no longer be required to pay levies for education.

Comm. Lethome sought to know who would appoint members of the panel that would deal with the discipline and appointment of Government officers.

They shall be appointed by Parliament, and shall be seven in number. They should be holders of degrees, preferably in Administration.

The Councillor also proposed the establishment of a Committee to look into the interests of Legislators, e.g. their remuneration, so that Legislators do not take advantage of public funds, when determining their salaries.

Daniel Mwangi - Catholic Justice And Peace Commission, Saba Saba: Mr. Mwangi's submissions were to the effect that the next Constitution should have a preamble, expressing our vision, and the fact that it is people-centred.

The Constitution is supreme and must be honoured by all people. The new Constitution should ensure the security of all Kenyan citizens, without bias. The President shall remain the Commander-in-Chief, but should not have exclusive powers to declare war or a state of emergency. To do this, he must consult his Cabinet.

There shall be a ceremonial Head of State and a Prime Minister coming from the party with majority votes. The Cabinet should be appointed by the Prime Minister, from among the Members of Parliament, and not be nominated. Persons guilty of capital offences should not be eligible to hold office.

Mr. Mwangi also proposed that the Government should fund all political parties.

Other proposals were as follows:-

The Judicial Service Commission should appoint Judicial Officers who should be vetted by Parliament.

Mayors and Chairmen should be elected directly by the people.

There should be no nomination of Councillors.

The Electoral Commission should be independent; its Commissioners appointed by Parliament.

The Constitution should charge the Government with the duty to provide basic rights e.g. education and medical care.

The right to own property should be protected and one should be compensated where the Government compulsorily acquires his property.

Our cultural and moral heritage should be protected.

Com. Bishop Njoroge asked for Mr. Mwangi's views as to whether the death sentence should be abolished, but Mr. Mwangi felt that it must not be abolished.

Com. Lethome sought to know who should appoint the Judicial Service Commission. Mr. Mwangi thought that this Commission should be appointed by the Parliament, which represents the people's will.

A question however, arose as to how separation of powers could exist if Parliament was to have such powers over the Judiciary.

Moses Mwangi Ndung'u: He had three concerns:-

The President should have a running mate as this would ensure security of tenure for the Vice President.

The Constitution should create the office of the Secretary of Defence, to be appointed by Parliament. This Secretary shall have the power to appoint Senior Officers of the armed forces.

One-third of the seats in Parliament should be set-aside for women, and another third for the youth.

Comm. Lethome wanted to know the age limit of a youth and was told that the word encompassed persons between thirteen and forty years of age (13-40).

J. Mwangi Baptist: Mr. Mwangi basically addressed the issue of the Provincial Administration. He said that the offices of the Provincial Commissioner and the District Officer as well as that of the Chief should be scrapped. Village elders should be recognized and empowered by the Constitution, to work with Sub-Chiefs in villages.

Com. Lethome wondered how there could exist a Sub-Chief if there was no Chief.

Com. Dr. Mosonik sought to know who would choose the District Commissioner.

He would be chosen by the people

Father Paul Ng'ang'a: He set out these proposals:-

The Constitution should cater for indigenous communities and persons.

It should protect Kenyan industries from the importation of locally available goods, so as to enhance marketing.

Total quality management should be offered below cost so that a viable economy exists.

In the public sector, that which locals can do, no foreigner should be contracted to do.

The focus on education should be for one's well being, not so as to get employed. If this is to happen, education should be physical, spiritual and moral.

Proper laws should in place to prevent the culture of rigging during elections.

To honour our national anthem, we should make it African in nature, and it is important to note that religion is an important aspect of an African life.

When asked for his views on the freedom of worship, he pointed out that this freedom is viewed as a licence, but it should be limited and should not extend to religions pegged on monetary gains.

Com. Lethome asked how rigging could be curbed, and the Father proposed that civic education could solve this problem.

Com. Mosonik pointed out that even in schools, students were of various different sects and religions. How do you then teach a uniform religion?

Father Ng'ang'a response was that if we truly were religious, our values would be the same.

Councillor Karanja: On Local Authorities, the Councillor proposed that Councillors should be persons having at least Form Two qualifications. Chairmen and Mayors should be chosen directly by the people.

The power to grant consent to any subdivision on sale of land, currently done by Land Control Boards, should be vested in Local Authorities.

In addition, the power to hire and fire chief authorities should be exercised by the Local Authorities.

He also proposed that the power to appoint Permanent Secretaries, the Attorney General, the Judicial Service Commission and Vice Chancellors, should vest in a Commission appointed by two-thirds majority vote in Parliament.

In addition to the above, the following were suggested:-

Nobody should be above the law.

Children should be represented in Parliament.

Child labour should be prohibited, for it affects the rights of children negatively.

The Government should provide rehabilitation centres for street children.

The School Equipment Scheme should be reinstated.

Girls should have equal inheritance rights to boys.

Peter Ng'ang'a : His points were as follows:-

The Constitution should supercede all other laws, and any law in conflict with it should become null and void, to the extent of its inconsistency.

The President should be subject to prosecution for the wrongs he commits, even while in office.

The Legislative power should vest in Parliament, and any other body it appoints to assist it for that purpose.

The office of the Vice President should be reserved for the leader of the opposition.

Reports of Commissions of inquiry should be released to the public immediately, upon the completion of investigations.

The Attorney General's power to enter a nolle prosequi, under Section 26(3) of the Constitution, should be scraped.

A good Constitution should observe the rule of law as propounded by Prof. A C Dicey.

Comm. Dr. Mosonik wondered who would become the leader of opposition if the holder of the title joined the ruling party and Government as Vice President.

Maina Chege: Mr. Chege proposed the existence of a complete separation of powers and independence of the three arms of Government. The power to appoint officers of the Judiciary, Civil Service and the Armed Forces, should not vest in the Executive exclusively. Instead, he proposed a system where names of interested candidates would be gazetted and open for public scrutiny for a given period and thereafter, Parliament should vet the candidates.

The President should have a running mate who shall be his Vice President. Presidential candidates should declare their wealth and prove up-to-date payment of taxes.

Once in office, the President must not engage in any business.

