

CONSTITUTION OF KENYA REVIEW COMMISSION

CKRC

VERBATIM REPORT OF

**CONSTITUENCY PUBLIC HEARING, KIHARU CONSTITUENCY, HELD AT MURANGA COUNTY HALL
ON WEDNESDAY, APRIL 17TH 2002**

Present:

Mr. John Mutakha Kangu - Commissioner
Ms. Salome Wairimu Muigai - “

Apologies

Mr. Domiziano Ratanya - Commissioner

Secretariat Staff In Attendance:

- | | |
|--------------------|-----------------------------|
| 1. Solomon Anampiu | Programme Officer |
| 2. Gilbert Amoke | Assistant Programme Officer |
| 3. Grace Gitu | Verbatim Reporter |
| 4. Daniel Muturi | Sign Language Interpreter |

The meeting started at 9.20am

Co-ordinator Allan Njeru: Let me ask Father to lead us in prayers, before we give our views.

Interjection: Yes please, yah please.

Father J.B. Mungai: (Priest) In the Name of the Father, of the Son, and of the Holy Spirit Amen.

God our Father we come before you, this day where by we are carrying on a very noble task: The development of our country, we call upon the guidance of the Holy Spirit that you may guide us to give views and recommendations as per the way we want to be governed in this country. We ask you to guide us, open our minds and our hearts that we can be true servants where Justice, Peace, and harmony may prevail in this country.

I present to you the members present of the Commission for their endeavor and great work they are doing for the benefit of our country. I present to you also those who are going to present the views of various groups and individuals too. Father enlightens them and we pray for the entire body which has offered us a place here that we may use this place for the glory of your name. We ask to open this meeting with your blessing God the Father, God the son, God the Holy Spirit. We pray this in Jesus name, Amen

Co-ordinator Allan Njeru: Thank you very much Father, for the prayers that you have given us. Let me take this chance to welcome the Commissioners.

Interjection: (Hallo, Hallo, Hallo)

Co-ordinator Allan Njeru: The first Commissioner on my left is Commissioner Salome Muigai, you must have heard of Salome in the papers and elsewhere and Commissioner Kangu, Commissioner Kangu, let us not be discouraged because of the few people we have here by the end of the day I assure you this hall will be full to my own expectation and the publicity that I have made with my Committee. As you can see in front of us; this is the Chairman of the Constitution Committee of Kiharu Constituency. What I have in mind is that; let those who come start straight away otherwise the day is gone and we may not want to inconvenience you and as you have told me let me announce this one here now that we are going to finish our job at six o'clock, therefore for those who are outside let a word go round and tell them to come and give their views particularly more so because we may not wish to lock them out. Commissioners, we have done our best and we hope many are still coming as I had said earlier. So let me leave the day to you because this is your day not like the day when I go to do the Civic Education. This is your day fully and I ask you now (inaudible). Thank you very much for your coming.

Com. Kangu: Ladies and gentleman this is a session of the Constitution of Kenya Review Commission; for purposes of taking views, I wish to declare this session open, but before we start taking views there are a few things we would like to mention so that members are aware.

That this session is according to our regulations and is supposed to run from 8.00 o'clock to 6.00 o'clock in the evening and so members who have other things to do, can do them and we will be here to hear them until 6.00 o'clock if we finish fast.

That the views we are going to receive will be either from individuals, from registered groups, or from any other organization so when you come up to speak you must state whether you are speaking as an individual or a representative of a group.

The language of these proceedings will be in English or Kiswahili but that does not mean that if one wants to speak in his/her mother tongue will not be allowed, but we request that if one intends to do so, a notification should be given when registering so that arrangements for translations if necessary can be made.

We also have a sign language interpreter, and if you know of any member who wants to submit views and want the services of the sign language interpreter, we need to be informed and at that level we note that there are members who sometimes would like to follow what the others are submitting and as such if there is someone who needs that interpretation, let us be told even if the person does not want to submit views the person may want to hear what other people are submitting and a translation may be done.

Now the views may be submitted orally or by a way of written memorandum, and if you have a written memorandum it could be a hard document, a hard copy, or you could even give us a computer diskette if you have in those minds. Now when one is giving oral submissions we will allow ten minutes. When one is giving written submission and he/she wants to highlight certain areas in the document we give five minutes to do so. We also make provisions for clarifications after a member has submitted.

The members of the panel may want to clarify a few things from him/her so a question or two may be asked. We also say that there may be those members of the Public listening who may want to clarify something from the presenter and will be given time, but at that level I normally warn; that should not be used to engage in arguments or to start saying that you are disagreeing, because if that is all you want to say you will have your turn to make submissions and while you are doing so you can make a reference to what other people have submitted and say whether you agree with them or disagree with them. So it will not be an opportunity for engaging in arguments and if one tries to do so we shall stop him/her so that we can be able to move faster. Those are a few things I will like to mention to guide the presenters. “We can now begin”.

Interjection; (soft noise)

Com: Kangu is there any (Just a moment)

Com: Salome Muigai: Hamujambo mabibi na mabwana, kwa niaba ya tume ya marekebisho ya Katiba, bwana mwenyekiti wa zamu Dakitari Kangu, na mimi Salome Warimu Muigai, tunawakaribisha kwenye hii tume. Na tungetaka kuwauliza kama kuna mtu ambaye haelewi kingereza, tuko tayari kabisa kutumia zile lugha ambazo zinaeleweka.

Mbili na sisi pamoja, tutawajulisha ile mambo yote imezungumuzo kwa Kiswahili na kingereza. “Kuna mtu ye yote yule mwenye hakuwelewa yale tumezungumuza kwa kingereza? Wakati huu basi kama hamuna lolote umefika wakati wa nafasi yenu. Ahsante.

Com. Mutakha Kangu: So and we begin with Father J.B. Mungai of Catholic G.C.A.M.

Interjection: (Noise here and there)

Father J.B. Mungai: My names are Father J.B. Mungai from the Catholic Diocese of Muranga presenting views on the Constitution of Kenya from Diocesan Priests Association of Muranga short- listed in half. It is composed of 4 districts; Muranga, Kirinyaga, Thika, and Maragua.

Preamble: Our new Constitution may have a Preamble. This Preamble should state that the Constitution is made by the people of Kenya “We the people of Kenya” it should say that. The people of Kenya are sovereign and democratic. Nobody

is above the laws, we are a part of history and struggle and we shall continue to struggle that this is hard, freedom that we are about to safeguard with our new Constitution. Directive principles of state policy. The following directive principles should be included in our Constitution.

1. National Philosophy and Guiding principles Gender equality, and protection of the life of the minorities,' elements of a Just Society. All Geographical regions of a country are entitled to equal developments, children, young people, the elderly and other other vulnerable group should be protected. The rights and dignity of all people irrespective of race, tribe, should be safeguarded. The traditions customs, should be the guidelines in the society provided it does not harm any sector of our society, of particular importance would be the formation of Great Council of elders.

Democratic Principles: Power belongs to the people and is exercised on their behalf through representatives, citizens and accountable institutions of governance. Constitutionalism and the rule of the law must be adhered to. All human beings are equally entitled to civil, political, economic, social, cultural, and development rights. Natural resources belongs to all the citizens, the natural environment must be protected. Citizen's rights must associate without any hindrance-taking place.

Constitutional supremacy: our Constitution should be supreme. On Constitution change the Constitution must indicate that in the event of over hauling the Constitution all Kenyans should be involved. In the event of amendments, they shall be subjected to a referendum before the year enacted by the parliament. This will keep Kenyans a breast with any new development in their Constitution. Citizenship those who should be regarded as automatic citizens of Kenya are:

- All people born in Kenya, of Kenyan parents who are both Kenyan citizens.
- All children born outside Kenya of parents who are both Kenyan citizens.
- All children born of one Kenyan parent, regardless of their parents gender.
- Spouses of Kenyan citizens regardless of gender must be entitled to automatic citizenship even if they are citizens of other countries. The Constitution should have no room for dual citizenship. One must surrender his/her own citizenship in order to have one citizenship.
- Citizenship should be identified with an Identification Card.

Structures and Systems of Governance; Kenya should adopt a Parliamentary Government, where the real power rights begin in the Parliament and legislature which has supreme authority. The Minister should be responsible the Provincial Administrators should be elected. The Local Government should be empowered to run it's own affairs. The Local Government should be elected by the people. The Legislature: Parliament should make the appointments of Ministers, and Assistants Ministers, this will make the Ministries more professional and accountable. Court Judges through a Parliamentary Judicial Committees should be enacted. Public Service Commission Officers also. The power of parliament should be expanded to one. The power to impeach the President in the event of grave misconduct.

Debate and approved government expenditures; debate and approved accusations of external or internal laws by the

government, which should be passed through 2/3-majority vote. Power to constitute Commission to look into the matters of public interests, the president will do the appointment and gazette the names of the Commissioners.

Parliament should have a limited powers to control its own procedures through standing orders. Being a Member of Parliament, should be subjected to two terms of five years each. On the area of the President, we propose the minimum age should be (40) and the upper limit to be (70) years. There should be a moral and ethical qualification for presidential and Parliamentary candidates. This should include one who is ready to declare his wealth, upright in morals and should not have been convicted of a criminal offence.

Constituents must be empowered by the Constitution to recall their MP in the event that there are not satisfied with his/her performances. This should be done through collection of 25% signatures across the constituency registering people's dissatisfaction. The President should be a male person. The new Constitution should require that MPs spend at least half of their time consulting their constituents and their parties so as to promote the democratic ideals of representations. We should be explained the concept of the nominated MPs, however the criteria should be that no one who loses during the elections should be nominated whatsoever. We recommend that nominations be made from special interest groups like our disadvantaged brothers and sisters', farmers', unions, civil societies, women, and the youth. Our Constitution should permit, by law the formation of a coalition government as opposed to the present system. The Multi-party system of government should be spread even to the Executives. This will enforce the system of checks and balances. It is anomaly to have a multi-party Parliament, which makes laws and is single party executives, which implements those laws. The President should have the power to veto registration passed by the Parliament when such registration is not in the interest of Kenya as a nation. The Parliament should also veto the President when the registration is not of the interest of the Kenyans.

The President should not have power to dissolve Parliament, instead Parliament should have a clear plan of calendar of events, which should be fixed. The executives; the Constitution should state the qualifications of Presidential candidate such as: one who is an automatic Kenyan citizen between the age of (40) and (70), able to declare his wealth at the time of election and from time to time while in office. One, of good morals, one who has not been convicted of criminal offence and at least a graduate.

The Presidential tenure should be fixed to two terms of five years each. The President should be above party politics, should not belong to any political party and thus should not be a member of Parliament. This is to say, to play a dual law it is difficult to distinguish when the president is presenting the interest of Kenyans and when he represents the interest of his Constituents. Our Constitution should strike out all Provincial Administration, and instead of the Local Government should take over. The two structures are not economical but rather duplication. The democratic rule of the presentation by collections should be upheld so that people are only governed by views of our own elected leaders and not to enforced leaders. For good governance at the basic Level, the Constitution should recognise grass root autonomous organizations like village elders to deal with some administrative issues in the village.

Defence and National Security - Our Kenyan Constitution should spell out the following: Disciplined force in the military, prisons and Para –military police. The Armed Forces should be disciplined by the military in the court. Any criminal offences should be persecuted in the court of law. There should be an independent security committee in collaboration with the parliament. This committee should be appointed by the parliament. The committee should consist of different sectors religious group, disciplined forces, business community, and farmers etc. The president should have extra ordinary powers to be excised in the case of emergency only in the concepts of the National Security Committee.

Political Parties, Kenya should be a multi-party democratic state as it is in the current Constitution. Political parties should have a nation vision. A political party must attain 25% members in the Kenyan population. Political Parties, which have a national out-look should be funded from the Consolidated Fund. All Political Parties should have

Manifestos and should be made public. The Judiciary. The new Constitutional should establish a Constitutional law court. The Judicial Officers should be appointed through an established Judicial Service Commission. On the tenure of the Judicial Officers they should be employees of the Public Service Commission and they should retire at the age of 70 years. The Constitution should ensure that citizen have a right to legal aid. This is in event where citizens are not able to endeavor the private service. There should be a judicial review of laws made by the legislature. This is to make sure that before any law is put in practice it is well thought off and it will not contradict the supreme law of the land.

Local Government. Local Authorities are the basic level of governing which makes them close to the people.

Interjection: Thank You.

Father J.B. Mungai: The other one is about the Electoral System and process. Kenya should continue practising the representative electoral process, the simple majority rule, which is used in Kenya has always seen people get into power even when minority elects them. To uphold this democratic principles of representations in all strength, the Constitution should state that any legally elected party should gather around 51% of votes. Basic Rights should be adhered to. The Constitution should guarantee citizen rights to access the information in the position of the state or any other agency organs.

Land and property rights. The government should have the power to compulsory acquire Private Land for the purpose of the development of social ammenities like roads, hospitals, and schools, however the owners of the land should be compensated.

Cultural Ethnic, Regional Diversity and Communal Rights. Our new Constitution must protect our traditional customs and promote equality and fairness.

Environment and Natural Resources. The new Constitution must address very fundamental environmental protection. Prohibit

further clearing of the remaining forest and the ranch.

Participatory Governance. Non-governmental Organizations and other our organized groups should have a role in the government.

Lastly. If the Constitution is made by people and belongs to the people they should know it and understand it. The Constitution must be written in a clear plain and straightforward language as opposed to the legal language. The Constitution should state that it must become part of the school curriculum so that Kenyans grow knowing more about their Constitution. The Constitution must commit Government in power to continue offering Civic Education to all its citizens.

This document was compiled by the Chairman of Difam Father Gabriel Mbogo, Catholic Justice and Peace coordinator Father Gabriel Nyaga, Justice and Peace Commission of the difam representatives father Kibe, and the Kenya National Diocesan Priests Association father Elias Mureithi presented by me Father J.G. Mungai Difam member.

Thank you.

Interjection: Silent noise

Com. Salome Muigai: We need to sort out these things once and for all, that we have microphones that are working. They are not, I have two mics in my hands and none of them are working.

Interjection: What, what is happening?

Com. Salome: Where is the other machine that you got? Silence. Anyway, I think I am loud enough. Thank you very much Father Mungai. I have a few points of clarification, one- you talked about having gender equalities, and then you talked about Council of Elders, would these be in the village or from the local point of governance. Could you clarify on the gender composition of the same? You also talked about, at first you talked about Provincial Administration being elected and then the Local Government also being elected you clarified later on that is the local government. Can you make a clarification on that? Lastly I would like you to. I cannot find my third question so may be while you are answering those two I might be able to find it.

Father J.B. Mungai: Oh. Thank you. On gender equality, we feel that most of our sectors the girl or female human person is always disregarded, one we feel that a women ought to have a say in every place starting from home whereby the male dominance is taking place and also in the areas whereby we have what we call Social Services we have certain areas where it has been discarded in gender equality.

No. 2. On the Council of Elders what I mean is that, this are the people at the grass root level who know the village, who understand the people and know who is who and in this particular time therefore it calls for understanding better than people who come from other areas.

On Local Government, here we see the Provincial Administrators like chiefs, and the like this kind of trend should be abolished and have what we call Local Governments Representatives. This are the people at the grass root, at the same time the clear definition of what we call Job Description should be done.

Com: Salome Muigai: Thank You very much the third question is when you say ni soko kwa wazee there is an understanding that wazee are men. So can you tell us the gender composition of your idea of council of elders?

Father: J.B. Mungai : What I understand by the Council of Elders, what it means we should have what we call equal representatives both women and men alike.

Thank You.

Com. Mutakha Kangu: Anybody, who want to clarify? Nobody, thank You.

Com. Salome Muigai: Can you ask them please (inaudible)

Com. Kangu: Those who came in late please as you come in, you register and after submitting your views there is a register you are supposed to sign so that we can have our records about that. Now the next person on our list is Thuo James Frank C.J. and E.C. the indication here is that he has a written memorandum so kindly take the floor.

Thuo James Frank: Thank you very much the Commissioners and the members of the public who have attended this session. I am presenting this document, memorandum on behalf of Catholic Diocese of Muranga Justice Peace Commission, and this is the area around Muranga district because we have three districts, which are helped by the Catholic Church.

My introduction read as these, the Kenyan Constitution being the property of Kenyans should be written by all people but not by a section of a few members of the National Assembly. The members of Parliament being interested parties to the Constitution would be left to meet this persons entrusted with the job of re-writing the Constitution for themselves. The duty of collecting and compilling public views and re-writing of the Constitution should be in the hands of the Constitution of Kenya Review Commission and such independent individuals, groups or parties or persons of integrity such as religious leaders, lawyers, lay persons but after all they should be answerable to the people and not vice versa.

No. I. There should be a review of all amendments undertaken since independences with aim of restoring the separation of powers between Executives, Legislature, and the Judiciary. Then to restore the Security of Tenures of the Office of the Attorney General, Judges, Chief of the police force, the Controller, Auditor General and the head of all the Parastatals.

We come to the Electoral Commission. There should be an independent and non-partisan Electoral Commission nominated by all political parties, religious organizations, and organized sectors of civil societies. This independent and non-partisan Electoral Commission should have adequate power to organize control and manage election. The Electoral Commission should draw election timetable, which will enable Kenyans to hold elections of different institutions of the government separately unlike what is done today. This Electoral Commission should operate under electoral codes, which will create crisis of peace, harmony and good conduct to safeguard all the concerned persons in the election exercise. The counting of votes and announcements of the results should be done at each polling station. Results should be certified by the agents of liquidity or representative's candidate before being forwarded to the Central Recording Station. There should be provision for the private candidate to contest and be elected in the Presidential, National Assembly, and civic body positions. The Electoral Commission should be empowered to prosecute those who have contravened the electoral rules and the laws required.

Presidential Election: The successful Presidential candidate should be required to get 50% of the total votes cast. Should there be no winner from the first round of the polling, a raffle should be held in 21 days between the two candidates who scored the highest vote in the first round and the simple majority shall decide the winner. The tenure of the president should not exceed two terms of four years without taking exemptions to the rules. The presidential candidate shall appoint his running mate for the post of the Vice President to be elected with him.

The Constitution should strictly provide for the formation of a coalition government.

Persons appointed as the Ministers or Deputy Minister should be approved by the National Assembly. All senior governments appointments including those of Parastatals should be approved by the Nation Assembly, which should also function by designation. The Nation Assembly should be empowered to impeach the President or any member of the Cabinet. Deputy Minister should have powers to act as a minister and attend cabinet when the minister is absent or out of the country. There should not be more than fifteen ministers and ministries, and two deputies per every ministry.

Provincial Administration. The Provincial Administration should be scraped off altogether it is a colonial and editorial hangover and a hindrance to democratization process. Such Regional Administration should be elected, officials from grass roots who will be accountable to the people and thus be called to deliver services.

Public property obtained illegally and grabbed but was meant for public utility should be surrendered back to them. The culprit should be persecuted and if found guilty be punished according to the law, Where the plot is sold and the proceeds goes to the

government coffers or be put to public use for the benefit of the local community and the nation.

The Local Authority should be the only body mandated to allocate the public lands and plots, as there are the ones who know the needs of the local people. Public land should never be sold by an individual for personal gain or profit.

Nation and Civic Election. National Assembly election should be held every five years and the elected to hold two terms only, for local authority elections should be held every four years and councillors to hold only one term. The mayor and the Council Chairmen should be elected by the civic society and should all serve for a period of four years as the councillors and be elected for two terms only. The Local Authority should be granted more autonomy power like employing their senior officers, such powers will enable them to deliver services to their people and also instil discipline to their employees. They should be empowered to collect and mandate their revenues.

Legal proceedings against government. A person wronged by the government or its agent should have a right to file claim against the Attorney General. The government should set legal assistance bodies to assist the poor and the unfairly treated citizen to obtain justice.

Human Rights and Freedom. An arrested person should not be kept in the hands of the police for more than 48 hours. Such a person should be taken to the court or be released on bond by the end of two days unless it is a case, which calls for Capital punishment. Law enforcement Officers, should not torture a suspect. Officers found committing such an offence should be taken to court and be punished according to the law. Death sentence should be abolished.

Constituency and Ward. Creation of Constituencies and wards boundaries should conform to the size of the population of that particular area. It is unfair to have some constituency or wards, which have greater population while others, have few people. All districts created politically to be abolished at once and remain as they were before that.

Interjection:

Com. Mutakha Kangu: Can you just highlight the main points? Remember you said it is just a memorandum.

Thuo James Frank: I am just about to finish.

Thuo James Frank: Constitution Amendments. Any amendments to the Constitution should be done through a referendum, and in Parliament it should obtain 75%. The Constitution should aim at diversifying the economy of the nation. Natural resources: land, water, forest should be utilized so as to benefit all Kenyans but not to enrich only a few who have access to them or control the government.

Corruption, Nepotism, grabbing of land misappropriation of public funds must be stopped and law be made to allow punishment of the offenders in this matter. The idea of sacred cows or godfathers should be done away with. All those who do wrong or commit crime against such matters should face the law and be punished according to the law.

The Electricity Bill should be revised to meet the cost of installations and can be made affordable to every Kenyan who needs to have power supply. Land transaction should be done in the hands of local control boards but the chiefs should not be involved in any of the transaction as the case where the parties are required by the members of the board to produce chief letters before the board. This actually encourages corruption on one part and is also a duplication of issues creating ideas of double standards.

We should have an education system, which will cater for the day-to-day life experience of the students. The education syllabus should provide power to land and things that are beneficial to the nation and nation building.

Interjection:

Com. Mutakha Kangu: (Inaudible)

Mr. Thuo: I need to go in hurry please, Give me time please.

Com. Mutakha Kangu:(Inaudible)

Thuo James Frank: The education provided should enable the students to obtain employment or be an employer due to the skills acquired in school. Government should seriously consider creations of jobs for the youth of this nation at all times instead of retrenching them.

This memorandum has been represented by Thuo James frank, it's me, on behalf of the Commissioners of the Catholic Dioceses and Peace Commission. Catholic Dioceses of Muranga.

Interjection: Long silence.

Com. Salome Muigai: Thank you very much for that very clear presentation I have one question because, okey,,,, you said something about the president serving two terms of four years each, and then you said the parliament should have two terms of five years each, and then the Local Government, you talked about four years. Please can you make a clarification on this terms and how long they are going to be?

Mr. Thuo James Frank: Earlier on, I mentioned that the Electoral Commission draw a timetable my idea here is that we usually have election in one day per all the institutions this create a lot of problems as we have observed. When you go to the elections you find that if an MP is popular people are sometime forced to elect a councillor simply because that MP like that councillor.

If a president is popular some people tend to elect that candidate who belongs to that party. I am saying here the Electoral Commission should draw a time table whereby we shall have election for the President at a particular time of the year, a different time for the MPs, and another for the councillors. Not all elections held in one day.

Com. Salome Muigai: Apart of that question is left out. You talked about the President having two terms of four years each, and then you talked about the two having the two terms, for the five years, and the Local Government having three terms of the four years each we just want to find out; a you proposing that there are different terms of the President and a different term of the Parliamentarians?

Thuo James Frank: My idea is that the President must not necessarily be an MP a President should be elected as a President and therefore the idea of having a President as an MP of the area does not come into my mind. Let us make a President independent person who will only contest for the Presidential position and that the area he comes from may have an MP. That is why I was putting such different terms per every Constitution.

Com. Mutakha Kangu: Thank You. May I have the ones (Inaudible) Just have one there

Interjection: Cool noise

Thuo James Frank: Thank you: Provincial Administration being elected, I find it will not be in line because it will have people who are elected and are still officers.

Interjection:

Com. Mutakha Kangu: You said you do not know it? are you asking! or you want to disagree with that?

Thuo James Frank: Thank you very much. On the area of removing Provincial Administration my idea here was that we should have a Council of Elders as the former Speaker had spoken whereby we shall have elected people from village level of all gender. We don't have to say one, we should have gender equity. Therefore when we have members from grass roots, then we go to the village level sub-locational level and such, because you find that what we have today is duplication of work in the

Administration. We have the Councillors and the Provincial Administration. We have the Councillors and the DO we have chiefs such matters are so expensive to the government but if we have elected people. We have countries which have such form of governments where people have their leaders elected by the people. That is what I wanted to explain.

Com.Kangu: The next one is professor Mwangi. Tulisema tulipoanza tutakuwa tukitumia lugha ya Kiswahili ama kingereza ikiwa unataka kuzungumuza lugha ingine lazima utatwambia tutafute mtu wa kutafsiri . Kama kuna yule anataka sign language kuna mtu anafanya hivyo mtujulishe kama yuko tumusaidiye. Na sema tena kwa wale walingia kama tumeanza yule ako, na maoni yenye imeandikwa tuna mpatia dakika tano uende through kwa haraka yale mambo ya muhimu. Na yule ana ya kuzungumuza kwa mdomo tutampatia dakika kumi. Tunasema ukimaliza tuna weza kuwa na swali sisi wenyewe ya kudhibitisha (clarify) jambo moja ama mawili na hata members wa public wanaweza pata nafasi lakini tulisema si nafasi ya kuwa na mabishano (argument) ni nafasi ya kujdiliana, when you will be giving your views you make comments about that. Tumeelewana. So mama chukua basi kiti.

Interjection: Long selience

Isabella Jane Kamau: My name is Isabella Njeri Kamau Mwangi, my idea is that when a woman dies, it is said that a woman should have at least five year's pension. My question is how would that women be bereaved for a long time, five years and she has a family to cater for? Pension People. Men are not given pension for their wives and they have been helping one another. Another, is Women should not be mistreated by men.

Girls should inherit their father's farm as well as boys. Education should be free and medical be free. The question was why? Those people who were retrenched, those people who are young how are they going to survive and they are very young with their families?

This country has got very many poor people and there are also many millionaires how can the Serikali help? To bring people just a little bit equal?

Interjection: Noise

Isebella Jane Kamau: The land should not be sold.

Com. Salome Muigai: Mama Isebella nakuomba niko hapa, nakuomba utuambie mawaitha yako vile unwaeza saidika. Otwire uria tugotethia andu. Ndogaturie cioria tondu muthanya ouyu tukire mtwire uria tugotethania, ithuwe nethwe turoria cioria omuthee nituraiguona? Wa turia cioria ithue totiri na macokio. Turenda mutotethiye mutwire atiriri ungenda andu matithiyo ona no ona .Tunaelwena Mama Isebella.

Interjection : Sharp Noise.

Com. Salome Muigai. Tafadhali mstulize maswali sisi hatuna majibu tunataka mawaidha yako. Turinda utwire oria tukihota gutathia na Katiba ekehota gutethia ndugaturia cioria ithiye totiri na machokio. Machokio turenda konia nenywe kuguo Mama Isebella utwire andu aria matweketa retrenched ni andu athi matetheke ndugatorie makitatheka atia ithwi tutiri na macokio maciokio mari kuri enywi. Ni twag'uoana.

Isabelle Jane Kamau: What I was saying is that there should be no retrenchment for those who are young, because they have families to cater for and so young and so young to do harm to the country. Another thing which has spoiled this country is beer, the government should stop giving license to people who are selling illegal beer especially the one which is killing people. Women should be given enough time for their maternity leave. Children suffer when the women are given only three months they should be given extra hours to go and breast feed the young ones after which they report back at their place of work.

In decision making, we want equality, we should have women in Councils, Parliament and in all other areas. Women in all places should be equal with men.

Thank you.

Interjection: (Inaudible)

Com. Mutakha Kangu: Thank you very much mama. Can we have Rev. Elizabeth Macharia.

Interjection: Silent Noise.

Com. Mutakha Kangu: She's not ready we intend to move to Titus Mwangi of "Muramati" Sacco.

Mr. Titus Mwangi: Kwanza ni tawasalimu nyote "hamujambo". Kwa jina ni ivyo mumesikia naitwa Titus Mwangi Macharia, nakuja kuwakilisha hii "Muramati" Sacco, Na hii Sacco yani General Manager ameandika ile nitakuwa nikesoma hapa, kwa hivyo mtasikiliza vile nitasoma, nitayasoma Mimi nafanya kazi kwa upande wa security, ata kuna maoni kwa kutoka kwa upande wa security, nitasoma vile kumeandikwa na sasa nitawapatia karatasi moja kama vile imeandikwa.

Titus Mwangi: (Representing the Manager "Muramati Sacco") Constitution of Kenya Review Commission Muranga District. Dear Sir, this is targeting Constitution Review. I wish to express my humble submissions to this honorable Commission concerning the cry before in Kenyan. The land has been grabbed in Kenya, even forest land resources etc. Destroying the land scheme, ranches taken and divided into small plots thus ruining the economy of Kenya. The people who are suffering from

these land grabbing are the young ones who in turn have no other land from our country. I now request the Commission to enhance a law that will forbid any Kenyan citizen to own more than seventeen hectares of land. The government to set a body to fight out the land which are grabbed and bring equality. This should be the property state of our economic use or otherwise the government should question for the land not utilized. In the view of the above I thank you sincerely for your attention.

Yours faithfully, Isaac Kangaroo, hiyo imeandikwa na Manager wetu ambaye ndiye General Manager na kwa vile kazi imekuwa muhimu akaenda mbali akanituma nje ni waeleza hivyo. Inge nayo imeandikwa vile vile na mfanye kazi wetu ambaye anafanya kazi leo, kwa hivyo nayo Nitasomo vile imeandikwa.

Titus Mwangi: (Representing Humphery Kamwara Nyamu). Ameandika hivi. Constitution of Kenya Review Commission.

Dear Sir, Please humbly Constitution Review. I kindly wish to submit my views to this honourable Commission concerning the fate of my country Kenya. My country could be better if the following among others could be observed:

- ? Popularity of Provincial Administration. This has been observed as the major factor affecting the good name of our government.
- ? Women should not be appointed to the high office. I support the honorable MP Safina Party.
- ? A man and a woman should never be equal. It is against God's will because he used the same method when he created Adam and Eve differently, to help each other.
- ? It has been observed that once a woman is appointed to a high office most of them divorce immediately or break their relationship with their legal husbands.
- ? For any woman to be appointed in a high office the consent of the legal husband should be obtained, and renewed every year.
- ? To revive our economy, the people who have taken their money outside Kenya should be asked to return it back.

Thank you for your attention. Yours faithfully, Humphery K. Kamwara. Ni hayo tu.

Com. Mutakha Kangu: Umemaliza Hiyo

Mr. Titus Mwangi : Ndiyo nimemaliza. Sina mengine.

Com. Mutakha Kangu: Thank you very much, any question, okey one question.

Speaker : Kwa nini umesema wamama wasipewe ile kiti ya juu?

Mr. Titus Mwangi: Kwa vile wakipatiwa kiti ya juu wanafanya divorce,

Speaker: Na kwa nini wale hawana kazi wana divorce ?

Com. Mutakha Kangu: Mama tulisema hatutaki kubishana na wewe ambia wamama wengi watawambia vile wanataka alaf tutakaa tutayangalia ya huko na huko tuamue sawa,sawa. Fine that is okey we can move. Before we move we will ask the honorable Member of Parliament to say something and if he has views to present them,he can present them.

Interjection: Prolonged silence as well as noise

Com. Mutakha Kangu: Mheshimiwa we have said that those who have a written memorandum should not take more time just highlight the main issues.

Kariuki: MP, Honorable Commissioners I would like to welcome you to Muranga, and we are happy that you have come to take views from members of this Constituency. We had requested that if it were possible we should have more than two occasions of hearing because Kiharu is a very large Constituency it's the third largest Constituency in Central Province after Kiambaa and Kabete. It covers about half of Muranga district infact bigger than the other two Constituency Kangema and Mathioya combined. If Kangema is getting two sessions I think we should get four, to be able to cover the whole of Muranga district, I have twenty two pages memorandum, which highlight most of the points that I would like to put across. I would like to say that even before we start, we don't think we have had enough time for Civic education to cover the whole of the Constituency, so you find that although the members have come here they are not very well informed. They would have liked to have more time, to be able to be educated enough so that they could meaningfully contribute towards the ways and means of improving the Constitution. We believe this time is not adequate enough to present the overall views of Kiharu people.

Infact our view is that the Constitution Review Process should have been postponed for about six months. It should have started may be sometime next year I don't see why they are in such rush to have the Constitution Review taking place. I think we should divorce totally the Constitution Review process and elections so that we have enough time to be able to cover all aspects of the Constitution. It is a very complicated document that requires very thorough analysis and also very thorough approach, so this rush is going to cause us a problem even if this piece meal Constitution Review goes on many Kenyans won't have been given a chance to express their views and to be educated enough to be able to air them freely.

It is true honorable Commissioners that this whole process has been rigged. It has been rigged because we have seen situations where Kanu has been highly represented by the Commissioners and they are the majority in the Commission and also by the time we get to the final forum that is the Nation Convention Conference which will draw blankets from the district; the districts have already been insidely prohibited.

President Moi when he was creating new districts in places like Gucha, meru, and other places he was favouring Kanu zone.

The sixty two districts most of them come from Kanu zone so what we notice is that when there is a representation there more members coming from KANU zone and they could easily influence the decision of the final forum by unfair presentation and that is rigging and we don't therefore believe this Constitution is going to be the right one. We believe there will be a lot of manoeuvring which should not have been the case at all.

Therefore, my recommendations would be when all the views are collected and collated, we should have a forum of a referendum which will draw opinions of all Kenyans, and we shall want the majority of Kenyans believe, not by Parliament which will also look asided presentation whereby Kanu's 2.5 millions voters against the opposition of 3.5 million voters, Kanu has more MP's . So in that house there is no even representation of the ratio of Kenyans as it is also not the right place for us to say that we are going to present the views of the Kenyan people through parliament.

So Parliament, is not the best forum, it is not fairly represented Why? The Constituencies of this country are double sided with 2.5 million voters in the Kanu against 3.5 million. Kanu had more members of parliament in the last election. I think they had one hundred and

Interjection: Arguments.

Com. Mutakha Kangu: You are now addressing us with the issues which were given to us by the Parliament, all those views you are mentioning are acts of Parliament and there is nothing we can do about it as a Commission because that is something you could have sorted out at the departmental level when you were deciding how to go about writing the Constitution.

Interjection: Arguments.

Kariuki MP: With due respect Mr. Commissioner. We still request Mr. Commissioner this has a bearing on what am about to say because if the Electoral process is wrong then of course the results are wrong. What I am saying is that I will be addressing the issues to do with the Constituency later. I am giving you the over view just telling you what the end results are because they have a bearing.

Kariuki MP: Mr. Commissioner or Madam Commissioner, I would like therefore to go direct to the memorandum and highlight some of the areas that have been omitted.

Kariuki MP: One is that on the preamble. The tight Constitution of Kenya does not have a preamble because they are directed to various position of the act. There should be a preamble and I have given part of the highlight of the type of a preamble that should be highlighted. We don't seem to fear God in the first place I think there should be a mention of trusting in God because it is God who created this country as one and large and we should be God fearing nation, otherwise if we are

devilish I don't think we will get anywhere so I think there should be an element of trust and say that the Kenyan people should trust in God and it is God who gave us this beautiful country. Something to that effect could be elaborated further.

We are an African country. We have very rich African culture and we should at all times take an opportunity of that part. Based on African traditional any rule, regulations whatever should be practice and sensitive to the Africans and the background they come from.

The other aspect is also that we went through a very tortures colonial era and it is important to us to take cognition of that aspect because the struggle for independence should not be overlooked. There are people who play a very major role to gain independence for this country who have also been neglected and I think the Constitution should provide something for the compensation of those who fought for the independence of this country. The fact that we are a democratic set up, I think that should also be emphasized, the principles of national unity, equality, freedom, social justice, peace and prosperity should also be enshrined in the Constitution. The aspect that we have a diverse ethnic background also with multi-ratio society should also be enshrined, and again those and many others should be within the preamble of our Constitution. Therefore, this Constitution of Kenya fails to address are the objectives: What is the Constitution aiming to do? If you look at the South African Constitution, the Ugandan Constitution, The American Constitution, The German Constitution, all have got within them an aspect of objection, what we are aiming at?

Among this I think I just want to highlight the issue of democracy, the issue of multi-party political system, Unity, Stability, government of National Unity. I think that is very important. Kenya is divided as it is because we have this winner take it all element where Kanu won and therefore grabbed all seats in the parliament and in all the ministries. The PCs, parastatals and name it. Now we would like to have a government which encompasses all the political parties and also encompasses many groups, I think that is a very important government of national unity. I think that is something we should envy at, and should be enshrined within the new Constitution.

The element of freedom and sovereignty of State, a unified government. My contention is that we don't need majimbo in this country we need a unitary government. Kenyatta was not foolish enough not to have agreed about majimbo system and I believe our forefathers had a foresight when they talked about a unitary government

Human Rights and Freedom, I think we should be a little bit more re –echoed here, the part that the marginalised groups, I am sorry my predecessors talked about marginalizing women, I am of a different opinion, I think women should be given their dual recognition and it should go by merit. If they are better than men they deserve to be given the highest possible position in government and elsewhere. After all they even do sometime better than men in school so what makes them any different at all.

I think they should be given their due recognition.

In the Constitution one of the objectives should be protection of aged people. We don't have any Provision for the aged people and they are left to cater for themselves, infact some of them die prematurely because of being neglected. I think there should be a provision even in the budget to take care of the old people, build the old people homes, feed them until they die after all when they were active they did serve this nation therefore that should be taken cognition thought.

Distribution of development equitably throughout the republic of Kenya. You come through a road, which has been neglected. Central Province contributes 75% of Kenya's Revenue and only gets 3% which is not fair. I think there should be fairness in distribution of the nation's resources and there should be a way of doing it. It does not matter whether the President comes from a different place he should be fair infact if anything we would like to reduce the powers of the president so that he does not have the same powers as God we also hope Commissioners, there well be more involvement of people in governance of this country. We should as much as possible avoids the dictatorial approach in implementation of programmes polices and there should be more involvement of all people.

Equal opportunities; I have already talked about it, we should be as a nation cooperate and aim at promoting agriculture, industries, and tourism as spercific development. A review should be re-echoed in the Constitution and this is what this country should be doing and should not just be re-echoed but should be practiced and there should be ways and means of ensuring that agriculture which is the main stay of this nation is given first priority, and areas that are agricultural should be supported so that they can produce more in order to feed the marginalised part of this nation. It is not good talking about helping the marginalized group if the producers are not helped. The producers can be helped in order to produce more to give the other marginalised areas. Not the other way round.

Another aspect is effort of control or acquisition, ownership allocation and dispose of Land and Property. There has been review that corruption in this area particularly of government properties. I think this Constitution should be very clear to have allocation of public property done in an equitable manner and a very transparent one so that the procedure should be very clear that no councillor, no MP, or President can interfere with public property. They should be trustees of that property not grabbers, so the conditions should have a way of managaing our resources.

Balance of development between arid and semi-arid areas. I think that is a very important. Protection of the Natural Resources. Forest have been cut by oppotunists who want to make quick money now. Currently, we don't have tourist attraction sites like Abardares, Mt. Kenya, Elgon and others and this is inhuman, We should protect our natural resources and there should be Constitution provision to protect wetlands and also our forests.

Role of women; as I said it should be re-emphasized, and irrespective of different religious faiths, I think preservation should be respected, people from different denominations regardless of their creed or clan. Disabled people should also be protected by the Constitution; they should be recognized and be given due respect and dignity. That is vital

Compulsory Education. There should be compulsory and free Primary level education, we have a lot of school dropouts and this issue should be addressed. It is because of poverty that our people cannot afford to pay school fees and therefore the nation should set aside budget for provision of free primary education. The Family union should be protected, basic medical services should be provided free of charge. There should be good water, management and preservation. Nation Food Policy should be very clear.

The other issue is the Machinery of handling disasters. Natural Disasters, we have nation disaster funds which caters for non-transparent methods. We have even had some disasters in this area in a school called “Thangathi”. A place called “Murink a” we had a land slide, which killed about seven people, no help was given to this people by the government. What is that Disaster Fund for? We either disburse it or have it or we implement it in a fair manner. We know that certain areas are given funds from that organization without fairness. This Disaster Fund issue can be re-addressed and should be addressed not only to calamities that are natural but also man made calamities like recent tribal clashes in Molo, Burnt forest, Likoni.inoopusikia e.t.c. Those people who were displaced the government is very irresponsible it does not take care of them. There should be a Constitution provision to take care of displaced persons. People who have lost their lands in Burnt forest, and Rift Valley are now living in churches and schools. They should be settled and they should be given land and titles so that they are rightly where they are. We are all Kenyans and we belong everywhere in the public.

The other aspect is the Preservation of air, water, in other words, non-pollution. We should be good environmentalists and that is very important. Forest Policy of Kenya should be very clear to take care of National interest, international laws and territories, peaceful co-existence and non alignment, non-discrimination, non-oppression and exploitations I think this are ingredients of what the policy should be clearly printed and in the Constitution.

I want also to address the issue of our Political System, I think there should be a referendum to choose the political systems the country wants. In fact one party state, the public should be asked whether they want one party or Multi-party. It is not fair for the parliament to decide, it is Kenyan people who own this country and have a right to determine what type of system they want. I am not happy with multi-party as it is because it has caused a lot of problems. My view is that we should have at least two parties in the nation not one. So that you can either belong to one or the other. If there are too many political parties, people also get confused they don't know how to choose, I am sorry I am one of them, and it confuses people. We can have only two parties, not more than two. This is what we have in America although the main ones are the Republican and Democratic more but therefore I think as a country, we need to concentrate on two not too many. I don't know what other Kenyan people feel but this is my personal view.

The other aspect is Honourable Commissioners in the aspect of, if at all we have to go for Multi-partism. This should also be included in the Constitution. The Constitution of Kenya only changed section two “A”, but thereafter, did not address the

various provisions that go hold Multi-party systems. Among these element of Nation character when the multi-party came and parties started to be created they were all tribal. NDP is a Luo party, they say DP is a Gema Party, Ford Kenya is a Luya party, this is not a good image but we need to develop and become one. To get a National character of these parties, that is why am saying may be if they were two then there would be no major choice to which confuses people.

In the same of course the membership of those parties should not be based on regions, sex or identity, There should be democracy within those parties internally they should have their own elections, they should also have proper accounting of their books nobody should be compelled to join. We should remove any power support an act of going to one party state which brought in depression and dictatorship.

We believe also that, if a party has more than 35 members it should be funded by the government. The government should create a fund for funding this party because when a party is weak then the whole practise then becomes weak. So there should be a way of funding those parties.

The other aspect is also the fact that there should be a government of national unity with cabinet drawn from either divide but more importantly is that nobody should be elected in the cabinet or appointed to the Cabinet unless he is elected. You know when you have Nominated Members of the Parliament elected into cabinet it beats democracy. If somebody lost an election and then is Nominated by the end of election and then made a Minister people who did not elect him are very much pained and feel very agressed because it is not their choice they are told whether you choose so and so or not will still make him a Minister. This is dictatorship therefore nobody who is not elected should be made a Minister. If the President want to nominate somebody let that person not stand for elections. A nominated MP should be representing the margnialised interest groups not a whole MP like Kariuki here being nominated. If I should, I fight with other men either win or loss Kiharu Constituency but not for me to be nominated. Nominated members should be for marginalized people the physically disabled, the women who might not have enough seats in the Parliament. Those are the people who should be nominated, not force somebody.

As for the other aspect Honorable Commissioners. The Constitution should be translated into various languages so that the people are able to understand it and not only translate but also dressiminated to as many Kenyans as possible, through the mass media. There should also be a right in accessing information from government institutions and agencies in other words. Hii Serikali gossips top secrets where we can never access anything from government because it is top secret. I think it is a known again colonial thing and should be scrapped altogether. People should be able to access information and if I want to go and know how many people or rather the population of Kenya in Muranga District, I should go to the Dc's office and get it, if I want information about land, police or anything I should go and get it there and should be freely offered.

Interjection:

Com. Mutakha Kangu: Give us highlight so that (inaudible)

Kariuki MP, I am presenting the views for Kiharu Mr. Commissioner, and I think it is only fair that I put this right because as you can see there are about 200,000 people and only about 100 are here, the other are represented by this man here and I think I have a right Mr. Commissioner to give me a hearing. If you don't then I will be very disappointed.

Com. Kangu, I do appreciate that you represent the people of Muranga or Kiharu, but they also want to stand there and open their mouths and say what they have to say.

Kariuki MP. If I don't have enough time I can stop there and present my views in Nairobi or elsewhere but I want a fair hearing. If am told to stop I will just sit down and go and take my problems to the rightful channel.

Com. Mutakha Kangu: We are giving a fair hearing to everybody you will have to accept that. Can you kindly summarize?

Kariuki MP: How many minutes am I supposed to have because this is a very contentious issue, I should not be harassed Mr. Commissioner, I have a right of being heard, if I don't have a right I better sit down and stop the views I'm giving and take my problems.

Com. Mutakha Kangu: We clearly said when we started that people who have written memorandum will have five minutes.

Kariuki MP: This is a very special one because it represents the people of Kiharu, If you cannot give me the hearing as Commissioners tell me.

Com. Mutakha Kangu: "Can you finish your presentation".

Kariuki MP: How many minutes are you giving me? because I have to have enough time. Even if I take five hours I think I should be given out clearly, because it is very important. If this is all about presentation I should tell me

Com. Mutakha Kangu: You should know this process is for the people of Kenya. You are just one among the people of Kenya.

Kariuki MP: Do I stop, and say I was refused?

Com. Kariuki: “Can you conclude your submission”.

Kariuki MP: I am not going to conclude. I don't know how many minutes you give people. I am not going to conclude by harassment. I have to be given adequate time to protect my people. If I don't have a right to present views to you tell me. Then I sit and say okay, but I should not be harassed. Mr. Commissioner it is very unfair of you to do this, and take my protest and say if people are going to be harassed there than to give their presentations then it is very unfair you should not even be in Muranga.

Com. Salome Muigai: Mr. Chairman, Mr. Commissioner, Honourable MP you are here with your people. We want to hear you as a representative and your rights that is why you have been given fifteen minutes while everybody else who had a memorandum just used five. However, it is also equally important that you sit with us and hear your people's views because it is a special opportunity for us the people of Kenya to talk and reason with one another. So I do appreciate that as an MP you need an ample time, we have given you already fifteen minutes, we would like to give you another twenty-five minutes so that you summarize. We would like to ask you to also listen to your people, and give them time. If we give you five hours and we are working for eight then how much more time would your people have to speak and have you also hear their points of views? So please take five more minutes, summarize we have accepted your memorandum, (Noise) excuse me, which is very very comprehensive we are going to read every word in it, but allow yourself sharing time with your people. Thank you very much.

Kariuki MP: We do respect thy honor, and the Chairman, for the time you have given me. When I started speaking I was not given any time limits now you are telling me five minutes. I would like to know how many minutes am I supposed to speak? because you should have alerted me if I will be able to manage.

Com. Salome Muigai: That is a good question.

Kariuki MP: When you come in, in a middle of session and tell me I have five minutes to go and I have about twenty pages to go, then I don't know what I am supposed to do. I have been telling my people as their representatives not to express their views because these views are summary of what I have got around on meeting the people that I have collected all these views from them. Some of them are incapacitated, others are in bed, others in hospital and they cannot speak. If I am not going to speak on their behalf then I will fail and I will be failing my duty to represent them.

Com. Salome Muigai: That is a very good point Mr. Mheshimiwa. We gave guidelines when we started the session you came late and you apologized for coming late. We accepted the apology but those are the kind of things one misses when they are late. So I repeat, the people without a memorandum get ten minutes, the people with a memorandum get five minutes in which to highlight their points. Mr. Mheshimiwa you have already gotten fifteen minutes, which is more than what anybody else has got and we are giving you another five to summarize the issues.

Kariuki MP: Now that is about thirty five minutes can I stop there and may be make my presentations elsewhere, and say the people of Kiharu have been denied chance by the Commission to air their views.

Com: Salome Muigai, Mheshimiwa we will allow you to make your choice because you are a decision making person the people of Kiharu and yourself are your people and these people unless you tell us otherwise are people of Kiharu. Nyenye ni watu wa Kiharu, kwa hivyo Mheshimwa yuko hapa leo nasi kama mmoja wa wetu wa Kiharu umepata nafasi ya dakika ishirni tutakupa zingine tano ukitaka kuchukua tafadhali chukua usipoweza kuzetumia zitaenda kwa wetu wako na kama utaki keti chini bia kuwasikia watu wako vile wanatoa maoni yao kwani wakati wa Katiba ni wakati wa watu kuzungumuza pamoja na asanti sana kama ungetaka kumalizia hapo tumeshukuru sana kwani umetupa submission kubwa imefanywa kazi nyingi ningetaka kukuhakishia ya kuwa itasomwa neno kwa neno, kikomo kwa kikomo. Asanti sana bwana muheshimwa.

Kariuki MP: Asante hapo lakini nita I take my presentation. I was stopped to highlight and discuss because of the difficult situation being handled, people are not given a chance to air their views adequately it is not proper and they don't think twenty minutes is proper for a member of parliament when he has twenty pages to go through I have only got four or two pages I represent my people I have been denied a chance. I think this should go in record, that I have been given inadequate time to be able to represent my people. I think I will stop there because five minutes will not be enough I can always have a two pages and I have twenty-four pages which comprise my views. My views are not wanted and maybe I get another forum if I will be given a chance but today I think my people are being denied a chance to air their views and have not been given proper, we should even walk out and leave you people. We come here prepared, give us adequate time because we don't want to be harassed to be told to air our views within a time we cannot express this is a very important document, but we have been denied a chance, five minutes will not be adequate. I don't think it is enough and therefore I have been denied a chance and my people of Kiharu have been denied a chance. Thank you very much.

Interjection : Cough(noise)

Speaker: Kwa hisani yenyu ningetaka kuwasihi mkubali muheshimwa analize nasi tuendelee.

Com. Mutakha Kangu: I am going through these and I will make few comments. It is good what is coming out because when some of us have been saying that this process need more time, there are those Kenyans who have been thinking that we are doing so for ulterior motives, but from the appeal that is coming from the Honorable Member. Honorable member how much time will you need to finalize your submissions? Your attention please.

MP. Kariuki: Thank you, for democracy to prevail and the chairman ruling the right thing. I was saying that among other things that should be addressed was the issue of Political Systems and that Multi-partyism ought to be enshrined within the

Constitution, and I was highlighting the type of areas government ought to proclaim because of democracy, irregular elections, within those parties accounting for funds and all that.

I think I went up to the issue of the type of information that the people of Kenya should have. Liberty of accessing information and I was saying that this government of top secrets should be removed so that people are given a chance to access the information.

As far as the Presidency is concerned, the President requirement within the current Constitution which says that a President should acquire at least 25% in five provinces should be scrapped. A President should be elected by a few people majority but, issue no. 2 is that he should also command at least 50% of the total votes cast in other words if there are 3,000,000 billion voters, he should at least command half otherwise we may have a minority ruling this country, and say already we are being ruled by the minority because 2.5 million votes against the Constitution will be point five that is not fair.

The other aspect about the Presidency is that the President should not be making directives and orders at will if he does, they are null and void unless they are presented in Parliament for sanctioning. The President and his children should get a reasonable salary including his wife. If he get that salary then his family should be banned from participating in business. As the Asians says when the "Maharaja" get involved in business the subjects suffer. We have suffered enough through the family of Moi, as a result of taking advantage of Presidential Office.

The other aspect is the impeachment of the President. There should be a provision to impeach President. Should a President misuse office, corrupt, or get involved in genocide then there should be a way of impeaching or removing him even before the term end. The Vice President should only act for 90 days that is provided. The election of the President should be as I said 60% and if at all not less than 50% then the two of the top runners should have a re-run.

As far as qualifications of a President are concerned he should be a citizen of Kenya by birth, he should be a university graduate, people are learned this days somebody who can understand articulate international speakers when he is talking with Bush, or Clinton or whoever else. He should be between 35 years and 70 years. After 71 one just have to quit politics and I know myself I won't be in politics after the 70 years. He should not be a representative of any constituency in other words he should be a National representative not a constituency representative. He should also be married I think there are enough ladies who want to be married to a President so I think he should have a wife.

He should also enjoy the privilege of being a Member of Parliament by virtue of the fact that he is a republic President. He should not take any other office. There should be developmental impeachment which I talked about, he can be impeached for his conduct, misbehavior, for physical incapacity, of bribery, corruption. He can declare a state of emergency in Kenya if only he reported back to parliament within 72 hours because if the President run mad and started declaring the state of emergency all

over the place and by the time it is known he is mad, a lot of damage will have been made. So there should be a way of controlling whatever he does and that goes for the state of war with another country. If he declares war he must report back to parliament for sanction.

As far as Presidential appointments are concerned, all these be vetted by parliament and this is done in America. He has appoint Judges; he's to appoint Attorney General, or controller and Audit General Diplomatic Representatives or Chief Justice but these officers should be vetted by the parliament including Permanent Secretary's.

Ever Presidential appointees should serve for two terms of five years in other wards maximum of ten years and not more than that. Vice President should be a running mate with President in the Presidential election in other wards he should not be an appointee of the President but rather a running mates that what they do in America.

As far as the Cabinet is concerned it should be reduced from 28 to 15, 15 maximum members of the Cabinet. Assistant's Ministers double that number thirty maximum, no more. It is very important we have too many Ministries and some of them duplicated so maximum number is 15. Now as far as a holder of Treasury is concerned I think he is a minister. If he misbehaves there should be a way of removing him, if at all he is corrupt, does not run the Ministry properly, incompetent or he is physically disabled, I mean mentally or physically disabled.

The other aspect is Police. The Police breaks natural justice, if a policemen kills or is bribed or involved in all types of brutality or corruption he is normally investigated by his colleague, another policeman, he is prosecuted by another policeman and of course the judiciary which is part of the system. So this is not natural justice therefore a jury be created purposely to record complaints against the police. I think that will remove political challenges.

As far as prerogative of masses concerned there should be a woman and a religious leader to represent the public. The Parliament, the Parliament should also change so that we have a bicameron. Or two chair systems, we should have ordinary National Assembly and Senate that was scrapped should be revived because whatever the Parliament decides to go to another House for vetting and the vetting removes the element of the presidential assent. Assent by Parliament will just be automatic, and house the Senate should belong or should have people like former ministers, former PSs, old judges, and competent members of parliament who may be good enough to warrant to be there. I think that one should be I think be considered.

Constituency. The constituency's boundaries are disoriented in the sense that they serve certain areas and not others. The population should be as thick as possible to warrant population quota. Population quota being the population divided by the number of constituencies whatever you come up with should be a parameter to gauge how big the constituency will be not having a Ijaara in Garissa with seven thousand eight hundred, voters registered and Embakasi a hundred and forty thousand, or Kiharu here with about eighty thousand and a person from wajir with seven thousand calls himself an MP. My observation fits.

So those should be realized.

The elections. The general elections should be specified when they take place. If it is December every five years let it be specified not the element of the President saying he has his secret weapon so he will say when the election will be when he want. That is not fair that should be removed should be prescribed in the Constitution and know exactly when the general election will take place.

The counting of ballot papers should be done at the polling station and the results announced at the polling station itself because rigging take place between the polling station and the place of counting so that should be done.

Independent candidate should be allowed, the Electoral Commission should be made more independent and transparent, it is not. It is a rigging tool for Moi and his Kanu government.

There should be reason to access the state cooperation like KBC so that everybody has access and also resources during campaign. During campaign,, the government should be denied access to using government vehicles or Ministers to campaign with things like those. So nobody should be allowed to access government properties like vehicles like tools and funds to campaign with.

Major changes in the Constitution should be through a referendum,the Judiciary, there should be Judicial Service Commission which can fire hire judges. The judges should all resign and re-interviewed. The current Judges some of them are very corrupt because their loyalty is to the President who appointed them. The Judicial Commission should be the one appointing Judges hiring them so that when they don't perform or when they are corrupt they are fired by the Judicial Commission not by the President. Currently, the Judges do what the President wants and this is not proper.

Capital punishment should be abolished, death sentence should be removed people can be imprisoned for life but killing of people these days this has been done away within developed countries and I think we should also do the same. Any perpetrators of tribal clashes should be prosecuted and harsh sentence is passed against them. There should be legal assistance for people who cannot afford justice if an old lady has got a piece of land which is being inherited she should have a lawyer free of charge from the government to represent her because Kenyan people are being denied a chance to access justice because of poverty. There should be a way of assisting them to access justice.

Human rights I had talked about I will not elaborate. I have given a whole page on human rights but detention by police should be reduced from 14 days to 3 days. Within the 3 days police should do their investigations and if they want that period extended, they should go to a court of law and seek for a court order to extend that period.

Marginalised groups, I said should be looked into, Labour Rights to belong to a Trade Union, right and fair payments. Pregnant women should be protected and should also be given maternity leave and should not be sacked because of having children. I think that some people are victimized because there are women and are under maternity leave.

Recruitment in the Civil service should be on merit. Citizenship there should be an Immigration Board. On finance; all roads, all withdrawals, should be sanctioned by the parliament currently President process the budget without approval of the Parliament which is not proper.

The Auditor General Corporations should be scrapped and be merged with Auditor General, The powers of Central Bank should be enshrined in the Constitution. Economic exploitation of the resources. If there is exploitation of electricity in an area the local area should share a part of the revenue coming from there. If it is mineral, If it is oil, if it is whatever crop, people should also benefit not just companies extracting electricity selling and even water being brought from “Ndakaini” to Nairobi and “Ndakaini” people are not gaining is, not proper.

Now, the Public Service, the Public Service should be reinforced, Provincial Administration is very important Chiefs, Sub-chiefs, Do’s, District Commissioners should be elected by the people not appointed by the government.

The other aspect is the boundary. There should be Administrative Boundary Commission. If districts are being created like Maragua, Gucha, or whatever, that Commission would go and look at the district and to talk to the people to get their views and, if they don’t want a district it should not be created, not for the President to go round creating districts wherever he wants. Those are the powers we want reduced.

The Permanent Secretary’s duties should be prescribed in the Constitution. Kenya Army, Kenya police, Kenya Prisons, National Security Services all these should be prescribed very clearly in the Constitution because they are not. National Security Council led by the President should also be prescribed to function enumerated

The aspect of elimination of files, I think it should also be,,, but more important is the issue of transfer, the transfer the trespass there should be public property authority that would be given the responsibility to look in and control the aspect of requisition and allocations re-possession tracing of a land that belongs to government and the president power and that of the Commission should be reduced. President should not be the one allocating land; he has more important things to do. There should be authority where more interest is represented.

As far as general issues are concerned Local Authorities should be reinforced to make them stronger other than talking on a pavilion of Majimbo government it is the Local Authority which should be more effective, but to make the point, the Executives representation has also to be enhanced. The mayor, the Chairmen, should be elected by the people directly not appointed by a

group of councillors sitting together and saying that so and so is our chairman. The people of the four districts should elect him if at all he is representing district interest.

The level of education has been prescribed there. To stop corruption there should be an inspectorate of government that will be as an Ombudsman to help control the element of corruption and also good governance. There should be a leader court, and the leader court should be pre-scribed in the Constitution to eliminate misuse of the taxes and I think there should be a mechanism to help if the taxes are not misused. Currently, the official receiver of public trustees are making public nuisance. They are looting, deceiving people and I think this should be controlled.

Harambee!! Elected leaders and Civil Servants should be banned from contributing to the harambees since they are very corrupt people. If they are pressurized by the people, then they have to steal in order to be able to satisfy them, so there should be a way of controlling this things, otherwise you end up being so corrupt to the society we want to represent. One of the Indians, I was a member of a corruption committee in which we realized this area here of my minister dishing out-money stolen money, grabbed money, looting so that they can appear to be very rich where as they are just grabbers.

Education. If the 8.4.4. Has to change or another system of education come in, then a referendum, not President deciding. Referendum because education is so fundamental and vital. to our people that it should not be changed without a referendum.

The quota system should be abolished; we don't want to, there should be merit not this element of a quota system. (Inaudible)
One of the peoples thought Mr. Chairman is what

Co-operative responsibilities where companies are supposed to give the laws back to the local people a share of their earning.

Nation Identification. There are so many numbers that people tend to forget there is NSSF number, the NHIF number, Pin number, Driving license number, Passport number, kipande.

All this should be combined, as one as they do in America. why have so many numbers that we cannot even remember some are seven digits, some are eight, there should be one number to recognize a Kenyan not too many numbers.

Disaster preparedness, there should be a Commission to take care of disaster, Armed Forces there should be neutrality enough forces so that any one can become a Member of the Armed Forces.

Finally, In order to safeguard this Constitution, which we are deliberating on and taking a lot of time to change the Constitution in Parliament requires only two thirds majority, that should be increased to to seventy five percent as was the case after independence. Seventy five percent is a high enough number not to have MP's who want to change the Constitution at will that will stop them from rigging because currently it has been reviewed in America over the last 200 hundred years they have reviewed only 30. Kenya within a time of 40 years there has been 34 amendments of the Constitution. It shows how erratic

we are, we should make our Constitution the bible and the bible does not change everyday there are permanent. So except for flexibility here and there as when the leader like it I think the Constitution should be a thing well-protected and very fundamental tool to help us be ruled properly by the ruling party.

With that Honourable Commissioners I thank you very much. I am sorry I may have lost my temper and I may have put myself into asking for more time and I hope Kiharu people have now been adequately represented and I wait to hear the views of my other colleagues.

Thank you very much Bwana Commissioner.

Com. Mutakha Kangu: Thank you very much and I also like to say that, if we have offended you, you will forgive us but of course, as I said earlier I would be happy to see Kenyans stand up as you have said and say “This is how we want to write the Constitution” because I said earlier some of us have been labled when we are saying Kenyans want a good Constitution and have good time to do it thoroughly so that they do not squander the opportunity. I hope you will come in, and thank you.

Com. Mutakha Kangu: Anybody who want to clarify anything from the honourable Member of Parliament and we start with my colleague.

Com. Salome Muigai: Thankyou very much Mr. Chairman I would also like to add my voice that this is a time that Kenyans are coming to reason together. Sometime we are going to have some preparations in the way we are to interpret that reasoning together, let us not be interjected to mean that we don't have mutual respect we do. It is only that we would like to hear as many voices in this planery. Mr. Mheshimwa thank you very much for your submissions. I have two simple questions for clarification. One is reason for the President being married I don't know whether I got you right because I had that there are many,

Interjection: Noise

Com. Salome Muigai: Just one minute I have two points and I would like to ask both of them and then you will react to them. I seem to understand that the only reason for the President to be married is because there are enough ladies to be married. I look forward also to time when the President will be a lady so we need to have enough reasons or I need reasons from you that are going to uphold this proposals.

The other one is that in appointment I seem to hear you saying that we should have appointment, Presidential appointments vetoed by the National Assembly but that appointment should only be for two terms. My question is what do we do with security offenders because some of the Constitution offices would like to hear your thoughts? Thank you very much.

Loniziano Gatanya: Thank you very much Mr. Chairman. First I will start by introducing myself because I came a bit late, I was organizing some materials for your documentation center has brought some materials so I remained behind. My name is Loniziano Gatanya. Call me “Gacokera”. Mheshimwa I happen to attend your presentation when you had gone almost a quarter way but only picked a point here may be two and one which you may clarify. When you talk of the change of the Constitution currently we have two third majority or is also said to be 65% now you have not given your proposals whether you want 90% so that opposition can be rigid may be it is in the memorandum.

Interjection:

Okey. Muheshimiwa. That is a point I want a clarification.

Loniziana Gatanya. The other one you have talked about government officers should not be allowed to contribute harambees. Now if a Member of Parliament or may be a government servant attends harambee of a neighbor or may be of a friend, do you want to say that we should not actually contribute something either as a person or you wanted to mean that there should not be this kind of personal, I mean public donation where somebody expenses are sworn and some of them even give bouncing cheques and so on. Do you want want to mean that we should not contribute at all even in individual or personal donations? So that point should also be clarified.

The point on land. You mentioned that currently land is under the care of the County Councils or may be Local Authority and these trustees group. Now do you want to give that lordship may be to Central Government or to the people and what for?

MP Kariuki : As far as the President is concerned the issue of marriage we have been talking to very many women groups and they feel they should have one of their own in the State House as the first lady whom they can talk to incase they find they cannot access the President. Mama Ngina was a very good case in point where if somebody wanted access Kenyatta that means you could wait, but when he is a bachelor, the President if he looses his temper or he is hurt or something goes wrong it becomes very difficult for people to be able to access the President. But most important is the issue of encouraging Kenyans to have family units, you know it becomes a very good symbol what we mean by a family unit even the queen has got the duke as the husband so we are saying that we should encourage that environment of family unity so that the young ones can also try to emulate the institution of the Presidency but not to emulate the element of bachelorhood or spinisterhood otherwise we will have no children in this country.

The second point was about the appointments made by the President (inaudible). It is true to say that a lot of appointments in this country have been either on nepotism or specific consideration only. During Kenyatta’s time tribalism meant Kikuyus. During Moi’s regime it meant kalengins. If this is what people believe in the grass root we are trying to say that the President

should make appointments or be exempted so that there is fairness, otherwise he ends up appointing people who are incompetent, we don't need incompetent people who have no qualities at all to head public institutions. In America they do it the Supreme Judges of America who are vetted by congress why should we not follow countries that are more developed than ours.

So I think the President alone is not the standard as far as the appointments are concerned after all even when the appointments were being made in the Civil servant during the old days people used Public Service Commission. Teachers went to Teachers Public Commission for promotion. There should be a way of vetting the Presidential Appointments. That is why the President is so bad this days is a self like God. That self like God element should be reduced as a Member of Parliament like me. What makes a difference between Moi and myself the only thing is that he is the Head of State he is a representative of Baringo Central. Then why should he have the over role lordship over everybody in this country of Kenya. That his appointments are supreme and uncharitable. I think we have to empower Parliament, with certain powers, because they represent the people of Kenya. Like the other people of Kiharu are also given appointments. And that way, every other part of Kenya will be adequately represented.

As far as the situation of composition is concerned, currently it is true that the constitution provides amendment for constitution requirement of the 2/3-majority pack. Now, what has happened in Parliament and we all know, is that, there could be an element of manipulation if the majority is too small. They should be big enough so that the Members of Parliament are not bought because some of them are corrupt and biased, so we are saying increase the number so that it becomes difficult. Kenyans should make a decision to sign a Constitution today then tomorrow Members of Parliament bought to change the same Constitution. Kenyan people feelings should be sanctified making them holy by honouring them and making sure that there are not changing everyday. That is why we are saying the majority in Parliament for change of the Constitution should be increased from 2/3 to 3/4.

This used to be the case at independence but of course the regime that have followed there after have ensured that they have watered down the powers, of the parliament. And we are saying the powers of parliament should be enhanced so that it becomes more strong then the way it is at the moment.

As far as the Civil Servant and harambee, that Members of Parliament are concerned what has happened is that you wonder how does somebody who's salary is may be a minister 450,000/= able to contribute 100,000/= this week, 200,000/= the following week. 300,000/= another, then if you add it up it exceeds his salary. Where did he get this money? He must be corrupt, he is getting some kick back, and he is looting Government coffer. He is grabbing land in order to be able to satisfy either the electorates or the people he want to influence.

On the same token you could have a thief stealing or some selling marijuana like some we know. They have million of shillings and they go round buying the voters. Voters should be left to make honourable decisions not influence through bribery and

corruption. Harambees have been used as one method of corrupting people and bribing them. All that am saying is modalities on how it should be done should be designed, I am not advocating any method for the time being but I believe Kenyans should come up with a way of how this harambees should be donated and not as a way of influencing people as such. If I want to give free and donation without being mentioned. The bible says that if you give anything in the church you should not go shouting about it but rather you should do it secretly. If I have money in the harambee why can't I do it without announcing. Why should I say oh son of Kariuki 500,00/= and I have rooted this is not fair. So what we are saying is, if at all it is going to be given, let it not be a way of which, - process of employing people. But there should be a way of moderating the aspect of not using it as method of bribery.

But the other aspect, which I think was very - Honourable Commissioners, was the issue of Trust Land and maybe land owned in Trust by County Councils or the Central Government. You see land that is currently held by County Council or Municipal Councils was given by Kenyan people, local people may be to build a school in future, or a dip, or maybe a Health Center or whatever. What has happened is that County Councils take the owners to then dish out this land themselves. Now this is not fair. If it was the local people who owned that land in the first place, there should be – and I have put it out in my memorandum here,- there should be a local trustee panel; appointed from the local people themselves. If the land is in a place called Kahuhia, then Kahuhia people should appoint may be thirteen trustees among them that would then form a trust, that will then be registered and that land will then be owned by that trust. Not by County Council in Murang'a deciding how the land in Kahuhia will be utilized. Because it is not fair,. Otherwise we will have a lot of public land being grabbed and this is what we are trying to avoid.

On the same token again when the owners of these land learn that the Commissioner are the one entrusted on public property then we have cases of misuse like these houses which are government. houses most of them are chopped out and given to girlfriends. This has caused a lot of problems therefore the President should not be among the Commissioner of land but trustees and the Local people here should be the one elected as the Trustees of that land. Not any body else. Thank you Mr. Chairman.

Com. Mutakha Kangu: Thank you very much. Can we now have James Getonga?

James Getonga: Thank you Mr. Chairman because I have a long memorandum I am going to highlight the items rather than read them.

Mr. Chairman I am going to speak on voter's registration in Kenya. Voters registration system Mr. Chairman in Kenya is a very complicated system, first of all it is very corrupt and we know how much corruption has been used in these registration system. Rigging and a lot of corruption have been introduced in this system. This system is unnecessary because you cannot vote without a right. So I think it is the one, which is the most important item not registration. Registration Mr. Chairman is also

unjust to the people of Kenya. The registration of voters stops almost nine months before the day of election. Many people are left out and during that period many people become of age, and they cannot obtain ID yet they will not vote because they were not registered.

Other voters during registration time might have been in the hospital, and could not go to the place of registration so these people are denied the democratic rights to vote. Other people, may have to register in a certain place and during election they may be transferred to far places say from here to Lamu, Homabay, and financially they cannot go back to the places where they registered themselves, so these people are denied the rights to vote. This system is unnecessary because you cannot vote without an ID.

The registration has been taken over by the event. The registration done during the colonial time when people had no ID. So people had to go to register themselves and they were asked how many cars do you have, or if they had this or that in order to qualify as a voter. There were no ID'S but present almost everyone over 18 years has got an ID. My contention here is because we are all Kenyans we should vote only with ID without registration. It is a corrupt system, it is unnecessary and very expensive million of shillings are used to register people. This money could be utilized in education, health services, or somewhere else rather than being used in unnecessary registration.

I was in prison in 1965 and there was an election. We were many students in a college we had passports bearing British subjects we were allowed to vote and I don't remember being told to go and register myself before I could vote. We just went to the voting venue produced our passports and we were allowed to vote why not now in Kenya. We should also look in America today; do they go to register millions and millions of people? We should compare with other nations which are more developed rather than continue with a system which is so corrupt.

The winning Presidential candidate who gets 25% of votes cast in at least every five provinces should be scrapped. Qualifications of a President; I propose that he should be a university graduate or it's equivalent. Not less than 40 years of age not more than 74 years of age.

Impeachment: The President should be impeached if he breaches Constitution or oath of allegiance and other rules of Kenya he should not be above the law. State of emergency President can declare state of emergency but with the approval of the parliament. Declaration of a state of war; President can do it provided it is approved by the Parliament.

All the Presidential appointments should be vetted by the Parliament. Vice President should be elected directly by the people and be a running mate. Should the President leave the Office or the country the VP should be in charge. Not like now the country is left without any acting VP or Minister.

Ministry should not exceed 15 and should be headed by 15 Cabinet Ministers and 15 Assistant's Ministers, we have a lot of assistant's ministers, who are consuming a lot of money instead of developing the country. The Constituency; Mr. Chairman should be determined not by the area, but the number of voters in that area.

Human Rights; Retired government servants and retrenched civil servants, while receiving the letter of retirement/retrenchment with the left hand, they should also receive the retirement cheque with the right hand. Not to wait for years and years. Today newspaper tells us that 12,500 retrenches have not been paid for two years. How do you expect them to earn their living, educate their children, medication and clothing? If they do not get the cheque they should remain in the office until they get the cheque. Not to go without any alternative arrangements.

Land; Land in Kenya I would say that if it were owned by the County Council or the government. It should be divided among the individuals. We have the Trust Land, Communal Land, Tribal Land, which stay for a long time without being developed because the individuals cannot do it. If you take the whole of northern frontier it is $\frac{3}{4}$ of Kenya and it will remain undeveloped because no individual can go there and invest because it belongs to the County Council or Clan or Tribe.

Deceased; We have Public Service Trustee, a number of widows Mr. Chairman remain and wheel in problems without money for food, for education because their husbands died and their properties were taken. It takes years and years for the family to get what they require. I suggest that to avoid all these bureaucracy and wasting of time, there should be a Commission composed of family members chaired by the local DC to distribute the properties of the deceased first but not the body which does not know how the family is suffering.

Interjection: (Thank you Mr. Chairman I am about to finish)

James Getonga: Political Parties. Kenya should have united government. When people are elected in the Parliament all the big political parties which have more than five members elected, there members should be selected to be members of the Cabinet or the Assistant's Ministers so that we may have united government.

Civil Servants; All the civil servants should be well-paid that is be given a good salary but be prevented from doing business during office hours in order to avoid corruption and mismanagement of the resources.

Small scale and large-scale farmers should be protected by the govt., as they are the breadwinners of the nation. They should be subsidised financially to enable them to produce enough food for home consumption and export. When there is crop failure they should be compensated by the govt. by the amount of money their crop would have fetched.

Thank you Mr. Chairman that is my document, and thank you very much for listening to me.

Com. Salome Muigai: Thank you very much father, I would to ask you, - you did say that during emergency, the President can declare a state of emergency of war, with the approval of Parliament; could you please give us some thought on modality because the whole idea of it being emergency is because there is,- sometime a shortage of time in which it has to be done. So please could you please give us some thoughts, - if you have some, - on the duration of time. Within what time must there be approval of Parliament? Or is it during the declaration? Or is that practical, say it happens when Parliament is on recess?

James Getonga: Mr. Chairma

Com. Salome Muigai: Just a moment okay, fine, proceed.

James Getonga: Mr. Chairman, I have been in parliament – the permanent body – for five years. The president can recall it any time for an emergency, to be consulted to do something. Unless the law does not require this, but I think, the President can call Parliament any time he wants in order to have things he wants to do done. We have seen America, when they declare war, Mr. Bush calls the conference.

Com. Mutakha Kangu: Thank you Mr. Getonga. Can we have Robert Muturi... Robert Muturi

Robert Muturi: Thank you very much dear constitutional review team. I wish to comment on the customary law. I have observed that over 70% of our marriages in this country, do undergo customary law. It is also by right that, while attending the customary marriage, both parents of the two persons we have, are present to officiate the marriage, hence give the consent of the marriage.

I want to say this; the economy of this country is not good and maybe under poverty line, they may be unable to organize a wedding in church. And they may also be unable to go to the D.C.'s office, because of the transport involved and the many people you carry from those places to the District headquarters. So if the wazee, - I mean the men that are there on that particular day,- should be around to have a certificate they can get, either from the Chief or from the Senior Administration, and they sign that they were present on that particular day, when that marriage was being consented.

I also want to add something on politics. There should be also – boundaries should be reviewed and at a population balance.

I wish also to include the issue of presidency, whereby – the constitution should be amended such that we should have an independent body to swear in a new President. We also wish to inform the constitutional review team to express that there should be about three hundred million books, so that each and every citizen of Kenya can obtain or can have a book to read and then correct this constitution.

There was also this factor I observed on the election day, whereby if we don't have an election person to come to the voting venue and maybe, the issue was, he had somebody in mind, - let us put it as I said, we wanted Matiba here, and that person at home came to the election board, and there is no Matiba. Yaani Matiba name is not on the election list. If that person does not have the person he needed at will in the election vote, then we should be having a place written there, 'No votes.' I mean no what... Yaani hakuna huyo mtu alikuwa anataka. So that we do not have, - coming to the election, we are given at now we have the list here, and they choose the last person or even to come and imagine here, in Kikuyu land, people vote in somebody that the people do not know. Just because it was the last name, and maybe the only name that was mentioned there. So they just don't get what is happening.

On the issue of retirement, it is good that we have people being paid at may be 35 years, then 45 then at 55. Because they are much stronger, at 35, so that they can be able to buy their cows and whatever, so that they can work on them. But at 55 people are old, they are not able to work on that facility or that money that they have been given.

I think that I will end there, and I will be grateful.

Com. Mutakha Kangu: Mr. Muturi, is it?

Interjection: Long selience

Com. Mutakha Kangu: Bwana Robert Muturi, I think I will ask you, - even without using the gadget here, - this point on marriage, you have raised a point on marriage. May be you are aware of the marriage systems we have currently. We have the African Christian marriage, marriage act, are you aware of those? Are you proposing that within the contest of those two which are currently that we issue the certificate even for somebody who is not a Christian or you are proposing a separate marriage act that is customary law marriage act. Are you proposing that specifically?

Robert Muturi: May be you have told as that most of the people today do attend and must obviously attend the customary law. There must be a situation where the wazee and women will have to give concepts to the two people and many times, like myself when I was doing my wedding, it coasted me over 90,000/= or above thousand now to perform the wedding part and I was seeing. After paying the dowry and may be issued with the certificate I wouldn't have gone to the other part of the wedding in the church. Most of the citizens in Kenya cannot afford performing the pre-weddings and whatever so that they can get at least 90.000/=, to perform the wedding. It is very easy and very simple if the customary law has a certificate.

Com. Mutakha Kangu: Thank you very much. Last week I was in a number of Constituencies that are on the border with Uganda and issue of citizenship arase and we were trying to ask for the marriages that are done under customary law. At what

point do you say that there is a marriage so that the spouse who has come from the other country can become a citizen? It is a very important issue you need to think about it seriously. Thank you; Let us have James Kimani. (Absent) Mrs. Anita mugwanja.

Annete Mugwanja: I would like to bring up some questions about the position of women. I was looking to through guidelines the Commission put in the newspapers.

Should we retain concept of the Nominated MP's if so what changes within the requirements? Should special measures be put in place to increase women participation in Parliament? If so with what? These questions came together in my mind and my feeling was that we in general should not have Nominated MPs. On the other hand, we do want to encourage women to participate in Parliament so, if we are going to retain the idea of Nominated MPs, which I said clearly Nominated MPs, should be nominated by the parties I think that is what is being done now in proportion to the number elected Members of Parliament. My suggestion is there should be something in the Constitution to say that Nominated MPs should be women only not men. Perhaps we could add that they should be either women or disabled people because such groups are marginalized. It is not bound to go on forever it could phase out according to how women progress in being elected in Parliament may be after certain number of years or according to how many women are elected after each election.

I think that could be an affirmative action relating to the representation by women in Parliament be representing their parties. (inaudible). The women who are already elected MP should not be nominated because in this way I think we will have encouraged women or have given them some experience of political life, and they will choose to stand for election. This is to give the women a chance to get started in politics. (repetition and swallowing of words).

The question of running mate. The systems of running mate in Kenyans are not very familiar with that myself. I cannot have chance to substantiate.

Interjection:

Annete Mugwanja: The number of Ministers and the Assistant's Ministers Mr. Kariuki suggested 15 full Ministers and 30 Assistant's Ministers. I think that is too many, why not 15, one Assistant's Minister for each ministry.

The question of vote of censor, which I am not clear with. Mr. Kariuki suggested that we have two chambers, that we have Senate House of Representatives as a way of checks and balances against what is done in Parliament but I wonder whether this is enough. We need many other ways of getting checks and balances in the system and I am sure there must be as many idea on that.

On the Constituency and the boundaries. I agree that the boundaries should be adjusted so that the number of people is roughly equal in every constituency and of course people to respond to administered boundaries.

Judiciary, Judicial Service Commission which I think is very important there should be something like that but I think the question as to who has the right with this or who is actually checking on the Commission, we are talking about how to check on things, but how do you check on something like Judicial Service Commission itself that is the kind of question which applies in all the aspect like that because even the commission itself might be corrupt.

Women. Mr. Kariuki suggested that women should be given protection during pregnancy and after birth, I fully agree with that.

Women do need extra care during the pregnancy and after child birth, but it seems today people think that this is the responsibility of the employer and I disagree with that. I think this should be a social security. We need much better social services. Mr. Kariuki also mentioned about the aged. We ought to have much better systems of service and security and social services to benefit people and this include the women who are having children. Not just people who are employed, whether the women are employed or not she needs extra care in the course of child birth.

Provincial Administration. The question of whether they should be elected or not can stop wondering whether we need them at all? I am not sure of what should be done. There should be no question of whether they shall be elected or not.

Educational qualifications for the Members of the Parliament by the way I should mention, the qualification applied to the Nominated MP should also be applied to the elected MPs. There should be consistency in that.

I agree with what the honourable Kariuki has told us. Thank you very much

Com. Mutakha Kangu: Hold on for a clarification

Com. Salome Muigai: Thank you very much Mrs Mugwanja, my question is on boundaries and numbers we have had severally and you have also agreed that Constitutional boundaries should be on numbers. How do we also deal with areas, which have no differences? So that a Member of Parliament has to meet 10 constituents he/she needs to travel the whole day? Do we need this one on board and have, what are your proposals.?

Annete Mugwanja: The boundaries if they are smaller, the better for the Members of Parliament to manage.

Com. Mutakha Kangu: a number of people absent, Sakina Saidi

Sakina Saidi: Mimi ningependa kutoa maoni yangu kwa upande wa kina mama kuhusu watoto wetu. Tuna shida sana na

watoto wetu katika malezi. Watoto wanatiwa mimba na uko inje wana kuja tuna walea watoto wao wenye kutia mamba hawashuguliki. Sasa mimi katika maoni yangu kama serikali inaweza kurudisha ile sheria ya zamani? Msichana wa mtu akeharibiwa ata kama mtu ni mkubwa ama ni mdogo, ama ni tajiri ama ni nani hiyo sheria yule mtoto apate usaidize kutoka upande wa baba. Sisi kina nyanya tumechoko kulea watoto.

Habari ya upapaji wa watoto na kina mama. Sheria ningeomba kama ina wezekana kuwoko, kwa hawa unapapaji watoto wadogo. Kina mama si sana kama watoto wa ndogo saa zakine utasikia kwenye radio mtu anapapa mtoto wa miezi mwili ama mitano hao ni watoto wachanga sana kwa watu wazima. Kama sheria ingewekwa huyo mwenya kupapa akishikwa na hatia badala ya kufungua anyongwe. Ama kama ni kufungwa afungwe maisha. Hayo tu ndiyo mimi ningeenda kusema.

Com. Mutakha Kangu: Thank you.

Com. Salome Muigai: Mama Saida asanti sana. Ningetaka kukuliza sawali moja. Utaratibu wakufuatilia ili kuhakikisha kuwa yule baba yake mtoto amefuatiliwa na kuweza kumelea mtoto wake. Una maoni juu yake?

Sakina Saida: Kama mimi mwenyewe hapo ni lipo ni nyanya na katika ile ilikuwako nilikuwa sukuli na kijana ambaye alinimpa mtoto wangu wa kwanza alifikishwa kortini, Na akaulizwa kama atalipa ile mimba ama ataoa, akasema ataoa sasa tukaona. Katikia ile hali tukaozanishwa.

Com. Mutakha Kangu: Can we have Ndegwa Waweru Benson

Ndegwa Waweru Benson: Thank you very much. I look forward to a Constitution that emanates from a metaphysical point of view. A metaphysics that there is a being who's essence exists and this is God and we people of Kenya have received our existence from this being and therefore our rights comes from this being who's essence is to exist. The rights do not come from the state but they come from God. Therefore our rights are inalienable. The state cannot take away our rights so I look for a Constitution, which emanates from such a meta physical third point. Therefore the attributes of political power for instance and according to our Constitution which votes me.

The source of such existence of God is not the same. The Constitution should protect democracy where the will of majority is a custodian of the rights of the minority. A democracy that is found on the principle that every man and woman have a soul free to serve God. It should reflect the fact that all the men and woman are created equal with serving inalienable rights among these rights are: Light, liberty, and pursuing of happiness. That the state exists for the person and not vice versa.

Supremacy of we people of Kenya; This right and liberty for instance reside in the will of a person in the rational soul of the person. Not outside. The right depends not on humility or social welfare but on the soul itself. E.g. abortion in these conception

will be wrong because this human soul is there. The person is there. So from that view in the Constitution abortion should be wrong. So I look forward to such a Constitution.

The Constitution should not limit our rights. We have had rights more than those to be mentioned in the Bill of Rights e.g. the rights to rest, the rights to strike, a government of a people. I look forward for a Constitution which cuts the project of a government of a people. Not a Government of mercies. People have a conscience but the mercies do not have any conscience.

A Person is a rational being that is self determined he has or she has a conscience and a personality that is unique and incommunicable. It is source of all our rights and liberty. I would like that to be entrenched in our Constitution.

To speak more on that I will give examples of salaries of the government and other workers in the country. Why is that we have people with huge salaries like the Commissioners in Kenya and others with very very little salaries? Let us have a law which guarantees the principal of justice so that we can say between the highest salaried person and the lowest is for instance a 20% but not a situation whereby someone is getting half a million and another one getting 8,000/=. It is ridiculous. It's absurd.

For instance Members of Parliament and Councilors are to be paid like any other citizen because they are not special bread and they are to be paid according to their academic certificates. If I am PHD holder I be paid like other doctors in the country. If I am a form four leaver I be paid like other form four leavers in the country. That kind of conception.

Land. Individual persons should not own more than 20 acres each. The rest should be surrendered to the public to use for institutions and that kind of thing. I am trying to bring out an idea that we have to decide on how much land an individual could have.

Members of parliament must hold a bachelors degree from a recognized institution or its equivalent. When they are elected within the two years of their term of office they must hold meetings within their Constituencies. Meetings of more than six hours in sub-locations of their Constituencies. This meetings must be certified by the Local Administration and leaders of the churches failure to which the seat should be declared vacant.

The MP who may be elected then must do the same within a period of one year. I look at the Constitution, which looks at the development not coming from the Parliament but from the people of Kenya from we the people of Kenya.

For all citizens of Kenya. For one to work outside the country must first work for ten years in our country Kenya. This is going to safeguard brain drainage. We are experiencing a lot of brain drainage in our country. If I am educated in Kenya, let me work in Kenya then I can later choose to work in India, New Delhi, America etc.

After working for that time then they can choose to go to work anywhere else. We should come out with ways to safeguard the investors who invest from outside our country. For those who visit Kenya are touring and other non-citizens; The law should ensure that they go back to their country before for instance a period of two years. (Si kuja kujenga choo in our country) not right. They should not be allowed to own properties at the expense of Kenyans citizen e.g. land. This exempts students who may extend their stay as long as they are in different colleges in the country.

I will also ask the Commissioners to look at the Donde Bill. The Bill from Donde to be incorporated in our Constitution whatever principles and economic principles it suggests.

Agriculture plays a big part of the better economy of our country. The Constitution should recognize this fact, and law to protect and ensure the well being of farmers. Such laws could be, I give examples. That the Union, the co-operation which works with farmers may work for the farmers only if the farmers benefit more than 50% of the total profit of the produce. I would like the Constitution to employ the category of mix and end. For instance the Coffee Board of Kenya is a means to assist the farmers it is not an end itself. So should that co-operation or such kind of body amend itself that it is getting huge money in expense of farmers then it should not exist according to the law.

The budget of our country must give priority to what benefits the economy of our country greatly, and this is agriculture. The middle person or the person called the broker must be controlled or checked by the law such that such middle person does not benefit at the expense of a farmer or exploit the farmers who are the producers.

Law should strictly control importation of products, which are locally available and should be put in place. If we locally produce biscuits there is no point to import biscuits. The Constitution should defend the common people as they are called.

Law to safeguard our Natural Resources and maintain things like forests in order to enhance good production. For instance Titanium issue. The Titanium is ours and no one can get it from us (tunya). Let the Constitution take such principles that what is ours is ours 100%.

International Relations. When our country enters into International Relations we have to be consulted. We do not want our Kenya government to be, going out look for millions of condoms and we are not eating condoms. We should be informed of the International Relationship our country is entering on our behalf.

The principle of Natural Justice and the rule of the law in the land. I would like when I go in the law court to relate with a judge sitting in a dialogical process not master and slave relationship. I would want that principle of National Justice and rule of the law. When I am defending myself in court I am able to listen and ask the judge some questions freely and ask for clarifications

and even more time. I should not be harassed or psychologically tortured as a citizen that is to reflect principle of natural justice and rule of law.

Finally. This new Constitution should be presented to primary school pupils of upper classes 6,7,8. To all secondary school students, and colleges in Kenya, be taught and be a compulsory and even be an examinable subject at his or her level. So that we can be sure and we can make a country where we are conscious of the law. Thank you very much. Before I go I would like to complain to you Commissioners.

“ We are not here at our own capacity, I came in time and the honorable MP of this Constituency was given a lot of time. Let us have equal time. So I was denied the chance and he came after me. By the way I am contesting for Kiharu.”

Interjection: Laughter and clapping

Com. Mutakha Kangu: We still need to make some clarifications before you leave the scene. I have always told people that this process should produce not only a new Kenyan Constitution but also a new Kenyan people. I think these exchanges are very good because they help Kenyans to start relating to each other and exchange ideas. I am happy that this is coming out. When the honourable member is still with us and we can learn how to appreciate each other.

Com. Salome Muigai: Thank you very much Mr. Ndegwa. I would like to appreciate your presentations. I had one point of clarification. You talked about the importance of the soul and the principles and this is why abortion becomes a problem that we should not entertain. My question is since the lady who had spoken before had talked about a time when the two parents who bring up a child before this world what are the freedoms to have the halves and the other halves is what we are discussing. My question is have you thought how we maintain this child more so unborn child? So long as we allow one party to remove his 50% contribution?

Benson Waweru Ndegwa: Our Constitution has to come up with ethical principles which our country hold. Freedom is not to do what you want. Freedom is responsibility, ability to respond to the choices you make and soul is the principal of life and this soul in my conception as a religious, philosopher, soul is not given by the people who come in union. God gives it so we have no right over that. So what we talk about freedom in ethics we are saying if you have the responsibility you take the child. Freedom here is not common sense of mentality of doing what you want. It is responsibility ability to respond the choice we make. So abortion in these context is killing. I do not know whether you want us to justify criminal Constitution. (Repetition) Ethically and metaphysically killing is unacceptable. That is my contribution.

Interjection: Laughter.

Speaker: You have talked much about democracy and also the rule of law. Since we are re-doing the current Constitution we are not coming out with a New Constitutions but reviewing the current Constitution and then later we come with new fashion of the Constitution. Have you taken your time to read what we have in the current Constitution and then you advice the Commission on what part we have gone wrong so that you could review sections under the rule of law and democracy and the right of individuals?

Benson Waweru Ndegwa: Thank you very much I didn't come here to advice the Commission I was giving my views. On democracy, it may breeds dictatorship to majority that is saying we want democracy, which is concious of the rights of minority. Democracy that breeds in it justice, fairness, and goodness. Read a book by (John Rose) on democracy and justice. He looked at democracy in that perspective. Democracy that sees the other persons goodness. Since another person as justified even if it is a minor group. (A lot of repetition) That is my view on democracy.

Com. Mutakha Kangu: We should not create a situation of majoritarian dictatorship, you have majority rule but also with recognition and respect for the minority . Can we have David Karugu Mugo.

David Karugu Mugo : Thank you very much, my views are very brief submissions. I wish to comment on Traffic Act. As a small-scale farmer it is my wish that the Constitution takes into account the licensing of pick up vehicles which is a tool for small-scale farmer and larger scale farmers. It is my wish, that vehicles should be removed from the existing public services vehicle class and be classified as a private vehicle for easy use by the farmers who are actually the backbone of the economy of this country. That one will reduce the taxation of the vehicle and will help the farmers much.

Pensions. All Kenyans aged 75 years and above should draw a pension from the govt. equivalent to the minimum wage inforce at that time. This should be regardless of sex i.e the man and woman. The pension should be given through the Local Authorities, which should list the age in their respective areas.

Com. Mutakha Kangu: May be you would like to give us some thoughts about the generation of these resources that should take care of the age. How do we restructure our government to ensure that there are those funds?

David Karuga Mugo: We all know (inaudible) of work and should be noted that it is a tool for the farmer and we cannot do any successful work without it. Thank You.

Com. Mutakha Kangu: Thank you very much. Can we have Joseph KakuHaini? Joseph KakuHaini, disabled they can bring you the mike there, or (inaudible) or you come?

Com. Salome Muigai: Please can the mike be taken to him.

Interjection: Long silence

Joseph Kakuaini: Thank you Mr. Chairman and all the audience, I am very happy to have this opportunity to air one or two views concerning the physically disabled. To start with, the Commission must be sure and ensure that people with disability view's are incorporated in our new Constitution. Another one a person with a disability has suffered disadvantages throughout his/her life e.g. discrimination, excluded and denied their rights in education, employment political, social, and economic.

National Registration should include the right and obligation of a disabled person.

Security. Legislation action may be needed to remove conditions that may affect the rights of persons with disability.e.g.harassment, victimization; oral discrimination against person with disability must be eliminated.

Participation. The National registration should preserve a seat in board in local council and in the parliament for the people with disability. Thank you very much Mr. Chairman.

Com. Salome Muigai: Thank you very much Mr. Kakuaini, you have told us that you would like to see this Constitution protecting people with disability against oral discrimination would you give a clarification on what does that mean?

Joseph Kakuaini. As far as the physically disabled are concerned they have suffered a lot.

Interjection: Sharp noise.

Joseph Kakuaini: Some of them suffer from the society especially, I talked more about excluded, in some cases the Bank protest or any other kind of community it can be done and while somebody like me I am member of that community and I am excluded form that community and we normally, feel bad when we are exempted from any other development or any other thing. That is what I mean.

Com. Mutakha Kangu: Thank you very much Mr. Kakuaini. Can we have Mumini Adam kwimani.

Interjection: Noise

Mumini Adam: Honourable Commissioners. I stand here as a representative of "Asakaiti Muslim Group". Which is a combination of muslims of various walks of life we have our offices. (Inaudible). I just want to highlight some of this areas that we are presenting views on. We wish to propose that the Presidential candidates income and his assets and liabilities in addition to those of his immediate kids and kin be declared to the public. This shall be regarding a case involving the state as far as

root is one. The presidential candidate should also be up to date in tax paying matter which shall be verified by the Kenya Revenue Authorities against his declared income.

He should be free from any crime and be husband to one single lady. The nominee of any political party must get 10 seats in the on going Parliament. The Presidential candidate should obtain more than 50% valid votes cast nationally in addition to gaining at least 65% of the votes cast in the Province. The incoming president should assume office by the last week of November, and state should provide reasonable pension and security for the retired Presidents as appreciation of time spends in the Parliament.

On Vice Presidency, the Vice-President should be a running mate of the President elected directly (Inaudible). Given that what we call Civic Education, which serves as guidance to our leaders who have lost Christians teachings and principles. The Constitution should state that when the President is a Christian the Vice President should be a muslim or vice versa.

If the President leaves office prematurely his deputy should take over. The minister should be appointed by the President from outside Parliament so as to avoid ancestor. For the ancestor marriage of the legislature in the executive. This will help us to select from the wider pool. It will also help a qualified Masai running for parliament in Mathare and Embakasi. It will also help the MP to remain focused in the duty of representing their constituency instead of trying to attract the President eye. It will also save the problem of the President appointing an unqualified person to head a ministry simply because that person comes from an area which need a cabinet to sit for a regional backing.

Special Parliamentary Committees corresponding the ministries should be set up to help with checks and balances. There should be a maximum of two Deputy Ministers per Ministry each one of them capable of sitting in the Cabinet instead of the current lot of many as Assistant's who Mr. Shikuku happened to refer as fuss or illegal.

The state should provide the general pay and allowances for the ministers and as approved by the parliament but in the Constitution then the salary should be set by public referendum. If and when an MP is appointed to be a Minister he should relinquish his seat for the sake of the aspiring person in the last parliamentary race.

On Parliament. Women aspiring for the parliamentary seats and other positions should struggle and earn them instead of complaining in the press and in other places like the King China.

Nominations. This should be preserved for the marginalized groups such as the pastrolists of North Eastern Province, which does not have an MP to argue its case in Parliament. The salary of MPs should be set by public referendum so that we avoid the situation whereby MP gives themselves huge allowances, such big allowances so as to escape taxation.

Parliament should set and regulate its own calendar and these should go as per party guidance and any MP defecting from his party to others, should also lose his seat to runner up. On the problem of vote illiteracy as we have seen in most parts of Kenya especially N. Eastern Province and Northern part of Eastern Province and the Coastal some people end up being classified as illiterate when they are actually not illiterate. Considering that they can read and write we propose that Arabic be included in the Electoral process so that those people can be able to elect who ever they wish.

When we come to the judiciary we propose that the Kadhi should be considered to be a Judicial work, however we suggest that suitably qualified Muslims who have completed Proficiency in Islamic history should be nominated to Parliament to act as official voice of the Eastern there in. Since the current group of Muslims MP do not necessary fit that role. I would propose that suitably qualified persons should be approved to do a referendum involving all muslims under Imams with Mosques as polling stations that is for the post of Kadhi. The Kadhi's Court should be empowered to handle all cases be either civil, criminal or land etc especially where the party involved happens to be muslims. I understand like the case of (JAKA Muslim) which involves simply light flogging.

On the issue of equal access to the courts let the Constitution take consideration of cases of muslimu community spread all over the republic. The minister's speech on Muranga-Sagana

Security the economic stagnation is the order of the day. When a person dies leaving behind his son and daughter sometimes they do not have enough fund to travel all the way to Nyeri, to Nairobi. Let the New Constitution provide the positions of Kadhi's Nation wide.

The Kadhi should have an average jurisdiction to guard against miscarriage of the sheria by some unscrupulous Kadhis.

On discriminatory aspect of our Kenya law, we are proposing that on liquor, Kenyan law should have one blanket rule either all liquor should be legal or illegal; there should not be fluctuation of some and other local brews and others. All liquor should be legal or illegal.

Money lending the same thing applies here because we have had this illegal money lending and what we call illegal money lending in the banks. The whole business is just hectic. Let us legalise this illegal moneylenders so that they belong to the indigenous banks. Like the Swiss have.

Capital Punishment, let us have it let us have detainees and those who have committed murders and those convicted of rape or treason, but let us do away with those convicted of lesser charges like robbery with violence or let us have a more or less a penalty or let us say, chopping off on a certain body organ even if a finger. Such a mark deter other people from robbery while still giving the victim a chance to repent.

For those camping, we are proposing a uniform blanket treatment of the same because they are our own brothers who camp in

the casinos there. Some are regarded as illegal and others are regarded legal.

Basic Human Rights, health care we are proposing that NHIF should provide for coverage of my second wife and my second born child. Instead of the current situation whereby

Interjection:

Com. Mutakha Kangu: Let us try to move fast.

Mumini Adam: Okey, on education we are proposing that the subject especially Islamic should be properly established all over the republic and also proposing that Christians be restrained from teaching higher IRE because we have such cases where Christians take advantage.

On security we are proposing that Eastern Province, Coast, and N.Eastern to renew the security so as to develop those areas because present idea has marginalised those areas and infact it is kind of being encouraged because our government gives people hardship allowance when they are taken there. Why don't they give the same fund to develop those areas? I think that is all.

Com. Mutakha Kangu: Thank you.

Com. Salome Muigai: Thank you very much for your presentation. I have two points of clarification. One is that you have made a proposal that Muslims should be nominated in the Parliament yet you have also said that women should struggle for vote and not cry for special cases. Are we having double standards here or can you please explain to us where one group should have this kind of favours but not the other one? My other point is on Islamic Religious Education especially when it is taught in schools as a professional study at the university which can be taken by both Christians and non-Christians. The same way people take English whether they are English or not and also the way Muslims can study Christianity. Are you proposing that this people who have the qualification because they don't probably prescribe or agree with the same. It should not be taken as a professional study at our universities.

Mumini Adam. What I was proposing about is that just imagine the irony or hypocritical of Christian teaching (IRE) while he or she does not believe in that religion it is not proper. It may infact lead to a situation like that of Salim Rushdie which is quite dangerous.

On the nominations what is to serve as my guidance is religion. Women have never been given a chance to lead by God. So my suggestion on the same guidelines.

Com. Mutakha Kangu: Thank you Mr. Adam. Can we have Margaret Maina. Has she come back.?

If she is not here can we have Beatrice M. Maina. She is not here so can we move to Samuel Muthigani.

Samuel Muthigani: Mine was just an observation I want to say my views. Issue of land. We have noted that as Kenyans. The rich or else the Royal club has thousands of acres which are not developed. Yet we have got some who are squatters in our own country it is my proposal that this land should be taxed for undeveloped land. Where all the animals leave there and the tax should not be a small amount but a big amount to make someone be ready to at least sub-divide or leave that land to be taken by the government.

The other one was the observation of the land owned by the Councils, City Councils, Commissioners, or the multiple of us. To avoid or to discourage the land being given to the few in the society who have bribed the Councilors, Commissioner of land, there the Clerk, the Chairman, and Treasury people, I would suggest on top of the Councillor we have other people of the area who will be responsible for the people given this land incase of sub-division and there be a ballot on this land at an affordable fee, that somebody can be able to get in touch at least access to these land.

On the issue of law being enacted, I support the statement of 75% to regulate the said few people being bought by a few coins or being enticed so the 75% majority should be put at law for any change in the country. During the election period when we elect the President. The President rate should be put on the swearing by a group or else the Commission for Elections. Independent Commission for elections to avoid this issue of somebody declaring himself a President at the expense of elected person which we have seen a case in time and we have seen it happen in other place in the world.

The powers of the President should be scrapped and he should be made answerable to the Parliament. Registration of voters should not continue but we should believe everybody who has been registered by the ID card should be legible to vote. At the same time harambee should not be encouraged, let there be a revolving fund for the few people who would like to show off and ready to share their money and that money be distributed accordingly to the republic.

The issue of the Mayor and the Chairman being elected, I would suggest that they be elected by the people. They should be aged between 35 years and 70 to avoid what we call people being old and not able to deliver. So anyone over 70 years should not be in the elected board. Let him be taken as a Senior Citizen. And with that few, I thank you although I put the charges the charges should not be interfered with it because they have special card.

Com. Mutakha Kangu: Thank you very much. Can we then have Kagathii Peter? Before Peter begins you need to be informed that we have a break of thirty minutes from 1.00 to 1.30 and then resume. So and those who came after we had started we will be finishing at 6.00pm. So you can now have the chance of attending to your other activities and so on.

Peter Kagathii: Thank you Mr. Chairman. My submission I have only one submission, which is on the licensing of radios and TV stations. This goes to the Communication Commission of Kenya, Radio and TV station should be licensed if they have to transmit to the whole Republic but not just a part of the area which we are calling now (inaudible) because now there are about ten radio stations while us in our Muranga here, we only have two at the monopoly of one which is going all over the republic. So CCK should ensure that all the radio stations and TV stations should transmit to the whole republic. Thank you.

Com. Mutakha Kangu: Thank you very much Peter, can we have then Njuguna Mbugua, is not here, can we move to John Githinji of the Basic Right Action Group.

John Githinji: Thank you very much honourable Commissioners my presentation is rather on the Constitution issues and the law because the Constitution itself is the father of law and therefore I will try to be very brief but before that I have some words to give to the Commissioners. Honorable Commissioners by now you must have travelled far and wide within our Republic and in these part you have realized who are real Kenyans. The patriotic law infact these people happen to be the poor lot and as history has shown us all the struggle towards nationhood. Infact most of the people that have benefited from our law system do not mind rather have the current Constitution because by having a new reviewed Constitution it will mean that somebody will have to undergo a change himself/herself.

Therefore when the Constitution Review Commission was formed, the Kenyans themselves were rather pathetic about the Constitution having had the previous experiences with other Commissions. E.g. the famous Kanu Commission where the people and mostly the poor ones had a lot of hope but after that one infact all their hopes came to an end. After sometime you the Commissioner know very well you gave us a lot of hope, you assured us that we will have a new Constitution by the end of September, but then all these people here are dying. We have heard that it will not be possible for you our Commissioners to complete the Constitution by the time frame.

Bearing in mind that your Chairman is an expert in Constitutional matters I am sure that you will all like to support him so that at the end he might emerge as a hero and not as a looser and by that time, you will have rekindled the hope of all Kenyans, therefore it is my prayer that you as the Commissioners are going to do everything possible within your ability to set yourself up in a way that you are going to give us a new Constitution by the time frame. Now I wish to submit just a few points concerning what I thought should be in the Constitution.

I think our present Constitution does not indicate who have entered into the contract. I think there should be a preamble, which should, indicate our common struggle, our intentions, our present situations, and all the hopes, rights which will then show us that the Constitution belongs to us. It is for our future prosperity and then we are keen to create a nation which give equality to all the Kenyans in sharing their natural and cultural resources.

I am giving this briefly because I am going to submit my memorandum. The Constitution itself, I tend to think should be the Supreme Authority and should be written in a simpler language and if possible it could even be put into vernacular because it belongs to the people and it is the people who have the mandate to do what they want with it. The amendments to the Constitution, I propose should be through a referendum, and this referendum should be set up by an independent Constitution Commission which enjoys the security of Kenyans. The Commission itself should be compiled by the Executives, Legislature, and the Judiciary should be compiled by those three arms of the government.

The president should be aged between 40 years and 85 years. I was also considering the question of my MP when he said about the marriage status, but then I think even if the President could have been married then probably the wife or the husband passes away we should not disqualify that person simply because he is not married. We may have bachelors and spinsters who have more material to deliver than the married people.

The President two-five year terms should be retained and if not then, the person standing for the presidency will have his term go beyond the 85 years limit, these person should now be disqualified. The age factor should be considered odd. He should possess a university degree or equivalent. He should not be a Member of Parliament representing a Constituency and he should not have a criminal record. Not bankrupt and must be a Kenyan and must be registered as a voter in his constituency or some Electoral area. His role must be very well

Clearly defined in the Constitution or else he might not have had his mandate. He should be ceremonial head of state and also an ex-official at least, and should be in future. If he fails, he can be removed through a referendum. His role in the society should be in conditions may be he can declare war but this should also be supported by the Cabinet.

His running mate should be the Vice President and in the case of his absence the Vice-President can take his role. When we go to the legislature, I would say a single chamber legislature, its role is to make or amend the law. To appoint or disappoint and make the public appointments. It would recommend the Public Expenditure and it should be independent in its procedure that is also to send its calendar of events. Its power should also be well defined in the Constitution. The numeration of the members should be guided by the Constitution. The Constituents to have the right to re-call their MPs if they are not delivering and that is through referendum. The MP should also possess a university degree or equivalent but that means they should have at least grade C. in O levels. They must have a code of ethics which they will sign and they will be required to declare their assets.

This should not be a full time job because it is a contract and therefore they will not be having salaries instead it will be in form of honoraria area. They will be required to have Constituency offices funded by the Treasury.

There should be provision for an independent candidate because not every body likes the ideas in every registered political party, therefore provision for an independent candidate should be there. The Treasury should also fund the political party sponsoring the candidate. We should have a multi-party system in both Parliament and the Executives. That means all the

parties should be represented in those arms of the government.

The President can suggest the dissolution of the Parliament and that is during the crisis. They should be suitable and usually when the action will be taken the parliament will be dissolved. There are many things about that one but I switch to the judiciary where I say it should be independent.

It should employ Security of Tenure. The Chief Justice should be appointed by a Prime Minister through the recommendations of the parliament and also his officers should be appointed in the same way. A Chief Justice will have a right to reject unconstitutional law. There should be special courts like Constitutional courts, Human right courts; case courts fly economic crimes, children, women court and the related special cases. With case of criminals, land tribunals and any other one I suggest that they should be shared by a qualified lawyer who is fit to be appointed as a Magistrate. For criminals because it is the Government who has powers to prosecute them and arrest them, there should be given legal representation at the state expenses.

On the side of citizen. I suggest that every person who is born in Kenya after December 12, 1963 should be a Kenyan citizen. Any person born of a Kenyan parent be it a mother or a father, should be given a Kenyan citizenship. All the people married to Kenyans irrespective whether the wife from another country or a husband so long as the partner is a Kenyan should be given a Kenyan citizenship and this will cater for the rights of the woman which are not catered for in the present Constitution.

We would like a Parliamentary form of a Government with an Executive Prime Minister. This should provide for a coalition of the parties. The Prime Minister will come from the majority party in the Parliament but in case of coalition, the party that has entered the coalition will be supposed to get the Prime Minister within themselves. The government should be unitary.

On the side of Provincial Administrators the people should elect them and they should be recallable if they are not delivering. The Ministries. The number of ministers or ministries should be reduced I suggest the number should be about twenty. Their Assistant's the same. Their Permanent Secretaries the same we can have secretaries and be given various duties instead of duplicating the roles of the ministers.

What we have is a Ceremonial Minister who keep on following the president wherever he goes and that should not be his duty. Their duty is to serve the public. The Local Authority, the Mayor and the Chairperson to be directly elected by the people. The mayor should have no ward. They should hold a maximum two years term and should not have criminal record, he should declare his assets and his age should be between thirty and eighty. He should also sign a code of ethics, his minimum level of education should be an O level. There should be no Nominated Councilors. There should be seats reserved for special cases like the disabled, youth and women and also they should contest for that seat and meet the same qualifications.

Revenue. 85% of the revenue is collected by the Local Authority and should be retained within that Local Authority to serve the community and 15% to be remitted to the Central Authority. There should be room for independent candidates and the Chief Officer should be accountable to hold the Councilors and the Ministers concerned. The Minister should also be allowed to dissolve the Local Authority.

We have areas like a Constitution Office Commissions in general. I propose being temporary or permanent should be guided by the Constitution itself. They should be appointed by the Parliament. The Prime Minister should state their security of tenure. The Attorney General who should also be a Member of Parliament and should enjoy the security of tenure. His role should be prescribed in the Constitution.

We have other roles that are given to the Commissioners but I feel there should be an office of the Ombudsman The president should garner 52% of the majority of genuinely registered vote cast.

John Githinji: The election should be free and fair irrespective of gender and other disparities. If there is no clear winner within an election there should be a repeat election between the two top contenders. The election of the President, the Parliamentarians and the Local Authority should not coincide but they should go separately. The electoral areas should be determined by the distribution of population as well as geographical boundaries. There should be a limit to the election expending and candidate should sign code of moral.

I have much more here but I suggest secret ballot should continue and the Commissioners in the Electoral Commission are impeachable.

The main. The other main area, which I would like to touch on, is in the side of rights because I believe the Constitution should be based on the human rights.

Interjection:

John Githinji: Okey. Now this Constitution should guarantee all the rights without discrimination. On the side of land, I said that this should belong to the state as well as distributed to the entire citizen. The land which is not in use should be re-claimed and distributed to the people who own less than two hectares of land.

There should be free services like free education and other matters. The Natural Resources should be distributed fairly and equitably. I wish to stop there since my time is over, I am intending to submit my memorandum.

Com. Mutakha Kangu: Fine there are no points of clarifications and as I said members can take off thirty minutes and then

we can resume after thirty minutes. Thank you very much.

Interjection: Break, long selience.

Com. Mutakha Kangu: We should have the Clerk, Muranga County Council, Mr. Karanja.

Mr. Karanja. Thank you Chairman members of the Commissioners. I have a small write up in the Constitution, and you realize that the topic of Constitution is going wide so I decided to take one aspect and decided to title it “ The Role of the Constitution in enhancing Political and Economic Governance”, in a developing country like Kenya.

I tend to look at what a Constitution could mean to a society and here we see the Constitution probably can simply be regarded as social contract between members of a group who are invited in a common court of ordership of a given land before their country. This ordership is to state that if they intend to include others who are not members or only allow them subject to meet re-service conditions. It is the public liberty that each member or citizen can proudly say this is my country and all these are my fellow members.

Here we are trying to look at the importance of social empowerment as we start with may be a family unit, man and a wife, probably even the children, and this is going to be a family bound to have a clan and the clan then hold up to become a tribe. We want to look at the whole society of the make of this tribe. This society if it has taken a piece of land which they call their country then we find that they will have a common bond. This common bond will mean that there are resources that they are going to share like roads, probably other things like this and that effectively affect the environment and which we expect the Constitution to have a role in.

The reason as to why we are going to draw this Constitution is because of the country. Man is fundamentally a social animal we know very well that we like living together we like sharing. The principle for existence with fellow beings is central. It is faculty, which ultimately is a formation of a society just as I have mentioned. We also see that man’s spirit freedom of life style, we belong to these freedom which encourage unity with a common membership to counter any kind of state of subjugation from external agression. Again as I had mentioned there before we noted that the members of our society of common bond, can go there and can be able to exclude others whom they consider that are not members of that society.

To sustain life man must be assured of a team of goods and services at all times. This leads to his desire to own property as an individual or own property jointly with other members for the common sharing or property for future dependent. Basically assesment in trying to achieve the prosperity becomes a Constitution. Within the Constitution structures that define how the society will give this ideals in a social environment through leadership polling of resources and control. Again here we know we have a Constitution or we have a Ghai Constitution and it is very well defined “freedom of accuracy,” define the Judiciary, the

Executive, and Legislature there are also fundamental rights and freedom of an individual and would say that upto now it has served us fairly well because we have seen economic growth, and we have seen social coercion and feel this time we would effectively want to see what we can do to improve our Constitution.

Fundamentally what we are saying is that, the social environment that is created by this people who are the members of the same group is very fundamental and find that the Constitution is going ahead to define the political establishment under which we shall be entrusted with the duty of management of that society. Again this has been talked about by a number of speakers and finds that the Constitution is people driven because of wishes and political environment should be means of leading us in serving a society.

The political environment that is created we find that another environment which is very important that is the economic environment and as you might probably have noted today, most of the problems which are facing us today are not political problems, they are economical problems, and this is why we are seeing people have the solutions because at the end of the day they will both be translated to a symbol in the evening may be with your family that seem to be fundamentally of importance to you. Therefore we find that economic problems have tended to dissolution people like their political problems and wherever they tend to forget that world creation is fundamentally one aspect of having peace in a country. We already know, it is common knowledge that about 53% of our population are living below poverty line, and with this type of suffering this people will be totally dissolussioned that they feel that anything that they are told about and will solve this problems they will try to see whether it is possible to see if it can improve their law.

I want to mention here that our Constitution may have neglected this area of economic development or have failed to address it properly to be of significance impact in the growth of the country. On the other side, we have the Ministry of Economic Planning and Development but somehow people seem not to have realized its economic impact in the country. Now, Kenya as a developing country is one of the countries which is facing this problem and we find that at cross side we have had an external influences which seem to have led to economic down turn. So here we have talked about developed countries and we see that Kenya is a developing country in Africa and would like to take a national sovereignty for a period of 40-years that is when we got the independence in 1963.

Within these region we have seen some economic growth and then a decline. This decline has led to significant effects with bodies like World Bank, or IMF who have become players to the management of a country. I find that the government has been in conflict as what would be the best interest of a country. What we have seen here is how the World Bank adjustments came in, they never came through the door but they sort of came through the window and how they came to be is because we find that, if we have economic problems that we cannot manage and as a result we end up in finding that we depend on them to help us run the country but unfortunately what has been coming in is not sustainable. We have not had sustainable development and the economy has had down turn and find that what we are clearly saying is that when they find that we could not meet the

conditions of granting more funds and therefore it followed that if they grant these loans let it show that what they are calling as cooperation is no longer there.

Therefore certain things must be carried out before they compromise whether they will agree to lend the fund, and that by itself has contributed to what we are facing now and part of the problem we have now.

Now as you realize that the World Economic Order is changing the unfortunate thing we in developing countries have is the dependent syndrome which has been increasing in the last two or so decades. We consume what we do always produce and as for duty what we produce is bought for peanuts and hence cannot be of any significance.

Anybody who consumes more than what he/she produces can only feel being poor and thus applies to our country. We have also witnessed too much politics and little economic activities, which have left wastage of resources. In this scenario we have seen the irony of democracy where the power, one person can dictate to over a hundred people. Hundred one as a majority and another hundred is a minority all these has led to waste of time and resources.

This has been said again by a number of speakers and have rightly observed that democracy also has it's own problems and currently, people have a lot of politics and very little economic activities that they talk too much and doing very little.

The other problem we have is again that people might not realize they are going to be a consumer society rather than a producer society. We have so many examples of what we consume but we don't produce. I can note from the present syndicate where we have the electronics goods, we have the vehicles and we find that people could prefer to own one of these gadgets but we are not locally producing them. A good example we have somebody repairing watches but would like to produce an Aircraft, this was a jua kali mechanic and he uses all the resources he had to produce one and you can imagine the professors from the university when they go there they just say poor fellow people would be able to produce but they can't go very far.

Rather(inaudible) they themselves as people who belong to this country should think about production because we want to come up with a producing society where we find that we are going to have more for ourselves and more to export in the International Trade. We are going to improve our thoughts and find that some of our economic problems that are putting us down will not be there. That way we shall have a producing society and not a consumer society.

For a country to achieve rapid development we will have to create our development objectives and try to sell the mark will follow. This appears to support an authoritative Presidency with a view of economic growth and development. It is common knowledge that a lot of time is wasted trying to discuss development issues, which can be catered through practical roles and developments. Instead planning for the people, it produces project management exchange and could achieve desired results at

a certain period. (Inaudible).

Here I just want to emphasize that you can plan with people and you can also plan for the people. If in your plan many people were required in their grade line you don't have to consult them in each and every day for example like now we have a farmer division here we know what these people have come up with we have a number of registered names we don't have to wait until they come to tell us a road has to be graded or what we are required to do. It should be our duty to go there and try to carry out these duties and not always sitting down and try to think again what we are going to do. Some of the things should be deployed so that we are able to move this country forward develop it try to create a lot of resources and also try to create wealth and therefore reduce the level of poverty and that way people will end up being more happy and will not complain against the government we have so long as that government is going to deliver. What will matter at the end of the day is how you are going to solve your economic problems and how you are going to take your children to school and so on.

This strategy of planning for the people to create structures that may be conducive to improved technology for the developing countries in an effort to plan the development syndrome which has been creeping over time and therefore in conclusion we are saying that the Constitution should be geared in holding social co-existence and harmony in the development of members of a society. It can be based on cultural values and promote homogeneity and social integration while courting to the tenets of democracy it should be noted that practically equality be done for the people as much as it can be to the people thus the Constitution should not be taken for granted but for democracy where they can think about development.

The Constitution should encourage the integration of the so-called a national image through cultural exchange, safari e.t.c otherwise Constitution must ensure that the majority prime shall continue to vote the minority prime. The Constitution should also address how the issue of Public granary and sources should be managed for securing employment and preservation for development. The Constitution should define a structure framework for economic development without which the exclusion of external difference and management of the country can also be carried.

The District Hawkers Strategies upward development policy and transformed technology are horizons, which the Constitution could take the courage and show us the way forward.

So Mr. Chairman that was my brief views and contributions with a particular reference to enhance the political and economic governance in the country. Thank you.

Com. Mutakha Kangu: Thank you very much infact I don't want to say that you distinguish between politics and economics. When we talk about the Constitution we are talking about the economics. I was talking in some place and I was telling people that I am sure there are those who have remained at home saying mambo ya katiba ni mambo ya siasa hatutaki kuenda huko. People are now reminded mambo ya uchumi. Thank you very much. Can we have Thomas Ngugi.

Thomas Ngugi: Thank you very much Mr. Chairman. My name is Thomas Ngugi, the District Education Coordinator Muranga.

Interjection: Salience.

Com. Mutakha Kangu: Before you move, I would like to request the members that my colleague has gone out for a short while she will be joining as again.

Thomas Ngugi. Thank you I have just said my name and title. Mr. Chairman in the course of my duty particularly in the voter Education Programme which has been going on for a while now I have come to learn that the people of this District have confidence in the Ghai led Commission. They have faith in you as an individual, they have faith in you as a group, what they want is a new Constitution. They want a new Constitution now. Now means as soon as you can draft it. The reason as to why I say that, they have been expecting you since the Ghai's Commission was appointed they did not want to hear that it may not be possible, but all the same they believed that whatever obstacles that may come in your way you are determined to deliver and eventually become the winner. Hopefully, you will be able to give them this year as Christmas gift which is a New Constitution. We wish you well.

Personally I would say that, I would like to see a new Constitution a Constitution that will encourage Kenyans to come together. Kenyans to sit together, Kenyans to imagine things together and Kenyans prepared to move forward together. In that respect, I would like to see in the New Constitution a government that would like to have, a unitary government a government led by an Executive President with a Vice President and a Parliament where we have elected Members of Parliament and not Nominated Members of Parliament.

To this end I would like to suggest that when it comes to elections, Presidential Elections be held separately from Parliamentary elections and Local Councils Election. Parliamentary Elections and Local Council Elections can be held together but the Presidential Election can be held separately and not today and tomorrow but drawn in such a way that we know may be in two years after Presidential elections we are going to hold Parliamentary Elections. But as now, this has become a burden and rigging has also become a game and where it is done can be a very damaging to these country.

I don't want to go into the other aspect of what one of the former speaker was talking about on registration. I will strongly recommend that Nation Identity Card and the passport be the only two documents required in the election. One can produce an identity card or a passport and that will do away all together with an election card a document that we get during the registration of voters. This means that during the processing of the application for issuance of identity card, when an identity card is issued that card to enables the owner to vote without having produced another document and it can be possible because

we have an ID and it has a number and in our register we should have only those ones with ID numbers. That number will enable us to come up with a register of voters in any Constituency and it will be for Presiding Officers to point out that this one is qualified and was registered this day. `

According to one of the Legal Officers about the election he said that a voter or a person is registered as a voter in a Constituency. What happens or what has been going on now is that we register a voter, a person as a voter in a very small area. Constituency has several registration centers and when you come to us we register you as a voter in one particular center not in a constituency and I think that is necessary we come up with a system where people are registered as voters in a constituency. One will go to his constituency and vote because he will find his name there within that constituency and should be possible within the center, which encourage many transfers particularly within the municipality, cities, and urban areas because today you will be voting so and so tomorrow another one in a small area. There are too many wards within a city; municipality, location or these are wards so people tend to move around constituency and that cost money and time. It encourages the importation of the voters by the people who want to be voted in as councillors.

Once you are registered as a voter you can vote within that constituency at a center, as you will. If you want to go out of the constituency then that transfer can be made possible and the Director of the Commission should be able to work out the modalities to go to constituencies A and B.

Rigging: rigging Mr. Chairman you all know about it, because it has been with us for years and I would like to highlight when it is done, for those who do it can be done during the registration of voters, that is when people who tend to become Councillors, or Members of Parliament come carrying people from their areas, from their in laws, from where they bought the land to the area they want to stand, and they all say those people belong to that area. When you try to find out whether they qualify or not it becomes cumbersome exercise for the registration class.

It is also done at the polling stations where we have people called Presiding Officers particularly when they are compromised in some way or the other. It is also done during the movement of ballot boxes from point A to the counting hall, while some ballot boxes can be exchanged. It can also be done at the counting hall, when they are counting ballots anything can happen there and peoples emotions are high and all that kind and enabling them to have an easy time to rig. So I recommend very strongly that counting of votes be done at a polling station, where voting is done and those people within that area after voting is over and told to count the votes such that a voting center becomes a counting place at the end of the day. That way they will know that they have given so and so this votes, inturn those votes will be collected by the end of the day and can be taken to the Returning Officer at the Constitutional level who will put the total together and announce the winner and the losers.

Mr. Chairman, I would like to say one or two things about people with special interests like the disabled. I want to say that once I was the head of Kenya Special Education and during the course of my duty I learnt one thing about the disabled people

who may have some disability here and there, they have one problem they did not want, they wanted to be away from abled people. The able people also have a feeling, they want to get away from there brothers simply because they are disabled and the problem was how to bring these people together.

The disabled people living with us in the society, live with us in our homes, they are our children and may be our wives or husbands. The point here is to encourage these people to live together. We should try to encourage this in my view. Let us have an MP to represent the disabled. It's going to create a feeling that whoever is there as a Member of Parliament is there because he is disabled and that is negative. I want to see the disabled person in Parliament because he is able he has been chosen and I would like him to be given an opportunity to come up at the constituency level. An MP is an MP of able people, physically disabled, and the right people so I would like to see a Constitution that encourages people to live together at that level so when people come up and want to go to parliament they want to become councilors, we know even if they are disabled it does not mean that they are unable. They cannot speak or they cannot be Members of Parliament or they cannot be reached we should encourage them that we want an MP of this group and that, I think we will have an end to it.

In the same way we cannot say that because I am a kikiuyu I want to see the next President being a kikuyu, a kalenjin and so on. Tribalism thinking should not be encouraged. We want to see the next President whoever that is going to be a man or a women is the President because Kenyans have voted and have agreed that he is going to deliver. He is going to be a good President. He is going to guide this country towards unity so that we can all unite as Kenyans and all speak like Kenyans Mr. Chairman.

Interjection: I am finishing

Thomas Ngugi: Gender issues more or less the same. I would like to think and I would like to believe that Prime Minister of Britain Margret Thatcher was not elected by Britons. She was elected because Britons thought that she was able and she proved that she was able.

We have Commissioners, lady Commissioners I would like to think that they are there because they are thought to be able. Those who appointed them think they are able and they are going to be able whether they are men or women because they are qualified and they have interest in this country at heart. When we encourage a group let us have an MP as a woman to represent womens feelings. I think this should be discouraged some how rather than being encouraged. We live at home men and women, boys and girls, let us leave like the way we live at home in a society, in the clan, and so on. Special seats for women, in my view they should not be there at all but they should be encouraged to come up and prove there capability at grass root and that way they will be able to go as far as they want.

Interjection: I am finishing, finally.

Thomas Ngugi: Finally the Provincial Administration, I would like to see that at least from locational level we have somebody who can handle both the work of the chief and of the councillor. A system whereby when we go to that person at the locational level we don't have to go to the councillor and then next to the chief and then to somebody else. I would like a system where if it is going to the chief that is doing everything let us have that system. That we have somebody appointed even if it means a Civil Servant that can play the role of both the chief and the councillor. It should be the same thing in the division, we have an MP, a Councilor, a DO, and sometime you go to see the DO or then see the MP. Let us have a system where it is streamlined that whether we call them elected or appointed they are people who can take care of all the problems of the residents of that area who can either be called chiefs or whatever and not the two people playing more or less the same role. What do they really, think of the chief what do he really does that is useful? What we know about councillors they are just dishing out plots. That is how people feel or may be consulted about it. The chief are running after the liquor brewers, arresting them, harassing them, or giving letters to go to the land board. One person can do those things.

Thank you very much Mr. Chairman for giving me this opportunity to air my views.

Com. Mutakha Kangu: Hold on.

Com. Salome Muigai: Thank you very much Mr. Ngugi, I think that is a very crucial assessment. My question is you have said that women should be elected when they are able is this to say that now that they have been left out of the governance is it because they are not able. Is the same thing about people with disabilities, you have said that we leave with them at home and which I agree with you, we also go to school with them and yet we don't see them in governance, in all areas of decision making and you have said and I will repeat it that they will only be chosen because they are able. Now that they have not been chosen are you telling us it is because they are not able?

Com. Mutakha Kangu: You said that we separate the Presidential elections from Parliamentary Elections and possibly from Civic Elections. I would like you to tell us what kind of period, the interval and of course bearing in mind the need for transitional and provisions at the moment many Kenyans are telling us that they want to go to the next election with a new Constitution. If the new Constitution were to be separate say with a period of two years or three years how are these cries of theirs going to be captured in these transitional arrangement?

Two. You mentioned the registering of voters in the constituency and I noted that you are in the Electoral Commission office at the District level. There are those people who are saying that may be we should change the Electoral system and go to the proportional representation which will not require constituency how will you advice that someone in the Electoral Commission should deal with the registration at that level because then we will not have any constituencies?

Three. You talked about importation of voters. How do you link that with your proposal that we use IDs to be able to prepare voters role because that might infact make the importation of voters easier, because at least with the registration system someone is registered in a specific center so you know who belongs where but if it is an ID will you say this person belongs to where the ID was issued or what is it?

Com. Salome Muigai: I have one more question for you. You are saying that you would like to see a Constitution that brings Kenyans together, I would like you to tell us the kind of modalities you would like to see in this Constitution to bring Kenyans together not just as a nation but in governing, in ruling, in living together. Please share with us the modalities, What are the indicators of Kenyans group that live together?

Thomas Ngugi: Let me start with the Electoral Commissioners question. The first was because the women have been left out in certain areas or say no areas. Have they been left out because they are not qualified? You see we have to start from somewhere. I am thinking of a New Constitution, which is written with these in mind that is to encourage people to have a sense of belonging. You will need to give them civic education to encourage them, if need be to educate them, give them knowledge which will make them get rid of their own tribal feelings about women or about men for that matter. I am looking at it in the long term that is a Constitution that is within its goal so that people grow up. Young girls grow up with this feeling that they are able to do what men are going to do We forget, the old language of do not be like your mother or your aunt or that kind of talk. Until these element is removed within our society within our background. If you put a lady somewhere do not tell her you have given her that seat because she is a woman to represent women. You are encouraging that person. It is a question of educating our people. The Constitution should have such a preamble. It is going to be the duty of the leaders to bring this out of our people. Let them come up with a different feeling not tribal feelings and backgrounds. This has to disappear. We are going to vote in this person because he is one of our own.

Interjection: noise

Thomas Ngugi: This registration, the Presidential Election I am saying let us have a Presidential Election say after five years, after three years we elect the Local Authority, President, Local Authorities will be elected after five or six years.

Then Members of Parliament and local authority councilors will be elected after say four years. There should be a gap of about one or two years.

Interjections:

Com. Mutakha Kangu: Kenyans are saying that they want to go into the election with a new Constitution. When we make

the new Constitution which elections do you want to come fast and which one do you want delayed and how long, you have said three years. Do we start with the President and tell the Parliamentarians to wait. Start with the Parliamentarians and hold on for the Presidential elections. How do we handle this?

Thomas Ngugi: To start with we shall go the way it is but then we indicate in the Constitution after this we start together. Presidential, Parliamentarians, Local Authority together, but let the Constitution say that this is the last election that we are doing together after this the Presidential election will be carried out after seven years, for Parliamentarians, Local Authority will be conducted after five years and so on.

Com. Mutakha Kangu: Now, can we have Simon Kemonto.

Simon Kemonto: We are from ACK Getheri Parish and in our Constitution the one we want. We just say the Constitution should state clearly our values and boundaries of our country and decide. The Constitution to be owned by the people. If this Constitution has to be amended then a referendum be conducted. When we come to the election of the President, we say that we should have a President and also the Constitution to create the Office of the Prime Minister, they should share powers. The Head of State should not contest a Parliamentary seat because we want him to be a National figure.

The Head of State himself should appoint Constitutional office bearers that is the AG, Chief Justice, people like the Police Commissioners, he should elect them but only after he has been given two names by a Parliamentary Committee and the President to take one name after the Parliament has approved that person

Age is thirty five to sixty years. In an election the President should garner 31% failure to which a run-off. A minimum of 30 days. A minimum education of form four level and they should have the qualifications of a President except age. Of course when I go to the President I am jumping so many issues and I have a written memorandum here. He should be a family man and he should declare his wealth, that is what I wanted, he should declare his wealth before and then he should yearly declare taxes that he is paying.

The Prime Minister should be appointed by Cabinet Ministers, but they should be elected by the Parliament. This Cabinet Minister should be elected from the winning party. From which the Prime Minister came from. If there is no Parliamentary party that got 51% of the vote then a coalition should be there.

Then we have the Provincial Administration. The DCs, Dos, and the Chief's, we are saying we don't need their roles. There is a lot of duplication of roles between the Chief and the Councillor's. The Constitution should scrap Provincial Administration. What they are doing should be done by the councillors and the councilors should have a committee at the village level in which he shall be the Chairman. Those Committees will be sitting down and charting out the issues that affect that community.

Revenues that come from the Local Authorities we are saying 70% of them should remain in that Local Authority to develop it.

We are also saying that Chairman and Mayor should be elected.

Judiciary should be impartial. The office of the Attorney General should be split. It is not possible for one to be Government Prosecutor, Advocate and at the same time he is the one who is prosecuting Government Officers. We say this is not clearly good. It should be free; we have a separate office of the Public Prosecutor from the Attorney General. He should be free. We have some Special Courts to deal with family issues and others like rape. The Chief Justice should have tenure of five years renewable, two terms of five years each.

Bill of Rights, every Kenyan should be able to read, to listen to any news, TV, anything the government should not censor. The Constitution should guarantee farmers because we are an Agricultural country, and that the government should protect farmers.

We are also saying that. The 8.4.4. Education system should be scrapped and that we should have free education and have free medical services.

Trustee land should be entrusted in that Local Community. Finances, Government should have a Parliamentary Authority to borrow money from IMF and World Bank. Electoral Commission should be there by an Act of Parliament and should always conduct elections without any interference.

Public Service Commission should be free from political parties and any Public Servant that involves him/her, into politics should be sacked and periodical referendum on issues that Kenyans feel.

Interjection:

Com. Mutakha Kangu: Just a moment

Com. Salome Muigai: Thank you very much for your presentation my question is on. You have talked about free education and free health services; I would like to probably ask you to share your thought on how we can?

Interjection: Noise

Simon Kemonto: It should be from taxpayers, we used to have free education sometime ago, and it should be from taxpayers

Com. Salome Muigai: Inaudible. We don't have free education and we don't have free medical. Are you suggesting that Kenyans should be taxed a little bit more to cater for these services?

Simon Kemonto. Let me answer your question by asking you a question.

Interjection: laughter

Simon Kemonto: If we are heavily taxed in this country we should then receive the best services from the government in the whole World. Where do these taxes go? They should go back to these people who are taxed, by financing the education will be the only way that we can guarantee that we shall grow economically.

Rights of women: I want to add that more, I was rushing because of time. When we talk about rights of women our socialization process is absolutely biased against women. The Constitution should provide means checks and balances which should protect women. One that I propose is that Constitution act should come back.

Two, if a man marries a woman for more than one month and they stay together there are husband and wife and that women should claim what this man has. A lot of war should be there but at least we should protect women who are married today and tomorrow they are disposed off by their husbands.

Com. Mutakha Kangu: One more question from me, one you said that we should have a Prime Minister excising the Executive powers and the President I think you mentioned that he should be kind of ceremonial? When you started talking about the qualifications of the President you emphasized how he should declare his wealth and so on and I started wondering what your problem was. I thought the problem was with whoever has the Executive powers. Why not ask that if the Prime Minister is the one going to have Executive powers he is the one we should focus on or may be both of them.

Two, you talked about the Local Authority retaining 70% of the taxes they raise. I would have been interested in hearing how you allocate the taxes, which one should be raised by the Local Authorities and which one should be raised by the Central Government, and also how you allocate the functions of the Local Government at both the central level and Local Government level? So that we can be able to appreciate that whether the 70% you are saying should remain at the local level matches with the function that local level is exempted or it outstrips, because you may be leaving the center with 30% when you have left all the functions at the center? Finally you talked about free media no censorship and so on and I see that you are a man of the collar are you telling us that government should allow even the phonographic media material in the media or what a you telling us?

Simon Kemonto: Let me start by talking about the Prime Minister, The Prime Minister should have the qualifications like those ones of the President. It is only that I was skipping many issues.

Interjection: Yeah

Simon Kemonto: When you come to the free media and the free gazette, I think we should have a Committee in Parliament which should look on to some of these phonographic issues that are shown on our TVs, but absolutely we cannot have it is not fair that the radio citizen is only allowed to air in Nairobi and some parts where it is only known that we make a lot of noise and some areas that are correct politically this people have no access to information.

Com. Mutakha Kangu: Thank you, I got the point, Can we have Margaret Maina.

Margaret Maina: Asante, I am Margaret Maina and I am the Muranga Women Group leader. This is the memorandum for our New Constitution. Women would like to see the following areas addressed in a gender point of view.

Citizenship, The current Constitution is discriminatory as it denies the women to pass their citizenship to their children or spouses that is in case of the following. This violates the rights of a woman. We therefore recommend that women and men should have equal rights to pass their citizenship to their spouses and children.

International Convention of elimination of all laws that are discriminatory against women is known as the seed of a family should be domesticated and implemented. The national law and customary law and other impediments laws should be reviewed continuously to ensure women are not discriminated against in all ways.

The Affiliation act should be enacted. Foreigners and their children who have lived in and worked in kenya for 15 years and the adopted foreign children by kenyan citizens should be given citizenship. The ways to acquire citizenship must be through application, marriage, and adoption. A person regarded as a kenyan citizen should have access in all the basic rights. The right to vote and also to possess properties.

Governance. The current Constitution of kenya assumes that all citizens have a right to take part in the governance of the country, however the women are marginalized and thus they do not exploit their potentiality fully. Their views and experiences are therefore unregrettably missing. Therefore the New Constitution should include the following issues that we came up with.

To provide for propotional representation at least a third of the total number being women

In the composition of all Constitutional Offices.

Women should also provide a third of the total composition in the following programme's of governance and decision making.

Like in the Cabinet, Judiciary, in the Civil Service and

Discipline Forces.

Principle of gender balance should be adhered to in the composition of all offices and governance structure should be legalized and made mandatory, and considering that one has capacity.

The new Constitution should provide a referendum for all citizens to exercise their full rights of expressing their opinions.

There should be a Gender Commission established as a Constitution Office.

Local Authorities. Local Authorities practice the male domination cultures in the decision making structure thus the women priorities in the national and Local Government level have been sidelined. New Constitution should ensure access to the resources and holding of Local Authority position for women, the disabled, youth and the pastoralists that is applicable among other areas.

Entrench the principle of affirmative action in the new Constitution by reviewing section 33 of the current Constitution.

The principle of at least third representation of one gender should be entrenched in the new Constitution to ensure gender equity in the Local Government.

The Mayor and the Chairperson should be elected directly by the people, and they be called off if they don't deliver. This term has become very common about the (Chairman) this term should be amended to read the Chairperson. The minimum qualification of a councillor should be "O" level regardless of the gender.

Electoral System and process, The current Electoral Commission of Kenya is male dominated in its composition and operation, women should also sit in this very important institution for they do have the capacity. The new Constitution to review the Electoral system to accommodate women and marginalized group.

The nominations for the Parliamentary and Local Authority should represent at least 56% representation in the numbers of women and men and analysis should be made on how different Electoral role affects both men and women. The new Constitution need to take measures when appropriate to ensure that the Electoral process put in place mechanisms which ensures that political parties integrate women in both elective and non elective officials and create proposition at the same level as men.

There is need to create suitable and favourable Electoral system that reach to the people and which are women friendly. The new Constitution should have a position for an independent candidate running for election without sponsorship by any party.

The laws against election violence should be reinforced and clear implementations strategies against offenders are drafted. As

you know normally there is a lot of violence during the elections. Civic education should be set up. The new Constitution should nationalize a code of conduct that governs the regulations in order to eliminate violence. The government should regulate the election expenditure

The new Constitution should entrench political parties to the new Constitution with a mandatory provision of a minimum of over thirty representation of either gender for the party to be recognized as a legal party.

Basic Rights. The current Constitution does not have adequate provision for fundamental rights because the marginalized and vulnerable groups have been left out where as the government should ensure that Kenyans enjoy there basic rights and equally.

Interjection: Noise.

Margaret Maina: Therefore the new Constitution should enshrine equal access for natural resources and equality before the law of men and women, boys and girls without discrimination on the basis of gender, race, religion, way of life, and such things.

Security. Granted security and equal protection by the law to both men and women should also guarantee women rights under the Bill of Right. Should also recognize different groups that consists Kenya in all aspects of life. To improve security there should be discipline of the security forces; you can see how people are just killed aimlessly.

Free medical care, medical insurance, disease control, and medical care to be brought back to the people. The issue of water, there should be protection of water catchment sources, control of irrigation for cultivation. Initiate projects to provide clean water, I mean clean water for all by the year 2005.

Education. There should be free and compulsory education at least basic for all. My friend had talked about free education and you all know what I mean and after all it has been there.

Children Rights. It is sad to note that the current Constitution does not recognize or use the term child considering that each and everybody was first born as child. The pride of a child is neither acknowledged thus denying the child the right of his identity. Childbirth should be regarded as a National duty therefore our recommendations were in the new Constitution.

The new Constitution should have a clear definition of a child as any person below the age of 18 years.

Ban discrimination on the basis of age, sex, language, colour, and religion, opinion that applies to children rights.

Should guarantee civil rights and liberty to the female and male children. In fact you all know the girl child is the most affected.

She acts as the deputy mother. Provide appropriate family environment and alternative care to all children, and provide education. Leisure, recreation and cultural activity on the development of a child and given special attention to the female children with disability and those from marginalised community.

Constitutionalise the right to access information on children and human rights to all men and women, boys and girls. Recognize and indicate contentions of children rights that Kenya is a signatory to in the new Constitution.

Land and Property rights; women like to own and access resources We want the new Constitution to indicate that matrimonial properties should bear the names of both spouses, currently they bear the names of one. Proper taxation should be established.

The Kenya gazette should be in a simple language, well distributed, accessible to all and affordable. There should be gender balance between the Land Board and other decisions making offices.

Every Kenyan both men and women should have access to land and other resources.

The Constitution should recognize and protect the rights of inheritance, rights of widows, widowers, and people with disability etc.

A limit should be set and defined out on how much land an individual should own, tax should be imposed on land (inaudible). As you know some people own the whole of Ngong and in Muranga there are people who do not have land. You should clearly provide for the protection of forest and all natural resources,

The issue of succession. There is need to change both ways of appointment and succession culture to ensure both men and women have equal opportunities in the new Constitution. If it is Presidential aspirant should have a running mate that is a Vice President who both may be of a different gender.

The President and Vice President elected should be above Parliamentary politics otherwise they should concentrate on their Presidential seats and responsibility. The office of the Vice President should be given more powers. The current Vice President one does not have powers especially in the cases where they have no ministries to run. The process of handing over powers should be entrenched in the Constitution to avoid biased speculations and misuse of the powers by the incumbents. Some of you are wondering when will the elections be held and such like things, it is like a secret weapon.

The Vice President should not be a Presidential nominee, the serving President should be involved in the Electoral process. The office of Ombudsman should surely be established and he should not be a Presidential Nominee. This is a person who over

rules the conduct of those in the power. I am not talking of a woman who has the capacity. Thank you.

Interjection: Hold on.

Com. Salome Muigai: Thank you very much madam that is a very comprehensive presentation. My question would be on what you talked about concerning childbirth as a national issue, how would you like to see the Constitution recognizing this issue?

Margaret Maina: There are cases mostly in the offices you find a woman may be, in the year 2002, takes her maternity leave this year and is granted maternity leave continuously finally she resigns. This should be looked into.

Com. Mutakha Kangu: You mentioned citizenship that the spouses should be able to pass their citizenship without discrimination. Give us some thought because it appears even now the men who are allowed to pass over citizenship to their spouses the process is so long. Around the borders people will tell you they leave with their wives for 20 years 30 years and they have never been registered as Kenyans. They do not have their ID, they cannot vote, they cannot get jobs. How would you like that process facilitated? Two I am feeling a bit concerned about our very varied systems of marriage when you go to church by the time the ceremony is over the Rev. will have declared you as husband and wife, but many of our people marry under customary laws. At what point do you say that they are married as husband and wife and therefore the spouses entitled to citizenship because there are some who say you have not completed the payments of dowry until that time?

We need to put these clauses with facilitation so that they don't just become clauses in the Constitution and do not serve our people. Finally what happens when they divorce does the spouse lose the citizenship or does he or she retain it.

Margaret Maina: As you had put it natural at least men take about 20 years to get their spouses registered, but for the case of women this is out.

Interjections: Noise.

Com. Mutakha Kangu: Fill the information in the memorandum. (repetition of the question) We will be happy to hear about it. Thank you very much. Can we have the Muranga Youth Solidarity, let us hear from the youth please?

Irungu Kagata: Leader of Muranga Youth Solidarity. Ningetaka kuongea kwa kiswahili. Tunaonelea.

Katika hii process ya Katiba kuna mambo ambayo si mazuri. Moja yapo ni language, The government kwa kuchagua na vile Professor Ngugi WaThiongo alivyo sema katika katiba chake (inaudible). Language inaleta taabu kati ya Watu wali (inaudible)

na watu wale ambayo wanaongozwa. Kwa mfano naona haswa imekuwa kitu hectic sana kwa watu wale ambao wanafanya kazi ya jua kali, mama wa mboga hawaelewi cha kutafautisha. Tunaona mambo ambayo ya nurudiwa hapo ni mambo ya power, women issues. Lakini ukiangalia kwa kweli reporti zawatu wale before ukoloni Haswa haziko reflected katika communities juu ya hiyo notish ya evidence so far nitawambia ten points ambazo ni introduction. Introduction yenyewe ni mambo yale tuwataka kuyatilia maanani kwa economy.

Tunaonelea kuwa hatuwezi jenga nyumba bila kufikiria ni nani wataishi hapo ama uwe na gari bila kujua dereva ni nani. Gari yenyewe ile tunasema ni overall process but the factor source kwangu mimi naonelea ni economy ndiyo chini lakini mpatie kitu cha kwanza kabisa ni uchumi hizo vitu za politics tuziweke nyuma. Haya tuwanzi katika bendokezo langu la kwanza.

Preamble (National Principles and Values). Sisi youth tunaonelea ya kwamba musiseme ya kuwa ati appreciating the various process they become internal and exerting greater pressure on kenyan people in a negative manner. Realising that this people process sprang up many years ago by the people with geographical area today called kenya have always been rich men. Preamble yangu iangaliwe wakati wa slavery, wakati wa Ukoloni, natuangualie wakati huu wa ukoloni mambo leo.

Katika hiyo preamble, Kuna watu wale ambao walipigania hizo globalisation agents, yani utanga wazi, kutoka kitambo, Tuna waiyaki wa hinga, tuna Sigoma, mwanza, mwingu manyonyi. Tunawengi kabisa ambao walikuwa wakipigania kina Kimathi.wamekuwa wakilipiga hilo jitu la globalization kati kati ya moja na njia ingine. Kwa hivyo katiko hiyo preamble tuandike hivyo.

Na sema hivo hivo ndiyo colonial forces ama ukoloni mambo leo ndizo zimetuweka katika jenga hili. Katika hiyo preamble tunaonelea sisi youth ya kwamba tu adopt (inaudible)

Yani criteria, moral, sisi tunapenda Unitarian type of Government. Sisi tunataka kulete religion kama tuseme italeta economic growth.

Hiyo ndiyo tutatakuwa tuna angalia mambo katika Constitution. Na hiyo preamble iwe ni kitu you can enforce in a court of law juu katika hii Constitution Ya yashpalGhai kuna argument ya kuwa some preambles cannot be enforced in the law. Some can be enforced in law like French Constitution. Preamble ni kitu ambacho kina kuwa enforced in law.

Katika Economy tunaonelea ya kuwa (GDP) ama ile inaituwa Growth Domestic Product iwe ni constitutionally every government document inakuwa ina reflect Growth Domestic Product. Poverty Index Rate iwe si GDP pekee juu tunaona GDP inweza kuwa inaongezeka lakini poverty ina ongezeka. Ni hayo tunataka kuonyeshwa ukweli.

Pil tunataka Land Bill, hiyo ni kitu watu wengi wamesema si vizuri mtu ambae kwa mfano yule (Mr. Critcos) ana own Constituency mzima lakini kuna watu wengine masikini ambao hawana mahali. Hapo tume propose 150 acres for individuals, a

1,000 for companies except former Co-operatives, Workers Association, Savings and Credit support and government parastatals ndizo tuna weza kupatia hiyo exemption. Tafadhaili ni ta changanya kingereza na kiswahili.

Pointi ya tatu ni kuwa tunataka kuweko na Economic Commission, Yani Commission ya Uchumi ambayo itakuwa inaongozwa na mtu ambaye amechaguliwa na Parliament. Mtu ambaye ana Master degree ambayo ina ruhusu kuendelea kwa Uchumi wa Third World. Pia tunataka katika hiyo Board ya Commission iwe ina chukua watu kutoka sector za Ki Jua Kali, hawkers, small Traders Association, na pia kuwe na farmers wana kuwa represented katika hii Uchumi. The terms of reference of that Commission lazima iwe mandated to distribute land to landless persons.

Ethnic and Tribal Clashes tribal dying should be the key consideration. Publishing GDP written against poverty each and every year, Prosecuting economic crimes. Attorney General should not be the only person to prosecute such cases. Tuliona katika hii kasi ambayo ilianguka (inaudible) ati kulingana na sheria yenye iko kwa Katiba saa hii AG ndiyo ako na prosecutorial powers. Hivyo si vizuri tunataka hii Economic Commission iwe na nguvu ya ku prosecute mambo kulingana na sheria. Hii Economic Commission ipewe nguvu ya ku prosecute mambo ya wale wamefanya makosa ya economy pia tunaona ya kuwa hiyo Economic Commission ndiyo ina kazi ya kuadopt kila Parliamentary Account Committee, A Public Investment Committee, Auditor General Report yearly and strictly recommended by those reports.

Pia tunasema Auditor General be stopped to participate in the issue of economic growth. Tuna jua ya kwamba kuna zile Donor Aid, tuna multinational hizo zimekua zi kiropoti negative things about our economy. Tuna taka hizo ziangaliwe kabisa.

Social Infuion on Economy. Tuna jua Religious Media, ambazo zina foster zile tunaita ex-political allocating difficiency. Ukiona kwa mfano GDP inafanya watu wawe linguistic. Hii programme ya TV inafanya watu wawe Political bias. Tunaelewa principle za law moja ni kuwa lazima law ziwe ni kitu collective. Economic Crimes kwa mfano kumisi-manage public institution kama hospitali iwe ni capital offense. Mtu ambaye anaiba 100 million anatakiwa anyongwe. Juu kwa mafano mimi ni kiwa mtu mmoja tuna nyongwa na yule mtu ana haribu hospitali inauwa watu a hundred thousand kwa nini asinyongwe pia?

Interjection: Clapping

Local Government itenge quarter of CBD yani ile town kati kati itengwe small artisians na pia mechanic, mama mbogo, watu wa jua kali watengwe sehemu ndani, si kama vile wanatupwa na kule Gikomba. Wa wekwa mahali na hiyo iwe ni kama ile Export Processing Zone hakuna taxation, na kama itakatwa iwe ni kidogo tu. Na pia katika taxation tume propose ya kiwa Progressive Taxation Mode, iwe kwa Constitution yani government iwe ina tax wali greedy sana.

Judiciary. Kuna ile mode ambayo tunaita equidictorial adversarial, Presently the mode of court practise ni adversarial.. Sisi tunaomba iwe equiditorial. Kama omeona ile programe ya Nation inaitwa divorce courts (Inaudible) tunataka kuhudhuria tuwe

tuna ulinza judge masawali si kumuogopa na hii italeta ile principle inaitwa contempt of courts. Uwe ukizungumza na judge hapa kwa hapa.

Pili katika Criminal cases lugha ya kiswahili itumike kizungu kisitumike kwa matters of fact. Katika matters of law kizungu kinaweza kutumika katika Civil Cases zote kiswahil kitumike except (inaudible) hiyo wanaweza kuongea kizungu ndiye mwananchi wa kawaida ambaye anazijua zile sheria. Juu sheria zimekuwa za watu ambao wana pesa.

Innocent till proven guilty. Yani wewe uko innocent mpaka siku ile utapatikana na makosa. Hapa Kenya mtu anatakanwa na anashikwa halafu anawekwa remand, halafu anawachiliwa. Sasa tunaonelea Katiba mtu akewekwa remandi halafu ashinde kesi na hiyo ndiyo ilikuwa mara yake ya kwanza kuwekwa hapo alipwa na serikali. The minimum daily wages prevailing kwa mfano kama ni 100 ni kitoka ndani naweze kustaki serikali inelipe 100 times the days in remandi. Hiyo itafanya watu wasishikwe ovyo ovyo na kulazimishwa masitaka.

Tutengenze Prisoners Welfare Commission, ambao itakuwa ina fundisha watu juu tunaonlia mtu akefanya kosa juu ya vitu mbili. Criminal administer inatokana na watu wajua kazi zao. Prosecutors should be lawyers and litigants without advocates.

Human Rights tunaonelea kuwa economic rights should be human rights, pia hii kitu imesemwa sana hata education,

Censorship Board. Phonographic hasa katika hizi enzi za ukimwi. Ukimiwi umeongezeka hasa juu ya hizi phonographic. Ukweli inatakiwa hiyo censorship board isihusike na siasa ihusike na Social Life. Si political juu hiyo italeta mambo mbaya. Ata video kuna ile kitu ya kusema morality chapter iwekwe katika Katiba ndio hata wasichana wanavaa nguo wasivaye in a way mini-skirt ama vitu tight hiyo inaongeza prospect ya watu kufanya mambo mambaya. Na huyo si mzuri.

International Relation iwe defined to include economic independent juu sa hizi ni political independence tu. Lakini si vizuri kuona IMF inafuata hii serikali hivo si vinzuri.

Civil Society ni kitu ambacho si kizuri juu ni kitu si accountable kwa watu. Pili si Kitu ambacho kimechaguliwa na mtu. Participation in governance iwekwe kando.

Tunaonelea Raisi awe anaenda kwa TV every Sunday anatoa maoni yake na tunamuuliza maswali kila jumapili, na wabunge kila Jumatano. Iwe ni Government Information.

Party system. Hatutaki vyama, kama uganda, sababu ni vingi Hatutaki mambo ya co-operation, hatutaki mambo notion za expulsion in parties, to minimize tribal and enmities. To save public coffers, revenue on governing parties are updated.

Presidential age. Tunataka hiyo Presidential age ipeanwe pia. Hatutaki mambo ya wanawake kupatiwa viti kando. Ni counter discrimination. Hiyo ni kitu itakuja kuisha naturally lakini ukanza kulegislata against such kind of practice hiyo ni kitu itakuwa counter-productive.

Finally. Expansion of the Court Structure. Sisi kule mashambani tuwe na koti ambazo zinaongozwa na Headman na jury kwa civil cases. Pia hii mambo ya two Parliamentay systems, tunaonelia senete iwe na kabila zote. kila kabila iwe imewakilishwa. Ukianglia America tunapata iko na senate Governor, Tukienda Britain tunaona ni class boundary. We have House of Lords in Britain and we have a Neto House.

Ya mwisho kabisa, Public Law Review Committee. It should become a Constitutional Committee to set up a regime kuangalia mambo ya kisheria day in and out. Pia tunaonelea iwe ni muhimu sana pia Constitution iweze kuongoza nchi. Asante

Com. Salome Muigai., Ahsante sana nina masawali machache kwako kwanza ni kukushukuru kwa ajili ya kujaribu sana kuzungumzia lugha ya taifa. Umejitahidi na umeona vile kuna shida kuyapata maneno ya ufundi kwenye hii lugha. Ni lugha badu inaendelea kukuwa na kubokeya sana kwa juhudi zako za kujaribu kuitumia.

Umesema kuwa tuwe na mlango mmoja ama chapta moja ya tabia kwa Katiba, na ukasema kama huu mlango ungeongea juu ya mavazi ya akina mama ili wazivae mavazi mafupi na yale yenye kupana. Tuaelee nao wababa twa wahushisha aje kwa ni inachukuwa watu wawili kufanya nini?.

Swali la pili hatuoni juhudi ya kuwakeya wa mama ama wanawake vite vyenye vimetengwa kwa ajili yao kwa ajile hii atakufa naturally. Amerika wamekuwa na democracia kwa mwaka zaidi ya 200 bado haijakufa naturally je hii naturally tutakikojia miaka mi ngapi ndio ife na isipo kufa tungeweka viteko vipi kwenye Katiba ile kuwaushisha wenye hawajouhusika mbeleni? Ya mwisho nigetaka kusema kuwa tulikuchagua kwa sababu ulikuwa muwakilishi wa vijana ningetaka wewe utuwelinze vile umeona uhusiano wa vijana kwenye utaratibu wa uongozi?

Irungu Kagata: Mambo ya mavazi, hiyo pointi nimezungumza juu yaki na ni kisema ya kuwa katika ile dressing inafaa mwanamke avae vizuri ndio tuondo immorality. Naye mwanamume hufanya mambo mabaya due to biological conditionality yeye tutamfanya je ? Ti increase hizi penalty ambazo zina husu rape. kwa mfano property wana own gently, yani discrimination katika specific cases tuna deal nazo through Legislature lakini mwanamke avae decently na mwanamume juu yeye utumia force tumefanye kasi. Tuweke legislature zetu kama rape ya watoto unaona siku hizi ni kitu ya madharawo inatakiwa kama ni castration iwe hivo.

Interjection: Laughter

Irungu Kagata: Mambo ya gender equality. Kuna kitu moja ambacho nimeona na watu hawaja notice ya kuwa wanawake watoke inje wajua nini uwachwa nyumbani House Maid, Na kawambia House Maid ni modern slave. Ata kama kuna wanawake wanapeyuka wakipigania haki za Katiba na nyumbani wanaacha shida. Tunasema wanawake waende kazi na nyumbani tunawacha slave in form of House Maid kwa hivyo ni counter productive. We have to use cultural weapon to fight Aids or even to fight prostitution.

Wanawake tungeangalia purely idealistic democratic values ni counter discrimination kusema wanawake watengewe viti. Kama ni mzuri atachaguliwa kama Beth Mugo, na Charity Ngilu lakini si kusema awekewe kiti kando furthermore yeye ndiye most important thing. Wanawake kama hayo hawatakuwa wakifikiria issues za wanawake wenye wamebaki nyumbani. Kama sisi ni wanaume tumechagua wanaume wanafikiria issues zetu? Kuwachia mtu mahali si kusema necessarily atakuwa na interest yenyu.

Com. Mutakha Kangu: Thank You very much. I would like to announce in the event that there is anybody with a written memorandum and you think you would like to submit it even without adding anything orally you are free to submit it there, you register and you sign, then you can excuse yourself if you want. We want to make sure that as many as possible get an opportunity to give there views and if we cannot we don't want to leave those issues in the memorandum.

Com. Mutakha Kangu: Can we have Jane Kamuiaga.

Jane Kamuiaga. Thank you Mr. Chairman. I am representing Mandeleo ya Wanawake Organization. The women of this district and the entire population appreciate the importance of the Constitution Review exercise. The Constitution should be taken back to the people through Civic Education and should be a continuous process. It should be in an understandable language, which should be simple, clear and straight to the point so that Wanjiku and her children can understand.

We need a Preamble in our Constitution, to identify and recognize the supremacy of the people of Kenya, including women and children and all the marginalized groups. Also to respect and honor those who fought for our independence.

Our national objective could be, of unity in our diversity to guarantee the basic rights for all. Supremacy of the Constitution means equal treatment of all before the law and guarantees individual freedom.

On the issue of citizenship, we recommend that one becomes an automatic citizen when the children in and outside Kenya, are born of Kenyan citizen. Also those born by a spouse of Kenyan citizen, and even adopted foreign children by Kenyan citizen. There are other ways also of acquiring citizenship by application, marriage, adoption and many others.

The rights and Obligations, Basic Rights: The right to vote and the right to own properties. The obligations of the citizen should

not depend with the citizenship acquired.. So the Constitution should allow for dual citizenship. A passport and National Identity Card should identify one as a Kenyan.

All Political Parties, should be registered and should enhance gender equity at the high ranking level. That is where we recommend an affirmative action. There should be rules and regulations to safeguard guard the stability of the party. We recommend that there be a maximum of three to four strong political parties, which should have provisions of funding from the government, and they should be transparent so that we have checks and balances.

On the Structures and Systems of the government: The Presidential system of governance should be retained with checks and balances and there should be separation of powers. A President should be a Parliamentary candidate and he/she should not belong to any political party. If the President is a woman automatically the Vice President should be man and then vice versa.

The age of the President should be 35years to 60, to avoid sinility aspect. He should be married, with a stable home and family. He/she should have a minimum of education from a recognized university. His/her conduct should be morally upright. The roles of the President should be to oversee the process and implementations of the Bills, Laws, and Polices. He should be representing Kenya in the national forum or any International Meetings.

Legislature. The appointments of the Legislature should be vetted by the Parliament that is including the Judicial and all Constitutional Commissions. This should include the appointments done by the Executive. The Parliament should not have a limited power but to legislate the wishes of the people. So they should go back to the people and hear their views. The age requirement for voting and contesting for Parliamentary and Presidency as I had said earlier, should be above 18 years, Members of Parliament should be from 30 years and above up to 60 years.

The Members of the Parliament should seek the will of the electorates. We do not want statements that do not come from the electorate. Nominations of the Members of Parliament should be for the marginalized constituents. These includes women and the disabled.

Affirmative Action should be applied so that at least a third of the nominated Members of Parliament should be women and marginalized groups.

The Members of the Parliament should have a code of ethics.

The Judiciary should be independent such that it is separated from the Executive. We thought that there is a need to establish a Supreme Court. There should be a panel of the members from the Law Society of Kenya to elect Judges. The Judicial Officers should have At least a degree in law and should have served for more than seven years in the High court, for

experience purposes.

Disciplinary mechanism for Judges and other officers should be through demotion, sacking or prosecution in a court of law. Chief Kadhi should represent the Judiciary like all other Judicial officers. The Kadhi should represent issues on inheritance, divorce, and succession. They should have a minimum qualification of a degree in law or diploma. They should be appointed by the Supkem which emphasize on gender equality that is 50/50.

Local Government: The mayor and chairpersons should be elected directly by the people, as my sister said that the title Chairman should be amended to be Chairperson. Mayor and Chairperson should be elected for two terms consisting of five years. Local Authority should not be under the Central Government. The Mayor or Chairperson should be the Executive Officer where by as the Chief Officer is answerable to them. They should hold a minimum qualification of 'O' level. They should be morally upright and of good ethics.

The Nominated Councillor should not be retained because they are not answerable to anyone. So there should be no Nomination of Councillors.

On the Electoral system, we thought that Kenya should maintain the current electoral process and the process should take an affirmative action by giving 50% seats in Parliament and Local Authorities. It should have an election calendar such that by now we should be knowing when we are holding our next general elections. The qualification for the Electoral Commissioners should be minimum of a diploma in law and at least three years practice in law. They should be upright in moral and non-partisan. On their appointments we should have two persons elected from each province with gender equity because you find that some of the Commissioners are unable to read because of age.

The National registration should be abolished and we should be using ID cards, and Birth Certificates or a Passports to be able to vote. The ballot boxes should be transparent. The votes should be counted at the voting centers.

On the basic rights; the current Constitution does not adequately provide for equal rights because the marginalised and the vulnerable group have been left out. So the Constitution should provide protection on security, health, water, education, food and employment, and other basic rights.

Death penalty should be abolished. Government should ensure that all Kenyans enjoy their basic rights. On issues concerning basic rights as I said on security that is, mob killing, police shooting, we only here that they are suspects. This issue should be included in our new Constitution. The treatment given to prisoners and discipline of security forces.

On Health Care; we should have free medical care including maternity. So many women die outside the hospitals because of

lack of good medical care. These should be made free and even immunization of our children taken care of.

Interjection: Sum up.

Jane Kamuiaga: Education. We thought that there should be free and compulsory education up to the high school and fees should be affordable in colleges and universities.

Right of vulnerable groups: In the current Constitution the interest of women have not been fairly, guaranteed the basic rights of a woman which should be addressed in the Constitution is property rights, inheritance, and ownership, sexual abuse like female genital mutilation. You find that there are some sects like “Mungiki” which are forcing women to be cut. Cases of rape, domestic violence, and equal opportunity in development because currently men are dominating most of our Committees.

In the current Constitution, the interests of the people with disabilities have not been fully granted. Relevant rights of people with disability should be addressed in the Constitution including special facilities, free education in all levels for the disabled. We should have rehabilitation centers for counselling, learning, fields, and free health. Other vulnerable groups that have been left out, are single parents and in these cases we agreed that if a man fathers a child, whether he is a husband or a son he should provide for all the necessities until that child completes his/her education. If the man denies that he is not the father of that child, there are hospitals which can carry out the tests and prove the real father of the child. and be forced by the law to take care of that child.

There are children in need of special education, age, economical infrastructure the HIV aids patient and also the mentally sick.

Land and Property rights: All matrimonial properties should bear names of both spouses because you find that, by the time I become 60 or 40 sometime my husband might decide to divorce me, and may be I got married to him when I was 20 years. So when I was young and productive between the ages of 21years to 35 I wasted my energy at his place and then I am told to go back to my parents. We are saying the new Constitution to include a provision that the matrimonial property should bear names of both spouses.

There should be an establishment of proper succession laws because the current one involves a very long process. Most of the time the wife or the women are just a trustees of the husband property or the children’s property.

The Local Community should have the power to control the rights of owners-occupiers. Daughters should have the right to own and inherit land and any other movable and immovable property by right because this is also a very important area. The Constitution should regulate that tenure and ensure gender equality on land distribution and so we should also emphasize that the Land Boards remain with a representation of 50/50 that is gender equity.

There should be equal access to land by both men and women and both names of the spouses should appear on Title Deeds.

Interjection: Okey

Jane Kamuiaga: On the Constitution Commission Institutions and offices the office of Ombudsman should be established and the holder should be a man or woman of high integrity and merit and not a Presidential appointee. Human Rights Commission should be established, Gender Commission and Anti-corruption Commission.

On the transfer of power, the Vice President should be directly elected and not be a Presidential appointee. The Judiciary should have Executive powers. During the Presidential election an independent Electoral Commission should declare the results of . The Electoral Commission should be directly elected and must have an equal gender representation and to emphasize 50% representation of women.

The President should not be involved in the election process. He/she must not pardon a person for any election offence committed. The Chief Justice should swear in the incoming President, and the President should be sworn in after 30 days after being declared the President, and the Judiciary should be represented by the Attorney General who is elected by the people. The AG will be sitting in for the President during the election period.

During election the out-going President should not use the instrument of power and an inventory should be done during the handing over so that one can know what has been left and what has been sold. For that which has been sold the person who is responsible should be prosecuted. In case of abuse of office of powers the President should be made to answer before handing over. The Constitution should have a provision for a former President if he/her conduct were morally upright. Security and Welfare facilities

That is all. Thank you.

Com. Kangu I have two questions. One you said, that there should be no differentiation in the rights of citizenship depending on different types of citizenship, is it your suggestion therefore that even a natural like citizen can become President of Kenya? Two you said we should have a maximum of three or four political parties you know that we already have 52 now how do we go about to decide which one to retain and which one we should not retain. May be by looking at their performance in the election or do we say that we look at the manifesto to see whether there are of any differences?

Jane Kamuiaga: I will start with the last one, I thought these one will depend on membership, and we won't go to the manifesto because the manifesto may be can represent even two people.

The other one citizenship. I thought the President of Kenya should be a Kenyan citizen.

Com. Mutakha Kangu: There are different citizenships we have citizens who are born here, citizens who are naturalised like someone who is from another country and with time is naturalised as a citizen. If you get a husband from outside and acquires citizenship can he vie for a Presidential seat?

Jane Kamuiaga: No we cannot get somebody from outside to come and rule us although he/she is granted citizenship.

Interjection:

Com. Mutakha Kangu: Inaudible

Jane: Thank You.

Com. Mutakha Kangu: Can we have Peter kiguta, Kamau and Councillor James Waweru many absentees, Zechariah ticha.

Zakariah Ticha: Thank you Mr. Chairman, my views here are first the Electoral Commission. The Electoral Commission should educate the people on how to collect the voting cards. Not to allow the transportation of people, for people have been registering in the wrong places.

Corruption in our courts is very high now days. You are accused for nothing because you meet with an officer on your way home, you are caught and brought to the court and you are accused of roaming in town. The Judge was not there but he will convict and jail you. There should be a proper law to guide us Kenyans.

We had another Commission of Education System just here and lastly the President refused to listen to the majority views. Now we would like to have a Commission that will guide us, and it is this one that we have here. We hope you will come up to listen to the majority not with the minority. Without majority we are not guided at all. We had other Commissions like Kariko and Tribal clashes and so on not even one was given chance to give out findings.

We want the farmers to send their products to markets, and when they send their products out, the Government should look at and if their products are not sold the Government should help them by way of compensation.

We would like to have a President who will not engage himself with matters that are not his. If the President gives a Ministry to the Minister let the Minister run the Ministry. If it is a company let the one who is appointed run it. Not to appoint somebody

who will ruin a ministry or a company and in turn he is given another ministry or company because the President is his Godfather.

If somebody retires let him be replaced by graduates and he/she should not be appointed again to lead in other areas.

Contract. We should have laws to guide us. When a Contract is given to a person he should not be stopped. Any one who gets a contract must be allowed to complete it.

We have Mr. Kaguthi fighting the issue of drugs or liquor because it is killing our people, but then the DC allows and gives license to the people brewing liquor. Thank you.

Com. Mutakha Kangu: absentees. Christopher Macharia, you have a submission to make.

Christopher Macharia: My view is on the education sector. We have a Higher Education loans Board which caters for only University students only but not those in the middle colleges, we also need a Board that is going to cater for the needy students who are in such institutions.

The other point is the Presidential and MP qualifications, people are not talking of other institutions where our children are or we people are, they are only talking about the university graduates. They are going to graduate yes, but when some one may be taking Civil Engineering the person will just gain technical education and they also have a big channel. In tertiary education we also have Management Courses being undertaken. Those can also be considered as qualification for an MP, not just graduates. Thank you Mr. Chairman,

Com. Mutakha Kangu: Nelson Roturi, absent Kennedy Mundara.

Kenneth Mundara: Thank you Mr. Chairman for giving me this opportunity. I would like to mention that I have written down the things that affects the Constitution that is to be made.

First, we are talking about preamble. The Constitution should state that Kenya is a sovereign state for the people. The people of Kenya make the Kenya Constitution for the people of Kenya. The Constitution of Kenya shall be a unitary, Constitutional and democratic enhancing all the principles of democracy that is partisan, separation of powers, institutional powers, checks and balances. Kenya should be a multi-party state. There shall be a Head of State. That is President and a Prime Minister to head the government.

President shall be responsible in appointing the Prime Minister the Head of Government and neither of the two should be above the law, or performing duties in their own offices. There should be a Minister of Defense instead of a Department of Defense in

the Office of the President and the Minister in charge of Defense shall be appointed by the Prime Minister and shall be approved by the Electoral Committee.

Qualifications of President he/she should be a Kenyan citizen by birth, be a non-party member, must be 50 years and not more than 70 years of age. Must gather 51% votes in all votes cast for the Presidency. Must be a registered voter in a Constituency, must be of a sound mind, declare his wealth, must be of a respectable character, must be a married person and must be a graduate.

Qualifications of a Prime Minister: He should be aged between 35 years but not more than 70 years of age. He must also gather 51% votes cast throughout the country for the post. Failure to do so a re-election should be conducted. It is also good to say both of these seats should be vetted by the Parliament and not Cabinet as is the case now. The power in the Office of the President shall all be given to the Prime Minister.

Legislature, that is Parliament, Parliamentarians must be Kenyan citizens by birth, must be more than 35 years and not more than 70 years of age. Must be nominated by a political party and supported by more than 500 people during nominations. Must be a registered voter in a Constituency. Must have no criminal record, must be married and declare his wealth.

Duties of the Members of Parliament; Committee should be formed to make appointments of the Prime Minister, to make sure that no money is taken from Consolidated Fund and some profit debited.

Committee of peace in the Parliamentary Investment Committee and Parliamentary appointments Committee. This Committee should be given power to prosecute without the Attorney General.

There shall be joint ministerial expenditure to make sure the Ministries spend the fund for the intended purposes. They will present to Parliament the needs and grievances of the people they represent. They shall enact laws thereafter.

The MP's should attend each and every sitting so as to have their salaries. They should be given sitting allowances instead of salaries for appearance.

Councillors, must be Kenyan citizens by birth, must be thirty years and less than 70 years, must be an 'O' level, must be a registered voter in a Constituency, must belong to a party supported by more than 100 members during nominations. Must also be married, with a sound mind, must have clean record, must declare his wealth, must not be declared bankrupt.

Controller and Auditor General. The Office should be given security of tenure. The officer should be allowed by the Constitution to prosecute all the offenders without hindrance and should be removed from the office only on grounds, of death,

in competence, and a Committee in this case should be formed to vet this incompetence, through retirement and of course due to his own resignation.

The Attorney General. The office of Attorney General. Should also be offered security of the tenure in office as with the controller and Auditor General. His office should also be split in two parts so as to have an officer for the Government Legal Advisor and another one as the Director of prosecutions. It is not human, it is impossible for one person to carry out the dual duties as it is being done today.

The Prime Minister supported by the Parliamentary Committee should make the appointments of the Chief Justice, Judges and Chief Kadhi and the Judiciary. Magistrate to be appointed by Judicial Service Commission, Kadhi's to be appointed by Muslims.

All Human Rights should be enshrined in the current Constitution and be put in practice . They do not seem to be practiced apart from the one of freedom of worship where it has been abused. A law should be enacted to read that there should be freedom of worship as God is the creator and giver of life, and no Devil Worship should be allowed.

All finances shall be accounted for by the Parliament and expenditure audited. All money collected by the Government from mines, taxes or any other ways or by Local Municipal Councils and all other cases shall be beneficial to such Councils and people of that area.

Trustee Land. Any Trust Land taken over by individuals shall be repossessed back to the State. Any land which has been taken by the Government as Trust land belonging to individuals due to the need of the Government or the Municipality or any other Council for purposes of making use of such land, the affected individuals should be compensated adequately.

Any Trust Land that is lying idle should be given to the landless. Any land an individual owns and which is not used to be taken over by the Government and given back to the land less. There should be a limit of the numbers of acres one is supposed to possess.

The provision that says that a husband can request an employer or his spouse to terminate her services at his will is out dated and it is gender biased and should be done away with. The law that demands a man to support his wife and his family after they are separated should be done away with as both are a party to the breaking and is also gender biased.

Transition. In the case of the President's Office is vacant the normal 90 days the Vice President should continue acting, but after the 90 days fresh elections for the Presidency should take place rather than the Vice taking over without fresh elections.

Electoral Commission. The Chairman of the Electoral Commission should have Security of Tenure of Office. He should be appointed by the President and then vetted by Parliament. The Electoral Commission should have independent funds voted, debited and passed by Parliament to conduct its duties. All political Parties which have applied for registration should be registered. There should be an independent non-partisan observer allowed to observe the elections.

Registration of voters should be a continuous process but not only during election because you find that somebody would have liked to take part in elections but during the time of voters registration and that person happens to be outside the country or may be in jail but came out before the elections were done.

National Identity Cards should be a right to every eligible Kenyan who has attained 18 years and should be given freely.

Electoral Boundaries should be created in accordance to the population of the area. Civic Education should be a right. Every Kenyan student should be taught in schools to ensure his/her knowing.

Transparency at all levels enhanced during the elections. Voters education should be accessible to all Kenyans during elections to make sure that double election does not take place. Parliamentarians and Councillors, there should be a Constitution clause stating that people have the power to re-call their Members of Parliament or Councilors if they fail to deliver. They can summon him/her with a minority of 500 people from his Constituency and beat him of two-third of voters registered in his Constituency.

Com. Mutakha Kangu: Wait for one question.

Com. Salome Muigai: Thank you very much Mr., Chairman. I would like to ask one question for clarification. You said that when a man and woman divorce man should not be asked to take care of his wife or his children, how do you propose that the children be looked after?

Kennedy Mundara: To me it has never been declared a way of parting. If a woman decide to take the children I feel that she has accepted the responsibilities. If the man decide to take the children he has also accepted to take the responsibility. Whoever that goes with the children should take the responsibility.

Com. Salome Muigai: We are having a conversation that our children will live with longer than ourselves. So if neither the man nor the woman wants the children what does the fate that is making a Constitution do with these children? Have you had any thought for that?

Kennedy Mundara: It is the two of them, It is the duty of the state to take both of them to court and the court will decide on

who should take the responsibility.

Com. Mutakha Kangu: Can we have now Gerishon Munene.

Interjection: Noise

Gerishon Munene: Mr. Chairman mine will be based on Kenyatta University as charity begins at home. First of all I will begin by saying that. There is powers that allows the President to be the Vice Chancellor of all the Public Universities. I think we better do away with that one because the President of Kenya is very busy and so we should delegate to someone else preferably a Minister without portfolio who can work without another Ministry.

When the President nominats a Members of Parliament, and other opposition parties should also nominate, not more than two Nominated Members of Parliament should be made Cabinet Minister these can be stopped, the President can end up nominating and putting all his people in the Cabinet and these are unacceptable.

Constitution should take care of the Cabinet reshuffle that has been seen, you find that because of political mismanagement our current Cabinet is full of reshuffle. You find that there is a reshuffle of one of them at one time he was a Minister of State, again Minister of Energy, Tourism, East African Co-operation and now he is the Minister of Trade and Industry so we are wondering how this man is good in management that he can manage five Ministries at ago.

The Office of the Attorney General to be made a full Ministry that is the Ministry of Justice. The Controller and Auditor General should be empowered, what we are looking for is the Attorney General to be taken in the nomination process so that he can distinguish one of his official posts that can be taken over by the Controller and Auditor General.

The State to establish the welfare programmes to the unemployed, we feel that if the unemployed people of Kenya get some smaller allowances from the government it will help to reduce crime because actually there is a lot of unemployment and we have no where to go other than roam around.

We should have a Presidential Establishment Authority, something that takes care of Public assets within the city for example, the Presidential jet without a budget we don't know what happened to the Presidential jet. We don't know where the genetic is, we would like to have a caretaker a Trustee of the public.

A Retiring President should not be entitled to any extension and expansion of parties he/she should remain politically active. For a President to remain retired for public interest and special funding he should leave politics alone. But if he wants to remain as the Chairman of such and such party then the public should not take care of his pension until he relinquishes politics.

We would like to have a Supreme Court of Justice because actually it was so shocking to find that Justice Kwach and several Judges were arguing and these are High court Judges serving the Republic and so we feel that we should have a Supreme Court which is well organized because when the Court of Appeal has some Judges, arguments is that one creates a lot of confusion.

The Ministerial power to appoint the Parastatals Chiefs, should be effected at the moment we have people appointed. You get a Post Master General brought from Kenya Sugar Authority (repetition and unclear) he was not taken there on the basis of qualifications but through political convenience. So the powers given to Ministers to appoint Parastatals Heads should be repealed

The President should make some National address over the radio annually. This will increase accessibility to the mass media.

Administration Police, we don't think it is good to do away with the police because it is an employing agency but it can be merged with the Regular Police and then be under the Ministry of Home Affairs we should have a Homeland Security Department which should have a boundary serving guards and Legal Citizen Control Unit such that the job of AP can be taken over by Homeland Security Department. Thank you.

Com Salome Muigai: You say that we should have a Supreme Court because the Judges of the High court were arguing, what do we do if the Judges of the Supreme Court argue?

Gerishon Munene: Most of the positions that have been taken by the Court of Appeal Judges have been very doubtful and then when it comes to the interpretation of Constitution changes that one has not worked very well. There is a lot of political manipulation with Appeal Courts during the formation of Supreme Courts and we hope it will be free from political manipulation.

Com. Mutakha Kangu: Suppose we form a Supreme Court and it turns out that they are the very Judges of the Court of Appeal who are promoted to that court shall we be solving the problem?

Garishon Munene: No. We have the curriculum in terms of those Judges; we have a lot of appellates, if they are the same to be appointed in the Supreme Court then the Parliament should take on that one.

Com. Mutakha Kangu: Peter Geshura,

Peter Geshura: Thank you Mr. Chairman. These are my proposals on the preamble. The Constitution of Kenya should have a preamble. One, should state where we have come from, where we are and where we are heading. Two, it should state how

it could be solved. Three, should place its people above the law. Four, if it is to be amended or changed the people must be consulted. Political System. Government of National unity called coalition Government. Second point, political parties should be reduced to two. Kenyan Constitution to be available to the public at affordable price and also to be translated into vernacular languages.

The President: The requirements of a winning Presidential candidate getting 25% of votes cast in at least five Provinces should be scrapped. Election of President. A Presidential candidate should garner 51% of valid votes cast. If they acquire the same percentage the two winning candidates should repeat the election. Presidential term not to exceed two terms. Presidential qualifications should be as follows:-

- ? University graduate
- ? A registered voter
- ? A Kenyan citizen by birth
- ? Should be married with a family
- ? Minimum age 35 years maximum 70 years.
- ? Should not belong to any political party

Impeachment of the President: should be impeached due to absence of office, misconduct, misbehaviour and, immorality. He should not be above the law and should not have too much power. Presidential appointments should be vetted and approved by the Parliament. Vice President's Office should be abolished and replaced with that of a Prime Minister. Prime Minister to be elected directly by the people.

Ministries should not exceed 15 that is maximum of 15 Cabinet Ministers and not more than 30 Assistant Ministers. Ministers should be appointed when elected and not Nominated Members of Parliament, and they should be qualified. Parliament may pass a vote of censure against a Minister for the grounds of abuse of office misconduct, misbehavior, mental incapacity, corruption, mismanagement or incompetence.

Harambee. Do away with all harambee contributions. Provincial Administration especially Chiefs and their Assistants to be elected directly by the people after every five years and should not have too much power. Equitable distribution of Natural Resources: Free education for all and compulsory.

Free health care, food, clothing, and shelter to be provided as basic rights for all.

Legislature. Introduce a Bicameral Parliament, abolition of Nomination of Members of Parliament and Councillors rejected by the electorates. Creation of seats for women that is one-third of all the seats in Parliament. Constituency. To review the boundaries, to be divided according to the population of the area.

Election. Constitution should determine the dates of election and give the timetable. The registration of voters should be an on going process all the time. Civic Education and Voter Education to go on continuously. The ruling party to be banned from using State Resources during election campaign.

Judicature, Capital/death sentence should be abolished, inciters and perpetrators of tribal clashes should be arrested, prosecuted and harsh sentences imposed on them. Judges and Magistrates to have the security of tenure. Be incorruptible, efficient, and free and fair from his internal interference. Judicial Service Commission should be able to fire and hire or discipline Judicial Officers in service, and misbehaving.

Local Government System; Chairman and Mayor be elected directly by the people, should have an 'O' level education or a qualified member of a corporation. Councillor should hold a KSCE certificate. The government should establish an independent screening to deal with the Police Officers accused of brutality, deliberate killing, bribery and corruption. Allow independent candidates.

The last point. Create an office Ombudsman. Thank you chairman.

Com. Salome Muigai: Thank you very much for you sub-mission, I would like to ask a question on the boundary, you have said that boundaries should take population into account. I had asked this question before, where for instance for the representative to be able to visit his Constituency he has to travel for fifty kilometers or more what do we do with that kind of thing which is also part of what we have come across while we are going on to different a Constituency.

Peter Geshura: The reason why I have said so is because, especially here in Muranga we have seen that some boundaries have been created not out of necessity but because there are some individuals who are wanted but they are reject from the Constituency. We have seen some Constituencies like Embakasi where there are over one hundred thousand people while some places in Kenya there is a Constituency with even less then ten thousand people. If a Constituency has to be there the population of people has to be taken into consideration. I know there are some places where they have very few people like N. Eastern Provinces, but here we see especially like here in Kiharu we have two divisions but one Constituency, while our neighbors here Mathioya and Kangema, those are very close with few people. Here we have two divisions but one Constituency; there is one division, one constituency with few people. Thank you.

Com. Salome Muigai: I just want to put you on thought. I would like to hear, your thoughts or how do you feel with Constituency like you have said in N.Eastern where a group of people can be here and the next group is in Nyeri Town, this people also have a right to represent the people given the same condition of area that are not the same, would we not be creating discriminative laws that are taking our different problems on board?

Interjection:

Com. Mutakha Kangu: Places like Marasabit which has three Constituencies but inside it is like Central Province, Nyanza Province, and Western Province put together so that a constituency like Northpols should come from the furthest end of Turkana people to the other end is about a 1,000KM, and the number of Constituency may be far below 150 in another constituency. How do we deal with this? If we decide with the number of people then we might see the whole of N. Eastern being one Constituency and you will find it so difficult for one person to run from one corner to another more so during campaign time. If we are to count numbers someone here will be able to get 10,000 votes but another person to get 1,000votes may have to travel for so many kilometers. How do we deal with this?

Peter Geshura: My point is that it should be according to the wish and the needs of the people, If we come to the district boundaries like Maragua, even now people from that area because it was not there need they still come here to Muranga for various needs. Thank you.

Com. Mutakha Kangu: Thank you. Let us have James Mathaai.

James Mathaai: Thank you Bwana Chairman for giving me this opportunity my contributions will be very brief. My first contribution is on the kind of Government that we should have. There has been a debate that has been going on for a very long time whether we should have the current kind of Government that we already have or we should have a Majimbo type of Government. I take it that we should have a Unitary Government and not Majimbo type of Government.

Election of the President. There is also a debate that has been going on whether we should have a ceremonial Head of State or an Executive President. In my view I think we should have an Executive President with an Executive Vice President. For this to happen, I tend to think in Kenya we already have 52 registered political parties and this one in my view, has been a very good breeding ground to practice tribalism because every tribe comes up with a political party in my view we should have a maximum of two political parties so that they can be National Political Parties, every party can be a National Political Party, whereby every leader has an influence in every part of the country and in such manner we can have an acceptable leader governing the country.

Nominations of the MP. There was an article that suggested, we should have at least five nominated MPs. In my view this is a very high number, and I suggest that even with the 12 number of current Nominated MPs we can still do with it because we already have elected Members of Parliament who are representing our interest and the 12 Members of Parliament are nominated, I tend to think they can be nominated from various interest groups like the disabled, women, representing various interest groups.

On the issue of qualifications of a President. I tend to think one is that he should be a degree holder, somebody that is well educated. He should be married, in the bible I am a preacher of the gospel myself. The bible talks of somebody who is suppose to be leading in a church may be bishop, pastor, and it says that a man of one wife. This one will promote moral character and he should be a living example, he should not be divorcee or separated with his family he should be somebody that has good family background and therefore I don't know what will happen and may somebody answer me somewhere. What if a President divorces while in the office? That one can be discussed alone, but as he is elected he should have a stable family.

On the issue of affirmative action, gentlemen and ladies I tend to think in this case all are against men because it is like every women who has been speaking here has been of affirmative action. Gender issues, I tend to think that we should be given equal opportunities whereby every parent should train their children right from primary level to compete fairly and equally. I think that affirmative action could have been more effective if it was in 50s and 60s where by our grand parents were saying that they could not educate a female child, but in the present state/time we have been enlightened that it is important, even to educate a female child. I have been in school and I was competing with girls and many a times they used to defeat me as a man. If they are encouraged and taught to compete with men they can make it. We have Martha Karua in Kirinyaga, Charity Ngilu who has been elected. It means that they perform equally like men. Bibilically, God has put certain differences between a man and a woman. I can never have breasts while a woman while a always have breasts. That is a biological difference that is there. Those natural differences should not be made equal.

We should have few political parties. Electoral Commission. It is my view that we have an Independent Electoral Commission because the Electrol Commission that we have. Let me give an example of the last two multi-parties elections we have held in this country, we have found that sometime there can be an influence from the Executives and therefore we should have an Independent Electoral body that cannot be influenced by the Executives and this we can do it by may be having an appointed body may be Parliament, that can act as an appointing body of such Electoral Commission.

Judiciary, we should have an Independent Judiciary we have forced cases whereby the legislative has had a lot of influence on the person in Judiciary, simply because the person sitting there in the Judiciary was appointed by the same person that is going to judge and therefore this person cannot pass on a fair judgement. We need an independent judiciary, which can be able to judge fairly everybody can be judged fairly.

On registration of Churches. As I said I am a preacher of the gospel, and in Kenya we have got many churches. I tend to think that we should be given room for those people who want to come up with new organizations so that we can be able to register them. I could belong to a certain church and God has called me to do certain kind of Ministry which I may not be able to do within a scope of that church, may be it is a vision whereby I can have a church in many parts of the world. With a confirmation of a local pastor who will prove that I have a good doctrine or what kind of a person I am, from there it can be

judged whether it is for him to register a church or not.

Protection of Local Industries. We have seen a decline in our local industries like coffee industry. This is coffee industry area, I tend to think that it is important for the people here who grow coffee, sometimes it takes a long time before they are paid their dues. They are given funny excuses that there was no money, the coffee did not sell good prices and something like that. The government should come up with a way to make these industries to be promoted so that the people that are in this industry can profit from them. Right now as we are talking, the maize farmers were told as I read in the papers that they are going to be paid with fertilizers other than cash. This is very unfair because we depend on our cash crop, food crop, to finance our daily life. If I am paid with fertilizer am I going to pay school fees with same fertilizer? Do I take a bag of fertilizer when a child is going back to school and give it to the principal? Will it be eaten in school? We should promote and take interest of farmers at heart. We should try to fetch the best market there is even for their crops.

Issue of Taxation. Kenya is a country that is highly taxed today, I think most highly taxed in the world. It is my view that the Government should look and come up with ways and means of reducing taxes in Kenya. Electricity in Kenya we pay almost six times higher than Egypt. Does it mean that the waters that produce power in Egypt are more miraculous than the water that produces electricity here in Kenya? We are unfairly taxed. Somebody was suggesting that it be reduced by 20% but that one cannot even justify, sometime I was doing business and I was selling sugar I found that sugar from Brazil when it lands in Kenya is cheaper than our local sugar from Mumias. You fail to understand why, the Brazilians sold their sugar and made profit. We pay transport and everything else, it lands to some business people who will in-turn sell it to us they also make profit, how is it that it is cheaper than our sugar? It is important Mr. Chairman to reduce taxes for our citizens and by this, we are going to promote the lives of our people because we are going to promote their income.

Provincial Administration. I tend to think we should draw a distinction between Administration and politics, The PC's, DC's, DO's, Chief's, Sub-chief's. This one represents the Administration Arm of the Government. The Councillor represents the political kind of Government. I think that they cannot do one and the same thing, how does a Member of Parliament do the same thing with a DO? (repetition). How is the MP, going to be in the Dos office Kiharu and at the sometime in the Parliament? We should remain with the same kind of Government with the Provincial Administration and still retain the political side of it.

Men and unwanted pregnancies, I tend to think that if a man impregnates a certain woman and he is given that responsibility and we take it as a law in our country we are going to abuse it. Simply because like now, we have so many women that are not married sometime they reached a certain age and they have given up in marriage the only solution they have is to get children, they will go and be friend a man to have children and in the process they will want that man to take care of those children. We are going to be taken advantage of us men. We should refuse it totally, any pregnancy that comes unless there was force/rape it means there was a consent from the woman and if she agreed she knew the danger and consequences of having that pregnancy

and more so she understand herself better, she knows when she can conceive or not, why did she allow it to happen when she can conceive? We men, as women are waking up to claim their rights we should also claim ours.

Affirmative Action. We should not have a certain number of women been Nominated in Parliament, we should allow it to be free and we should allow them to contest.

Lastly Mr. Chairman let me comment on your (Constitution Review Commission). Of late we have had a lot of differences in the papers and these differences have been creating doubts in as whether, the review can be completed by December or not? Initially we had a lot of faith in you people and we were very happy when you were appointed, but now we are getting discouraged. What we had already conceived and digested is that this Constitution Review will be completed at least by September as you had told us, we could still allow for flexibility may be until December. For us to keep that faith in you it is important even if you have disagreements let them not be through the press. Argue amongst yourself very peacefully and could you please give us a very good document by the end of this year so that as we go to the next year we shall have a New Year to celebrate with a new Constitution giving us new lease of life and hope. Thank you very much Mr. Chairman.

Interjection: Clapping

Com. Mutakha Kangu: Thank you. Do not loose your confidence. I am hoping that your confidence should be increased because Constitution are not simple matters. They are serious matters that concern the life of Kenyans and I think it would be very unfortunate for the Kenyans if every thing will just be passed in without serious thought and argument about it. Commissioners need to discuss the issues that concern Kenyans very very seriously. In my view those arguments are healthy. The aspect of there coming in to the press may not be what the Kenyans like but on the other hand Kenyans are saying that they want open hearts, open governance, open process. It becomes very difficult to know how much would the Commission keep a secret to itself and how much will it make known to the public if we emphasize on openness. It becomes very tricky. We will think about it but for argument I don't think it will be reasonable when Commissioners deal with such important issues and want to give Kenyans a good Constitution that they should quickly accept positions before they analyze and scrutinize and see that is what is right for the Kenyan people.

One question. You said that we should retain a Unitary type of Government. I get impression that when Kenyans complain and say they want a new Constitution one of the things they are seriously concerned about is over concentration of power and it creates a situation such as we have today. You can find the DP is in control it has all the votes in Central Province but because of that unitary system of government and concentration of power at the center they are not in a position as a party to start implementing their own policies within Central Province. How will you like us to go about the deconcentrating and decentralizing power within that Unitary arrangement to avoid the situation such as the one I am refereing you to?

Two. Questions on marriage and a family as qualification for whoever wants to become a President has arisen several times not only from yourself but from other people, but I am getting a little worried that there are certain sectors of our society, which will say that rule is discriminatory against them. One, you know of the Catholic Church and other religious organizations that have the concepts of Fatherhood and Sisterhood that they are required to remain unmarried so as to be able to serve the church. Now if a Catholic Father says that he wants to become a President and we are saying without a family it is not allowed. He may say that we are discriminatory against him or may say a Catholic Sister and they say she want to make a President what do we do?

Secondly we have quite a number of our sisters and mothers very well qualified we have a lot of them who may have decided well they can lead their lives without being married, and some of them we know are very capable of doing a lot of things. They will say that “we have been discriminated against” How do we deal with this?

Com. Salome Muigai: I feel that you are not saying the only notes, but I hope that you remember all the questions. My question is on registration of churches, where everybody is allowed to register churches, you have said that, so we can have different missions. But at times we have also seen personal differences leading to a split in the church. Just because one person does not agree with the other, they go and register a new church of their own. So give us a few more indicators that we shall use, in order to allow for registration of numerous Churches?

Again counting on you being as a preacher, I am glad because I know you are a person who has justice at heart, and you have talked about women exploiting men, which I can also appreciate. But out of that, you have produced a Kenyan child who is innocent and has no say, in all these manipulations between the grown ups, what are the rights of this child to both the father and mother?

James Mathaai: Thank you Bwana Chairman, and I am grateful for your question. Let me start with the first question that was touching on the Unitary type of Government. In my view as I said, we should have an Executive President. Right now as I said Bwana Chairman, the problem we have been having is concentration of power in one area. But I tend to think Bwana Chairman, if we can have a Unitary Government and we look for ways and means of how to de Centralize that power, - for example, we can have strong Local Authorities, which can govern the resources within that local area,- I think that is one way of maybe de Centralizing that power.

When we create Independent bodies like Electoral Commission, the Judiciary the Executive, I tend to think that we have also de Centralized that power. Again Bwana Chairman as I said that we should have two parties, let us say Kanu and D.P., D.P. even in the areas, that they have not been able to reach it will now be able to reach there. In Kanu the same way. Areas that they have not been able to reach, they try to reach. Right now we only have either one party ruling and the other waiting so that may be in case of a need they can provide an alternative government.

Interjection: Questions

James Mathaai: Qualifications of a President, on the issue of marriage, Mr. Chairman I was basing this one biblically because like now if we look at it in the bible all those people who became leaders in Israel all of them were family men, If we take for example even when it is let us say in the leaders of a church. A church may not be as strong as a government but it also give us qualifications, that person should be married. in Catholic whereby there is Fatherhood and Sisterhood just incases where somebody decides to run for any post. I tend to think Mr. Chairman it will be very hard for somebody to carry two responsibilities at the same time especially this very serious responsibility. You cannot be a President and at the same time be a Father, a preacher, or a pastor. You drop one and take over the other one, so the Father can drop Fatherhood and may be get married and then continue.

James Mathaai: On the issue of women; women we have got good sisters and our mothers that are single and they have never gotten married and may feel discriminated Mr. Chairman I tend to think and you will agree with me even as we finalize this document it is not a must all the Kenyans will agree on everything that you will say. Therefore in these case we will take the majority views whereby if they have not gotten married they have got other areas that they can represent us and other areas they can effectively serve the Nation. Therefore, I tend to think because in this case we are talking about single mothers they may not be as many as those people who are married presently and therefore I tend to think we can just allow them and excuse ourselves and tell them we are doing these for the good of the Nation because people have to be morally upright. Somebody that will lead in that area. I read in the papers some complimenting on Tony Blair because he is a family man and is a leading example in that area. You know in the Western there are a lot of divorcees. 95% do not work (a lot of repition on the issue of Blair). There is another question that I did not answer

Interjection: Okey

James Mathaai: Unwanted pregnancy I was of the opinion as I said if a girl gets pregnant and may be the man did not want that girl perhaps they were just merry making. Traditionally men are supposed to pay for pregnancy the amount paid is very minimal it cannot serve any purpose but in these case the girl was supposed to retain that child. A man may not want that woman but may want that child he can be allowed to take the child and bring it up, if he so want. If he does not want, to be very fair in our judgement may be even the man does not have enough money they share the responsibilities everything the pay fifty fifty.

Com. Salome Muigai: Does the child have a right am not looking whether he goes to school or not if I ask you, your name (Mathaai) that could either be your name or your fathers name, (Mathaai, “that is my fathers name”) yes! So you have a right to your father. I want you to tell us if this child has a right to a father and a mother since she/he was not consulted on how to be

made?

James Mathaai: Yes it is a good question and in these case in the first place most probably they already know the mother, so we are dealing with the issue of the father because may be what you have seen is cases of single mothers, children never come to know their father. I think in such cases we can make it Constitutionally acceptable. If the child inquires to know the father he/she should be made to know. The mother should say who the father was. Biblically madam, what I think we can take the issue of Abraham he was married to Sarah and then in the process of time before he got a child he impregnated the house maid, Isaac was born out of Sarah who was the legal wife and later on we see that Sarah is telling Abraham that he should cast out the maid and Ishmael who was his son. Abraham had a lot of heaviness in his heart whether he should keep Ishmael or not but God came in and told him you should do as she is telling you.

What we learn from here is that this Ishmael was sent without anything there was no gift, only a bag of few things, and a jug of water on top of a horse they were sent off. Therefore, I tend to think that biblically if you look at it there is no one time that you see a man given a responsibility of un-wanted pragnacy. Unless you want to implement something else, as a Nation with 90% Christians I tend to think we should embrace Christian's principles.

Com. Salome Muigai: (inaudible) Look at the bible, do not look at it as a defence, use it in a way that it should be looking at a Constitution making as this is the time to reason together.

Interjection: Argument

James Mathaai: Jacob accepted to keep his wives, as polygamist, which is allowed in Kenya. (Requested for an appointment with Com. Salome Muigai.)

Com. Mutakha Kangu: Inaudible. For the welfare of human beings the church included, we are looking at the constitution because we are saying it has failed to serve the welfare of the Kenyans well we want to review it. If we reach a point where religion is not serving the welfare of the human beings we might have to re-look at it and interpret it to serve the welfare of the human beings. Is it not? Can we start with the children, thank you very much for your eloquent sub-missions. Let has have James Kehonge.

James Kehonge: Thank you very much Mr. Chairman I am going to make submissions in very few areas and I will also be very breif. My first point is on farming. You know very well that our country is an Aricultural country and all these hassles that we are going through, the problems that we are now seeing in our Constitution is all coming in because of economics decline that we are experiencing in our country. It goes without saying that things have not been bought, and they have not been bought because our farmers have been let down, most of our institutions that are supposed to work for the farmers and make sure that

everything goes well. The government mention from time to time that the market have now been open and that is why, for example our sugar cannot sell, and it is why our maize cannot sell and tea farmers cannot earn something reasonable from their toil now to me this appears just as mere excuse to exploit the farmers.

We elect the Government so that it can protect the people as a matter of fact the Government is a servant of its citizen. The President the Ministers and all those other people are supposed to take care of our people but what we see today is a reversed. The Government does not seem to care very much about what happens. We have seen a situation where the Government is collaborating with foreigners to exploit these people. Government officials import some of these commodities, flooding the market and therefore making it impossible for the farmers to dispose what they have. Be it pyrethrum, maize everything. So it seems like the Government is colluding with the foreigners to frustrate the Kenyan farmer.

I would like to make a suggestion that in the new Constitution let us have ways of controlling the market. What we get from outside e.g. sugar. maize and even eggs. We have been getting eggs from S. Africa while in fact we can be able to produce enough eggs for this country. The farmers are there who can give enough eggs. So let us have some kind of control or regulations to make sure that the farmer finds a way of disposing off his products.

Sugar industry currently, recently we saw an interview that was there in KBC, there is an agreement between the Kenyan Sugar Industry and the Comesa Region, they agreed to allow Kenyans industries to survival for at least one year by banning imports from these Comesa region. I think that was a good effort on the part of the Government and those other people concerned. We are saying that the same things should apply to the rest of the crops.

Foreign Bank Accounts, and other investments. Most of the high ranking Government Officers and even other people either in the opposition and even other individuals who may not be making names in politics, have very fat Bank Accounts outside this country. I am suggesting that in the new Constitution a regulation should be put in place to control or to put a limit on the amount that an individual or a group of people can own in a Foreign Country. The point here is to ensure that most of our resources being ploughed back due to our economy that has contributed a great deal to the economic decline in our country. Most of the fellows who have money in our country have taken that money outside our country and it is being taxed at the other end. So it is those country that the money is being enjoyed in terms of tax and so on. Why don't we have that kind of a regulation limiting the amount of money that an individual can own in a foreign country?

Land: I would like to suggest that we put a limit. Limit the amount of land that one can own, since independence is a number of years we are approaching 40 years and the population has grown and as it grows, land is becoming smaller and smaller. There are people who have large amount of land, people who own a thousand of acres of land in these country, on the other hand we have people who do not have anything that they can call theirs.

We have so many street children; we have families who do not have anywhere to settle. There are people living in town they have rented houses they don't have a place to put up a structure so it would be good if you put up a limit and then get from some individuals that have a large amount it can be sub-divided to the land less people. Let us have a limit of hundred acres that is for the individual, for co-operatives can be put to around one thousand. We can have atleast everybody involved. Some of these lands owned by these fellows are not developed, they are all bushy.

Electoral Commission: I would like to appeal to the Review Commissioners as they write down the Constitution they should ensure that the Electoral Commission is de-linked from the ruling Government and the Government of the day. That will be a very big trial towards a level playing ground. Currently as we are talking the Chairman of the Electoral Commission and those other Commissioners they own their loyalty to the Government. This kind of thing is not healthy for a democratic election it can never happen. The same people are involved in the importation of ballot boxes, ballot papers and all that kind of things we should have a situation where all the stake holders and by this I mean all the parties participating in the election should have a say who is to sit on that Commission, the Electoral Commission so as to know where to get this or that.

My last point is to the Commissioners themselves. There has been talk that the Commissioners, the tenure of office is prolonged, my view is that this kind of a thing will not gain any support from most of Kenyans. The contract that you have with the current Government. the President, Ministers and so on is for five years and that is what the Constitution is saying, going against that I think will not be very good. People are expecting elections in December, and they are also hoping a new Constitution will be ready by that time. We don't know about you Commissioners but I tend to agree with the Chairman Yash Pal Ghai that it is possible to complete this review. Yash Pal Ghai is an experienced person he has been in these work and we all know that he has conducted such an excersise for two countries. The excersise can be completed by December, I bet that he is sure of what he is saying so all I am asking is for the rest of the Commissioners should follow steps to make whatever Yash Pal Ghai is saying possible.

Let me make a suggestion on how may be we can save time. This forum of meeting the people around and so on, I don't think they should go beyond the District level like what we are having here. I think it is enough if we can organize three of these meetings in every District headquarter. I have said these because all these people we are having here, are the people I have been with for more than ten years some have left, they come from the villages. We have our parents, brothers and sisters in the village and we know what is happening in the villages. We don't need to go to the village to collect views from people such forum are okey. Thank you.

Com. Mutakha Kangu: Your suggestions are good but we are operating under an Act of Parliament, which says we must take views from every Constituency. That Act was brought about after Kenyans had quarreled and the whole argument was on people driven. So the philosophy under that Act is that this process must be people driven and that is how the Members of Parliament after negotiations in Bomas of Kenya, Safari Park, then their after with Ufangamano decided that views must be

taken from the people at the Constituency level. Now you are asking what is causing differences? You read about the task force. It report says we need more time. It said we couldn't finish on October, which is the statutory date and proposed that we be able to be given more time up to June.

The Chairman, Professor Ghai. agreed that we need more time, he said we cannot finish by 4th October, he proposed we could finish by November, he later changed dates to December, so we all agreed that let us take one decision that we cannot finish by 4th October, but we shall come back to discuss .How much more time do we need. The Chairman was proposing December, the task force was proposing June, and as far as we are concerned the issue of how much time has not been determined. What has caused all this argument is after that decision the Chairman chose to argue his case in the Public and that is why some of us decided to respond and explain to the Kenyans the position. As much as that we have not decided how much more time we will need, but we have all agreed including the Chairman that we cannot finish on 4th October. Is that Sufficient?

James Kehonge: Yah I think it is good, but I would like to appeal to the Commissioner at least to try not to go beyond the time set. Thank You.

Com. Salome Muigai: (inaudible). We are hearing you Kenyans, we are listening, our ears are wide open. Thank you.

Com. Mutakha Kangu: It appears we are about to reach a fix, we are going to take the last person can we hear (Many were absent) Augustan Nguere.

Interjection: long silence

Augustan Nguere: Thank You Bawana Chairman. I would wish to contribute on the Constitution I would highly like. First we very well know that in Kenya today it is dangerous to be on the road so. I would suggest that all Kenyans should be allowed to carry guns for the environment is very hostile

Two. Corruption seems to be too much such that the police do not seem to be doing anything to prevent corruption. So I suggest the Police Officers who have served for more than five years should be rentrenched and new blood introduced.

Co-operate Societies. I suggest they should be scrapped, and limited companies be owned for the Societies have out lived their time.

Many Kenyans have a lot of money in foreign countries so a law should be enacted to follow these people to bring back the money they have banked in foreign banks. It should be made possible for a coalition Government in the Constitution.

All Aids infected victims should be given medicine free of charge by the Government as we all know that the Kenyan Government is taxing over 30 millions Kenyans and surely we as citizens do not know where our taxes go. So there should be a way to see that this money is going back to the tax payers.

A law should be enacted to scrapp the newly formed Districts that are bothering the tax payers,

The Administration from the PC, down to the Assistant Chief, should also be scrapped and instead have elected members who should not be under the Office of the President.

All economical crimes since independent should be prosecuted and entrenched in the Constitution.

Parliamentarians should not be allowed to play around with their allowances and their honoraria. A regulation to cover the same should be made; otherwise the Parliamentarians seem to receive exorbitant wages which is a big burden to the taxpayers.

That is all.

Com. Mutakha Kangu: All. Ladies and gentleman, we wish to thank you for turning up. Those who have not had an opportunity to present their views, if you have a written memorandum as I said earlier you can hand them over. If you can manage we will be in Kahuro Trading Center tomorrow you can follow us there and be able to give your views there. Tomorrow we shall still be covering Kiharu Constituency you can try to come there. Other wise we thank you very much for your patience and we would like may be to have one person to lead us in prayers and we close the session for today.

James Mathaai: Our Father and our God in heavans in the Name of Jesus Christ of Nazareth, we do come before your throne of grace and mercy thanking you Jehovah God because of the way you have guide us dear Father. You have enabled our dear and honorable Commissioners to come and conduct this session here at Muranga. We thank you God because of their sacrifice in holding this session and we thank you God because of the people who, turned in this place dear Father, thank you for every contribution that have been made dear oh God, we know that people were airing their views God according to the wisdom that you have given them dear Father. Almighty and everlasting God we want to thank you because of there willingness in the name of Jesus of Christ to enable us to dear Father to commit this mandatory at your hands Jehovah that even as the Commissioners compile all these views dear lord you are going to give them some wisdom in a special way dear Father, to enable them to come up with a good document that will serve Kenyans in the best way father in Jesus holy name. I do pray that father you guide them in the spirit of wisdom, knowledge, and understanding in the Holy name of Jesus Christ of Nazareth.

Might and everlasting God even as they go to their homes dear Lord we want to commit them into your hands that God you shall grant them in mercy to conduct other session in Jesus Name and even as they move to other places and those that are not

here but are in other places dear lord we want to send a blessing unto them in the Holy Name of Jesus Christ. As we go home dear Father I pray that God you are going to give our journey mercies and cover us with your precious blood dear lord and keep us in peace dear Father. We pray for our country Kenya dear lord, we pray for peace, for unity, in the Holy name of Jesus Christ. We want to thank you lord because you have done it. For we pray this believing and trusting in the Jesus Holy Name. Amen

In the grace of our Lord Jesus Christ and love of our God and the fellowship of the Holy Spirit be with us now and forever more. Amen.

Interjection: So madam you have done a good job.

Meeting ended at 5.30 p.m.

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