





**CONSTITUTION OF KENYA REVIEW COMMISSION**

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**VERBATIM REPORT OF**

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[REDACTED]

**CONSTITUENCY PUBLIC HEARINGS, KIAMBAA  
CONSTITUENCY HELD AT ACK CHURCH HALL, KIAMBU**

[REDACTED]

**April 17, 20002**

**CONSTITUENCY PUBLIC HEARINGS, KIAMBAA CONSTITUENCY, HELD AT ACK CHURCH HALL,  
KIAMBU ON WEDNESDAY, 17<sup>TH</sup> APRIL 2002**

**Present:**

Com. Idha. Salim  
Com. Kavesta Adagala

**Apologies:**

Com. Salome Muigai

**In Attendance**

Mr. George Naholi - Programme Officer  
Helen Kanyora - Verbatim Reporter  
Mr. Josiah Ngigi Kariuki - District Co-ordinator

The meeting was called to order at 9.10 a.m. with Com. A.I. Salim in the Chair.

**Com. Salim:** Hamjambo Nyote? We would like to start. We are just over an hour late and the reason was that we were waiting for Wananchi to come in. But I think we have enough now to start us going and I am sure as we proceed more. Wananchi will be coming to present their views and we don't want to lose any time unnecessarily. But before we start we have

a tradition of saying prayers - maombi. We believe we have a Pastor with us who is a Member of the Committee. May I ask you to kindly lead us in prayers so that we can start?

**Pastor James Gatu:** Natuombe Mungu wetu, tunakushukuru siku ya leo, maana uwepo wako na weema wako umefanya sisi tuje kwa kikao hichi. Tunakuomba nguvu zako, na hata wale wanapokunja, Bwana, waleta maoni yao kwa sababu wanastahili. Ni wajibu wa kila Mkenya atoe maoni yake leo, hasa watu wa Kimbaa na Kiambu Town Municipali, ili Bwana uakasilikishwe katika Tume ya Mageuzi ya Katiba ya nchi hii. Tunaomba Mungu utusaidie tunapoanza, walio njiani wakikuja Bwana wabariki. Saidia Tume yetu, Asante kwa vile umewalete. Katika Jina ya Yesu Kristo tumeomba na kuamini, Amen.

**Com. Salim:** Asante sana, Pastor kwa maombi yako. Kwanza ningeanza kwa kujijulisha nafsi na mwenzangu hapa. Mimi naitwa Ahmed Idha Salim ni Mwanatume katika Commision. Mwenzangu hapa ni Commissioner Kavesta Adagala. Na ilikuwa tuwe na mwenzetu wa watatu

Dr. Mosonik arap Korir lakini amepewa shuguli pande za Rift Valley ambayo mpaka sasa hajamaliza anaendelea nayo. Sisi kwa niaba yake tutaendelea na kazi upande huu. Pia tunao wafanyi kazi katika headquarters ya Commission, Tuna Programme Officer, Bw. George Naholi na kuna wenzake ambayo pia wako katika Commission, watainua mikono kuwasalimia. Samahani majina nimewajua hivi leo, kwa hivyo ni wapya inabidi kufahamiana kwanza kujuana; lakini wao wako kwenye Commission na shuguli yao ni muhimu sana yakuandika - kurekodi kuhakikisha kwamba kila jambo linanosemwa au litakalo semwa linatiwa kwenye ukurasa wa vitabu au kwenye mashini yakunasa sauti. Pia nina furaha kwa upande wangu wa kushoto, kuwa naye District Co-ordinator wetu ambayo wengi wenu bila shaka mwamjua - Bw. Kariuki. Next to him yuko Chairman wa kamati ya constituency inahusika na Katiba, Bw. Thairu na pia wanakamati wengine, na ningemuomba Bw. Thairu awajulishe wenzake. Najua kwamba mmoja wao ni Mheshimiwa Bw. Icharia lakini wako na wengine pia angewajulisha ili sote tuwajue.

**Bw. Thairu:** Asante Sana Com. Salim ambaye ni naibu wa Chairman, na jambo la kwanza, kuwakaribisha hapa katika jiji letu la Kiambu kwa niaba ya watu wa Kiambu na kamati, tunawakaribisha sana - kwa hivyo karibuni. Na pili, nikuwahakikishia ya kwamba watu wangali tu njiani kwa sababu Mungu ametuletea baraka zake za mvua na pia kawaida yao wanaangalia maslahi yao ya asubuhi asubuhi - kwa hivyo tunatumainia watakuja. La tatu ni hilo jukumu ambalo umenipa ya kuwajulisha Kamati ya Kiambaa Constituency Constitutional Committee na tuta anza pale kwa Pastor ambaye ametuongoza kwa maombi anaitwa James Gitau mmoja wetu, alafu tutaenda kwa Mhe. Ambaye anajulikana na kila mtu.- Mhe. Icharia mmoja wetu. Kutoka hapo nitaruka pale, pale kuna mama yule mzee ambaye amekuja kwa sababu ya marekebisho ya Katiba - aje atoe maoni yake. Huyo ambaye amekaa na yule msichana anaitwa Bw. Thuo ndiye katibu wetu - katibu wa Kamati, wengine nafikiri wako njiani. Bw. Chairman, pia Bw. Kariuki ni mmoja wetu in that capacity. Mmoja wa wanakamati. Kwa hivyo tutawaomba mutuwie radhi kwa sababu umati wa watu si mkubwa lakini tuendeleavyo tutaongezeka na tunafikiria ya kwamba watatoa maoni wakifika hapa. Lakini kwa sababu mumesema tuanze, tutaanza labda na wale wako hapa. Asante sana.

**Com. Adagala:** Habari zenu, muriega? Siyo hoja tuwe na umati wa watu kwa sababu kila mtu atatoa maoni yake. Na vizuri

watu wakiweko ili, if there is a big group, so that people can hear but it is not a performance to an audience - so I don't think we should apologise for that. We will just start and people will come and as they come we will hear them.

**Com. Salim:** Thank you Comm. Adagala for that clarification it is very very important to know that we can precede so that we save time. We want as many views as possible from Kiambaa so the sooner we start the better. But maybe I can ask Com Adagala to proceed further and very briefly perhaps, to tell our audience or Wananchi how we are going to proceed this morning.

**Com. Adagala:** Hiki ni kikao cha Tume yakurekebisha Katiba na mbele ya kikao hiki kila mtu ako sawa na pia kila mtu ako huru kusema vile apendavyo, vile angependa nchi yetu ya Kenya iendelee na maisha yetu iendelee. Hakuna mtu atazua mwingine na hakuna mtu atasema ya mwingine sasa tujue kila mtu atazungumza vile amekuja na maoni yake na memorandum yake. Kuna hapa vitu ambavyo ningependa kuwajulisha. Ya kwanza hiki ni kikao ambacho inafaa tuwe watatu. Lakini pia wawili tulikubaliana ni panel. Tutawakilisha hapa Tume, na tuendelee hadi saa kumi na mbili. Inafaa tuanze saa mbili hadi saa kumi na mbili - na pengine sijui itakuwaje tutakuwa na break au la. Pia ni samehe macho yangu si mazuri sana na kuna taa hapa.

**Com. Salim:** Asante Sana commissioner. Kwa ajili ya taa kwamba hazifiki mpaka chini, ni shida kidogo. Sasa jinsi ambavyo tutaendesha kikao hichi ni kwamba tutasikiza maoni ya Wananchi, maoni hayo yanaweza

Kutolewa na mtu binafsi - yeye mwenyewe kujisemea, au mtu anaweza kuinuka akasemea chama chake, kikundi chake, - tuseme ikiwa wana Sheria wako hapa au yuko mwana Sheria ambaye amekuja na memorandum kuwasemea wenzake anaweza kusema na vyama vyovyote vingine ambavyo mtu wao mwakilishi wao atafika hapa kuwasemea wenzake. Lakini ni lazima atoe ushahidi kwamba yeye hakika anawasemea wenzake - uenda mtu akatoa maoni akasema mimi nasemea wenzangu ikawa hakuna ushahidi akawa kwa hakika anjisemea nafsi. Pia maoni yanaweza kutolewa kwa mdomo, kwa kauli, mtu kuinuka kutoa maoni yake, au yanaweza kutolewa kwa njia ya memorandum - muswada au maoni yalioandikwa - yamekwisha tayarishwa mtu amekuja nayo ili kutupa. Memorandum hiyo atatupa tutairegister atatia saina iwe ni ushahidi kwamba ametupa memorandum. Pia yule ambaye atatoa maoni yake kwa mdomo tu atapewa dakika kumi kutoa maoni yake yule ambaye ana memorandum atapewa dakika tano tu na makusudiyo ya kupewa muda mfupi zaidi ni kwamba tusikae tukasikiliza memorandum kutoka mwanzo mpaka mwisho na memorandum yaweza kuwa ni ndefu. Kwa hivyo atachukuwa wakati wa wenzake na wakati hatuna - kama mjuavyo ni siku mbili tu katika Kiambaa - leo na kesho. Kwa hivyo because we want as many views as possible, samahani ni lazima kila mtu apawe wakati ambao umepimwa. Na kwa hivyo zile dakika tano mwenye memorandum ambayo tutampa, ata highlight tu - ataeleza zile point zake "mimi jamani tunaona tunashida hii fulani hapa Kenya au shida hizi fulani katika Kenya na nionavyo mimi shida hizi zinaweza kusuluhishwa kutatuliwa kwa njia hii na hii" - dakika tano kutueleza, lakini akikishiwe kwamba tukirudi na memorandum yake tutaisoma kwa ukamilifu.

Na diversity tunaambiwa ni muhimu kwamba maoni yatoke kwa kila aina ya mwananchi. Yatoke kwa professionals, Daktari kama sister wangu dadangu hapa, itoke kwa vikundi vya disabled, itoke kwa vikundi vingine vya sections ya Wakenya na



kadhalika. Pili mtu akishamaliza kutupa habari zake labda tutamuuliza swali moja au mbili ili kupata ufafanuzi tu. Hatuna haki yakumshawishi kwa njia yeyote - yale ni maoni yake. Ikiwa kuna jambo tu hatukuweza kufahamu tutamuomba atufahamishe - lakini sisi kazi yetu ni kusikiza tu na kurekodi. Lugha ambazo tutatumia ni mbili mtu aweze kusema Kiingereza au Kiswahili - lakini ikiwa kunashida kwa Kiingereza au Kiswahili tutaweza kutumia lugha yoyote nyingine na tutamtayarisha mtu, au kumuomba mtu msaada atueleze mwenzetu anasema nini. Pia tuna interpretor wa alama au ishara huko nyuma, ikiwa kuna mtu anataka aelezwe kitu, ikiwa kati yetu mtu ambaye hasikii hawezi kusema pia tuna interpretor. Tunaye hivi saa yeyote ambaye ana haja ya utumishi huo? Bado. Lakini huenda wenzetu wengine wakija watahitajia. Kisha ikiwa kuna yeyote kati yetu ambaye hangependa kusema mbele ya wenzake, ataka sema peke yake, aweze kutuambia na sisi tutajiyitaarisha kuchukua maoni yake mbali na wenzake lakini atuhakikishie kwamba hakika iko sababu ya yeye kutaka kufanya vile. Lakini kwa jumla tunataraji kwamba kila mmoja wetu anaweza kusema mbele ya wenzake bila pingamizi yeyote, na kumbukeni kuwa Commission ni huru, na Wananchi ni huru kwa hivyo Mwananchi yeyote anauhuru kusema atakavyo, kueleza, atakavyo kuzungumza juu ya jambo lolote, lakini kitu kimoja zote tunaafikiana ni kwamba hapa kituo hichi, ama kikao hichi, kama vikao vyote vingine tutakavyofuata si vikao vya watu kushutumiana, kutukanana - matusi yasitumiwe. Lakini mtu ana haki kusema jambo hili ni mbaya, jambo lile si vizuri, jambo hili linavunja sheria, jambo hili linapinga Sheria ya uhuru ya Mwananchi na kadhalika - ili tujiepushe tu na kukoseana adabu. Si semi hapa Kiambaa – kokote. Hii ndiyo tumeambiwa tuelezane kwamba tuzungumze kwa njia ambayo ni ya kitamaduni na kiungwana basi - lakini muna huru, kila moja wetu ana huru kusema na kutoa makosa jambo lolote liloko Kenya - linalo husu jamii, linalo husu uchumi siasa na kadhalika. Hivyo kwa ufupi ndio maelezo ambayo ningependa kueleza na sasa moja kwa moja tutaenda kumuita yule wa kwanza kabisa kujiregister na tutafuata hii register. Yule anayekuja kwanza atatoa maoni yake kwanza na kadhalika, lakini pia, ule unguana wetu lazima tukumbuke. Ikiwa kuna mja mzito, mama ni mja mzito anataka kuja kutoa maoni yake ili aondoke haraka, sitaweza kumpisha? Mtu nimgonjwa anaharaka kutoa maoni yake lakini ikifikisha aleeke kwa Daktari tunaweza kumpisha, otherwise tutafuata hii list ya watu waliojiandikisha kutoa maoni nafikiri tumekubaliana sawa?

Sasa basi twende kwa Teresa Gichane, Daktari ambaye atatoa maoni yake, not now? You are the first you want give up your first place? Very good. When do you want to speak? Baadaye - all right. You are preparing yourself? Sawa. So number two is Nguraya Tucha. Written memorandum nafikiri? Kwa hivyo Bw. Chucha highlights peke yake dakika tano we have to be strict with time.

**Mr. Tucha:** Thank you very much Hon. Com. I have a written memorandum in which I have individual views I would say that we would like to see this Commission is different from the others we have seen come and go - so far the Commission has not given us a lot of comfort. We would urge the Commission itself to improve on its image and behaviour so that we can have confidence that it will deliver.

Now quickly I want to talk about the president, and say that beside the president being voted by everybody I would love my president to be 35 years old and maximum of 75 years old by the time the president is departing office. So if you know that by

the time you are leaving office you will be more than 75, years you should not stand for presidency. Now I want an educated president with a University Degree. I am saying that the president must name his running mate who shall become the Vice president and besides the presidential candidate gaining 25% of votes in 5 provinces the president must have 50% of the popular vote. Now I would like my president to go for a comprehensive medical examination, at least twice in the first two years - and that examination must include a mental fitness test and the results thereof must be made public. We should not run the risk of being led by a mad president. Now, I am saying that once the president has been elected he should take charge of the affairs of the government so there is no need for a Prime Minister. I am also urging for an executive Vice President who shall have duties that are clearly spelled out in the Constitution and the president should not have arbitrary powers of frustrating the Vice President as is the case now. Similarly the Vice President should be at least a university graduate should be at least 30 - years but not more than 75 years by the time of vacating office. The President and the vice president should not have active roles to play in political parties affairs but they should also be ex-officio members of parliament. Now, I am urging for the increase of the seats in the National parliament to 410 and the constituencies to be distributed as follows: Geographically 350, Labour movements should have 10, civil society should have 10 seats in the parliament. Professional associations 10, Local government authority should have 10, the Disabled should have 10 and Marginal communities 10 provided that in those locations 35% of them are women. That needs too be emphasised.

Now, the government. I am urging for a government that has a maximum of 18 ministries with the ministries of Finance, Education, Foreign Affairs, National Defence, Justice and Local government being compulsory - and I am saying that a Minister of the government must have a university degree in the relevant area of specialization. I am urging for the total abolition of Provincial Administration - scrapping it completely and in its role, a strong Local Government to replace anything that the Provincial administration may be doing at the moment.

Now, I am saying that Public Service - because I was one of them, must not be denied freedoms that are enjoyed by other citizens. Also Public servants should be ensured of a decent living wage not like now when they are earning peanuts. The retirement age for Civil servants upgraded to 62 years.

Now let me talk a bit about Local government because that is where my heart is. The Local government should be strengthened and made autonomous and I am also urging for a strictier local government system, in which there will be a Local government at locational level .One at the District level, two municipal, Municipal 1 and 2 depending on the size and the economic base of the Local government. I am also urging for a metropolitan local government that will take care of places like Nairobi, combining Nairobi, Thika, Kiambu and (inaudible) It is called urban convention. The local government must be run on democratic principles with the Mayor or the Chairman of the Council being elected by the people and once the people elect them, they should take executive authority of the local government they are running. District heads therefore, must also have a University degree. Now the decision of the local authorities as far as possible should be final - once the Local authority has made a decision. It should be able to execute it. If authority must be got from the Minister of the Local government there must be a limit, which that authority must be got. I am saying that if a Local Authority seeks permission from the Minister and within

thirty days the Minister has not responded, that authority should be assumed to have been given. Currently the Minister has been frustrating local authorities by that authority thing. So I think that is what I am trying to urge. I am saying that also there should be a local government authority's association that is responsible for electing the ten representatives to Parliament. I am also urging that local authority must be allowed sufficient resources to do what they are supposed to do to deliver services to the residents

Now I have got a thing or two to say about education I am urging that there should be a compulsory but free education for all children who are below 15 years. They must go to school at the expense of the government. Then the Local Authorities should take care of the primary school and the secondary schools and certain institutions that are in their area whereas the national government takes care of university to ensure that as many people as possible get access to education in this country.

Health for all: I am saying that every Kenyan should access health courtesy of the government. But still private providers of education and health should also be encouraged besides the Government. Thank you very much Hon. Commissioners that is my memorandum. (Speech not clear) But please give us confidence, don't squabble among yourselves over mobile phones and whatever else we have been reading in the papers, night visits to State House - those are things that can really erode your confidence from citizens like ourselves. Thank you very much.

Thank you very much Bw. Tucha for your views. May I please ask you Bw.Tucha? Do you mind please going over to the desk so that you sign and your memorandum to be registered properly?

**Com. Adagala** – Just to clarify one thing. This Commission is different from the other Commissions because we are Parliamentary Commission. So people should not have anxiety about it. We are a Parliamentary Commission whereas, the other ones are Presidential - which can be revoked or whatever. I am just saying this because all over the country we have to clarify this. And two, the Press has its own way of putting things. That is why you see most of the time we keep quiet but we are trying very hard to maintain our dignity. Sometimes we read things in the press which are just as new and strange to us as they are to you so there is very little you can do because if you correct, you see it is the press which is going to correct and they don't correct. So we have just left it to go like that. If you can sign up. Your memorandum is very clear, thank you very much for starting us off in a good way.

**Comm. Salim**

Can we now call upon Gichira Kibara? Is that correct name? He is just attending. All right, thank you. You are most welcome. Is an open kikao? Next we have Bw. Lawrence Ndungu from Mbaranginyo Cultural Association, is it? Is he around? He has gone out. Can we then call upon Stephen Waithaka oral presentation?

**Lawrence Ndungu** - Thank you Commissioners. These are my views. But I have put them down in points form so I am not

presenting a memorandum:

I feel that the new Constitution should have a Preamble stating by whom the Constitution is written, is it by the people, or is it by a few individuals, a coterie of lawyers or what we call the “learned friends”? For whom is this Constitution?

Two. I feel the new Constitution must be an available document should be demystified; it should not be made a preserve of a few people. It must be written or translated in a language which can be understood by every one especially we, the people who are making the same Constitution and then because the Constitution belongs to us it should be demystified and should be there for us to buy at a cost that we can afford.

Then it is my feeling that there should be devolution of powers, separation of powers upon the Executive, the Judiciary and the Legislative. The new Constitution must also defend itself from any form of abuse from any quarters. It should defend itself. I also feel that the new Constitution of which we are presenting our proposals should provide for amendment with time to cater for national disasters such as Aids, El Nino or any other unforeseeable disasters that may come such that they can easily be arrested- not just by declaring them national disasters - but catering for them. Then the Government of the day must be responsible enough as not to woe or to use their numerical strength in Parliament to just pass bad Laws or kill good Bills just for the sake of doing it. It should be mindful of the citizens. The new Constitution should make education affordable. I am just emphasizing on what my predecessor said, such that the young and old citizens may acquire knowledge without necessarily being hindered from the same due to financial implications, which are involved. Essentially basic or primary education may be provided free of charge with no strings attached. Citizens to be consulted with time on the type of education system that they view as appropriate. It is also my view that coaching, tuition, extra tutorials must be abolished and must not be catered for in our new Constitution because they are being used as commercial - they are being commercialized such that we the parents and the guardians are being fleeced. During our time we went through the same curriculum and we managed to pass our exams within the framework or the same time that was presented but not having tuitions and coaching. I hope I am clear? The new Constitution should provide for adequate training for law enforcement personnel and more so impressing on them the importance to respect us the citizen so that we can also respect them. Theirs should be to keep or maintain law and order, provide security to us and our property and but not be as agents of intimidation, fear and harassment. And should there for any reasons, be restrictions or curfew, then this should be made public through announcement or posters so that we are not harassed or our movements restricted even when we are leaving our places of work or any other business. As long as we can identify ourselves we should not be harassed. Also the Constitution should ban illicit brews - they have killed many men, they have ruined thinking people into rotten gabbages. They have broken marriages and we can see what these brews are doing. And in this respect the body that is endowed with the standardization - the Kenya Bureau of Standards must not be compromised on this, as this is a matter of life and death.

I also feel that the new Constitution should cater so as to minimize the disparity gap between the different classes of working people, working or earning employees. Here I am talking about small-scale farmers, peasants, labourers, the professionals.

Because we do not have special dukas for the lowly earning members of the society, the Constitution should cater for this disparity gap both for the lowly paid and such people.

The new Constitution must provide land for land, in compensation. Should in my farm, or should in my land there be discovered, some gold, diamond, oil or titanium I must not be made landless, I must be compensated for with land and not money or promises.

Then the new Constitution must put in place clear guidelines on inheritance. Our current Constitution does not specify, and I stand to be corrected - it does not cater well for women and children, so it should cater for them in the aspect of inheritance.

Then it is still my opinion that the new Constitution must make Civic Education an ongoing process not necessarily during election time or such an exercise. It should be an on going process because an enlightened citizen is easy to govern and the government of the day must not thrive on the ignorance of the citizens. This Civic Education should, nonetheless be carried out by non partisan bodies - knowledgeable non partisan bodies not necessarily the government or the government appointees, because the government of the day will be an interested party. Thank you.

**Comm. Salim:** Thank you very much in deed for your presentation Bw. Waithaka. Now we move on to the next presenter Hon. Kamau Icharya and his, I understand is an oral presentation. Bw. Icharya karibu.

**Hon. Kamau Icharya:** Bw. Chairman, ningeomba nisipeane presentation yangu leo, ningetaka kufanya hivyo kesho.

**Comm. Salim:** Nafikiri mumemsikia Mhe. Akisema kwamba angependa kuongojea mpaka kesho atoe presentation yake, na nafikiri Mhe. Unajua kwamba kesho tuko venue jingine, siyo? Tutakuako pahali pengine kesho unajua? Then we go on to Bw. Daudi Nganga (Shangilia Daima) correct hicho ni chama siyo? Na unakisimea wewe leo. Uunazungumuza kwa niaba ya chama au kwa niaba ya nafsi yako? Ni chama, ametoka okey. Kwa hivyo tunamwendea bwana Richard Maina ambaye pia naona kwamba yuko nanyiyi, sio Richard Maina? - Niwewe kwa hivyo wewe unaweza kuzugumza kwa niaba ya chama hatuna haja ya kumsikiza bwana Daudi? Kwa hivyo tutangojea sawa okey, Bw. Jackson Njoroge, Jackson Njoroge, na una memorandum written kwa hivyo tunakupa dakika tano tu kutupa highlights okey.

**Richard Maina** - Thank you very much Hon. Commissioners. Mine is a written memorandum and I will go very first through it just highlighting. I think our Constitution should have a Preamble and this Preamble should state clearly who has written this constitution, why and have a vision. Unity should be the greatest philosophy that should guide us in everything that we want to carry on in this country.

Then the Constitution supremacy. The parliament should retain its 65% majority vote over repealing the sections of the

Constitution, but any matter that raises national concern should be subject to a referendum e.g. Sec. 2A which was repealed that Kenya should be a multiparty State should remain like that for good. Then there is the issue of citizenship. Nobody is supposed to lose his citizenship as a Kenyan. A referendum should be conducted by the Electoral Commission whose Members will be appointed by the President but on a 65% votes from the parliament.

**Citizenship:** A child born in Kenya after 1963 is automatic citizen of Kenya. Then a spouse married by a Kenyan should not have hindrance to dual citizenship. A passport should be issued to every Kenyan on application on a very small fee. Then the fundamental Rights and freedom of citizens. All the Rights that are included in the current Bill of Rights in the Constitution, and also to add, there should be no capital punishment - the giver of rite should be the taker of rite but not man

**Defence and security:** All disciplined forces should be established by the Constitution so that they are accountable to Kenyan citizens and not to the Executive.

Then there is the Court Martials. Court Martials should be established with direction from the judicial service commission whose members will be appointed by the President but vetted by the Parliament. The president should continue to be the commander in chief of the armed forces but any major directive e.g. the declaration of a war or a State of Emergency should be given consent by 65% majority vote in parliament. Political parties should not infringe sections of the Constitutions e.g. they cannot run a parallel education curriculum. All parties that do not prescribe to the Constitution can be proscribed. Financing of political parties should be done by the preceding results of the general election and the money should be from the consolidated funds. Any party financing anarchy or chaos should have its powers withheld.

**Structures of government** I think Kenyan should have an executive president who is answerable to a very powerful legislature. The President should not be a member of parliament and he should have a running mate - a Vice-president who also should not be a member of parliament but should be elected directly by the people with the a 50% popular votes.

The Cabinet should be selected by the President but they must be vetted by Parliament. At least three quarter of the Cabinet will be sitting MP's but the other quarter may be selected from members who are not actual members of parliament to cater for other interest groups. All parties to get at least 10% of the popular vote should be included in the cabinet. The president is immune from prosecution but can be impeached by parliament. Impeachment is not appealable in court. Provincial Administration should be scrapped. Their work is only to duplicate the roles of the Cabinet. They should be scrapped. However, Districts should be changed to Counties and the Counties should have their Chairmen and Vice-chairmen elected directly by the people. Central government should devolve its fund to the Local government that is to the Local countries, the Mayors and the Deputies in major towns should be elected directly by the people, the term of office of Parliament should be four years. Counties should have a three-year term of office. Presidential and parliamentary election should be held in the month of December. We should have a single chamber legislature. Constituency boundaries should be reviewed. They should

be based on the demographical but not geography. Parliament should have its own Timetable. All members of parliament should be O'level graduates with at least a certificate from a recognized middle level college. The President should be at least have a post secondary school diploma from a recognized college and also the Vice-president - they should pass the English and Swahili languages. All these members should be vetted by the parliament. Attorney general, Chief Justice, Commissioner of Police, Ombudsman, Director of City intelligence, Electoral Commissioner Chairman, all Ministers and Assistants, Chief of General Staff, Head of ...

When a Member is elected a speaker his seat will become vacant and a by-election will be held. Every Kenyan child is entitled to education i.e. Std 1- 7. and Koech report should be implemented fully. Secondary Education should an affordable cost. University education should be as in the case today, should be catered by the higher education loans board. Also the Chancellors and Vice-Chancellors should be elected by the staff of university but not the President. Needy students should be given bursaries and social workers can determine the needy families.

**Health:** No government doctor or clinical officer should be allowed to run a private clinic. Out patient services should be free. In-patient services should be not less than a dollar per day.

Administration Police unit should be scrapped, together with the Provincial Administration. Regular police should be trained in areas of human Rights, law, and public relation in addition to proper training. And their training should be extended in not less than two years. Policemen should be at least 'O' level graduates with a minimum of D+ or Division III. Senior police e.g. of Inspector level should have a Diploma in either Law, Sociology or,

**Com. Idha Salim** - time to wind up please,

**Richard Maina** Okay. Lastly, let me tackle the area of succession and transfer of power. In case of impeachment, the president will lose their seats, the President and Vice-President will lose their seats and elections should be held within ninety days. This time the Speaker will be the acting President and then a by-elections should be held as per the current Constitution remaining of dangerous marks should be not any person but to renowned persons e.g. force men, and e.g. the renowned hardanation. You see, Thank you, that's my contribution. Thank you.

**Com. Idha Salim** - Thank you very much, Bwana Njoroge may be I need one very brief clarification from you, one second please. You said what are the Presidents and Vice-President's qualifications - what should they be? Academic?

**Maina:** They should have at least a Diploma from a recognized middle level college.

**Com. Salim** - Thank you. Thank you very much. Next we have Bw. Daniel Njuguna who also has a written presentation, Bw. Njuguna yuko? Hayuko? Huenda akarudi baadaye tukiendelea mbele basi tuna bwana Joseph Githau Muriithi, former Civil



servant,

**Bw. Joseph Githau Muriithi:** Thank you. Thank you Commissioners. Mine will be a very brief oral presentation. Touching on the president.

Number One.

**Com. Salim** - Please give your name as you.....

**Joseph Gitau Muriithi** My name is Joseph Gitau Muriithi. Mine is very brief oral presentation. First starting on the impeachment of the President. It is my opinion that both or even if we have three Executives people at the top, that is the President, the Vice-President and Prime Minister. Either of them could be impeached. So the Constitution should be very clear on the impeachment of the President - not as at the present where we have people who are above the law.

Second, I will be very brief is the issuance of P3. When you get injured and you report a case to the police station, it is the duty of the police department to issue P3. The public has been having a lot of problems in Kenya and it's my wish that this duty should be transferred from the police department to the Ministry of Health, instead of having everything at the police station.

The third one is about land issues. Land issues in Kenya are very sensitive, so it should be very much defined in the Constitution. Land distribution should be very fair. Land allocation should also be very fair - but not as the current situation whereby the rich men and tycoons are the ones who are benefiting from our public land. The Constitution should be very clear on landlessness. So that is an issue I would like the Constitution to emphasis on.

The last one is the issuance of passports. It is my belief that any Kenyan who is above 18 years should have a passport at hand at a very reasonable rate. Currently, getting a passport in Kenya is just like getting a piece of land in Nairobi's central business area. So this one should be made affordable to majority of Kenyans at a very reasonable rate. Thank you.

**Com. Adagala:** Just hold on. You know thank you very much for your submissions. I would like to say that when you are making a presentation, you've thought about it - this is to everybody. You've thought about it, you've thought about the reasons. When you say what land distribution should be made decent you should say what it should be, or when you are talking about something, it should be made very clear - it is you to make it clear. Because you see, kila Mwananchi amefikiria, ukiketi peke yako, ukizungumuza na wengine, lakini, you should tell us the point. Because the Commission will only collate what you said, so if you say, you should be very clear or you should be very fair okay? Although you said the land has gone to the tycoons, we need you to actually say what it should be so that we can say a Mr. Joseph Gitau Muriithi said this and this. We can't make up the Constitution ourselves - you can make it, we can't make it, we can only write it - what you have made okay? Yes thank you. This is for everybody and not just for him - give what you want and the reasons for it.



**Com. Salim** Thank you commissioner, that is a very very important point and for those still waiting to present their views the point Commissioner Adagala made is very very important. It is not enough to find faults somewhere - say how you feel that fault or that shortcoming ought to be dealt with sawa? Karibu. Very good. Now I want Daktari Teresa, are you ready now? Because you are number one, you decided you didn't want to present then, are you ready now? We would like to go back to those who either had not given the presentations or those who are outside, so that we go systematically.

**Teresa Gichane** Thank you, Thank you very much. First of all I am **Teresa Gichane**, and would like to start by apologizing because I am sure there are others like me who have not read the constitution. I have just seen bits and pieces of it but not the whole of it. Na sasa pengine kuna wengine wao wako kama mimi ambao wanasikia tunataka kubadilisha Katiba lakini hata hawajui ile iko inasema nini. Kwa hivyo that is why I said I want to start by apologizing ama pengine naweza kupeyana maoni ambayo hata pengine hayako kwa Constitution. Now being a Civil servant, the –

**Com. Adagala:** Once again it is not necessary that you give maoni, which is on the Constitution. You can give from your life experience -. from things you have seen, things you have observed. If the Constitution were okay, then we would not need to amend it. So feel very comfortable and speak from experiential knowledge okay? But it is important what you are saying that if someone has seen the Constitution it gives them a different perspective - but do not let that hinder you, you can speak from your heart from your life experience and still we will be able to interpret it ourselves okay? Alright. So if people are here and they are still insisting that since I don't know the Constitution I should not say anything that is not the reason. Every Kenyan has a life and that life has meaning and that is the meaning we want in the Constitution. Thank you.

**Teresa Gichane:** Okay thank you. Being a government servant, my first-born son is on salary. From what I have gathered, the present trend is, depending on how popular you are with the authorities that be, you can negotiate the salaries for your employee. But I feel there should be a Commission to review the salary. Presently we are discussing about the teachers salary and somebody else might be forgotten - so I think there should be a commission that discusses the salary for government workers, and the salary should be commensurate with their qualification and the duties given or the positions held should not be on how popular one is with the authorities that be, but should be based on the individual's qualifications.

Then another one is on gender. My feeling is that there should be a gender commission with representatives or commissioners from every province and members brought from NGO's that are interested in gender issues and the church. our country being a christian mostly, the church should also be presented. So a national gender commission.

Then on issuance of passport: I think now and I am still on gender, the issuance of passport should not be pegged on spouses. Today, if I want a passport - I have one and when I got it, I had to get a letter from my husband, I think this is wrong. This should be a personalized document just like the Identity Card. The same with title deed - as much as I agree that when you are married you own things together - I don't know whether that is the right thing, I think if I own a piece of land that should also be

personalized and I should be left to decide on what to do with it. If I chose to involve my spouse, I should be given that choice. The same with loans. Today if I want a loan I have to consult my spouse, although I might have the security that is required to acquire that loan. So what I am saying is that eh property like passports and identity cards, land and issuance of loans should be personalized and not pegged on the next of kin. Not necessary the spouse, even the next of kin.

### **Political Party**

I am very happy that now Kenya is a multi-party system, but I am disturbed by the fact that you can have a political party in every village. To me I think this is encouraging tribalism. Personally I feel, if there must be these many, they should not exceed five. So a maximum of five political parties.

As much as I appreciate the freedom of worship, I think this has also gone out of hand. I might have my church, and my child another one and they are so many so that most people are getting confused. I feel that already these are existing Mainstream churches and if I want to start a church it should be an associate of another existing church already - so that we don't have a lot of confusion as far as the churches are concerned.

And then, I think there should be no pension for parliamentarians. My feeling is that we elect them to represent us in parliament and this should not be a permanent and pensionable post. So whoever goes to parliament and is doing a good job for that time - we shall elect them back again next time and they will draw a salary and I am not opposed to a salary and even a good salary for the parliamentarians, but when they are voted out I think they should be comfortable with what they acquired during that time, I think we are coming to a point where all the budget will cater for the parliamentarians if we are going to have them get pension - that whoever goes to parliament in future draw a pension then we are going to have all the money going to parliamentarian like already we are crying we don't have money for salaries for our workers. If I get another point I beg to be allowed to come back. Thank you.

**Com Adagala:** Wait for clarification. First of all, everyone if you've presented or if you haven't presented, in this particular session, you are always free to make other submission. You are always free to write or send on e-mail or website or come to the Commission and make a presentation. I think the presentations are usually on Wednesdays, I don't know how they will be when we are out now. Now on the gender Commission. Who would be in the gender Commission? Tell us the composition of the gender commission you've told us that it should be what? A national Gender Commission with a Commissioner from every Province.

**Com. Adagala - go on.**

**Teresa Gichane -** Then NGO's interested in gender issue, and the church.

**Com. Adagala** - You know we have this gender Commission it has come up. It is not the first time, but who would be in it? You've told us where they are coming from but who would be in it? Because we are talking about gender. What I am trying to say, just for clarification - there is a difference - between if you want to say a women's commission and a gender commission.

**Teresa** - No I am talking about gender. Meaning it can have both men and women.

**Com Adagala** - Okay. You want us to put down that it can be both men and women.

**Teresa Gichane** Yes.

**Com Adagala** Okay, it should be.

**Com. Adagala** - Okay. Thank you for the clarification.

**Com. Salim** Thank you Daktari for your views we move on now, rather we move backwards a little bit because couple of people were out and I understand that they are now in, so that we can update our list. There was a Mr. Lawrence Ndungu; we believe he is here now is he? So Bwana Ndungu una written presentation? In which case we give you five minutes to highlight the points in your presentation, sawa? Karibu. Please give your name for the recording purposes.

**Lawrence Ndungu**

This is the memorandum for Mbaranginyo Cultural Heritage Group and we are going to start with the governance.

**Bw. Ndungu:** The presidential system of governance should be replaced with, parliamentary systems of governance to check upon the Executive and to control probable dictatorial tendencies and to give the electorate a wide powerbase.

**Com. Salim** - Bw. Ndungu do you think you can complete reading it in five minutes?

**Bw.Ndungu** - Yes.

**Com. Salim** - Because I can see you are reading it.

**Bw. Ndungu** - It is in a point form.

**Com. Salim** – Very good.

**Bw. Ndungu** We currently do not have the office of an ombudsman. It should be created and decentralized to cater for all regions.

**Trust land** - All the land in Kenya belong to the state, therefore, all the citizens of Kenya have right to land, irrespective of background. This way we will not have landlessness and squatter problems. The security of owning property anywhere in Kenya should not only be protected but guaranteed. Therefore, land clashes victims should be resettled. The Constitution should put a ceiling on land ownership to avoid individuals occupying huge tracts of land at the expense of landless majority.

**Welfare** - All citizens of Kenya should enjoy benefits of sustainability of health, shelter education information, security and all providence without discrimination of status.

**Culture** - Hospitality and respective of rights of individuals should be respected in each culture therefore contributing to common national culture. The Constitution should guarantee protection of culture and specify the positive progressive culture for promotion.

**National cultural heritage.** Heritage to be protected and rehabilitated to form apart of a National history e.g. Mukura Wa Nyaga Thaga, Kitmikaye in Nyanza sacred monuments and historical grounds. History is not complete without culture - our national heroes - all those who have contributed to the modern Kenya should be honoured by positively identifying and honouring them. People are made of what and how they communicate. The Constitution should protect indigenous languages while it promotes official and National languages. The culture of the people is tied to their religious beliefs. The Constitution should review the freedom of worship as currently contained so as to avert negative religious practices like devil worship and cultism. And before I sit down we Kenyans sometimes are confused because Commission has been divided. Even the bible says that if two are not agreeing they will not go together. I am saying this because we read from the Newspapers that Prof. Ghai's Commission sometimes is being divided and also there are Elite Kenyans who are telling us not to present our views to the Commission - they are not also telling us where to present them to. But now I am going present these to you because you are the ones who have called Kenyans to bring their views but I am worried and I would like you to clarify. If I am going to hand over this representation are you sure that you are going to do what Kenyans are wishing? Because there are some Commissions which have been formed and they have done nothing Is this Commission guaranteeing us that when we represent our views they are going to be catered for? That's why you could see some some people arguing they couldn't bring their representation because there have been a lot of Commissions which have been formed. This is to certify that some people are being fed up because there are some Commissions like the devil worship; we were told that people are killing because of catering for their godliness. Is there certainty that we are going to be assisted to form our Constitution? Thank you.

**Com. Adagala:** Thank you very much. Thank you very much for your submission. As our Chairman Prof. Yash Pal Ghai has said that when you have many people together there will be discussion, there will be disagreements, so we take that's how it is,

may there will be a point where and we have before, taken a vote or taken a decision by consensus, we are required to go as much as possible by consensus and part of what you see in the Newspapers is sensationalism - the Newspapers want to sell. But the other part, is that this is an open Commission, it is an open Commission. There even times when we say the press should be there when we are discussing. So we are trying to make a difference in the way things have been done - not in a closed way. We are trying to make an openness - are you listening Mr. Ndungu as you are walking? We are trying to create an openness so that there can be openness in our society, So far it has been very closed. Nonetheless, we are also human being and we make mistakes and the mistakes will come out, I would like to assure Mr. Ndungu like I did in the beginning with another person who said this, *this is a Parliamentary Commission only Parliament can end this Commission. Therefore there is no fear on your part or on our part that some one person will say this ends.* Because the others are Presidential Commission. It is like the difference between having a Law and a directive. So this is part of the Parliamentary Law. This fear is all over Kenya, it's our history, it is in our psyche, it is in our minds we can not help it - but let's try to get over it, and if there is anybody who is discouraging other people from presenting they are really taking away the Right of other people. It is misguided. Please try to encourage other people who would have liked to submit they can still write their memoranda and submit it. We will sit down, *let me assure everybody - we've differences and they will be discussed.* But from now on actually part of what we are trying to make is that differences can be discussed, so that we don't close up issues just because we must agree. For instance if we have a disagreement over dates, we sit down and discuss and we try to see how it should be.

If we have two different views we discuss the two different views and this we are yet to do. The integrity of Commission is there and I know there are many things which have been said but we have gone through very rigorously. You may disagree with us but then, that is your right. So please bear with us we are trying to create new steps in the society and unfortunately we are on the grinding stone but I think we shall overcome. Thank you very much.

**Comm. Salim** - So tukiendelea mbele basi tumepata maombi kutoka Wananchi wawili Mmoja anasema angependa apewe nafasi kwa maana inabidi aende Kortini na mwingine anasema anapaswa kuhudhuria mazishi. Kwa hivyo ningewaomba tuwaruhusu hawa ndugu zetu waseme kwanza, nina ruhusa yenyu nyote? Sawa it's all right, it's not all right? Not accepted? Shall we go by consensus? Do you all feel it is not acceptable? Because you will recall right at the beginning, I explained, we have guidelines for ourselves and right at the beginning those of you who were here, I did say there may be occasions where the Mwananchi has a particularly pressing thing to do and maybe mama ambaye ana mgonjwa lazima aende leo sipitali lakini kabla kwenda angependa kutoa maoni yake, so in principal, we want a consensus on this. Namkaribisha kwanza Mhe. Njenga Karume kwenye kikao hiki na ametoa maoni yake asema ni wawili yes Teresia what do you feel? Only two?

**Mhe. Njenga Karume** Hata wakati tunapooona mambo yamekwenda vibaya hatuwezi kuruhusu, tena tunazidi kwenda mbali. Kama mtu anaenda kwa mazishi kweli na anahitaji hapa tutasema nini? Tumkubalie na apimiwe saa. Basi yeye apeare na aende na tutasubiri wale walioko hapa.

**Com Salim** - Kuna consensus nafikiri. Asante ni sana.

**Speaker (Rev....)** - Who is next?

**Com. Salim** - I think we have to consider the whole audience.

**Speaker (Rev...)** - because all these people are lining up.

If you had told me I would have stepped down for the person going. That is why I am asking who is next?

**Comm. Salim:** Well, the next person according to our list is nafkiri Daudi Ng'ang'a, is he here? Wa Shangiria Daima is here? Hajarudi. That is the next person. Then we have Mr. Daniel Njuguna. Hayuko? Then we have Joseph Muturi. He is the next person?. Bw. Joseph Muturi ungeruhusu mtu aje mbele yako? You are the next person, and according to the Rev. here if the next person does not mind then we can have them present their views.

**Joseph Muturi** - Ni vizuri.

**Com Salim** - Asante sana, kwa hivyo tungependa, kuwashukuru sana hiyo ni roho ya Wananchi yakusaidiana. Kwa hivyo Bw. John Kamau? Yuko Bwana John Kamau. Tafadhali karibu.

**Comm. Adagala:** While we are doing these hearings we are expected to uphold values of Constitutionalism. Among those values is tolerance. Among those values is also a democratic view and also, even in terms of just respect for others. So I am not saying one way or the other but as we are conducting them we are trying to institute those values apart from the fact that ni “kiroho ya Wananchi”, there are also Constitutional values we have to uphold. Lastly I would like to say democracy is a very expensive and very demanding process - and as you see us going through all these things also you will be going through them. So in the end, we hope at the end You will have created a new Kenya. So let us just continue like that and see. But it does not mean that everybody who comes and has a special case, we all have special cases and also those who have come early and gone away will actually come last. We can't keep going back and forth. We will just have to come last because if you sit, you will do your presentation. If you have any other thing please come early because we have waited for one and half hours.

**Mr. John Kamau:** Thank you, very much. There are some few things I would like to address here very briefly. We are here we are discussing about Constitutional amendment but in my own view.....

**Com Adagala** - John Kamau address the Commission and go to the point even if it is an oral submission. Go to the point. and make your proposals.

**John Kamau** - Okay. First I would,

**Com. Adagala** - Please address the Commission not the audience.

**John Kamau** – Okay. Thank you. What I am saying is this. As we embark on the Constitution amendment what first we should do is that I wish Section 14 sub-section 1 and 2 first to be repealed. Again I wish to state here that all the Laws of this country are all repressive Laws and we should have an overhaul changes of Laws. There is no any good Law in this country

and we should not only state that only Constitution should be amended. What we are saying is that the Laws that were drafted in Lancaster in 1962 are all repressive Laws starting with Chief Authority Act should be scrapped. Police Chapter 84 should be scrapped. All these laws are affecting people of Kenya each and everyday but those people in power don't understand the kind of problems the citizens are facing. The law should be made that when it comes to the distribution of assets Customary Law should not prevail. Both genders - female and male should be given equal opportunities to inherit the properties from their deceased parents and should be distributed equally without any bias or prejudice. Government should not interfere with the strikes or picketing whichever manner may be. When the people are going on strike they should be given the opportunity to state their own problems and the government should look into the problems promptly without using the Police force to interfere whereby you expect to have so many injuries occasioned by such an interference by police force. So as you look forward in trying to amend the Constitution you should take into consideration those items. They are very important for the people of this county.

The Vagrant's Act - It is stated that it was scrapped but it is still in the statutory books. We are saying that when you say, the Law has been repealed or it has been removed from the book it should be not there. As I go to the law books I can see that the Vagrancy Law is still there. So I fail to understand how it is scrapped, and it is still imposed because if you are coming from work maybe at midnight and meet a Policeman, and the policeman asks where are you coming from? I come from work - Policeman does not want to understand. They say that you have been loitering. Now what is loitering now? Coming from work, is it loitering? So the law, which has been stated or stipulated, to have been scrapped from the law should not be existing in the statutory books. It should be removed once and for all. Because even if you are taken to Court they use the same law. Anyway, I don't have to talk too much that is what I wanted to present. Yes although I had much I don't have much time to do that. Thank you very much for giving me time.

**Comm. Adagala** - Wait a bit Kamau. I am just saying that it is a good thing like the Vagrancy Act you have shown they don't abolish it. It is in the book. Now you are saying, at one point the Constitution will have to be harmonized with the new laws in order for the new laws to come in but what you are saying is that all Laws are repressive.

**Kamau:** All of them should be, you know what we are talking about is this. It should be in the African context because this law was written by a white man in very colonialistic mind. So this law should suit African context and the people of Kenya. So we are saying that not repealing piece meal we are removing all the Laws from Statutory books - all those Laws, although it is going to cost too much money, but as they were drafted we can still get small funds for that. So what we need is forbearance.

**Comm. Salim.**

Thank you Bw. Kamau. Now the other persons who asked for assistance because he is attending a funeral is Mr. Hackman Muiruri, is he here? Karibu Bw. Hackman na pole sana kwa mtu uliompoteza kwa kifo. Tunakupa pole. Karibu.

**Mr. Hackman Muiruri**



**Kwa jina** ninaitwa Hackman Muiruri Muniu kutoka kwa Kenya African Mau Mau Union. Ni watu ambaye walipigana na Constitution ya mkoloni mpaka wakaiondoa. Naja mbele ya Commission kuwajulisha ya kwamba, Constitution ya mkoloni tulipigana naye miaka saba ili kuiondoa na hatuoni ni sababu gani munaharakisha kuchukua maoni ya Wananchi kabla hamjawasomesha waelewe Constitution ni nini. Mumeharakisha.

Ya pili nyinyi Commission mumefarakana nyinyi wenyewe. Hamuwezi kuaminika kupatiwa maoni kuhusu Constitution. Kitu tunataja Constitution, ni kitu cha kudumu kwa nchi yetu karibu milele. Constitution ilioko sasa imedumu miaka arobaini sasa. Na kupata nafasi nyingine kuunda Constitution nyingine kutoka hapa itachukua muda. Na tusipo elimishwa vizuri tutakuja kujifunga wenyewe bila kuelewa kitu tunakubalia. Imeonekana yaweza kuwa pengine kuna Consitution iliyoundwa ambayo ingeletwa mbele yetu nakujadili juu yake badala yakutuambia tutoe maoni kwa kitu ambacho sisi wenyewe hatujui. Hatuja elimishwa. CivicEducation haikukamilika. Natunaombwa maoni kutoa ya nini kama hatuja elimishwa Civic Education?

**Comm. Adagala.** Excuse me. Please turn off all your mobiles. Kila mtu na mobile azime. Sasa inaenda kwa machine kikao chetu hakita tokea vizuri.

**Bw. Mwiruri** - Okay kwa nafasi hiyo sisi kama freedom fighters tungetaka Constitution ya nchi yetu ituonyeshe taifa la nchi yetu limezaliwa kutoka wapi? Ya sasa haituonyeshi taifa letu imezaliwa kutoka wapi baada ya kumuondoa mkoloni, kwa hayo machache tu nashukuru wale waliyo nikubaliya kwani ninaenda mazishi ya jamaa yangu.

Asante.

**Com.Salim** Asante sana bwana Muiruri kwa maoni yako na mara nyingine tena kwa niaba ya wote walio hudhuria ningependa kukupa pole kabisa na uende salama.

**Comm. Adagala:** Mr. Muiruri yale mambo umezugumzia hasa hapa ni mambo ambayo inafaa iende kwa Preamble. Sijui itakuwaje District Co-ordinator na Kamati muketi na Mr. Muiruri muweke hayo mambo chini ili iwe kwa Preamble, ile amezungumzia ndiyo ile ya kuanzilisha ya Preamble. Utakubali au? Kwa sababu ni mambo mazuri sana inafaa ingiye na nafikiri una maoni mengine mengi. Yes please Committee, sit down with Mr. Muiruri and his organization and write that in the Preamble. Mpe Mr. Muiruri kitabu ili ajue, give him a red book he is going away, pole kwa matanga.

**Bw. Kariuki (District Co-ordinator)** - Kabla hatuja sikiza maoni kwa ambaye atakuja next eh, nataka kuwauliza kitu muhimu sana. Nasikia machini yetu ikileta taabu kidogo. Inaleta taabu kwa sababu ya zile mobile phones maana yake inatuma microphones ambazo hazina waya. Kwa hivyo nataka kuwasihi nyote ikiwa mtaelewana let us switch off those mobile phones for now. Please ikiwa una simu ya mkono ifunge maana itakujulisha nani alipiga simu, kwa sababu simu ikija kwa simu yako



inleta taabu kwa mashini yetu. Asanteni.

**Com. Salim** - Asante Bw. Kariuki. Sasa tunakwenda kwa anaye fuata. Sasa tunafuata the list ilivyo vile watu walivyo kuja. Anaye fuata ni Joseph Muturi ambaye ana maoni ya mdomo anataka kutoa. Na tunakushukuru tena Bw. Joseph kwa kuwasaidia hawa ndugu zetu kutoa maoni yao kabla yako. Mungu akuweke - karibu.

**Mr. Joseph Muturi** - Hamjambo ma Commissioners? Yangu si mengi sana lakini maoni hii ni yangu mwenyewe. Yaani I don't represent any group.

Kwanza Katiba hii mpya ambaye itakuwa iki tengenezwa nataka tuwe na wajumbe wa parliament ambao wata simama" independent" Lakini si wawe wakiwa katika mambo ya vyama kama vile tunavyo siku hizi.

Ya pili, nataka hii sheria - hii ya siku kumi na nne kama mtu akiwekwa kwa Cell ya polisi, hivyo scrapped tuwe tukitumia kama ile ya zamani 48 hours.

Ya tatu, hizi party zote yaani ambazo tuko nazo katika Kenya yetu huru, zinaweza kutengeneza Serikali .

Halafu ya nne ni kuwa na yule Rais tutakuwa naye awe kama raia wengine - yaani akifanya makosa apelekwe kortini astakiwe kama mtu yule mwingine yangu inaishia hapo.

**Comm. Salim:** Asante sana Bw. Muturi hayo ni maoni ambayo yalifikiriwa sawa sawa, na amekuja amejitayarisha kabisa kuyatoa maoni hayo anajua analipenda na asilolipenda. Maoni kama hayo ndiyo yanayo tusaidia As they say kwa kiingereza, "to the point". Asante sana. Sasa labda nina swala moja Bw. Muturi nina swala moja ndogo kukuuliza umesema kwamba MP's kuwa na ruhusa yakuwa independent siyo?

**Mr. Muturi** - Nasema hivi. Nasema kama mtu yaani independent person awe akisimama bila kuungana na vyama hivi vingine vya siasa.

**Comm. Salim:** Sawa very good.

**Mr. Muturi:** Si katika Uingereza kuna vitu kama hivi.

**Comm. Salim:** Tushafahamu. Yaani wakati anapiga kura anaweza kuingia kwa chama chochote anapigia pande ile au ile ingine Mr. Muturi?

**Comm. Salim:** Na point ya pili unasema kwamba all parties wanaweza kutengeneza serkali, Mr. Muturi.

**Com Salim:** Yaani unafikiria serikali ya muungano, Mr. Muturi. Okay.

**Comm: Salim** Co-alition government?

**Mr. Muturi** - Coalition government.

**Comm. Salim:** Tukiendelea mbele tunaye Bw. Samuel Kariru Nderi na yeye ana muswada or memorandum nafikiri, siyo Bwana? Ah karibu, ukiwa una memorandum tafadhali ni dakika tano tu ku highlight. Kama alivyofanya Bw. Muturi ameyasema highlights zake.

**Bw. Samuel Nderi** - Goodmorning everyone? I want to present a written memorandum and it is hand written but I'll highlight the main points.

Now in the Pre-ambule it ought to start with "We the people of Kenya" and its must also carry the words that "this Constitution" that we are going to make is the supreme law of the Republic". It must also expound on the democratic values; social justice and Fundermental rights and it must end with the word "May God Bless our people".

The Constitution must try to improve the quality of life of its citizens and the

Constitution must be based on justice and freedom of our land. Incase of the principles then the principles, as expounded on the constitution shall be

One - Kenya shall be .. Another principle must be Justice, Equality, Rule of law and will of the people shall always prevail.

Another principle is the separation of powers in the three arms of the govement, which shall always prevail. Now incase of the variations the constitution we are making must reflect the multi party Democracy enviroment – meaning. It's a multi party democratic constitution and it must expound values such as good governance, transparency, accountability as pertains to all the three arms of the govement and other institutions in this land of Kenya.

Now when I come to the first arm of the govement - that is the parliament. The paliament must be given the power to impeach the President, the Vice-president and the Ministers. In this case we find that what we lack in the country is not infact the document itself but it is the leadership - meaning that we do not have good managers in our country and in this case we find that we do not have the good manager because the law is not followed to the latter and in this case I propose that there must be what we call the "oath of impeachment" - to my understanding this "oath of impeachment" may read as follows and I quote "I bla bla bla Vice-President, President, Ministers, of Kenya shall swear and sign this oath of impeachment and if I am found guilty by the paliament on such grounds as mismanaging economy, as scandals,sex scandals even weapon, selling illegal weapon or drug trafficking and causing genoside and abuse of office, corruption charges, I shall be dismissed by the paliament". In this

case we find that the President, or the Vice-President is dismissed by the parliament, that is impeached then I propose that there must be a Supreme Court which must have the function -one of them being the formation of a transitional government and in this case the transitional government must be headed by the Chief Justice from the Supreme Court and other three judges until another election is held so that we can have a President, Vice-President who will be able to spearhead our country. Now I propose that the system that we need to have is a presidential system such that we need to have a president with his running mate such that the moment the president wins the elections, then in this case, the President must have such powers as:

1. Head of State\_ Head of government, representative in the world body such as UN. The President must also be given Powers to appoint but those appointees have to be vetted by Parliament.
2. In case of the Vice President, the VP can be given the power to assert Bills so that they become laws then the VP is the leader of the government business in Parliament - Meaning that the President is not a Member of Parliament, but the VP is a Member of Parliament. Now I also propose that the VP be given security of tenure. In this case, the VP must serve a two-term limit. I.e. each term of five years. Now there is a point I just want to clarify. In this case, we find that currently, or according to the current Constitution, the President is to serve two terms. Meaning that the two terms are ending as per the end of this December ie. 2002. So that the term must remain intact. It must not be interfered with.
3. Basis Rights: We have the right to worship but that one in Kenya, according to my understanding has to be limited in a sense that we have a lot of Satanism, a lot of demonic power in Kenya and that is why politics is said to be a dirty game.
4. Parliament. Parliament must never, never be given the power to amend any part of the Constitution. In this case, I concentrate on three sections, which must always be amended through a national referendum conducted by an independent electoral commission. These sections are: The life of the Parliament - That one must never be amended by the Parliament. It must be amended through a national referendum. Now in case of the tenure of the President - how many terms the President will serve, currently, we know there are two terms, they must not be amended - if they are to be amended, they must be amended through a national referendum. Even the calendar of the Parliament, that one will follow the same category.

Electoral Commission: There is the calendar of the Parliament as pertains to its programme. General election must be held after every five years. Then we have the tenure of the president. Now in this case we find that Parliament must always be given the mandate, i.e. the power to form any commission in Kenya. And the commission must always get its money from the consolidated fund but not from the treasury because of political manipulation from the Executive. Now in case of the electoral commission, that one must be given the power to deal with electoral offences, bribing, transportation of voters and those who create violence, must be barred from contesting any seat, be it Parliamentary, be it civic, be it Presidential. Now the Political parties must get their share out of the consolidated fund. But we must restrict the number of political parties in Kenya and this can only be done by looking at the manifesto of a party that requires registration. In this case, we find that if I want to form a political party and its manifesto is just like the existing parties that one must be denied registration at all.

Supreme Court. That one must have the following powers: One - Must always declare the winner of the Presidential election after ten days after the votes counting. Now the second one; it must always interpret the Constitutional aspects. Matters pertaining to Constitution must be interpreted by the Supreme Court and the Supreme Court must always form a transitional government in case the President or the Vice are impeached.

Land - Okay, in Kenya. No one must own more than twenty acres of land because this land is God given. Nobody should be denied one acre of land. No one should miss a parcel of land and no one should have maximum acreage of land.

Citizenship There are those who have the dual citizenship such that they have the passports of country A and Country B. Like in Kenya we have a group which is running away when we do elections they come back. This dual citizenship has to be done away with. We must have just a single citizenship. So I think that is what I have. I have a written memorandum.

**Comm. Salim:** Asante sana kwa maoni yako Bwana Nderi, tutapata swala moja kutoka kwa Com. Adagala. Bwana Nderi kuna swali moja. A clarification.

**Com. Adagala:** I am saying this because there are many people who are talking on the impeachment of the President. So it is you but it is also to others who have talked and the others who are to come. We are talking about the Presidency and then talking about the MP's and the Councilors. Because you know it is the same system. So, I am not suggesting that you should say one thing or another but I think when you talk, you should realize we are talking about the same system. If the President is impeachable, what should happen to an MP and what should happen to a Councilor? That whole system.

**Bwana Nderi:** Okay in this case, I can answer you.

1. If a Councilor, on such grounds as mismanaging the council money or assets, the Councilor can be recalled by a  $2/3$  of the total voters in terms of their signatures. This should be taken to the chairman of the electoral commission who will declare that seat vacant. So, in summary, am saying a Councilor can be dismissed by  $2/3$  vote in a full council meeting or a Councilor can be dismissed by  $2/3$  of voters signatures, such that the seat can be declared vacant by the electoral commission. In case of the MP, the voters -  $2/3$  of them, who had voted for him, if they take their signatures to the electoral commission, then in this case the seat will be declared vacant. Likewise the Parliament on the grounds I had aforesaid, the MP can be dismissed. And there was another point, although this I forgot. The Cabinet must be in such a manner that  $2/3$  of the Ministers must be from the other parties - not the ruling party. So, the ruling party must have  $1/3$  and the other parties must contribute  $2/3$  and it must be formed by the Parliament together with the VP.

**Comm. Salim:**  $2/3$  of the Cabinet must be from the opposition?

**Bwana Nderi:** Yah!

**Comm. Salim:** What do you think is the basis for this? If one particular party wins elections, you don't feel that particular party should form at least 2/3 of the ministerial positions? Why the other way round?

**Bwana Nderi:** Why I feel that is because the President is from the ruling party, VP is from the ruling party and then it will make other appointments that will favour the system or the party itself. And in this case I find that the Cabinet because, it is the one that makes policies, then a 2/3 must be from the opposition parties. In this case I just want to perpetuate the multiparty democracy.

**Comm. Salim:** Okay, thank you very much. We now move on to Bwana Geoffrey Mwaura. Karibu. Na atakayefuata ni Bwana Samuel Mbuthia ajitayarisha na Naomi Wanjiku Njoroge. So Mwaura, Mbuthia na Njoroge. Hawako hao, Bwana Mwaura hayuko? So tuendelee Bwana Samuel Mbuthia yuko? Pia ameondoka. Naomi Wanjiku Njoroge? Jamaa wamechoka au nini? Anyway tutaacha tuendelee mbele na tutamuomba Lee Philip Kerimo, yuko, karibu. Na atakayefuata ni Bwana Martin Mutuku na Bwana Kerimo ana maoni ya kusema - kauli. Karibu.

**Bwana Kerimo:** Naitwa Lee Philip Kerimo kutoka *'Mucii Wa Thai Children's Centre'*.

Bwana mwenyekiti, Commissioners, MPs namuona Mayor na kikao chote Hamjambo? Yangu ni machache. Kwa kweli yamezungumzwa nimeyakubali na sitaki kuyarudia yale ambaye yamezungumwa na wenzangu ambao tumekubaliana. Lakini kuna jambo ambalo nimeli tazama ambalo ninaona la faa ili hao wenzetu katika kikao hiki, wachukue maoni yangu kwa niaba ya kile kikao ambacho mimi huwa nina kaa nacho. Mimi na shugulika na hali ya watoto ambao wako katika hali ngumu ya kimaisha na ninapoitizama Katiba ilipoandikwa mwaka huo wa sitini na tatu mimi nilikuwa kijana mdogo katika hali hiyo ngumu, na Katiba iliyoandikwa imenifanya niwe katika hili ambao nilioko. Na ninapo tazama singependezwa ama singeona yafaa kwa sababu tunaenda andika Katiba na mimi nimezeeka, labda ni kesho tu ninaondoka, kuna wale vijana ambawo kwawoningetaka Katiba hii ingalie sana. Katiba hii ningetaka hiwe hivi: Zile Children's Rights - haki za watoto ambazo vikao mbali mbali Vimekaa katika UNO Convention, African Charter, na hata Kenya Laws za Children za mwaka elfu mbili na mmoja ziwewe kuwa haki za ki Katiba. Haki hizi labda wengine wetu hatuzijui lakini ningetaka kuzungumzia kwa haraka. Haki yakuishi - Survival Rights. Survival Rights ina sema hivi – “huyu mtoto ambaye yuko kwenye mimba mpaka afikapo umri ule wa miaka kumi apate matibabu bila kuulizwa ndururu”, kwa sababu kuna mama ambao wameishi katika maisha magumu sana, wengi wao wako kwenye street na wengi wao, na wengi wao hawana hata jinsi yakujilisha. Wanapo ulizwa senti, hilo inayoitwa cost sharing wataipata wapi? Si yule mtoto ataondoka na yeye ni Mkenya? Survival Rights itazamwe na ili huyu mtoto apate kuishi awe kama Mkenya kama mimi ambaye nilipata haki ile. Pia katika mlishi - chakula chetu sio chakula chetu kuna chakuliwa kinapelekwa ngambo, majani chai ndiyo hayo yanapelekwa sijui Saudi Arabia, na vile vitu vyote vile vizuri mafuta yetu na mayai yetu yanapelekwa ngambo, samaki zimeenda ngambo sisi tunataka lishe na Katiba iangalie ya kwamba jambo hili limewekwa maanani. Hii naona yafaa katika Survival Rights. Hebu niangalie katika hali hiyo ya makao. Wenzetu labda hawajui, lakini hebu

niwaambie ya kwamba kuna wenzetu ambao hulala kwenye vibanda. Katiba hii itamuhusisaje Mwananchi ambaye yeye hulala kwenye kibanda, chumba ni cha 10 by 10 kimekwa makuti. Katiba iangalie ione ya kwamba mambo haya yamewekwa maanani ili kwamba huyu Mkenya mwenzetu apate kuishi vizuri.

Jambo lingine ambao nilitaka kutajia kidogo huyu Mkenya wa kesho awe na protection Rights. Protection Rights yake inasema hivi. Mimi niko barabarani sina chumba. Chumba changu kinaitwa “dyke” ama “shum”. Wale mapolisi wanapo kuja na hilo mbwa usiku wanichukuwe kama Mkenya ambaye ni pale ndipo kwangu. Kama vile mwenzetu aliye na nyumba ya gorofa ambaye hasumbuliwi pia nami wanipe ile nafasi yangu ambayo inastahili. Kusiwe na hiyo harrasment. Na wakati tunapofanya hivyo basi Katiba itakuwa inaangalia sexual exploitation, na kila aina ya exploitation. Hali ya maisha yatazamwe, kusiwe wengine wana nyanyasa wenzao kwa sababu wewe una magari kubwa ama uko na jambo nzuri, mimi nami sijiwezi nataka pia Katiba hii iangalie.

Kuna development Right ambaye ningetaka nimalize nayo. Katiba hii hebu na itazame ya kwamba, kuna wale National Youth Service ambapo ukienda pale mpaka uwe na kidato cha nane ama ndiyo nasikia University ina tajwa tajwa . Je wale watoto wetu ambao hawaja pata elimu watapata wapi mafundisho? Watakubalika vipi katika National Service? Angalau nao kesho waseme wanaweza kudrive ama wanaweza kutengeneza dirisha kwa sababu siyo lazima upate elimu yakuandika, bali elimu yafunzwa. Hata sisi ambao tulikuwako wakati ule hatukuipata elimu ya University ama secondary lakini hivi sasa twaweza kufanya jambo. Hebu tutazame katika Katiba na ninapo kwenda kumaliza ni kwamba Katiba isiwe yakuvunjwa vunjwa kama vile tulivyoona ile ya kwanza. Ile ya kwanza imevunjwa vunjwa na kila aina ya mtu na ubinafsi wake. Hebu hii Katiba iwe 65% hata ningesema iwe 75% ndipo Katiba ivunjwe, ama kifungo chochote kiondolewe. Childrens’ Right iwe kikatiba na tunaifanya taifa hili la kesho la Kenya kama wenzetu walivyo pigana - Kenyatta, na mwenzetu Dedan Kimathi walitufanyia Katiba , hata hivi sasa twaweza kuitengeneza Katiba kwa sababu ya yule mwenzetu wa kesho. Mungu awabariki.

**Comm.Salim:** Asante Bw. Lee Philip Kirimo kwa maoni yako hayo, na sasa tunaendelea mbele.

Jambo ambalo limenii nataraji huko mbele nitakuta majina ya kina mama na kina dada, maana naona Wanaume ndio wanaendelea kutoa maoni lakini huenda tukawakuta hapo mbele naona yuko Lucy hapa, yuko Pauline baadaye na hilo ni jambo linafurahisha . Sasa tukiendelea mbele kufuatia hii registration tunayo Bw. Martin Mutuku wa Chess Limited ambaye ana maoni ya kauli ya mdomo ya ulimi, karibu Bw. Martin, ungetueleza labda orgnization yako Chess kidogo baada ya kutupa jina lako kisha uendele. Na hayo ni maoni yako mwenyewe au maoni ya Chess Limited?

**Bw. Martin Mutuku.** Thank you. I am not Mutuku but I am Simon Ngeru. Mutuku came to represent us because he didn’t know I was coming,

**Comm. Salim:** You belong to the same organization?

**Somon Ngeru** -Ya,

**Com. Salim** - So you are speaking on behalf of Chess.

**Mr. Simon Ngeru:** Chess is a “Christian Entrepreneurs Savings and Credit Limited”. It is based here in Kiambu though we have members countrywide. Our vision is to have a society that is free from poverty. So we support entrepreneur development. So we are addressing ourselves to that as we contribute to the Constitution Review today. One thing we address ourselves to is education. In this country we have quite a number of children not going to school and them that go to school up to standard 8, are dropouts and we have more than 50% of those children dropping out. So we are saying the Constitution itself should guarantee that all the young Kenyans have access to education up to the age of 18 years. There is no point of having children to standard 8 they drop out - they are prone to crime, and again we “develop” our children at very early stage. In this way we should also encourage, after 18 years that our children should be able to develop themselves. That is we could have skills where people in the Universities can equally go and earn some money part-time or whoever could also be in Village Polytechnics or Technical Schools so that children also mature up from age 18 before they get good jobs, they would have tasted the jobs and they are a bit mature. Maybe we will be able stop the rioting in the Universities this way.

Justice. The Kenya Constitution should also guarantee justice to all Kenyans - poor or rich. In this area we are asking the Constitution to address itself to the Judicial Officers. Once a Magistrate sentences somebody and puts him in jail, after that one may appeal, and may be freed but the culprit has suffered and the Magistrate is free. Can they also be put to Professional negligence so that we are able, and they are also able to be careful even when they are judging people? Otherwise several people have suffered because of corruption or otherwise - and the culprits got no remedy. They can only either go home grumbling and they have lost and the other individual who did all this goes scot-free and continues to do that. This can also be seen in all Courts of Laws. Cases being adjourned once and again and again. If you go to any Court of Law today, you have about 300 people again they are told to go home the case had been adjourned. Do you ever count; do you ever quantify the value of the time so lost? Can the Magistrates or the Legal Officers also be made accountable by the Constitution?

The other thing is the property. The Constitution should also create infrastructure that whoever destroys property maliciously should also be punished. The people destroying the kiosks, the people destroying the hawkers, they go scot free yet this is property that it has been earned and as much as we talk about poverty alleviation we have people in the form of either Officers in the Local Authorities or City Council Askaris or the Police destroying the same wealth that these poor have earned. Can they be made accountable themselves? Anybody destroying property should be charged and be held responsible.

Come to the natural resources. God has given this country natural resources for all including the unborn who are coming - because Kenya is a country continues to grow. Can the Constitution guarantee that everybody will enjoy the natural resources that God has given this nation? Here we address ourselves to the land issues. After independence or after the colonialists a few



people could go and acquire the land that whites owned. They never bought that land. That is all. They only paid for development. They forgot that before the Whiteman came in there were people occupying that land. Those people can be seen now as squatters or squeezed at the corner of their land Kiambu is a very big example yet there are individuals who acquired that land and they continued to have them, they will pass them to their children and their childrens' children. So it is a crime in this country to be born from a poor family. You continue being poor throughout yet people continue having idle land that they have acquired. Some of the leaders have gone further to acquire what the poor had acquired then - and they again go scot free with that. Can the Constitution guarantee, that also any leader who uses his position to acquire natural resources from the poor will be held responsible himself and equally be disqualified - could be an MP. If he has done that he can be disqualified from contesting any other election. Could be a Councillor, could be an Administrator, so that all will fear and will take care of the wealth God has given this nation.

Can you also get a way of rewarding the people who are innovative enough to utilize our resources? Kenya is in the tropics. God has given this country sun, so you can use a lot of solar energy. We have waterfalls - small ones. And if there was a good reward for people who are coming innovatively as the Jua Kalis and they come up developing solar equipment, or wind equipments which can be used for this country the Constitution of Kenya should guarantee that not only the innovation will be there, but the government will also develop that innovation and the innovator will be rewarded for that. The Constitution should also create good infrastructures that everybody will be encouraged equally to do that. This way we may stop the dumping that we experience today in this country thank you.

**Comm. Salim.** Asante sana kwa maoni hayo. Sasa ningependa kuita Bw. Thairu ambaye ni mwanachama wa ile kamati inahusika na Katiba katika constituency hii Bw. Thairu.

**Mr. Thairu:** Thank you very much Bw. Chairman. Kwanza huyu mzee yuko hapa mbele yetu alikuwa anauliza, kwa sababu hasikii vizuri anatomia mashini kama angalipewa makaratasi,? Alikuwa amesimama kuulizaa hilo swali, any documents to read. Hatuna hizo documents. But it is important for you to know that, his problem is hearing (interjection by Com. Salim) Yes, something to read. Number two those ones on the Constitution. While he is waiting to give his views. .

**Comm. Salim:** Can he follow sign language now?

**Mr. Thairu:** The document ...he cannot follow, he cannot follow our deliberations.

**Comm: Salim:** We have a document, Bw. George Naholi. Can you please give us, infact I wondered when those documents were going to be distributed? Issues and questions - they can only be useful now. Thank you very much tumeshampa mzee wetu kitabu ambacho kinahusu Katiba. So Bw. Thairu mwenyekiti wa kamati ile inahusika na Katiba ya Constituency hii anataka kutoka maoni yake, tukumbuke kwamba hawa wanakamati pia ni wananch na hawa pia wana maoni, karibu.



**Bw. Thairu:** Asante sana Bw. Chairman. Haya ni maoni yangu sio maoni ya Kamati hata hawajui nimekuja kuongea hapa. Mimi kwa maoni yangu, as far as my views are concerned our current Constitution ambayo mwenyekiti watu wengi hawajaiona, - na ndiyo hii. Hii ndiyo Constitution tunaongea juu yake. Haina kitangulizi - yaani it has no preamble. It is my recommendation that there should be a preamble and in that preamble it should indicate who are the formulators - ni watu gani wanatunga hii Katiba? Na ni kwa nani? Na ni kwa sababu gani tunahitaji Katiba? Nikipendekeza ina stahili kuonyesha hii, Katiba imetungwa na watu wa Kenya wenyewe, Tukiangalia hii hata hatujui ni akina nani walifanya namna hiyo. Tunajua kihistoria watu wetu walienda Lancaster house, akina the late mzee Kenyatta, wengine wako uhai akina Martin Shikuku na wale wengine, lakini hatujaambiwa ni kina nani walitunga Katiba. Si semi si nzuri. Katiba hii ni nzuri sana kwa sababu iliondoa mbeberu katika nchi hii. So it is a very good Constitution - but it should indicate or should have a Preamble, which should highlight the formulators, it should also talk which led to Independence. Kwa hivyo instahili, that preamble should talk for reasons or the causes for our independence. We should also talk about the safe guards - independence is a very costly thing. We don't want to play about with and therefore it should talk about the safe guards for our Katiba. We don't want it tampered with.

No. 2. Katiba yetu has no national philosophies. Why do we have it? What values do we expect to have in our lifestyles or in our daily lives? Ni kwa nini tuko hapa, tunastahili kuishi kwa njia gani? Na mimi ninapendekeza hizo values Wananchi wanastahili kuzijua, tukae chini tujue ni values gani, ni philosophies gani tunastahili kuwa nayo. Na pendekeza hapa Bw. mwenyekiti kama the spirit of harambee, harambee maana yake ni nini? Si nikushikana pamoja nakuendelea mbele? Ikiwa ni shule tunakuja pamoja tunajenga pamoja. We should also have unity, tunajua in our National Anthem ina unity, mambo kama hiyo lakini inastahili kuimizwa its importance. Tunastahili kuongea juu ya amani, (peace). We talk about peace. Peace is very valuable to me, because without peace hata hapa hatungalikaa tunakaa tukichukua maoni. We should also have love, kama kuna mapenzi - zile clashes tunasikia hapa na pale, mapigano hazingalikuwako, kwa hivyo our Constitution instahili kuongea juu ya mambo kama haya. Uaminifu, (honesty) should also be one of our values, I am making that recommendation. Unyenyekevu that is (humility) should also be another one. God fearing, natusiwe tunasema kwa mdomo tu ati we are ati "we are God fearing" we should try to be God fearing people, because if I am a true God fearing person I will not injure you, sitakuwachilia upigwe, kwa hivyo tunastahili kuwa na hiyo value kama God fearing. Respect.....

**Comm. Adagala.** Mr. Chairman, please address the Commission. It is not a Civic Education.

**Mr. Thairu:** Yes, we should have respect for one another. Thank you Commssioner. Respect for one another Institutions zetu ambazo tumeweka katika nchi hii ili kila mtu apate huduma we should also respect institution kama hizo. If it is Presidency we should have respect for presidency, if it is MPship we should have respect for MPship, Councillorship and so on and even our Laws so that we don't keep on breaking them. We should have tolerance. Kwa mfano asubuhi ya leo kuna mtu ambaye alikuwa anataka kwenda mazishi anauliza kwa heshima ninaweza kupewa nafasi ili niende nikamzike yule ambaaye ametuondokea? Muliona vile ilikuwa. Sitaki kuongea hiyo mlikuwa hapa. Hard work -, commitment, kufanya kazi kwa nguvu,

kama tunaweza kuwa na hiyo value, nchi hii itaendelea mbele sana kwa sababu wewe na mimi tutafanya yetu so that is another value that needs to be inculcated in our people. Justice should also be a value that we should value and express in our Consitution. Fairplay, na tukiwa na fairplay hata hii maneno tunasikia corruption labda haitakuwako. Equality is another value that we can think about. Treating people equally. Mimi nimekuwa kwa Serkali for about 35 years, I know what is happening - that equality is not there. “Meritocracy”. Merits in our systems so that if you are number one, you are one but our current system of practice is if you are the last person, unaletwe mbele. Kwa hivyo we need to be “meritocracy minded”. Patriotism. - Ukiona wazee kama hawa, akina mama wazee kama hawa hata hawa wengine wamekuja hapa wamekuja hapa kwa sababu they are patriotic, they love their country, so it is another value that should be inculcated in our people and so on. Constitutional amendments - Tumeongea juu yake na tunajua tangu mwaka wa sitini na tatu Constitution yetu imebadilishwa ili watu binafsi wafaidike. Haistahili kuwa namna hiyo, kwa sababu Constitution inatengenezwa na watu na ni ya watu kwa hivyo kukiwa kuna mabadiliko yoyote vile mumekuja hapa, munastahili kuja hapa tena mutuulize habari ya hivyo Constitution mungalitaka tubadilishe this area, this area or no? So this 75% that is provided for in Section 47 of the Constitution should be done away with. We should do amendments through referendums. If you give leeway, that is the time you will get everything changed.

Now when it comes to Presidency. Yeyote ambaye anataka kuwa President ni muulizaaji wa kazi - anauliza Wananchi wa Kenya can you give me that job? He is an applicant. Kwa hivyo tunastahili kuwa na qualifications for that candidate. Na ukiaangali hii Katiba nimetaja hapa imetaja, awe Mkenya na imetaja awe na umri wa 65, na imetaja awe ni mpigaji kura - a registered voter. Qualifications for a President should be:

- a) A Kenyan citizen
- b) A holder of University Degree i.e. University graduatee

Na ndiyo maana yake tunakaza sana elimu. Ikiwa hatutaki watu ambayo wameelimika katika our professions - Engineers, Lawyers, we don't need to emphasise on education.

**Comm. Salim;** Bw. Thairu samahani tuchunge wakati, una dakika kumi tu pekee yake na Wananchi wengi wanataka kutoa maoni.

**Bw. Thairu:** Asante nitamaliza. He should be a person of sound mind and good health. He should garner more than 50%. Si hii 25% provincial quartor. We should go by the majority. He should serve for a two-year term of 5 years each and he should be a man or a woman of integrity.

Functions zake nimeandika hapa Bw. Chairman. He is the Head of State, Chief Executive, it should be his responsibility to appoint the Ministers and Assistant Ministers, Permanent Secretaries and the Ambassadors, top Civil Servants on the recommendations by the Public Service Commission but vetted by Parliament. Dissolution of the Parliament on a specified date, not a secret weapon, Official opening and prorogation of parliament in accordance with parliamentary calendar, allocation of duties to be discharged by Ministers and Assistant Ministers, Commander-in-Chief of the Armed Forces and so on.

Now with regards to the Vice President. A Vice President should also have similar qualifications and he should be a running mate. (interjection by Com Salim) I am summarizing. Yes thank you. He will have all those and his specific duties are also given in this paper so that he is not a worried man, he doesn't know whether he will be sacked tomorrow.

Now when it comes to fundamental Rights and the freedoms of the individuals. If you read this Constitution, Chapter 5 talked about fundamental Rights and freedoms, which are life, liberty, and security of the person and the protection of the law. What I am saying in this paper is, those Rights are guaranteed - They are given to us. But at the same time they are taken away because they are some provisos there, which were put in the Constitution just on the dawn of our independence. So whatever laws pertained before 11<sup>th</sup> December 1963 were incorporated in the current Constitution meaning that the guaranteed Rights and freedoms are equally withdrawn and as a result, this is why you have the police harassing us. We would want your Commission Mr. Chairman, to give us absolute rights and freedoms. This is what I am saying in this document. And I think, just finishing now give me a minute, I have talked about the bureaucracy in the Civil Service - those of us who have performed very well never get anywhere because we have nobody to push us. Coming to Local Government, Mayors and Chairmen I have given you the qualifications of Mayors here. I am saying that he should be a Kenya citizen or she must be a graduate aged between 35 and 70 years, a registered voter, directly elected by the people so that two, three Councillors do not sit down in "Chamber House" and remove the mayor. I am also talking about Councilors. Councilors in my view because, after 40 years of Education should be literate people, I am saying or I am suggesting that they should be of O Level standard of education, and they also be over 18 years, and should be men and women of integrity.

Now when it comes to defections - and this is my last point Mr. Chairman our Constitution is silent on defections - leaving one party to another and this why we are now in a quagmire as far as Nairobi City Council is concerned. By the way I haven't (inaudible) the issue of more of the Local Government. If you have a specific Constitutional provision for defection to the effect that if one wants to defect he has to resign from that party. But he should not be in one Party and at the same time wants to be in another Party. We have had MPs who have expressed their wish to join new parties. I don't need to quote them. So we need a specific Constitutional requirement, requiring whoever wants to defect to defect but to resign from that party. Those are my views Bw. Chairman. Thank you.

**Com. Salim:** We will be reading the details when we get back. Thank you very much indeed you know the procedure please hand in your memorandum to George Naholi our Programme Officer to be registered. Thank you. We move on. Pastor Ishmael Gichane and then Bw. Allan Gitonga ajitayarisshe baada ya hapo. Yuko Bw. Gitonga yuko? Amekwenda. Okay endelea Bw. Gichane.

**Pastor Ishmael Gichane:** Mine is a written memorandum and I will highlight in Kiswahili. Niseme yakuwa mambo ya elimu yameongewa lakini kuna jambo ninataka kuguzia. Kuwa iwe ni ya lazima ili watoto ambao tunaona wakiranda randa huku mitaani wasiwe wana randa randa na wawe wako busy shuleni wanasoma.

Ile ingine ni juu ya security na defence. Maafisa wetu wa polisi wanachukua miezi sita kwa mafunzo, ningependa kuona askari ambao wamesoma - wanachukua miaka mitatu - wanafanya hizi courses. Wanafanya Sociology, Anthropology kwa sababu they will be dealing with the people kwa hivyo ni vizuri kuwa wamejifunza mambo hayo, na pia mambo ya Counselling na Psychology na pia Sheria ili wawe wanaweza kusadia watu. Na pia nimeongea juu ya mishahara yao, wanapewa mishahara ambao ni duni.

**Comm. Kavesta:** Address the Commissioner.

**Pastor Ishmael:** Mishahara yao ni duni kwa hivyo nimeongea na nimesema wanatakiwa kupewa nyingi. Mtasoma. Wapewe mishahara mizuri ili wawe wanafurahia hiyo kazi. Na pia wawe wanajengewa nyumba ambazo ni nzuri siyo kukaa ukienda kwa Police station unkuta wanakaa, kama shule za bweni. Wanatakiwa kujengewa manyumba ambao ni mazuri, manyumba ambao watakuwa wakifurahia na ziwe self contained. Na pia magari wapewe magari ambayo ni magari mazuri - four wheel drives na magari ambayo yataweza kufukuza wale ni law breakers. Na every station ningepomba iwe na magari kama hamsini hivi. Kama hapa Kiambu naona tuna magari mawili ama Matatu.

Pia wale wa Armed forces hata wao wanatakiwa kusoma kwa wakati wa miaka mitatu siyo miezi sita. Na pia walipwe vizuri. Na pia katika Prisons and Prison officers hata wao pia wanatakiwa wawe wamesoma miaka mitatu siyo miezi sita. Na pia Prison officers wajifunze Sciology na Cunselling ili wawe wanasaidia hasa wafungwa wale wamefungwa. Na wafungwa Jela si pahali ya kuwa tesa wafungwa. It is a place for rehabilitation, na kwa hivyo wawe wanafunza hao ambao wamefungwa, na pia wafungwa ningefurahia wawe wana pata mambo kama T.V. wanajua vile kuna endelea Newspapers and good beddings na pia kula wanakula vizuri na pia wapewe vitabu wawe wanasome wakiwa huko hata spiritual materials waweze kupewa.

Na pia ningefurahia kuona how maafisa wa Prisons wakikaa nyumba nzuri. Ukienda Prisons utashangaa sana kuona wanakaa manyumba ambayo ni ya matope - wanatakiwa kujengewa nyumba ambazo ni nzuri na mishahara yao iwe ni mishahara nzuri.

Pia katika hali ya health. Wale nurses ni vizuri wapewe mishara vizuri na pia wawe wanapewa frequent refresher courses na pia milango ifunguliwe waweze kusoma vizuri na sisi tunapata matibabu ambayo ni ya bure. Na pia Madaktari wetu walipwe vizuri sana, wasiwe wanatoroka tunajua kuna madaktari wengi na ma nurses ambao wamekuwa wakitoroka kwa sababu pesa zimepunga kwa hivyo wapewe vizuri.

Pia juu ya land. Ningependa kuongea juu ya Title Deeds. Imekuwa shida kuwa Title Deeds zinakuwa Title Deeds mbili - kwa hivyo vyeti hivyo ziweze kuangaliwa. Na pia watu wawe wanapanda miti wakikata.

Pia juu ya wabunge. Wanafanya kazi zuri wabunge wetu, lakini mimi ningependa kuona mbunge asiwe anakuwa kwa bunge for

more than two terms - kwa sababu ya kuwaruhusu wengine, ambao ni upcoming leaders, ata wao wawe wanaenjoy. Wanaenda terms mbili halafu wanaachana na mambo hayo. Na pia, mimi kama Mwananchi ningependa nipewe nguvu, mbunge wetu akiwa, 'he does not deliver, tuna mfukuza.'

Na Civic education inafundishwa shuleni na iwe, ni ya kila wakati.

Wacha niguzie nikimalizia, kwa sababu mimi ni Mkristo - juu ya kuomba. Ni vizuri kuwa tuna uhuru wa kuomba. Lakini kumekuwa na 'mushrooming groups' zimetokea. Inatakiwa, wale ambao wanataka kuanza Kanisa lao walete statement of faith na inaangaliawe ili waljulikane wako namna gani.

Na nikimalizia niseme juu ya usafiri. Magari yetu yasiwe yanakuwa 'overloaded' na madereva ambao watakuwa wakishikwa wakifanya 'accidents' wanafungwa miaka miwili na licence yake inachukuliwa kwa miaka mitano na pia mabarabara yaongezwe. Asanteni sana.

**Comm. Salim:** Asante Pastor kwa maoni yako. Tafadhali utupe hiyo memorandum umetupa, we will register. Bwana Gitonga amefika. Hajafika tutamuacha. Tukiendele mbele yuko Lucy Njau. Nafikiri yule amefika kutusikiza ana haki ya kufanya hivyo. Pia Bwana Munene amekuja kusikiza. Kisha yuko bwana Michael Obonyo, Information Department. Yuko? Michael Obonyo? I am sorry Lucy Njau. Sikuona ile ishara. Lakini endelea tutabadilisha hapo. Kwanza tumefurahui sana wewe ni mama wa pili tu kutupa maoni. Tungependa wengine huenda tutapata kabla hatujamaliza hivi leo. Tafadhali.

**Bi Lucy Njau:** Yangu ni ya kwamba kuna tofauti ya single mothers and unmarried ladies. Nilikuwa ninataka kusema maoni yangu, ya kwamba wawe hao hawajaolewa na hawana watoto wawe wanakuwa recognized - kwa sababu hawapewi heshima. Hata nyumbani kati ya wazazi na wale wamezaliwa pamoja na wao. Kwa hivyo ni maoni yangu ya kuwa kuwe na tofauti ya single mothers and unmarried ladies. Wawe wanaridhi hata ikiwa imeshasemwa juu ya ku inherit wawe wanaridhi kutoka Kwa wazazi wao - kwa sababu hata ikiwa hawana watoto, wamezalilwa kwa hiyo jamii. Kwa hivyo wana pahali katika hiyo jamii ya kuridhi chochote kutoka kwa wazazi wao.

Ile ingine, they have to own something in their family and they should be recognized in the community like the other women. Kuna wakati wale unmarried ladies, hawajaheshimiwa kwa sababu wanaonekana kama wao ni hivyo tu. Kwa hivyo ni maoni yangu kwamba hata wao wawe wanakuwa recognized hata kwa community ili kila mtu Mkenya hata kila mtu awe anaheshimika katika nchi yake. Ni hayo tu.

**Comm. Salim:** Asante Lucy. Tukiendelea mbele, Bwana Munene yuko? Michael Obonyo? karibu. Michael Obonyo? Sijui kama jina lako la kwanza ni? Jina la kwanza. Maana hapa siwezi kusoma lakini nafikiri ile ingine ya pili ni Munene. La kwanza ni Sila or something like that. Hayuko huyo? Hayuko. Obonyo next one. O.K. Bw. Obonyo.

**Bwana Michael Obonyo:** Hon. Commissioners, mine will be very brief ...

**Com. Salim** – Please give your name for record purposes. Everything, every word you say is being recorded so start with your name and then proceed.

**Bwana Michael Obonyo** - O.K. My name is Mike Obonyo and I will be very brief because most of the things that I would have liked to say have already been said by those who spoke before me.

So mine - the first issue that I would like to talk about is administration of justice and it is my view that we should have a way of engaging - professional lawyers to direct prosecutions in our District Courts so that they can also direct the investigations. Because I believe in this way we would have a better way of thoroughly investigating cases because more often we have heard magistrates accusing the police of shoddy investigations. So I believe in that way we might be able to come up with better stringent cases against the offenders. And then secondly I think communication within the law courts is very important and I've visited several courts and I find that in most cases communication is not the best - in the sense that the public is there to follow the cases. Even the accused person sometimes can not follow the proceedings. I believe that if there is way that public address systems can be installed in the Law Courts, it would be easier for the concerned parties to follow proceedings.

Thirdly, to move away from that, I would also like to talk about voter registration. I think this is exercise should be continuous and at the same time, I have also been disfranchised once because at one time when the elections were called I was in another place - not the place I registered. So, if there is a way that the electoral commission can make it possible for people to vote - not necessarily from the district of the center you registered, I think it could help in a way of increasing the participation within the electoral process.

And then second thing is to allow those who are outside the country to also register as voters outside there - maybe within our foreign missions. The electoral commission should send their staff and may be give a timetable whereby they can register. And at the same time also during elections itself they are supposed to facilitate these people to also vote from wherever they are so that we increase participation.

And then thirdly, I will also submit that in the new Constitutional dispensation, we delink Civic elections from Parliamentary and the Presidential elections. The reasons for saying this is that during electioneering process, we find that when most people go to vote for their Councilors, more often than not, we don't even know the people who are vying for those seats because they are overshadowed by the parliamentary and the Presidential candidates. I would also like to see a strengthened Local Authority whereby the Mayors and the Chairmen are elected directly by the people and their terms should be the same as that of Parliament. Another one is about the separation of powers. I believe that Parliament should determine its own calendar. The Executive should not have the powers to prorog the Parliament - so that we have a fixed timetable whereby we know that when it comes to a certain period of time the life of Parliament ends and within so many days we have elections. So, these elections -

the date for the elections should be more or less fixed so that we don't use it as a secret weapon as it has been. If it is not possible for the electoral commission to facilitate people to vote from wherever they are - regardless of where they registered, then I believe since the Presidential voting is a national vote, then if it not possible for one to elect his MP or Civic leader from anywhere then the Presidential one should be made possible. So that if I am in Garrissa at the time of elections and I registered, in Kiambu, then I should be able to vote for the President of my choice in that particular area. That is all I had. Thank you.

**Comm. Salim:** Thank you very much Bwana Obonyo. We now move to ...next is Councilor George Wainaina - and to be followed by John Njoroge. Councilor George Wainaina is here? Hayuko. Okay then Bwana John Njoroge - Children's Department, yuko? Since these two are not there, next we go on to Mwangi C.C.M. Paul Atito? Hayuko? Julius Kamau? Karibu bwana Julius. Akifuatwa na W.F. Mungai. Bw. Mungai yuko? Mr. Mungai? W.F. Mungai? Bi Pauline Warungu yuko? Okay, endelea karibu Bwana.

**Bwana Julius Kamau:** Asante sana Commissioner. Ya kwanza ningeonea juu ya land. I am Julius Kamau. Anybody owning more than 50 acres to be taxed - awe akilipa tax at the Bank's rate every year.

Ya pili. Mambo ya President. President awe elected by not less than 50% of the votes.

Ya tatu nimambo yamisitu. Misitu yote isigawanywe. Lakini watu waruhusiwe kulima huko na wapewe kijiji huko. Wazingatie miti, wawe wakikuza miti. Yaani miti iziwazuie kulima chakula yao kwa sababu imekuwa mikubwa.

Ya tatu. Mambo ya MP. Constituency iwe determined by the population of the constituency but not the area.

Hiyo ingine, kila kanisa wakati inapoandikishwa, iwe ikihakikishwa iko na Childrens' home. Iwe ni one of the conditions - For a church to be registered, it must have a Children's home.

Hiyo ingine, hizi pombe za kienyeji kama 'karobo, muratina na ile ingine yote iwe allowed kwa kila constituency, yaani ndiyo hii mapombe ingine iishe yaani watu wakunywe pombe yao.

Ile ingine, ni mashamba. Shamba isiwe ikigawanywa less than one acre. Ikifikia kiwango hiyo, iwe ni one acre, iwe ikipatiwa the elder son or daughter awe ndiye mwenyewe. Lakini hawa wengine watafute namna ingine. Ni hiyo tu.

**Comm. Salim:** Asante Bwana Paul. Akifuatwa na...Nimetaja jina ya Julius Kamau, hayuko, W.F. Mungai hayuko, Pauline Warungu, naona hayuko, Pauline amerudi, Pauline? Sorry. Wewe ni Julius Kamau, O.K. Anaye fuata ni Samuel Ndiba Kihara wa Kiambaa Constitutional Committee. Samuel Ndiba Kihara. Wewe ni member wa Kamati sio?

**Samuel N. Kiharo** - I am a member of the Committee and an Advocate of the High Court.

**Com. Salim** – Sawa

**Samuel N. Kiharo** – But I am talking on .....



**Com. Salim** – Sawa. Your turn has come.

**Samuel N. Kiharo** – Right. Mr Chairman, Commissioners, Chairman of Kiambaa Constituency Committee, His Worship the Mayor and Participants. What I want to say is that the Constitution, which we want to create, must be a Constitution, which adheres to the principles of separation of powers whereby there will checks and balances, independent institutions from the Executive's powers. There should be creation of the post of a Prime Minister and the post of a President, with the President as the Head of State. He will be ceremonial. He will be elected by 50% of all votes cast during an election plus 25% of 2/3 of the provinces. He shall be elected within five years and shall have the power to dissolve parliament and shall have the power to appoint a Deputy President. He appoints that Deputy President from amongst elected MP's. He shall hold two five-year terms. The Prime Minister must be among the elected MP's from the House of Representatives and the House of Senate. He shall be elected by two thirds of the House of Representatives and the House of Senate. He shall be the Head of Government having executive powers. He shall have a Deputy Prime Minister who will be appointed from among the elected MP's. He shall hold two five years terms. He shall appoint Cabinet Ministers from amongst the majority party or of several parties i.e a coalition parties. Now there will be constitutional offices created by this constitution, which will be National Commission Members. This is the one, which will be responsible for advising the President on appointment of holders of Constitutional offices. There will be the Attorney General, there will be The Chief Justice, the Office of Controller and Auditor-General., the Office of Chairman of Public Service Commission, the Office of the Commission of Police, the Office of the Chief of General Staff, there will be the office of the Chairman of the Electoral Commission and its Commissioners, the office of an Ombudsman. This one is the one who will be responsible for enforcement of Bill of Rights as enshrined in Chapter 5 of the current Constitution and the basic Rights, which will be basic needs. There will be the Judicial Service Commissioners who will also be appointed by the President. There will be Judges, there will be Permanent Secretaries, there will be Director of Public prosecutions who will be incharge of public prosecutions independent from the Office from the Attorney General which will be manned by qualified lawyers instead of the officers from the Commissioner of police. These posts will have to be vetted by two thirds of the House of Representatives and two thirds of the House of Senate.

Now there is the Legislature, which will create two houses. There will be the House of Representatives and then there will be the Senate, which will be the lower House. Now the Members of the House of Representatives will be elected. MP's who will be elected during the general elections and there will be one third of nominated Members of Parliament who will be nominated by the President. The Senate will consist members of civil society, conventional religious leaders, former Presidents, Prime Ministers, Former Mayors and other professionals. Both these Houses shall have powers to impeach the President and the Prime minister. Each one two thirds from both and the Senate, in the process shall constitute a court, which will be chaired by the Chief Justice. These two Houses may be dissolved. There will be the Speaker of the House of Representatives who will be the one who will be incharge during ninety days, during the time of the General elections. There will be the Judiciary which will consist of the Supreme Court, the Court of Appeal, High Court, Subordinate Courts and Tribunals. The Judicial Service



Commission is the one which will be in charge of the Judiciary and the Judicial Service Commission, what I have said will be appointed by the President and vetoed by the two Houses of the Parliament.

There will be Bill of Rights. This Bill of Rights is the one which is currently enshrined in Chapter 5 of the current Constitution. I will not repeat the same because they have already been mentioned in the current Constitution - It comes from Section 70 up to Section 86. Now this stipulates fundamental Rights of the citizen. These Rights are usually abused by the Executive. Now the office of the Ombudsman will be the one responsible for enforcement of those Rights whenever they are breached by any organ of the State. Now there will be Basic needs ...

**Comm. Salim:** Umekaribia kumaliza Bwana Kihara?

**Bwana Kihara:** I am just about to... it is a very short ... There will be basic needs, which will now be basic rights. That is Education for all, Housing for all, Health services for all, Water for all Social security. This is a welfare state, whereby even if somebody is unemployed he will definitely have to live and the basic right of information shall be a basic need. These are also rights which will be if they are breached, will be enforced by the office of Ombudsman. Now there will be the Local government. The Local Government will be independent from Central government but will be financially subsidized by the Central Government for purposes of national uniformity of provision of services. Now this Local government will consist of elected mayors and councilors. The functions of the Local Government will be to provide essential services. i.e Roads, Transport, Water, Electricity within their jurisdiction. Now there will be the Provincial Commissioners who shall be appointed by the President and the District Commissioners and the DO's and Chiefs will be elected from their areas.

In the question of land. Land shall be vested within the Local government. Individuals should not own more than forty acres of land and must be utilized otherwise the State can withdraw these rights of acquisition and compensate the individuals, and sell the land to cooperative societies. The Co-operative societies will be entitled to own land within the Republic, which shall be limited in terms of acreage.

**Comm. Salim:** Bwana Kihara, Are you about to finish?

**Bwana Kihara:** I am just about to finish, just a point. The amendment of the Constitution shall be by a national Referendum and it shall be also supported by two thirds of the House of Representatives and two thirds of the House of Senate. Thank you.

**Comm. Salim:** May be on the last point. It is not clear to us. Can you clarify? You said the amendment by the Constitution is by referendum of or, and .....

**Bwana Kihara:** The referendum and two thirds of the House of Representatives and House of Senate. Thank you.

**Comm. Salim:** Asante Sana, Bwana Kihara kwa maoni yako. Tukiendelea mbele naona jina la Alice Gachie wa Shangilia Daima. Yuko. Alice Gachie? Hayuko. James Gathairu, Esther Kiarie, Patrick Macharia. Nafikiria hawa wamekuja kusikiza tu, wako? Wameondoka. Na hao wengine pia ni Shangilia daima - Anthony Mwangi, Francis na Stephen Waweru. Wote ni wanachama wa Shangilia daima. Yuko yeyote hapa? Mwanachama wa Shangilia daima. You want to speak for them. Is your name here? Daudi Ng'ang'a. Okay. Thank you.

**Daudi Ng'ang'a:** My names are Daudi Ng'ang'a Waweru from a group known as Shangilia Daima affiliated to a CBO - The Torch. And here are my views - They will be oral.

First is on Education. Though much has been said on this line but my main emphasis is education to be free in the primary level, and should be made cheap and affordable in secondary and tertiary colleges. Let it be that; Bursary as it is being granted today, let it be to the unable but not as it is in most cases to the able. For the health, let there be free health care. Also in this line, we should emphasise that the government hospitals be well equipped. In this line we should also say that in these Government Hospitals let there be supervision in the civil service because, things are not in good order in the hospitals - maybe due to corruption or things like that. Things are not as we would wish them to be. So, let there be proper supervision in the hospitals, whereby services granted to Wananchi are looked upon and effectively delivered. Also in this line, let it be that, if one is operating a private hospital or clinic, that hospital or clinic should be in one name - not operating in different names and in various locations. On the same line, let it be that in the hospitals, in the private sector, let there be qualified personnel. Because in most cases we find that the doctor is at work because he is employed by the government and those left are not qualified so they can not deliver services as required.

In politics. let it be that if a Parliamentarian is to be elected, let him be 21 years and above. He should leave office when he is at most sixty-five years and should serve for only two terms of five years. Let his minimum qualifications be an 'O' level because in most cases we have found out that the graduates who we may say can lead us well, have not had the good guts to lead us. So let the minimum qualifications be 'O' level. Also we should request that the Parliamentarians - those elected let them have offices in different parts of his constituency so that we can take our views. We meet them in the meetings and they are not ready to hear our views. Let them establish offices, whereby we can meet them and take our views. In this line we should also request civic Education to be a bit diversified in the school curriculum. Although it is there, it is not diversified at all. So let Civic Education be diversified in the school curriculum. Also the Electoral Commission of Kenya should be independent but not be a dependant body on the government as it is the case today. Members of the Electoral Commission of Kenya should be elected by the Parliament with the majority votes but not the President alone. MP's or the Members of Parliament should also pay taxes like any other Kenyan because in most cases they do not pay taxes and we see them running the big businesses like sugar importation and the like. So, let them also pay taxes like we Kenyans - the general public.

Also we would request the government to set aside funds for national disasters. For instance, the El Nino rains. It was declared a national disaster but to date most of the roads and other structures have not yet been reconstructed - so let the Government

set aside funds for national disasters. Also, like Aids today, we are finding that most of the NGO's are educating the public but the government is not actively involved in the public education or public awareness in AIDS. Also as I am winding up, let our Constitution, the Constitution that we are amending today, let it be in a language that every Kenyan can understand and read - simple language. Let it also have room for amendment. Not that when it is to be amended, someone somewhere has to say yes or no. Let it have room for amendment. During the amendment periods, let it not be done by an individual or a group of people selected somewhere by somebody but let us, we the public be involved. Therefore, if amendments have to come, let it be people driven. Also let it be inclusive, let it cater for all people - the lame, the blind, the sober and everybody else. Also let it be self-defending. The present Constitution is not self-defending in terms of violation. Let it be self-defending. Again, let it explain itself - what it is and to who.

So my last point. Let the Public Administration give its service to citizens effectively.

The Police should not be only taken to a term of six months training. Let them also learn other courses. After six months, we don't expect a policeman to know anything to do with the law and if just a bit of it and then they are disposed to us. They violate these laws and thus we find ourselves in the worst corner badly hit. So let them have a term of about two to three years learning. Let them learn something like Law, Sociology and other courses that will make them relate well to the general public. And so those are my views. Thank you.

**Comm.Salim:** Thank you very much. He speaks for Shangilia daima. Tukiendelea mbele sasa. Tuna Bwana Kamau, na kisha Bwana Leonard Kimsa. Yuko Bw. Kamau of KPF? Your first name Bwana Kamau is Peter, Peter Kamau of KPF.

**Comm. Adagala:** There is a lot of proposal about two terms of five years. Well may be this is the lack of Civic Education probably. But I wanted a clarification. Is it two terms consecutively ambazo zinafuatana, au two terms kwa maisha for members of Parliament, for Presidents or Councilors. Perhaps ni kitu ambacho tunaweza kufikiria ni two terms ambazo zinafuatana au ni two terms kwa maisha?. Kwa sababu mtu anaweza kusimama two terms, five years, five years, alafu akae. Halafu atasimama tena. There are many. All people are saying this, lakini kuna hiyo ambayo sijui. Sasa pengine mtu atasema kwa submission ndiyo tuweze kuweka. It is a general thing kwa sababu, people are saying two terms halafu hawasemi kama vile zitakaa.

**Peter Kamau, KBF:** Majina yangu naitwa Peter Kamau kutoka Kiambu People's Forum. Nina memorandum hapa nataka kuchangia kidogo. Memorandum for defence of People presented by Kiambu People's Forum to Constitution of Kenya Review Commission sitting at Kiambu, St. James Cathedral, 17<sup>th</sup> of April, 2002. "On behalf of Kiambu People's Forum we the undersigned officials of the Forum would like to state that we have been mandated by the Central Committee of the Forum ..."

(Interjection – by Comm. Adagala, excuse, excuse me, excuse me, you are going to read? You have five minutes. O.K.

**Peter Kamau** – “On 15<sup>th</sup> April, to present this memorandum to reasons as stated herein to the Constitutional Review Commission”. Before we submit our statement of strong defence we hold to introduce Kiambu People’s Forum to this meeting.

Kiambu People’s Forum is a Civil Society Executive, explicitly formed to do the following: -

- ◆ To provide and support Civic Education in the District geared towards empowering the people in their quest for a comprehensive Constitutional Reform.
- ◆ To institute community based project within the area geared towards poverty alleviation.
- ◆ To promote public awareness of the dangers of HIV/AIDS pandemic and Drugs Abuse.
- ◆ To address itself to the ills afflicting the society such as corruption and land grabbing, police intimidation, harrassment etc.

To achieve the above objectives Kiambu People’s Forum in the last one year also has conducted workshops in all the Divisions of the District. The workshops have been attracting between 120 to 150 people in each sitting. We are therefore well positioned to submit this memorandum and have the unanimous mandate of all those who are not able to attend this meeting. Our biggest concern is that our beloved country has been abandoned in such a quagmire of immobilizing problems such that it will require not only a genuine comprehensive reform of our Constitution but also the will and the commitment to do so. Unfortunately, the Constitutional Review Commission of Kenya has not been structured and geared towards releasing a comprehensive constitution reform. The process has been so clearly gauged to hoodwink the people that this is a genuine people driven process whereas indeed it is not.

We wish to state the reasons for our strong comprehension as follows:-

**Civic Education:** – The people of Kiambaa and elsewhere today have been abused as to give their views while Civic Education has not been done at all in the Division.

The Constitution Reform Process must and should be rooted in the people. Civic Education is the only process of empowering the people and involving them effectively in the process. Why then does the Commission rush to people to give their views even before they are empowered? The fact of the matter is that the Constitutional Review Commission does not need the views of the people. It will write the Constitution anyway, and brand it the people’s contendat.

**The Constitutional Review Commission:** – The Law creating the Review Commission has some serious flaws and would like to highlight only a few areas. The Constitutional Review Act gives the Commission the power to determine the structure, the composition, and the appointment of the constituency.

**Constitutional Committee:** – The current position is that the Commission and the organs of the review are created by an Act

of Parliament and should therefore at all times respect the popular security of the people of Kenya. This is not the case as far as Ghai Commission is concerned. The people of Kenya do not matter anyway. The Ghai Commission has been given power in an act of determining the need for and context of minimum reform, the extension of parliament and presidency, the extension of its own life. Our submission is that the CKRC has been given roles not compatible to their job profile. These in deed are factors of political nature and have been inbuilt in the Act to safeguard and protect some political interest.

**The National Constitutional Review Conference:** – The composition of this Conference is heavily associated to one side and cannot produce a people created Constitution. All Districts had set three delegates but some Districts have single constituencies while others like Kiambu have five constituencies. This is an unfair presentation. The Councillors and MP's should not be members of the conference. A properly consulted assembly should be created for that one purpose to make the final draft of the constitution to be presented to Parliament.

**The National Referendum:** – The conduct of the National Referendum falls under armpit of the Electoral Commission of Kenya. Why should the CKRC usurp the work of a legally constituted body? This is wrong and manipulative and Parliament should regularise this position by passing an appropriate Law on the conduct of the Referendum.

**Recommendation:** – Our recommendation to the Ghai Commission is to stop hoodwinking Kenyans that the Commission is making a people-driven Constitution because we know for sure it is not. Let Civic Education take six months before you start collecting peoples reviews. Stop linking the new Constitution with the election for they should not. The 2002 General Elections should be conducted on the old Conctitution. We recommend that the Government to be formed after the General Election should be a Government of National Unity with Constitution Reform as its main Agenda. After a new Constitution is made, and put in place then General Election should follow on the new Constitution.

Minimum Reforms: – We reject any Minimum Reforms particularly which will:

- 1) Remove the limit tenure for the President,
- 2) Extend the life of Parliament and Presidency,
- 3) Create the post of the Prime Minister and Deputies,
- 4) Create Majimbos or Federal Government,
- 5) Give any type of amnesty. That is all.

**Comm. Adagala** – Thank you very much. Both of us here are from the Civic Education Committee of the Commission. He is the Chairman, I am a member, and we would just like to say because the issue has come up many times, that we made very good plans for Civic Education. We put out names in an inclusive way - Those who applied, we included everybody and put it out. We made a good Curriculum, we did all that we wanted to do, but the Government said, there is no money. So it is not

the CKRC hoodwinking Wananchi. If the cow has no more milk, it has no more milk. So it is very difficult for us to proceed. Treasury said there is no money for it. We are hoping that in subsequent budgets there will be some finances - We do not know. But our program was very pro-people - It was for the people. Even when we were budgeting we said this is the people's money and we put it there. Therefore, we are really not the ones - we still have our programme, and if we are given money tomorrow we will roll it out. We have no problem. Therefore, I don't know - I just want to explain that so that there be no thinking that it is ourselves who are refusing it.

Secondly - there will be, I think when we went around those of you who attended Civic Education, there will be a time, when there will be a report written after we collect these views as we are doing now and actually we ourselves, we can see where Civic Education is not enough, we can see even in the submissions and all that. But "haidhuru", tunaendelea. There will be a time again for Civic Education on the Report and Wananchi can look at it, Civic Education Providers can educate Wananchi before it goes to the National Constitutional Conference. So there will be that time. If we have a Referendum, we will not conduct the Referendum, we would nonetheless decide whether there should be a Referendum and it is a very expensive undertaking. So we need to know that there are other times when Wananchi will also speak. This time around we have not been able to do extensive Civic Education but we will continue. Civic Education continues. I don't know if my Chairman has anything to add.

**Comm. Prof. Ida Salim** – Thank you Comm. Adagala. I really don't have much to add except to emphasise the point that with the hearings it doesn't mean that Civic Education has come to an end. Because once we finish with the hearings, we go and collect the views, look through them, analyse them. We will be writing a report and a draft Constitution and then that draft Constitution will be circulated throughout the Country and Wananchi will be asked their view on that Draft Constitution - it will not be final. And during that particular period, Civic Education will come in to help Wananchi understand the issues contained in the new Constitution. So Civic Education is a continuous exercise and as Comm. Adagala has said, we hope that in due course and long before we get the final Constitution approved by Parliament, that we will have also some funds to help us carry out Civic Education for those subsequent stages of the review process. So the hearings don't mean that no Civic Education is required. Indeed it will be required even more as we proceed and write the draft Constitution. Nafikiri that is understandable now and hopefully you will understand our position in terms of financial constraints and also time constraint. As you have gathered we are under a great deal of pressure to finish. Some people say, finish by this date, others say finish by that other date, but we are meeting on the 22<sup>nd</sup> of this month when we shall decide how much time we will really require and give our opinions to the Parliamentary Select Committee to consider our request for more time.

Speaker – (inaudible)

**Comm. Ida Salim** – Yes. I would suggest that we do not speculate at the moment. That has not happened. It may never happen, so there is no point really speculating about it. The thing is we should remember that this is a Commission, it is

appointed. It is doing its job which will go through the necessary stages and hopefully we will have a Constitution in place at the time we promised it will be ready. Now this is really not a questions and answers session. It is a session to receive views only.

**Comm. Adagala** – O.k. the Donors could not give the Commission money for Civic Education. We tried the Government, we tried the Donors, we really have tried. But they have their own programme, which is on-going. They cannot give us money because they say this is a Kenyan Government affair - Parliamentary affair. They cannot give us money for the National Constitutional Conference because this is our core mandate. This is our mandate. So they can give us money for a seminar you know and some workshops for the Commissioners, but they can not give for this. Because it would actually come down to almost interfering in our affairs. So we have really, really tried.

(interjection by someone in the background)

**Comm. Adagala** - Just let's finish this, we cannot do a questions and answers because we will not be able to do our work now. What happens to the Draft Constitution after it goes to Parliament is Parliament's affair - We will have finished our work.

**Comm. Ida Salim** – Thank you Comm. Adagala. I think we will proceed now and we are suggesting that we have a short break of at least half an hour during which one can have a cup of tea and a snack and then we resume and we will break at 1.00 p.m. and resume at 1.30 p.m. Is that acceptable to everyone?

Answer (inaudible)

**Comm. Ida Salim** – Very good. So next we have a Mr. Leonard I think it is Kinga. Is it Kinga? Is he here? No? Then we go on to Mr. Mbugua Kahihu? Karibu.

**Mbugua Kahihu** – The Commission. Sorry, I do not have a written Memorandum. But I want to talk about only one section to be inclusive in the Constitution and this is in reference to inheritance after demise or succession after demise.

My name is Laurence Mbugua Kahihu. I chose to talk about this because it is the most common problem or taboo that is facing our people here in Kiambu. As somebody spoke to you thereafter, or here earlier - there was a lady who said about inheritance about succession. It takes a very long time after one dies for his beneficiaries to take over whatever is to be inherited. There follows Court cases - some have taken twenty years, twenty-five years since demise and the families are going to Court with the Advocates saying “we will pursue”. After the Advocates, then there are tribunals - who are even worse than the Advocates because they are of no known morals and how they are chosen is also questionable. So my recommendation is



that after demise, in this Constitution is to define who actually are the successors to “so and so” and how do you know or how do you go about that? Battles at home about, some are girls, some unmarried, some are men - it is my recommendation that everybody at home or stakeholders be legal beneficiaries of the dead person or the gone person. However, some people - unknown appears when one dies. Some claim to be wives, some claim to be born out of wedlock, so how do you determine this? Some elders sit along with somebody at home and say “after I die say this and that” and then there is a battle at home once again. These people are corrupted by some members of the family sometimes the old-man is aged, and he in his mind he is senile, he is told “sign this document, this and that and that, we shall say this at the end of the day”, how do we save this? I think and this is my personal view, that this can be done away with by advertising the dependants or the family of that person through the Press - I mean advertising, use local administration and let it be notified – notification - say thirty, ninety days all people who belong to this family, let them know that there shall be something going on and let it be done in an open Court. So that people appear, they do to their claim openly so we shall not have cheat and we shall not have, what do you call them? They are not real wives - I don’t want to call them concubines. (Laughter). Yes. I have no words. Let the Constitution define the Legal, I am not a Lawyer, I don’t know the language- the Legal - beneficiaries and not just by moral, just by saying so and so. Let it be legal, let it not be moral. As of now we know Kenyans are mostly polygamous and must accept that. Although I do not want to defile the legality of marriage by certificates, there are also others who are close and who are actually married, and the man is forced to marry because of one reason or the other and he gets a second wife even a third. Also those should lay claims to benefit and I don’t know how that can be inclusive in the Constitution - so you better help me to edit that because as of these days one marries and the wife keeps the Marriage Certificate as a “Secret weapon” she will use at the very last day and may be she divorced. Si ndiyo? But our Law today speculates that this is the document only acceptable. So I sympathise with those who are actually real beneficiaries and are thrown out just because of the document, but by practice they are beneficiaries and they are real - they are not. That is all I would like to say.

**Comm. Adagala** – Thank you very much. We want people to talk about real problems like this. You don’t have to know the Constitutional language for it. But if you talk like this, and you have explained it very well - what the problem is, then it is quite good. I think in the same situation there are actually - I don’t know how you deal with a situation of many husbands? Because you are talking about many wives. But there are many women now who have many husbands, you know. Like you can have children from four, five different husbands, I don’t know if inheritance comes in? Even if it is divorce and then marriage anyway, I mean let us leave that alone. Laughter.

**Comm. Ida Salim** – Thank you Commissioner. I think we have time for at least one if not two views, and I think the next person is Peter K. Njuguna. Is he still with us? Ametoka? Ohh, manake hapa ameandika kuwa ni oral presentation. Sawa. Asante. You are most welcome. Next we have Stephen Warui Gitau? Stephen Warui Gitau? Labda yeye pia amefika kusikiza tu kufaidika. Julius Mwangi ? Yuko? Hayuko? Na kisha tunaye Patrick Muniu? Patrick Muniu? Yuko eeh? Haya. Bwana Patrick Muniu anatoa maoni kimdomo.



**Patrick Muniu** – Sasa mimi nitaongea kwa kiswahili kidogo.

**Comm. Ida Salim** – Karibu.

**Patrick Muniu** – Kuna hii maneno ya President.

Comm. Ida Salim – Anza kwa majina lako tafadhali.

**Patrick Muniu** – Yeah. Kuna hii maneno ya President. I know this is the bone of contention. Tungetaka President awe elected na 50%. Hii maneno ya 25% manaake Provinces zingine ziko na watu wachache, zingine ziko na watu wengi, na ukiangalia upana ya hiyo Constituency, ingine ni kubwa na ingine ni ndogo. Kwa hivyo kwanza hatujui criteria ile ambayo inafanyika iwe hawa 25% na hiyo aileweki. Kwa hivyo tunajua voters wakiwa 50% hawa wanatosha. Kwa Mikondo miwili ya 5 years. Ma MP's ambao tuko nao ndiyo ningependekeza term yao iwe limited to 3 terms za 5 years each. Ikitosha hiyo anapatiwa Red Card, yeye anaondoka - so that hii miaka tano ya kwanza ana concentrate na Constituency, hii miaka mingine mitano ambayo atarudishwa ata concentrate na kueleza propaganda yake kwa the whole country. Huu Mkondo wa tatu kama ata survive, sasa kama anataka presidency, atatuambia - Kutoka hapo yeye anaenda nyumbani kabisa na asirudi kwa Parliament - asiwe elected.

Kuna hii, maneno ya Parties. Ukiangalia tuko na close to 46, sijui 47 Political Parties. Ukiangalia kwa Constitution yao, manifestos zao na policies zao they are close, to, ziko sawa sawa. Kwa hivyo ningependekeza hivi. Hizi Parties ziwe limited to three. Kuna ile ambayo itakua inaongoza wakati huo halafu tuwe na opposition moja, halafu tuwe na hii ya "maradicals" - Unajua kuna wale ambao wanapinga tu kwa kupinga - Nao wawe na Party yao. Halafu they should be funded by the public coffers kwa sababu tunajua kuna Parties zingine ambazo hatujui zina toa pesa wapi? Na zingine ziko na policies mzuri, manifestos mzuri lakini haziwezi enda. Kwa sababu hazina funds zakueneza publicity na whatever. Kwa hivyo hiyo nayo iangaliwe sana.

Kuna hii maneno ya Private Hospitals, Private Schools - Private whatever. Hii ni mzuri sana kwa sababu ya effectiveness. Lakini, ikiwa wewe ndiye mkubwa kwa ile hospitali ya Serikali, sioni haja yako ya kwenda kufungua hospitali yako pale kando.

Kwa sababu hawa tu ndiyo wanaiba madawa kwa hospitali za serikali, wanapereka kwa clinics zao. Wewe uki ingia kule unambiwa "hakuna madawa lakini kuna mahali nitakutuma na utapata hiyo dawa". Kwa hivyo kama unataka kwenda kuazisha any private practice, usiwe bado una serve kwa serikali. Usiwe wewe pale ni mwalimu wa shule ya serikali, halafu pale unafungua these makeshift schools. Unataka ku...Hiyo ni exploitation. Hiyo nayo iangaliwe sana.

Ile number ingine nataka, ni hii nomination ya MP's. Ukiangalia kwa Constitution, ku nominate MP's hizo slots zinawachiwa special groups - special interest groups. Lakini ukiangalia wale MP's ambayo wanakua nominated, wana - serve interest za

individuals. Kwa hivyo ningependekeza kusiwe na hiyo nomination, hiyo iwe scrapped kabisa. Manaake badala ya kwenda kuteuwa wale viwete ndiyo wa wakilishwe kwa Parliament, kuakilisha AIDS victims wawe represented in the Parliament, unachukua Ma cronies zako. Mtu anakuja hapa Kiambu, anasimama anakua rejected na wananchi, halafu in three weeks time, unasikia saa hii yeye ni Minister na kuna yule mlichagua akakataliwa, sasa hii biashara hii haiingi mzuri. Kwa hivyo hii ku nominate MP's, hiyo kazi iwachanwe nawo.

Halafu kuna hii issue of Land. Kenya hii ukiguza maneno ya Land, hiyo inakua shida sana. Lakini, I ask myself - this is a question of choice. Naweza kuamua niweke pesa yangu kwa shares, yule mwingine amue aweke pesa yake kwa land, sasa tukisema tugawanye hii mashamba ya watu, tupatie wale hawana, naye yule ambaye ali invest pesa yake kwa shares, tutagawanya zile shares kwa watu? I know why I don't have land, ni kwa sababu I don't have money. So, serikali iko na mashamba. Tunasikia mtu akitaka ku-defect, anapatiwa three thousand acres, hiyo inatosha kupatiwa watu kama mia tano ama mia sita. Kwa hivo serikali ipatie wale hawana mashamba, mashamba na isiseme hakuna land, land is there. Hiyo iwekwe.

Halafu kuna hii maneno ya kuweka kiwango ya elimu - Ukitaka ku hold public office. Yale maneno ambayo yameangusha nchi hii kama corruption, and those other tribalism na hii zingine zote, hazianguki kwa sababu hatuna ma Professors. Hazianguki kwa sababu hatuna watu wako na elimu ya juu. Lakini kuna ile maneno ya uizi, tamaa, unyanganyi na hiyo yote. Kwa hivyo, if you are educated enough, if you can drive a point home, kama wewe uko na qualities za kuongoza watu, tusiweke kiwango ati ya kusema elimu hii ndiyo inafaa, ile ingine - ati tuseme President lazima awe na Degree, Kenya hii tunajua wale ambayo wanasoma. Ni wale ambayo ma baba zao ama wa Mama wao, ama wale ambayo wako na hiyo maneno ndiyo wanaweza kusoma. Kuna wengine ambayo ni werevu lakini hawasomi kwa sababu hawana pesa hawana kitu. Hiyo inaeleka sana. Kwa hivyo tuta poteza talent nyingi sana tukisema ati tuweke kiwango ya elimu ama kiwango ya nini. Kama unaweza, unaingia tu kwa uwanja. Wananchi watajua wewe unaweza ao uwezi.

Ile ingine ni hii maneno ya Kanisa. Unajua hata makanisa ndiyo kitu kimoja watu wamewachiwa na serikali kugongwa nayo Kanisa ndiyo imekuja kugonga msumali ya mwisho. Kwa sababu unakuta haya makanisa ni mengi sana. Ukiangalia yule Pastor wa hii Kanisa, uangalia ile nyumba zuri ndiyo wanaishi. Zile magari mazuri ndiyo wanaendesha, ile lifestyle zuri ndiyo wanaishi. Mimi ningependekeza hivi, hii maneno ya makanisa, makanisa, at least mtu aki apply kwa Kanisa, one of the requirements, condition ya kwanza, kama hiyo Kanisa haiwezi kupatiana free medical, hiyo isiajiriwe, kama hiyo Kanisa haiwezi kupatiana free education, hiyo isiajiriwe. Kama hiyo Kanisa haiwezi ku-take one of the activities wawe waki rehabilitate street children, hiyo Kanisa isiajiriwe. These "Gospel merchants", wamenyanganya watu wengi sana pesa ndiyo wana ..., I mean hawana tofauti na hii watu wengine. Wakisema ati ni madini na whatever.

Halafu lazima kuwe na taxing system - Wawe wana taxiwa. Lazima wawe wanalipa taxes. Unakuta muhubiri ana earn close to one million shillings. Na ukiangalia wale ambayo wana patie yeye mshara hawana viatu, hawana chakula. Kwa hivyo huyu muhubiri lazima kuwe na at least special kind of taxation, awe analipa kodi kwa serikali. Sioni kama kuna mengine, lakini hayo

nafikiri ita andikwa. (Clapping)

**Comm. Ida Salim** – Asante Bwana Patrick Muniu. Comm. Adagala?

**Comm. Adagala** – Patrick? Ngoja kidogo. Inge kuwa vizuri, unge weka haya mambo ya nominated, kwa sababu umetambua who should be nominated. No, no, wait, hold on. I know uko moto moto. You have said it is “personal cronies” and “personal interests”, but you ave described very well that they should be dissabled and victims of this and that, so it would be good if you put it in a positive way - kwa sababu sasa una tupa ule mtoto na maji. Sasa mwaga inje hayo maji machafu lakini find a way of putting who should be nominated in a positive way ili tuandike - kwa sababu ulisema hawafanyi hii, hawafanyi hii na hiyo ndio point. Can you turn it around?

**Patrick Muniu**– I believe Contstitution ile tuko nayo .....

**Comm. Adagala** – No, No, I don’t want you to go into Constitution ile tuko nayo. I want you to say who should be nominated?

**Patrick Minui** – Sawa, Sawa. Wale ambayo inafaa wawe nominated ni wawe wakiwakilisha special interest groups. Tuwe na mtu mmoja ambaye ako na Ukimwi huko, tuwe na mtu mmoja ambaye hana macho huko, tuwe mtu mwingine - I mean hizo special interest groups ambazo mutu hawezi kusimama kwa kiwanja kuwe na mtu ambaye anaweza kurepresent hawa watu. (Clapping)

**Comm. Ida Salim** – Thank you very much Patrick Muniu for your views. It is now approaching 1.00 o’clock and I think we agreed we have a break and then come back. Please do come back. We want to hear your views. We have a list of people who have already put down their names down and we hope all those will come back and some more. We have the whole afternoon until 6.00 o’clock to collect views. Sasa nawatakia mapumziko mema ya nusu saa hivi kisha turudi tuendele. Asanteni.

**Comm. Adagala** – Ngojeni kidogo, Ngojeni. Ngojeni kidogo. Ngojeni. George, tafadhali, please pay attention to the larger task. Huyu ndiye Programme Officer wetu, George Naholi na yeye ndiye ana materials, sasa ataeleza vile itakua. Lakini ninataka kusema tumeshukuru sana wale ambayo wame kuja kisikiliza kwa sababu circulation of views is also Civic Education na we want to appreciate wale ambayo wamekuja na kuketi tu kusikiliza. Kitu kingine, sijui three C’s hata sioni the women on the three C’s, na kuna upungufu mbaya sana ya wanawake hapa. Sijui kama walifanya mobilization, hawa wanawake wa Kiambaa, hawana nafasi au nini? Niwachache. Nasema niwachache. Inafaa wawe nusu, nusu. Tutampa nafasi lakini ningependa kujua kwanini kuna upungufu huo. Thank you very much for those who come to listen. Thank you for the ones who have views. Please come back. We just want to referesh ourselves, get some fresh air. Asante.

**Mr. Naholi** – Asante sana Commissioners

**Comm. Adagala** – Please sit down. You missed something.

**Naholi** – Nina tangazo. Vile Commissioner amesema, nina Vitabu hapa, “Issues and Questions”, kwa Kiswahili na kwa kingereza. Nataka tufanye hivi ili tusije tukaendelea sana bila kuzipata. Nataka wa Commissioners wakiondoka, sisi tukae hapa. Na tutapeana vile vya Kiswahili na vile vya Kingereza. Tutasaidiana hapa na Hellen - Hellen amka kidogo. Tusaaidiana na Hellen na kuna Co-ordinator kupeana vile vile mnakaa. Yule anataka Kiswahili, atapata hicho, na yule wa Kingereza atapata hicho. Tunasikizana? Basi tukae tu. Vile Commissioners wanatoka. Asante sana.

**Comm. Adagala** – Just five minutes. Please let us create a new Kenya. Tusifanye chaos. Kila mtu atapata kitabu. Ni vingi. Sasa, just sit quietly so that we can create a better Kenya, a better Civil Society.

**Comm. Adagala** – Hello. Please come in so that we can start. Kuna watu nje, Karibuni tafadhali

**Naholi** – Tulio nje tuingie.

**Comm. Adagala** – O.K. Kuna wakina mama wako hapa, tungependa wafanye presentation napia inafaa tuwe na walemavu. Kamati, walemavu wame kuja? The Organization of People with disabilities. Disabled people of Kenya? Kamati iko wapi? O.K. wakina mama wako wapi? O.K. Sijui tutaambiajee Tume? Tutasema Kiambaa, hakuna wanawake. Ni wanaume tu wanaishi. Tuseme je? Mama waje watuambie. Mary nani? Mary ako wapi? Mary Kamiri ako wapi? Haya basi.

**Mary Kamiri** – Good Afternoon. I am Mary Kamiri from the Civic Education Group, which is known as ESEP, for Acumenical Civic Education Programme, a combination of the Justice and Peace in the Catholic Church and the NCCCK umbrella churches.

The first thing that we would like our Constitution to have is the pre-amble. It has been talked all over. Since we came here this morning that has been the first song. So we would also like to be recognized and when we have the pre-amble we know the people are recognized.

When we come to governance, we would like to ask, now that we are making a new Constitution, or we would like to suggest, now that we are making a new Constitution, the old one which we are amending, most of our Kenya Citizens do not know what it contains. So we would like to ask, after the new one has been formed, let it be let out so that people can have it, they can go through it, so that they know what it contains and therefore even in future, when they hear that there is an amendment they will always know what was there and what is being added or substracted. So we would like Civic Education to continue even after

the elections or after the making of the Constitution.

**The Powers:** – We would like the powers to be separated because it seems today that the three Arms of Government work hand in hand and we know for sure that they should be watching over one another to see whether one body is doing what is supposed to be done and especially the Legislatures. We feel that all they have is making and amending of Laws but there is another sub-section. They are supposed to be the people's watchdogs and we don't see how they watch over things for us. They only get informed the way we get informed. So we would like the Constitution to really tell them or to specify their duties so that they know what they are supposed to do for the people.

When it comes to the **Freedom of Worship**. We mostly hear about the very many denominations and yet we are supposed to be doing one and the same thing. The Government at times, some people within the Government, talk and say that the Pastors should keep to the Pulpit and forget about politics. Now we wonder how the two can be separated because it is Peter and Mary who are there as the MP's and they are the same Peter and Mary who are in the Churches as the faithful, so how can you separate the two areas? And we feel that the Church should be given the chance to do its work because it is in the Church that values and virtues are really taken into consideration. If people loved one another in the Churches or if they were taught by their Religious groups to love one another, to be just, I think it would be very easy for the Government to know or to run the Country or the citizenship. So, we feel that the Church should be given the chance, it should not be said that it should be serving the spiritual needs of the people and not the materials. Somebody stood here and said that even when we are registering them, those ones who cannot have free medical, free education should not be registered. This shows you how the physical and the spiritual side of things have to run concurrently.

**Elections:-** We would like, we as ESEP, we would like to have what we used to have in the earlier Parliament whereby we had people who stood on their own without being backed by political parties. We called them Independent Candidates. We would like that system to come into being because there are some people who are independent. They have the brains and they can work it out if they are given the chance.

**Social Life/Inheritance:** We feel as somebody else here has said that the property left to a family after the father or the husband has gone should really be given to all, not to some - ati because they are male, they are the ones to inherit from their father and then the girls are left out. All are our children and we would like them to inherit the same. At the same time, would the Constitution take into consideration, this wife or this woman, who has been left behind. Why is it that when my husband was alive, he was there and he had the mandate over all our property but when he becomes deceased and I am left I cannot be taken as an individual to be responsible? I must be accompanied by one of the sons or one of the children. Is it that I am so minor in thinking that I cannot work the way he was working? We would like the Constitution to have that one – God made both of them, Man and Woman so why am I taken as inferior? Let me be as superior as he is.

**Citizenship:** - I cannot remember what section this is in the Constitution, which is allowing citizenry to our sons who are married to non-Kenyans. If my son for example is married to a Tanzanian when that Tanzanian girl comes to Kenya and is married to my son she needs only to apply for this citizenship and she is given, but when my daughter who is married to that Tanzanian and they are staying in Kenya they have property in Kenya the man is even working for Kenya so economically they are doing everything for Kenya, that man cannot be given citizenship in Kenya. Why is there that difference that the girl who is coming is being allowed but the man who is coming and he is working, he is giving all his life and he has promised to stay here because he has property he is not given the citizenship? We would like that also the Constitution to consider that one. Then all children or all of us citizens belong to our family and to the government. But it seems that is only when we are working. That is the time the government knows that we are citizen, because we have seen with the very many cases of Aids parents that have really become deceased. The children who are left behind have not turned to be government children, they are left just like that, they are told go to your grandmother, go to your aunt or your uncle and that grandmother or that uncle has his own family. How does the government expect those children to be taken care of? So we would like the Constitution to do something about these orphans. Let them - once the parents are gone, let the children become government children even if it would be only until they are 18 years, so that at least they can have abit of education.

**Corruption:** - We feel that it is not that the government is corrupt, or anybody is corrupt but the way we are doing these things - the way we begin them. Llook at the way we hold our elections. Why can't we hold our elections, why can't we say what we can be able to do and what we can not do during our campaigns rather than giving these gifts, these lots of money? It is this corrupt method of election that is making everything else to be corrupt because this lady who is out there in the village - and you are complaining that many are not here today, yes because, they tell us "we cannot go the two of us - the husband goes I am left behind - and when I want to become a councillor I don't have all that money. The money belongs to him, where will I get money for compaign? At the same time if I were allowed to campaign without money even you would hear a lot of mamas even going to parliament. It is only because we do not have that money for the campaign that you find that they are less members of government who are ladies. So is it possible that the Constitution can say something about this elections whithout gifts?

**Justice:** - Due to poverty some of us can not afford the services of lawyers when we have problems, look at our touts out there, when the police come and bundle all of them into the police cell and the next morning they are to be taken to the law courts. They can not afford a lawyer, so what goes on? The cases are taken any - howly but that person who can afford the services of a lawyer, at least can put up his case by quoting what the law says about whatever he is being accused of. Sometime back we used to hear that there were free governement lawyers, where are they these days? We do not hear of them. So we are asking the Constitution to have that provision for lawyers for those who cannot afford to to pay them.

Then we would like the Constitution to allow peaceful demonstrations - whether they belong to the workers or even political reasons. We would like them to be allowed because it is only in peaceful demonstration that we can actually all of us - when it comes to these riots, it is only the men and the youth who take part, but if they are peaceful demonstration, even we women, the

girls, the children we shall join in and shall give our grievances, so we would like them to be allowed.

Then the position like that one of the Chief Justice, the Attorney General, the Heads of the Members of Boards, the Nominated Members - we would like those positions either to have a body that is constituted so as to pass them, you give the names even if it is the president or whoever gives the names, but those names are taken to that body whether it is in the parliament or a separate body where by they will go through and see whether those people are fit for those position so that we do not have people whom you are calling cronies or anything like that and thank you very much. (Clapping)

**Comm. Ida Salim** – Thank you very much Mary Kamiri for your views. We now call upon James Gathairu.

**Comm. Ida Salim** – Kindly mention your names for records.

**James Gathairu** – Oh Year. Thank you very much. My names are James Githairu Njoroge, I work in the Diocese of Mounth Kenya South, as the Educational Secretary but I am giving my personal views not for the Church today.

**Comm. Ida Salim** – Is that a memorandum or just notes.

**James Gathairu Njoroge** – Yes it is a memorandum.

**Comm. Ida Salim** – All right, you have five minutes please.

**James Gathairu Njoroge** - Yeah, please. I just want to highlight a few things. I would like first of all to address my Memorandum on the issue of reducing the Executive powers. Now we know that a significant trend of post-independent Constitution amendment has been to concentrate the powers in the Executive arm at the expense of other Arms. The powers of the Executive particularly the President are so many, so wide, merely exercising them would turn even a Saint into a Dictator. A quotation of Mwalimu Julius Nyerere former President of Tanzania said “ A limitation of these powers is necessary”. I don’t want to be elaborating because we all know that the president has the power of appointing and dismissing Ministers, Assistant-Ministers, Attorney-General, Permanent Secretaries, Ambassadors, High-Commissioners, Senior Police and Military Officers. All these appointments are surely sometimes being mis-used and this is why we say let there be a body, which can be doing all these.

The other area I want to touch is concerning the proposal that the Constitution be amended to allow the formation of Coalition Government. Now here I want to propose that Coalition Government is just a Government upheld by different Political parties.

In Coalition Government members of parties other than the one which wins the elections are invited to the Government. Coalition Government ensures that all the citizens are represented in the Executive. So I am proposing that in the new



Constitution we have Coalition Government.

**Human Rights protection:** – This is another area, which needs to be addressed in our new Constitution. The protection of human rights should be extended and promoted; for example, we need to have what we call the “academic freedom” which is not catered for in our old Constitution. The right to a Lawyer at the public expense and access to medical care while in prison should be included in the Bills of Right. We are losing very many people especially in prisons nowadays. So these people should be given their rights properly. Also the right to work, the right to organize into Labour Trade Union and to strike and the right to health should be included.

Now we need also in our new Constitution to establish an independent Human Rights Commission. This one if possible let it be there. The Commission would investigate Human Rights Violation and carry out programs to educate citizens on Human Rights. The Commissioners must be independent from pressure by the Government of the day.

**Repeal of oppressive Law:** - I don't know how far we have gone so far with preservation of public Security Act and the Chief's Authority Act, the Society Act. A new constitution order demand the repeal of such Laws.

**A stop press:** – Amend the Society Act and provide the Registrar General approves an application to register a Society within 28 days, or if the application is not approved, the decision be communicated to the applicant within the same period. Political parties are registered under the Societies Act. Sometimes you find that people apply for this registration and the Registrar has a mandate even to delay that registration for a very long time. So let there be specific time for all this.

**Electoral Reforms:** – The present Law relating to the conduct of the elections are imperfect and unfair. Proposal to remove these electoral laws reform include: Creation of Impartial and independent Electoral Commission, the Present Electoral Commission is seen by some as partisan since its members are appointed by President who as Party leader is interested in the outcome of the Election. We are proposing that the Members of the Commission be appointed through a process involving all Parties taking part in election.

**Re-drawing the Constituency Boundaries:-** This is an area that needs to be looked into if we want to have equal representation. Presently some densely populated areas are represented in Parliament by one person just like another area with a third of the population, e.g. if you take the Turkana area. One constituency might have about eight thousand people while here at Mathare in Nairobi we have more than 60,000 people. So that area should be considered.

Now the other one is Registration of all voters and computerisation of the Electoral Register. This is an area, which has made people to complain a lot. All Kenyans above 18 years should be promptly issued with National Identity cards and registered as voters. The Electoral Register should be computerised. A computerised Register is easy to update and if safeguarded difficult to manipulate - Like now we had double registration in some constituencies just the other day and we hear that they are going to



be taken to a Court of Law. All Political Parties should have equal and fair access to public mass media to promote their electoral campaigns.

So the other area I want to address is about the Referendum. Referendum is a process in which citizens are asked to vote for or against an important issue. I know in our present Constitution we don't have that. Because power emanates from the people, democracy demands that important national decisions including significant constitutional amendment be subject to approval by citizens through referendum. The present Constitution does not provide for Referendum such a clause should be inserted in a new constitution.

**Provincial Administration:-** I think the Provincial Administration came here during the colonial time. It was an arm of colonising our people and I don't know why this has been retained. I propose the Provincial Administration which is seen as an oppressive and redundant arm of the Executive and establish strong Local government as the basis for people self-government. Now I had addressed the issue of reducing the powers of the Executive. I don't need to dwell on that. I would just like to elaborate on those points in my memorandum.

It should be possible to impeach the President. Impeachment is a process in which the President is tried by Parliament and if found guilty forced out of office. A violation of Law on the Constitution or corruption in office would be ground for impeachment. I know very many of those in power would not like this one but I believe in our new constitution let it be there. O.K. Thank you. (Clapping).

**Comm. Ida Salim** – Thank you very much. Next we go on to Murimi Muhindi. Is he here?

Murimi Muhindi? Is that you? O.K.

**Murimi Muhindi** – Good Afternoon?

**Comm. Ida Salim.** Good Afternoon.

**Murimi Muhindi** – I will be concerned mostly with what is not in the current Constitution but site some of the issues that are already in the current constitution. Section three of the present Constitution provides that

(Interjection inaudible)

**Murimi Stephen Muhindi** – Section three of the present Constitution provides that. “This is the **Constitution** of the Republic of Kenya and shall have the force of Law throughout Kenya and subject to Section 47 of the Constitution, if another Law is inconsistent with this Constitution, the Constitution shall prevail and the other Law shall to the extent of inconsistency be void”. It

is felt that the current Constitution we are going to write, will be people driven and people based. It should read like this. That, “This is the Constitution of the Republic of Kenya by the people of Kenya and shall have the force of Law throughout the Country and subject to Section 47 of the Constitution, if any other Law is inconsistent with this Constitution, the Constitution shall prevail and the other Law shall - to the extent of the inconsistency be void, all persons shall be equal under and subject to this Constitution”.

Proposal Two as regards the current Constitution. In Chapter Five, which deals with protection of fundamental rights and freedom of the individuals, it is provided that every person whatever his Race or Tribe, Political affiliation or Colour, Creed or Sex has the right to each of the following: Life, Liberty, Security of the person and protection of the Law etc., further, that no person shall be deprived of his life intentionally save and in execution of the sentence of a Court in respect of a crime under the laws of Kenya under which he has been convicted. Here there is trouble. Because it says that “these rights are not contravened if a person dies as a result of the use of force to such an extent as are reasonably justifiable in the following circumstances”.

1. In order to affect a lawful arrest or to prevent the escape of a person Lawfully detained and;
2. In order to prevent the commission by that person of a Criminal offence.

Now, it is, and I feel, and I propose that this Section should be modified. We feel that the Constitution gives the right to life through one hand and then takes away immediately with the other hand because it gives the arresting officer, or the crime preventer the power to declare the existence of that person unconstitutional and also it gives the power to the authority to terminate that unconstitutional right there and then - Nevermind the phrase that reasonable force has been used. This interpretation is found naïve. But the practical implications, for we lay men know the constitution through structural aspects, are truly painful. For this is what allows Law enforcement officers to shoot dead unarmed schoolgirls! It is further proposed that any Law, which provides for killing, or for the imprisonment of a person without trial must be examined with care and more importantly the reasons behind such a Law. I propose that all the exceptions to the enjoyment of fundamental rights and freedom should be looked at afresh so as to block and completely outlaw extrajudicial killings, torture, detention and intimidation.

Proposals as regards the Presidency or Office the President. Our current Constitution provides that a person is not qualified to be nominated for election as President unless he is

- a) A citizen of Kenya - there is no quarall there
- b) Has attained the age of 35 years - Now there is a lot of quarall here because this clause does not state the upper limit of the age of the person holding this office. It is felt that in order to avoid a situation whereby the Presideent grows senile while still in office, the clause should clearly state the upper age limit - for instance, and I propose, we have an upper age limit of 74 years. The new Constitution should also state clearly how parliament or the electorate can remove or impeach the President if and when he fails to adhere to the Constitution or violates his oath of office. I feel that Section 12, which

provides for the procedure of removal of the President on health grounds, should be re-written to reflect these other possible aspects. That is the aspect of removing the President on basis of failure to comply with the Constitution and the oath of office. The current document gave the President wide range of powers. It is proposed that these powers should be accompanied by constitutionally enforced duties for the President. For instance, the new Constitution, and I propose should provide for one occasion annually in Parliament where the President - not any other person is by Law required to answer questions from the Official Leader of the Opposition. It used to be there immediately after independence but I believe it was scrapped. This should not be a Herculean task considering the gusto with which the President talks at Press conferences.

Another issue is with regard to the salary of the President, Vice-President, MP's and the Parliamentary staff. It is true and I quote the late Indra Gandhi who said that "the resources of this world are enough for all of us but they are not enough for the greed of a few of us".

**Comm. Ida Salim** – Interjection – Are you about to finish? Are you nearly finished? Because with the memorandum you are given only five minutes. Summarise.

**Murimi Stephen Muhindi** – I just highlight one issue. I feel that the salaries of the President, the VP and the MP's should be determined by the Public Service Commission made up of representatives from all professions.

To wind up let me tackle the proposals as regards the Ministry of Local Government. The Local Government Amendment Act No.11 of 1984 gives the Public Service Commission the task of appointing a Town Clerk, a Town Treasurer, Engineer and in consultation with the Ministry of Health it also appoints the Medical Officer of Health and Public Health Officers. This now, is the surest way for disaster - for the officers who are appointed are only answerable to the appointing authority while their salaries are from the ratepayers' money. In Local Authority language these appointed officers are the real "ghost workers". I propose that the power to hire and fire these officers should be vested in Local Authority Committee composed of Elected Councillors. Further to that, Section 86(a) of the Local Government Act makes it an offence for a member of Local Government Authority to give orders with regard to the functions of that Authority or to give instructions to any officer or employee of that Authority. Now, looking closely at this Act, one cannot help but pose the question, why at all should we then elect Councillors? This Section i.e. Section 86(a) should be done away with or if not - well, we had better do away with Local Authority Election. Further the Local Government Act Cap. 265 gives the Minister for Local Government the power to disband a Local Authority and replace it with a Commission which he chooses. It is proposed that the new people's Constitution..

**Comm. Ida Salim** – (interjection) please you have to wind up. We have a lot of speakers coming to give views. You have gone well beyond your five minutes. You have another half a minute.

**Muhindi** – I propose that these powers should be voted in a Parliamentary Committee, which should check any excess of the Local Authority and recommend appropriate action. Thank you. (Clapping).

**Comm. Ida Salim** – Thank you very much Bwana Muhindi for your views. We now go to Patrick Itibi. If I can read his handwriting it looks like Itibi? John Wanyoike? John Wanyoike, not here? Jack Nganga, is he here? Bwana M.A. Sharagu? Please come forward.

**Bwana M.A. Sharagu** - Madam Chairman, na Bwana Professor, - Mimi nakujua hivyo. Nina neno moja na badala ya wananchi walio hapa ningependa kuwapa Commissioner neno moja.

Na ya kwanza niya kuwa Commissioner alisema ya kwamba baada ya siku tatu hivi watakuna hapo Nairobi Ma commissioner wote. Sisi hapa kwaniaba ya wananchi walioko hapa ninge watuma wawile wambiye ma commissioners wenzenu ya kwamba sisi hakuna kitu tunataka isipokuwa Katiba mpya by 31<sup>st</sup> December, 2002. Si tunatake Kataba mpya?

Na ya pili ni yakwamba tunge penda election iwe katika Katiba mpaya.

Na ya tatu ni ya kwamba Commissioners wafanye kazi ile wananchi wamewapa lakini wasifanye kazi ya chama kimoja ambacho kinawasukuma.

Haya Review. Section 5(f) ambayo inaongea juu ya uchaguzi ya President ina sema President achaguliwe na percentage 25% kwa mikoa mitano. Sisi sio mikoa mitano!. Kenya tuko mikoa minane. Kwanini inasemekana tano isisemekane yote? Akichaguliwa na watu 25% kwa kila mukoa si wamebaki 75? Kwa hivyo atachuguliwa na minority. Kwa hivyo hiyo tunakata tuna sema ya kwamba President wa nchi hii ya Kenya achuguliwe na watu hamsini ama zaidi kwa nchi yote ya Kenya Hiyo ni moja.

Ya pili – Hapo kwa Katiba ya leo - present Constitution, haisemi President awe anajua kusoma ama kuandika. Tunasema Katiba mpya iwekwe sehemu ambayo inasema awe mtu ambaye amekwenda skuli. An agreed minimum standard of education - Lakini sio mtu kuchukuliwa mashambani wale watu walichukuliwa mashambani ndiyo wana haribu nchi. They can't manage. They have never been processed. Kwa hivyo tunasema Katiba ijayo iweke masomo ya mtu ambaye anaweza kuwa President.

Ingingine ni ya kwamba, tumesema juu ya “fair and free election”. Commissioner walioko hawa wezi kufanyu free and fair election kwa sababu wamechaguliwa na Mukurugenzi. Wamechaguliwa na Mkubwa. Kwa hivyo tunasema in your new Constitution museme ya kwamba wale wenye kusimamia uchaguzi, ndiye Commissioner wa Electoral Commission, wawe wanachaguliwa by all stake-holders. Wawe wanachaguliwa na watu wa Mkanisa, watu wa chama cha mawakili na watu kama hawa - all

stakeholders lakini wasiwe vibaraka vya mtu moja. Wata endesha mambo kumpendeza mkubwa wao.

Jambo Lingine: Ninge penda kusema juu ya Land. Kama wengi waliyosema hapa kazi yenu ma Commissioners, is to collect and collate. Nikuchukua maneno yetu na kuyapanga kwa njia ya ratiba fulani. Kwa hivyo tunge rudia mara nyingi lakini nyinyi mutaiweka in Legal language and in a certain legal arrangement ya kwamba hatujui mambo ya watu waliochukua mashamba ya wazungu - haikuwa ya wazungu originally. Ilikuwa ya wananchi ya nchi hii. Ikiwa wazungu walichukuwa kwa nguvu, walipo tufanya ukolini, tena wewe uje uchukue kwa nguvu, ulipe kitu kidogo - development ilipwe na AFC, hawakulipa pesa yao. Nawe ukivuna hiyo kahawa unalipa AFC ambae wali lipa development, na unasema shamba ni yako. Wengine wakapata shamba 20,000 acres an individual. Tunasema hii iwe na ceiling fulani. Muangilie hiyo collating muone mtu asiwe na mashamba mengi hata zingine hastawishi zinakaa wanyama wa maituni. Hakuna chakula inakua huko na sisi tunakufa kwa njaa - poverty kwa sababu watu wengine matajiri hata shamba yake hajui mwisho. Hii muangalie. Na tukisema hiyo inawasituwa wengine nyumba hii. Hata sijui kama watakaa ama watakwenda. (Laughter)

Constitution nyingi zimeandikwa ama Commission nyingi hata ya Akiwumi Report. Hizi zina wekwa tu, they are never implemented. Hii yenu mukiandika Bwana Professor, itakua implemented? Maybe after elections they will throw it away. Hata ile ya Lancaster, Kenyatta aliona ina majimbo baada ya mwaka - mwisho wa 1964 akaitupa. That was the first blow to our Lancaster Constitution. The first danger to it and the first slaughter was done by Mzee Kenyatta ambaye aliaga dunia ndiye alitoa hata mambo ya mashamba akatoa hiyo. He is the man who started interfering with it. Kwa hivyo hata yenu inaweza kutupwa, kwa hivyo ninge kuomba Bwana Salim uone ya kwamba there is a provision which says, if there is a body to oversee that the new Constitution, kwa sababu itakuwa ni Constitution yetu hapana ya Lancaster, will be implemented ama itatupwa bure iwe mume poteza kazi bure?

Tena jambo lingine ambaye karibu mwisho - I am normally very brief. Ni ya kwamba mukiweka ma MP ana anza kuchukua mashamba yenu. Ana anza kuwa, he is not delivering amuwezi kumwondoa. Iwe clause moja ya kwamba MP wetu aki - misbehave, tumwone ya kwamba hafanyi kazi yetu tunaweza kumwondowa. Na MP iwekwe pia hawezi kujiongeza mshara, iwe kuna body that can regulate their salaries. But how can you be an employee, mfanyi kazi ndiye anajiongeza mshara? Mume andika MP na wao ndio wana kaa chini wanajiongeza - and there is no opposition on that day in the House. Hata hakuna wakupinga. Wote wanasikilizana ongeza - hiyo iwekwe, "chora, chora Madam", ya kwamba hawawezi kujiongeza mshara. Na akiwa, -morally, he is not right, he is not straight, we can remove him. Kutoka Constitution yetu.

Mengi yamesemwa katika Local Authority. Local Authorities zime haribika. And they are so numerous hata kajiji kadogo kanaitua Town Council - Municipality. Those ones which cannot deliver, they should be scrapped, iwe County Council kwa District. (Clapping) and not everybody who should be a member to represent people, kuona maoni ya watu. Mtu yule hana macho anaweza ku kuongoza namna gani? It should be a certain criteria, a certain ingredient nayo iwe ni masomo where one has learnt how to manage people. Human management na resources kwa hivyo Councillor awe mtu ambaye amekwenda skuli.

Sio mtu yoyote kuokotwa huko na kusemekana ni Councillor. (Clapping).

Inginge ni ya kwamba Powers of the President have been mentioned here. President ana power nyingi sana. Those ones, there should be power sharing. Let it be reduced to a certain level for the good of this country. Let the powers be shared by the three arms of the government and should be reduced to a certain level for the good of this Country of ours. Kenya is a very good Country with all the resources. The only mistake is that we have the wrong managers managing our resources and some know nothing.

And the last one. Human Rights, Basic Rights, Economic Rights, Culture Rights call them what you may. They are all under the general umbrella of the Human beings. Those, Commissioners are the checks and balances of any Constitution. Let them be entrenched in our new Constitution. Thank you.

**Comm. Adagala.** Asante sana mzee. Just one minute. Wacha tusungumuze na mzee kwanza. George, wacha tusungumuze na mzee.

**Comm. Adagala** – Mzee, Asante Sana Kwa maoni yako. Ile umetupea tutapeleka mbele kwa Commission. Lakini inafaaa utusaidie, kwa sababu ukisema educational level, lazima wewe useme.

**Mzee Sharagu** - Ninapenda masomo Sana, kwa hivi ninasema kwa mtu kuwa kiongozi ya nchi hii, awe a University Graduate - of any Discipline, especially of Human discipline. (interjection by Com. Adagala - o.k.)

**Mzee Sharagu** – Hayo ingine kwa Councillor, mtu kuwa Councillor, awe of School Certificate, ya O Level

Interjection by **Comm. Adagala** – O.K.

**Mzee Sharagu** – Hata Mayor awe O Level - hapana mambo ya kisiri - kama ilisemekana juzi (clapping) na achaguliwe na Wananchi hapana Councillor watatu wanne wale anapatia pombe.

**Comm. Adagala** – O.K. Na MP? Member of Parliament?

**Mzee Sharagu** – Member of Parliament. Let him be of O Level - Si unaona there is an examination. They should be of School Certificate and if not, they go through a certain examination but wa Council hakuna, hiyo ni sawa sawa waendeleo.

**Comm. Adagala** – O.K. Na pia ukisema mambo ya Land.

**Mzee Sharagu** – Eee Land. What ceiling am I talking about? Let me talk of 50 acres. We are thirty million people katika nchi hii, na nchi ni kubwa sana, isiwe ya matajiri. Watatukalia sana na watoto wao watakalia watoto wetu. (Clapping).

**Comm. Adagala** – O.K. Mzee, (interjection) wacha nikuulize. Sisi ni wakulima, hata kwetu ninatoka ni wakulima lakini kuna wafugaji - The nomads.

**Mzee Sharagu** – They are normally very few by nature of God. They are very few in population. Therefore Land is so big. It is not as fertile, and they are very few. Let us have a thousand acres each. Waweke ngombe. Iko ingine?

**Comm. Adagala** – Well ni maoni yako.

**Mzee Sharagu** – Ndiyo.

**Comm. Adagala** – I can only ask clarification.

**Mzee Sharagu** – I am enjoying.

**Com. Adagala** - Thank you for your wisdom. Thank you very much.

**Comm. Ida Salim** – Thank you again Bwana Sharagu. We go now to Bwana Peter Ichangaye? Peter Ichangaye? Hayuko. Lawrence Kibe from FONAC? Hayuko? At last, Reverend Simon Githinji. Thank you for your patience.

**Rev. Simon Githinji** – Thank you Chairman. I wan to go briefly since I have got a memorandum. I will start with Section 1 on Pre-amble.

Unlike the current Constitution, which does not say to whom it belongs, the following should be inserted as the starting point among others.

1. Indicate that this Constitution belongs to the people of Kenya.
2. National Flag as the emblem of this country should appear at the top of the Constitution with its colours interpreted.
3. No amendment shall be made without the consent of the people of Kenya.
4. Any amendment shall only be made after the expiry of “two terms of the sitting President and must be after he or she has vacated the office”. This, Mwenyekiti ni kwamba isije ikawa, it is suiting that, he may manipulate it, so when it is being amended it will be for the in-coming President
5. Kenyans must be supreme and must be respected by any leader willing to hold a public office and Kenyans’ voice shall be final. That one is on Pre-amble.

**Section 2** – I talk on Presidential powers. The current powers given to the President must be cut to minimal and define his or her duties. Again power to discipline a sitting President should be put in place should he violate the Constitution. We should create an office of Prime Minister with job description and only have a ceremonial president.

Section 3 – Election and Appointment of Leaders –

- a) People to be elected or appointed must be of good morals.
- b) Must declare their wealth first.
- c) Must be free from any criminal charges.
- d) Attorney General and the Judiciary to be vetted by the Law Society of Kenya with whom they are registered and the only body which can discipline them. President should not appoint them.
- e) PC's and DC's positions to be abolished and their positions taken over by elected leaders through the public from a particular area.

**Section 4 – National Election dates:** The Kenyan people would like to have a static date at every end of term unlike today where the election date is kept as a “secret weapon”. Presidential Elections to be separated with Civic and Parliamentary Elections. Elections campaigns should be done – only - and that one is to be “only” by the aspiring candidates and not their agents unlike today. Mtu aje atuambie anataka nini kwetu. Sio mtu mwingine anamusemea. Hata kama ni President, awache kusema fulani ni mzuri. Yule anaitaji aje atuambie uzuri wake lakini sio mtu mwingine anakuja asimame pale.

The other one is on marriages. I am a Church Minister and now I come to that one. All marriages must be legalised before a couple stays together. This will discourage very many unknown divorces already taking place within this Country.

Two: – Children born in such marriages, become inheritors of such a parent regardless of whether they have divorced or not. In case of a divorce, inheritance should be immediate. Hivi, nataka kusema Mwenye Kiti ya kwamba, tukiachana na Bibi yangu, tuwache tugawanye hayo mali mara moja ili nikienda kuingine, basi tuanze mwendo na mwingine tusiweke case nyingi katika Court na watu wengine hawana pesa ya kwendelea na hiyo. Na hata watoto wa huyu bibi ambao wamefukuzwa pamoja naye, wachukue mali yao waende. By doing that one, Mr. Chairman, it will reduce the rate of unnecessary divorces seen taking place lately.

The other one is, Single Mothers should also be inheritors.

**Section 5 – Religious Leaders:-** Religious Leaders should be recognised as public leaders because they are the spiritual heads and watchmen. Somebody talked about registration of Sects or Religion. All registered Religious bodies should display their registration certificates. This will help the police and other authorities to check on illegal gatherings, which have false teachings to Kenyan societies. Hivi nataka kusema kama mini ni Presbyterian, basi hata kama Head Office yetu iko huko Nairobi, kwa kila kanisa la Presbitary, tutolewe photocopy tuweke kule ili isije tukawa na makanisa mengi tujuwe yakuwa -



mana tukikosana na mtu anasema tunakatana, anatoka anakwenda ku form yake. Na hakutuambia ni nini. Na tena hatuambii yeye kama ama register au hapana. Although ina semekana ya kwamba kuna uhuru wa kwabudu.

The other one: Create a National Day for prayers. If we are God fearing people, then we should have a National Day in Kenya where people gather together and pray and thank God. (Clapping).

**Section 6 – Ethics.** This is on abusive language or incitement. Any leader should have his or her moral ethics examined before being cleared by the Electoral Commission. Any leader found to use abusive language to the Kenyans should automatically be stripped of his leadership. By doing that, our people will be helped to tame their loose tongues. Hapa nataka kusema nini Mwenye Kiti? Watu wengine wanatumia lugha na ndiyo mambo yameharibika hapa Kenya. Anasema pale wengine “walale kama bahasha” - Hii ni incitement. Automatically. Hakuna hata mtoto hata jua ni nini inasemwa. Yule mwingine anasema pale mtu fulani hataki kuwa pale kwa sababu amekuwa hivi - hata kama juzi mfurugano ilikuwa kule kwa Parliament habari ati ya kwamba judges wale wanapatiwa viti ni wale wanakuwa divorced. That one is - pengine yeye ndiyo alifanya huyu mama kuwa divorced kwa sababu alienda pamoja na yeye na ana tumia pale na yeye ni leader. Kwa hivyo ni lazima watu wakitumia lugha mbaya, waondolewe Hii katika lugha mbaya Mwenye Kiti, tunaona hata hapa kwa Secular world - tuseme the touts we have here, anakutukana tu na wewe ni Mukenya, ni mwenye haki wa hii nchi na anakwenda scot free - at the stage and I am paying! Kwa hivyo hii ni lazima ionekane pale itawekwa. Inakwenda vibaya sana. Mtu ana ku - abuse hapa hapa na anakwenda tu kwake nyumbani na basi inapotelea pale. Alafu, ile ingine Mwenye Kiti, ni incitement languages should also cost someone’s leadership.

**On Section 7 – Freedom Heroes.** Our freedom heroes, dead or alive should be honoured and if dead, their graves preserved by the State. Current President can only be honoured after the expiry of his or her term to avert any dictators who may be holding the power. Kama mtu anataka kuitwa - barabara iitwe ya Githinji, kwanza niondoke kwa Office ili wananchi wajuwe nilitenda nini. Wananiipatia nikiwa pale hata nawafanyia vibaya wameniona. They have honoured me already. Hii ni kwanza mtu aondoke ili ajulikane, ama awe amekufa halafu ndio apatiwe, barabara iitwe ya Githinji au mtu mwingine.

Ile ingine, is on **Children’s Rights**:. Every child shall have a right to education; nobody will be allowed to employ a child below 18 years. Parents who desert their children should face the Law of the Land. On the other side, Mr. Chairman, I wish to, because I am highlighting. Let me talk on pressurisation. Somebody talked here about demonstrations. Yes it is true. We need demonstrations in order to – the Kenyans should be allowed to demonstrate in order to pressurise the Government or institutions, which do not adhere to the Constitution.

**Prosecution** - If I am arrested for a Law I have not been taught about, why am I going to be prosecuted? Which Law did I break? We should be taught the Laws of this Country. They should be open to our people in order that I’ll be told that, “the Law No. so and so you have broken it”. But now when I am arrested by a police, he takes me over there, and even if I asked

him on the road, he will slap me before he takes me to the cells and I am accused of a Law that I don't know. The people of Kenya should be told the Laws that they have broken before they are taken to be prosecuted.

**On burials** – Of recent times, Mr. Chairman, and we have known cases where bodies have laid in morgues for years because people have disputes, land disputes. Let the dead be given their right. Let us honour them. Let us bury them because they will not given any evidence at one time or the other. That should be included there. Nobody will be allowed to keep the body in the morgue - even those which are kept over there 'unknown' - the police must be made to make sure that they are known. They have got fingerprints and they can go and collect them and then have the fingerprints and then they are taken. I am now finishing.

On ID's it was spoken, that ID's should be given to everybody and this should include also the Passports.

In conclusion, Mr. Chairman, the people of Kenya should be made through this Katiba, they should be made to understand that Katiba will not be able to change them unless they change their attitudes towards one another and accept one another as a brother and sister. They should be made through that Katiba. It is not going to change them. Each one of us should accept to be one brother's keeper. God bless Kenya and God bless the Constitution our Constitution, God bless the Commission. Amen. (Clapping)

**Comm. Ida Salim** – Thank you very much Rev. Simon Githinji for your memorandum, your proposals, your opinions and the last point you made I think is something that needs to be repeated or emphasised. A brand new Constitution will not give us solutions overnight. We have to change a lot of other things. Our hearts, our souls, our views, our actions also have to change. So if we are finishing by the end of December, it does not mean the new year will bring a new dawn automatically and prosperity, and all those other things we are craving for. So it is food for thought for us. Thank you very much Rev. Simon. Next we have Bwana David Karanja? Is he here? - To be followed by Bwana Ndilu Boro? Bwana Boro is around? Very good. So if your chance comes please be ready to give your views).

**Bw. Ndilu Boro - Bwana Chairman** – Ma Commissioner wote, hamjamboni? Yangu ni machache tu. Niko na memorandum iko hapa lakini nataka kuongea machache tu juu ya Treasury, Central Bank na tena institution ya Presidency. Mimi yangu ni kusema ya kwamba looting ya Treasury inaonekana kwa sababu ya kuwa mfanya kazi ndiye mkubwa wa yule aliandika yeye kazi. Hiyo ina shida kubwa sana Bwana Commissioner, Bwana Chairman. Maana yake uwezi kuandika mtu na unampatia kitabu ya Bank, unamupatia hata Title deed yako na ni mfanyi kazi, aangalie hayo maneno yote. Trustees wa Treasury hawako. Kwa hivyo yale mambo ambayo yanafanywa ni lazima nyinyi ma Commissioners mjue kuna vitu ambavyo zinahitaji Trustees, one of them being Treasury, the other one ni Central Bank.

Ile kitu ambayo iko shida kubwa sana ni Budget. Katika Budget ni kama mtu ambaye ameo mabibi mia mbili na kumi - ni

Muafrica na hajui number zetu za simu. Hajui address zetu. Tukitaka kupewa kitu chochote ambayo kina baki katika Treasury sababu ya ile kazi tunafanya, hapati njia ya kututumia. Hajui address zetu. Na huyu ndiye mkubwa. Huyu ndiye mnampa kila kitu. Haya, sisi hatuna. Akichinja nyama yule mutu ako Pwani hampatii. Yule yuko Western constituency hapatiwi, Nyaribari Chache haipati, Kiambaa haipati, hata address yangu hajui yakufikisha haijulikani! It is not within the Treasury - Ndiyo ilijulikane pesa ikibaki. Na pesa tunampatia ndiyo ulipe salary, ulipe rent, ulipe water, ulipe vehicles maintenance, ulipe mambo yote ya kodi ulipe. Hiyo ndiyo kitu tunampatia. Hata ndege ununue. Ukisha recommend kununua hizo vitu zote, uwezi kusema pesa imekwisha katika Treasury. That's wrong. Pesa bado inabaki. Hii inabaki unaifanya je? What do you do with the remaining money? And it did not start yesterday. It started in 1963. There before we had British Government - ndiyo walikuwa wanaongoza. Hii Katiba wanatengeneza ilikuwa inawekwa na Queen and King katika London. Sasa wakati ilikuja, wakati tulipata Constitution ya kwanza, ilipewa a "worker". Sasa hatukukaa tukafikiri tutafanya nini na Constitution? Na sisi ni wanachama wa Commonwealth. Sasa kama pesa yetu iko katika Commonwealth, kwa nini wafanyi kazi wapatiwe Constitution iwekwe? Kwa nini hatuwezi kufanyiwa Constitution hiyo na huyu wa Commonwealth? Nyinyi muna recommend a worker like Karanja, hawezi kupewa hiyo kazi yote. It is wrong.

Kitu ingine ni kwamba yale katika President - Ina nganganiwa kwa sababu kila mtu aki ingia anajua wale watu wako Central Bank ni wangu - Tatalala huko tu kikula hizo pesa - Very nice. It has been going on throughout, hawezi kusema sio hivyo. Wanaende naye. Ikiwa ni Central governance ni yule mtu anatengeneza mambo yake na yeye, kwa hivyo akielezwa tunataka Billion ishirini, inaletwa leo, leo. Yule aliandika yeye hajui. Kwa hivyo katika security ya vitu yetu, land, kila kitu sio - pesa hata shamba, hata nini haijulikani vile iko - Haina Trustees. Kwa hivyo Bwana Commissioners, unge recommend kwamba vitu visiwe kwa mikono ya workers kwa sababu hata President is a worker, he will leave it tomorrow. Mwingine anaingia. Hata saa ingine unakufa usiku kama Kenyatta. When you die, then we don't know where our things are. Lakini tukijua ziko katika Commonwealth, tunaenda tunawaeleza, we know that you have kept vitu 1,2,3,4 katika Commonwealth. Kwa hivyo mukinyanganya sisi pesa hamuta tunyanganga nchi. Nchi bado itakua yetu. Kwa hivyo Bwana Commissioners, naonelea ya kwamba ni vizuri nyinyi mkaye mu recommend kwamba mfanyi kazi asije akachukua mambo yetu sababu ya watu illiterate. Na sisi tulipatiwa hii na Mungu "in lieu". Lakini inakuja kuharibiwa na wafanyi kazi. Mimi ninafungiwa inje. "This is my house, I have locked him outside", na mfanyi kazi kwa sababu ya kutojua ananifungiya, yeye ako na kifunguo, mimi sasa nakuwa mtu yw kubisha. Nina andika mfanyi kazi, sija mpa ndoo ya kukamwa ngombe yangu

**Comm. Ida Salim** – (interjection – Bwana Karanja tafadhali uta summarise, wakati unaendelea haraka na wananchi ni wengi (intjection))

**Bwana Karanja** – Nashukuru Bwana Commissioner vile nilitaka kusema hiyo. Nimesha andika iko kati hiyo na nina washukuru wote kwa kunisikiza. Asante sana.

**Comm. Ida Salim** – Aasante. asante sana. Thank you. Na memorandum yako usha toa?

**Bwana Karanja** – Uko naye.

**Comm. Ida Salim** – Asante sana Tukiendelea mbele Bwana Kibe, right? Sorry, Bwana Mburu? Yes.

**Bwana Mburu** – Thank you Mr. Chairman. My name is Ndicho Mburu. I am a Technocrat. So I will only discuss on those things that refer to Technocrats. The under-listed are views on Kenyan Society, as a retreatment will supplement other contributions to enrich Kenyan life immensely. These are:

- ◆ There should be a deliberate policy to industrialize Kenya with each area according to local material resources and skills. Imported materials and skills also to be considered. Our Country must be weaned from being supplier of raw materials to other countries (noise in the background) for local and export consumption.
- ◆ Civil and public workers should not hold any other remunerative job or business nor become Director, Proprietor or Partner of private companies from which emoluments are drawn - MP's included.
- ◆ Our Universities and other Research and Development institutions must spearhead solving the country's problems. Collaborating with outsiders also should be encouraged.
- ◆ Country's secrets kept in archives should be released for public consumption after expiry of thirty years. Any discovery or invention should be exploited immediately for the benefit of the citizens. There should be more recognition for merit in all spheres of social life with appropriate decoration both in life and post - humously.
- ◆ Nobody's face to appear on Kenyan currency or statue erected in public places until expiry of thirty years after demise of such persons. This will prevent people from building dynasties in themselves and it will also help in scrutinising their lives and their contributions before such honour is bestowed on them.
- ◆ There should be acceptance that people are the best and an exhaustible resource we have. Such should be nurtured and cared for throughout entire existence and be developed continuously through deliberate investment in education and training as well as health.
- ◆ Kenyans must cultivate the culture of hard and honest productive work. Society centredness should replace self in sort out resort and benefits.
- ◆ Kenyan education system and content must be wholesome and geared to complete industrialization and advancing

the society in all avenues of human endeavour.

- ◆ Good moral principles must be inculcated and ingrained in all spheres.
- ◆ Nursery and Primary levels as well as Secondary should be financed from taxes. Tertiary education should benefit from bursaries and loans from public coffers. Scholarships from various bodies and organisations should be encouraged.
- ◆ Effort to generate energy locally must be surveyed, harnessing power from Hydro, Geothermal, Solar, Wind, Chemical Nuclear and other sources must be accelerated to satiate Kenyan needs.
- ◆ Where imports are mandatory, crude import to sustain our refineries and benefits should be made so that we are also beneficiaries of the by-product of refineries.
- ◆ Citizens should be free to work and live and enjoy life everywhere within our borders. Root causes of ethnic clashes must be eliminated and harmony cultivated.
- ◆ Any Kenyan generating income should pay appropriate tax.
- ◆ Welfare payment to those who cannot work should be instituted. No Kenyan should be allowed to suffer abject poverty.
- ◆ Retirement age from work should be raised to 65 years to allow maximum exploitation of education, training and skills and experience and also the exploitation of human energy in society. The society has invested in the people.
- ◆ Land reclamation from the sea or desert must be our objective. Good management of such reclaimed land and other natural resources must be sustained for the present and the future generation. Absolute ownership by individuals should be substituted with limited hire from the Government and commensurate rents and rates be paid. The citizens should be shielded from pollution, either physical or psychological.
- ◆ Vernacular languages. Mr. Chairman, I cannot apologise to be a Kikuyu and speak Kikuyu language. This is how I am made. Vernacular languages in the entire Republic should be recognised as National assets and not be relegated to the periphery.

- ◆ Electoral representation must garner more than 50%. Constituency must be as per polution and not georgraphic. Voting must be compulsory to all registered. All eligible citizens must be registered as voters. “Postoral” voting for those outside the contituency or those outside the country should be made possible. Mr. Chairman, and the Commissioners, thank you very much. (Clapping).

**Comm. Ida Salim** – Thank you Bwana Ndichu Mburu for your views and written presentation. Plan to hand it over and sign for handing it over.

**Comm. Adagala** – Mr. Mburu, if we can talk to you for a minute. You have said 50% for all elections?

**Bwana Mburu** – This is correct, because whenever we have our elections anywhere we seek for the majority and the majoriry means more than half of those who participate in an election.

**Comm. Ida Salim** – Now let me again remind all of us that we have to be very strict with time. We have a list of a large number of wananchi who still want to give their views and we are closing at six. So please abide by the time given to you. If it is five minutes, it has to really be five minutes. We will be very strict now. Memorandum five minutes, oral presentations 10 minutes - I think we agreed. Maanake wengi hawajatoa maoni yao na tunajaribu ku hakikisha kwamba tuwamalize wote hawa waliojindikisha mbele ya kuondoka saa kumi na mbili. So nisipoteze wakati kualeza zaidi, namwita Bwana Geoffrey Chege, yeye ana memorandum, nitampa exactly five minutes to highlight the points, yuko? Geoffrey Chege? Hayuko. Bwana Joseph Nganga, yuko? Hayuko? Rev. Simon Ngeru, is it Ngeru? Oh he has eh? O.K. Oh yes, he had come in under a different... from CHESS. Very good. Bwana Muchiri? Is he here? Muchiri? Samuel Gatoto, is he here? But you have now proved that your views are identical with his? It is a written one, is it? Is that alright? Alright. O.K. sawa. Very briefly please eh. So that we can allow others to have a chance.

**Teresa Gichane** – Thank you. Still if you don't mind I would like to clarify a point I made here when I came as Teresa Gichane concerning a question Madam asked me on the gender Commission. I forgot to say that the Commission should have a representative in Parliament.

**Comm. Ida Salim** – are you going to hand over that one?

**Com. Salim** - Alright. Sawa. Very briefly. Please.

**Teresa Gichane (on behalf of S. Gatoto)** – I don't think so. I just wrote so that I remember. I am here on bahalf of Mr. Samuel Gatoto and his first point was. There should be equal opportunity employment based on “one” – Education and not on tribal connections. Then promotion should be on merit where the right person gets the promotion where experience and

performance counts.

Number Two is on Bank Interest Rates – He says this should be commensurate with the economy.

Vetting of projects write-up should be done and follow-up by the Bank and proper advice should be given. He meant that people take loans and they indicate the reason but when they go out they do something else and this has caused fear in the community because there is a general belief that when you take a Bank loan then your property is going to be sold because you can't pay it back. So he advises that follow-up should be done after the advice.

Then the third one is on the farming community. Kenya is an agricultural country and farming should be encouraged because it is the backbone of the economy. So farming should be encouraged by reducing duty on farming machinery and input. Then proper marketing policies should be put up in place because to be an agricultural country but we realise that currently a lot of produce is going into waste because we don't have any marketing policies in place.

Then on education - we suggest that the education system should be streamlined and he suggests that we revert back to the seven-four-two-three system. Then he recommends the adoption of the Koech Report where reduction of subjects was suggested.

Then any change in the education policy should only come after a study by an education board that advises the Government and this board should include the University and other education experts.

On education again, there should be harmonisation of technical education to look for possibilities of having technical universities because currently the highest that one can go in the technical field is a higher National Diploma. So there should be a way of having it upto the Post-Graduate and even Phd. Level.

Then on leadership, he says there should be vetting of leaders by a special board set up comprising the Police, Judges, Community members and the Church so that the moral uprightness of a person is noted and people who have been involved in sexual scandals, land grabbing and other criminal activities should never be given positions of leadership. (Clapping)

Thank you.

Then on election cheating – he says that ballot boxes must be transparent so that it is clear to all that there is nothing in the box before ballot.

Then Number 2 on the same one. The counting of ballots should be at the polling stations and should not be after moving them to other places, and the role of the agent is very, very important and election offenders should be banned from participating.

**Government services.** He says that time delay promotes corruption. This means that if you go to offices e.g. the Lands office, they are known for this, you have a land issue to settle, and you will be there for years. He suggests some service cards should be given so that when one goes to a public office, you get a card and if you have to come again - says when you went there for the first time and then you should be told when to come back - just like in the hospitals, if you are told to come again on such and such a date, when they know they will have completed your assignment. If you appear the second time when you are supposed to collect whatever data you wanted and they are not ready, then you should be compensated. He suggests that there should be claim forms so that if you have to keep going there, the Government pays for your transport and boarding and whatever else (clapping). This will minimise corruption and there will be effectiveness of Government service.

Then on Retirement Age – the Government usually knows when one is going to retire so they should prepare whatever dues are there when one is about to retire. So he suggests, retirees should be paid the first day of retirement. So delayed payments should be compensated and then the service should be on first-come first-served basis.

Then on the Office of the President - He suggests that there should be no inheritance in leadership whatsoever (clapping). Then he says a person aspiring to be a Presidential candidate must be a family person living with his family like the Bible commands. Then he should serve two terms of 5 years each. He should be a person of moral upright conduct. His running mate should be the Vice-President and during transsision, it should not be the Vice-President to hold the office for the 90 days - It should be the Judiciary. So it is not automatic that the Vice-President takes office at one time or rather in his life.

Then on harmonisation of salaries. Currently, there is no control over salaries so you get somebody being paid one million in one office and another one who has got the same qualification is being paid one thousand two hundred in another office and they are doing the same kind of jobs but terrible differences in their salaries. So there should be harmonisation of salaries.

Then another suggestion, which is his and mine - there should be a Law stating that 20% of all parcels of land must be forest because, we realise that our forests are going very fast and this interferes with even our rate per person, so this means that 20% of all parcels of land should have be forest and this must be passed as Law, if you own a quarter plot of land, there must be a certain number of trees on that quarter plot to make sure that we have forest, (clapping) 20% of all parcels. Thank you very much.

**Comm. Ida Salim** – Thank you very much. I think you have done an excellent job presenting your friend’s views -, Bwana Gatoto. Shall we move on quickly to the next presenter please? this is Grace Njoroge. Very good. I am glad you are here. We need more feminine voices and views.

**Grace Njoroge** – Asante sana kwa kupatiwa nafasi kwa siku ya leo. Chairman Commissioner, Madam Commissioner,



Kamati, Wanachi, Hamjambo? Hamjambo tena? Jina yangu ni Grace Mugo Njoroge, Chairlady wa Maendeleo, Kiambu District. Ninasimamia wakina mama. Na leo ninaomba kuna kijana moja asimame hapa ninaongea kwa Kikuyu naye aongee kwa kimombo. Ni sawa? Asante.

**Translator** – Nitaongea kwa Kiswahili naye ataongea kwa Kikuyu. Sawa hio? Mtaelewa hio, sawa, endelea mama.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ngwaria na Kikuyu

**Translator** – Ataongea kwa Kikuyu

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na ni thengio muno Commissioner

**Translator:** Asante Sana Ma-commissioner wetu.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na nitukenete muno.

**Translator** – Na tunafurahia sana.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ithue andu a Kenya.

**Translator** – Sisi watu wa Kenya.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ni undu wa wera wanyu.

**Translator** – Kwa sababu ya kazi yenu.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na twina wetekio Ngai e-mbere.

**Translator** – Na tuko na imani Mungu yuko mbele.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na nimukurekia.

**Translator** – Na mtamaliza.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na ngerugamerera thinie wa atumia,

**Translator** – Niki simamia wamama

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ona anake na athuri na airethu,

**Translator** – Hata wazee na wasichana na wavijana.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Maendeleo ni itu ithuothe na Kenya yothe.

**Translator** – Maendeleo ni yetu wote na Kenya yote.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Wambere, ni wa shukuru.

**Translator** – Kwanza ni shule.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Twarekia gwaka shukuru,

**Translator** – Tukimaliza kujenga shule.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Mwanake agetwara mwana

**Translator** – Kijana ama mzazi akipeleka mtoto.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na ni ndakire ngerekia,

**Translator** – Nilimalizia,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Etagwo mucuari mweru.

**Translator** – Anaitwa mzazi mpya.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Tokona gutire mwako uthiaga na mbere

**Translator** – Tunaona hakuna mjengo inayoendelea,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na agetio ngiri ikumi na ithano

**Translator** – Na naitishwa elefu kumi na tano.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Tukarigwo ni uria ciekaga.

**Translator** – Tunashindwa ina fanya nini?

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Tondumbers metwo,

**Translator** – Maana members waki itwa kwa shule

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Mationagio kirathi.

**Translator** – Hawaonyeshwi maendeleo ya zile pesa.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Keria gethiete na mbere,

**Translator** – Inacho endelea.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na ninjakite kinya ngaka laboratory,

**Translator** – Nime jenga mpaka Laboratory.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na carpentery ngarekia ciothe

**Translator** – Hata workshop nimemaliza.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ni muciarimokoro.

**Translator** – Nikiwa mzazi mkongwe.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Wa kere, ni 8-4-4

**Translator** – Wa pili ni 8-4-4 system.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Thirikari igerie itoninere.

**Translator** - Serikali imalize hiyo mgumo.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Commissioners mwachoka kuria, iyo ithire.

**Translator** – Commissioner mkirudi hiyo imalizike.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Wa gatatu, ni mwana wa motheni.

**Translator** – Ya tatu ni mtoto wa masikini.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Arekia kuhetuka,

**Translator** – Akisha faulu kwa masomo yake.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Thirikari ikaheana otheithio,

**Translator** – Serikali iwe ikitoa msaada.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na ndukinyagira mwana ocio.

**Translator** – Na haifikii yule mtoto.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Theini wa commissioner, mukinyere kuria mbecha ocio ithiaga.

**Translator** – Katika Commission mchunguze msaada pesa ya karo linaenda wapi?

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Tondu mwana ocio ndakiraga hao.

**Translator** – Maana yule mtoto hapitii pale.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na niwe muthamaki wa rucio,

**Translator** – Na yeye ndiye kiongozi wa kesho.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Kana MP wa rucio.

**Translator** – Ama MP wa kesho.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Turi andu a Kenya,

**Translator** – Tukiwa watu wa Kenya.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Tukoria atiriri,

**Translator** – Tunauliza?

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Thirkari-re Iregaga gukinyera uhoro ucio niki?

**Translator** – Serikali, kwanini aifuatili ile msaada wa karo ya shule?

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): na iria cia heanwo, number ya mutheni, ithomaga na gitonga.

**Translator** – Na ile bursary imepeanwa, number ya maskini inasomwa yule ambaye amefaulu kimaisha.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Tonde mutheni ndona mbecha cia kuhakana.

**Translator** – Maana maskini hana pesa ya hongo.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Kogwo-re, nitugotuma commissioner,

**Translator** – Kwa hivyo tungetaka kutuma nyinyi ma Commissioners wetu.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): twehererio uhoro ucio.

**Translator** - Tuondolewe ile mambo.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Uria unge, Wa kana, ni wera

**Translator** – Jambo lingine ni ya kazi,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Warekia kuoneka,

**Translator** – Ukisha pata kazi

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ndorere cia Kenya uria cigana,

**Translator** – Vile mataifa ya Kenya ilivyo.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): makandekwo acio othe,

**Translator** – Wana andikwa kulingana na kabila.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): ugiandekwo gathetini.

**Translator** – Kukiandikwa kwa magazeti.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na gethomo kiau.

**Translator** – Na elimu yao

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Mategucagurwo u-kana u.

**Translator** – Bila kuchaguliwa kabila hii ama lile lingine.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ruriri ciothe.

**Translator** – Kwa Taifa yote.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Maikarira iti,

**Translator** – Uki kalia viti.

**Grace Mugo Njoroge – (in Kikuyu Dialect):** twehererio undu ucio ugiragia andu othe mandikwo undu omwe.

**Translator** - Basi tuondolewe ile ukabila.

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Uria unge weho,

**Translator** – Jambo lingine

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Ni wa cira wa mutumia,

**Translator** – Ni habari ya case ya wanawake.

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Cira wa mutumia nduthiaga wega.

**Translator** – Cases za wanawake haziendi taratibu.

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Tondu wa mutumia warekia guthii igotini,

**Translator** – Maana case ya mwanamuke ikienda kortini,

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Ona ahotanete,

**Translator** – Hata kama ameshindana,

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Age ihaki,

**Translator** – Akikosa hongo,

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Iragwo niahotwo,.

**Translator** – Anaambiwa ameshindwa.

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Ciana ciake cikenderio mugunda.

**Translator** – Watoto wake, shamba yao inachukuliwa.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Onongorwo atigerwo ni muthuri,

**Translator** – Hata kama ilikua imeachua na bwana yake.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Uria unge,

**Translator** – Jambo lingine,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): nitokwenda,

**Translator** – Tunge taka,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Nitukwenda,

**Translator** – Tungetaka.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Muthuri akiendia indo,

**Translator** – Bwana mwenye boma akiuza mali.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Maremete na mutumia,

**Translator** – Auzishe bibi yake.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Maranerie,

**Translator** – Wajadiliane.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Kugie thayo,

**Translator** – Kuwe na amani pale.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na mendie me rumwe.



**Translator** – Nawauze wakiwa kitu kimoja.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Mwana okire thutha.

**Translator** – Mtoto ni wa third party.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Mutumia aheshimu muthuri,

**Translator** – Bibi aheshimu bwana yake.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Nake muthuri aheshimu mutumia.

**Translator** – Naye bwana aheshimu bibi yake.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Uria unge weho,

**Translator** – Jambo lingine,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ni athuri,

**Translator** – Ni ma bwana.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Mabwana matige gutiga atumia ao.

**Translator** – Ma bwana watulie nyumbani.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Commissioner murore muno,

**Translator** – Ma Commissioners hapo muangalie.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Keria gegutuma Kenya, mutumia mugure agateo.

**Translator** – Ili tuone kwanini mabibi na wametolewa mahali na anaachua.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na agathie akahikia unge agate wambere.

**Translator** – Naye huyo bwana mwingine anachukuwa gachungwa ama wapili anatupa yule wakwanza.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Hari unge wa muguna ploti.

**Translator** – Kuna ile ingine ya Plot.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ithue ta atumia twaheyo ploti ni kanju,

**Translator** – Wamama tukipatiwa plot na Council,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Kanju iria ikuo reu,

**Translator** - Ile Council iko pale.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Gwoka kanju ingi

**Translator** – Ikikuja Council ingine,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): igatotunya.

**Translator** – Ina nyanganyana.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Watho ucio urorwo kuria waimiri.

**Translator** – Hiyo amri ingaliwe imetoka wapi?

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Okorwo we theini wa katiba,

**Translator** – Kama iko ndani ya Katiba,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Weherio.

**Translator** – Iondolewe.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Tondū thina winge hete Kenya,

**Translator** – Maana shida imejaa Kenya.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Niundu mwana ucio haria arendageria,

**Translator** – Maana pale yule mchuzi alikuwa anauzia.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Mwana akona mutu.

**Translator** – mtoto anafuata riziki yake

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Mwanake ucio achokaga mucii, na nyina.

**Translator** – Yule kijana arudi nyumbani na mama yake,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Akoya thimbo mwananke,

**Translator** – Kijana anachukua fimbo

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Agathii kuohia aria ange njiraini.

**Translator** – Anaenda kupiga watu “number tisa”

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): na gugutunya ngari,.

**Translator** – Na kunyanganya gari,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Nitokwenda,

**Translator** – Ninge taka,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Plot ya heyanwo,

**Translator** – Plot ikisha patianwa

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Na ikorwo na marua,

**Translator -** Na iwe na barua yake.

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Eikare na andu acio maheirwo.

**Translator –** Ikae na wenyewe.

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Kana mundu ucio wa heirwo.

**Translator –** Ama yule aliyepatiwa

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Uria unge weho,

**Translator –** Jambo lingine

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Ni hari unge muritu muno

**Translator –** Kuna ingine mzito sana.

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Wa atumia,

**Translator –** Kwa wamama

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Atumia magaga uge niki?

**Translator –** Kwanini wamama wanakosa msemu?

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Ndaria,

**Translator –** Nikiongea

**Grace Mugo Njoroge – (in Kikuyu Dialect):** Na kurwo ni muchemanio,

**Translator** – Kama ni kwa mkutano

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Tuheagwo thutha.

**Translator** – Tunapatiwa nyumaye.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Niki kegiragia tuheo mbere?

**Translator** – Kwanini wanawake wasipatiwe mbele mkutanoni?

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Tondu Kenya iroiga,

**Translator** – Maana Kenya inasema.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Gutire riu mutumia kama mundurume.

**Translator** – Hakuna Mwanamuke ama hakuna mwanamume.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na nitukwenda athuri.

**Translator** – Na tunataka mabwana.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Kogwo nitukwenda kuheo giteo keria gitwagirire.

**Translator** – Kwa hivyo tunataka heshima ambayo inayofaa.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Uria unge tungegweta,

**Translator** – Inginge ninge sema.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ni hawkers

**Translator** – Ni wale watu ma-hawkers

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ina thena ona theini wa Nairobi.

**Translator** – Pia wako na shida hata Nairobi

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ira nideronire umwe agwa, na aroineka kuguru.

**Translator** – Niliona moja ameanguka nakuvunjika mguu.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): nitukwenda andu acio macharerio kuria mangerutera wera.

**Translator** – Tungetaka hawa watu watafutiwe pahali ya kufanyia kazi.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na therikari imahe.

**Translator** – Na serikali iwapatie sehemu.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Nigetha makiehere haria hategwendeka.

**Translator** – Ili waondoke mahali ambapo hawatajiki,

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Theini wa stage.

**Translator** – Katika maduka.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ndungejira dikarie na ndunyonetie gia kuria.

**Translator** – Usiniambie ni sile na hujanipatia chakula.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ukinyingata hau,

**Translator** – Ukini fuguza pale

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Na ukiuga indo icio ciakwa ugete

**Translator** – Na ukitapaza vitu yangu

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Unyonie kuria nguthii,

**Translator** – Unionyeshe mahali nitapokwenda.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ndige kutweka muicii.

**Translator** – Nisiwe mwizi.

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Ngukinya hau

**Translator** - Nafikisha pale

**Grace Mugo Njoroge** – (*in Kikuyu Dialect*): Asante sana.

**Translator** – Asante.

**Comm. Ida Salim** – Asante sana mana kwa maoni yako. Tumeandika, tumenasa kwenye mashini yetu tutaziangatia. Natukiendelea mbele sasa tunaye Bwana Peter Ruhiu. Yuko?CMA? Tutakushukuru sana kwa subira yako ume kaa kitambo kidogo, lakini kama uonavyo wananchi ni wengi wamekuja. Kila mtu lazima apate nafasi yake. Karibu.

**Peter Ruhiu** – Tume shukuru hii Tume kwa kuwa imetangawa. Jina langu ni Peter Wanjehia Ruhiu. I am Organizing Secretary of Catholic Men Association.

We have an idea of this Constitutional supremacy:-

- A) We propose 85% majority vote to amend any part of the Constitution.
- B) The power to amend the Constitution should be with the people, and Speaker of the National Assembly should conduct it by way of referendum.

**Citizenship** – As evidence of citizenship, Kenyans should have an Identification Card or a Passport, which should be acquired free.

- C) **Defence** - The Constitution should provide security for every Kenyan citizen and foreigners residing in Kenya and that should be paramount.

- D) Every person related to security must be displayed.

C) There should be a disciplinary council, which is independent from Armed Forces and it should be composed of senior retired personnel from the Armed Forces with good discipline.

The President should not be the Commander –in- Chief of the Armed Forces.

**Political Parties:** – The number of Political Parties should be limited to three only and should be financed from the Public Funds. These parties, which were registered, even a few of them have only one MP and the others we don't know where they are.

**Government** – We should retain the Presidential type of Government of which the President and the Vice-President should be elected by the people.

**Land** – Land could be owned by individual, States the government or the Local community.

- a) We had farms like ADC, KARI, Forestry, Cemetery, and other public utilities, which should be safeguarded by the Government, and all the grabbed land should be repossessed by the Government.
- b) The culture of a particular tribe should be considered as far as transfer and inheritance of Land rights is concerned
- c) Transfers of each inherited land should not be charged.
- d) There should be no restriction as far as owning land anywhere in Kenya is concerned.
- e) The Constitution should guarantee access to land for every Kenyan

**Churches in Kenya** – These churches, as far as I know, we had about five of them in Kenya. Today we have more than one thousand and over. Either the present government,x does not scrutinize these churches or they just let you go ahead.

**The functions of President:** If he retires, he should not be a chairman of any Party. If he becomes a Chairman, then there is no pension, no security - so he must retire as other people.

**Land cases in Kenya:** These land cases in Court take too long because “I am a millionaire” - either I got something to bribe either judges or anyone. There are some cases and I know a few of them, they have taken over 23 years. It goes from the Chief, Headman, DO to Court, High Court to Nyeri and nowhere. These cases must be looked into

The five Provinces that require 25% should be scrapped and we propose that, it should be 50%.



**Hospitals.** Now we are here in Kiambu. I am very sorry to say, if you go to this Hospital, even if you are about 100 Years, you will feel the smell of medicines and other things. There is no bedding if you go there, you will have to carry beddings from your home.

Lastly, there is this birth and deaths, at the Registrars of births. There is a problem here in Kiambu. If you go there, you are given a wrong form and you are told that is the form we give you. If you return them, then you are told, "Mama you have taken the wrong form". So they just open the offices here, they go for tea at around 11.00 a.m. that is the time they give you a wrong form. We have a problem here in Kiambu in regard to registration and hospital. Thank you, Chairman. (Clapping).

**Comm. Ida Salim.** Thank you Bwana Peter Ruhii for your views. They have been recorded. Next we move on to Bwana Peter Mbugua? Golf Caddies. Oral presentation.

**Peter Mbugwa** – Your Excellency, Prof. Salim, na ma Commissioner mwenzako na Wananchi Nina furaha sana kwa kunipea mimi nafasi hii.

Asante sana. Na nita ongea on Presidency. Mtu yoyote anayetaka kusimama President (Recording is unclear)

**Peter Mbugwa** - O.k. naye maneno ya score ile mtu anataka kushinda kiti ya President. Hii maneno ya 25% in five Provinces hiyo iwe scrapped. Iwe ni kitu kinaitwa simple majority 51% Ikiwa mtu hatafika 51%, wale watakua wamekaribiana wa rerun wakiwe two candidates. Hapo nimemaliza.

Sasa kama niende kwa maneno ya election, niseme maneno ya constituencies. Constituencies in Kenya, boundaries ziwe re-drawn. Kwa mfano, utaona kama Kiambaa, tuko na about eighty-five thousand voters na Baringo District - as a whole has got four constituencies with sixty-five thousand voters, kwa hivyo kama Kiambaa Constituency is under represented. So ni lazima mipaka ya Kenya iwe re-drawn.

Hiyo ingine tunaendelea yani nikusema maneno ya Local Authorities. Local Authorities iwe autonomous. Yani inajisimamia yenyewe. Ie inajulikana kubaliwi kuwa municipality kama Kiambu, iwe scrapped. Kwa sababu Kiambu Municipality utaona barabara hakuna, sewage system hakuna, street lights hakuna, kwa hivyo Kiambu hata wale ma Councillors wako hapa usimonee ubaya - hai qualify kuwa Municipality. Inatakikana iwe just a mere County Council or a shopping centre. (Clapping).

Nikiendelea maneno sana kwa mambo ya ma Local Authorities, wale ma Councillors yule anataka kusimama awe at least Form IV sababu mtu akiwa less than Form IV, hawa watu ndiye saa yote mnasikia wame defect anyhowly. Kwa hivyo masomo hapo nasema ni kitu ya mana sana.

Tena iko kitu ingine nilikua nasahau ya Presidency - maneno ya qualifications. President yule atasimama kama candidate awe

minimum qualification University Graduate na preferable a Masters or a Phd. Hii maneno ya Std.8, Form IV failure we don't want. (laughter).

Sasa niki maliza, sasa nitasema ni maneno kuhusu Parliamentarians. Kama tena ni maneno ya MP yule ana simama, naye awe ni Diploma Holder. Hatutaki maneno ya Form IV - Diploma holder, let us say if somebody is a teacher and above. Asante sana Commissioners.

**Comm. Adagala.** Hebu enda upande huu. Ngoja kidogo. Sasa 51% inafaa pengine tufukirie. Niliuliza ni kwa Presidency peke yake au pia kwa MP and Councillors?

**Peter Mbugua** – Hiyo niya President pekee yake. Hata 51% yani niseme kwa mfano, voters Kenya ni 8 million kwa hivyo 51% ni over 4 million. Kama ni kutoka (inaudible).

**Comm. Adagala** – Lakini ile principle unayo ni ya simple majority isn't? Does simple majority apply to MP's? Because you know when we do things, we have to do them in a systematic way or a logical way. So if you are saying for Presidency alone, that's o.k. But it means that the MP-ship and Councillor-ship will be different. But you have a principle. You have a principle of simple majority. Inakawia. Inaenda inakawia kwa MP. Nikama kusema mtu moja inafaa awe mu-Christo kuliko mwingine? O.K. Register over there.

**Comm. Ida Salim.** Sasa tunamwita Bwana Moses Geteu Njau. Yuko? Hayuko. Peter Kanyi?

**Peter Kanyi** – My name is Peter Wanyoito Kanyi. My memorandum is written and I am going to read.

1. The government of National Unity (Coalition Government)
2. Police Act to be amended - Like you know things about torture, arresting you and telling you it is bad time, about vagrancy.
3. Equality of every citizen before the law.
4. Liberty of conscious which every citizen must uphold
5. Every man to be free to serve God according to dictates of his conscious
6. The Government to stop the conspiracy against the rights and liberties of every Kenyan citizen
7. The Judiciary should be independent.
8. To minimise the registration of Political Parties to three parties only.
9. To clip the powers of the President.
10. Trustlands and Leaslands should be taken over by the Government and every landless citizen to be given at

least 2 acres of land free.

11. Council by-laws should be amended.

Proposals for these by-laws of City Councils: You know as in Nairobi they are demolishing kiosks, each and every day, you can not sell what you have without having a licence. The Council should give notice before any demolition because it is money that one uses to build a kiosk and it should not just be demolished. These by-laws have to be amended so that one can take the Council to Court if they demolish kiosks. Thank you.

**Comm. Ida Salim** – Thank you Bwana Peter Kanyi. Tukiendelea mbele .....

**Speaker:** ..... Haya makanisa vile ni juavyo hapo mbeleni zilikua zikichunguzwa na CID ama Department ya serikali kabla ya kuajiriwa. Na kwa vile haya makanisa yako mengi namna hii ndiyo tumechanganyika - wengine wanakuja mpaka kwa village na loud speakers na hata hapo sasa ndiyo hiyo Devil worshippers wanaingilia - maana hakuna kitu serikali inafanya. Asante sana.

**Comm. Ida Salim** – Asante sana. Next Bwana Peter Wainaina. Peter Wainaina? Hayuko. Njuki Mungai? Nafikiri wengine wame shugulishiwa na kazi. Tommorrow. O.K. Very good. Maybe some of the others who were not here are planning to come tomorrow. Francis Murage? Kenya African Mau Mau Union? Huu ni wapili lakini. Francis Njagi Murage? I thought the one I gave a chance to, alienda majishi – funeral? But they were two. Huyu ni? O.K. Thank you. Asante. Kuna John M.N. Huyu ni nani? Francis Ngugi? Next one.

**Francis Ngugi** – So my name is Francis Ngugi. I just want to present my personal views. I have two of them and one of them is that the new Constitution should be based on economic principles and when I say economic principles this is what I mean.

When we got independence in 1963 and were to revert the former colonialists land, the white highlands to the local community, there was a disagreement among the economists whether the land should be sub-divided and be given to small scale farms or they should be operated as large scale farms. It happens that here in Kiambu some of the farms remained as large-scale farms and these farms have continued to run economically and Kiambu has remained an economic giant in the whole of this Country. But there was a populist vote also among the group that the land should be sub-divided and be given to the poor. Now, we have many small-scale farmers who can not sell their produce! We have coffee, which we can not sell in the current world market, we have milk that cannot compete with the current prices, we have even sugar - You know, we are producing sugar that can not sell because you find sugar which has come from outside is selling cheaper than the sugar we are producing. So the current Constitution that we are going to make should be economically based - and what I mean is that, the policy makers - and it should be put in the Constitution, the policy makers should be qualified people. If it is the Minister of Agriculture, he should be agriculturally and professionally qualified in that field. If it is the Minister of Finance, he should be an economist. If it is the

Minister of Education, he must be an educationist - and that is where things go wrong and to guard against things going to the extreme, among the Cabinet or the policy makers, we should have some Bishops or church representatives. The four main churches at least should have people to represent us so that we know whatever is going on there in that policy making group, is for the goodwill of the Wananchi. Otherwise, we might say - I don't mind even if somebody owns the whole of Kenya - but if he is going to give us two hundred and fifty billion per year, you know, as a tax to this country, it is o.k. We are going to give money to those who don't have jobs, we are going to educate people free, but it should be an economically based Constitution.

The other one is in the Law Courts. We have for example, the Kadhi, who represents, the Kadhi Court - who represents the Islam. I think we should also have the churches allowed to select a Magistrate who can represent the Churches so that when Justice is not being done - like the instance which somebody talked of having touts or wananchi harassed, we should have somebody selected by the Churches whom we have more confidence in to represent the people.

Now I just want to emphasise that the qualification of the policy makers, maybe in the Cabinet, all of them, and also the President - if it is not a degree holder, at that level, then he should be a Phd, or even a Professor. Now I think we are a learned country and I think that most of the things will go on well. Because when people are presenting things here, I can see there is a problem between the division of resources and understanding about the Constitution. I think if we select the qualified people, most of the problems will be solved. I think that is all I have. (Clapping).

**Comm. Ida Salim** – Thank you Bwana Ngugi. Next we come to... There is a question for you Bwana Ngugi.

**Comm. Adagala** – Ngugi, on the Courts - the Kadhi Courts, then there is the Christian and Cultural, and we have like Elders, should those also be Courts? Like Cultural Elders Courts?

**Bwana Ngugi** – I think yes. I think we should entrust the issues of land among the local Church leaders and the wazees. Because some of these land issues you really can not tell when they started or where they end.

**Comm. Adagala** – I think you are saying the Kadhi does more than Law. He does personal Law, and I think you also saying the Christian one needs to be about personal Law, about ethics, isn't it?

**Bwana Ngugi** – And also you know we can appeal to that Court, maybe the locals of that area....

**Comm. Adagala** – I am asking you about Elders Court now.

**Bwana Ngugi** – Yes, the Elders Court can solve the Land issues. I think it should be empowered to solve the Land problems

because the Magistrates or the Advocate might not know the history, if it is a matter of inheritance and so forth. I think we should empower the Elders, you know, and it should include the Church Elders because I think we have more faith and trust in them than the current Courts.

**Comm. Adagala** – O.K. good views.

**Comm. Ida Salim** – Now can we ask Bwana Muchiri G.M to come up?

**Bwana Muchiri G.M.** – Thank you very much Mr. Chairman, the Commissioners and the participants. I have very few opinions that I would like to chip in to make the Constitution.

Now First and foremost, we would like to have Coalition Government. In other words we would like to have a government of National Unity. This idea of always trying to ensure that we only have a Party that wins making the Government is unfair, because, what exactly will happen is that we shall end up having very many disasters views and there is no way we can have a unified Government and therefore it is advisable to accommodate all the parties. And this idea of trying to say that majority wins is unfair. If anything, majority should always have the faith but all the same minority should have their way.

**Office of the Vice-President:** Presently you find that the tenure is somehow insecure. I mean he doesn't have security of tenure and by so doing he always feels very much harassed. I recommend that he ought to have that security of tenure and secondly he ought to be elected so that his allegiance should be to the electorate rather than to one person.

**Electioneering Period:-** We should not have the former President, still being the President, if anything we ought to have the Chief Justice acting as the President, because if we have the President who is still running in that post, it will definitely create an unfair playing field and therefore we should have the Chief Justice acting as President.

**Financing of the Parties.** All of them should be financed from the consolidated fund otherwise this idea of always trying to finance that Party which is still running is unfair.

**Corruption.** In fact corruption has really gone to very high levels and this has really run down the Country. So, I will recommend that foremost when it comes to selection of the Ministers, they should be people who are beyond reproach. Then when it comes to appointing of the Heads of parastatals. Again they should be people who have never been tainted by corruption. The Constitution should be written in a simple language that even the layman can understand not like it is now where even those who are somehow learned still don't understand it. The Constitution should also be translated into those other languages that we have in Kenya.

Then when it comes to the Heads of the Parastatal, again, I feel that it is advisable if we advertise for the posts. Presently you find that many Heads are being appointed by the President and I feel that they do not owe us any allegiance, they only owe allegiance to one person. And that explains why we have a lot of corruption especially in the parastatals.

The same case applies to the Judiciary. I feel that it is advisable if you advertise for the same post. Thank you.

**Comm. Ida Salim** – Asante Bwana Muchiri. We now move on to Pauline Kungu. Is she here? Pauline? Anthony Chege? Anthony Chege? Hayuko? Dr. Kangethe?

**Pastor James Gitau** – My names are Pastor James Gitau from Calvalry Worship Centre, a CCC member, Kiambaa, Civic Education from Ford Asili Party. Kwa Kiswahili niseme, nawakilisha Sasini Estate Workers ambawo wako na malalamiko yao na maoni. Yao ni machache sio mengi nikama ishirini hivi. Wameandika tu kwavile tumekuwa tunawafunza. Wanauliza hivi:-

Serikali ile ambayo inatengeneza Katiba

**Comm. Salim** – Samahani Pastor. Are you a member of the group? Apart from being a Pastor? In addition to being a Pastor, are you a member of the Sasini Estate people?

**Pastor James Gitau** – Yes.

**Comm. Ida Salim** – Unawasemea wao?

**Pastor James Gitau** – I am a Civic Provider but because they could not have the freedom of coming...

**Comm. Ida Salim** – Why not?

**Pastor James Gitau** – They could not be given. They are just workers.

**Comm. Ida Salim** – and this was prepared by them?

**Pastor James Gitau** – I just took notes

Interjection – (inaudible)

**Pastor James Gitau** – Yes

**Comm. Ida Salim** – He is a pastor...

**Pastor James Gitau** – There was one who was to present them but since he did not come I have to give this presentation.  
Can I continue?

**Comm. Adagala** – You are wearing many hats. I wish you had just told us directly that you are a Pastor, you are a member of three C's, you are a Civic Education Provider, you are a Ford Asili, and you are....

**Pastor James Gitau** – No, I am from CEP Party.

**Comm. Adagala** – I wish you had just told us you are from Sasini then you know ,, because we cannot verify. We believe you, but you have created a problem for us.

**Comm. Ida Salim** – Tumesema kwamba hata ingawa huyu kama mwana kamati wa CCC alipatiwa hii ndiyo asome, lakini nimejua sasa kuna watu wa kutoka Sasini. Kwa hivyo kuna watu wawili ambao wame register pale wametoka Sasini na wana memorandum yao wanataka kusoma. Kwa sababu wametoka kwa watu wale wale wametoka wa Sasini basi tuwaruhusu wale wasome hiyo eh eh. Watu wa Sasini?

**Comm. Adagala** – We appreciate Pastor. It is just that Constitutionally, people speak directly.

**Pastor James Gitau**- Huyu anasema ako na yake peke yake.

**Comm. Adagala** – People speak directly. So when you have many hats like this, it is difficult and then if a worker is here, it is better if the worker speaks - So we don't have any intermediary. That's also a Constitutional value.

**Jotham Guda** – Thank you. Asante sana Bwana Mwenyekiti pamoja na ma Commissioner wengine. Mimi kwa majina ninaitua Jotham Guda.

**Comm. Ida Salim** – Bwana Guda, una memorandum sio?

**Jotham Guda** – Nina memorandum

**Comm. Ida Salim** – Wajua hatuna wakati na wananchi ni wengi ambao wanatake kutoa maoni,  
Kwa kuwa una memorandum na maelezo yamo humo, tutakupa dakika tano tu uku mention zile points ambazo ni za muhimu.

Dakika tano peke yake.

**Jotham Guda** – Sawa sawa. Kwanza, nikianza nita anza kwa Ukuu wa Katiba. Kwa uku wa katiba ni vizuri kwa sababu wabungeni sisi tunawachaguwa, ikiwa kuna sehemu kwa katiba ambayo wanataka kubadilisha, ni vyema tujulishwe kuliko kubadilisha hawa wenyewe na hali sisi ndiyo wanatuakilisha.

**Uraia** - Katika nchi uraia ndiyo kitu ya muhimu sana. Katika nchi hii ya Kenya, Rais na Wajumbe huwa wanataka kura tu kwako lakini hawataki kujua unaishi wapi au unaishi namnagani. Unakuta watu wengi hawana mashamba. Na sana sana katika sehemu zingine zili vamiwa na wazungu, tunaweza kusema bado wako na wazungu weusi. Sababu mzungu aliondoka, unakuta mzungu alikuwa na hekari elfu tatu ya shamba, mwafrica moja ndiye amebaki kwa hiyo shamba. Kwa hivyo katika uraia hapo tungependa, kila raia nchi ihakikishe amepata sehemu fulani ya shamba. Ndio awe raia kama wengine.

**Vyama vya kisiasa** - Tungependa ukumo wa vyama vingi na tusiweke viwango vya vyama tuseme tunataka vyama fulani - Italingana na wajiri, na ukweli ya hivyo vyama hiyo ndio itafanya chama ichaguliwe.

**Ulinzi na Usalama** - Hasa raia maskini wana shida sana. Utakuta unajulikana, wakati ushuru unachukuliwa kwano lakini hali yako ya kimaisha aijalishi iko namna gani. Kwa hivyo hapo kwa ulinzi, ulinzi ya Minister inge kuwa sawa na ulinzi ya raia ya kawaida.

**Wabunge** – Wabunge ni sisi kwa sababu sisi ndio tunawachagua. Tukikataa kuwachagua hakuna mtu atachaguliwa huko. Kwa hivyo inatakikana watujue, na nime sikia kitu kimoja lakini yangu itakua tofauti kidogo. Tumewai kusikia mara nyingi wanafunzi wanachoma ma shule na kuuwa wengine - kwa hivyo masomo haiambatani na uongozi. Unaweza kuwa umesoma zaidi na una utu ya kibinadamu uwezi kuongoza wananchi. Kwa hivyo at least mtu kama amejua kusoma na kuandika - at least awe mtu wa Form IV ametosha kuwa Rais. (Clapping)

**Mamlaka ya Nchi** – Tumepea Rais mamlaka yote mpaka sasa kila mtu hana la kusema kwake. Ni vizuri Serikali liwundwe ya mseto.

**Mahakama** – Tungependa mahakimu wakae wakijua kwamba ni watu wanahudimia na ndiyo sababu wanapata pesa. Kwa hivyo shuguli za kikazi za mahakama inatatizwa kulingana na udhaifu wao kwa kazi. Kwa hivyo sheria ingewekwa kila hakimu ajue kazi yake, masaa ya kazi ya kuinga kazini, ili makesi zisirundike huko kortini.

Nitarudia hapo kwa umbuge kidogo. Lita kuwa jambo la kusikitisha sana kwa ubunge, ikiwa mtu anafanya kazi masaa mawili na anapata ma million ya pesa. Na ili hali wewe yule ume muchagua unafanya kazi masaa manane na nusu, na hata pesa yako haijulikani ni kiwango gani. Kwa hivyo wabunge wasiwe na siku mbili kwa wiki, wawe wiki full – kutoka jumatatu mpaka



ijumaa. Wafunge kazi warudi kwa jamii zao. (Clapping)

**Utaratibu ya Uchaguzi** – Tutafuata yule mwenye anaongoza kwa kura nyingi. Mwenye amekuwa na kura nyingi ndiye atakua mshindi.

**Kuhusu Rais** – Lazima awe na zaidi ya kura ya percentate ya 51% katika kila Mkoa. Awe amepita kwa asili mia na hamsini na moja au zaidi.

**Haki za Kimsingi** - Katiba ilioko wakati huu, ile inatulinda saa hii, imesahau kuna mkulima na kuna jembe. Inajua mkulima lakini haijui Jembe ile inalima. Utakuta hapa mashambani kama babu yako alikuwa mfanyakazi wa mashamba akichuna kahawa, mpaka mjukuu wake wa mwisho atakua akichuna kahawa sababu ya kukosa karo ya shule juu ya mshara.

Inaonekana mshahara wa wafanyi kazi wa mashamba ingewezekana iratibiwe kama mshahara wa Ministers - penye kiwango yao inatokea, hata hawa wangetushugulikia wajue mtu ya mashamba anapata pesa kiwango gani. Sababu inasikitisha ikiwa umeshikilia kitu kimoja, Manager anapata elfu hamsini na wewe mfanyakazi unapata elfu moja mia tano. Hiyo ni kama Katiba ilitusahau hapo.

**Uhusiano wa Kimataifa** – Uhusiano ni mzuri lakini tunasikitika ikiwa huku tuna ambiwa uchumi umezorota, na ilhali wakubwa wetu wanaharibu pesa na wanazurura nchi za ngambo, na unakuta ana anza kazi mpaka hata huko nje na ili hali haja tembelea hata Constituency moja - ilihali huko ngambo anajua kila sehemu. (Laughter). Kwa hivyo ni vyema Rais kabla haja anza shugli za nje, Katiba iwekwe - kabla aja anza shugli za nje, atembele kila Constituency ajue matakwa ya kila Constituency ndiyo ratiba ipangwe kawaida. Ni hayo tu. (Clapping).

**Comm. Ida Salim** – Bwana Guda - swala moja au mawili. Ngoja kidogo.

**Comm. Adagala** – Pengine si Bwana Guda pekee yake. Lakini unajua vile Katiba ilibadilishwa 1964, tumekaa na hizo nguvu za Rais kwa hii miaka yote. Ni vizuri kutia ni kitu kimedumu ili kusiwe kitu ambacho kiko tu wakati huu na kazi yetu pia nikufumbua hilo fumbo la Presidential powers ili literemke. Watu wakizungumza Presidential powers, inafaa waseme tukufumbua hizo nguvu, ziende wapi? Napia tujue ilikuepo tangu 1964 na ime dumu. O.K. Si semi ujibu saa hii, lakini pia mnaweza kufikiria kama wafanyakazi. Kwa vile ninaona muna fikira nyingi. Tukufumbua hiyo, nguvu hizi zitaenda wapi? Kwa sababu ni nguvu nyingi. Sasa zitaenda wapi. Lazima ziende mahali, sivyo?

**Bwana Guda** - Ndiyo

**Comm. Adagala** – Haya. Mtafikiria. Mnaweza kuongezea memorandum nyingine. Tutaweka hapa kwa computer, kwa Website, watu waone hata ngambo, na pia mkilete nyingine, kwa Computer ni kitu raisi, itawekwa tu kwa alphabet yenu. Mkitaka kuongeza. Asante sana.

**Bwana Guda** – Haya. Asante.

**Comm. Ida Salim** – Tukiendelea, Jane Regi? Jane Regi, hayuko? John Njoroge? David Mwinamo? Naona wetu wengi wameondoka. Tuombe kwamba kesho labda watafika kwenye kikao chetu cha pili - Na mapema. Reuben Chege? Davis Mwangi? Yuko? Abdulrahman Yusuf? Hayuko. Patrick Mwiruri - nafikiri from KEMRI, hayuko? Mwangi Mungai? Hayuko. Councillor Ndungi, hayuko. Councillor Boro Warui. Councillor's wameondoka. Anne Muthoni Munge, Danson Mbaya. Hayuko. Karuthi. Hayuko. Peter wa Mwauru. Hayuko. G.K. Muthua, Kasuku, George Njoroge, Joseph Mugo, hayuko. Stephen Kimani? Hayuko. Stephen Kimani? Na wengi waka alikua hapa. Kwa hivyo muna ngojea pia. Majina yenu itajwe. Very Good. Tutaendelea mbele basi. Stephen Kimani hayuko. Mary Njambi? Many Njambi hayuko. Johnson Wainaina? Ngugi Francis? James Kianyati. James Mwaura. At last. Very good. Ni maoni ya kimdomo, sio Bwana James? Haya.

**James Chege Mwaura** – Thank you very much. My name is James Chege Mwaura and I am from Riabai. I have worked in this Country during the colonial days and I worked under a Mzungu. It is very sad to note some few things I can see these days. Things have changed. For one, we have “uchumis” where these tycoons, are allowed to sell their goods here because the Price control is not there. You sell your goods the way you want. During the colonial days...

Interjection – Comm. Adagala – excuse me address the Commission halafu usitoe hutuba utoe proposal. .Najua vile unaenda, lakini usiende sana.

**James Chege Mwaura** – I am born that way. For one you take the comparison during the colonial days. We used to have shops and Price Controllers. In 1982 I owned a shop and I am very sorry to tell the Commissioners that I sold Tea Leaves, it was costing 15 cents and I sold 20 cents, I was accused in High Court and I was charged for that - and I was guilty. These days you find everybody does what he wants. It is like a house, your son comes with maize, another one comes with a mbuzi, another comes with a pombe, they all drink there, you cannot ask any question. It is very sad. We should have a government or a Constitution where everything is controlled. Take for instance now, we have Asians, they are selling the goods, even a sparepart worth two shillings, they can sell hundred thousand shillings. Take it or leave it. On that point, I am off.

We come to the other point. During the colonial days, people used to drink only when they have permit.

Interjection by **Comm. Ida Salim** – Bwana Mwaura could you kindly also give us your proposals. You said in the old days for example there were Price controls, what are you asking the Commission to do?

**Bwana Mwaura** – I am telling them to do this.

1. We should have Price Controllers. Things must be controlled in this Country. If a bread is sold at Riabai at fifty cents, it should be sold at Kiambu at fifty cents.
2. If it is a spare part - let us say it is a tyre, it should be sold at Kiambu, Nakuru the same price

Secondly, alcohol is very bad in this Country. During the colonial days, people used to drink and at ten o'clock the bar is closed. These days the bar is opened at six and it is closed the following ... I mean, even it is not closed! It is very sad. We find our sons, our daughters, are drinking from morning to evening. The Government should say there is time for drinking and time for work.

Secondly ....

**Comm. Ida Salim** – You want to limit the number of hours during which the bars should be opened?

**Mwaura** – Yeah. Like the old days, if I had a ceremony, I go to the Chief, I tell him I have some friend I should give alcohol, I am given permit to give alcohol on that day - not everyday. You find these days, every morning our children are so drunk. Please the Commissioner, you tell the Government, please they control the time of drinking. Like this kumi, kumi, the Government says it killed ten people, 20 people, somebody is put in jail. The following day somebody cooks the same alcohol, it kills people, no action taken. Please Commissioner, that one should be noted.

The other thing, Judiciary and I want to give a good comparison. A very good comparison about Judiciary. My own son was killed by a tycoon here in Kiambu in a road accident. That man died without any action being taken to him, and I took that case to Justice Miller in Bruce House. No action was taken to him until he died. He was not taken to the Police, nothing was done and the case is gone, and my son died at Aga Khan Hospital in ICU in 1997 - No action was taken to against him and he told me, “do you know me”? I say o.k. I know you, you are Mr. Kimiri, “I can mention”, “you are Mr. Kimiri, you are a tycoon”. I just kneel down and I say, “God help me”. Does everybody in this Country have to kneel down and say God help me? Action should be taken against anybody. If you cause any accident, if you beat me, if you do anything to me, action should be taken against you.

The other thing is - I mean, I don't know what is up! In our area we are beaten by robbers, a whole year, a whole year. We have police, we have everything, nobody has been arrested. Every night you hear screaming, screaming, screaming, “hoo hoo”, a year gone, another day comes, “hoo hoo” nobody has been arrested no - I mean you can't understand. So I am asking this Commission, please, the new government you are going to form should ensure that if somebody does something, please action should be taken - no matter who you are. No matter how rich you are. No matter how poor you are, action should be taken.

Thank you very much.

**Comm. Ida Salim** – Thank you Bwana Mwaura, I think you are telling us “Justice should be blind”. Correct?

**Bwana Mwaura** – Yes

**Comm. Ida Salim** – Thank you. Asante. Thank you.

**Comm. Adagala** – Pole sana kwa mtoto wako. Tuna visa kama hivi, tukienda kwa ....., when we go for hearings, we end up with these kind of cases - in fact we had one in Kerugoya also and a student died, and it is known who did it - so I think people are really feeling the injustice and that justice is not being done even the insecurity. But we are noting it down, there is ways to say it for instance when he is says, there should be Price Control, he is really talking about liberalization - that it has gone too far. That kind of thing. So we are not just listening for the sake of listening, we also know what is being said when someone talks like this. O.K?

**Comm. Ida Salim** – Thank you. As we proceed we come to Bwana Bernard Gakumo. Karibu Bernard.

Speaker – Habari ya ma Commissioner na wananchi wote?

**Comm. Ida Salim** – Salama.

**Bwana Bernard Gakumo** – Mimi yangu ni mafupi sana. Kwanza habari ya constitution. Nataka Constitution iwe supreme hata President awe chini ya Katiba kwa sababu Katiba ilioko sasa jaijaturumia. Katiba ilioko sasa ime mpa Rais mamlaka makubwa sana. Tunataka three arms of the Government, zote - zigawanye mamlaka. Na Parliament iwe juu ya Executive. Hiyo ni kitu ya kwanza.

Haya, President anatakiwa kuchaguliwa by 51% na running mate wake by 51%. Na hiyo sheria ya kusema achaguliwe na 25% iondolewe.

**Provincial Administration** – Hatuitaki hapa kwa sababu ni chombo ya kudhulumu wananchi kwa sababu inatumiwa kudhulumu sisi.

**Political Parites tunataka** – Tunataka Parties tatu. Hiyo zingine ziende kwa sababu Political Party ikiwa registered, mtu anachukwa yake anauzia huyu, anauzia huyu, sasa itakua kama biashara.

**Defence and National Security** – Lazima tuwe na Parliamentary Military Committee kwa sababu hiyo ndiyo itakua iki vet

hawa watu - hawa askari wote. Na waandike yule mtu ana qualification mzuri, ule ako na conduct mzuri.

**Electoral system** – Tunataka hawa watu wa Electoral Commission walioko wakati huu waondolewe kabisa kwa sababu hawa wako chini ya mtu mmoja na chama kimoja. Hatuwataki sisi. Kwa sababu election ile wamefanya imekua biased. Kwa sababu yule mtu ako na kura kidogo ndiye anakua President.

**Ardhi** sasa. Sheria ile iko ya ardhi, ime wapa watu wawili mamlaka makubwa sana. Moja ime mpa Rais. Rais leo akitaka kukupatia ile shamba ya kahawa na Commissioner wewe utapewa kama mkate. Sisi tumeona shida Bwana Commissioner and Madam Commissioner. Tulikuwa na case. Hiyo case tulikuwa naye ni Mboi Kamiti. Yule MP alikuwa hapa ndiye alitunyanganya shamba kwa sababu alienda aka pewa. Mimi ninasema Njenga Karume. Na hiyo nitasema hapa - Kwa sababu sasa ile sheria iko, iko watu hapa leo wako na ma elfu ya ma acre. Mimi ninajua moja ako na one point two million acres na watu wengine hawana hata pahali ya kuchimba choo! Hiyo tunataka land ceiling - 50 acres - hakuna ingine. Na ile misitu ime ibiwa lazima iwe repossessed.

**Judiciary.** Judiciary lazima tuwe na Parliamentary Judiciary Committee ile ita vet hawa Magistrates na ma Judges wote. Kwa sababu ma Judge wengine wamechaguliwa na mtu. Mimi nitasema moja. Iko mmoja alichaguliwa kwa sababu ya kudhulumu wananchi. Huyu anaitwa... O.K. O.K. I will not do that.

**Comm. Ida Salim** – Ukitaja jina huenda ukasumbuka.

**Bernard Gakumo** – O.K. I will not do that. Ya mwisho Judiciary nilisema kuwe na Parliamentary Judicial Committee ambaye ita vet yule mtu amepita sawa sawa na mtu ako na good conduct kwa sababu ma Judge wengine na Magistrates hawafai kuwa kortini.

**Office of the Attorney-General.** Office of the Attorney-General ndiye imeleta corruption katika nchi hii. Kwa sababu the Attorney-General ako na power nyingi anasema huyu hatastakiwa wakiwa na Rais. Tunataka watu wote wawe chini ya sheria na chini ya Katiba.

**International Foreign Relations.** Sisi ni huru na tunataka President awachie Minister for Foreign Affairs hiyo kazi kwa sababu amempa kazi hiyo. Sio yeye ku dictate ati tunataka... akikosana na nchi anasema hii hatutaki na hiyo nchi inataka kutusaidia. Kwa sababu sisi tuna sema hiyo nchi tunahitaji. Yangu itafika hapo.

**Comm. Adagala** – Unajua nina shida, maybe perhaps, pengine tutawacha tu. Lakini kuna kitu, 50% for Presidential, hiyo nakubali kwa sababu hiyo ni majority. Sasa tukiwa kwa kama hapa Kiambaa na watu saba wasimame kwa MP halafu yule atakuwa wa kwanza atakuwa na kama eee 25% ya kura, unaona vile nasema? Sijui kwa nini hii ya 51%, tukisungumuza kule

Commission, pengine itakua vizuri tunge pata kutoka kwa nyinyi. Kwanini hii ya 51% isiwe pia kwa MP's na Councillors? Kwa sababu inaweza kuwa pia run-off between two MP's, kwa sababu mtu anaweza kupita, na hata inafanyika hivyo, watu wanasimama watu saba, halafu yule anapita na 25% au 20% of the vote, sasa yeye ndiye MP kwa watu ambao 80% hawakumchagua.

**Bernard Gakumo** – Mimi nasema zote - Kuanzia Councillor, MP hata mpaka President. Zote.

**Comm. Adagala** – Sitaki kukupeleka huko kama hukua unaenda huko. Lakini inafaa nikisungumuza kwa Board ya Commission - mwishowe tutaalizwa, kwanini watu walikuwa wanasema kwa Presidential na sio kwa Parliamentary au Civic? Sasa sijui pengine mtu ..., lakini ningependa mtu anipe sababu kwa nini iwe tofauti. Na pia, political parties, sasa pia watu wanasema political parties tatu, na tumeaza tu hearings, lakini pia ningependa kujua kwa sababu ukikataza mtu ataenda kwa Amnesty International aseme nilikua nataka kuwa President lakini walinikataza kuandika party yangu. Sasa sijui kwa nini iwe tatu? Mtu mmoja alisema tuangalie manifesto iki fanana, tuna ambia watu muwe pamoja. Lakini hiyo pia nikutoa uhuru fulani. Sasa sijui, tulisema multi-party iweko. Watu walisema hivyo.

**Bernard Gakumo** – Zikiwa tatu, yule mtu ataona hata shinda ataingia watashikana pamoja. **Comm. Adagala** - Ubaya tu, watu watasema tumechukua uhuru wao.

**Bernard Gakumo** – Lakini hata hapa lazima kuwe na independent candidates. Kwa mfano kama Ronald Reagan alikuwa amesimama independent candidate. Ndiye badaye akaenda kwa Republican.

**Comm. Adagala** – O.K.

**Bernard Gakumo** – Yes

**Comm. Adagala** – O.K. Unataka nini iweko badala ya Provincial Administration?. Umesema hiyo out.

**Bernard Gakumo** – Wale watu watachaguliwa wawe wamechaguliwa directly na wananchi kwa sababu wakifanya makosa wananchi watauliza yeye. Kama amefanya makosa wananchi wata vote yeye out. Yes.

**Comm. Adagala** – O.K. Haya, mwisho, ni kueleza kuhusu Electoral Commission of Kenya. Electoral Commission of Kenya members umesema waende out. Hiyo ni sawa siwezi kubadilisha. Lakini information ni Electoral Commission of Kenya members wanatoka different parties, sio party moja, sasa umesema out, hiyo ni sawa, lakini sababu umetowa haiambatani na vile iko. Kwa sababu kuna watu wa Ford Kenya hapo, wa DP, wa KANU - all the parties which are Parliamentary parties. Sasa hawako chini ya mtu mmoja. Sikusema wako independent vile tunge penda, lakini wako different parties.

**Bernard Gakumo** – Kazi yao ni dumi kwa sababu ndiyo tunasema namna hiyo. Wale watachaguliwa wawe vetted na Parliament. Sio chama kimoja. Na wawe wamepitishwa na 65% wote.

**Comm. Adagala** – O.K. kile unasema sio chama kimoja, vyama, si chama kimoja ambayo iko na watu kwa Electoral Commission, ni vyama vyote. Sasa wakichagua, parties wanaweza kuchagua na iende kwa Parliament halafu ipitishwe. Nasema hivyo kwa sababu tulikuwa na seminar ya wiki mbili na tukachunguza Electoral systems zote za dunia nzima na ziko tofauti, tofauti. Lakini sasa ukisema hivyo wachaguliwe na parties, lakini waende kwa Parliament, hiyo ni sawa, lakini kusema ni watu wa party moja, wako chini ya mtu mmoja, si haki, si kweli. O.K. lakini sasa umerekebisha. Ni sawa.

**Bernard Gakumo** – Asante sana.

**Comm. Ida Salim** – Asante Bwana Gakumo. Tukiendelea yuko Bwana Eliud Kariuki? Yuko? Eliud Kariuki? Peter Kahuria? Una memorandum au oral presentation.

**Kahuria** - It is oral.

**Comm. Ida Salim** – Oral, o.k.

**Peter Kahuria** – Asante sana Bwana na Madam Commissioners. Yangu ni machache. Nataka kuongea juu ya education.

My proposals about education is that KCPE and KCSE exams to be shifted from October/November period to to August/September due to the following reasons.

1. Climate changes. As a result of the rainy seasons towards the end of the year, transportation of exam papers is usually inconvenienced in those rural areas - and for those who don't know rural areas contain the majority of the schools national wide. These rural roads are impassable during the rainy seasons. Hence this should be avoided.
2. National Holidays: – Most holidays start in October when students are in preparation for exams yet they are expected to participate in the holiday celebrations. This affects the performance.
3. Elections: Due to the past history of General Elections taking place in December, the pre-election activities such as campaign meetings and advertisements, which are usually carried out by means of loudspeakers, adversely affects the final revisions by the students sitting for exams.

4. Harvest season: – Some areas that experience harvest like coffee and tea have low performance in some cases where the students tend to desert schooling and go for the harvest only to come and sit for exams later.
5. The bonus – This is most significant in Tea Zones where it heightens students' urge to desert schooling and rush home to have his or her share which is usually in form of a boom. This is a factor against the concentration of a student.
6. There will be some perfection in my argument if it was the case that the reduction of exam papers in Primary School from seven to five was also the same reduction in High School. Those in the teaching field can observe that students are using less hours to cover the new syllabus therefore concluding their day earlier than before. Therefore, if the education strategists would revisit the issue, they should note that Primary Students are earning 70% of the previous time where the exam papers were not reduced. Given the seriousness that used to be there before the reduction of the exam papers - if it is instituted now, it is possible for the students to have cleared with the Primary education by the end of September, hence achieve the goal of doing the exams by the end of September.

The Second issue is the change of location of institutions of learning and higher studies up to and including Colleges and Universities. The proposal is to change those that are within the town centre and its environs to better areas away from the towns where learning atmosphere is conducive. Reasons:

- a. Is that noise from the moving vehicles, industries and unruly public e.g, striking workers and demonstrators.
- b. Air condition is not conducive due to smoke from the vehicles and industries
- c. Students using public transport experience uneasy mood boarding and alighting from these vehicles and then crossing over the streets of town centres.
- d. Students' cash inconvenience and damage to property outside the school when there occurs a strike e.g. damage to vehicles, buildings, shops and kiosks.
- e. Graduation ceremonies in such schools also cause traffic go-slows and some traffic accidents, which can be avoided in case they are allocated elsewhere.
- f. Schools and other institutions of higher learning reduces highly the areas that can be used to allocate other convenient public facilities necessary, like addition of Government offices that are now using rented buildings and also non-governmental organisations. In other words these institutions interfere with the proper planning of physical planners because the first areas, they were allocated during the colonial era bringing this inconvenience, therefore it is better they are re-allocated elsewhere now.

**Comm. Ida Salim** – Bwana Kahuria we have a very limited time, can you summarise because we have quite a number of



wananchi waiting to give their views and we are finishing in an hour's time.

**Bwana Kahuria** – O.K. The last point is roads. The proposal is to introduce a commission consisting of a panel of Engineers, to overhaul or review our present roads in terms of the right of way and the structural design and I have a few reasons as to why I am saying this. In the colonial era, (intejction) O.K. I go through it or I give there?

**Comm. Ida Salim** – Thank you very much. What you do is you hand over, register it and sign that you have passed it. You have a question Commissioner?

**Comm. Adagala** – You look like you are a teacher, Peter? You are not? I was wondering, you have all this suggestions for – pay attention this way..George, wait we finish with him. You have all these suggestions which are very good, and I was wondering, you are pushing for August/September and August/September is harvest time for maize, so it is a competition between maize and coffee but what you could do probably is think about the school year and how we should go, o.k.? You know when the colonialists set it this way, there were very few people going to school, but now nearly everybody goes.

Two – You have not said anything about.... or may be you shouldn't, maybe you should think about it, the financing of education, or how it should be, but I understand you are talking about the structure so it is o.k. But do you think you could look once again at the calender and see whether... since you have taken over the responsibility and see how it fits with other activities in the country, it can help a lot.

**Bwana Kahuria** – O.K.

**Comm. Adagala** – Yeah.

**Comm. Ida Salim** – Next Bwana John Mbugua? Tafadhali be focused as brief as you can, so that we allow others. They have been waiting a long time. We don't want to disappoint anyone, send anyone home without giving his views. Thank you.

**Speaker** – Thank you Commissioners, I promise to be very brief. My name is John Mbugua and first of all I would like to start with taxpayers. Taxpayers' money is the money that keeps the people going or the population going. This money should be distributed population-wise. Here what I want to talk about is, we see a population in a different area like Kiambu where it is densely populated and the money which is usually collected from Kiambu and taken to the Treasury is distributed to other areas less densely populated than Kiambu. The taxpayers money should be controlled and minimised on how it is used e.g. you can see when a President is travelling maybe from here to Kisumu with a convoy of about 40 vehicles, and maybe even twenty motorcyclists. The present convoy should be minimised may to five and two motorcycles to minimise the use of the taxpayers' money.

**Voting Age** – The age of voting should be brought down to 16 years and the cut age to 80 years. Somebody who is above 80 years should be excused from voting. The reason I have is, those people who are above 80, are very easily confused, “that you vote for this person, or you vote for this person”. They are very easily confused and the voting should be made compulsory. If somebody does not vote that should be made an offence.

**Political Parties** should be reduced to only four and their affairs financed by the State.

**Municipalities.** Mayors and Councillors should be elected directly by the people and their tenure of the office should be five years. We usually hear the Mayoral election every two years. What has that Mayor done within that period of two years? They should be elected directly by the people and their term of office should be the same with as the MP’s.

**Land** - Land should be owned by the Government and the individual above 24 years to be given five acres anywhere in the Country and later upon the death of that person, that land can be surrendered back to the State and be given back maybe to somebody else.

**Issuance of the Passports.** It is very tedious when somebody wants to get a Passport. You have to go to the Provincial Headquarters in Nairobi. The issuance of Passports should be brought to the Police Station. If you want to get a Passport, you walk to the nearest Police Station and you get a Passport. I propose that we should also have dual citizenship introduced in Kenya.

**Religion** – I am talking now about the freedom of worship. According to my knowledge; we have about 800 Religious Sects. They should be brought down to 10. This is to avoid exploitation of faithfuls by the leaders. You see, we start a Church today with you, tomorrow we disagree, and I go and start another Sect there. Where we have so many churches, we can see a lot of poverty in that area, because a lot of people in that area, go to the church to seek the guidance because the leaders who are there in that church, tell them “now you just come here in the church you have everything, you eat hay here on earth, you eat pie in Heaven”, and the faithfuls will be exploited in that way.

**Education:** This is my last point. The age of Primary Education should be six years. Six years in Primary School - because here I was looking at the mortality rate. The mortality rate on how people are dying. The mortality rate in the developing world is about 48 years. So if we bring down the education period to be six years in Primary School, and six years in Secondary School, five years in University - you see that somebody has spent twenty-two years Up to University. That means, when you are leaving university you will be twenty-two years and when you are retiring according to the age of the retirement you will be fifty-five. So you will have worked for thirty-three years, and everybody who will be leaving university will be a Masters, so you spend three years doing Bachelors and two years doing Masters. Those were just my observations. Thank you.

**Comm. Adagala** – When you say Religious Sects, that includes the Islamic, but I think you mean Christian Churches.

**Bwana John Mbugua** - I talk about them because that is where you find exploitation because with Muslims ...

**Comm. Adagala** – You don't need to explain, I am just saying that at the beginning you said religious.

**Bw. John Mbugua** – Yeah.

**Com. Adagala** - Then you said Christian. O.K. it seems as if you have thought out many things, so that is o.k.

**Comm. Ida Salim** – Edward Ngumi? Edward Ngumi? Not here. James Mwaura? Gone. James Mwaura? I have a James Mwaura here. Is there another James Mwaura? Oh he is the same one. He has already given? He appears twice. But the handwriting is different. Handwriting - they must have been two. Rahab Kanau? Not here. Rahab Karuma? Not here. Joseph Leibi. Njoroge? Here? So those three are not here. Joseph wa Kimei? Yuko? Hayuko. Michael Kamau? Kangethe J.N? Mungai M.N.? Muthua J.M? Hayuko. Now some handwrittings are different. John Muchiri? Mzee John Muchiri. Actually, these are just attending because there is no suggestion of form of presentation. Who is here to present views still left? O.K. Actually I have gone through the list one after the other. M.N. Noni? Christine Gichure? Or Gichuru? No? Joseph Njoroge Councillor, Kiambu? No. Peter Kige? This is actually the end. Mary Nduta Mungai? So who is here? Jotham. I think he is already given. Jotham Guda, asha toa. Samuel Kiarie? Ah, o.k. at last. Let us find out the others, Jane Wakironji? Is Jane here? So please get ready after Samuel. And Arthur Mbaka, Arthur Mbaka, is he here? Right, Samuel then Jane.

**Samuel Kiarie** – These are my personal contributions or views towards the Constitutional Review Commission and thank you very much for this chance even for coming closer to the people.

The first one I would like to talk on or to suggest on is about Language. After thorough investigations I have realized that language has power to unite or even disunite people and I am suggesting that anybody who is of the age of 35 and below should not be allowed to speak the mother tongue in public place and it should be considered a civil disobedience if they do that and every kind of media, be it Radio, be it Newspapers which is promoting tribalism or which is printed or communicated in the mother language as opposed to Kiswahili which I am suggesting should be informed as a National language, those kind of prints, magazines and stations should be abolished or licences cancelled.

After the elections, a Government of National Unity should be formed from all parties and if not, we should go back to one party state - that the Act which was amended should be repealed to a one party state, if a Government of National Unity can not be formed from all parties that are represented in the Parliament.

No. 3 is about Public Offices, e.g. PC's, DC's and Heads of Parastatal, AG, they should be mentioned by the Head of Public Services but interviewed or vetted by Parliament itself.

No.4, I have suggested that KACA that is the defunct Kenya Anti-Corruption Authority should be re-enforced and legalised and it should be re-enforced by surveillance mobile groups to visit all public offices and even along our roads because these places are the worst hit by corruption.

Last but not the least. I have said that every Presidential candidate should garner at least 50% of total votes cast in all eight Provinces and he should be of University Level of Education. Thank you.

**Comm. Ida Salim** – Thank you very much Bwana Kiarie. One small clarification I am seeking from you. You said Presidential Candidates should get at least 50% or 51%.

**Bw. Kiarie** – 50%.

**Com. Salim** - Supposing there are two and they compete and each gets 50%, who is the winner?

**Bwana Kiarie** – There is supposed to be a repeat.

**Comm. Ida Salim** – Repeat, yani run-off?

**Bwana Kiarie** – Repeat. Yes.

**Comm. Ida Salim** – O.K.. Thank you.

**Jane Kironji** – Thank you. Asante. Thank you Commissioners and Chairman and our Co-ordinator na wageni wengine. Kwa majina ni Jane Kironji. Mimi nasimama kwa niaba ya Amani Kwa Wote group.

Kitu tunataka, hii group wanataka kusema hali ya masomo ya Primary School. Wanataka masomo ya Primary School iwe free.

Ya pili ni habari ya Visa ya watoto yakuenda kuongezea masomo ngambo. Hiyo wanauliza kama wanaweza wakipewa hiyo Visa free.

Ya tatu ni habari ya kinamama huwa wana kuwa appointed to be one of Board Members of Land as well as Members of the Parliament. (interjection ...)

**Com. Salim** - member wa nini? Wa Board of Land. Land Board.

**Jane Kironji** – Land Board and to be appointed to be a Member of Parliament.

Ya nne ni masomo ya wasichana na wavijana iwe ni kiasi moja. Isiwe ati mvulana maana ni mvulana anaweza kupewa masomo ya juu kushinda msichana.

Ya tano ni habari ya Government hospitali. Maana watu wakienda hospitali, na niya Serikali, unalipa na hupati dawa. Unashindwa hizi dawa zinakuja na zinaenda wapi?

Ingingine ni ya habari Private hospital. Tunaweza kuuliza Serikali zipunguzwe kidogo maana wale wako hospitali ya Serikal, ukienda huko private hospitals ndiyo unawapata, hawa ndiyo madaktari huko. Sasa wananchi wanaonelea hawa madaktari wa Government ndiyo wenye hizi ma hospitali za private. Tena zimekua nyingi zaidi kama hapa Kiambu.

Tena tunauliza habari ya kina mama - wale wana wachwa na mabwana zao. Maana saa ingine inatokea accident ama ugonjwa, bwana ana aga dunia, wewe ukiwa mama unawachwa na watoto. Ukikaa family ya bwana yako wamekufukuza. Wanauliza kama umefanya harusi ya kanisa, ukiwa bado unafukuzwa hata ukiwa umefanya wanakufukuza. Na ukipeleke hayo malalamiko uwezi kusaidika. Hapo tunaona tunafinyiliwa sana, maana hawa watoto wameachwa na baba yao wanataka masomo na huyo mama sasa amefukuzwa ameacha nyumba yake, saa ingine wanaonelea hiyo nyumba ni ya mama ni zuri sana, wanaona huyo brother yake ama huyo mtoto wao ako na pesa nyingi kwa Bank, unafukuzwa hata bila notice. Tunataka Serikali iangalie hayo maneno ya akina mama na watoto wale wanawachwa nyumbani na bwana yao.

Ingingine ni ya hawkers. Kwanza hapa Kiambu Municipality hawkers wana taabu nyingi sana. Maana wanalipa licence kila mwaka elfu mbili karibu na mia tisa na saa zile wale wenye kununua haya ma plot ya barabara, wakitaka kujenga, hawapei hawa hawkers notice - ati “tunatake muondoke, tunatake kujenga plot zetu”. Asubuhi ukienda kufungua kazi, anakuja anakuambia anataka kuweka sengenge hapo maana hiyo ni plot yangu. Saa ingine, yeye mwenyewe anaondoa pahali wewe unauzia ama wewe unatafuta watu wanaondoa. Sasa tunashindwa, hiyo kazi unafanya ndiyo unasomesha watoto wako nayo. Na hapo pahali unalipa licence. Serikali ingalie. Municipality, hawkers wapewe pahali, kama pahali pengine, kwa maana ukienda Limuru, ukienda Ruiru, ukienda pahali pengine, ukienda Githunguri, unakuta sehemu ya hawkers imewekwa sengenge wote wanakuwa huko ndani. Hiyo maneno tunataka Serikali iangalie ya Kiambu Municipality.

Ingingine ni watoto wale wameachwa na Baba na Mama kwa sababu ya huu ugonjwa ya AIDS. Kuna watoto wengi - Na

hawasomi. Hawana kitu ya kukula, hawana Nyanya, hawana ata Aunty wao, na ndiyo hawa wengine munaona wana randa randa huko mtaani, kwa sababu wameshindwa na la kufanya, amekosa kitu ya kukula. Sasa hawa watoto, hawana Baba, hawana Mama. Serikali tunaomba iwatafutie pahali, wajengewe, wapewe waalimu ndiyo wapate masomo. Asante. (Clapping).

**Comm. Ida Salim** – Asante sana Jane. Sasa tumebakiwa kufuatia wale waliji andikisha, na watu wawili tu. Bwana John Oduor. Yuko? John Oduor. Are you John Oduor. Yes. Is that you? Ni oral or written?

**Comm. Adagala** – Kwa mama ambaye ame present saa hii Jane, Visa, sijui ulimaanisha Passport au vipi? Visa inapatikana kama hiyo ni kitu ya Foreign - Hiyo ni kama ya American or British Government, lakini ikiwa ni Passport, ya kusoma ngambo. Ulisema ya kusoma ngambo? Ngambo? Visa sio ya Kenya. Passport ndiyo ya Kenya. Kenya haiwezi kutoa visa. Lakini Passport unaweza kusema Passport, wapewe free. Visa haiwezi kutoa. Kenya inajukumu, it has control over Passport but not Visas. Yeah.

Interjection – (inaudible)

**John Oduor** –Yes. Mimi maoni yangu ni machache. I’ll talk about the Education Act concerning persons with disability and also I’ll talk about Civic Elections and the reproductive health.

First of all in the Education Act, I would propose the Government that, all education institutions should be able to accommodate all persons with disability. We should not have special schools separating persons with disability to learn in their own environment. That one increases discrimination. So I will propose that all the disabled persons should be in all Government institutions. Even if we have private institutions also, we should have the disabled persons there. That one will beg the question, "where will the teachers come from, or how will it work? - All the Government teachers, should be trained like doctors are being trained to handle all cases - a normal person, plus the persons who are disabled. So also the teachers should be trained to handle the persons with disability, like a case of mentally handicapped people, so that when the society grows they know that we have this person and they should accept them.

The other issue also that I should propose is – we have the rehabilitation centres. These rehabilitation centres should be turned into colleges - Training institutions - because in most of the rehabilitation centres when somebody is out of these centres, the disabled person, and maybe he has trained as a Telephone operator or as a Carpenter, or a course he has trained on, he or she is not recognized - the training is not recognised. It is like it was not suited for the job market. So I propose that all rehabilitation centres should be turned into colleges, whereby if somebody is from these rehabilitation centre, he is like any other person who is from any other training institution and he is able to be employed.

Another issue is on Civic Election – I would propose that the person to be elected, be it a Councillor, be it a Mayor, be it an MP, be it a President, the minimal education level should be Form IV graduate, or O’Level or A’Level so that, bearing in mind that we are in a world where each and every person will have attained some education, so at least the person to lead us should have some basic education. That is Form IV and above.

The other one is on Reproductive health. You find there is this tendency whereby you find, I can use myself as an example. I have befriended a girl and then we have been in a relationship for one month, two months or three months or years, and when I have impregnated the girl, then I disappear, and then it is an unwanted pregnancy. I don’t believe that there is one pregnancy that is unwanted - All pregnancies are wanted. So that one is child abuse because if a lady has been left, she doesn’t have any job, so how will she take care of that child? So I would appeal, and I would request the Government that if you are responsible for that pregnancy - even if you are stable or not, you should take care of that child. He should provide for all the basic needs. If you are not able, then your parents, from the side of the male person should take care of that child until he reaches a certain stage when that child will be stable. Thank you. (Clapping)

**Comm. Ida Salim.** Thank you very much John. I think referring to the last proposal, are you talking in terms of Affiliation Act brought back to make sure that the person responsible for that baby should be made to look after it? Is that what you are asking for?

**John Oduor** – Yes.

**Comm. Ida Salim** – Thank you.

**Comm. Adagala** – Be sure what you are saying because there is Affiliation Act and there is Child Support. There is Affiliation and there is Child Support. What you are saying is that the child should be supported.

**John Oduor** – I think if may be that person is not stable, maybe for example, it happens to those who are teenagers, maybe you are not employed and you have happened to impregnate somebody’s daughter, then I think the family of that boy should support the family of that lady or they can give them support. Yeah. It is only I did not know how to frame it.

**Comm. Adagala** – It is ok. It is ok. But we just wanted your concept to get across because we could go and say child support, and you meant affiliation, and it could be affiliation and you meant child support.

**John Oduor** – Yeah, they should support. Yeah.

**Comm. Ida Salim.** Thank you very much. Next we have someone we missed. We did not see his arm when we called out

his name – Arthur Mbaka – is he around?

**Arthur Mbaka** – Hello? My views are the President shall appoint Senior Civil Servants and other Senior Government officials but only with the Parliament's approval. He shall also be the Commander-in-Chief of the armed forces. The President shall not increase the number of Districts, Divisions, Provinces and such kind of boundaries at will. This should be the sole duty of Parliament. The President should get over 50% of the votes cast in the General Election – just over 50% even if it is 50.50% that is o.k., it doesn't have to be 51%. Yeah fifty, fifty. There should be no age limit for the President as long as he over 21. The President should not be an MP, and if he is, he should resign. During the elections, after Parliament has been dissolved, the Speaker should be in-charge of the Government. The incumbent President should vacate the office. The President should not dissolve Parliament. It should get dissolved automatically at a certain date, maybe after five years from when it started their five-year term. The President should not be above the Law as is the case right now. The President should give an annual report on where he has succeeded or failed on the promises he made to the people when he was campaigning. He should tell us where he has failed and the reason why he has failed, and where he has been able to achieve.

- ◆ There should be the post of Prime Minister who should come from the Party with most MPs in Parliament. A Coalition government should be a must if the ruling Party which is the party with a Prime Minister does not have a two thirds majority in the House. The Prime Minister is the one to appoint the Ministers and Assistant-Ministers unlike the present case where the President appoints the Ministers and their Assistants. But he should do that and consult the President. No age limit should be for the Prime Minister as long as he is an MP. He or she should have a Deputy and if that person is a man, the Deputy should be a woman and vice versa. He shall be the leader of Government Business in Parliament.
- ◆ Parliament should have the power to remove Civil Servants from office by a simple majority. It can also reject a list prepared by the President, those lists for Civil Servants. Parliament should have the sole duty of approving the budget. Should give annual report of the progress. The Prime Minister should give annual report of progress about Government in Parliament.
- ◆ About Gender and Minority Groups. I think the number of nominated MPS' would be increased and a certain number of them to be women. There should also be space for the disabled people in the Government. The Government should include a Law in the Constitution where there will be special seats in matatus, buses and such kind of transport for the people who are disabled.
- ◆ The date for General Elections should be fixed. Maybe like 29<sup>th</sup> of December. It should not be moved from a certain date in one General Election to another in another year.



- ◆ Mayors should be elected directly by the people. County Chairmen should be elected by Councillors because most people in rural areas do not know, for example if someone like the County Council Chairman of Kiambu comes from somewhere like Kikuyu, how do you expect someone from Lari to know him? It is almost impossible.
- ◆ There should be a separation of Civic, Parliamentary and Presidential Elections. They should be held on different dates.
- ◆ Mayors, Chairmen of Councils, the President, the Prime Minister should give an annual list of achievements and failures.
- ◆ No public Government Vehicles or resources are supposed to be used in campaigns or political rallies. It should be made a Law and anyone who violates this should be fined heavily.
- ◆ Anyone over 18 years must vote unless he has a concrete excuse for failure to vote. People in Hospitals, Jails etc., should be provided with ballot boxes, even those in jails should be provided with ballot boxes as long as they have identity cards.
- ◆ The appointment of top Civil Servants - should be based on tribal or regional basis because if today one of us here who is a Kikuyu wants to become a President, we will vote for him not because we like him, but because we want him to appoint us ... because we want him to make us DC's or DO's not because we like him but we just give him that because we want him to give us seats, so it should be done on tribal and regional basis and should be vetted by Parliament.

Comm. Ida Salim – Excuse me, is that memorandum or is it oral presentation?

**Arthur Mbaka** – Oral.

**Comm. Ida Salim** – According to our records, it is supposed to be written. O.K.

**Arthur Mbaka** – No. It is oral, o.k. The President through the Prime Minister must take that list to Parliament for vetting. Any changes, or reshuffles and sackings of civil Servants must be explained in Parliament. The list should be taken to Parliament and by simple majority some or all the members of the Civil Service maybe rejected. No Civil Service Member should attend political meetings. Permanent Secretaries should be appointed by virtue of being experienced. We should not have maybe a Doctor being taken to head Defence or to be in the Office of the President.

- ◆ The Police should have badges because you know these days, if you encounter a Policeman and a Gangster, you would rather have that Gangster than have the Policeman. The Policeman is more dangerous than the Gangster, so they should have badges to be added to those numbers they have here. The Policemen should not torture suspects who are within their custody or without their custody.
- ◆ Full Council meetings in Local Authorities are the ones who are supposed to approve the sale of Council land. Because currently there are many accusations that Mayors and Country Council Chairmen are selling land without their approval.
- ◆ .... organizations must be audited including Churches.
- ◆ There should be person appointed to look at the welfare of prisoners because many people are dying today. In elections everybody must give plans. They must give the people concrete plans on the way forward. They should be subjected to public fora where they should explain their plans.
- ◆ Ponography should be banned. A Censorship Board must be started which should censor even the movies which are being shown in Kenya.
- ◆ Civil Servants and other public officials suspected of corrupt activities should be suspended even before their cases are finished.
- ◆ The Members of Parliament should be paid according to the sittings they attend in Parliament.
- ◆ There should be as many parties as possible. That is democracy. There should be no limitation whatsoever, because maybe, they should even form Coalitions to enhance democracy. There should be independent candidates allowed in elections.

**Comm. Ida Salim** – Are you about to wind up? Your time is up.

**Arthur Mbaka** – Yeah. Just one more. Residents who are out of the country should be allowed to vote.

**Comm. Ida Salim** – Thank you very much David. One second David. Just one clarification.

**Comm. Adagala** – Asante kijana. Ni vizuri kusikia sauti ya kijana. You know we are collecting these views. Other people are collecting - other Commissioners and in the end we will sit and put them all together and we will have to give reasons for

them. I think I have explained that. We keep getting this 50% but there is no reason for it. It is “aka figure” without a principle because when we ask at the constituency level, does this 50% also apply? They say no. At the Council level, at the Ward level, does this 50% apply, you say no. So it is not a principal. It is not a principal. It is just something which is being applied to the Presidential. I don’t know how we shall be able to defend it because there will be many other proposals. It is a difficult one to defend, because it is just a figure, which is there. Then the other one is - we need Gender and minority, we need percentage of women and percentage of people with disabilities in Parliament. We can not just say a “certain” percentage; you have to tell us what percentage. Then when we talk about this minorities especially in areas where there are majority particularly ethnic groups, minorities get forgotten. We want to know also what should happen to minorities? O.K. halafu if it is 18 years vote and is compulsory, should the documents for the voting - it is like that in Australia, you have to vote. Should they vote with the I.D. Cards, or should the Voters’ Card be issued also at 18 years or what? Because it is compulsory. So, should it be part of that or not? But if you could give me some percentages, it would be good - for Gender and Minorities.

**Com. Adagala** – Nani mwenye memorandum? Oh kijana. O.K. where are you? Mbaka we are talking with you. You are not here. You are very far away. We are talking with you. What percentage.... Did you hear any of what I said? O.K.

**Arthur Mbaka** – Yeah.

**Comm. Adagala** – What percentage should there be for women?

**Arthur Mbaka** – In?

**Comm. Adagala** – In Parliament.

**Arthur Mbaka** – In Parliament. They should only be reserved nominated seats not electoral seats.

**Comm. Ida Salim** – All of them?

**Arthur Mbaka** – No half. About half. Half to be nominated.

**Comm. Adagala** – O.K. you have to say. You have to say because it will compete with other numbers. O.K. 50% of nominated.

**Arthur Mbaka** – Nominated members of Parliament.

**Comm. Adagala** – Nominated. O.K. and disabilities?

**Arthur Mbaka** – Disabilities maybe a third.

**Comm. Adagala** – O.K. thirty percent. What about minorities?

**Arthur Mbaka** – I had not really thought about that.

**Comm. Adagala** – You said Gender and minorities. Then you forgot about minorities. Yeah. Then the voting documents, since it is compulsory, how should it be.

**Arthur Mbaka** – A person should be given or it should be stamped on that card - that card in the polling station.

**Comm. Adagala** – What card?

**Arthur Mbaka** – The Electors card.

**Comm. Adagala** – People should be issued with an Elector's card at 18 years?

**Arthur Mbaka** – Yeah.

**Comm. Adagala** – You need to say that clearly. O.k.

**Comm. Ida Salim** – Thank you very much. Now we come to our last presenter of views. According to our records, this is the last one David Moko.

**David Moko** – Thank you very much Commissioners. A lot has been said about the Constitutional Review and I have no intention whatsoever, on boring you on what has been said. I have no intention of doing that. However, my main concern in this Country has been the rule of law. Section 14 of the present Constitution, Section one states that no criminal proceedings can be instituted against the President or anybody acting in that capacity. I am proposing that criminal proceedings should in-fact be instituted against the sitting President upon recommendations of a Judicial or a Parliamentary Judicial Commission.

Section 14(2) of the present constitution also bars anybody from taking civil legal proceedings against a sitting President or anybody acting in that capacity. I am proposing that, that should be removed altogether, such that a President who for example borrows 100,000,000 (a hundred million), that Bank should be able to sue him. If he walks into DT Dobie takes a Mercedes, DT Dobie should be able to sue him.

Section 26 also of the present Constitution - that is on the Attorney-General Section 26(3), whereby the Attorney-General has the power to take over, or to institute criminal proceedings against any person, I have no quarrel with that. Private individuals also have the power under the Constitution to institute Criminal proceedings against another party. However, the Attorney-General has the right by the present Constitution to take over those proceedings and in fact, at times, terminate them.

I am proposing that, that Constitutional provision for the Attorney General to take over proceedings instituted by private individuals should be eliminated.

Before I finish, the last one - I don't know whether it is administrative, I don't know whether it is constitutional. There is the question of the Kenyan Passports. A number of our brothers and sisters keep on going to the Immigration Department, years on end, no word as to why their Passports can not be processed and I am proposing that if one is not given a Passport after application, he should be advised by the Immigration Department within a period of maximum two months. Thank you very much. (Clapping)

**Comm. Adagala** – O.K. Thank you very much for being brief Mr. David Moko. I would like to inform people that in Botswana every adult has a Passport because they are trying to promote, (of course they are less than a million), every adult has a Passport. Thank you for that.

**Comm. Ida Salim** – Asanteni sana kwa leo tumefika mwisho. Naona mkono ukiinuliwa, lakini wakati hauko na sisi. Lakini kesho tutakuako kwenye Karuri Catholic Church Hall ambapo wale ambao hawako hapa, hawakupata nafasi kutoa maoni yao, ingawa nafikiri wote walio register wamepata nafasi kutoa maoni. Kwa hivyo iliobakia kwangu, kwa niaba ya mwezangu hapa, Commissioner Kavetsa Adagala, ninawashukuru nyote walio hudhuria hapa leo tangu asubuhi mpaka sasa, wengi wenu wakiwa na uwezo wakusubiri muda mrefu sana kabla hawajapata nafasi kutoa maoni yao kama Bwana David Moko hapa tunawashukuru sana, kwa patience yenu na muhimu zaidi kwa ule patriotism wenu kwamba muko tayari kukaa muda mrefu ili kutoa maoni kwa ajili ya masilahi ya nchi yetu ya Kenya. Kwa hivyo kwa niaba ya mwezangu hapa, kwa niaba ya District Co-ordinator, kwa niaba ya wenye Kamati ya CCC's ambao wame fanya kazi kubwa sana yakuhamasisha wananchi kuja kutoa maoni yao, nawashukuru kwa mukutano ambao ulifanyika kwa uzuri sana na tumefurai sisi tukiwa Commissioners na wezetu huko, Programme Officers na wezake walio kuwa waki wakihakisha kwamba maneno yote na maoni yoyote yame recordiwa kwa njia mbali mbali.

Ingawa mwezangu amenikumbusha kwamba kuna sections za wananchi ambao hawakuja kabisa au hawakuja watu wa kutosha kwa represent - kuwakilisha. Kina mama hawakuwa ni wengi. Kwa hivyo sijui nilaumu nani, nimlaumu Bwana - kina wanaume ambao labda wameambia nyinyi musinde, sisi tutakwenda badala yenu, nyinyi hamuna haja ya kuja. Kwa hivyo tungependa kuwaona. Tuaomba kwamba tukifika hapo kesho Catholic Church, tutakuta wanawake wengi zaidi pia wale walemavu ambao kwa hakika hatuku - waona hivi leo kwa wingi zaidi hapo kesho. Kwa hivyo kwa niaba ya mwezangu mara ingine, na wana

