



CONSTITUTION OF KENYA REVIEW COMMISSION (CKRC)



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VERBATIM REPORT OF

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CONSTITUENCY PUBLIC HEARINGS,

MAKUENI CONSTITUENCY, HELD AT AT WOTE AIC.

[REDACTED]

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[REDACTED] MAY, 16 2002.

**CONSTITUENCY PUBLIC HEARINGS, MAKUENI CONSTITUENCY, HELD AT WOTE AIC, ON MAY 16
2002**

Present:

- | | | |
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| 1. Prof. Wanjiku Kabira | - | Commissioner. |
| 2. Mr. Ahmed I. Hassan | - | Commissioner. |

Absent With Apology:

- | | | |
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| 1. Mrs. Abida Ali Aroni | - | Commissioner. |
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Secretariat Staff In Attendance:

- | | | |
|---------------------|---|------------------------------|
| 1. Maimuna Mwidau | - | Programme Officer. |
| 2. Rosemary Mwangi | - | Assistant Programme Officer. |
| 3. Josephine Ndungu | - | Verbatim Recorder. |

Meeting was called to order at 10.00 a.m.

Speaker: The Government should and also.....(inaudible). There should be better supervision for schools for all remote areas of the country and this relief food should not be taken as a political issue.

With regard to employment, the Government should be able to provide Kenyans with employment by introduction of many industries. Also the Government should reduce the (?) rate and salary in order to create jobs for the Kenyans.

All Kenyans should have the right and access to information in the possession of the State or any other Agency, or Organ of the State because they are citizens of the country.

The Constitution should provide compulsory and free education up to O'levels in order for the youth to be able to rely on themselves.

The Constitution should guarantee all the workers the right to trade unions in order to have their views represented in the Government.

The basic needs of Kenyans that the Constitution should guarantee are; it should supply electricity freely in all schools to ensure smooth running of the schools.

The Government should provide funds to care for the orphans whose parents have died of Aids.

About the rights vulnerable groups. The interests of women are not fully guaranteed in the Constitution. The women rights should be addressed. Widows should have the right to own their late husbands property. There should be gender equality. Women should have right to present their views in Parliament. Women should have right not to be oppressed by men. The interests of people with disability are not fully taken care of. The specific concerns of people with disabilities that the Constitution should address are: Free education, free health care, free food supply. They should be respected and they should also be provided with all the requirements of basic needs. The Constitution can guarantee and protect the rights of children by ensuring that children get free education. The Government should also ensure that child labor is abolished. The street children should be provided with shelter, health care, food, and education. Also they should receive special training in order to be able to rely on themselves. Early marriage for the girls should be discouraged. The Constitution should make sure that women rights and all the others are fully taken care of.

Hawking should only be allowed for the disabled people. Thank you.

Com. Hassan: Thank you very much.....(Inaudible).

Professor Wanjiku Kabira:(Inadible) but I am glad I am here.

Com Hassan: Apart from Prof. Wanjiku Kabira, we also have other staff from the Commission. The lady who is holding the tape recorder is Josephine Ndung'u. Josephine Ndung'u is the verbatim recorder, she is there. Then here is Rosemary Mwangi. She is an Assistant Programme Officer with the Commission.

Mr. Ndeke: (Kikamba)

Translator: He is Peter Kiamba Ndeke.

Mr. Ndeke: (Kikamba)

Translator: He has views and his first view is:

Mr. Ndeke: (Kikamba)

Translator: The Chief and his assistant to be considered for transfers.

Endelea , Endelea, Endelea.

Mr. Ndeke: (Kikamba)

Translator: School fees, especially secondary school is very high. He wishes if it could be reduced. Endelea.

Mr. Ndeke: (Kikamba)

Translator: Medical fees are also very high. He wishes it would be made free. Endelea.

Mr. Ndeke: (Kikamba)

Translator: That's what he had.

Com. Hassan: Thank you very much. Please sign for us the register. Benjamin Ndeke, National Alliance for Change.

Mr. Ndeke: These are our views. My views on behalf of National Alliance for Change. National Alliance for Change (NAC) is committed to genuine comprehensive democratic people driven review of the Constitution.

Com. Hassan: Could that be the same document we have given by NAC in Nairobi?

Mr. Ndeke: Yes

Com. Hassan: It is the same one. So please try and summarize because we already have it in the Headquarters. If you could briefly highlight the main points. Don't read it word for word to save on time.

Mr. Ndeke: Okay fine, I am going to talk of very few issues that the NAC feels are necessary for our Constitution. I am going to talk of citizenship. The present Provision on citizenship are outdated, cumbersome and discriminative against women. NAC proposes that any person born, or adopted or married to, or by any Kenyan, be a Kenyan citizen. The Constitution should also allow Kenyan citizens to hold dual citizenship. Foreigners who have lived in Kenya for five years should be granted permanent residence status, and be eligible to apply for the citizenship. Any citizen, who attains the age of 18 years, should be entitled to obtain a Kenyan passport as a right. All Kenyans should be guaranteed the right to vote.

The Bill of Rights. The current Bill of Rights does provide an adequate framework for protection and enjoyment by persons in Kenya of the internationally recognized human rights. The Bill of Rights has been aptly called the Bill of Exceptions. NAC proposes that the new Constitution contains a modern Bill of Rights, which includes, not only the classical civil and political rights such as the right to Life, Freedom of Expression and Press, Freedom of Information, Freedom of Association and Assembly, but also the economic, social, and cultural rights such as the right to food, shelter, clean water, education and health, and the new generation rights such as the right to sustainable development, protection of the environment, and the right to peace.

The Bill should also incorporate the Rights of the Child enshrined in the UN Convention on the Rights of the Child and the

African Charter on the Rights and Welfare of the Child.

The new Bill of Rights should secure independence and editorial autonomy of the mass media, and clearly spell out press and broadcasting rights. It should remove all statutory restrictions imposed on Radio and Television broadcasting.

The new Bill of Rights should clearly say the rights of prisoners and ensure humane and dignified treatment of prisoners, detainees, and remandees.

The new Bill of Rights should provide the fundamental right of every Kenyan to reside, work and own property anywhere in Kenya.

The new Bill of Rights should protect the rights and interests of workers and protect the labor movement from interference from Government. It should especially protect part time and casual workers from exploitation by unscrupulous employers. The Bill of Rights should be written without exceptions and provide simple and clear procedures for redress of any human rights violations. Human rights Commission should be established to promote and enforce the Bill of Rights.

The rights of women. In our outdated Constitution, Statute laws, Customary laws, and cultural practices have been used to rationalize the oppression and exploitation of women and to deny them their basic rights, including the right to political participation. NAC proposes that the international instruments for the protection of the rights of women such as the UN Convention of Elimination Of All forms of Discrimination Against Women be incorporated in the new Bill of Rights. The new Constitution should provide that as a general rule, at least third of all the civil servants and elected positions in any Organization in Kenya from village to national level, be held by women.

Northern Kenya and Contingent Districts. The successive Kenya Governments have not treated northern Kenya and contingent districts as an integral part of Kenya. The Constitution and the law have been used to systematically marginalize and oppress the people of northern Kenya and to deny them their basic rights as equal citizens of this country. The new Constitution should contain affirmative action programmes to redress historical discrimination and to grant the people of northern Kenya and contingent districts equal rights as citizens, adequate resources and security.

Devolution of power, strong local authorities. The KANU Government, in pursuit of its policy of over concentration of power has captured local authorities and converted them from organs of self-governance into instruments of disempowerment and alienation of the people. It has haphazardly created bloated local authorities without regard to their political, social and economic and financial viability. NAC believes in a democratic Government with strong local authorities. The new Constitution should create viable well-financed local authorities for effective local governance. The new Constitution

should ensure equitable distribution of national resources, enhance participatory democracy

and grass root development through local authorities. NAC proposes that only persons of high integrity and experience in management of public affairs be elected to serve in the local authorities and that the Mayors and the Chairpersons be at least O' level graduates directly elected by the people.

The Provincial Administration is an expensive colonial relic that has been used to oppress and intimidate the people of Kenya.

Com. Hassan: Excuse me Benjamin, I have told you to try and summarize that because I told you, that document was given to us in Charter Hall by NAC. We have it, we have read it before. So, please try and highlight only the main points. You are reading it word for word.

Mr. Ndeke: Fine. But I wanted the people of Makueni to know actually our views. It is not bad.

Com. Hassan: It is not for the people of Makueni to know. It is for the Commission to know. You are giving views to the Commission not the people of Makueni. So you have to try and summarize for us.

Mr. Ndeke: Fine. Let me go to the powers of the Executive and the President. The enormous powers vested on the President have transformed the Kenyan President into an authoritarian imperial monarch of powers. The President is both the Head of State and the Head of Government.

Com. Kabira: Ndeke, we are not interrupting you. Maybe what we could do, go to the President then say, we are recommending. Then read the section in which you are giving the recommendation. As you say, so that both the people and ourselves can hear but not the description. Then you go to the next section and read, we are recommending. Is that okay.

Mr. Ndeke: Okay. NAC proposes, the powers of the President be drastically reduced. It proposes that the President be directly elected by the all Kenyans should serve a maximum of two terms of five years each.

The President should be appointed by the Cabinet on recommendation of the Prime Minister. The President should be empowered by the decisions of the Cabinet. The President should conduct foreign relations and exercise treaty-making powers subject to approval by the Parliament.

The Vice President shall be a running mate of the President. The Vice President should be a member of the Cabinet and should deputise the President and perform such duties as may be assigned to him by the President. The Vice President shall complete term of President if there is a vacancy in that Office.

The President shall remove a Prime Minister who loses support of majority of MPs through a vote of no confidence.

Parliament should have the power to impeach a President who breaches the Constitution. The Prime Minister should be the Head of the Government. He should ensure the implementation of the government policies and direct its day-to-day operations. There should be not more than three Deputy Prime Ministers who also hold substantive ministerial positions in their right.

Com. Hassan: Please try and sum up now. Your time is up.

Mr. Ndeke: Let me talk of the Judiciary please. Fine. The NAC proposes that the new Constitution contain Provisions that will ensure that the Judiciary is competent, independent and impartial. That it has the capacity to enforce the Constitution and all the laws of Kenya. All the judicial officers should be required to hold a degree in law. The President appoints the Chief justice and lawyers proposed by Law Society Kenya and the Association of Judges and Magistrates after approval by the Parliament.

Only persons of impeccable moral standing, proven professional competence and commitment to justice, constitutionalism and the rule of law be appointed as judges and magistrates. Members of the Judicial Service Commission be nominated by Judges and Magistrates Association in conjunction with the Law Society of Kenya, and their appointments be approved by Parliament. There be established a Supreme Court made up of the most learned judges to hear appeals on matters of law. The Judiciary should have its own separate budget, regulate its own calendar and internal disciplinary procedures, and establish traditional Courts staffed by respected village elders at locational levels to adjudicate on small claims and matters of Customary Law.

The Kadhis be granted the same powers, privileges and facilities as judges and magistrates. All senior magistrates, Kadhis and judges be granted security of tenure. Judicial officers be well paid and prohibited from engaging in private business.

The retirement age of magistrates be 65 years, and for judges 70 years.

Com. Hassan: I think Benjamin, I have to stop you now. Thank you very much. I am sorry if we are trying to rush but you are bringing us another document which we already have, and we need to give others who have prepared their own documents more time to give. So, may be, can we have Mutua J. M.

Mr. Mutua: Thank you very much. Citizenship. Any one born in Kenya by Kenyan parent should be regarded as an automatic citizen of Kenya. The other citizenship should be acquired through nationalization and registration.

Citizens of this nation should enjoy the following rights, privileges, and freedoms irrespective of their sex, religion, political affiliation, race, tribe and even clan. Freedom of movement, without being barred by anyone, freedom of worship or conscience, the freedom of assembly and association that is free from harassment, freedom of speech that is not going to provoke people into causing mayhem or insanity in the country, freedom of expression, especially in the media. Permits should

be given without condition.

Right to live, rights of ownership of property in any part of the country among others. A Kenyan citizen should not be stopped from travelling from one part of the country to another without an ID card. ID cards should however be issued from the citizen's home place that is place of birth, and supported by a birth certificate.

Education. In order to erase the high illiteracy level in this country and underdevelopment, it will be very necessary for the Government to offer free and compulsory education to all children below the age of 18 years. Feeding program and school equipment scheme should also be provided in the country.

Teachers should properly remunerated for the purpose of motivation and competition. The central Government should finance and develop all schools equally. The education system in this country should be redesigned to reflect a more people and societal driven curriculum which shall provide a way out for the students after completion.

Marginalized groups. The disabled in Kenya should be treated fairly. They should enjoy all privileges equally like any other citizen. They should be accommodated in all schools and all schools should have all facilities for all disabilities, especially the secondary schools.

Job opportunities should be made for all without segregation. The Government should support the disabled and finance them to earn a living, and free education, medical care, social amenities should also be given to them.

Electoral system and process. The Kenyan society should maintain the secret ballot electoral system, but make the following corrections. Provide transparent ballot boxes, computerize the process, votes to be counted at the polling stations and announced by the presiding officer. Strict penalties to be employed to those who break the law, boost security during the time of polling, and independence of Electoral Commission should be enhanced.

For the presidential elections, the winning candidate must get over 51% of votes, failure to which the best two candidates shall go for a run off. There would be no problem for a candidate who has not been cleared by his party to move to another political party of his own choice. It will be wrong for an elected person, be it a Councilor or a Member of Parliament to defect from a party that sponsored him to another. In such a situation, the person should be forced to pay all the salaries paid to him or her to his or her former political party. The party should also elect one of their members to represent the electoral area for the remaining period of time.

The disabled should be spared one seat for each discipline. That is the mentally, if it is PH, that way. Women should compete competitively but they should be given equal opportunities like that given to men in terms of education and the others.

Election date should be fixed and no one should be allowed to bring the tenure of the Parliament to an end before the 5 years. Electoral Commissioners should be appointed and should consist degree holders in the following disciplines: Law, theology, teaching, and administration among others. They should not enjoy security of tenure as individuals but as a Commission. Those who mess must be sought and punished. Their retirement age should be pegged at 70 years. Their funding should be voted by the August House, that is the Parliament.

The ruling party should have at least third of the Commissioners while the other parties will comprise of two-thirds in Parliament. The Chairman should come from the ruling party while the Vice Chairman will come from the Official Opposition political party.

The Executive. The President as a credited holder of the most senior seat of this country and should be a degree holder from any of the accredited universities. His tenure should be of two terms, each of five years, after which he should resign from active politics. The Presidential functions should be defined and should include: Head of State, Head of Government. The President should not do the following: He should not be the Commander In Chief of the Armed Forces, he should not appoint members of the Judiciary, Executive and the Cabinet. Even Heads of Parastatals, Ambassadors and High Commissioners among others. These should be the prerogative of Parliament. The President should be removed from office under the following circumstances: if found guilty of an offense-this means that the President should be taken to Court in future-,if he is incapacitated or in famed, if declared bankrupt. The Parliament and citizens should have powers to impeach the Executive.

The Judiciary. Judges should be appointed by the August House and their numbers increased. Each district must have a judge. The Judiciary should be independent from

manipulation. Cases should be speeded and slow judges or magistrates should be sacked. Age limit of judges should not be 74 years but 65 years.

The Police. This force should be made disciplined to reflect the good image with the Armed Forces in this country, the prison service and even the youth. The training should be extended to two years and warned against the vice of corruption, especially the traffic police. The police should be more friendly and people oriented. They should be entrenched under the Disciplined Armed Forces. Thank you.

Com. Hassan: Just hold on Mr. Mutua. Please hold on for a question or two.

Com. Kabira: I noted you want affirmative action for people with disability by having one seat reserved for the various categories of people with disabilities. You specifically said that women should not have the seat reserved. I am wondering, how

do you explain that?

Mr. Mutua: My point of view was that the most marginalized group is those people with disabilities. Women can compete effectively today in this country with men and therefore there is no big problem. But the marginalized group of the disabled have a big problem in that area.

Com. Kabira: To follow it up a little more with you, how then do you explain that the women are definitely marginalized when it comes to political positions.

Mr. Mutua: Women we only say are marginalized because they have not been given the time, maybe the husband wants them at home. We want them to be given ample time and opportunity. They can do it.

Com. Kabira: What do you mean? Ample time to prepare?

Mr. Mutua: They should be given, if it is education the girls should be taught really.

Com. Kabira: Okay. Okay. Thank you.

Com. Hassan: Thank you very much. P. Samuel Koli.

Mr. Koli: Chairman and the rest of the public, I think I have some few points here with me not many. For me, I will start with the Executive, that is, the President. I also concur with those that want a young one who can move to the provinces and everywhere so that they can see the problems taking place in other provinces and other districts. That is point number one. I prefer to make it sure that when we get a male President we should have a Vice President a woman. I quite support this one because women are a bit good and they are kind in some ways.

So point number two. We want a Constitution whereby every district should have a food store and preferably a posho mill where by when disaster comes in other districts, food can just be taken from that particular district and given to other people. We don't need a Constitution where people will suffer when disaster comes and they can't reach some other districts. They get problems to get food.

Also, I think it is good for every constituency should have a tarmacked road, should have power lines, should have clean water, should have good hospital. Every constituency. Every MP in Parliament should have tarmacked road and I think every D.O. Every D.O should have that. That was point number three.

Point number four. All students who have fallen off in standard 8 and the form 4 should be utilized by the Constitution. The Constitution must make sure that these people are utilized, by means of youth camps whereby they will not stay idle and start smoking bhang', start taking drugs. They should be put in some camps in every district or in polytechniques where they will be supervised and drugs will be controlled. Because when they are out just roaming about, the standard 8 students are very stupid. They are young. Also the Form 4s are not grown up. They are easily cheated. So I think that the Constitution should provide the necessary camps. If we can make an army for the youth, it would be good.

I think we should not allow tribal political parties in our Constitution. That should completely be discouraged. Any party formed on tribal lines I think should not be allowed by the Constitution because I think those are the things that bring chaos afterwards and you find the country in turmoil.

Again point number six, I think it good for the Constitution to provide all small businesses to be owned by the locals of that particular district. You can't stay in a district where, even the small business like matatu, or even kiosks are being run by outsiders and then that district becomes awkward.

Number seven is Freedom of worship. When we say freedom of worship, we don't want to be in a state like other developed countries whereby a certain church is taking control and eventually you find a satanic President running the country. We will be in a problem. So, we should control freedom of worship to the extent that we won't allow satanic worshippers to control our country.

The last one, the Constitution should take care of retired people. When you are over 50, 60, 70, then you should become a senior citizen in Kenya, whereby you just walk to the NSSF office in your district and get some dues because you worked for all these years, and more so you were not killed by Aids, so you tried to prevent yourself. If it is woman, if it is a man, if you have survived up to 70 years, the NSSF should now say, if you worked for the civil service, for private, for NGO, and you are over 70, you should be given 5 pounds, 10 pounds, every month to sustain you until you die. This will enable one lead a happy life. So, please Mr. Commissioner, take that.

Com. Hassan: Thank you. Just hold on.

Com. Kabira: Sorry, may be you can go back to the microphone. Mr. Koli, you said you would like a young President. Kama miaka mingapi? 21?

Mr. Koli: Hapana, sasa tuseme kama, tuanzia kama 40, 45 hivi. Ni mzuri. Huyu anaweza tembea kila pahali. Na mimi nakwambia tukiwa na huyo, akisikia Meru mchanga umeenda chini atakimbia. Akisikia kule NFD wakora wameingia, atakimbia. Halafu akisikia Mombasa kule upande wa Kilifi wamepigana, atakimbia. Lakini huyu mzee hawezi kwenda. Analala

tu pahali ambapo anakuwa. Analala tu hapo saa yote. Hawezi kujua mahali taabu iko.

Com. Kabira: Okay. Asante. Inginge moja tafadhali. The control of the Freedom of worship. Unataka, tutajuaje ni satanic.

Mr. Koli: Hapana. Sasa unajua Katiba itaandika iseme namna hii. Anything towards satanic worshipping should be controlled. Sasa unasema America na wewe utakuta wametoa nguo na wamenza kupandisha mbuzi na kuku waone itazaa nini na ni kanisa. Wewe hujua huyo ni satan anfanya kazi. Sasa hiyo inaonekana. Sisi tunasema ile Serikali itagundua kabisa iseme hii ni kitu ya shetani, hapana kubali. Wakatae.

Sasa nikikwambia nitakutahiri na wewe ni mzee mwanamke, mimi hapana shetani? Hiyo ni shetani. Siwezi kukimbizana na mama kama wewe, na huyu msichana nianze kukamata nitahiri. Hiyo ni shetani. Shetani tupu. Hapana iko mchezo hapo. Na tunajua inakubaliwa tu iendelee. Tunapiga watu huku na huko na inaendelea. Kama iko namna hiyo kataa ndani ya Katiba. Useme Katiba inakataa mambo ya shetani.

Com. Hassan: Ahsante sana Mzee Samuel Koli. Timothy Kingugu.

Mr Kingugu: Mimi nasema mambo ya watu inaweza kubadilika wapendavyo. Lakini tuitunze Sheria ya Mungu aliyoandika ndani ya Bibilia tusije tukaingiza mambo ya kubadilisha mambo yaliyoandikwa na Mungu.. Mambo mengine unaweza kumbadilisha lakini Katiba ya Mungu tusijaribu kubadilisha. Maana ni pumzi yake ameitoa akaweka ndani ya Bibilia. Ni hayo tu ambayo nilikuwa nataka kusema. Maana nimeokoka na nataka Biliblia itunzwe.

Com. Hassan: Ahsante sana. Tafadhali piga signature kwa hiyo register. Boniface Kyalo Musyoki. Boniface Kyalo Musyoki. Okay. Rhoda.

Mr. Musyoki: Kwa majina ni Boniface Kyalo Musyoki. Na nataka nichangie kwa lugha ya Kikamba ili nieleweke vizuri tafadhali. Yakwanza ni hii mashamba yetu.

Translator: The first concern is land.

Mr. Musyoka: (Kikamba)

Translator: We have problems especially when it comes to land ownership, when the husband dies.

Mr. Musyoka: (Kikamba)

Translator: This is particularly when he is a young man.

Mr. Musyoka: (Kikamba)

Translator: This becomes a big problem to the widows because the other relatives and other interested parties in the family want to take the land

Mr. Musyoka: (Kikamba)

Translator: My suggestion is that when one is going to register land property, it should be in both the husband's and wife's names.

Mr. Musyoka: (Kikamba)

Translator: If that is looked into, I hope there will be no problem.

Mr. Musyoka: (Kikamba)

Translator: The next one is, immediately land adjudication is done, title deed should be availed immediately.

Mr. Musyoka: (Kikamba)

Translator: This will ensure security, that is the person concerned will be sure he has the valid documents and that he can well go ahead to acquire other things he would like to do.

Mr. Musyoka: (Kikamba)

Translator: I hope that if this is looked into there will be fewer problems.

Mr. Musyoka: (Kikamba)

Translator: The other thing is that Courts dealing with land should be made accessible. Should be made nearer to the people because sometimes, you have a center dealing with a particular land case which is far, and probably the aggrieved party who has a land case is not as rich as his opponent so in the course of this probably they will not be able to follow all the proceedings or whatever is required of him.

Mr. Musyoka: (Kikamba)

Translator: May be if this problem is addressed, then problems of people losing land or having disputes unsettled will be reduced.

Com. Hassan: Rhoda Maende, Kathuthuini Women Group. Rhoda.Ametoka nje. Okay. We will come back to her. Pastor Mwangangi.

Pastor Mwangangi: Thank you very much Commissioner and my fellow citizens. I have a few things to present. The first one is elections. The Constitution we have today gives the President authority(inaudible) with the Cabinet and I would suggest it is good because these people are going to be faithful to the President. But I say these people should be approved. A period of time should be given, that such people will be scrutinized so that it can be established that they are morally upright, well educated and free from corruption.

Secondly, is this, we have had times when we lose a lot of money. Whenever a Member of Parliament defects to another political party and a by-election is conducted, we lose a lot. So, I would suggest that whenever an MP defects to another political party, that political party in question should be allowed to elect another representative for that constituency until the next election, without using public money. The modalities of doing that should be given by the Government.

On gender, katikati ya wanawake na wanaume, I would suggest that women are able to compete with men, especially when we have elections, we have women who have fought it out with men and they are there as MPs. I would say that since people are fighting for equality, of gender, we are going to contradict ourselves if we begin to say then that some seats should be reserved for women. So, I would suggest that women compete with men because they are able to do that, and they will be able to win because they are qualified to do that.

This case of women suffering because their husbands have died. I would suggest that because marriage certificates is just like ID, then everybody that is married in Kenya should be compelled to have marriage certificate in order that if the husband dies, the wife will not be chased away because she has the marriage certificate with her and therefore nobody will come to claim her property.

Protection of conscience is well presented in our present Constitution and therefore I suggest that it remains as it is in chapter 5 no. 78 and 79. I think that one is proper and should be retained as it is in the present Constitution. I think that is all I have.

Com. Hassan: Thank you very much. Do you have any question(?) Rhoda, Amerudi Rhoda. Rhoda Maende. Rev. Dr. Mutunga.

Rev. Mutunga: Yangu itakuwa fupi. This concerns the Judiciary, cultural and communal rights. Basically I will be basing my argument or my presentation on the Law of Bigamy. It is my appeal that the Judiciary should seek or amend the Law of Bigamy, because that Law of Bigamy states, "all married wives," so that it can read that, all married wives should be given marriage certificates" same as they are given the national IDs to show that they are one flesh with the man they are married to. The Law of Bigamy is biased as to one man one wife, which is monogamous and it is not according to African and even Biblical standards. In this case the rights of children will be reached, whereby every child born in a polygamous marriage enjoys paternal inheritance without any prejudice.

Women should have a protection law whereby if a man chooses to live with a woman, she should have the right to be given a marriage certificate without any intimidation. Number four, marriage certificates should not be taken by churches to equal or to equate them with salvation, whereby the monogamous marriage exists in contrast to polygamy. So that is what I had. Thank you

Com. Hassan: The Professor wants to ask you a question.

Com. Kabira: Reverend,

Dr. Mutunga: Dr. Mutunga

Com. Kabira: Dr. Mutunga, are you saying that we should legalize polygamy outside; I know polygamy is accepted under the customary law, African Customary Law. So you are saying that we should make it legal under Common Law.

Dr. Mutunga: Yes. That is what I am saying because Kenyans are living in two social societies whereby, those who are living in polygamy are accepted by our African culture, but by law there is discrimination. So we find that we are living in two worlds, so that you don't know where you belong. When you go to this place, you are told that no you cannot have this. When you go to the other side you find that there is that freedom.

Com. Kabira: okay. May be, the other question I wanted to ask is – is it the Old Testament of the New Testament- you said is biblical. Is it according to the new interpretation of Christianity that polygamy is allowed? I am just seeking for clarification.

Dr. Mutunga: Within the Bible. When I talked about the Bible, there is nowhere in the Bible that says we should not have that. Except leaders. Leaders are strictly forbidden. But any body belonging to the society of God, they are free to have that social right if they choose to do that, either in the New or the Old Testament.

Com. Kabira: So we can have the leaders monogamous. There will be a (?)

Dr. Mutunga: But for leaders. If I am a church leader for example, I am barred from practising polygamy.

Com. Hassan: Francis Mwanthi, Makueni Girls staff.

Mr. Mwanthi: These are the views from members of staff at Makueni Girls. First on elections. Presidential elections should be held separately from those of Members of Parliament and the civic wards. Reasons are; to weed out Presidential aspirants who are not electable or who have no public support. The other reason is, because Parliament will have been entrenched and this

ensures stability during Presidential elections. The other reason is that it also reduces confusion and rigging during elections.

The other thing is, during election, there is need to specify who ought to take power. The current President should not be exerting Executive power during elections. In this case either the Speaker of Parliament or the Chief Justice should be in charge. The other point is that there should be a specified date for swearing in a President elect under a clear procedure. In case of dispute after election of the President, the Constitution should specify who should hold the Office until the dispute is resolved.

There should be a procedure for impeachment of the President in case he is not performing or is involved in scandals or corrupt deals.

Courts. There is need to establish a Supreme Court so that when it makes decisions it binding and final. Another thing about Court is that those who misappropriate or defraud the Government of either funds or resources should be sacked and they should be made to pay.

Public complaints. Office of the ombudsman should be established with security of tenure to cater for all public complaints e.g. misuse of law and abuse of power. Another point is that a mechanism should be established for addressing complaints or grievances of the poor who cannot afford high costs of justice.

Another point is on environmental pollution. Industries that pollute the environment should pay taxes that can be channeled to free health care for all Kenyans.

The other issue is on employment. Employment should be offered only on the basis of academic qualifications and applicants who are not considered should be allowed to appeal.

Another point. There should be no nepotism or favoritism in employment.

The other issue is on Parliament. Any new MPs who are seeking to be elected should have the following; one, should be less than 50 years old. This is because when they are very old, their working efficiency is low. The other thing is that retired government officers should not seek to be MPs. This is because the Government allows them to retire of old age and their efficiency is low. The other thing is that any one who aspires to be MP should be cleared by Anti Corruption Committee, in order to have MPs who have high integrity.

Another point is that any person aspiring to be an MP should have a minimum of Form 4 education with a mean grade of C or any other equivalent qualification. The other point is that the Constitution should not allow MPS to determine their own salaries and allowances. Their current salaries and allowances are too exorbitant for the government to afford.

Another point on MPs is that the working time for the Members of Parliament should be increased and the recess period shortened.

Public office. Public Commission. People in Public Commission should not be over 50 years of age. They should have required qualifications. The issues of Ministers and Assistant Ministers. They should have relevant education, experience and training in order to head the Ministry. They should be vetted by the Anti Corruption Unit and Members of Parliament. Corrupt, immoral and those who have s stolen from the Government offices and private sector should be rejected.

Employment. There should be a board to employ Permanent Secretaries, ambassadors, Provincial Commissioners, District Commissioners, Heads of parastatals. The personnel above should be selected in accordance with their qualifications, competence and should have clean records. The Presidential approval is required so that they will be loyal to the president. The board should be able to terminate their services in case of misuse of public office. The termination should be through a letter but not through radio.

Judiciary. The Attorney General, Chief Justice, judges and others should be appointed by Parliament. Their appointment should be in accordance with their competence, education, experience and integrity. They should be answerable to the Parliament but not to the President to avoid partiality in exercising justice.

Land. People who own idle land exceeding 5 acres and above should be taxed so that that land can be put into production or hired by people who do not have land. Another point. Majority of land officers are very corrupt. They deny some people the right to own land or land title deed or their land is sold to unknown people. Remedy. The land officials should be vetted every year to dismiss corrupt officers by anti corruption office or any other body. Offices should be opened at the DCs or DOs office so that *wananchi* can give their grievances against particular officers. The levies charged by land transfer- when land is sold or land is inherited- is very high. The process of land transfer is complicated. It should be simplified.

Public land. Public land should be controlled by a Committee. The Committee should consist of church leaders, land officers, elected leaders and community representatives. President, PC, DC, councilor and mayor should have no mandate to give out public land. Land Commission officer should be selected by Parliament to head all these committees and should be answerable to the Parliament. The Land Board should not solicit funds from clients in terms of (?) which is corrupt deal. Clients should pay only official levies, which are receipted.

Education. The government of Kenya should cater for half of the fees paid in secondary schools. This is to ensure poor and bright students get the secondary education and do the enrolment. University students should be given flat university fees by the Government. Instead of applying for a loan which in most cases do not help the needy. There should be a board at national

level to be in charge of promotion of civil servants and teachers. Promotions are to be advertised so that any person can be promoted. School PTA.

Com. Hassan: Mwalimu, your time is up try and summarize.

Mr. Mwanthi: Give few minutes I have important points here.

Com. Hassan: Okay. I will give you 3 more minutes.

Mr. Mwanthi: PTA should have more powers in managing schools than BOG because BOG members have direct interest in schools.

Civil servants and teachers deductions. There are deductions called WCPA deductions. There should be a competent body to manage these funds but not the Government. WCPA deductions should benefit parties, widow and widower. NHIF deductions. The contribution of NHIF should cater for outpatient treatment of the contributor's immediate family. NHIF contribution should benefit from the funds after retirement with little deduction.

Retirement benefits. Retired women from public service should get monthly allowance like retired men.

Local Government. In any district or town, there should be an Executive officer elected by the people with the relevant qualifications and answerable to the people. The officer should have more power than the town clerk the officer should have total powers over the affairs of the local Government in the town or the district. The officer should hold 2 1/2 years tenure in office and seek a second term from the people.

Kenyan roads. All regular police should not man any roads in Kenya. There should be mobile traffic officers who are in a position to fine on the spot any vehicle is in bad condition or overloaded with passengers. The fine should be receipted.

Ministry of Public Works, Government projects and other ministries. For any Government project either in MOPW or any other ministry should work in hand with the private sector. The private or individual person contracted by government, in order to use machines in MOPW or other ministry, should control the money and make purchases for the work, should ensure standard work is done in the set period, should ensure that government machines are well serviced during the working period. Private contractors should be paid only after managing the project.

Final. The Ministry of Health. There should be a Government pharmacy in each district hospital whereby expensive drugs are sold and receipted. The drugs should be at fair price. This is to ensure that *wananchi* are not exploited by private pharmacists and people have access to better health care. Thank you.

Com. Hassan: Thank you very much mwalimu. We would like to again request for the second time. Those who are having written documents, please don't read it word for word. Try and highlight main points. I have said this since morning and I am going to repeat it and I will keep saying until you obey it. So please try and summarize and make the highlights. James Kimanathi.

Mr. Kimanathi: Thank you very much. Let me start by talking about our education sector. First of all it is my feeling that at the university level, the President should not necessarily be the Chancellor of the public universities. This should be done by the Senate or the University Council. I also think that the powers of the vice- chancellors should be reduced and Heads of Departments should be given more powers to run programs within their departments. I feel that the universities should be given autonomy to run their programs and to change them in accordance with the changing trends in education without necessarily having to go through a lot of red tape that already exists at the university level. I think also post graduate education should be checked because there are problems where maybe some interested lectures may not want some people to qualify in their studies.

Now on Parliament, I think we should have not more than three political parties in Kenya. This will help to reduce conmen who are coming up and forming parties that are non- functional. I think we should also have electoral boundaries being amended by a tribunal appointed by Parliament other than by the Executive.

On citizenship, I think spouses of Kenyans whether they are males or females should automatically acquire Kenyan citizenship. The current Constitution does not allow, a lady who gets married to a foreigner, the foreigner is not given automatic citizenship. This is a matter of concern because it is making some Kenyans live outside the country.

The other thing I should mention here is that the Government should be bound to honour all her legal commitments once they are gazetted, and this is probably the problem we have with the KNUT and the Government currently. Once a commitment has been gazetted, there should be a mechanism to make the Government honor her promises.

I also feel that all Kenyans above 18 years should be issued with passports at request unless they have a criminal record. Presently it is very hard to get a passport especially when you want to go out of the country.

There should be special seats in Parliament for the disadvantaged, I think that has been mentioned. Retiring heads of States should be given allowances. A clear pension package, so that he may be encouraged to retire. MPs should not qualify for pension unless they have served for 2 terms or more.

I feel that allowance for MPs should be pegged on their attendance. Those who are failing to attend Parliament should earn a proportionate salary other than making technical appearances and getting the full salary.

On maternity leave, I feel that women should be allocated enough time, and during this maternity leave period, the spouses of these women should be allocated half the time. For example I am married when my wife is on leave, I feel I should be given ½ the period to assist my wife in managing all that trouble.

The other thing is that I feel that – I have jumbled up my points but you will take them – the Leader of the Opposition in Parliament should have special allowances and responsibilities that befit his honour.

NGO's should be Constitutionally required to offer services beneficial to the community. Presently we have so many NGO's that have people enriching themselves other than helping the community. They should be required to show what they are doing in the areas where they are operating.

Religious freedom should be enshrined in the Constitution but fanatical sects should be abolished. Abortion should be criminalised. Kenyan currency should, instead of bearing faces of the current President, bear symbolic drawings or pictures for example Mt. Kenya, Lake Victoria, wildlife, beaches, and such. This will reduce the cost of printing new notes every other time a new face goes to State house.

Bank interest rates should be controlled. Because currently they are actually conning the public and so there is little investment in this country because you cannot borrow from the banks. All senior civil servants and politicians are required to declare their wealth yearly. The Constitution should allow the use of Lake Victoria's water because currently there is an agreement with Egyptian Government. I think it is an outdated agreement that does not allow E.African countries to use the Lake Victoria waters.

MPs and civil servants shouldn't qualify for any public land allotment at all at all, including their spouses. They should not be given public land – whether it is from the civic bodies or whether it is thanks from the Executive powers.

I also feel that those who print and sell certificates especially academic certificates, passports and these other documents should be put in for life because it is bringing a lot of confusion in our education systems. My other feeling is that scholars, researchers, and other specialists should be enlisted in our military. Following in the American example where we have military research centers, because this will enhance security for the country and also make sure that these specialists are given opportunity and finances to conduct research.

I think finally it is on the preamble. We should have a preamble in the Constitution and it should capture the following: our unity in diversity, our trust in God, justice for all and the basic rights of our people.

Finally, I feel that dismissal from any senior public job, P.C.s Parastatal Heads, civil service and all other should not be done by the President and like somebody said, should not be made on air. I feel also finally, the Vice- Chancellor should be chosen by the Senate, that is the universities and maybe members of the University Council, other than where they are appointed directly by the President. I think those are my comments. Thank you.

Com. Kabira: Mr.Kimathi please. You want women to be given enough time for maternity leave. Currently it is two months. So how much times do you think we should give?

Mr.Kimathi: I would recommend 3 months.

Com. Hassan: Thank you.

Com. Kabira: One and a half for the men?

Mr. Kimathi: one and a half for the men.

Com. Hassan: Janet Mumbi.

Ms. Mumbi: Thank you. These are my views that are relevant to the,

Com. Hassan: Kuja karibu na microphone.

Ms. Mumbi: The Executive. I think the Presidential candidate should be at least 45 years old. 45 but not 35. I think that the President should not be a Member of Parliament.

Parliament. Members of Parliament should be at least 25 years but not 21. Local Government. Mayors and Council Chairmen should be elected by the public. There should be minimum educational qualification for Councilors who should be university graduates or form four leavers with a mean grade of C (?). Councilors should have good passes in the languages, that is English and Swahili.

Electoral process. I think election date should be specified in the Constitution. Political parties. We should have a limit of two parties to ease the problem of tribalism.

Basic rights. I think the Government should provide free and compulsory education up to university level. This is because some people are swell talented but due to finances they do not pursue their education.

On employment, it should be based generally on academic qualification but not on corruption. I think those are my views. Thank you.

Com. Hassan: Thank you very much Janet. Robert Musyoki. Teresia Kiema

Ms. Kiema: To the Commissioner and the rest of the people, these are my views. I am from Kathonsweni Division, and there are some groups, women groups who have sent me they could not come for the hearing. I have 3 groups, 1 have 2 social groups and other people whom I will present their views as written memoranda. But I will present my views verbally myself. These are my views. Since Kenya is believed to have a poor economy and to create new jobs, I anticipate that the Constitution of Kenya Review Commission Office to remain. This is to mean that for the people who are in the field and Commissioners to be employed permanently and be given a monthly salary.

Secondly, unemployment in Kenya has become too common. For those who are employed in Kenya, most of them are employed through what we call back door quote and quote. I strongly request that employment be on merit. Let the university graduates, college graduates, e.t.c. be given the first priority. Let the Government create jobs in rural areas to employ those who cannot go to look for jobs in towns. For example we have ladies who are married in rural areas but are highly educated. They can't leave their children, their husbands to go to the city to look for jobs. So, can't the Government create jobs for them especially in community rural development, and other areas where they can earn a living?

Let women be given chances in leadership. Let them be councilors, elders, vice- President, Presidents, and in this sense I anticipate that if the President is a man let the VP be a woman. Let the educated ladies be given the first priorities in getting jobs so as to give motivation to schoolgirls who are still learning. This is because most of the schoolgirls have the notion that the end of a lady is to get married. This idea makes them relax in education and to drop out. Thank you. Those are my views.

Com. Kabira: You said you have memoranda from the 3 groups, 3 women groups, is it possible to, like to read the name of the group and if possible the title of the presentation for recording purposes so that we have the three separate presentations.

Ms. Kiema: Okay, for the women groups I have Kyeni Kayemulwa, theChairman is Mutethia Mueke and they have 18 persons. They have views on women interests. The second group is Muulu Association; they have 20 persons they are still on women views, women interests. The other group is Wololo. It has 25 members. They are still on women interests. I have self help groups. The first one is (kikamba) they have 15 members, theirs is general issues. The second one I have (Kikamba) they

have 50 members. There is also on general issues they tackle here and there. I have retired servants and I have retired teachers. There are on retirement issues. I have civil servants, I have teachers Yemulwa Primary teachers and Yembondo teachers— we said we were 30 members. Men catering for their own views as men and ladies catering for their own views as ladies. Then I have people with disabilities, I have two in number, those who were interviewed. They catered for their own views as disabled people. I have widows, I interviewed five of them I interviewed them as a group. They had their own views as widows. Then administrators, village elders of different villages.

Com. Hassan: You say that you interviewed them. What really,

Ms. Kiema: I didn't interview them. I talked with them; they gave me their views, what they feel should be considered.

Com. Hassan: okay. Then you told them. Did you write for them or they wrote it themselves?

Ms. Kiema: I wrote for them.

Com. Hassan: Okay. Thank you very much. Bridgitte Kavindu.

Ms. Kavindu: The Constitution. Nobody or any party shall have the right to alter any part of the Constitution. There should be at least two political parties in Kenya to discuss issues affecting Kenyans. Employment Act to be in the forefront,

Com. Kabiro: Please use the microphone.

Ms. Kavindu: Those who have reached retirement age should give room for the young and industrious youth. Commander of the Armed Forces to be the Head of the Armed Forces and not the President. That is, the President is not the one who should declare any State of Emergency.

Women. Women anticipate for equal representation in politics. Domestic violence should be abolished. Widows and orphans to be given priority in education and employment. Farmers. They want to be considered especially as concerns prices for their produce and for the agricultural officers, they want them not to remain in offices but to go to the fields so that they advise them on the best farming methods. Those are my views. Thank you.

Com Hassan: Sarah Muli.

Ms. Muli: Thank you. I hope, I think most of the views have been mentioned but what I am going to add is that there should be adequate health facilities to the interior places. Many of the patients move from their rural homelands to the urban areas

where the health facilities are. Village elders. Village elders should be considered as the other workers, that is they should earn.....(Inaudible).

Mzee Mulu: Nilikuwa nikisema, kuna wengine hatujui Kiingereza na Katiba ya Kenya ni Kiswahili. Lugha ya kazi Kenya ni Kiswahili.

Com. Kabira: Mzee Mulu, can you use the microphone?

Mzee Mulu: Thank you. Basi kwa hivyo, kuhusu Katiba ya wananchi ya, Mkamba, upande wa Mkamba kuna tatizo ndani ya wanaume na wanawake inataka kurekebishwa. Mkamba hampatii msichana shamba.

Com. Kabira: Unataka kuzungumza na Kikamba.

Mzee Mulu: eeh.

Com. Kabira: Unataka kuzungumza na Kikamba.

Mzee Mulu: Wacha nizingumze na Kiswahili yangu ndogo.

Com. Kabira: Ni swali tu.

Mzee Mulu: Basi kwa hivyo, Wakamba humpatia shamba msichana kama hajaolewa. Huyo ndiye yuko na nafasi ya kupatiwa shamba na baba. Na hata serikali imetambua jambo hili, lakini halijaingizwa katika Katiba, Bwana Commissioner. Mimi nikiwa na shamba langu, najua ni la vijana wangu. Msichana asipoolewa atapata sehemu. Hiyo iwekwe namna hiyo. Msichana akipewa shamba akiwa mtoto, akishaolewa, yeye na mumewe watakuja kudai baadaye. Mkamba hakubaliani na hayo. Hiyo ichunguzwe vizuri.

Haya, ile nyingine, nilisikia mmoja wapo alitaja Parliament. Wabunge hawatafuti maoni yetu sisi. Hawatuwakilishi kwenye Parliament, wanakata kauli ya mambo yao, na hiyo hatukubali. Akishastaafu anapata Pension na hakuna alichu tufanyia. Waambiwe kuwa Parliament ni contract, wasikae tu Parliament na kunyakua mali ya wananchi. Hayo tumekataa.

Basi kwa hayo, Commissioner mtumie kupatia watu nafasi kama hii ya leo, naona tunaelekea kuelewana, ili mtu azungumze yake, mchukue maoni na vile vile upande wenu mnatucheleweshwa. Mjaribu kufanya bidii mmalize kazi yenu. Na hatuwezi kuwasukuma msije mkamaliza kwa makosa, lakini mnachelewa. Asante.

Com. Kabira: Asante Bwana Mulu. Tutajaribu sana tumalize. Asante. Counselor Maindi.

Counselor Maindi: Thank you. My names are Rhoda Ndumbi Maindi, counselor for Mavindini. I have a memorandum but I want to emphasize on a few things. One, I want to emphasize on children rights. We want our children to be paid immediately after they are born, from one hour up to 18 years so that we can eliminate poverty. We also want our children to be educated, both boys and girls in the same way because there are some parents who do not recognize boys than girls. We also want this Constitution to have a provision for free education from Standard one to Form four. We want the elimination of 8:4:4. We want 7:4:2. That is on education.

On citizenship, we want equal protection. We want women to be free from discrimination. Every person in this country should be entitled to be automatic citizen regardless of sex affiliation.

Recognition. We want the Constitution to put in place the document, which a citizen should produce when needed, and we recommend birth certificate, Kenyan passport and National Identity.

About basic rights, we need the community to have free health care. We want free water and clean water, we want shelter, we want security and employment for all Kenyan citizens. When the government increases salaries, we recommend that according to the Constitution all the civil servants salaries should be increased, there should be no discrimination. For example doctors, MPs and the rest, and when it comes to teachers when they are asking for their rights, they are threatened with sacking. This is all nonsense. We want a Constitution that can provide increment of salaries for all Kenyans.

Issue of affirmative action. We want a Constitution which can put in place affirmative action for all marginalized groups especially women, youth and disabled. That is the Constitution should make a provision for affirmative action policy because we know it is not there in our Constitution, and we want a Constitution which can recognize disabled people. What I mean by this is, in our country, even in the houses when we are putting our own stairs we don't recognize whether we have brothers or sisters who are supposed to climb those stairs. There should be a provision for these disabled on how to get to a fifth or tenth floor. So we want a Constitution which recognizes we have such brothers and sisters. Even in the matatus, even in the buses, all the vehicles, we need a provision where a disabled person is recognized. In America, we have such things and we want such a Constitution.

Issues of land. I want to emphasize on just one issue on land. We want, when we are given title deeds, we want a Constitution that will provide a title deed forever. In our Constitution that we are having today, our title deeds are for 99 years and I wonder if somebody goes beyond 99 years, does that mean a citizen should be evacuated from where you are supposed to be or your land? We want a title deed that is for a lifetime. We also want women to be recognized when we are being given these title deeds. We want both the names of the husband and wife to be registered on the title deed, for example Rhoda Ndumi and

Richard Maende. Because if my husband dies, the brothers will come and claim the same land. So this will enable women to own such properties when the husband dies. Also we want a Constitution which will provide a will for both. Like nowadays, in our country, it is only men who are allowed to write their will. Women it is as if they are not recognized that they own property. So we want a provision for that, because it appears as though women don't work.

Also, we want salaries for women. If I am not a civil servant nor am I working in a company but I work in a shamba, nikienda kuvuna pamba, napanda pamba, napanda mahindi. When I sell my produce my husband might take all that I worked for and at the end of the day the woman gets nothing. We want a provision where a woman should be allocated some money to do her own business. I might even be unable to buy my people soda because I don't work. I have to go and borrow 20 Shillings from my husband. We want that provision in our Constitution.

On Legislature, minimum qualification for MPs, in the Constitution should be O'levels or a Degree. For President, we want a President with two Degrees or Masters. For a Counselor, we want a Counselor who has gone up to A'level. Mayors should be elected by the people. They should be in office for 5 years. We want elections to be conducted for Counselors and Parliamentarians at the same time and for President we want to be done at a different time so that people might be prepared. The President has a lot of powers and these powers should be reduced. We want a Constitution, which will provide a President who is not above law.

Decision making, we want a Commission. We want this Commission to recognize affirmative action. To put women in all decision-making. If it is a Chief, Assistant Chief should be a woman. If a President is a man, vice President should be a woman. This is gender balancing and this is 50- 50. We don't want 33%. Now it is 50-50. We want women put in decision-making. If we have Permanent Secretary for Environment we want a lady who is in civil service like Kosgey and the rest. That is all I have, thank you.

Com. Kabira: Thank you very much Counselor Maende. Thank you. We would like you to register with that lady. Thank you very much. Mr. Leonard Mwiya Ndambuki. Okay.

Mr. Ndambuki: Thank you madam for this opportunity. I am presenting two papers, may be I will just say it verbally, you can take notes because most of it is not well arranged. The first paper is on the rights of the children, which was compiled while I was in a team of the Kenya Alliance for the Advancement of Children. This one is about, I can just give it out, except just to read two things there, which I feel, are very important. This is on Principle 10. I want to emphasize on the rights of the child to a name and a nationality from birth. That is something I want to emphasize and the inclusion of the word child. When we are talking of a child, I was once a child and probably we are just talking of the same thing, so that is the one thing I will just talk about, the rights of the child. The rest is there and probably you have received it elsewhere and I am sure most of them have heard it. The other thing I want to talk about,

Com. Kabira: For purposes of record, just do like what the other lady did. Just generally read the title and you can just highlight the sub topic without discussing them.

Mr. Ndambuki: Okay so the first one is with the stakeholders on issues concerning children having considered comparatively the provisions for child in the Constitutions of our sister countries of Uganda, Ethiopia, South Africa and others and having considered international trends and the provision.....

Com.Kabira: Sorry, I didn't say you read word for word, are there subtopics like you can say the rights of, like what you said, the rights to name, rights to education, a right to health and then the rest we shall read because as you say you are presenting it for them.

Mr Ndambuki: There is something about freedom, participation, equality solidarity, tolerance, respect for nature, shared responsibility, fidelity to human values, responsibility of citizens and then the Constitutional, I have about nine or so principles here, which include: Principal 1; distinct recognition of child in a special section and the Bill of Rights. Principal 2: definition of a child; Principal 3: Nationality and citizens rights; Principal 4: Rights to life and basic rights, Principal 5: rights to education, Principal 6: protection from abuse and exploitative measures, Principal 7: Best interest principal. Principle 8: Special Constitutional office for protection of children. 9 Access to justice by children; 10: Governance; 11: Succession and community rights, and the last one non-derogable rights of the child. These are the ones I had started reading then I stopped there. So with that I can present and talk to her.

The other one is, I work with the disabled and polytechnics and there are two things maybe I wish to share here verbally. That one, we would wish the polytechnics were considered like other learning institutions. This is not the case today, because the teachers are not being paid by government like in primary and secondary schools. Those are some of the things we are talking of our children finishing Standard 8 or Form 4 and go to polytechnics but when they go to polytechnics you find the government stops there. We have no curriculum for the polytechnics. Grade 1,2, 3, test, government trade test. There is no curriculum for that. It is like we are in the bush. When a student finishes or when a trainee does the government test grade 3, they are required to wait for one year before their certificates are out. They have to sit down and for one year before they can go to grade 2, then when they go to grade 2 they sit down for one year and then for grade 1, then sit down again for another year, waiting for a certificate before they can go for an artisan training, before they can go for a certificate, a diploma and a degree. We are asking, can this be changed? Because when a secondary school boy or girl finishes Form 4, they can go to university with a result-slip. A child in Standard 8 can go to form 1 with their result slip but that is not the case with polytechnics. We are asking can this be considered and have it level with the others.

Otherwise again in the polytechnics the government assistance is very low. We would like them to consider polytechnics just as

they consider secondary schools. In polytechnics there are no games, as in secondary schools. So, can this be balanced? Can out training institutions be balanced? That is just what we are asking for. Can polytechnic teachers be paid? Can we have bursaries in polytechnics and the like. Otherwise I am grateful and I wish you all the best as you work in Kenya.

Thank you.

Com. Kabira: Thank you very much Leonard and maybe you could register? Thank you very much.

.....(Inaudible)

Com. Kabira: I am sorry we were doing a bit of consultation. Is James Kimondiu, I hope I am pronouncing it correctly. Is there somebody like that? James Kimondiu. He is not here. Felix Mule. You are Felix? Amos Mutuku, okay fine.

Mr.Mutuku: (Kikamba).

Com. Kabira: Ngoja kidogo wanatengeza hiyo machine.

Mr.Mutuku: Mimi najisikia kuongea Kikamba.

Com. Kabira: Amos, ngojea tu dakika kidogo wanaweka tape. Au mmemaliza?

Mr.Mutuku: Mimi sikuanza bado.

Com. Kabira: Ngojea tu kidogo. Okay. Wako tayari.

Mr.Mutuku: Mimi nafikiria nitaongea Kikamba.

Com. Kabira: Utaongea Kikamba lakini kuja karibu. We have an interpreter here.

Mr.Mutuku: Ni sawa tu

Com. Kabira: Okay

Mr.Mutuku: (Kikamba)

Translator: He would like to start with trade licenses. Go ahead.

Mr.Mutuku: (kikamba)

Translator: He is saying that licenses in the rural areas as compared to the urban areas, there is a big difference.

Mr.Mutuku: (kikamba)

Translator: Therefore the licenses especially in urban areas are becoming unaffordable.

Mr.Mutuku: (Kikamba)

Translator: The other thing is about cost of medical services.

Mr.Mutuku: (Kikamba)

Translator: The costs in hospitals are too high.

Mr.Mutuku: (kikamba)

Translator: Even at the dispensaries.

Mr.Mutuku: (kikamba)

Translator: At least the costs should be made so that it is affordable. The *wananchi* are finding it difficult to meet all those expenses.

Mr.Mutuku: (Kikamba)

Translator: The other thing is about clans in our communities.

Mr.Mutuku: (Kikamba)

Translator: Formerly, the clans had their own regulations.

Mr.Mutuku: (Kikamba)

Translator: But today, as compared, the clans Code of Regulations and the Statutory Law or the government, the government laws have almost made the clan laws less effective and that our sons and daughters are taking, it very easy even to commit crimes.

Mr.Mutuku: (Kikamba)

Translator: I am appealing to the law makers to consider empowering the clans such that they will be able to deal with some of these crimes more effectively and with a bit of more force.

Mr.Mutuku: (Kikamba)

Translator: Today, your own son can decide to do anything to you and even if you tell him you are going to appeal to the clan this usually doesn't remain binding.

Mr.Mutuku: (Kikamba)

Translator: Because when he is taken to the police he easily is going to talk about those people who used force on him in the clan and ultimately they may be punished by the law.

Mr.Mutuku: (Kikamba)

Translator: The other thing is specifically to our rich people. They own very big chunks of land.

Mr.Mutuku: (Kikamba)

Translator: one person may have as many acres as even 10.

Mr.Mutuku: (Kikamba)

Translator: Usually most people do not have land.

Mr.Mutuku: (Kikamba)

Translator: So, I would recommend if there could be a provision to look into land acquisition, land distribution, because some of the people especially the rich have big chunks of land.

Mr.Mutuku: (Kikamba)

Translator: So may be they can use the money to invest elsewhere and leave people to have enough land. So whichever government comes in power, doesn't matter when, should look into the issue of land distribution. At least one should have a piece of land.

Mr.Mutuku: (Kikamba)

Translator: The other aspect is on punctuality. Most government officers once they make appointments in the communities, sometimes they don't honor. They keep the community waiting the whole day and they may even not turn-up at the end. So, issues of punctuality, issues of appointments should be looked into, especially by public servants.

Mr.Mutuku: (Kikamba)

Translator: A living example, we were given an appointment by a group which probably is dealing with, something like probably what you are doing today, but they never turned up.

Mr.Mutuku: (Kikamba)

Translator: They actually did everything for themselves whereas they should have done it together.

Mr.Mutuku: (Kikamba)

Translator: So they did a lot with whatever knowledge they had.

Mr.Mutuku: (Kikamba)

Translator: So, at least appointments should be kept.

Mr.Mutuku: (Kikamba)

Translator: There is another group called FIDA

Mr.Mutuku: (Kikamba)

Translator: That group about women. It is a good group.

Mr.Mutuku: (Kikamba)

Translator: It is concerned with the affairs of women

Mr.Mutuku: (Kikamba)

Translator: But it is coming with such a big speed such that,

Mr.Mutuku: (Kikamba)

Translator: Our own people are not that educated to follow some of these issues with speed.

Mr.Mutuku: (Kikamba)

Translator: Some of our people are just running to these things without having fore knowledge.

Mr.Mutuku: (Kikamba)

Translator: It is a feeling that this FIDA, has so much gone into our women that they have become disobedient.

Mr.Mutuku: (Kikamba)

Translator: We are not refusing what they are saying.

Mr.Mutuku: (Kikamba)

Translator: But we feel they should at least be able to understand the levels, the kind of levels of women they are talking to.

Mr.Mutuku: (Kikamba)

Translator: One point I would like to mention- it has already been mentioned by someone else-is on the issue of village

headmen.

Mr.Mutuku: (Kikamba)

Translator: Experience has shown these people are working even more than the Assistant Chiefs and Chiefs.

Mr.Mutuku: (Kikamba)

Translator: Unless you have something to give them, usually these people are not paid anything.

Mr.Mutuku: (Kikamba)

Translator: So I am appealing to the government and any would be coming government to look into the issue of their remuneration.

Mr.Mutuku: (Kikamba)

Translator: Such headmen should be elected by the community he is leading and not elected by the administration.

Mr.Mutuku: (Kikamba)

Translator: The other thing is about education and also medical services.

Mr.Mutuku: (Kikamba)

Translator: People are going even to high levels.

Mr.Mutuku: (Kikamba)

Translator: But when you go to Nairobi you meet so many people unemployed.

Mr.Mutuku: (Kikamba)

Translator: we have disposed most of our property to afford education.

Mr.Mutuku: (Kikamba)

Translator: But eventually there will be no employment for the children.

Mr. Mutuku: (Kikamba)

Translator: He is appealing to the government to have a provision for a kind of committee or a Commission to look into employment such that when those people complete education, employment does not become a problem. They are absorbed as soon as possible.

Mr.Mutuku: (Kikamba)

Translator: There are no access roads to our homes.

Mr. Mutuku: (Kikamba)

Translator: He is saying that access roads should be made such that they do not get waterlogged and mostly because they are just made by the communities. They only make big ones, but the small access roads are just left out.

Mr.Mutuku: (Kikamba)

Translator: Also, the access roads should be made to reach most homes.

Mr. Mutuku: (Kikamba)

Translator: So, roads network and transport should be looked into.

Mr.Mutuku: (kikamba)

Translator: Thank you.

Com. Kabira: I would like you say just a little bit more about the things you think FIDA should approach cautiously.

Mr.Mutuku: (kikamba)

Translator: He is saying that women after being educated or may be after getting some little knowledge from FIDA some of them seem to be going beyond certain limits.

Mr.Mutuku: (Kikamba)

Translator: So his main concern is that when FIDA is carrying out this kind of knowledge or this kind of education they should take into consideration the level of understanding certain cultural aspects such that it doesn't really seem to agitate.

Mr.Mutuku: (Kikamba)

Translator: He is also quoting the Bible that the woman should obey the husband. It has even come to a level some can even resort to physical exchanges.

Com. Kabira: Thank you very much Mzee Amos. Okay. Felix Mule. Hayuko. Erastus Mutuku.

Mr. Mutuku: To the Commissioners and residents of Makueni, I am Erastus Mutuku. I have some memoranda to present, mine being one, another one for Sammy Kitemu, and because he is not here I will read for him. Thank you. First I will

talk about the basic needs. In basic needs, first of all I want to talk about education for children, which should be free and compulsory for primary level. The schools should be provided by the government with teachers who have free books and teaching materials. There should be at least home for the old people, at least one in every district. The government should provide homes for the old people.

Com. Kabira: Sorry, Maturo, can you help with the recorder?

Mr. Mutuku: There should be free medicine to all people. That is, government hospitals should be free and people should be given free medical services.

Ministers who have resigned should not be appointed to public posts. The quota system of intake should be abolished. Let the children who have qualified for national should be taken to the schools.

I will talk about politics. Political parties should play other roles than mobilizing people. They should conduct development projects. The Constitution should regulate the freedom, management and conduct of all political parties and limit the political parties to be three. The political parties should be financed by membership, donors, and government. Political parties should be financed from public funds. Conditions to be imposed remain national, the party should be nationwide and the number of Parliamentarians. No favoritism should be exercised in relation to political parties. That is, there should be no discrimination.

Parliament should vet all the appointments made by the President in order to make the in order to make sure that there is no discrimination. Parliament functions should be expanded by making them overseers of development projects. Parliament occupation should remain full time.

Voting. The voting age should remain 18 years and above. In vying for a parliamentary seat one should have a minimum of 35 years, and a maximum of 70 years. The presidential candidate should have a minimum of 40 years and not more than 70 years. Thank you.

Com. Kabira: Thank you very much Mutuku. Do we have Hilary Muthoka. Hilary Muthoka. Okay.

Mr. Muthoka: I am going to be brief because the points are very clear. I want to begin with the preamble. So, I said I am going to begin with the preamble.

Mr. Mutuku: Wanapatia (?) operated in a joint account between the council and the resident villagers so that the people can be involved in the planning, implementation monitoring and evaluating and in the end there should be equitable share of projects' benefits.

MPs. both MP s and Councilors if elected by the people or otherwise nominated should serve a maximum of five years term only. Farmers should receive non-collateral credit from the government to boost the production and food security on yearly basis.

Squatters should be settled and given title deeds as a matter of priority in order to solve this hitherto problem since pre independence days. Land is a very important resource and every Kenyan above 18 years should be given at least 5 acres by the government and especially those from poor backgrounds.

The government should give an annual account for all taxes collected from the people. Civil Society Organizations should be allowed to participate in decision making in DDCs, urban councils and county councils.

Government land when in need, or when its use arises, it should be for public interest and people should be consulted and give their consent before any transaction takes place. Political parties should be as broad based as possible and as such the law should limit the number to only three.

Freedom of worship is enshrined in the current Constitution but devil worship should be outlawed as well as cults. Street children should be rehabilitated in special homes where they are also taught and trained in various skills. The government should do something about children who have abandoned school halfway. E.g. Standard 5, 6, 7, 8, or even Form 4, and see how best they can be trained to become skilled so that they can earn a living for themselves.

Prosecutors should be trained lawyers to avoid inefficiencies and also have checks and balances in the prosecution process. E.g. we should have trained lawyers and trained paralegals to handle that department.

There should be a two Chamber House to provide checks and balances in both houses. In case of Constitutional amendment, one house should gain 75% votes and the other one 90% vote.

In order to make people fully alert and aware of voting, anybody who doesn't vote for no reasonable cause should be liable to prosecution in a Court of Law. All political parties should be funded by the government and all presidential campaign aspirants given equal security and allowance including airtime.

Parliament should have a calendar of its own and a month and a date of presidential elections clearly indicated on the calendar. Presidential elections should be held separately from the local authorities given different dates each and MPs.

All Kenyans should be given passports without undue limitation against. (?) Kenyan citizens should be outlawed. The Freedom

of Association and Assembly and movement of all Kenyans as guaranteed in the Constitution should not be interfered with, and anybody who contravenes the same should be punished by the Court of Law.

Com. Kabira: Uko karibu. Uko karibu kumaliza?

Mr. Mutuku: yeah, I am about.

Com. Kabira: okay

Mr. Mutuku: All UN Conventions which government has ratified should be legislated in our legal system. Peaceful demonstrations showing public outcry on an issue should not be dispersed by police. There should be a government of national unity in order to end the current political instability and encouraging unity among Kenyans. All MPS, Councilors, the President and Chairmen and directors of public institutions should declare their wealth as precondition.

All Kenyans should have a right to live, trade and own property in any part of the country irrespective of ethnicity and political affiliations. The President should serve for only two terms if elected democratically by people.

On heritage, children regardless of sex, should get equal share. Trust land should be allocated by a committee member chosen by community within the given region guided by the law. Nobody should use government resources, vehicles etc to conduct party affairs.

All monies, school fees, levies collected and paid by parents body in primary and secondary schools should be audited annually and parents given the audited printed reports. To deal with food shortages and famine, all arid and semi arid areas should receive first priority in provision of water, in terms of boreholes, dams and general irrigation.

Com. Kabira: Mr.Mutuku.

Mr. Mutuku: The last one please. The police should not be used by any body for political or selfish interests to intimidate or harass citizens but must conduct their work professionally under the command of Commissioner of Police only. Thanks and by members of educational paralegal fraternity.

Com. Kabira: Thank you very much. Can I, let me ask you a question. You want two chambers. Who would compose the two?

Mr. Mutuku: People to be elected as representatives from Councils. We have councils in Kenya and the councils of Kenya are to elect some representatives to the Lower Chamber and the MPs, if an MP is not performing in the High Chamber, he should be demoted to the Lower Chamber.

Com. Kabira: Thank you very much. Please sign the book for us. Thank you very much Mr. Mutuku. I wish you a safe journey to Nairobi. Stephen Nchoonda.

Mr. Nchoonda: Thank you honorable Commissioners. My names are Stephen Nchoonda. I am sorry I haven't got my notes well organized, I will organize them later and send them to you, to your office. They are short. Nobody should be above the law, even the President. Even when the President breaks the law he should be impeached by Parliament. The President's choice for key posts like Cabinet, Attorney General and Chief Justice, Chairman of Electoral Commission etc. should be vetted by Parliament.

Provincial Administration should not be in charge of everything say, in the location, in the division in the district, in the province, like being in charge of the DEB, security, land issues etc. This gives them too much power and a lot of power as we are told corrupts. Those in charge, the District Education Officer should be in charge of the DEB and so on and so forth.

The country's natural resources should be used for the benefit of all. Government land for example particularly in the urban areas should not be given to people who sell the land. Somebody is given a plot and tomorrow he sells it at 10 million. He is already a millionaire. Now this makes the prices for the houses for example in urban areas unaffordable to ordinary *wananchi*. If somebody gets a plot he must show financial ability to develop that plot and if unable to develop it, it should be repossessed by the government and be given to somebody who can develop it.

Fourth poor and illiterate peasants are known to have lost their land to corrupt and rich people. If there is proof that somebody lost land through unfair means even if there is a title deed for 20 or so many years the land should revert to its true owner and the culprit jailed accordingly. Five. Children's rights bill. I am afraid, it is a bit too westernized. They talk for example of children having their own meetings and having their own religious beliefs. Honorable Commissioners I don't know what meetings all the time and everywhere children are supposed to have if they are 3, 4, 5, 10, 20. sorry 12 year olds. I think children are under their parents upto 18 years for proper guidance and of course education and everything else. Property of husband and wife should belong to both and their children. Cases are known where after death the wife loses almost everything particularly the wives in some cases even the men particularly if the lady has rich and well to do parents or relatives. It is unfair for the children to lose what they had because their father has died. The law should protect the survivors.

Number 7. The Government should have a system in place to fight corruption at all levels. It should be clear and known to all the people what it is and how the war is being fought and where people should go, and where they should report and so on. It

should be accessible to all the people. Property known to be acquired through corruption for example it is money all sorts of assets should be repossessed and go back to the rightful owner and the culprit given custodial punishment. A clear and straightforward system of fighting drug trafficking should also be put in place. We are losing our children, our children are being destroyed by people who want to enrich themselves very very fast. Those involved should be given life imprisonment in drug trafficking.

There should be a standard system in remunerating the civil servants, depending of course on qualification and experience. Some should not be unfairly or unduly underpaid while others are comparatively overpaid. I am thinking of all the government departments where somebody is a Form four leaver, experienced, has been trained and you find the salary is very, very poor to the extent that people will want to work in some departments, say the forces because people either are not doing much and they are being paid a lot. Things like that.

The government should reexamine its taxation system. We are heavily taxed as a country as compared to other countries in the neighborhood or even in the world. We are one of the most heavily taxed countries and you wonder why and where the taxes go. Our taxation system makes it impossible for our products to compete with others from outside. This is why sugar has to come in and so many other products have to come in. because sugar made in Kenya is more expensive than sugar made in Brazil, or made elsewhere. The reason, taxation. I understand that for every kilo of sugar, the government gets 35 shillings taxation. This is just an example. There are many, many others.

The Local authorities and the Provincial administration seem to overlap, and sometimes compete one can go on and on and on. I believe we could do with one of them. Either with the Provincial Administration or the Local Authorities. Now if you look at the Councilor and the Chief, what are they really, what is each one of them doing. They are still serving the same people and I am sure if there was a clear cut policy one of them could serve the area effectively. Because of them being two, then the councils will want to tax the local people for their salaries and upkeep and so on and so forth. This becomes a burden for the *wananchi*. You have your maize here you are taking to Nairobi. You have to pay so much per bag. You have any produce not only maize, any produce you are taking out. You have to pay so much.

Com. Kabira: Uko karibu kumaliza ?

Stephen Nchoonda: Meanwhile, the Local Authorities do nothing to deserve the levies on the wananchi apart from getting their salaries and offices, there is nothing much they are doing. Kenyans yearn for a true democracy where...

Com. Kabira: Stephen, you know we skipped other people so we give you a chance. Now you have taken the chance of three people.

Stephen Nchoonda: Wacha nimalize. Niko hapa. Where there is freedom of speech, movement and association, we look forward to the day when peaceful meetings by Kenyans discussing their own important matters are not dispersed violently by the police in the name of guarding peace.

There should be equal opportunities for jobs, development and services etc. for all Kenyans irrespective of tribe and gender. The President should be elected by at least 55% of the total votes cast. Failure to which there should be a run off for the best two candidates. There should be a provision for a coalition government.

The key areas for the Constitution of Kenya should not be amended by Parliament only, there should be referendum. Kenyans should be seen and heard to be mindful of other people's welfare. In Parliament for example, there should be a provision for disabled people in Parliament.

Almost anywhere else they should be represented. There should be checks in places to restrict police from harassing *wananchi* and motorists by taking bribes. I know of the story of a person who went to buy goods for his shop and he was asked for the license for his shop to prove that the goods were his. When he resisted, the goods were taken because he did not give the Kshs. 500 he was asked.

Civil servants should not engage in business. The President should be there for two five year term. There should be three political parties each of them having a national outlook. Thank you.

Com. Kabira: okay. Thank you very much Stephen. Once again like other friend we wish you safe trip to Nairobi. So we will go back to the list and look for David Munyao.

Mr. Munyao: Asante Commissioner and the ladies and gentlemen who are here today. My name is David. M. Munyao. Provincial Administration. Chiefs and Assistant Chiefs should go on transfer within their districts. If not so, they should be elected by the public, *wananchi*. Headmen must be elected by the public but not appointed by the Assistant Chiefs or Chiefs. There should be DO I or DO II at the District headquarters for (.....inaudible). To be elected as a Chief or the Assistant Chief one should be of O' level or Form 4 education or above but not below.

The office of the District Commissioner should be answerable to Office of the President head quarters. Employment. Let there be irrigation schemes in every province and if possible in every district.

Presidential qualification. He should be 45 years and above. Age limit should be 70 years. Must declare his or her wealth. Should be of O' level education and above. Should not exceed two terms of 4 years each in office. Should be clean without any debt. Should serve the nation but not use the position for political affairs while in power.

Members of Parliament. Must be of O'level and above. Must declare his or her wealth. Must not exceed three terms of 4 years as Member of Parliament. Must be clean without any debt. The five year term should be abolished and replaced with a four year term in National Assembly.

Councilors. Qualifications. Education should be Form 4 and above. If Form 4, grade B and above and should not be allowed to issue plots. I think that is all. Thank you.

Com. Kabira: Thank you very much David. Where is Sammy Kitengu. Is Sammy Kitengu in? Okay, no. Daniel Wambua. Okay. I understand Sammy's memorandum has been presented, and Wambua is not here. Gregory Musyoki.

Mr. Musyoki: Thank you Commissioners and the listeners. Mine is verbal. Mine is verbal. I would suggest that those people who are vying either for civic or parliamentary seats to have some conditions reduced. Like we have very competent people who are working. They are not assured of their employment if they lose in the elections. So, I think they should not be asked to first write a resignation letter then if they lose, then they lose their jobs likewise. At the same time they lose twice because where he was working he was working with competence, so I think this condition should be reviewed.

Com. Kabira: Thank you very much Gregory. Do you have Rose Musili ? She is not there? Ezekiel Musila? Peter Waema?

Roy Nthusi Nzioka. Not there. Erik Masau, Joseph Kyule, Joshua Kieti, Petronilla Kitaka, Mwema Geoffrey, Dickson Ngumbi Henri, not in. William Mulumba.

Mr. Mulumba: Thank you. My names are William Mulumba. My written memorandum was represented earlier but I will give two points verbally. I think the Presidency is a very important institution in this country so, my feelings are that he should not be an MP of a certain area so that he can be seen to be a unifying factor in this country, a symbol of unity.

So the other area is on land. Land is very sensitive in our country and I think we have so many people who are landless. We have squatters right from the pre independence days upto today who have not been allocated land. You wonder why. I think because land does not increase but the population increases every other day, we should have a land ceiling of at least 20 acres every Kenyan so that at least the rest, every Kenyan can be assured of a piece of land somewhere. And may be do away with this squatter problem once and for all. Thank you very much.

Com. Kabira: Thank you very much William Mulumba. Thank you. Sign our book please. William just sign our register. So do we have Benard Musau, Victoria Mutunga. Karibu Victoria.

Ms. Mutunga: These are my views, which I am going to represent to the Commission. First,

Com. Kabira: Victoria, please just use the microphone so that they can hear you.

Ms. Victoria: I propose that the Kenyan Constitution have a preamble stating that it has been made by the people of Kenya and that the people are superior than any other individual in the country and that they are the ones who can decide on changing or amending the law.

Unwritten customs and practices that are acceptable by the society should be allowed by the Constitution. The Constitution must be available to all people and in their languages. The Constitution should provide a maximum and the minimum sentences given to criminal cases. Election dates should be fixed in the Constitution and declared a public holiday.

Civic education is necessary and should be made compulsory in the schools. The government should create a ministry in the government to cater for legal aid in cases of incapability. By that I mean for the people who can't afford the court costs. It should be clearly stated in the Constitution that no government machinery should be used in the campaigns or in the personal, party affairs.

There should be scholarships provided for the best candidates whose parents have no money for the furthering of education for their children because there are many wasted talents all over the country. Thank you.

Com. Kabira: Okay. Thank you very much Victoria. Josephat Musembi.

Mr. Musembi: Thank you. Yangu kwanza ni machache. Nataka kugusia mambo ya haki. It has been, if you look at the government hospitals, most of them are charging high rates of fees for the patients and we can see most of Kenyans are living in poor standards. So it my appeal to the government to ease the amount of charges of the patients, mostly concerning the disabled and poor people and the old.

The next concern is the question of HIV and AIDS to the youth and people who are willing to ... most of the people are charging high rates of fees. So it is my appeal to the Commission, to if possible to abolish charging the testing fee.

Education should be free especially in the pre schools i.e. the nursery schools and the primary schools. Security. If we look at the Kenyan security today, I may say that security is not very much tight because if we look at the crimes committed in the country, most of the offenders are going unpunished. There is also the issue of drug trafficking especially bhang and illicit brews.

Employment. Kenyans completing Form 4 and the basic training should be assisted to get employment by the government. Elections. Kenyans living abroad and around Africa should be allowed to vote. Lastly, the counting of votes should be done in the district levels or the centers where polls are being conducted. Thank you.

Com. Kabira: Thank you very much Josephat. Can we have Susan Mulwa. Did you want to speak? She is not there. Daniel Nyiva. You are not there. Okay. Norman Juma Maundu.

Mr. Maundu: Thank you very much Commissioners for this opportunity. This opportunity just got me unawares so I have just made my presentation in Swahili (...inaudible) So will read it in Swahili. My name is Norman Elias Juma. I am a Christian by birth but I have changed my religion to Muslim. Maoni yangu ni kama yafuatayo. Kwanza naishukuru serikali kwa kuwapa wananchi wake nafasi hii muhimu ya kutoa maoni yao juu ya Katiba ya nchi yao. Maoni yangu ya kwanza, naomba Katiba ya nchi itoe nafasi sawa kwa madhehebu yote. Kwa hile tuna madhehebu mengi Kenya ya kikiristu na mahubiri yanaendeshwa kila sehemu ya nchi hii yetu lakini yaelekea kwa sasa nafasi kama hizi kwa Waislamu ni nadra sana. Katiba mpya iangalie mambo haya kusawasisha.

Pili. Katiba mpya iangalie jinsi ya kulinda mali za raia wake ambao wanaoishi na kufanya kazi katika nchi za nje na haswa katika nchi za Africa ya Mashariki. Kwa mfano wako Wakenya wanaishi na kufanya kazi Tanzania au Uganda na mtu akitoka huko au kufukuzwa mali zake hupotea au hunyakuliwa na watu wengine, hali kadhalika majirani zetu Waganda na Watanzania wakiwa hapa Kenya mali zao vile vile zilindwe.

Tatu. Katiba mpya ningepomba itoe nafasi sawa kwa raia zake na jamii zao. Kwa mfano, msichana Mkenya akiolewa nje ya Kenya, watoto wake wapewe haki ya uraia bila kubaguliwa. Katiba ya zamani inawanyima haki hiyo, watoto wa dada zetu.

Siasa. Namba nne. Katiba mpya lazima itoe nafasi kwa kila kabila la nchi hii ya Kenya kuweza kupata au kukalia kiti cha Urais wa nchi hii, hata kama mtu atakalia kiti hicho kwa siku moja. Kwa mfano, Rais wa kwanza Kenya alikuwa mkikuyu, wa pili ni huyo wa sasa. Raisi mpya lazima ikiwezenaka atoke katika kabila lingine lolote.

Tano. Rais wa nchi kama Kenya asiwe chini ya miaka arobaini na tano ya umri. Sita na na mwisho. Ile amri ya Chief's Act iliyoondolewa mwaka wa 1997 ilikuwa kwa muda mrefu imetumiwa vibaya sana na Machifu na ma Assistant Chifu. na pengine zaidi kwa manufaa yao. Mashamba ya raia wema yalivurugwa sana. Katiba iangalie jinsi ya kuwasaida raia walioadhihiwa na Sheria hii kuweza kurudishiwa mashamba yao. Ahsante sana.

Com. Kabira: Thank you very much Mr. Norman Juma. Sijui kama David Nzwili yuko? Okay, hukuwa ukisema unataka kuzungumza lakini nauliza kama ume change your mind. Okay. Agnes Mtata. Hayuko. Okay, Richard Kioko.

Mr. Kioko: Thank you honorables and other members. We all need (?) in our Constitution. Every citizen to know his or her fundamental rights and freedoms in this country. Limit the power of the President. They should not be above the law. Keep away with colonial rules and practice democratic rules. Institutional framework of governance, rights of members, duties and responsibilities of members, changing of societies and objective structures, torture of citizens by the police should be removed. Keeping suspects for long in police cells without being prosecuted for not more than 48 hours should be removed. The fine and sentences in law courts should be considered by the weight of the offence committed and not by how much money the person has.

The citizens should be given the rights of visiting prisoners without any restriction. The Constitution supremacy should be retained (...inaudible) and involve the public through referendum in amending the Constitution by the principles of democracy.

Elections. Kenya citizens by birth should be regarded as automatic citizens of Kenya. Should be given Identity cards as evidence of citizenship. Others who are born outside Kenya should be given temporary Identity cards to be renewed after 5 years.

Defense and security should be under the responsibility of the presiding President together with the duties and responsibilities of both the State and the citizens. The State and the citizens should be recognized and be respected due to the duties and responsibilities of others.

In Kenya we need to limit political parties to be less than ten but have two major political parties and be financed equally by the sitting government like in USA and England. This will enable citizens to internalize civic behavior, develop a democratic culture and participate effectively in the process of making their society genuinely democratic.

Structures and the system of the government. Should be of national unity. This will provide general characteristic...(inaudible) business transaction. There should be a commission of inquiry to determine the salaries and net benefits of MP's.

The qualification of the Presidential candidate should be a degree. The tenure should be two terms and five years in the office with limited powers and not be above law. The President should be a Member of Parliament who is in contact with his or her constituents.

Without Provincial Administration we cannot call Kenya a Nation State. Mayors and council chairmen should be elected by people. Their educational qualification should be Form four and above and councillor should be of Standard eight and above with good salaries from government, but not local councils.

Kenya should retain the simple majority rule as the basis of winning elections. Candidates who fail to seek nomination in one

party can be allowed to switch over and seek nomination from another party. The basic needs of Kenyans like security, health care, water, education, food and employment should be guaranteed by the government.

Government should pay certain percentage to unemployed people. We should abolish death penalty in our country, and replace it with life sentences. Anybody above the age of 18 years should have the ultimate ownership of land. The transfer of land should be the right seller to the right buyer. Inheritance of the land should be through law courts and written will from the owner of the land.

There should be ceiling of land owned by an individual and limit hectares of land should be less than 100 hectares minimum per person. More than that can be divided to other people without any land. Non-citizens should not own land in Kenya. Men and women should have equal access to land. Pre –independence land treaties should not be retained. Every Kenyan has the right to own land.

Management and national resources should be retained by the Executive. If the Constitution (.....inaudible) is not above law and the Parliament should have power to authorize the raising of revenue, management and distribution of public finances. The Controller and Auditor general should be appointed by Parliament and given legal and institutional framework governing the ownership.

Lastly, we don't know the meaning of Constitution by this time because we had not read about it before. Thank you.

Com. Hassan: Thank you very much, that was Richard Kioko, sign for us the register. Francis Kingoo.

Francis Kingoo: Wandugu mimi ni Francis Kingoo, nitasema na kiswahili.

Com. Hassan: Lakini kama unataka unaweza kuongea kikamba, kama waona ni vizuri kuongea kwa hiyo lugha.

Francis Kingoo: Nitatumia kiswahili. Ninaeleza kwa upande wangu mambo ya kutengeneza Katiba ya serikali mpya ya Mwanakenya. Nimechagua tu mambo sita. Jambo langu la kwanza ambalo sanasana inasumbua wananchi wa Kenya. La kwanza ni kwamba vitu viuzwe kwa control price. Hilo ni jambo langu la kwanza. Hilo limenyanyasa sana watu wa Kenya.

Neno jingine langu la pili ni kuuliza serikali mpya magari aina yoyote aidha ya wasafiri ibebe kadiri ya uzito wake, sio kubeba sababu watu wanaenda. Ibebe kwa uzito wake, vile iko na tani zile ambazo imeandikwa kubeba. Hilo ni jambo la pili.

Jambo langu la tatu kuuliza Katiba ya serikali mpya ni mambo ya kina mama ama wanawake izuiwe wanawake ama kina mama wasitawanyike katika town. Sababu hiyo ni kueneza uzazi ama population inaendelea kuingia Kenya. Hiyo ni jambo langu ya

tatu, kwa serikali mpya ama Katiba.

Neno la nne, ama jambo langu la nne, serikali iwe kali kwa mtu yeyote akikosa kosa ndogo ama kosa kubwa, serikali iwe kali ile ambayo itakuwa ingine mpya, iwe kali. Iwe na sheria kali. Jambo langu la nne serikali yetu iwe, ndiyo la nne.

Jambo langu la tano, serikali ifanye marufuku ama ikataze, kuna dini nyingi sana zimeongezeka Kenya na zingine si dini. Zianganaliwe zile dini permanent, zile ambazo zilikuwapo tangu hapo mbeleni, kama hii hapa, sitaki kusema, zile ambazo hazina maana zile ambazo ni za kupotosha ziondolewe Kenya, zibaki zile dini permanent. Maana kuna zingine zimekuja siku hizi ambazo ni za kupotosha si za kuomba Mungu. Hilo ni jambo la tano.

Jambo langu la sita, mahospitali. Zikatazwe hospitali za kibinafsi. Ziwe hospitali tu zile za serikali. Maana hizi za binafsi zimeleta kunyanyaswa kwa wananchi. Zingine ukienda unaambiwa mia mbili, elfu moja. Kwa hivyo naomba mpya katika Katiba yetu ianganalie hiyo mambo ya hospitali za binafsi. Nafika hapo.

Com. Hassan: Asante sana Mzee Kingoo, tafadhali tupigie sahihi hiyo kitabu kabla hujaenda. Sasa tumemaliza register. Kuna mtu yeyote ambaye yuko hapa ambaye anataka kutoa maoni na hakujiandikisha?

Com. Hassan: Haya basi kuja. Mr. Roy Nthusi Nzoka.

Mr. Nzoka: Niendele? Mimi nitaongea kiswahili. Tulipopata uhuru hapa Kenya, tulifukuza mkoloni. Mkoloni naye akatuachia kitu kingine, ile inasumbua sisi usiku na mchana. Mkoloni alikuwa anashika sisi na anaweka sisi fingerprints za uongo, tunakuwa wezi na hizo fingerprints. Kwa leo hazijaondolewa, mimi nikiiba mayai saa hii nishikwe nifungwe, zile fingerprint zinakuja nafungwa miaka mingi. Kwa hivyo fingerprint za kikoloni ziondolewe, zibaki fingerprint za mwananchi peke yake ndio tujue waalifu ni kina nani. Maana sasa hatuwezi jua waalifu na wasio waalifu.

Kwa upande mwingine, huko kukiibiwa, msako unaingia usiku, watu wanarokotwa na sio hao waliiba. Polisi ikimbizane na wezi, iwache wananchi wako huru watembe vile wanataka sio mtu yeyote mwizi. Asante

Com. Hassan: Asante sana Mzee Roy. Tafadhali piga signature kwa kitabu kabla hujakaa chini. Kuna mtu yeyote ambaye yuko hapa na hajatoa maoni na anataka kutoa maoni kabla hatujafunga hii kikao? Kuna mtu yeyote amebaki – kina mama? Mzee kuja.

Mzee Ndulu: Asante Commissioner. Mzee Ndulu anawakilisha chama cha KANU kinachotawala. Nitaongeza kidogo, kuna vita kidogo upande wa mabibi na mabwana, na hiyo twataka itatuliwe. Wanawake tunajua Kenya ni democracy lakini wanataka uhuru zaidi kuchukua usukani ili tuwe chini, na hivyo ni vita, inataka kuangaliwa sana. Kwa maana bibi anafunga zaidi

wale wanajua, wanaeducated. Wanapinga sisi ili ndio wapate nafasi ya kutawala, kutuongoza mabwana, na kwa hivyo si sawasawa . Bibi yuko chini kidogo ya bwana yake. Lakini anataka kuchukua usukani. Mtoto hawezi kupigwa bila makosa. Akipigwa ni makosa yake. Bibi akipigwa anapigwa kwa sababu ya makosa yake na anasema asipigwe. wewe ukiwa na makosa usipigwe? Unataka nikufanye nini ndio tuelewane? Lakini unasima imara unapinga mimi, "usinipige" na mimi nimekwisha kataa. Na we ni bibi yangu, na kwa kweli tumeelewana kwa hivi nikikuambia hutaki hutaki. Nitakuchapa, nitakuchapa haiwezekani nitakuchapa tafadhali. Lakini nitakuchapa kwa akili. Sio nikuumize, nikuvunje, hapana. Hiyo si halali. Nikikuvunja, hapo ndio mimi nimeficha lakini nitaendelea. Asante.

Ndiyo sasa, hivyo tunaweza kuelewana na ndio kwa kimila tunakaa chini nyumbani tunapatia wazee wa ukoo iangalie au nyumba iangalie makosa hayo ni ya nani basi sisi tunakoti yetu ya nyumbani. Hapana kwenda kotini, lakini hii kukimbia kotini wewe unipeleke kotini bibi yangu unipeleke kotini zaidi ukimbie namna hii tutakumaliza huko. Hiyo ikwishe ndoa kabisa. Mwanamume hapana kuwa nyuma anakuwa mbele. Tulia, kuwa mtulivu. Tukiwa watulivu hakuna matata. Tutakaa vizuri. Lakini ukitaka kuchukua usukani yangu, tutagombana na tutapambana kabisa. Basi kwa hivyo, hiyo iangaliwe vizuri.

Com. Hassan: Asante sana. Tumeshukuru. Tafadhali utuwekee kidole hiyo kitabu chetu. Kuna mtu yeyote ambaye amebaki anataka kutoa maoni yake - kwa kina dada mmemaliza?

Interjection:(inaudible)

Com. Hassan: Just sign it for him. So anybody else who has not given views and wants to give views? Kuna mmoja amebaki? Haya tunawashukuru basi. I think we have just to close. Kwa kweli leo tumeskia maoni mingi kutoka kwa watu wa Makueni na ingawa munafikiria hawajakuja hapa wengi, tumesikia watu kama arobaini na saba, na wengi wao walikuwa wanawakilisha kikundi ya watu wengi. Kwa hivyo kusema kweli, ile quantity na quality ya watu ambao walitoa maoni hapa ni wengi kuliko hata mahali pengine ambaye tulipita kwa sababu msichana huyo ameleta maoni karibu tano, sita ambayo ilikuwa na watu wengi ndani yao. Kwa hivo ukifanya analysis kutoka Makueni, kwa kweli itapatikana mumetoa maoni mengi sana, na tunashukuru kwa hiyo na tunashukuru pia wanakamati kwa ile kazi nzuri walioifanya pamoja na coordinator na labda kabla hatujafunga nipatie Professor Kabira.

Com. Kabira: Yangu pia ni kusema asanteni sana kwa watu wa Makueni. Tumefurahi. Sijui kama msichana angetuambia tumechukua memorandum ngapi?

Interjection. Forty six

Com. Kabira: 46, watu lakini written memorandum? Okay, ni sawa tu ukiwa haujahesabu. Lakini tumeona watu wamekaa chini wamezungumza na maoni ilikuwa ni ile focused kabisa, kwa hivyo tumefurahi sana. Kama tulizungumza wakati ule

tulikuwa hapa, tutaandika report na hiyo report itarudi kwenu, na mtaangalia muone kama muna maoni mengine maweza kuongeza au muone kama vile mulivyosema ndivyo tulivyoandika. Kwa hivyo asanteni sana. Tutampatia District Coordinator.

District coordinator: Asante sana Commissioners kwa kuendesha shughuli ya leo. Hii ndio ilikuwa siku yetu ya mwisho ya Makueni constituency, lakini labda kuna wengine ambao mtakutana na wao ambao hawakupata nafasi ya kuwa kwa mkutano wa leo, wajulisheni wanaweza kuandika maoni yao halafu waleta kwa ofisi nyangu ndio niweze kupeleka kwa Commission. Maweza pia kutuma moja kwa moja kwa Mwenyekiti wa Commission Nairobi. Sanduku La Posta ni 10526 Nairobi na hiyo maoni yatachukuliwa na kuwekwa pamoja na yale mengine.

Na washukuru nyote muliokuja katika mkutano wa leo kuto maoni yenu. Na imekuwa siku ndefu. Najua wengi wenu mumetoka mbali kwa hivyo najua tuna mengi ya kusema. Wale ambao wamepata nafasi leo wakikumbuka mengine watume. Nitasema kwamba kesho tutakutana Mukuyuni kwa hivyo ukiona watu ambao wanatoka sehemu ya Kaiti uwajulishe kesho tuko Mukuyuni na jumata tutakuwa Nunguni. Nitamwomba reverend Mutunga ambaye ni mwenyeji wa hapa atufungie kwa maombi.

Reverend Mutunga: Basi na tusimame tuombe. Baba katika jina la Yesu tunasema asante kwa kuwa pamoja nasi tangu tuingie kwenye chumba hiki. Asante kwa maoni yote ambayo tumeisikia na kuyapokea. Nasema asante kwa Commissioners ambao umetuletea ili tuwe pamoja na wao siku ya leo pamoja na wote ambao wanasaidiana na wao. Asante kwa kufikia mwisho. Tunaomba kila mmoja wetu akielekea kwao, Baba uwe pamoja nasi. Na sana kwa ajili ya kazi ya hawa ndugu na dada ambao wako nayo ni nzito sio katika sehemu hii hata katika nchi yote uwabarikie. Bariki kiongozi na nchi na serikali yote ibariki. Na ni katika jina la Yesu tumeomba. Amen.

Meeting ended at 5.30 p.m.

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