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[REDACTED] **VERBATIM REPORT OF** [REDACTED]

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[REDACTED]

**CONSTITUENCY PUBLIC HEARINGS, SAKU
CONSTITUENCY, HELD AT MARSABIT CATHOLIC CHURCH
HALL**

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED] **ON** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CONSTITUENCY PUBLIC HEARINGS, SAKU CONSTITUENCY, MARSABIT CATHOLIC CHURCH ON 21ST
MAY 2002

Present

1. Com. Nancy Baraza
2. Com. Bishop Bernard Njoroge
3. Com. M.A. Swazuri

Secretariat Staff in Attendance:

- | | | | |
|----|------------------|---|-------------------------|
| 1. | Pauline Nyamweya | - | Programme Officer |
| 2. | Lillian Uduto | - | Programme Officer |
| 3. | Keziah Kamau | - | Asst. Programme Officer |
| 4. | Hellen Kanyora | - | Verbatim Recorder |

The meeting started at 10.25 a.m. with a prayer and Prof. Okoth Ogendo on the Chair.

Com. Dr. Swazuri: Commissioners, wananchi wa Marsabit hamjambo? Ningependa kuchukua nafasi hii kuwakaribisha kutoa maoni katika hall ya Catholic, Marsabit na kabla hatujafanya hivyo ningependa mzee mmoja aweze kutufungulia kwa maombi tafadhali. Kuna mtu tungependa ajitolee kwa maombi tafadhali. Fatuma tusaidie ku-translate. Hatujaona madam aki-translate tangu juzi. Tafadhali wacha tupate nafasi ya mama leo ku-translate. Utatoa maoni yako badaaye.

Translator: *Baabbarroon kataani, namii tok waaqq nuu kadaada jedaan Islaan taanaan boraantiti taanaan.*

Prayer

Na tuombe. Mwenyezi Mungu, Mungu wa rehema, tunakushukuru asubuhi ya leo kwa sababu umetuwezeza kufika katika kikao hiki ambacho ni muhimu kwa sisi kutoa maoni yetu yenye manufaa katika siku za usoni kwa watoto wetu na hata kwa kizazi kijao. Mungu ukatusaidie, ukatupatie kila mmoja wetu busara na hekima katika kuzungumza na kutoa uamuzi ufaao, katika jina la Mwenyezi Mungu tunaomba. Amen.

Com. Dr. Swazuri: Asante sana kwa maombi na nafikiri ningependa kuwajulisha wageni ambao au Commissioners wa Tume ya kurekebisha Katiba ambao wako mbele yenu leo.

Translator: *Aammaa keessuma teen taa maoni teen nuurra fuudu duuft taan aammaantaan issaan beessis jeed,*

maaqa woraatif,huji worrale.

Com. Dr. Swazuri: Nitawa-introduce baada hio kuna Chairman wa kikao hiki ataweza kutueleza vile ambavyo tutapeana maoni yetu.

Translator: *Maaqa worralee issaanit himme, chairman nulle aaggartani dhuum aakkassit akha aarmm huji ammaalini hoojaan worri nuutii himma jeedan.*

Com. Dr. Swazuri: Nikianza kwa upande wa kushoto tuko na Com. Bishop Bernard Kariuki.

Translator: *Gaarr biittati commissioner Bishop Bernard Kariuki jeedaan yeedh*

Com. Dr. Swazuri: Akifuatwa na Prof. Okoth-Ogendo

Translator: *Kaa itaanuleen Prof. Okoth-Ogendo*

Com. Dr. Swazuri: Tuna Madam Com. Nancy Baraza.

Translator: *Commissioner Nancy Baraza.*

Com. Dr. Swazuri: Tuko na Com. Dr. Mohammed Swazuri

Com. Dr. Swazuri: Nasikia wote ni wanasheria na leo tunafanya kazi ya kubadili Katiba. Kwa hivyo sitapoteza nafasi nitapeana nafasi hii kwa Mwenye Kiti wa kikao cha leo ili atuongoze.

Translator: *Naafas kaan aabba baarcumma kaa aarddaat keeniin jeedaan.*

Com. Okoth-Ogendo: Hamjambo wananchi watukufu? This morning, where is the translator, this morning I will be conducting this session in English.

Translator: *Dhiiraam kaana, huujji taan aaffaan English tiin dheebbissa jeed.*

Com. Okoth-Ogendo: But you will be free to speak in any language that you choose.

Translator: *Issaan ammo aaffaan daaggetaan kaa feetaaniin dhuubbatani jeedaan.*

Com. Okoth-Ogendo: And you are also free to tell us anything that you would want us to know.

Translator: *Waan yaadh keessani kaa qaabdhaan cuuf wooni issaan soodhaataan injiirtu aarmmaat himma jeedaan.*

Com. Okoth-Ogendo: You are protected by the legislation that established the Commission from any harassment from any quarter.

Translator: *Aadhaaf commission taanati protection issaani keenaa jeedaan, qoorqorti akh naami waa issaan inn toolciin.*

Com. Okoth-Ogendo: Nothing that you say.....

Translator: *Woonni took kaa issaan jeetaan,*

Com. Okoth-Ogendo: will expose you to any arrest by any authority in this country.

Translator: *Woonni took kaa issaan jeetaan kaa lluubbun issaan daaqqaa injiirt.*

Com. Okoth-Ogendo: We are going to go according to the list which you have been given

Translator: *Aamma maaqqa aamma nuu keenaan kaan guull yaan jeed.*

Com. Okoth-Ogendo: if you have a memorandum and you want to speak to the memorandum we will give you five minutes.

Translator: *Hoojja yaadh qaabbate, yaadh kaan memorandum jeedaani, attin yaadh memorandum kaana waqoorate qaabbate waan kaan doouu feete dhaaqqiqa shaan issaani keenaan jeedaan.*

Com. Okoth-Ogendo: If you do not want to speak to your memorandum you can record the memorandum with the secretariat that is sitting there.

Translator: *Yoo soomuu infeene memorandum suun woorr secretary kaana keena jeed*

Com. Okoth-Ogendo: But even if you do not have a memorandum but you have something to tell us we will ask you to come and you will have five minutes to tell us what you want to say.

Translator: *Yoo memorundum suule inqqaamne, ammo aakkaa binafsi teetille dhuubbacu feetele dhaaqqiqqa shaanaan suun siikheenani aarrmmat gaabbate maoni taante keenit jeedaan.*

Com. Okoth-Ogendo: Now when we call you to come in front and sit on the chair here.

Translator: *Yoo issaan yaamne, gaadh duuftaani maarcuumma dhuurra kaan irr teeteettan jeedaan.*

Com. Okoth-Ogendo: and when you finish you go to the secretariat to record your name and details.

Translator: *Yoo hoobbaafat gaarr secretary dheemte maaqqa keenkeettif dhuubbi taantetille cuuf aacci qoorrat. Sirraa qoorraan.*

Com. Okoth-Ogendo: Everything that you say will be recorded in this tape recorder here.

Translator: *Wooni issaan dhuubbathaan cuuf recorder kaanaan qaabbaan jeedaan.*

Com. Okoth-Ogendo: and will take it to Nairobi and listen to it again so that we are certain that we have understood what you told us.

Translator: *Qaabbanni Nairobi geessani aammaale acci gaana caaqaamn jeedaan. Aakh yaadhi aatt aarmmaa baaft tookoleen siijelaa innhaamn.*

Com Prof. Okoth-Ogendo: On the basis of what you tell us, we are going to write a report from Saku Constituency.

Translator: *Yaadh issaan aarmmaat baaftaaniifu cuufaa aamm report qoorraam jeedaan, kaa constituency saku.*

Com. Prof. Okoth-Ogendo: The Saku Constituency report will form part of the main national report of the Commission.

Translator: *Yaadhi woorr saakuuleen dhuuma infeen jeedaan, yaadhaa kenya mizima keessa maoni naami baasse akhaa katiba khaan midaassanif.*

Com. Prof. Okoth-Ogendo: and on the basis of the national report we are going to draft a new Constitution for Kenya.

Translator: *Report kenya mzima keessa fuudaan kaana, aamm ghaanna aamm constitution katiba haarrees diibbi*

midaassani jeedaan, yaadhi kuunnin aamm katiba haarressaan gaadh baaha aadhaa jeella buullaan.

Com. Prof. Okoth-Ogendo: Both the report and the draft Constitution will come back to you for 60 days for scrutiny.

Translator: *Report taafi constitution --- report taaf aadhaan qorraan taani ghaanna issaani gaadh duuftee kee dheemtaani llaaltaan amm woorri, yaadhi gaaff kaan dhaabbarsiin qorraam moo inqoorraamne suun aammaale ghaanna issaani gaadh dheebbiyyan, (interjection)*

Com. Prof. Okoth-Ogendo: And at that point you will have an opportunity to verify what you have told us and to ensure that we have taken account of it.

Translator: *Suun naafaas issaan keeniin aakh issaan yaadh keessaan aakh nuu fuudaaneef aakhiini qorraammele issaan llaaltaani aarggaatan.*

Com. Prof. Okoth-Ogendo: This sitting will go on up to about 3 o'clock

Translator: *Teessumti tuun baakka saa saaggalli jeedaan aarrdd.*

Com. Prof. Okoth-Ogendo: and I hope that within that time we will be able to tape everybody who wants to address us.

Translator: *Giisse suun kees kutoka aammaantaana mpaka saa saaggali, aakh yaadh keenaati woom naam cuuff gaadh teenee maoni issaa irraa fuuduu dhaandheen aakhaass yaadhaane jeed.*

Com. Prof. Okoth-Ogendo: We are now ready to start, who is going to start?

Translator: *Aammaantaan innyayyaabn jeed*

Com. Dr. Swazuri: Thank you Com. Okoth Ogendo. I would like a small clarification. In view of the fact that this is a very important exercise, did I hear you correctly that five minutes is the minimum time or the maximum time because we would like it to be the minimum time.

Com. Okoth-Ogendo: I am the Chairman of this session and I will determine whether you need more time but you will get a minimum of five minutes. Okay, if you have something important to say we will be flexible. Thank you very much. Who is starting?

Translator: *Muheshimiwa waan inni gaaffaat, aatt aammaa naami yaadh baass, yoo memorandum soomtuuf hoojja yaadh kaanke baaftuule dhaaqqiqqa shaan issaani keenaani, dhaaqqiqqaan shaanaan suunni waan dhiiqo jeed inni. Dhaaqqiqqaan shaanaan suuni----- minimum time. Dhaaqqiqqaan shaanaan suun aakh maale dhiiqo, time itti nuu indhaartaa jeenaani, aabbaan baarcumma aarrdd aanna yoo issaani itti dhaarruf yoo issaani indhaarrele suun naarra baatti jeed. Aammoo hoojja aattiin dhuubbat llaala jeed aammaale.*

Com. Okoth-Ogendo: Mhesimiwa I have just been informed that you are the member of Parliament of this area, we welcome you.

Mhesimiwa: Yes Professor, thank you.

Com. Okoth-Ogendo: We will give you all the time. Now where are we starting.

Com. Dr. Swazuri: Nafikiri tutaanza na the Burji community. Wapi representative wao apeane maoni.

Joseph Lio Gache: Mimi kwa majina naitwa Joseph Lio Gache

Translator: *Aann maaqqaan kiyy Joseph Lio Gache jeed.*

Joseph Lio: Nikiwakilisha jamii ya Burji wa hapa Marsabit.

Translator: *Aanniini jaarrs gooss burji aarrmmaa baassu gaadh duufe yeedh*

Joseph Lio: Sisi ni kabila ndogo katika wilaya hii ya Marsabit

Translator: *Nuu gooss dhiiqo took jeed Marsabit taan keessaat.*

Joseph Lio: Hata hivyo tulikuwa katika mstari wa mbele wakati wa uhuru

Translator: *Aakhaassile yoo taate gaaffa baalcuum baarbbaadhaani nuu woorr qaarra yeedd*

Joseph Lio: Baba yangu marehemu Jacob Gache alikuwa akipigania uhuru katika chama cha NPUA.

Translator: *Aabbaan kiyyini Jacob Gache, caamma NPUA inni member caamma suunni yeedh kaa uhuru llaaf taana*

barbbaadh.

Joseph Lio: Ambayo ilikuwa imeungana na chama cha KANU.

Translator: *Caammaan kuun gaaffas dhuubb caamma KANU tiin woolqaabbani wooliin hoojjat jeedh*

Joseph Lio: Mwaka wa 1999 tuliondolewa katika hesabu yaani census.

Translator: *Gaann saaggaaltaammi saaggaalli, eessaabb baadaa gaann kuudaani seensaa kaa naam issaabbaan keessa maaqqa keenaayyu indaamn jeed maaqqa gooss teenna.*

Joseph Lio: Na hatujui ni kwa ajili gani.

Translator: *Waan issiin aakkaass taateef imbbeenu jeed.*

Joseph Lio: Burji wako na mila tofauti na wengine.

Translator: *Burjiin gooss aaffaan uffiiitiff aadhaa uffi qaabdh jeed aakhuum gooss diibbi saakh keessa.*

Joseph Lio: Tunataka Katiba itambue haki yetu.

Translator: *Katiba kaan aakhiini haaqqi teen llaal feenna jeed, aadhaa taan.*

Joseph Lio: Hatutaki serikali ya majimbo.....

Translator: *Siirkaal majimbo inffeenu jeed*

Joseph Lio: kwa sababu italeta mgawanyiko.

Translator: *Qoodhaamman duuft jeed wooni inffeenef qoodhaamman duuft.*

Joseph Lio: Sisi ni wakulima.

Translator: *Nuu woorr oobbru jeed.*

Joseph Lio: Tunataka maisha yetu kama wakulima ichungwe na Katiba.

Translator: *Fiinn keen aakh nuu worr oobbru katiba taan issii llaalt feenna jeed.*

Joseph Lio: Hatutaki tuwekwe chini ya wafugaji.

Translator: *Inffeen jeed aakhaa worr hoorri jeel nuu, worr hoorrittin woolt nuu qaabbaan.*

Joseph Lio: Pia kama wakulima tunataka title deeds kwa mashamba yetu.

Translator: *Aakh worr oobbruthi nuu Title Deed oobbru teena feenna jeed.*

Joseph Lio: Jamii yote ihusike katika mambo ya mazingara na mali ya asili.

Translator: *Goocii cuuf aakhiissin qoorqqorti baadhaa tiiffi, hoorri issinni itti wool qiitte jeed.*

Joseph Lio: Tunatumaini ya kwamba mtatuletea Katiba yenye manufaa kwa kila mwananchi.

Translator: *Aakh keenaati aadhaa dhaanssa ya raayya nuu raayya cuuffa irr jiiirtu gaadhiin duuftaanni jeed. Worr kaanaan jeed aamm suun.*

Joseph Lio: Sasa ningependa kuwapa memorandum ya jamii hii ya Burji na natoa shukrani asanteni na Mungu awabariki.

Translator: *Aamm memorandum tiyy innkkeena jeed.*

Com. Okoth Ogendo: Hebu niambie mko wangapi population ya Burji?

Joseph Lio: Hapa kwa milima yaweza kuwa inakaribia kama 4,000.

Com. Okoth Ogendo: Na wote?

Mr. Joseph Lio: Wote siwezi kujua ni wangapi wako kila pahali katika eneo hii ya Kenya wako Moyale, Nairobi na kwingineko. Kwa hivyo siwezi kujua ni wangapi.

Com. Okoth Ogendo: Asante sana. Atakayefuata ni representative, Executive Secretary KNUT kama ako na maoni. Kama hawako tayari tunaendelea na wengine, Woda CBO women representative.

Fatuma Ibak Ahmed: My issues are on land rights for all women, ownership of land by women.

Translator: *Haaqqi naaddeeni taa llaafaa jeet taan wooni aann irra dhuubbadh*

Fatuma Ibak Ahmed: Equality inheritance succession right for both men and female kwa sababu I don't want to be biased, we have to be gender sensitive.

Translator: *Daallti diirraaf ijjoolle duubbratif haagg taakka haa taatu jeet daallti hoorri taa llaafaalleen.*

Fatuma Ibak Ahmed: But particularly women because women have been marginalized for a long time.

Translator: *Aammo keessuma uuwvolle*

Fatuma Ibak Ahmed: In the new Constitution we want the traditional cultural to be outlawed the outdated one.

Translator: *Aadhaa haammaamtu-----*

Fatuma Ibak Ahmed: Outlaw the cultural and traditional cultures that have kept the women backward.

Translator: *Sheeriyaa haammaamtu taana, aadhaa haammamtu naadeen jeella fiidhaamtu baallessithu feen jeedaan aadhaa naaddeen daannaan faa, aadhaa naaddeen daallaan faa, aadhaa naaddeen hoorri inddaall faa sheeriyaa taana, sii baallessitu feen yeet.*

Fatuma Ibak Ahmed: Muslim women (inaudible) mourning period some Muslim women when their husbands die normally have say a song performance for ten days so during that session we want women to be guaranteed a full paid leave.....

Translator: *Naaddeen issilaana hoojja diirrsowwan issaani irraa dhootu, woorri inn aadhaatta, aadheeni suun jii aafuurif buulti kuudaan. Haagg woorri aadheen kaan kee jirru aakh leave keenaanifi aammaallee mashaara woorralee cuuffaa baasaaniff kaa woomma waan tookooolee irraa innkhuun.*

Fatuma Ibak Ahmed: and they should not lose their jobs. In the new Constitution we want women to be protected against violence, rape and any kind of discrimination because women have been discriminated for a long time. So this time we don't

want such kind of discrimination.

Translator: *Aadhaa naaddeen (inaudible) feen jeedaan.*

Fatuma Ibak Ahmed: In the new Constitution we would like women to be provided with opportunities of employment for both men and women.

Translator: *Fuullaa huuji itti qorraan cuuffaa, naaddeenif dirraa haagg taakka naaffaas huuji kaa keenaaniffi jeet*

Fatuma Ibak Ahmed: Be it private or public sector we want equity in employment. In the new Constitution we would like women to be given equal equality in citizenship because women have been second class citizens.

Uraayya keenyaa keessaati naaddeeni, uraayya second class jeedaan taa uraayya issii intaambuun siirkaali. Uraayya naaddeeni aakh tambuan feena uraayya aakh laam kaa keennaanif jeed. Taa aakh laama tuun aakhaam. Hoojjaa issi naami aallaa fuudde, naamicc issi kaa allaa issii fuudeele aakh inni raayya kenyaa taahuu, yoo issin ijjoolle naam aallaati daaltele aakh ijjoollen issillen raayya kenyaa taath.

Fatuma Ibak Ahmed: We would like the formation of Gender Equality Commission to be formed in the new Constitution.

Translator: *Commission gender waan—uuwwommaf diirromma, itti woolqitte gaargarr llaaltu aadhaan tuun khaa nuu midaassitu jeed*

Fatuma Ibak Ahmed: In the new Constitution we would like women to be given freedom of expression, freedom of association and consciousness.

Translator: *Constitution taan itti naaddeni haaqqi woorri dhuubbathun, haaqqi woorri wooliin wooldhau aakh keenaanif jeed.*

Fatuma Ibak Ahmed: association, freedom of movement and any kind of.....(incomplete)

Translator:

Fatuma Ibak Ahmed: In the new Constitution we would like women to be reserved one third of the seats be it Parliament or Local Council.

Translator: *Naam saadhi kaa bunge feed keessa, took lazima kaa naaddeen taahuu jeedaan, katiba suun kaa aakhaass nuu midaassu jeedaan, naam saadhi saadhi keessa tok aakh inni uuww taahu.*

Fatuma Ibak Ahmed: and not forgetting the disabled at least one woman should be.....

Translator: *Naaffa baallaale aakh indheen jeedaan dhuum woorr naam tookoocc suun keessa naafaass suun pengine naaffaaf baalla uuwwaatti keenaan.*

Fatuma Ibak Ahmed: In the new Constitution we would like the women organization to be supported because they are the ones who know the problem of women.

Translator: *Group naaddeni kaa fiin naaddeni, kaa naadden waa baarssissu, kaa naaddeni jeedaani undaani aakh siirkaali qaarqqarru jeeth.*

Fatuma Ibak Ahmed: In the new Constitution we would like the citizens to be provided with basic health care, food security, shelter and security especially the pastrolists.

Translator: *Raayya haaqqi saaggalle haa llaalanifi jeet. Kaa miinna,*

Fatuma Ibak Ahmed: Security.....

Translator: *usalama, afya*

Fatuma Ibak Ahmed: and free education.....

Translator: *aammaalle maasomoo burre kaa ijjoolle cuuffa -----*

Fatuma Ibak Ahmed: primary and secondary.

Translator: *primary and secondary.*

Fatuma Ibak Ahmed: In the new Constitution we would like people with disability to be provided with housing, clothing, health, food and education.

Translator: *Naaffa baalla aakh miinna, wooyya, cuuf siirkaalli keenuuf jeed, Masoomo wooliin.*

Fatuma Ibak Ahmed: In the new Constitution we would like the Presidential powers to be reduced.

Translator: *Hirreen president haa caaptuu jeeth.*

Fatuma Ibak Ahmed: And the President should not be above the law.

Translator: *Aakhiini aadhaa guubba injiirrane aadhaa jeel jiiirraat.*

Fatuma Ibak Ahmed: And in the new Constitution we would like the Kadhi should not be appointed by the Judiciary, should be appointed by the Imaam.

Translator: *Qaadhille aakhaa judicial service commission appoint tuuniti yoo khaan aakh judicial service commission huuuji qoorttuuniti aakhaa Immaamotta yookhaani issilaani caagguat.*

Fatuma Ibak Ahmed: Lastly I would like in the new Constitution, maternity leave to be considered when women go for their maternity leave.

Translator: *Waan issiin jeettu, hoojja nuu uuwvolle maternity leave nuu keenaanni, dirsoowaan teenaale maternity leave khaa keenaani jeet.*

Fatuma Ibak Ahmed: And finally, in the new Constitution we would like involvement of the local community in the management of the natural resources.

Translator: *Goocci aarrrm keessa aakhissini matumizi baadhaaffa, khaa hoorri aakh naaffas suun keenaanif jeedaan akhiissin -----*

Fatuma Ibak Ahmed: And lastly the children rights should be implemented.

Translator: *Haaqqi ijjoolle (inaudible) Children bill jiirr jeedaani kaa qaarra dhaabbarsaan tooko haaqqi suulee aakh dhabbarssan jeedaan.*

Com. Okoth-Ogendo: Sasa tutafanya mtu akiongea hapa Kiingereza, tutatafsiri kwa Kiswahili, sawa. Tuko mchanganyiko hapa, tuko na zaidi ya kabila kumi na moja. Kwa hivyo tafadhali hatuwezi kupata watu kumi na moja kutafsiri hapa. Sawa. Tuko jamii ya Wata wako na representative na memorandum yao tafadhali hapa mbele.

Ali Bala: Mimi naitwa Ali Bala Bashurna. I can speak English, no problem. For the last 14 years I have been doing some

research on this Wata community.

Translator: *Bwana Ali anasema kwa miaka 14 iliopita yeye alikuwa anafanya research kuhusu jamii ya Wata.*

Ali Bala: Personally I am a Wata.

Translator: *Yeye mwenyewe anasema yeye ni kutoka jamii ya Wata.*

Ali Bala: Both post colonial Government I mean the pre-independent Government and the post independent Government both of them have neglected the Wata community.

Translator: *Bwana Ali anasema serikali ya kikoloni ya zamani na serikali ilioko sasa wamewacha jamii ya Wata, wamewacha kutilia maanani ile jamii ya Wata.*

Ali Bala: Wata are traditional hunters and gatherers

Translator: *Wata ni jamii ambaye kwa kimila hawa ni wawindaji.*

Ali Bala: We live in Kenya in four districts.

Translator: *Katika Kenya wanaishi katika wilaya nne*

Ali Bala: Moyale.....

Translator: *Moyale ya kwanza.....*

Ali Bala: Marsabit.....

Translator: *Marsabit ya pili.....*

Ali Bala: Isiolo.....

Translator: *Isiolo ya tatu.....*

Ali Bala: and Tana River district

Translator: *na Tana River district ya nne*

Ali Bala: Among the dominant community like Borana, Gabra and Orma.

Translator: *Katika jamii ambayo wamechanganyika kama Borana, Gabra na Orma pia hawa pia wako kati yao.*

Ali Bala: In the process of my research I have tried to pick Wata issue with both Government, the local leaders and even to the national level to the Attorney General, National Registrar everywhere but I had not got any answer up to today.

Translator: *Katika research yake yeye amejaribu kuzunguka sehemu nyingi katika wilaya, katika province, katika national levels, kwa ofisi ya Attorney General hakuweza kupata chochote ambacho kinagusia mambo ya Wata.*

Ali Bala: What I want is Wata to be recognized as a community, as a Kenyan community – recognition as an identity as one of the Kenyan tribe.

Translator: *Bwana Ali anasema anataka jamii ya Wata wajulikane kama Wata na pia hao ni wana Kenya kama wengine.*

Ali Bala: And during the collection of identity cards, Wata should be given their code and also during the census we must be given our code so that our numbers are known so that during the national registration for persons also the Wata can fill in their tribal names not for others.

Translator: *Bwana Ali anasema anataka Wata watabuliwe wakati wa kitambulizo wawe na code number, wakati wananchi wanahesabiwa pia code yao ijulikane, hawa pia watambulike katika orodha ya Kenya vile inavyoenda.*

Ali Bala: Secondly we also would like to have our own representative; civil and political representative as far as Wata community is concerned.

Translator: *Ya pili anauliza kama hawa pia Wata wanataka waakilishwe katika wardi ya udiwani, civil representative na pia kwa uongozi wowote.*

Ali Bala: On top of that Wata were traditionally hunters. When hunting was stopped or when hunting was banned nobody decided what should be done with us. Hunting was part of our economy and part of the tourism income must also be shared with us in this Constitution.

Translator: *Bwana Ali anasema jamii ya Wata mila yao zamani ni kuwinda wanyama wa pori wakati basi wanyama*

wa pori ilisimamishwa serikali ilisema wanyama wasiuwawe, Wata hawajaweza kuharifiwa kuwa ni hatia kuua wanyama. Hivyo basi wanasema sheria ya Kenya sasa

Interjection: Unataka Constitution mpya ifanye nini?

Ali Bala: We want the share of tourism

Translator: *Basi yeye kama mwakilishi wa Wata anasema, katika wild life, tourism yale mapato cash ambayo inaingia Kenya jamii ya Wata wapate share kidogo.*

Ali Bala: Economic process in education as a project which the Wata – we need it.

Translator: *Kielimu kimsaada ya kijamii kama jamii ya Wata hapo zamani maisha yao walikuwa ni kuwinda hio imesimamiswa siku hizi, basi hapo wanataka kitu kidogo.*

Ali Bala: One minute, okay, and finally I will say we have got sacred shrines like the Kayyas along the coast for the Giriama, we have got areas in Kenya like the ‘Abbo’ and the ‘Forole’ mountains must be recognized as far as the leaders or the clan leaders who are said to be the owners of that sacred shrines, pahali patakatifu.

Translator: *Bwana Ali anasema pahali patakatifu ambayo yani sehemu ambayo Wata wanaenda wakati masherehe yao mahali kama taja moja tafadhali Hambo, milima Abbo itabuliwe, Borole, Sololo itambuliwe.*

Ali Bala: Na mahali popote tuko na sheria yetu lazima.....

Translator: *Na mahali popote Wata wanafanya sherehe zao basi anauliza itabuliwe ya kwamba hio ni sehemu ambaye jamii ya Wata wanafanya mila yao.*

Ali Bala: Kwa hivyo hata nafasi ya kazi ikitokea watoto wa Wata pia wapewe nafasi kwenye ile orodha ile ya natives among the dominant communities who live here also. Thank you.

Com. Okoth-Ogendo: You want political representation but you live among the Gabra, the Borana and Orma. How do we create a constituency for the Wata?

Ali Bala: There is nothing that is impossible as far as human is concerned they can even create a location if need be because but what I am stressing is where there is majority of Wata among some location they should have at least representative either civil or political representative. It can be created like here in Marsabit there is the 'Diriib Gombo', 'Sagante' such area down there and North Horr you go to 'Maikona Badha-Uri' and even Sololo area they are scattered where there are many they should be given that recognition please.

Com. Okoth-Ogendo: Supkem Representative

Hussein: I am Mr. Hussein Harubu I am representing Supkem Marsabit branch.

Translator: *Huyu ambaye amekaa hapa anaitwa Hussein Harub mwakilishi wa Supkem.*

Hussein: We the Kenyan are people of diverse background with roughly about 28 million people.

Translator: *Bwana Hussein amesema sisi Waislamu wa Kenya tuko, wananchi wa Kenya ni kama milioni 28.*

Hussein: Out of that 28 million the Muslims are 11 million.

Translator: *Kutoka milioni 28 Waislamu ni milioni 11.*

Hussein: This religion is guided by the following

Translator: *Dini hii ya Kislamu ina sheria yake, iko na sheria ile ina-guide dini ya Kislamu*

Hussein: These are for example we have the holy Koran.

Translator: *Kwa mfano tuko na Koran takatifu*

Hussein: We have the Prophetic hadithis.

Translator: *Tuko na hadith za tume.*

Hussein: We have Igma.

Translator: *Tuko na Igma.*

Hussein: We have Kias.

Translator: *Tuko na kitu kinaitwa Kias.*

Hussein: May be I will translate Igma which is common consensus of Islamic philosophers.

Translator: *Labda yeye atafafanua, atatafsili maana ya igma ambaye inahusika na mambo ya...*

Hussein: ni vitu ambavyo vimekubaliwa na wale ambao wamesoma, wasomi ya Waislamu.

Translator: *wasomi wa Islam ndio waliokubali Igma.*

Hussein: and Kias I can define it as reasoning by analogy, so these are the main sources of Islamic law, which is Sheria.

Translator: *Hizi ndizo sheria za dini ya Kislamu.*

Hussein: And all the Muslims don't differ on this, this is called Ursu, this is foundation for Islamic sheria and they don't differ.

Translator: *Waislamu wote hawabishani kwa hii wamekubaliana kuwa hii ni sheria ya Kislamu. Hakuna mabishano.*

Hussein: Looking into the previous western made Kenya Constitution

Translator: *Kuangalia yaliopita sheria za zamani za Western huku.....*

Hussein: the Muslim communities have been denied their natural worship rights.....

Translator: *Waislamuu walinyimwa haki yao ya kuabudu.....*

Hussein: although there is a clause in the law which says Liberty of worship.....

Translator: *Hata ingawa kuna section inasema katika sheria kuna Haki ya kuomba*

Hussein: to this effect the laws governing the Muslim rights should be reviewed in the following aspects according to the Islamic teaching.

Translator: *Hivyo basi yeye anauliza ya kuwa sheria ambayo ina guide Waislamuu angependa kupendekeza irekebishwe kwa njia ifuatayo.*

Hussein: The first one citizenship

Translator: *Ya kwanza kuwa Mwana Kenya*

Hussein: Any individual of whatever religion qualifies to be a Kenyan citizen if he is born in Kenya.

Translator: *Mtu yeyote amezaliwa Kenya achukuliwe kama Mwana Kenya.*

Hussein: Lived in Kenya for a period of not less than six years,

Translator: *Mtu yeyote ameishi katika Kenya sio chini ya miaka sita awe Mwanakenya*

Hussein: that is if not a refugee.

Translator: *kama sio mtu wa nje.*

Hussein: If it is a woman who is married to a foreigner, she should be a citizen.

Translator: *Kama mwanamke ambaye ameolewa na mtu wa sehemu zingine awe Mwanakenya.*

Hussein: If he is born of Kenyan parents outside Kenya then they should also be a citizen.

Translator: *Akizaliwa na Mwanakenya nje ya Kenya basi huyo pia awe Mwanakenya.*

Hussein: Community rights

Translator: *Haki ya wajamii.*

Hussein: Muslims should be considered as a community with its own cultural practice.

Translator: *Waislamu watabuliwe kama jamii ambaye wako na sheria zao na mila zao*

Hussein: and therefore,

Translator: *kwa hivyo,*

Hussein: all Muslim children attending school should be allowed to dress Islamically regardless of the schools they attend.

Translator: *watoto wa shule watoto ambaye ni Waislamu ikiwa ni shule ya upili, shule ya secondary waruhusiwe wavae mavazi ya Kislamu.*

Hussein: Islamic religious teachers should be posted to each and every school by the Government so that the child is not denied the right of learning his or her religion.

Translator: *Mwalimu ambaye amesoma dini ya Kislamu na ana elimu ya dini ya Kislamu apelekwe kwa kila shule ili mtoto asikose haki, mtoto ajue haki yake tangu utotoni haki ya Uislam.*

Hussein: And such a teacher should be a Muslim a practicing Muslim.

Translator: *Mwalimu kama huyo ni lazima awe Muislamu na anajua mambo ya dini ya Kislamu.*

Hussein: Muslims should be exempted from bowing down in front of the magistrate and the judges since it is Islamic law.

Translator: *Itolewe kwa sheria Waislamuu iwekwe kwa sheria Waislamuu wasiiname mbele ya magistrate wakiwa mbele ya koti.*

Hussein: Every legal document should be given to all regardless of ones belief, ethnicity, race or sex.

Translator: *Case yeyote ya kisheria iwe passport, iwe kitambulisho ipatiwe kwa mtu ambaye ni Mwana Kenya asikatazwe.*

Hussein: Muslim should be represented by mostly religious scholars elected by the Muslim community and not the Chief Kadhi.

Translator: *Waislamuu watambuliwe na Waislamuu wenyewe na Waislamuu ambao wako na elimu, Waislamuu wasomi sio Chief Kadhi.*

Hussein: Said Muslim should be a degree holder in Islamic sharia and possess a minimum of diploma in secular education.

Translator: *Huyo basi ni lazima awe mtu ambaye ako na diploma ya elimu ya dini ya Kislamu.*

Hussein: The Muslim should also be nominated to Parliament by the party forming the Government.

Translator: *Huyo pia achaguliwe kwa Bunge naye pia awe moja ya wakilishi wa serikali.*

Hussein: For those serving prison sentence,

Translator: *Kwa wale ambao wako katika jela,*

Hussein: if they are of Islamic faith they should be allowed to or provided with trousers or clothes they will pray in.

Translator: *Wale ambao wamefungwa, wale wafungwa wakiwa Waislamuu wapatiwe suruali ndefu ili waweze kusali hata wakiwa huko katika mageresa.*

Hussein: Mosques and Madrasas should not be registered under any individual group, society and or organizations name however such structure should be handed over to the Muslim community.

Translator: *Muskiti au Madrasas isikwe chini ya orodha ya individual, mtu yeyote iwe independent anaomba iwe independent.*

Hussein: We want 30% of those people who represent the cabinet, 30% should be Muslims.

Translator: *Wale ambao wako katika Bunge, yeye anapendekeza kuwa asilimia thelathini – wale wako kwa cabinet 30% wawe Waislamuu mawaziri, 30% ya mawaziri.*

Hussein: The Iddi festival should be.....

Com. Okoth-Ogendo: The other names they are not elected to parliament

Hussein: There are so many who are elected to the Parliament and so we believe most of them they don't even get into the cabinet so we hope the Government will recognize the Muslims.

Com. Okoth-Ogendo: (inaudible)

Hussein: Then the Idd-Ul Hajj festival should be declared a public holiday for all.

Translator: *Siku ya Idd-Ul Hajj iwekwe kwa Sheria kwamba ni siku ambayo ni public holiday watu waweze kupumzika washeherekee Iddi.*

Hussein: The Kadhi's court should be independent of the judicial department.

Translator: *Koti ya Kadhi iwe kado isiwe chini ya judiciary isiwe chini ya Attorney General office huko chini iwe kado.*

Hussein: And it should not only deal with marriage, divorce and inheritance while there is a lot to be dealt with according to the Islamic sharia.

Translator: *Koti ya Kadhi isifanye mambo ya kuoza msichana, mambo ya kufungua mwanamke kuna mengi Kadhi anafaa kufanya kulingana na dini ya Kislamu.*

Hussein: Kadhis should be learned in Islamic sharia up to degree level or any equivalent qualification and must possess at least 'O' level.

Translator: *Kadhi ni lazima awe mtu ambaye amesoma dini vizuri na mtu wa degree.*

Hussein: Finally I would say the President, the party with the highest number of members in the Parliament should form the Government and the party chairman should become the Prime Minister.

Translator: *Napendekeza pia kwa kiti ya President chama ambaye iko na party members wengi ndio waweze kuuda serikali.*

Hussein: And the President should only be a ceremonial President.

Translator: *President pia awe President wa sherehe.*

Com. Okoth-Ogendo: Thank you very much, any question. Can I have the mic?

Com. Okoth-Ogendo: We have too many religious holidays in this country. Why should we have them why should people go

and pray any time their prayer time comes and the country goes on without a public holiday so that Christmas does not become a public holiday, Idd-ul Hajj does not become a public holiday no religious holidays at all for the country.

Hussein: We should have them because particularly us Muslims when we have these festivals we believe it is part of our practice of our religion and it is the tradition of our holy prophet that we honour most and so we prefer it to be a public holiday for the Muslim particularly and especially on Fridays when we go for Friday prayers these are all parts of our religion and we feel like it is our right and we should go for it.

Com. Okoth-Ogendo: Jina?

Jane Jilo: Naitwa Jane Jilo.

Translator: *Huyu hapa anaitwa Jane Jilo ambaye anawakilisha maoni ya akina mama kutoka dini ya Catholic.*

Jane Jilo: Sasa ninaanza. In this part of our country especially in rural areas the tradition or custom that is the law and the practices takes the precedings in the matter of family and the whole community being a party.

Translator: *(inaudible)*

Jane Jilo: In this part of our country especially in the rural areas,

Translator: *Kwa sehemu yetu hii ya nchi,*

.....*End of tape*

Jane Jilo: Unity

Translator: *Inachukua maneno ya jamii na familia nzima*

Jane Jilo: being a paternalist society

Translator: *kuwa ni jamii ambaye wanashikana na jamii ambayo wanakaa pamoja ikiwa mila yao ni moja*

Jane Jilo: And even the customary practices does not favor women or girls.

Translator: *Hata mila za kwetu za hapa haitilii maanani mambo ya akina mama na wasichana.*

Jane Jilo: Only men matter.

Translator: *Yale muhimu yanatambulika hapa sana ni mambo ya wanaume peke yake.*

Jane Jilo: Only men make things happen while women and girls watch and obey.

Translator: *Wanaume tu peke yao ndio wanachukua jukumu ya kuona mambo fulani yametendeka na wasichana na akina mama wanakaa tu na kuangalia wakiona kwamba jambo fulani imetendeka.*

Jane Jilo: Now we women have come of age.

Translator: *Sasa sisi akina mama tumekuja na tumefika wakati sasa.*

Jane Jilo: We have decided to say no to such oppression practices.

Translator: *Sisi akina mama tumesema hapana mambo ambayo tunakaa kama zamani tunaangalia tu vitu vikitendeka sasa akina mama tunasema haiwezekani.*

Jane Jilo: And we would like the new Constitution to help us address these issues.

Translator: *Tungependa tena kuuliza Tume ambao inahusika na mambo ya katika yatusaidie ili tuweze kuepukana na hii shida imetukabili hapa awali.*

Jane Jilo: One of the main areas that we want the new Constitution to address,

Translator: *Moja ya mambo ambae Kamati inafaa kuangalia,*

Jane Jilo: And which we have found and believe to be a problem,

Translator: *Yale sisi tumeona na tumeamini ya kuwa ni shida kwetu,*

Jane Jilo: in the issue of property,

Translator: *Kwa mambo ya mali,*

Jane Jilo: its ownership,

Translator: *kuwa mwenye mali,*

Jane Jilo: to use and control of it,

Translator: *kuitumia au kui-control hio mali,*

Jane Jilo: This is a very important right which we women want to secure.

Translator: *Hii ni jukumu kubwa sana ambae sisi akina mama tunafaa kuilinda.*

Jane Jilo: As far as this is concerned and is mentioned above women do not owe anything.

Translator: *Kwa yale ambaye alisema hapo awali katika mila za hapa mila za kwetu akina mama au wasichana hawapati chochote, hawana chochote kwa boma*

Jane Jilo: Infact they are owned meaning they are part of the property of men.

Translator: *Hao wenyewe ni mali ya wanaume, wao wenyewe wanakuwa kama mali ya huyo mtu.*

Jane Jilo: Secondly,

Translator: *Ya pili,*

Jane Jilo: on the property, widows and daughters both married and unmarried,

Translator: *kwa mali mayatima wale wameolewa ama hawajaolewa,*

Jane Jilo: they are not entitled to inherit anything be it land or animals.

Translator: *wasichana akina mama hawaruhusiwi kurithi chochote kama ni ardhi ama mifugo.*

Jane Jilo: The new Constitution should put in place an intensive measures to protect and provide for these rights.

Translator: *Constitution mpya ya Kenya sasa iangalie na itilie manani kuwa hayo yasitendeke naitilie manani kuwa wasichana na akina mama wanapata urithi sawa na wavulana.*

Jane Jilo: Thirdly,

Translator: *Ya tatu,*

Jane Jilo: in some of our traditional practices among the nomadic tribes,

Translator: *kwa masheria zetu ingine ambaye wafugaji wanatumia,*

Jane Jilo: abortion is allowed.

Translator: *mambo ya kutoa mimba utungaji wa mimba inakubaliwa.*

Jane Jilo: Here women and girls are subjected to the torture.

Translator: *Hapa basi wasichana na akina mama ndio wanapata shida kuumia.*

Jane Jilo: When men go free.

Translator: *Wakati huo wanaume wako na mastarehe zao, wako free kabisa.*

Jane Jilo: The new Constitution should provide protection against this kind of practices and deal with the culprit accordingly.

Translator: *Sheria hizi mpya basi ichukue hatua kwa yule yote anafanya abortion yeyote ambaye amehusika awese kuathibiwa vikali.*

Jane Jilo: Fourthly,

Translator: *Ya nne,*

Jane Jilo: we feel that women are not given enough hearing even in issues which concerns them.

Translator: *Kama akina mama sisi tunaona ya kwamba hatupatiwi nafasi nzuri ya kuzikizwa kwa jambo lolote ambae sisi tunataka kuitoa.*

Jane Jilo: They are discriminated.

Translator: *Hawa wanabaguliwa.*

Jane Jilo: For instance the issue of insecurity,

Translator: *Kwa mfano kwa mambo ya usalama,*

Jane Jilo: being a recurring problem in our district,

Translator: *kwa yale mambo yanatatiza katika wilaya yetu,*

Jane Jilo: we and our children suffer most.

Translator: *sisi akina mama na watoto ndio tunaumia zaidi.*

Jane Jilo: Therefore we would like the new Constitution to clearly and categorically provide for women to be involved in such matters.

Translator: *Hivyo basi anauliza kuwa Constitution mpaya iweze kutilia maanani na kutekeleza jambo hili.*

Jane Jilo: And in major development issues like security Committee.

Translator: *Kwa jambo muhimu ambayo mojawapo ni Kamati ya usalama ya wilaya*

Jane Jilo: Fifthly,

Translator: *Ya tano,*

Jane Jilo: We women want the new Constitution to address the girls who get pregnant outside marriage and are chased away from home as outcasts while men are free and continue to enjoy the freedom.

Translator: *Yeye anasema angependa Kamati hii pia ichukue hatua kuwa msichana kama amepata mimba na anafukuzwa kutoka nyumba huko yule mwanaume amemweka mimba ako uhuru, huyu mtu aweze kuadhibiwa vikali.*

Jane Jilo: In the marginalized areas education is only given to boys where shortage of money is concerned.

Translator: *Kwa sehemu zingine elimu inapatiwa vijana peke yake wakati ambao kuna upngufu wa pesa.*

Jane Jilo: We would like the Constitution to put it a must education for both boys and girls especially primary education.

Translator: *Anasema pia angependa Kamati hii iweke ni lazima kwa elimu kwa wasichana na wavulana.*

Jane Jilo: Lastly, we feel that citizenship is given only for men.

Translator: *Mwisho anaona kuwa uraia unapatiwe wanaume peke yao.*

Jane Jilo: We would like the Constitution to give the right of citizenship to both women and men.

Translator: *Yeye angependa kuwa uraia upatiwe akina mama, wasichana na wanaume wote wawe sawa katika hali ya kuwa uraia wa Kenya.*

Com. Baraza: Jane you did tell us among the nomadic people abortion is allowed, is it a girl getting pregnant they force her to abort or?

Jane Jilo: Yes, they force her to abort in some cases.

Com. Baraza: Supposing it is voluntary, would you have a problem with it?

Jane Jilo: I wouldn't have a problem.

Com. Baraza: You wouldn't have a problem with it.

Com. Okoth-Ogendo: Asante sana. Next.

Com. Dr. Swazuri: Catholic youth group, representative of the Catholic Youth Group. KLM (*Kenya Livestock Marketing Council*)

Henry: Ninaitwa Henry Sakalpo. Nitazungumza kwa Kiswahili. Tukiwa Kamati ya Kenya Livestock Marketing Council kuna vitu ambavyo tunaona yanaumiza sana wafugaji wa mifugo kwa mambo ya uuzazo ya mifugo. Kabla ya uhuru tulikuwa na kichinjio katika Archas post ambaye ilikuwa ina-process na kuweka nyama kwa mikebe hasa nyama ya ngamia. Na tangu tupate uhuru, mahali hapo kumefungwa na kumetupiliwa mbali. Kwa hivyo sasa tuna-recommend kuundwe Kenya Livestock Marketing Board ili kutetea haki ya mauzo ya mifugo.

Pia tuna-recommend plant ya ku-process nyama ama slaughter house kuundwa katika district zote za wafugaji ili wafugaji waweze kuuza mifugo yao bila kuingia garama mingi ya kuingiza mifugo kwa gari na kupeleka kuuzwa Nairobi. Tuna-recommend pia serikali itoe pesa tayari ya kununua mifugo kama vile wanavyofanya kwa mahindi wakati wowote wafugaji wanataka kuuza mifugo yao.

Pia wakati tangu tujinyakulie uhuru kusafirisha mifugo ni kama unasafirisha bidhaa haramu. Tunauliza sheria ibadilishwe ili kwamba kuna mifugo inasafilishwa bila kutatizwa kwa soko ambazo ziko katika Kenya zile soko ziliko nje ya Kenya. Pia ufugaji tunauliza itambuliwe na sheria kama njia ya maisha ya wafugaji na ni njia ya uchumi. Pia tuna-recommend kwamba centers ya kupima magojwa ya mifugo ziwekwe katika sehemu za wafugaji ili mahali ya kupima magojwa mpaka uende Nairobi, damu ya ng'ombe ipelekwe mpaka Nairobi hakuna mahali katika ufugaji inajulikana ng'ombe ni mgojwa.

Pia tunauliza wafugaji wa Kenya walindwe kutokana na wafugaji wa nchi majirani ambae wanaingiza mifugo yao katika Kenya na kuharibu soko zetu na kufanya sisi kushindwa kupata bei mzuri kwa mifugo. Pia hizi protected areas ambaye ni forests, may be ni mambo ya game reserves ziwe free kwa mifugo kulishwaa wakati wa ukame kwa sababu area hizi wafugaji wamelinda wanyama miaka nenda miaka rudi hata wakati hatukuwa na mambo ya KWS.

Wafugaji wamechungwa na ku-treasure wanyama na kuona wanyama ni muhimu kwa maisha yao. Sasa kwa sababu kuna idhara inaitwa KWS, ile resources yote inapatikana kutokana na wanyama ambaye wamechungwa na pastoral people wafugaji wapatiwe share ya ile resources inapatikana kutokana na wanyama wa pori. Ngamia itabulike kama chakula na itabulike kwamba ni source ya kupata maziwa na ni mnyama hadi wakati wa ukame. Wakati huu hakuna compensation inafanyiwa wafugaji wakati wanyama wa pori wana-attack mifugo ama hata wakati wenyewe wanauwawa na wanyama wa pori. Tunauliza sheria mpya i-compensate wafugaji wakati mifugo yao inauwawa na wanyama wa pori na wakati pia wafugaji wanauwawa na wanyama hawa.

Watoto wetu wakienda shule wanafundishwa mambo ya kahawa ambaye hawajawai kuona. Curriculum ibadilishwe ili watoto wafundishwe mambo ya mifugo.

Juu ya ardhi tunapendekeza kwamba ile area yote inakaliwa na wafugaji ifanyiwe survey na wapatiwe communal title deed. Hii

itasaidia kwa sababu watu wengi wanakuja wakisema wanataka kufanya maendeleo katika area na ni grabbing wanafanya wanawacha wafugaji bila ardhi ya kulisha mifugo kwa hivyo ni hatari sana kwa wafugaji. Ardhi ambaye inakaliwa na wanyama wa pori lazima i-benefit wafugaji directly. Gazetted areas yote, forests, game parks iwe chini ya wafugaji. Barabara zetu miaka nenda miaka rudi zimekuwa barabara baya tunauliza barabara zinakuja katika area za pastoralist ziweweke lami.

Telephone system irekebishwe kwamba katika sehemu zote tunaweza piga simu. Ile powers zinakuwa enjoyed by Minister of Local Government iwe reduced na hio powers ipatiwe viongozi waliochaguliwa na wananchi.

Mshahara wa MPs ipunguzwe kwa sababu ni juu sana. Na hata ule muda wa MPs ku-qualify kupata pension iwe ni baada ya ku-win election mara tatu. Hapana win election mara moja na anapata pension.

Tunauliza DDCs ziwe scrapped na badala yake constituency development committee ambaye inahusisha viongozi na mambo ya maendeleo itabuliwe katika constituency level.

Security ya wananchi wa pastoralist serikali iwajibike kikamilifu na wale watu wamepoteza maisha yao kwa sababu ya banditry kwa sababu ya shifta wamepotesha mali yao iwekwe kwa sheria serikali iweze kuwa-compensate.

Serikali ipeane lawyers wakati wowote watu wa pastoralist hawawezi kujilipia akiwa na case ya kujibu serikali iweze kuwapatia lawyers ya kuwatetea. Asante sana.

Com. Dr. Swazuri: Sawa former MP J.J Falana make your presentation

J.J. Falana: Bwana Mwenye Kiti ma-commissioners, mabibi na mabwana, mimi kabla ya kusema hata yale ya kurekebisha Katiba ya maoni yangu, pengine ningeanza na comment hapa. Civic education ile imefanyika hapa kuelimisha watu wetu hapa juu ya jambo ya Katiba au juu ya yale yanapaswa kubadilishwa, mimi nafikiri haijafanyika vile inavyopaswa kufanyika. Bwana Chairman ni mpaka ujue ile kitu unayo kama ni nzuri ama mbaya ndio unaweza kufikilia kuibandili. Sisi hata ile Katiba inatukabili na inatutawala leo uzuri na ubaya wake hatujui. Kwa hivyo pengine bahati ni ya kuwa nyinyi mnaokaa hapa kutusikiza ni wana sheria na ile lugha tutazungumza hapa maombi yetu ni ya kuwa mtaweka kwa lugha ya sheria ili iweze kuwa kitu ya maanani huko mbele. Kwa hivyo tunawaomba yeyote ile tutakayosema hapa tafadhali iwe inaambatana na mafunzo ama hivyo mpokee.

Jambo la kwanza – Elimu – Mambo ya elimu hapa kwetu hailingani na elimu ya Kenya mahali ingine kokote. Hii ni kusema Bwana Chairman, mtihani ule tunafanya bila shaka mmekuwa Illeret, mmekuwa loiyangalani, mmekuwa Diriib Gombo, mmekuwa Laisanis mmeona hali watoto wetu wanavyoishi ndani na kusoma. Sasa haki iko wapi kama mtihani ile mtoto anakaa Illeret anafanya ni mtihani ule ule mtoto anakaa Alliance anafanya, mtoto anakaa Kabarak anafanya, mtihani ni ule ule. Now

hardship na ile hali hawa watoto wameweza kupata mafunzo kuweza kufika wakati wa kufanya mtihani ni ya shida sana.

Mtoto anayesoma na sitima, mtoto alieyekula siagi na bread kuamka na yule hakupata yeyote na anaingia kwa darasa na Kenya inafanya mtihani wetu kuwa moja na tunatarajiwa tushindane na wale watu wanakaa kwa hio district. Bwana Chairman hakuna haki hapo hata kidogo mimi ningeomba na ningependekeza hapa Katiba iwekwe irekebishwe mtihani ile inafanywa na watoto wa huko na ile inafanywa kwetu kwa vile ni moja passmark yetu iwe ni tofauti kwa sababu hali yetu ya kusoma sio moja. Itakuwa ni haramu kama passmark ya mtoto wa huko ni 90% na halafu mtoto yule anasomea Ileret iwe pia ni 90% hakuna haki huko.

Kwa hivyo tupewe hio nafasi wakati wa ku-mark ma-exams pass mark ya watoto wa hardship area kwa sababu as the saying goes hapa kuna watumizi wa serikali wanapata allowance ya kuitwa hardship area maanake nini? Actually it is very contradicting wanapewa msahara extra na ile inayopatikana huko wafanyi kazi wa serikali wanapewa hardship allowance kwa sababu mahali ile wanaishi ni mahali pa taabu, ni hardship na ni shida and it is on the same breath italingana kwa sababu of that hardship we don't enjoy the same learning facilities. Kwa hivyo hio ni vizuri iambatane na hio na tupewe mark tofauti.

Wakati wa kuingia shule kuu, university, passmark ya ku-admit watu hii mambo ya A-, B- Bwana Chairman na vile nimesema hali ile tunasomea ni tofauti consideration passmark grade ya kuingia kwa university kwa watoto pande yetu ifanywe chini ili tuweze kufaidika kuingia kwa university.

Nitakuja kwa mpaka – mpaka, boundaries, boundaries ya district na ya province ile tunaishi naye inakuwa ni kwa manufaa ya Provincial Administration. Inakuwa ni poritical boundaries kwa sababu ya haja ya utawala. Mimi nasema hii Bwana Chairman nikiwa na a point in mind, Rift Valley Province imetoka corner ile ingine ya Kenya na kidole Rift valley province imeingia mpaka hapa Merile kwa boundary. Sasa wakati vituko yote inatokea na hapo ndio mahali kunakuwa na majambazi, kuna mahali barabara hawatumii kwa sababu Rift Valley does not need it, sisi tuko kwa Eastern, sasa tukiwa kwa Eastern barabara ikitoka Isiolo kidogo tu, tunaingia mahali inaitwa 'Archas Post' tunaabiwa ni Rift Valley. So we travel in Rift Valley all through mpaka tunakuja Marsabit district. (Interjection)

Sasa Bwana Chairman mara nyingi watu kutoka hapa, tukisafiri insecurity mahali ile tunatwangwa na majambazi na inakuwa tabu ni katikati ya Melile na mpaka Mlima Wamba na hio sehemu administratively inaingia Rift Valley Province. Chochote kitokee hapa DC wetu wa hapa, OCPD hana mamlaka uwezo ni kama tunapigwa na foreigners kutoka nchi ya nje na sio Kenya watu wanakufa hapa na tunaabiwa this is out of his jurisdiction ni Rift Valley. Imagine a hundred kilometers from here shida insecurity hapa mpaka iwe referred to Rift Valley, Nakuru headquarters inaenda huko. Kwa hivyo hii sehemu tunaosikana naye boundaries iwe irekebishwe na ile sehemu tunaambatana naye iingie kwa Eastern Province. Hii mambo ya Rift Valley Province, kidole kuingia mpaka ndani, hio kidole ikatwe.

Jambo la tatu, sisi watu wa mkoa wa Eastern Province na Bwana Chairman utashangaa nikisema namna hio, serikali ikiambiwa Eastern Province na hata wewe Chairman na Committee yako tukisema Eastern Province, Eastern Province ile jamii inaingia kwa kila mtu kila mtu straight away ni Wakamba na Wameru, Eastern province. Eastern Province inakuwa dominated na Wakamba na Wameru kwa bahati mbaya Isiolo, Marsabit na Moyale tumesukumwa chini ya Eastern Province chini ya Wakamba na Wameru, mali hatupati share yeyote. Sisi tunaomba province ya tisa itolewe sisi tuwe na independent province na hakuna sababu ndio tukubaliwe tupate province yetu kwa sababu kufananishwa iko kitu tunaita NFD Northern Frontier District ya zamani. Baada ya uhuru Northern District Bwana Chairman just to give you background, you know eneo hii zamani ilikuwa ni Isiolo, Mandera, Wajir, Garissa, Moyale na Marsabit six districts. Ilikuwa ni hio sita may be part of Turkana and Samburu. Now wakati wa uhuru Bwana Chairman, serikali ya Kenya iliona fit, iliona sawa i-reward Wasomali kwa sababu Wasomali walitisha walitoka Kenya waliungana na wenzao Somalia. Hio matisho ilifanya serikali ya Kenya kuwapa Somalia the North Eastern Province wilaya tatu tu. Mandera, Garissa na Wajir iwe province na hio ni haki sisemi wanyanganywe.

Kwa haki ile Wasomali wamepata huko hii serikali yetu haijaona kitu kutupatia the same number of districts, Moyale, Marsabit na Isiolo pia tupewe kwa sababu in all fairness kama ni mambo ya uchumi, kama ni mambo ya mihani, kama ni mambo ya wakati tunakaa kwa hii jangwa na tunafanywa tushindane na tunashare resources na wale watu wameendelea kutushinda kwa sababu tulikuwa close wakati wa ukoloni halafu share yetu inarudi na inawekwa chini ya wenzetu Wakamba na Wameru Bwana Chairman it is very unfair. Kwa hivyo this is a Constitutional requirement tunaomba province ya tisa iundwe na hio province ya tisa iwe ni Moyale, Marsabit, Isiolo, Samburu, Turkana. Wale nomadic pastoralist community wale tunafanana tuwe na province yetu kando. Barabara mambo ya -----

Com. Okoth-Ogendo: Pokot

J.J. Falana: Sorry hapana Pokot hatutaki, Pokot wakae huko.

Public: Waende wapi?

J.J. Falana: Pokot wakae kwa Rift Valley kwa sababu Pokot kwa hakika Pokot hata vile walivyo sasa hawako vimbaya kwa sababu wako ile main na major community ya Kalenjin. Pokot sisi tunawa-identify na Kalenjin so Pokot hata kama ni pastoralist hawana taabu kama sisi. Hatufanani na hatuwahitaji.

Com. Okoth-Ogendo: Two more minutes.

Barabara ----- I will try and push it in those so minutes. Barabara Bwana Chairman sisi tuko kwa what is supposed to be the Great Transafrican Highway. This Transafrican highway inatoka Cape Town, South Africa na inaenda Egypt mpaka Cairo. Ni aibu sana barabara hii inatoka Africa kusini mpaka kule Cairo, mahali ile haijapigwa lami ni kutoka Isiolo kwenda Moyale.

Hii ni kumaanisha hii serikali hakuna haja na sisi kabisa. Hata kama ni kwa heshima, hata kama ni kwa heshima ya jina ya Kenya, kujua hii Transafrican highway imepigwa lami kila mahali kilometer 500 ndugu yangu, kilometer 500 inakuwa shida kwa hii serikali ya Kenya kuweka lami? Leo tukisafiri kwa sababu ya ubaya ya barabara sisi tuna rudikwa pamoja na mbuzi, ng'ombe kwa sababu hakuna public transport ingine, you will be surprised pengine kama kuna namna ya kuwafanya m-test hio, hio helicopter ingewachwa muingie kwa hii ma-lorry muone vile tunaona. Bwana Chairman, tunasafiri kwa mbuzi na ng'ombe and that has been our life all through tunaenda na mbuzi na ng'ombe. Sisi naye si watu wa shida namna hio yote ati hatuwezi ku-afford bus moja kuja hapa, we have saloons for example I am not bragging mimi mwenyewe nina gari yangu kidogo inakaa hapa Isiolo, I can't enjoy it. I can't use it haiwezi pita lami, haiwezi kuja hapa, am I not in Kenya, am I not part of this country surely? Kama hio kilometer 500 tu inakuwa shida kwa serikali ya Kenya kupiga ni kusema serikali haitujali, kwa hivyo there is no equitable fair distribution of resources, tupigwe barabara lami. Bwana Chairman nitakimbia haraka.

Tunakuja kwa ardhi – land – Title Deed – sisi haki yetu ni moja hapa hasa huku constituency inakuwa ni part of national reserve na national park. Ni hivi majuzi tu tuliomba Rais 1994 wakapewa sehemu kidogo wale watu wanaishi kwa sasa ikasemekana hiyo iwe exercise itolewe kwa national park na watu waishi. That is not enough, sisi tunaomba hii serikali inaonekana inahifadhi na inaona manufaa zaidi kwa wanyama kushinda binadamu. Sisi tunachukuliwa kama wanyama kwa hivyo hii sehemu tumeishi na imewekwa national parks na national reserves, iondolewe sisi tupewe haki ya kumiliki hio ardhi na tupewe matitle deed tuweze kuishi hapo juu.

Ya mwisho, sitaki sana kusukuma, mimi naunga mkono vile huyu mwakilishi wa livestock amesema, kuongeza tu. KMC mahali tulikuwa tunapeleka chakula yetu kuwekwa canning nyama ya mkebe leo hakuna na ni aibu sana serikali ya Kenya hasa kwa jeshi yetu na kila kitu tuna-import nyama kutoka Botswana, nchi zingine za nje na hali tuna nyama, sasa hata kama hatuwezi kupeleka mpaka KMC sisi tunaomba tutengezewe abattoirs hata kama ni hapa kwetu kulikuwa na mpango ifanyike hapo kwa ili tuweze kuweka ng'ombe ni taabu sana ku-load ng'ombe, it is even cruel to animals unaweka kwa lorry kutoka Moyale, six hundred kilometers hakuna kula, hakuna kutoka kwa gari mpaka Dagoretti, siku tatu nne. Na ikifika imekosa nguvu, imekonda hata hatuna faida ya kufanya, so to save all that kama tungetengenezewa hapa mahali Fulani tuchinje nyama ipelekwe na gari ya barafu mpaka huko, tutajiona kama tuko Kenya.

Ya mwisho kabisa Bwana Chairman, last, security – this is very important, usalama. Sisi tunataka kulindwa maisha na mali vile wana Kenya wengine wanalindwa. Hali ya usalama na mambo ya usalama serikali imesindwa. Na serikali imesindwa there is a very clear example I will give you Bwana Chairman. Wakati unaona mtu ana-delegate kazi yake kwa mwingine hio ni alama ya kuonyesha umeshindwa. Security siku hizi hii lugha ya homeguard this will make me very unpopular but I will say it. Homeguards, taabu ile imetusumbua hapa, the Government is arming one community against the other. Hii taabu ya security yote inaletwa na serikali arming one community against the other.

We have the regular police Bwana Chairman am concluding, we have the APs, we have those personnels trained ya kuweza

kubeba silaha. Sasa kama leo jamii moja hapa, Waborana mimi nikisema tumepungukiwa na bunduki usalama ni baya nitaenda kwa police kwa serikali nitapewa bunduki ya kupiga nani, Rendile. Rendile wataona wamepungukiwa, serikali itawapa Rendile bunduki kupiga nani, Gabra, Gabra wamepungukiwa, Gabra watapewa kupiga nani, Now the same Government arming its civilians against each other kumalizana sasa surely I don't think that is a solution so serikali ichukue jukumu ya kutulinda na hii mambo ya kutupatia pocket arms ya kumalizana sisi kwa sisi ikome. Asante Bwana Chairman.

Com. Okoth-Ogendo: Kuna maswali hapa njoo. Mhesimiwa kule kwingine tumekuwa I think in Moyale in North Horr, Laisamis they say homeguards are very very useful and they want them institutionalized, formalised because they are doing a good job and stabilise security so I don't know how this will go with you. The other question is on title deeds, you want to be given title deeds individually or as community?

Translator: *Swali hili ambalo aliyekuwa mbunge wa Saku mhesimiwa J.J. ameulizwa ni kuwa kule kwingine mahali Ma-Commissioners wametembea pahali kama Maikona, Laisamis sehemu zingine wananchi wanasema homeguards wanafanya kazi nzuri sana, sasa JJ hapa anasema nauliza home guard iweze kupunguzwa ama serikali iangalie hiyo? Swali ingine ambayo ameulizwa J.J. ni kuwa mambo ya title deed may be J.J atajibu na jibu lake nitatafsiri here.*

J.J. Falana: Madam Commissioner ya home guards mimi nilikuwa nikisema, nasema na nitasema juu ya homeguards. Homeguards wamekuwa na maana kwa sababu serikali imeshindwa that is in absence of the Government performing its duty because it has failed kwa sababu serikali imeanguka imeshindwa ndio homeguard imechukua hio nafasi, kama kungekuwa na serikali ya kutulinda yani tuna army, tuna police, tuna AP kama hawa walikuwa wakifanya kazi yao hakuna haja ya homeguards. Kwa hivyo hata wenzangu wakikwambia homeguards ina maana huko kweli ina maana kwa sababu hakuna serikali ya kuwalinda.

Ya pili, hii mambo ya title deed, title deed hapa mimi sikuuliza title deed ya communal, title ile nimesema hapa ni ya mashamba mahali ile tumekuwa na ukulima hapa na imekuwa excise kutoka national reserve na national park ndio naomba zile zilizobaki ifanyike, survey imefanywa hapa lakini title deed moja, hakuna mkulima mmoja leo anaweza kudai ardhi ile aliyo naye ni yake halali, bado tunakaa kama ile hali ya wanyama. Kwa hivyo ile title deed ninauliza hapa ni ya mtu binafsi na plot ya mtu binafsi sio ya kikabila.

Prof. Okoth-Ogendo: On education, I was a member of the Koech Commission and we had about quotas, cut-off points and so on and we found a lot of people some of them from Kitale even from Nyanza in Turkana schools, passing out as Turkanas. Isn't there a better way of affirmative action rather than lowering cut-off point because we are going to get a lot of people coming in into your schools and pretending they are Rendilles and Gabras and so on to take your system.

Translator: *Bwana Chairman anauliza kuhusu mambo ya elimu. Amesema kuwa ameuliza kuwa elimu kama vile J.J.*

aliyosema passmark ya watoto wetu iwe chini, pengine kuna wengi watatoka sehemu zingine waweze kuingia hapa halafu waweze kukata watoto ya hapa. Maoni ya J.J. kuhusu hio swali.

Com. Okoth-Ogendo: If you lower the passmark wanafunzi hawa wakienda katika zile shule hata kama ni ya serikali inawachukua muda to pick up ili waweze kuwa katika kiwango kimoja na wale waliokuwa mashule mazuri. Hakuna njia ya kuweza kwamba serikali ifanye hizi shule na wanafunzi kwa njia kiwango ambacho kiko juu ili waweze kufanya vizuri na wapite kama wale wenzao?

Translator: *Bwana Commissioner tena anauliza kujibu Bwana Chairman*

J.J. Falara: Kujibu ya Bwana Chairman Bishop Commissioner, mimi nimewaonyesha condition na nyinyi wenyewe mmeona mkitembea kwa hakika with all honesty hamwezi kusema there is a fair level playing ground kwa mtoto anayekaa Ileret and then the exam is that you must sympathise with that community. Mwalimu na mwanafunzi anakaa huko mtihani ni ule ule tu imetengenezewa huko. Mtoto asiye na facility yeyote huko au kama ni minimal there is nothing.

Ile kitu haitakosa kuwafikia ni karatasi ya mtihani hiyo ipelekwe na ndege, ipelekwe na nini siku ya mtihani the education ministry will make sure this paper gets there. Kama vile wanahakikisha hio mtihani ifike serikali and education for that matter ingehakikisha tuwe na facilities ya kutosha ya kuambatana na Wakenya wenzetu, we have no complain. But as long as there is no that level play ground I think we stand to be considered, that is my point. Kama kuna wengine watatoka huko sehemu ya raha na waje waungane na sisi kula taabu hapa they are welcomed hata mkitaka kutoa watoto wenu hapo waje hapa.

Com. Dr. Swazuri: Dr. Hussein from Catholic University.

Dr. Hussein Hassan Golisha: Thank you very much Mr. Chairman. Hussein Hassan Golicha. Nafikiri nitaongea kwa lugha ya Kiswahili. Kitu cha kwanza Bwana Chairman ningependa kugusia mambo ya usalama lakini hii sitakalia sana kwa vile watu wengi wameongea juu yake. Usalama upande huu ni kitu muhimu sana hasa hasa katika district hii. Usalama huu mara nyingi huwa inaletwa na kitu ambacho kwa kimombo tunaita resource conflict, tunapigania vitu vichache. Kutatua mambo ya usalama hapa ningependa tuangalie sana mambo ya ardhi. Mambo ya ardhi tuangalie. Vipi tutaangalia? Vile tunavyogawanya ardhi katika sehemu kadhaa ya Kenya hasa hasa sehemu hii imewaondoa wenyeji yani local population. Ardhi inasimamiwa na civil servants ambayo wewe utasikia tu ardhi fulani hakuna. Tungependa sana Bwana Chairman mambo ya ardhi wenyeji wawe ndani wajue inaendelea namna gani.

Pia kuhusu usalama Bwana Chairman, ningeliza equity in the distribution of resources. Mara nyingi huwa ni umaskini unatufanya tupigane kwa hivyo ikiwa sisi pengine hatuna raslimali lakini ile raslimali kidogo tunayo iwe developed and iwe equal kwa kila mwana Kenya.

Ya pili ningependa kuguzia mambo mawili. Ya kwanza sehemu hii ya Kenya ambayo ina-include Northern Kenya yote imeachwa nyuma wakati wa ukoloni kwa sababu pengine hawakuwakubali kama sehemu zingine za Kenya pengine ni dini yao. Serikali ya Kenya ilipokuja vile vile iliwaacha nyuma watu hawa kwa vile bado hawajawakubali vile walivyokataa mwingersa ndivyo vile vile waliwakataa. Utakumbuka 1962 referendum kutokana na wilaya sita NDF tano ziliamua kwenda Somalia kwa hivyo ikawa ni kama punishment sisi tuwachwe nyuma, barabara, shule, hospitali kutusaidia kuuza mifugo yetu hakuna. Kwa hivyo tumebaki nyuma 40 years ya uhuru watu wengi hapa hawajui.

Ni vipi tutatatua mambo haya, watu wengi wametaja affirmative action hapa Bwana Chairman ningependa ku-disagree na Bwana J.J. kuhusu affirmative action na ni sababu hii. Miaka 40 tumesaidiwa kama dawa kijiko mbili mara moja ama mara tatu. Mambo ya quota system ya serikali kutupangia watoto wangapi wataenda national school, hatuna haja nayo kwa vile haitusaidii. Ni nini twataka? Tunataka tusaidiwe tuwe na mashule. Kwa kingereza tunasema hatutaki tupewe samaki, tunataka tufunzwe kushika samaki. Kwa vile ikiwa wewe utanipa samaki kuna kiwango utanipa kumi, utanipa mia moja utachoka lakini tafadhali unifunze kusika huyu samaki mimi nitasika milioni moja kwa hivyo hatuna haja ya quota system for life tunataka marshall plan ya kuondoa shida ambayo tunayo hapa tuwe sawa na Wanakenya wengine hatutaki marks ipunguzwe watoto wetu waende university for ever ndio mara ya kwanza punguza twende na 68 lakini tafadhali unisaidie nishike 70 kama mtoto kutoka Kiambu, na mtoto kutoka Nyanza. Quota system for ever hatutaki na ikiwa affirmative action iko iwe ni muda sisi tusaidiwe tuwe kama Wakenya wengine.

Ya tatu, mambo ya afya – Mambo ya afya ni kitu muhimu sana katika Kenya na wewe utakubaliana na mimi kwamba health services katika nchi hii ilianguka kitambo. Na mimi ningependa ku-suggest ya kwamba vile tunavyojaribu kufanya ndio haifai, serikali pengine haina uwezo wa kupatia kila mtu facility hii ya health. Kwa hivyo mimi nina-suggest tutele mambo ya health insurance katika Kenya ili kila mwana Kenya awe anahudumiwa na serikali kwa njia fulani hii tunaweza wale ambao wana uwezo wawe na insurance yao, wale ambao hawana uwezo serikali i-subsidice. Nina hakika tunatumia pesa mingi katika mahospitali ambao haitusaidii, hio ni mambo ya afya.

Pia ningependa kuguzia mambo ya serikali, je tunataka serikali ya aina gani, tunataka federal Government ama tunataka central Government. Hapa na nafikiri ninaongea kwa niaba ya watu wengi hapa, iwe central, iwe federal mimi nina haya ya kusema. Kitu cha kwanza central Government imeanguka, imeanguka in the sense that it has failed to supply us with services. This is known whatever they said they are to do for 40 years, most of it is not available. Free primary education, water by when, we are pushing it now to 2020.

May be what is best for Kenya is a federal Government. But here for the local people sisi hatutaki federal Government ambayo sisi hatuna namna ya kuiangalia. Yaani what I mean kuna conditions Fulani ziwe satisfied sisi tu-accept federal Government. Mimi nimesema central Government haina kazi, federal Government ni bora kwetu lakini sio federal Government jina, hivyo

ndio nasema. Kitu cha kwanza economy ya Kenya yote ziwe zinuliwe hata sehemu kama hii, what we need is a marshall plan ya kutuina sisi tuwe kiwango sawa na wengine halafu mtuambie on your marks-get set-go, halafu sisi tuone kama tutashindana na Wanakenya wenzetu au la.

So number one, condition ya kwanza jimbo yetu ama ile jimbo tuakuwako dani iwe imeendelezwa. Sisi hapa tuna mizigo, livestock industry iwe developed kama vile industry za kahawa huko central Kenya na chai huko Rift Valley na sugar huko Nyanza industry zetu ziwe developed. Infrastructure kama mhesimiwa

(inaudible interjection)

Thank you na kama vile J.J. alisema barabara hii tunataka infrastructure Mr. Chairman, tumendanganywa kwa miaka mingi ya kwamba maendeleo ndio inalete barabara. Hapa tunataka tuwe very clear, ni kuku ama yai ilikuja kwanza? Hio ni kutuzunguza ni yai ama ni kuku. Kuku ndiye alizaa yai, mayai ndio ilikuwa kuku, that is not the issue. Is it development ambaye inaleta barabara ama ni barabara inaleta development? Economists watatueleza hii. Sisi tukisema tunataka barabara mnasema mna nini huko ili barabara ijengwe? Mimi nilikuwa nafikili mjenge barabara ndio tuwe na hizo vitu. Kwa hivyo infrastructure lazima zinjengwe.

Kitu cha pili, ikiwa tutaenda majimbo national institutions zile ziko, national schools, universities, referral hospitals, air ports ziwe national assets zisiwe mali ya jimbo fulani ambayo asset iko. Kwa sababu gani? Mimi na wewe na sisi zote tuko hapa tumechangia ikiwa ni Kenyatta university saa hizi iko Thika ama Kiambu? Sio ati ni ya watu wa Kiambu ama hapo, mimi nimetoa kodi hawa wote wametoa kodi wakajenga. Kwa hivyo hizi major national assets ziwe ni national sio za jimbo.

Ya mwisho kuhusu hizo conditions lazima sisi tuchague na tuelezwe ni jimbo gani tunaenda, kama vile J.J. alivyosema na utanisamehe ninamtaja sisi ni semeji, kama vile J.J. alivyosema kutoka 40 years hii ya independent tumewekwa katika Eastern Province. Eastern Province kama alivyosema ni kubwa sana, sehemu hii Marsabit, Isiolo, Moyale tumesahauliwa sisi ni kama tortoise anayeshindana na hare wazi tunajua ni nani anashinda. Wewe utakumbuka hapa Machakos Kabaa High School was established in 1926 kama vile Alliance na Maseno. Sisi hapa Marsabit Secondary School ni 1966 watani-correct kama mimi sijasema ukweli. Je tutaweza kushindana vipi? Ikiwa ni kazi, ikiwa ni national resource ambao inagauliwa ni wale ambao wako juu. Hata nomination katika Kenya's Parliament imewahi kuja upande huu wa Eastern Province? Sisi tumeachwa nyuma kwa sababu hatuwezi kushidana an wale. Tungependa sana tuwe na ninth province na jina nitakupa Northern Province ambaye itatufanya tushidane na wao, WaTurkana tutashidana na wao vizuri, Wasamburu tutashidana na wao vizuri.

Com. Okoth-Ogendo: Can you summarise?

Dr. Hussein Adam: I am summarizing. Ningependa kuguzia mambo ya election hasa hasa election ya President na

ningependa kutaja ya kwamba kitu ambacho kimetugawanya sana kikabila ni election ya President. Serikali nyingi za nje ambazo zimekuwa na demokrasia kwa muda mrefu kuliko sisi kama Wingereza, kama Ujeremani, kama India mambo ya direct election ya mtukufu Rais hakuna kwa vile ikiwa ni Mjaluo atasimama hapo Wajaluo zote tutapiga foleni. Ebu Boranaa mmoja ajitokeshe nitasimama President, utakuta zote tuko nyuma yake. Kwa nini unatulazimiza tuwe na ukabila kama hio? Let us not elect a President directly, wacha tuchague wajumbe tuwe katika Bunge halafu the head of that party ambaye imeshida a-form Government. Huyu President awe ceremonial tu wa kukaribisha wageni wa serikali lakini sio wa power ambayo niliyosema.

Ya mwisho Bwana Chairman, unaonekana umeniharakisha kidogo nitamalizia nikisema sisi economy yetu ni ya mifugo na sisi tungependa kitu cha kwanza ministry ya serikali ziwe fixed sio ati leo kumi na tano na kesho ishirini na saba ziwe fixed. Na katika hizi ministries sisi tungependa ministry ya livestock development na kitabo kidogo ilikuwako, leo hakuna, leo hatuna hio ministry ya livestock development. Sisi tunataka hio ministry iwe hapo na isiwe tu department ya Ministry of Agriculture pahali pengine wanasema Ministry of Coffee and Tea, sisi hatuhusiki. Kwa hivyo tunataka tuangaliwe hio ministry ikuweko na tuweze kusaidiwa. Thank you very much.

Com. Okoth-Ogendo: Tunatengeneza Katiba sasa na ule muudo wa serikali na umesema ungependa muudo wa serikali ya majimbo lakini umepeana conditions ambazo ni lazima zifanywe kabla ya hio serikali kama ni mambo ya infrastructure, industries and so forth. Hivi ni kusema unasema kwamba katika Katiba hii tutengenezayo basi tutaendelea na muudo mwingine mpaka mpate mambo hayo ili twende regional what do you mean?

Dr. Hussein Adam: This is what I mean. Number one and I will say this again that the system as we have has left us behind, we are not in a position to compete. So if we are going to have majimbo, then we will have it on those conditions so that again we are not completely left out. If you create majimbo of Eastern Province today so that you have eight majimbos as it were based on the provincial boundaries, then we are still a rose is a rose by other name. What is the difference kama tulikuwa tunakaliwa bando tunakaliwa, kwa hivyo tunasema kama tutaenda majimbo tafadhali sisi nasi tuje juu.

Com. Baraza: These ministries, you have a number yourself in mind that how many ministries we could have?

Dr. Hussein Adam: I would suggest it should be between 15 and 17 because at one time as I remember we had ministry for rural development, ministry of water, ministry of whatever there are very many ministries which we can combine because we are spending so much money on 27 ministries, 27 ministers, 27 Permanent Secretaries, 54 Deputy Secretaries and the following staff and how many houses do we maintain in Nairobi when we are using 27 ministries?

So if it is a Constitutional requirement that we look at it we say we need a ministry of education, we need a ministry of finance, we need something of economic planning or whatever then we have a certain limited number which we can manage so that we do not become an employer whose job is just to pay the employees. You hear in Kenya here most of the time we are talking

about we can't pay salaries but your job is not to pay salaries, your job is to give services. You should have just enough people to run the job. That was my (inaudible)

Com. Okoth-Ogendo: Thank you I am going to ask you, if you and your colleagues can expound on the idea of marsahall plan for Northern Kenya, the Member of Parliament for Moyale addressed us at length on that but I think it is important we have very clear ideas and a document which we can look at as a Commission. So if you can take that one up yourself and develop it and send it to us in Nairobi, it will be extremely useful before we start that item.

Com. Dr. Swazuri: Thank you very much. Northern NGO development forum.

Bonaya Bonkale: Kwangu sasa mimi nakuja kutoa maoni si kuomba, mimi sijakuja kuomba serikali nilikuja kutoa maoni kwa Constitution of Kenya Review Commission. Kwa hivyo naomba maoni ile tunatoa iingie katika Constitution ya Kenya. Mimi naanza na preamble tunaanza na sisi tuko wakabila 42 katika Kenya na mimi nataka wakabila 42 yote itambuliwe. To be recognized as people, kuwa Wakenya haina maana peke yake lazima watu desturi yao kabila yao itambuliwe ndiyo wawe watu wa maana.

Na ya pili katika wilaya ya Marsabit, Welfare Monitoring survey conducted in 1994 ilionyesha Marsbit district ni maskini mwisho katika Kenya nzima ikiwa na 88.2% below poverty line ikifuatiwa na Samburu 84.2% kwa nini sisi tulikuwa maskini? Mambo yale yalitufanya maskini tuliwekwa katika serikali kuu central government na maoni yangu ni sisi tuwe regional government. Region mimi na-propose ni Marsabit na Moyale and Isiolo iwe jimbo moja na hio jimbo kwa nini iwe jimbo moja mimi nafikiria hivyo? Kwa sababu sisi sote tunatumia lugha moja na hio ituendeshe na ya pili lugha nafikiri lugha asili mia mingi ya wakaaji wa area hii hawajui Kiswahili nami nafikiri katika regional Government lugha Kiswahili isikuwe lugha ya hio jimbo ikuwe lugha ya wenyeji.

Na regional Government tuwe na governor na Provincial Administration ifutiliwe mbali kabisa kwa maana imeshidwa kutuhudumia na tunataka ma-elected leaders katika jimbo, representatives iwe councillors na iwe imepitishwa katika Katiba au tuwe na njia ingine tofauti. Lazima wawe heads of department, wawe executive officers macouncillors watu wale mamechaguliwa na raia ndio washikilie raslimali yote ya wananchi, sio mtu anatoka Kisumu in the name of head of department, Mombasa, Nairobi na hajui vile tunaishi hapa. Kwa hivyo wenyenji wale wanachaguliwa ndio wawe head of department, wawe executive officers wale wa technical person awe karani peke yake.

(Inaudible interjection) Kengele hio, ukizungumza Kiswahili pasha sauti ama mimi nita..

Bonaya Bonkale: Haya maoni yangu tulikuwa tunataka regional Government, Government ambaye wale wamechaguliwa na raia washikilie positions yote ya serikali katika regions na lazima wawe wenyeji sio wale wanatoka nje ya hio jimbo, wale

wanajau lugha ya mama, na wale wanafahamu maisha yote ya jamii katika eneo hilo. Kwa hivyo nilisema hatutaki watu wanaendesha maisha yetu wakiwa wanatoka Mombasa, Kisumu, Nyeri na hawajui taabu yetu, na hawajui hali yetu yote.

Na ya pili kulikuwa na titling – sisi ni pastrolists, pastrolism haijatabulika dunia mzima ya kwamba ni maisha ya heshima, ni maisha ya nidhamu ama ni maisha ambaye watu wanajielekesha inaonekana na wale wakulima ya kwamba ni maisha ya upumbavu, tunataka sheria itambue ya kwamba pastrolism, ufungaji ni njia kamili ni njia ya maisha kuendesha maisha. Kwa hivyo sheria itambue leo kwamba pastrolism is a real way of life not a retrogressive way of life.

Na ya tatu pia traditional system – Traditional system itambuliwe ya kwamba ndio inaendesha maisha hata zamani wazee ndio walikuwa wanaendesha maisha wanaangalia mifugo ndio wanachunga mali, wanachunga ardhi na malisho. Kwa hivyo trust land act ambaye ifanya ardhi yetu ishikiliwe na council kutoka leo irudishwe kwa wazee kwa wenyeji. Na kwa nini nasema hivyo, County Council ilikuwa inaokota senti ilikuwa inaokota pesa for example in Isiolo district inaokota million 98 na kutoka siku ile trust land ilianza 1937 mpaka wa leo hawajawai kuhudumia watu. Kwa sababu imeshindwa kuhudumia watu trust land itupwe mbali ardhi irudi kwa mikono ya wenyeji.

Na ingine pia ardhi mingi ikiwa na maji mzuri, malisho mzuri yote iliwekwa katika national reserve na game parks. Sisi tunataka national park, game reserves ambaye imenyakuliwa na County Council na serikali yote irudi kwa wenyewe kwa maana hakuna trickle down benefits kutoka hio tourism earnings mpaka leo hatujapata ardhi yoyote. Na iko act ambaye inasema mining act pia inasema land six feet below ni ya serikali, maji six feet ndio iko chini and mineral yote iko, mafuta yote iko kwa sababu hio kile kitu chote kiko chini ya ardhi irudishwe kwa mikono ya wenyeji kisheria.

Forests, game reserves, game parks na wanyama yote kwa sababu the national reserves, County Councils, the Central Government hawajahudumia, hawajaletea watu faida mpaka saa hii na walinyanyasa watu wakachukua ardhi yao na walisukuma wenyeji, pastrolists katika area ya jangwana. Kwa hivyo ardhi hio yote imechukuliwa na jina ya game reserves, forests yote irudi na ifaidishe watu wakiwa hawa wanasimamia na desturi yao ya zamani.

Com. Okoth-Ogendo: Please summarise.

Bonaya Bonkale: I am summarizing. Mambo ya central Government, service delivery. Serikali ya Kenya was signing conventions, international conventions agreement, they rectified, wali-assess kwa pahali mingi sana hapa duniani. Walisema sisi tunapatia nyinyi maji safi, tutapatia nyinyi njia, chakula walisema hivyo na kwa kabisa na kwa destuli na kwa kisheria serikali lazima ituhudumie sisi na hio njia zote ya kupatia sisi salama na kuhudumia vile Wakenya wengine walihudumia kwa maana sisi ni wale ambao wanalipa kodi. Kodi billion mia mbili Kenya ina-budget kila siku hata sisi tunalipa, hatujui kwa nini highland ya Kenya inakuwa tarmac, education yote iko pande hii tunaachwa.

Kwa hivyo sisi tunataka serikali hio conventions yote iwe domesticated into Constitution of Kenya today iwe under fundamental rights. Bill of right iwe expanded hizo rights yote iwekwe kwa sheria sheria ya leo ituangalie sisi kabisa kwa maana sisi tuliachwa na kisheria hatujapata share yetu kutoka the consolidated fund revenue ya serikali yote ile ilikotwa mwaka hii yote ndio hatujapata huduma. Nafikiri tukipata regional Government sisi tunataka serikali igawanye mali na raslimali yote ya pori kwa jimbo na tujiendeshe na siku hiyo tutatosheka.

Na ya mwisho kabisa eneo hili mambo ya ajabu ilifanywa Bwana Chairman, tafadhali one minute. Mambo ya ajabu ilifanya serikali ya Kenya ilitesa watu. There is what we call adjacent district, and Eastern Province and adjacent districts contain where wakati watu waliwekwa in camps in Isiolo district they put people in three camps. There is Malkamari massacre, there is Wagala massacre, whereby during those times between 1964 na 1968 the police officer aka-shoot anybody on sight so people here are destroyed by security forces in this system through bad laws. So sisi tunataka serikali kwa sababu hawa ndio walitunyanya, waliumiza watu ndio walifanya wao maskini na fukara tunataka serikali iweke affirmative action so that we want a Constitution redress tuangaliwe ndio tushikane na wale wenzetu kule Kenya highland wale wameendelea. Na mimi nashukuru hivyo. For that pastrol development mimi nataka Ministry of Pastrol Development to directly redress our marginalisation.

Na ya tatu Kenya iweke department of civic education Wakenya wote wafunzwe juu ya serikali ilioundwa na itakaeundwa. Asante mimi nashukuru.

Com. Dr. Swazuri: Nafasi hii tunapea Mhesimiwa Abdi Tari Sasura who is Assistant Minister for Energy.

Hon. Abdi Tari Sasura: Thank you Mr. Chairman, first and foremost wacha nichukue nafasi hii kuwakaribisha nyinyi Ma-Commissioner kwa hii eneo la wakilishi wa Bunge ya Saku. Ya pili wacha niwapongeze nyinyi wale mlikuja Marsabit. Bwana Mwenye Kiti, mimi jana na juzi nilikuwa Isiolo na nilikuwa disappointed na ningependa nyinyi pia mjue mkirudi na Commission yenu ikikaa pamoja ikuwe registered. Observation yangu ambaye nili-observe Isiolo, I was very disappointed when I heard that your Commissioners who were in Isiolo went to do some work in Modogashe and the following day walikuwa waende wafanye kazi Garbartula which is between Modogashe and Isiolo. Na badala ya kulala Modogashe na kwenda kufanya kazi Garbartula walisema sisi watuwezi kulala Modogashe.

Walitoka Modogashe wakalala Isiolo halafu wakatoka Isiolo wakakuja kazi Garbartula, kuonyesha ya kwamba Modogashe hakuna binadamu wanalala ama Garbatula hapana mahali binadamu analala. Mimi napongeza nyinyi kuja Marsabit nasikia mmeenda (inaudible) nasikia mmeenda Dukana nasikia mmeekula mbuzi na mmeekula hardship. So wale wameenda Isiolo I am sorry to say Githu Muigai and Lethome have disappointed us completely. Now having said that Mr. Chairman, I want to thank you for giving me unlimited time to give my proposals. Mr. Chairman nitajaribu kufupisha, I have a written memorandum and I assure you I am not going to read it I am just going to highlight one or two points and present it.

Com. Okoth-Ogendo: Take seven minutes.

Hon. Abdi Tari Sasura: Seven and a half minutes. Mr. Chairman kitu cha kwanza, jambo ya kwanza nataka kuanza naye ni jambo ya citizenship, uraia wa Kenya. Bwana Mwenye Kiti mimi ningependa kwanza kupendekeza ya kwamba nani swali inaulizwa, nani who is supposed to be a Kenyan citizen? Ningependa kupendekeza ya kwamba mtu yeyote ambaye anazaliwa Kenya awe Kenyan citizen. Nasema hivi kwa sababu nataka kuwapatia tu mfano hapa tu Marsabit. Tumekuwa na wakati wa Regime ya Haile Sellasie ilianguka tulikuwa na watu waliotoroka kutoka huko, wakakuja wakaishi hapa. Wakaoa jamii ya hapa halafu wakazaa watoto na hawa watoto wanaambiwa nyinyi si Wanakenya. They are not allowed to get identity cards, nilikuwa nime-discuss this na Principal Immigration Officer na akasema ya kwamba hawa watoto kwanza they apply wakuwe Kenyan citizen na mtoto ambaye ni mu-Ethiopia sawa, amekuja ameo hapa, hana mbele wala nyuma, ile kitu anaye ni hapa Kenya tu. So I want it to be a requirement that anybody born in Kenya is a Kenyan citizen.

Ya pili, I want to address the issue of dual citizenship – And in this regard Mr. Chairman I want to refer to this book, it is a compilation of Kenya Human Right Commission and this is a revised edition imeandikwa the year 2000, inaitwa the forgotten people.

Mr. Chairman may be you have not seen the forgotten people, these forgotten people were not forgotten by their mothers, they were not forgotten by their fathers, they were not forgotten by their children, they were forgotten by the Constitution of Kenya. Mr. Chairman, it is important that we have dual citizenship especially in Northern Kenya for one reason. That, sisi wale tuko hapa border district, wale tuko border district in Northern Kenya, it is a fact whether it will be denied or whether it will be overlooked or whether it is assumed, it is a fact that, (interjection) mimi naongea lugha yoyote mchanganyiko. It is a fact Bwana Chairman sisi wale tunakaa northern district tunaishi Kenya lakini jamii wetu wako Ethiopia. Tunaishi Kenya lakini jamii yetu wako Somalia wale wanaishi Mandera. Nataka kukupatia mfano moja hapa Bwana Chairman, hii apana fiction, hii ni facts mwaka wa 1999 tarehe 22 mwezi wa June kulikuwa na mkutano wa Borana inaitwa Gumigayo, ambayo ilifanywa huko Ethiopia na hii jamii wamekaa Ethiopia na wamepitisha sheria hio ni kama Bunge yao, Bunge ya WaBorana ambayo inakaa na mtu asikundanganye hata sisi tunafuata hio Bunge yao tukiwa hapa.

Mr. Chairman, item number 9 katika Gumigayo ambayo walikaa 1999 Ethiopia item number 9 ili-discuss issues ya murder. It talked about murder na ikasema I just want to quote halafu nitatafsiri kwa Kiswahili tafadhali, inasema article 8 inasema, the killing of both human and wildlife has been banned. The Gumigayo has from henceforth totally condemned killing of any human being except in exceptional circumstances as required by the traditional war for which we are still negotiating for alternative solution in this same assembly. Hence forth no Borana shall kill the Burji, the Cancil, the Gabra, the Elgi, the Burji or any other tribe. Hii ni resolution ambayo imepitishwa na Bunge ya huko na Bwana Mwenye Kiti hapa, hata ingawa tuna Bunge yetu hapa, tuna serikali yetu hapa, tunafuata hii.

Halafu 1998 jamii ya Gabra ambayo iko kama Gumigayo inaitwa (inaudible) walikaa Balisha mwezi wa February 1998 na wali-address issue hio hio ya murder tu na wakasema it is illegal to all Gabras to attack Rendille, Turkana, Burji and the (inaudible) people. Hii ni mila watu wanakaa wanaunda sheria, sheria ambaye inaambatana na sheria ya Kenya, hata sheria ya Kenya inasema msuane hata hii jamii inasema tusiuane. Kama sisi tunafuata sheria ambaye inaundwa Ethiopia na sisi tuko Kenya mbona tusikubaliwe kuwa na dual citizenship? That is why I am arguing for dual citizenship Mr. Chairman, we don't need passports to go to Ethiopia. The Somalis in Mandera should not get passports to go to Somalia let them be both citizens of Somalia and Ethiopia and live where they want. That's what I am talking about in terms of dual citizenship.

Bwana Mwenye Kiti jambo la pili, ni jambo la poritical parties. I want to address the issue of poritical parties, this is my opinion, hii ni opinion yangu na kama haifurahishi mtu yeyote samahani, peana opinion yako. Bwana Chairman katika Kenya the experience ambayo tumekuwa naye sasa unaona sisi tuko na poritical parties na from observation na ni common knowledge unaona kwamba all poritical parties wanakuwa identified wanatabulika na kabila fulani, SDP inatambulika na Wakamba, DP inatambulika na Wakikuyu, NDP inatambulika na Wajaluo, Ford Kenya inatambulika na Baluhya na siku hizi Ford People inatambulika na Wakisii. KANU ni mchanganyiko maluum vile inafaa kuitwa federation.

Hii mambo ya poritical parties imegawanya Wakenya kwa ukabila kabisa, imetumaliza, it has divided Kenya into ethnic factions. Sisi tunaweza kuchagua Rais wa Kenya bila kuwa na chama, tunaweza kuchagua wabunge bila kuwa na chama hata Uganda hawana chama hata moja, ukitaka kusimama Bunge unakuja unasema chagueni mimi Bunge, unachaguliwa. Kama ni mambo ya chama hapa na pale italeta ukabila. I am suggesting that we should not have poritical parties in this country.

Mr. Chairman nataka ku-address issue under the sub-topic of tribal peoples and this should not be hii isikuwe misconstrued na tribalism, tribal peoples – unajua ukienda America Wazungu hawana kabila, huwezi kukuta Mzungu anasema mimi ni Burji ama mimi ni Borana. Wazungu tunasema hata vile tunaitwa Wazungu tu hawa ni Wazungu. Sisi Waafrica ndio tuna makabila na ndio tunaita tribal peoples na kulingana na sheria ya international labour organization sheria ya 1989 nambari 190 maana ya tribal people na nitawatafsiria inasema ni peoples in independent countries distinguished from other sections of national communities and whose better is regulated wholly and partially by their own customs or traditions by the special laws of regulations.

Hii Katiba ya Kenya haitambui tribal peoples ndio unaona hawa watu wanakuja kuongea hapa wote wanalia wamekuwa marginalized sisi tumewekwa kado, sisi tumesahaulika kwa sababu hii Katiba haiheshimu mila ndio sababu mimi na-suggest sasa wale watu unaweza ukawaita PHG, Pastoralist, Hunter Gatherer Communities, hunters and gatherers ni kama ile jamaa alisema the Wata are hunters and gatherers the pastrolist communities, hasa the pastolist communities under this ILO convention watabuliwe na watabuliwe na Katiba inasemekama kwamba makabila ya Kenya ni 42 ile kitu mimi najiuliza ni nani ameandika hawa watu 42 na wakati waliandika makabila ya Kenya ni 42 iko watu waliulizwa sisi tumeandika makabila 42, tumesahau nani? Hakuna mtu aliuliza ninaona hata mimi sijaandikwa huyu anasema hata mimi sijaandikwa kwa mfano sasa kuna makabila

ambayo ziko katika Northern Kenya ambae hawajulikani kama ni kabila ya Kenya. They are summed up with other major tribes. Kwa hivyo Katiba itambue makabila hasa ya Northern Kenya, watu kama Masaai, Wasamburu, Wasomali, Waborana, Waburjii, Wagabra, Warendille, Turkana, Ogiek, (inaudible), Orma, Waldei, Elmolo bila kusahau Wata. Na Bwana Mwenye Kiti, just to name but a few.

(Interjection from public) Nobody mentioned that tribe (inaudible) and others.

Hon. Abdi Tari Sasura: I beg your pardon and the (inaudible). Now Mr. Chairman, I propose that to do all these things, kuheshimu mila ya hisi makabila. It is very difficult for this Commission to just take our views, sit down, put in the Constitution and come up for what we are asking for like the marshall plan. What I am suggesting is that there be established a Constitution Commission whose mandate is to ascertain the nature and extent of historical injustices and quantify them. And this Constitution should establish a trust fund to compensate the victims ya hii mashida yote na hii marginalisation yote.

Hii Katiba iandikwe ya kwamba there be established a Commission ambaye itaangalia shida ya wale ambaye walisahaulika hii miaka yote, Commission ambaye ita-run for specific period of time from the time thie new Katiba will be written tuunde Commission ambaye itaweza kuangalia shida yetu na ilete, its enacted to the Constitution. I am advocating for that Commission.

Prof. Okoth-Ogendo: May be you can summarize.

Com. Hon. Abdi Tari Sasura: Mr. Chairman, I beg your pardon. Mr. Chairman mambo ya ardhi – tribal people and the land. If you look at land ownership or the type of land tenure that is practiced by these communities, these communities don't know ile kitu watu wanasema ni yangu. They normally say ni yetu and as far as the land is concerned communal ownership of land is an issue that has to be addressed by this Commission. Ardhi katika Kenya iko ardhi mbili. Inatabulika kwamba ardhi ya serikali, Government land ambaye iko na ardhi yake anai-protect na iko trust land act ambaye ardhi hii yetu yote tunapatia council kutushikia. Hata saa ingine council haina makosa kwa sababu inasemekana tumepatia hao amana, sasa (inaudible) wafanye ile wanataka hio ndio sheria inaruhusu hawa although wana-refuse.

So Bwana Chairman mimi na-propose ya kwamba concept ya communal ownership ikuwe legislated hasa in the pastrolist community, the pastoral communities kama urban centers kama tuseme mji wa Marsabit, the issue of title deed and land ownership ikuwe individuals but when it comes to the pastrolist communities it is important to identify the communities and issue them with title deeds ya communities kama hapana hivyo hata saa hizi kwa mfano, Bundas iko chini ya County Council ya Marsabit. Wanaweza kaa hapa saa hii waseme Bundas tumegawanya plots na nyinyi hamna habari nyinyi mnaishi hapo mbele tu, sisi hatuna habari, so grazing land iwe identified na communities na title deed ikuwe issued on communal basis. Other farming areas tukuwe na title deeds ya individuals.

I come to the issue of boundaries which has been mentioned just before me. Mr Chairman the current district and provincial boundaries are causes of disparities and resources distribution in this country. I would like to just go straight to the point that these boundaries be re-drawn. Hii mipaka ichorwe tena hasa za wilaya and a case in point is the A2 roads, where the A2 roads passes. A2 road inapita between Isiolo district inakuja inapitia Samburu district in the Rift Valley inakuja inapitia Marsabit halafu inaingia Moyale. Vile tu mwenzangu amesema ni kweli kwa kutawala, to provide services has become difficult hasa security services it has become difficult hata kutengeneza section ya hio barabara, it is under Samburu but in Marsabit district.

So when the ministry of public works, if we vote money for them what they do is they request the ministry of public works in Marsabit to do that section of the road for them and then they reimburse them and this is not a smooth flowing process. So district boundaries ikuwe re-drawn. Mambo ya province I want to support my colleague who said that we have been overshadowed and if you put it in a lay man's language we have actually been swallowed by the other larger district of Embu, Mbeere, Meru, Machakos, Mwingi, Kitui, Makueni you name it. And I want to differ kidogo pahali wamesema tukatiwe province ikuwe ni Samburu, Turkana, Marsabit, Sola na Moyale. Kama Mandera, Wajir na Garissa wilaya tatu wanaweza kuwa na province ya North Eastern Province, mbona sisi wilaya tatu ya Isiolo, Marsabit na Moyale tusikuwe na province yetu kado, why do we look for Turkana? Sisi watatu tukatiwe province yetu kando, Turkana ibaki Rift Valley, Samburu, kwanza Samburu tunaandika A2 road ndio wanatumiza, wabaki Rift Valley, Marsabit, Moyale and Isiolo ikuwe a separate district ambaye inaitwa Northern Province.

(Inaudible comment from the chairman)

Hon. Abdi Tari Sasura: I will finish Mr. Chairman I will submit my memorandum, there is a small page remaining here, you can see its even very small don't worry about it. Mr. Chairman, one issue, the issue of employment in the same line of marginalisation, the issue of employment is crucial. Look at the military angalia jeshi ya Kenya, jeshi, police, administrative police game, whatever, wakati recruitment inafanywa, unaona wanasema andika watu kumi kutoka Marsabit, watu kumi kutoka Moyale, watu kumi kutoka Isiolo, halafu labda Nyeri wanaandika watu 30 hata ukienda kwa police ama army ama nini unaona kuna discrepancy kubwa sana.

Kuna mahali ambapo tunataka military, haihitaji qualifications kubwa ni kweli labda pilot anaweza hitaji degree ya kuendesha ndege lakini hawa watu wa kwetu kwanza hata ni (inaudible) hata wana roho zaidi ya watu huko hata wale hawajasoma wapewe nafasi ya kazi na the only qualification ya watu wa Northern Kenya kwandikwa kazi ya bunduki ni kwamba they are brave, period.

And Mr. Chairman I want to address the issue of capital punishment, mambo ya kunyonga binadamu. Unaona katika sheria na nyinyi wote ni watu wa sheria mtu anaiba kuku labda amekuwa na njaa anaiba kuku kwa nguvu ananyanganya mtoto mdogo

kuku kwa nguvu, anapelekwa kotini kwa ame-rob with violence anaabiwa kata yeye kichwa, nyonga huyo mtu, that person is sentenced to death, robbery with violence mtu anaiba kama ile treasure ya goldenberg, mamillioni ya pesa halafu anaambiwa punishment yake ni kitu kidogo, ama ina-drag, ina-drag for so centuries unaleta defense yako hata mpaka makaratasi ile unaleta (missed words when turning the tape to side B) hata mbele ya mwenyezi Mungu ni mbaya kuua binadamu, wewe unaua mtu anayeiba kuku na unaacha yule mtu amefanya kitu inafanya Kenya yote kuwa maskini.

Jambo la mwisho Bwana Mwenye Kiti, Bwana Chairman ni issue ya police reserve, this is a very sensitive issue in Northern Kenya, mambo ya homeguard is a very sensitive issue in Northern Kenya and we must look at it in various rights. Unaona sisi tunapakana na Sudan, tunapakana na Ethiopia, tunapakana na Somalia, these are kind of unstable nations or countries that are surrounding us. If we look at the influx of ammunitions and arms in this country it is unimaginable. Ile bunduki inatoka upande wa Ethiopia inakuja tu inaingia Kenya ni kweli police system ime-fail kwa sababu hio bunduki inakuja inapitia barriers mingi. Somalia influx of arms is the same thing. 1996 kulikuwa na kitu inaitwa Kokoi masaccure ambae watu 86 waliuwawa including 16 askaris. Kokoi masaccure I think 1996. Bwana Mwenye Kiti 1996/97 unaona ya kwamba hata serikali ilitoa helicopter kutoka Nairobi haingeweza kufikia wale bandits because it is just a stone throw away to cross the border.

Now are we justified to tell the people of the borders mlete hii bunduki ya home guard ili watu wa across the border wakuje wawamalize is that justified? We should answer those questions. Are we justified just because the Government system and the policing system has failed the way it was put to say that let us be disarmed. The issue of Kenya police reserves hawa tunaita home guard lakini KPR, Kenya Police Reserve it is a system of community poricing and they are the closest people to us, it will be very unfair Mr. Chairman for me who is an MP, I have a gun which is licensed and then I carry both of you and tell you nyanganya hawa watu wote bunduki when I know that I have a gun myself. It is very unfair. The issue of KPR guns should stay, Mr. Chairman, with those very few remarks I beg to present my memorandum to you.

Com. Okoth-Ogendo: There is a question sir. Kuna maswali hapo.

Com. Bishop Njoroge: Nina maswali mawili Mheshimiwa, ni kweli unaweza kukubali kwamba kama hali ya kijeshi ya serikali inafanya kazi ile ambao inahitaji kufanywa kuangalia boarders huna haja ya kuwa na watu wengine wanaweza kwenda kufanya kazi muhimu ya kujiendeleza. Si hio ni kweli?

Com. Dr. Swazuri: Ni Kweli

Com. Bishop Njoroge: Jambo la pili, unasema pastrol community wapewe title deed ya community hio na watu kutoka kwetu wapewe title deed ya kila mmoja kwa sababu ni Agriculturalists. Nataka kukuuliza mhesimiwa kama wanataka loan, huwezi kupata loan kwa bank na title deed ya community. Sasa wale wana title deed ya kila mmoja, si ndio wataendelea na maendeleo na wale wana title deed ya community watabaki nyuma na tunasema hakuna uhaki?

Hon. Abdi Tari Sasura: Asante sana Bishop. Hiyo sheria ambaye inasema banks hawawezi kupatia title deed unless wewe uwe na shamba imetengenezwa na sisi na sisi ndio tutabadilisha hata hio.

Com. Baraza: Mhesimiwa you told us that the Borana community Parliament across made some laws, the laws condemning murder which binds you also. How much are they respected? I think wherever we have been the cross border incursion keep going on, the murders still go on, so how binding are they?

Hon. Abdi Tari Sasura: You see I was just trying to give you an example of how we are interrelated across the borders, I was not specific addressing the issue of the rule of law. Now I get the question very well.

Com. Baraza: I get it but also you could – it has two issues in it. Some communities have suggested that they want the traditional judicial system be strengthened. Now that is one form of judicial system how binding or how respected is it?

Hon. Abdi Tari Sasura: It is very very binding to an extent that I remember in the early 90s they sat and sometimes the laws are attached to their beliefs and spiritual beliefs. They said all girls under the age of nine should shave and we shaved so it is very binding. It is binding to that extent that when they say we are going to pray the fourth day of the new moon in Ethiopia they also pray here, to that extent it's very binding.

Com. Baraza: Severe one of murder, how respected is it?

Hon. Abdi Tari Sasura: Madam you know very well not all laws are respected.

Com. Baraza: The shaving you respect but the murder you don't respect?

Hon. Abdi Tari Sasura: Oh no, no. That's not the implication what I am trying to tell you is that the same way the Kenyan laws say we don't kill, they also advocate that we don't kill. So I was just showing you the strength of their laws and we follow their laws just the way we follow the Kenyan laws. One or two people will break the laws and that is why the laws were made.

Thank you.

Com. Bishop Njoroge: Catholic youth representative?

Gabriel Gambale: Mr. Chairman sir, I am speaking on behalf of Catholic Youth of Marsabit Parish. My name is Gabriel Gambale.

Com. Dr. Swazuri: Hapa tuko na Gabriel Gambale akiwakilisha Catholic Youth ya Marsabit.

Gabriel Gambale: We have already prepared a written memorandum so I am going to read the main things but we shall represent the memorandum to you.

Translator: *Anasema atapeana memorandum yake hata ingawa hivyo atataja maneno machache ndio atapeana memorandum kwa Commission badaaye.*

Gabriel Gambale: We the Marsabit Youth Parish feel that the church has done a lot in this district.

Translator: *Vijana wa youth wa Catholic wanasema ya kwamba kanisa ya catholic wamefanya jambo muhimu sana katika wilaya hii.*

Gabriel Gambale: The church not the youth.

Translator: *Kanisa.*

Gabriel Gambale: Hence the Constitution should protect the missionary so that they may carry out the activities freely and without the fear of Government.

Translator: *Hivyo basi anauliza Constitution ya Kenya iweze ku-protect missionaries waweze kuhudumia na kufanya jambo lolote bila uwoga, au mapendeleo yoyote.*

Gabriel Gambale: For example the church should be allowed to speak on behalf of the marginalized communities.

Translator: *Kwa mfano kanisa yaweze kuruhusiwa kuzungumza au kutoa maoni kwa niamba ya wale watu wameachwa nyuma.*

Gabriel Gambale: The church should be allowed to import things without tax.

Translator: *Kanisa ikubaliwe kuagiza vitu kutoka ng'ambo au ku-import kuingiza kwenye nchi bila kutoa tax yoyote.*

Gabriel Gambale: That is about the church.

Translator: *Hio ni kanisa.*

Gabriel Gambale: Education –

Translator: *Mambo ya ki-elimu.*

Gabriel Gambale: Education should be free up to the university level.

Translator: *Elimu iwe ya bure kabisa kutoka shule ya msingi hadi university, elimu iwe bure Kenya.*

Gabriel Gambale: For all Kenyans that is.

Translator: *Kwa Wakenya wote.*

Gabriel Gambale: But if the Government fails to provide this free education,

Translator: *Kama serikali ya Kenya imeshindwa kupeana elimu ya bure,*

Gabriel Gambale: it should make free to the people of Marsabit, that is the normads.

Translator: *serikali ifanye masomo ya bure kwa wakazi wa wilaya ya Marsabit.*

Gabriel Gambale: That's about education.

Translator: *Hayo ni mambo ya ki-elimu.*

Gabriel Gambale: Land –

Translator: *Ardhi –*

Gabriel Gambale: The land in the district that is Marsabit should no longer remain a trust land.

Translator: *Ardhi ambayo iko Marsabit isiwe ardhi ambayo inapeanwa kwa council tena, isiwe trust land tena.*

Gabriel Gambale: The land should be owned by individuals and the community.

Translator: *Ardhi iwe ya mtu binafsi ama wakaazi wa sehemu hio.*

Gabriel Gambale: The individuals should be provided with title deeds.

Translator: *Mtu akiwa na ardhi binafsi apatiwe title deed ya ardhi yake.*

Gabriel Gambale: Development activities.

Translator: *Mambo ya kimaendeleo.*

Gabriel Gambale: The development activities should be balanced to serve the country.

Translator: *Mambo ya kimaendeleo iwe balanced kwa Kenya nzima.*

Gabriel Gambale: Marsabit has been neglected for quite a long time.

Translator: *Marsabit imewachwa nyuma kwa muda mrefu.*

Gabriel Gambale: This should be improved by the Government.

Translator: *Serikali ya Kenya ijaribu kurekebisha hapo.*

Gabriel Gambale: County Council of Marsabit –

Translator: *County Council ya Marsabit –*

Gabriel Gambale: The Chairman of the County Council,

Translator: *Mwenye Kiti wa Council ya Marsabit,*

Gabriel Gambale: and the clerk to the Council

Translator: *Na katibu wa County Council ya Marsabit*

Gabriel Gambale: should be elected by the people.

Translator: *wananchi wenyewe wa Marsabit wachague Mwenye Kiti na clerk.*

Gabriel Gambale: The Member of Parliament –

Translator: *Mbunge –*

Gabriel Gambale: The role of an MP

Translator: *Jukumu la mbunge*

Gabriel Gambale: should be defined in the Constitution.

Translator: *iveze kufanuliwa vizuri katika Constitution ya Kenya.*

Gabriel Gambale: An office should be established in the Constituency.

Translator: *Na ofisi ya mbunge iveze kuwekwa katika eneo la Bunge hilo.*

Gabriel Gambale: The constituents,

Translator: *Watu wa constituency hiyo,*

Gabriel Gambale: should recall their MP, should have the power to recall their MP,

Translator: *Watu wa constituency kwa mfano constituency ya Saku watu wawe na uwezo wa kuita mbunge wao mahali popote alipo,*

Gabriel Gambale: after every 12 months,

Translator: *baada ya kila miezi 12,*

Gabriel Gambale: to assess his work.

Translator: *kuangalie kazi mbunge amefanya. Watu wawe na jukumu ya kuita mbunge kumuliza baada ya 12 months mbunge umefanya kazi gani?*

Gabriel Gambale: Security –

Translator: *Mambo ya usalama –*

Com. Baraza: One minute.

Gabriel Gambale: The Government should improve security in this district.

Translator: *Serikali iangalie kabisa mambo ya usalama.*

Gabriel Gambale: The Kenya Police and anti stock theft unit should be established in this district,

Translator: *Police ambaye wanaangalia mambo ya anti-stock theft unit wawekwe hapa kwa wilaya,*

Gabriel Gambale: If the Government fails to provide the security in the district,

Translator: *Kama serikali imesindwa jukumu yake ya kuangalia hali ya usalama kwa wilaya*

Gabriel Gambale: the Kenya Government should empower the Kenya police reservist (the homeguard that is)

Translator: *serikali ya Kenya basi ipatie homeguard jukumu kubwa ya kulinda,*

Gabriel Gambale: they should provide modern weapons, ammunition

Translator: *zile silaha za kisasa*

Gabriel Gambale: salaries,

Translator: *mishahara kwa homeguards,*

Gabriel Gambale: allowances.

Translator: *allowance, marupurupu to carry out these activities.*

Gabriel Gambale: The Government should reclaim the semi desert and the deserts of Marsabit.

Translator: *Serikali iweze kuchukua sehemu kame ama pahali kame wilaya hii*

Gabriel Gambale: and the local people should benefit out of this reclamation.

Translator: *Na wananchi, wakaaji wa sehemu hizo waweze kupata faida kutoka sehemu zao.*

Gabriel Gambale: The Government should market the local livestock,

Translator: *Serikali itafutie mifugo ya sehemu hizi bei,*

Gabriel Gambale: and the Kenyan Meat Commission should be established in this district.

Translator: *meat Commission iweze kujengwa katika wilaya hii.*

Gabriel Gambale: The chiefs and their assistants should be elected by their people.

Translator: *Chifu na assistant wachaguliwe na wananchi.*

Gabriel Gambale: And the last one is that we need compensation here in Marsabit due to the NFD effects (the northern frontier district.)

Translator: *Basi mwisho anasema tunataka ulipwe compensation kwa yale ambayo yametendeka kwa Northern Frontier District.*

Com. Baraza: Thank you for the presentation Bishop Kariuki. Yes on the power of recall how do you want it to be done?

Gabriel Gambale: The Constitution should state that the constituents would like to recall their MP after every year.

Com. Baraza: How do they recall him? How the interdiction or they do what? The manner of doing it, how would you want it to be done? How do they recall him?

Gabriel Gambale: It should be a civic right, the right of the people to recall their MPs after the end of every year.

Com. Dr. Swazuri: Kenya National Union of Teachers, KNUT.

Translator: *Mwakilishi wa KNUT. Secretary wa KNUT.*

John Kisoi: Bwana Chairman, Macommissioners, KNUT pia imetoa memo

Com. Baraza: Say your name.

John Kisoi Lesigiris: I am John Kisoi Lesigiris.

(inaudible communication)

John Kisoi: Pia KNUT imetoa memo na Bwana Chairman, tumetoa memo kama walimu na pia kama wananchi wa Kenya. Jambo la kwanza limetukera sisi roho ni mambo ya maplot Bwana Chairman. Tunataka Katiba ibandilishwe ili ugawaji wa maplot katika miji iwe kazi ya wenyenji kwa sababu angalia Bwana Mwenye Kiti tuseme DC ametoka mahali fulani, DC ni watu kuhama hama, wa kuhamishwa mara kwa mara. Halafu yeye ndiye anakuwa chairman wa Kamati hio ya kupeana plot. Clerk namna hio pia ni mtu mfanyi kazi wa serikali ambao ni mtu wa kuhamishwa wakati wowote. Naye pia ndiye anakuwa secretary wa kamati hiyo. Na tumeona mara nyingi sisi wale watu maskini tunakaa bila plot na plot yote hata DC anachukua plot halafu akiondoka anauza. Lakini sio Bwana Ali bado kufanya hivyo. Ni mambo ambao tume-experience hapo awali, unaona clerk pia ameuzua ma-plot kadhaa halafu wale watu maskini wa mji huo wanakaa hata bila mahali pa kuzikwa. Tunataka hio ibandikwe kabisa ili ardhi iwe jukumu la wananchi.

Jambo la pili ambalo nimeangalia pia kama Wanakenya ni mambo ya afya Bwana Chairman. Mwenye kiti, afya, wananchi wengi wanakufa kwa sababu ya kukosa matibabu, wanakosa dawa, kama kwa mfano mtu anataka kufanyiwa upasuaji wa roho, tunajua kwamba ni pesa mingi sana. Tunataka serikali iangalie watu maskini hasa wakati pesa nyingi inahitajika kuwatibu hawa ili nao pia wapate nafasi ya kuishi kwa sababu unaona mtu anaweza kufa kwa sababu ya kukosa matibabu na yale ambayo yanaleta hii mambo yote ni hii tunaita ufisadi ambao imekumba kila mahali nchini. Tunaona sasa tunataka serikali kwanza iongezee daktari mshahara na iweke sharti kwamba hakuna daktari anaendesha clinic yake private kwa ile mahali anafanyia kazi kwa sababu tunaona dawa yote inarudi kwa ile clinic yao. Basi tunataka kwamba daktari anaweza kuwa na clinic kama yeye ni mtu anatoka Nairobi na anafanya kazi Marsabit sawa tu awe na clinic yake Nairobi lakini mahali kama Marsabit asiendeshe kazi ya clinic yoyote.

Halafu Bwana Mwenye kiti mambo ingine ambayo tulikuwa tumeangalia ni mambo ya maji. Hapo mbele yenu ninaona kuna maji ambayo mmepakua kwa sababu serikali haiwezi kutupatia maji mazuri. Tunataka Katiba iangalie mambo ya maji ili serikali

ambayo itakayokuwa itupatie maji masafi hata watu wengi wanakufa kwa sababu ya maji machafu, tunataka maji masafi.

Halafu tunaona vile wale wengine wamesema ni mambo ya kuwa marginalized – Kuna watu ambayo wamewekwa kado kabisa hawako katika Kenya hii hata kuna sheria ingine ambayo haitumiki ambayo inatumika kwa watu wa sehemu hizi peke yake. Na hio ni kusema sisi sio Wanakenya kama ile sheria ambayo inalinda Wakenya wote hapana lina Wakenya wengine. Nafikiri watu wa Marsabit wanaelewa mimi, tunataka serikali itulinde, tunataka serikali iangalie sisi kwa sababu kwa miaka 40 sasa tumekaa bila huduma mingi sana.

Kwa upande wa elimu kama sio wamissionary hakuna shule ambazo serikali inaangalia. Tunataka serikali itufungulie mashule ya kuhama hama na kuwalipa waalimu, wale walimu ambao watafunza watoto hawa pesa mshahara mzuri ili wawe na moyo hata wa kutembea na wao kwa sababu wamepata pesa mzuri mbila shaka utafanya kazi lakini kama hakuna pesa hakuna kazi watafanya. Tunataka Serikali itufungulie mashule ya wale ambao tunaita wachungaji wa kuhama hama na wapatie walimu wale ambao watafunza shule hizo extra money ama mshahara mzuri kidogo kuliko ile ya kawaida. Halafu tunaona kwamba waananchi wengi pia hatuwezi kujimudu hasa hatuwezi hata kujenga nyumba kwa sababu gani? Tunaona kwamba building materials is very expensive. Tunataka serikali ipunguze tax ya bulding material. Halafu pia taxes ya chakula ipunguzwe ili watu wapate kula chakula kizuri.

Upande wa mshahara tunataka serikali iangalie mshahara wa wafanyi kazi wote wa serikali na Bunge sio Bunge ndio inaamua kuongeza mshahara yao iamuliwe na kamati tofauti kwa sababu tumeona sasa hao wamekuwa huko kujiamlia mshahara mzuri wana-earn six-figures wakati wananchi wanachukua 2,000, 2,000 utafanya nini utalisha mtoto ama utapeleka shuleni ama utanunua nguo? Tunataka ile kamati ya kuchunguza mshahara ya wafanyi kazi wote wa serikali mpaka hata wabunge sio hao ndio wanajiamulia mshahara.

Wale wengine wamesema sisi tumembaki nyuma kwa sababu ya mazingara yetu ambayo ni mabaya. Bwana Mwenye Kiti tunataka Katiba iangalie wale watu ambao wako marginalized hasa kwa cut off points, kama wanapoenda university waangaliwe point zao. Kama kwa national schools pia tuangalie kwa sababu hata nasi tuko na akili kama Wakenya wengine lakini mazingara ndio yako mabaya. We are victims of very harsh environmental conditions lakini tukipatiwa mazingara mazuri tunafanya vizuri kama Wakenya wengine. Tunataka Katiba iangalie kabisa itilie maanani wale marginalized group ili nao pia wafaidike na wa-enjoy ile uhuru Wakenya wengine wana-enjoy. Asante Mwenye kiti.

Com. Dr. Swazuri: Marsabit children's home.

(Inaudible)

John Arero: Commissioners na Bwana District Commissioner pamoja na viongozi wengine kwanza nimeshukuru kwa kupata fursa hii, jina langu naitwa John Arero. John Arero, mimi nimeshukuru kwa kupata fursa hii siku ya leo kutoa maoni yangu

mbele ya Commissioners na mbele ya wananchi kuhusu makao ya watoto. Wakati nimepanga mazungumzo haya ama maoni haya sikufikiria tu kuhusu makao ya watoto ambapo mimi nawaakilisha. Nimefikiria kuhusu makao ya watoto katika Kenya yote. Kuna methali moja Borana wanasema ya kwamba sheria itakayowekewa maskini hata tajiri hataepuka. (in Borana) Kwa hivyo wakati ambapo nazungumza kuhusu makao ya watoto ama juu ya watoto walio na shida nazungumza kitu ambacho ninaelewa kwa sababu nimeendesha makao ya watoto kwa muda kama miaka nane hivi. Na kwanza tunajua katika nchi yetu ya Kenya katika towns kubwa kubwa, kama Nairobi na sehemu zingine tunaona watoto wa street wanaishi katika street au wanaishi kwa mabarabara wakiomba omba pesa na kuvuta glue na kulala kwa barabara. Na tunajua watoto hawa pia wanatezeka kwa sababu maisha ile wanaoishi ni maisha ngumu. Na hata kama tunajua kama Nairobi kwa mfano, kuna children's homes zaidi ya kumi lakini watoto wale wanaishi katika street ni zaidi ya watoto mia mbili, mimi nimeenda kwa seminar ninajua hivyo. Kwa hivyo hapa niko na maoni tofauti ambapo nataka kupendekeza ili iwekwe katika sheria ya Kenya ili iwe faida kwa siku ya ushoni kwa manufaa ya watoto ambao wanahitaji.

Maoni yangu ambayo nataka kutoa, ningepanga iwekwe katika sheria ya Kenya ya kwamba kila mtoto ambaye ni maskini kama ni kwa children's home ama kama iko kwao nyumbani, serikali iweze kusomesha kutoka primary mpaka university. Mtoto yeyote maskini serikali iweze kugaramia masomo kutoka primary mpaka university. Na pia kama kuna children's home katika Kenya yote plus ile ambayo mimi naendesha, serikali iweze kutoa grant ya fund, ama pesa kiasi fulani kuweza kufadhili kwa mipango ya budget ya serikali ya kila mwaka.

Hio ni maombi ambayo mimi naomba. Kwa sababu gani natoa hio pendekezo, ni kwa sababu watoto hawa maskini ni wa serikali. Sisi wote ni watu wa serikali na tunaheshimu serikali yetu kwa sababu tuko ndani ya hio serikali na kama watoto hawa maskini ni wa serikali, kwa nini hawa wanasahauliwa? Wakati watoto ambao wengine wako na baba na mama wana-enjoy masomo na kuishi kwa njia mzuri kupata chakula mzuri na kuishi hata kupata afya na mambo ingine yote.

Ingingine ambayo ninaomba ninauliza serikali pia isaidie ujenzi wa makao ya watoto katika Kenya. Serikali iweze kusaidia hio ni kitu moja ambayo pia ninaomba iwekwe katika sheria ya Kenya. Na pia ninaomba hali hii ya watu wasiojiweza itiliwe maanani kwa sababu nimeona ya kwamba kila wakati sisemi kama wanapuuzwa lakini wanasahauliwa. Kwa mfano nikitoa maoni moja 1997 nakumbuka tarehe 2 September wakati mtukufu Rais wa jamhuri ya Kenya alitembelea Marsabit. Mbunge wa Saku aliomba msaada kwa children's home ambayo mimi naendesha na President alisema mbele ya umati ya umati ya watu wa Marsabit atatuma pesa kutoka katika street children kusaidia hii makao ya Marsabit. Na kuanzia 1997 tarehe 2 September mpaka siku ya leo hata single cent hatujapata kutoka kwa serikali kufuatia ahadi ya mtukufu Rais.

Na yeye ilikuwa ni sikitiko ni kitu ambacho tumesitikika kwa sababu mambo ingine yote ambayo President amesema imetekelezwa. Kwa sababu gani mambo ambapo amesema kuhusu maskini bando tekelezwa na hatuwezi kusema mtukufu Rais anachukia watoto. Tunajua anapenda watoto ni kwa sababu hakuna wengi wako na interest ya kufuatilia mambo kama hayo ya wasiojiweza. Kwa hivyo mimi maoni yangu serikali hii iweze kuheshimu watu wasiojiweza kwa sababu hao pia wako

katika serikali hii na wanastahili kupata huduma ya afya na vyakula na elimu kama watu wengine wote katika Kenya. Kwa hivyo hayo ndio maoni mimi natoa na nimeshukuru sana na muweke hio katika sheria ya Kenya.

Com. Dr. Swazuri: Nafasi tunapatia akina mama. Sioni kama kuna mama ameongea Fatuma from women group CBO (inaudible). Fatuma Wako.

Fatuma Wako: Specific issues and questions for public hearings and this is the women perspective from Nagayo location.

Translator: *Basi Fatuma Wako anasema jambo ambalo atazungumzia hapa ni jambo muhimu inahusu akina mama kutoka sehemu ya Nagayo.*

Fatuma Wako: The preamble should capture women historical experience eg. that of freedom fighters.

Translator: *Mambo zaidi anataka mambo ya akina mama itiliwe maanani kwa mfano wale akina mama wamepigania uhuru wa Kenya hii.*

Fatuma Wako: It should also highlight role played by women in nation building,

Translator: *Pia itambue yale ambaye akina mama wale ambae wamefanya bidii katika ujenzi wa taifa hili,*

Fatuma Wako: and the role of women in the second liberation

Translator: *jukumu la akina mama katika*

Fatuma Wako: we should also develop a vision that encompasses both men and women.

Translator: *Kamati hii lazima iwe na vision ya kuwa wataangalia waume na akina mama pia.*

Fatuma Wako: The preamble should also capture issues of pushing economy outward eg. capital freight and exporting of our resources cheaply.

Translator: *Mambo ambayo yataangalia kabisa iwe ni mambo ya kiuchumi kwa njia ya kirahisi kabila.*

Fatuma Wako: National defence and security the new Constitution should reduce Presidential powers like declaring war independently and should replace it with a Commission or a council to declare the same.

Translator: *You are too fast for me*

Fatuma Wako: should reduce Presidential powers

Translator: *yaani powers ya President iweze kupunguzwa*

Fatuma Wako: like declaring war independently

Translator: *Mambo ya kutangaza kitu kama vita President mwenyewe ipunguzwe*

Fatuma Wako: and there should be a provision for a Commission or a council to do the same.

Translator: *lazima kuwe na kitu kimewekwa ambaye council fulani iundwe.*

Fatuma Wako: Structure and system of Government our views were that our new Constitution should adopt a system where power is shared between the President and the Prime Minister,

Translator: *Constitution mpya ya Kenya iangalie mambo ya kuangalia kama Prime Minister na President,*

Fatuma Wako: and a provision should be such that if the President is a man then the Prime Minister should be a woman

Translator: *kama President ni mwanaume basi Prime Minister lazima awe akina mama*

Fatuma Wako: It should also adopt a unitary system due to our ethnic differences

Translator: *Tena iangalie mambo ya maungano kulingana na mambo ya kijamii*

Fatuma Wako: Parliament composition one third of members be women through affirmative action and out of the one third at least one disabled woman from each province ending up with 8 disabled women in Parliament on the same note a special consideration to be accorded to the northern women. Given the legacy of the northern frontier districts of marginalisation of northern frontier district and the vastness of the province, eastern province they are deliberately or undeliberately placed in adding up the total number of disabled women in Parliament to nine. And the local people should discuss nominees to Parliament before they are nominated.

There should be a right to recall MPs who are non performing. Balance power sharing between Parliament and the Executive by way of checks and balances.

Political parties – It should separate Government from management of political parties. The Government to fund parties that have national outlook and have taken on board gender concerns. He should retain provision of independent candidate to give women an opportunity to vie for seat even if a specific party fails to nominate them.

The Judiciary – The new Constitution should establish an efficient and uncorrupt Judiciary and legal system. There should be a provision in the Constitution for legal aid especially for women and the poor and there should be a creation of Ombudsman to follow up on women related court cases because the present judiciary system has proved to be biased and discriminative against women.

The Local Government – Affirmative action provision for one third women representation and direct election of the mayor and chairs of the council. A Commission to be put in place to look at the terms of services of councillors. There should be right to recall both the mayor and the chair if non performing. Councillors to be also payed from consolidated fund.

Electoral process – Given one third of Electoral Commissioners to be women that is affirmative action one third across the board, given one third of Electoral Commissioners to be women a special consideration again to be given to northern women to at least have one representation to the Commission.

Com. Okoth-Ogendo: One minute madam.

Fatuma Wako: Cultural ethnic and regional diversity – Elimination of harmful cultural practices and attitudes that have continued to hold women back like FGM, battering, wife inheritance and so many others. Muslim women in mourning for four months to be guaranteed full paid leave with a guarantee of not losing their jobs.

Rights of children – School girls to be heavily protected against abduction for marriage and proposed early marriages by their parents which is quite rampant.

Management and use of natural resources - Involvement of local communities in management of natural resources, national parks and game reserves be electically protected to reduce rampant crop destruction and human lives by wild animals not forgetting destruction of domestic animals.

Succession and transfer of power – The President should be prosecuted for crimes committed in power. There should be provision for resigning if one is involved in scandles. President who retires from office should also retire from the

Chairmanship of his or her party.

Land and property rights – Ensure the right to land ownership by all, the new Constitution should also introduce the affiliation act. The land to be owned by communities and the individuals and the issue of trust land to be scrapped off because it is too colonial and apartheid.

Com. Okoth-Ogendo: Why are you asking for affirmative action at one third, why not 50%?

Fatuma Wako: We don't know if – a lot of energy has been used to fight even for the one third if we will be accorded the one third, then next time we will ask for the 50%.

Com. Okoth-Ogendo: Asante sana. For the Rendile community councillor Lechuku.

Counc. Mark Aligele: I am councillor Mark Aligele. Bwana Chairman ni vile umesikia mimi ni councillor kutoka Rendile na zaidi nitaongea shida kuhusu Rendile. Mimi ni councillor kutoka Songa area kilometer 13 kutoka mahali tuko sasa. Sisi Warendile tuko location mbili katika hapa Saku, kuna Karara location na Songo location. Karara location imekuwa hapa kutoka 1964. Songa wamesettle Songa kutoka 1971, Rendile mbeleni ni watu wanafuata fuata wanyama ni watu wafugaji wa wanyama. Kutoka 1971 ndio missionaries wametufunza mambo ya kulima from 71 tuliletwa kuto logologo tukaletwa hapa mahali inaitwa Songa, mahali nilikwambia kilometer 13 kutoka hapa. Kusema kweli tumelima tukajua umuhimu wa ukulima, tumeleta mahindi hapa, sukuma, nyanya sisi ndio wale wana-supply hizio vitu ama fruits kutoka Marsabit district mzima.

Kidogo kidogo, mimi nitaguzua mambo ya security kwa sababu ni muhimu sana. Kutoka 1992 sisi tulikuja kuleta vitu kama nyanya, sukuma kila kitu kutoka songa mpaka hapa footing kwa sababu hakuna matatu hakuna barabara mzuri, tunaleta vitu kubeba. Sasa kutoka 1992 sisi Warendile tumepigwa kwa hii barabara kuja town. Nafikiri kila mwaka mimi kama councillor ya Songa napoteza watu kumi kwa mwaka from 92 mpaka sasa mimi nimepoteza watu 100. Na kusema kweli ile mlisikia tumepakana na Ethiopia na vile mnajua hapa ni Marsabit kuna Borana, kuna Gabra, kuna Rendile, kuna Burji lakini mimi niweze kusema mbele yako, mbele ya Chariman sisi tunauwawa na jirani yetu ya hapa tu. Wengine kutoka Ethiopia na wengine kutoka hapa hapa area hii tuko pamoja. Mimi nataka serikali itupatie security ya kutosha kwa sababu kama mimi kilometer 13 kutoka hapa na from 92 ningeuawa hii ni kama kusema serikali ya Kenya haichungi watu wake na ni kama sisi tunaweza kusema serikali hakuna. Kwa hivyo mimi nataka security ya kutosha tupewe.

Ingingine mambo ya wild life – wanyama. Wanyama wote wanaishi pande hii Warendile wanaishi na watu kutoka mbali wanakuja kuuu wanyama huku kwetu. Na hawa wanyama tunajua ni wetu na kesho ni faida ya Kenya. Serikali ichunge wanyama, at the same time wanyama wanaua mali yetu na hakuna compensation yeyote tunafanyiwa. Leo mjumbe akikosa kidole moja serikali ya Kenya inalipa shilingi 50,000 lakini binadamu ama miti ikiuwawa hatuwezi lipwa hata shilingi moja. Kwa hivyo tunataka

maisha ya wanyama na maisha ya watu wetu tukikosa kwa sababu ya wanyama ya serikali ama wanyama wetu tufanyiwe compensation.

Ya pili tuna watu wetu wanamalizwa na mines hapo area ya Sorulibi wanamalizwa hakuna. Serikali kutoka wazungu wanakuja kufanya training yao hapa na watu wetu wengi wanawacha mine hapa na mine inaua watu na watu wengine saa hii hawana mkono, hawana mguu na hajawai kulipwa na hii ni serikali kutoka nchi ingine wanakuja kufanya training hapa na watu wetu wanakufa inaonekana. Serikali ya Kenya wanaangalia training ya watu wengine kuliko watu wa Kenya. Kwa hivyo mzuri wale watu waondolewe hapo na wale watu wetu waliumia wafanyiwe compensation. Borota location Bwana DC vile KNUT walisema.

Borota location sisi tunataka Chairman wa Borota location na DC, clerk na secretary na kuna corruption ya land inaendelea na mara nyingi wale wananchi walituchagua wanasema councillors wanauza ardhi. Si sisi ndio tunauza ardhi, DC, clerk wale members ndio wanauza ardhi. Kama sisi ndio wananchi wametuchagua kuchunga ardhi yetu wacha Borota location committee ama mambo ya ardhi ikuje kwa full council sisi tupatie plot watu wetu sio watu kutoka nje.

Bwana Chairman, kidogo tafadhali, mambo ya forest. Kuna mahali hapa Karara ama Songa ama katikati ya Songa na Karare ama kwa district tunaelezwa ni corridor ya wanyama ni mahali wanyama kutokea ama kuingia na pengine kilometer 13 tunaabiwa ni corridor ama mlango ya wanyama kuingia na kutoka. Bila kuongea na wananchi, bila kuongea na county council, bila nini KWS wanakuja kusema hii mahali kutoka hapa mpaka huko ni yetu nyinyi msilime, nyinyi msijenge, nyinyi msifanye maendeleo yote. Hii ni kuonyesha ardhi si ya wananchi, au si ya county council ama si yangu ni ya KWS. Hio sheria iondolewe KWS kusema kuna corridor ya wanyama na wanyama yao hazuiwi kutoka na sisi.

Yangu ingine tafadhali unipatie kidogo tu. Mambo ya livestock marketing. Saa hii madam alisema tulienda kila mahali na tulikula nyama hakusema tumekula maharangwe. Saa hii mfano wewe umesema sisi tulienda kila mahali na kila mahali tulienda tulikula mbuzi tulikula nyama na hio nyama tangu umekula mpaka saa hii kwa Kenya hakuna market kwa Kenya mzima. Na hii ndio wanyama wewe mwenyewe saa hii ukikula githere utasema sijakula lakini ukikula nyama unaondoka kwa furaha. Tunataka hio wanyama wetu wapate market ya kutosha na wapate market kwa hapa karibu kwetu. Kwa sababu kama coffee ya Kenya, kama majani ya Kenya iko mbei kwa nini nyama hakuna bei na sisi jambo yetu, title deed yetu, kila kitu ni wanyama. Tunataka serikali iangalie mambo ya wanyama.

Barabara niongeze kidogo, Bwana Chairman, wakati wa El nino sisi from here to Isiolo tunalipa shilingi 2,000 kama huwezi lipo shilingi 2,000 huwezi fika Isiolo. Na hata juji juji wakati wa mvua hatuwezi kufika Isiolo bila kulipa hio na hapa unaona hakuna bus kwa sababu ya barabara mbaya. Na vile ulieza ile serikali maskini kabisa na kama kutoka hapa mpaka Isiolo mtoto wa shule hata ni ngumu sana kupata karo kutoka kwa wazazi na analipa kwa lorry 2,000 na ako juu ya mbuzi na tena bado shifta anapiga hii ni kusema serikali yetu haituungalii hata kidogo.

Bwana Chairman ya mwisho. KPR ni muhimu, mimi kutoka Songa kama sio KPR Songa ama Karare ama wapi imekwisha. Kwa hivyo KPR yule anatesa KBR iondolewe bunduki pengine ni lengo ya kufanyia sisi mambo ingine. KPR wakae na KPR inawezeka hata wapatiwe allowances wangaalie shida yao wapate training, wajue kazi yao at the same time waangaliwe shida yao. Nashukuru DC kwa sababu kutoka amekuja kidogo amesaidia KPR. Asante sana.

Com. Okoth-Ogendo: Tafadhali utueleze yale mambo ambayo unataka tufanye badala ya kutueleza shida peke yake. Unataka nini hasa sheria tuandike ili iweze kukufanyia? Fatuma aki-represent another group inaitwa Balkach Bari Group.

Fatuma Abdul Kadir Adam: My names are Fatuma Abdul Kadir Adam I am representing Balkach Bari Support Programme.

Translator: *Fatuma Kadir anaakilisha Balkach Bari Support Programme*

Fatuma Abdul Kadir Adam: which is in place to accelerate the education of girl child and advocacy for the right of a girl child in this community.

Translator: *programme hii inashugulika na mambo ya elimu ya wasichana au watakuwa advocate kwa shuguli yote ya wasichana.*

Fatuma Abdul Kadir Adam: So to start with I will touch on the restrictive culture in the pastoralist community.

Translator: *Ataanza na mambo ambaye kuzuia mambo ya normadic watu wanormadic*

Fatuma Abdul Kadir Adam: The pastoralist culture has taken a girl child as second class human being more or less we are not treated as equal with our male counterpart.

Translator: *Watu hawa wa normads wasichana na wanaume, wasichana wanakuwa hawangaliwi vizuri wasichana wanachukuliwa kama second msichana mambo ya elimu mwanaume ndiye anapatiwa nafasi wasichana hawangaliwi sana.*

Fatuma Abdul Kadir Adam: So the first thing I would recommend is the Constitution should empower the women and the girl child the community should take the girl child as equal to their male counterpart.

Translator: *Kwanza Abdul ana-recommend elimu ya msichana iwe sawa na elimu ya msichana.*

Fatuma Abdul Kadir Adam: Then the second thing I will touch on the right to property and land ownership.

Translator: *Nitazungumza jambo la pili ni mambo ya haki ya msichana mambo ya uridhi ama mambo ya ardhi ama ya mali.*

Fatuma Abdul Kadir Adam: Although the Constitution has provision to land ownership and also there are other provision in place empowering women to own property the community in those places we don't own anything because of the culture.

Translator: *Hata ingawa sheria ya Kenya inasema mwanamke ama msichana ako na haki ya kurithi kitu fulani, mila ya kwetu hapa wasichana ama akina mama hawana haki ya kurithi kitu fulani.*

Fatuma Abdul Kadir Adam: So more or less rather this particular moment we are suffering double discrimination both as a minority and also as women.

Translator: *Hapa kwetu tunaumia kwa njia mbili kwanza tukiwa watu wachache na tena kama akina mama, wasichana tunaumia, tunaumizwa, mila inaatumiza.*

Fatuma Abdul Kadir Adam: We should be entitled to own land like our male counterparts.

Translator: *Hivi basi wasichana ama akina mama lazima turuhusiwe turidhi kama wavulana wenzetu, mandugu zetu tuwe na uridhi sawa na wavulana.*

Fatuma Abdul Kadir Adam: I will put it into Borana (*Dirro nuulen daal issaan irra feen kaa lloonile kallaafale*). The other factor I will touch on is on citizenship.

Translator: *Jambo lingine ambaye ataguzia ni mambo ya uraia.*

Fatuma Abdul Kadir Adam: The Constitution in Kenya does not allow or okay more or less it allows the women you have the right to citizenship but once you marry a man who is not a Kenyan your children will suffer and even the man himself it will take him a long procedure to get citizenship. So what I am requesting the Constitution to have in place is the procedure should be more or less the same, if I a male Kenyan can have right to marry a woman from another country then a woman from Kenya should have a right to marry a male counterpart from any other country and the procedure should be the same.

Translator: *Yeye anapendekeza kuwa kama msichana Mkenya ameolewa na Mu-ethiopia ama Mu-ethiopia*

mwanaume wa Mu-ethiopia aoe msichana wa Kenya basi yote ihudumiwe sawa hakuna haja ya kusema huyu sio Mkenya ama nini.

Fatuma Abdul Kadir Adam: And this will go down on the ground with the problem of the refugee are suffering Diriib Gombo and what you heard yesterday. This problem would not have been there if the system recognized also women can have the right to citizenship and their children, it should not follow the male lineage.

Translator: *Akina mama pengine hata watoto hawataumia kama pengine yale ambaye Commissioners wamesikia ilivyoko jana watoto pia wapate haki zao kama wamezaliwa hapa wawe Wanakenya.*

Fatuma Abdul Kadir Adam: Then something else I will touch on is the right to retain children after divorce.

Translator: *Yale ingine ambaye ataguzia ni mama awe na haki ya kukaa na mtoto baada ya kuachwa na bwana ama bwana ku-divorce.*

Fatuma Abdul Kadir Adam: There is a convention in place on the right of a child and what should be paramount is the interest of a child and not the male dominant issue and the interest of the male in the community. What should be considered is the interest of the child and if it is good the child should be with the mother the child should go with the mother not only with the male.

Translator: *Ikionekana kuwa ni mzuri mtoto awe na mama, mtoto awe na haki ya kukaa na mama ama ikionekana kuwa mtoto anafurahia kuwa na baba, mtoto awe na haki ya kukaa na baba.*

Fatuma Abdul Kadir Adam: Chenye nasema ni kwamba kama mwanamke ame-divorciwa ama amewachwa na bwana, mtoto wake si lazima aende na baba lakini kama huyo mtoto ako na furaha na interest yake inaangaliwa na mama vizuri abaki na mama si lazima aende na baba. *(Ijjoollen taa aabbootinit nuulen haaqqi irraa inqqaamn aakh hawani)*

Com. Okoth-Ogendo: Please summarize.

Fatuma Abdul Kadir Adam: Let me just finish, I will touch on the discrimination women are suffering in the hands of the law. It is not only in the Constitution but also the culture is discriminative against the women.

Com. Okoth-Ogendo: Are you through?

Fatuma Abdul Kadir Adam: Let me just finish. Discrimination (*Discrimination dirro dhaabba naadden aadha kenya caallani aadha boorant, aadha woorra llooni yaahu, aadhaan tuun nuu imbuulcitu discrimination taan nuurra laakisa dhaabb kaan nuurra laakisa*) There is a convention in place for elimination of all forms of discrimination against women. That thing will take years to reach us because the Constitution itself has failed to reach the people because right now we don't have the right of education even consent in marriage it is decided by the parents.

Com. Okoth-Ogendo: (inaudible) You as a convention

Fatuma Abdul Kadir Adam: Yes it should be rectified in the first place if it has not been rectified and the provision should apply to us accordingly.

(inaudible question/comment)

Fatuma Abdul Kadir Adam: Article 13 says what, I am not very sure about it. Let me just put in my final point and the last one is on economic and social cultural right of the community. This one touches on the right of individual existing in a social more or less the pastoralism and it will recognize the pastoralist way of life. So the Kenyan Government should in the first place rectify that convention I don't think it has been rectified. The (inaudible) so it should be rectified and the needs of the community will be taken care of and once it has been taken care of then we can also have mobile schools for the girl child, for the male counterpart and everybody else I think. And that is it.

Com. Okoth-Ogendo: Thank you very much.

Con. Ndenge Wario: Asante Bwana mwenye kiti kwa jina mimi naitwa councillor Ndenge Wario. I am a nominated councillor. Ningependa kujulisha ama nijulishe Commission yako kwa jumla ya kuwa 80% ya watu ambao wanaishi katika hii district wanaishi na hali ya kuuza mifugo kwa kutegemea hali yao ya chakula, ya shule, ya hospitali vifaa yao yote wanaishi kwa kuuza mifugo na hayo mifugo ama industry ya livestock kwa jumla iko katika hali ya shida na hawa jamii pia iko katika hali ya hatari. Kwa sababu sheria ambaye ilikuwako haikuweza kutambua hawa wenye mifugo na mifugo yao pia.

Vile mnavyojua shida ile tuko nayo ya kwanza ni ya kuwa sungura na nyuki imejulikana kama livestock lakini myama ambaye anaitwa ngamia mpaka leo hajulikani kama livestock. Pia sisi jamii ambayo tunaishi hapa tumepewa jina ya kuambiwa ni jamii ya kuhama hama wasio kuwa na makao na imefanya watu wengi kutamani ardhi yetu. Na ningependa ku-recommenda kwa hii Commission yako ya kuwa sisi pastoralists tutambuliwe pamoja na livestock kukiwa na national policy ambayo inaangalia livestock kwa mfano Livestock Authority ama Livestock Board fulani itengenezwe ambaye inahudumia watu ya pastoralists. Pastoralists wapewe katika sheria mpya waweze kupata vifaa kama maji, barabara, dawa ya watu na pia ya wanyama katika area ambayo ni ya grazing land. Na pia watu ambao wanaitwa pastoralists huwa wanaangalia ardhi kama wealth yao kama land

and livestock is their wealth na wanaishi kwa hiyo ardhi ambayo inakuwa na nchi, wanyama na jambo yote hapo juu na shida ilioko ni leo katika nchi hii yetu sheria ambayo ilioko ya physical planning ambaye ni ya mining act ambaye ni trust land ambaye ni wild life act pia haina haiangalii kwa maanani shida ya watu wa livestock. Kwa hivyo DC, clerk ama physical planner hawa watu watatu wanaweza kukaa na wagawanye ardhi vile wanataka. Hio ni kumaanisha kuwa watu wa livestock hawana ile wealth ama ile ardhi yao ikiwa intact iweze kuwasaidia.

Kwa hivyo tungeuliza hii Commission waweke katika Constitution mpya ya kuwa ile trust land act, Government land act, wild life act, mining act, physical planning act, act hii yote ibadilishwe ikuwe iitwe communal common resource act jambo ambaye iweze kusaidia wale watu ambaye wana-deal na land iwe directly under community. Community iwe inaweza kusimamia hiyo ardhi.

Wanyama wa pori pia watu wetu wa hapa wanahesabu kama heritage na tunaona ni lazima watu hawa wasaidiwe sababu tuko na shida ya parks, ambayo ni parks nyingi katika wilaya hii tuko na Marsabit National Park, tuko na Marsabit National Reserve, tuko na Losai Game Reserve, tuko Sigiloi National Park, tuko na Koobi Fora National Park, tuko na Southern Ireland National Park, hii park yote imechukua karibu nusu ya ardhi ya wale ambao wanakuwa na wanyama ya patrolist. Na parks hizi zote zinakuwa na maji na hapo ndipo kunakuwa na national pasture na yote tumenyanganywa na tunataka ku-recall katika new Constitution ya kuwa yote irudi chini ya community hapa.

Na pia hali ya madini kule chini, mtu yeyote anaweza kutoka na barua mahali popote anaweza kuja hapa kwa county council aulize aseme anataka kwenda kuchimba madini. Na tunakataa katika Constitution mpya tunataka watu wa huko huko wale wako wapewe permit ama access to those mining process.

Pia katika sheria ya leo tunataka system ya majimbo ambayo kutakuwa na upper and lower house ambayo inakuwa na regional states ambaye inakuwa na regional assembly, ambaye pia inakuwa na regional public service. Haya tunaulizia kwa sababu tunataka devolution of power, power itoke kutoka Central Government irudi kwa mkono ya wananchi. Wananchi pekee ndio waweze ku-run their own affairs kwa kila njia mwananchi aweze kuhudumia ama kujihudumia.

Pia tungeweza kupenda tukiwa pastrolists sisi authority ya ku-share power within the central system tuwe tuna haki ya kushare power na pia tunaomba so as to reduce power ya central authority.

Jambo lingine tunasema ya kuwa hii haki ya ardhi ya wildlife, ya water, ya minerals ni jambo ambaye tumepewa na Mwenyezi Mungu na itakuwa vibaya kwa mtu yeyote atoke kutoka nje atuchukulie hizi vitu vile sisi watu wa wilaya hio ama area hio kufaidika kwa chochote. Kwa hayo machache nashukuru nafikiri.....

Com. Dr. Swazuri: SDA, Seventh Day Adventist Church.

Dickson Kateti: The Chairman, the Commissioners, ladies and gentlemen, my names are Dickson Kateti a representative of the Seventh Day Adventist Church. To begin with recalling since the Pioneer Missionary Year of 1906.

(inaudible interjection from the chair)

Dickson Kateti: Okay. Katika representation yangu niko na a few recommendations and some comments and I will basically dwell on three major areas. The first area depends on the Adventists comments and recommendations on recognition of the divine authority and Constitution governing the great universe around and I would like to recommend that recognition of Supreme and divine authority and the ruler of the great universe around. Kwa lugha ingine ningetaka kuelezea jinsi ambavyo sisi kama wanadamu tungeweza ku-recognise our creator as the only Supreme authority.

Recommendation two – Ingefaa tukaweze sisi kama wa-Adventist tungependekeza ili Constitution ikaweze kuangalia hili jambo moja kuuda taifa litakalokuwa taifa la kumcha Mungu.

Recommendation number three – Ni recommendation ambayo inahusu recognition and acceptance of the ten commandments as basis of earthly Constitutional guidelines. Ninaamini ya kwamba kila mmoja wetu hapa anajua sheria tulizo nazo na zinazounganishwa hata taifa letu la Kenya zinatokana na sheria kumi ambazo Mwenyezi Mungu aliweza kutupatia.

The second basic point dwells on recommendations on the basic human rights and the and freedom. Haki na uhuru wa sisi kama wanadamu and that is recommendation number three ambayo inahusu Katiba yetu ya Kenya inge-formulate sheria itakayo hifadhi maisha ya mwanadamu ama maisha ya kila mwanaraia wa Kenya.

Then recommendation number four ambayo iko chini ya hiyo uhuru na haki ya mwanadamu – the right to private and family life, kama kwa mfano tumeweza kujadiliana na tukaona that the Constitution would guarantee the right of men and women of marriageable age to marry and to raise children. Ya kwamba taifa letu linastahili kutoa Katiba itakao linda hawa wananchi.

Then recommendation number five – on the same topic is on the freedom of thought, conscious and religion. Sisi kama wana raia tunaona ni vizuri na kama wanaadventisa tukaweze kupatiwa uhuru wa kuweza kuwa na haki ya kutoa mawazo tulio nayo, hizia tulizo nazo na ndiposa tukaweze kuona ya kwamba taifa letu linatujali kwa njia inayofaa.

Then we have recommendation number six, the right of assembly. Hapa napendekeza hivi that such freedom shall be subject to restriction established by law especially in reference to interest of national security, public safety, or public order or to protect public health, or morals or the rights and freedom of others.

Recommendation number seven – freedom of association. Pardon.

Com. Okoth-Ogendo: How many more do you have because we can (inaudible). Just give us the most important.

Dickson Kateti: Tuko na Freedom of association then we have the Right to receive justice and defend and be defended before the court of law then number three, that is the third basic issue dwells on religious liberty and free exercise of the Seventh Day Adventist faith as a religion. Na hapa ningetaka kusema something to do with, in the past we experienced some kind of intolerance kind of treatment from either the private sector or from the Government sector and therefore kwa sababu hiyo we have some measures of oppressions which are summarized below na hizo ni kama denial of equal employment to the Adventists. Ati kwa sababu wao ni wa Sabatu na wanatunza siku ya Sabatu hawastahili kuajiliwa katika sehemu zingine na kwa hivyo wengine wanapojiriwa na wakisema their faith wanakuwa pengine wanasimamishwa kwa sababu ya jambo kama hilo na kwa hivyo wanakosa kazi kwa sababu hio. Just because of their faith.

Jambo lile lingine linahusu denial of Adventist students equal opportunity in worshipping God ati kwa sababu wamekuwa katika shule mahali ambapo pengine they are the minority ndio wachache unapata hawapatiwi nafasi ya kuweza kuendeleza imani yao.

The other thing – denial of Adventist student equal opportunity in the use of facilities in schools and colleges for worship on Sabbath Days.

Halafu jambo ingine denial of equal opportunities during bi-elections kama unapata wakati mwingine kama ni elections zinawekwa siku ya Sabato mahali ambapo waumini wetu

(Inaudible interjection)

Dickson Kateti: Asante nitamaliza, ambapo waumini wetu hawapati nafasi ya kuweza kwenda kupiga kura. Denial of Adventist Church opportunity to preserve the sacredness of the Sabbath days.

Then recommendation ile ingine ni recognition of the basic principles of religious syllabus and free exercise of the Adventist faith.

Kumalizia what the Constitution should say of religious liberty and free exercise of religion. Ni ya kwamba in harmony with the universal declaration of the human right article 18 of 1948 the Adventists recommend that the next Kenyan Constitution should declare every one has the right to freedom of thought, conscious and religion. These rights include freedom to change his religion or belief and freedom either or alone in community with others and in public or private.

The other point in harmony with the United Nations International Human Right convent of 1981, the advents recommend that in the next Constitution it should be declared it is the responsibility of the state and the Government in power not to interfere with

the affairs of the church and other religious bodies unless there is action that violates the rights and freedom of others or fail to meet the just requirement of morality.

Com. Okoth-Ogendo: Thank you very much.

Then the last recommendation (inaudible) thanks.

Said Shute Lika: Hamjambo wananchi (in vernacular) mnasikia nja? Commissioner, habari yako sijui jina yako jina langu naitwa Said Shute Lika.

Com. Okoth-Ogendo: Hii ni mikutano yangu.

Said Shute Lika: Habari yako Chairmana? Mimi nasalimia nyinyi, nashukuru serikali yetu tukufu na tuma nyinyi hapa.

Com. Okoth-Ogendo: Jina?

Said Shute Lika: Shute Lika mzee wa miaka 80. Said Shute Lika mzee wa miaka 80. Mimi kitu moja ajabu kwangu askari, Kenya police, jeshi, AP hii watu wa game wako, KPR nashika bunduki G3, haya home guard G3, police G3 je namna gani inakuwa sawa moja hiyo.

Ya pili nashukuru kama binadamu inauwawa kutoa ng'ombe kumi hio iendeleo mpaka mwisho. Kwa binadamu kulipizwa ng'ombe kumi ni sawa ndio wataogopa, ng'ombe mia moja hapana hapa Marsabit peke yake after Rift Valley afanywe, mbona Kenya ni moja tu Bwana DC apewe askari. Kenya ni moja mtu anauwawa Rift Valley zaidi anakufa pande ile sisi hatuwezi pata ng'ombe mia moja ipitishwe ikuwe sawa, level moja.

Nashukuru serikali ya mission yote na Islam wanajenga shule, serikali haijengei sisi. Tangu sisi tulipata uhuru mwaka sasa 38 hakuna kutu inatendeka kwetu. Barabara ile Mwingereza aliwacha hata sasa ni hio tu mimi iko mtu mmoja anasema barabara ingekwenda na mguu hii ingekwisha kabisa ingewacha mguu barabara hii. Corrogation, shimo, isitoshe mimi nasema homeguard KPR ni mzuri wanyama wanakwisha twiga hakuna, swara hakuna, punda milia hakuna inakwisha. Mbona hawa wanyama inakwisha na nyinyi mnawapa KPR bunduki hii ndio kitu moja mbaya.

Haya watu wengi wanasema oh, ng'ombe sisi hatujapata bore hole pahali iko nyasi ama damu pahali iko nyasi ngo'ombe inakwisha kwa wingi, ngamia inakwisha, mbuzi inakwisha. Tunahama mpaka Ethiopia kukosa nini maji hakuna katikati. Serikali tukufu ichimbe maji kwa wananchi ile maji sisi tunatumia hapa ile zamani Wingereza anatenga hakuna kitu imeongezeka hapa kwetu hata kutoka hapa mpaka Moyale huwezi pata maji borehole iko moja hapa kupita hakuna ingine.

Haya Commissioner tafadhali kwenye iko nyasi lazima kitu kinamea, makonge inamea, pamba inamea, mbona serikali ya Kenya hapana fanya hii. Nchi ya Waarabu, wanaleta maji pahali ingine inafanya nini. Tena mtu kuiba mimi hapana kuiba kijana anaiba anakosa kitu ya kukula anaiba, hapana haki ya kufunga yeye, tafutia yeye kazi, hapana funga tu jaza jela. Akitoka ataiba tu hawezi wacha sababu hakuna badala ya kufa anaiba kwa sababu kuna ardhi yetu ya Kenya ni kubwa na watafuta kutoka hapa Isiolo yote mpaka Wajir kunaweza kua chakula. Pamba inaweza mea, zabibu inaweza mea kila kitu inamea kama Mombasa vitu iko mingi. Hakuna kitu inatendeka kutoka Isiolo pande hii watu wanaangalia wanangalia hapana angalia sisi. Kutoka Wingereza waliwacha sisi hapa tuko hivi tu hakuna kitu kinaongezeka.

Ng'ombe hakuna ruhusa ati usiku inakwenda mchana tu akishikwa basi sasa mpaka wewe unanyorosha. Kwa hivi tafadhali usiku na mchana uende vile mwenzangu anasema hapa nyama inapelekwa huko sisi tunachinja.

Ya mwisho ni mbili tu inabaki, moja vitu ya serikali ya Kenya wauze auction hapana uza kwa magendo. Iuzwe kwa auction ipitishwe kwa sheria, kitu ya serikali yote hata shidano ifanywe auction. Mberia kutoka Moyale mpaka Isiolo iko 17 police wamesimama, nauliza uhuru iko hapa? Hapa hakuna uhuru kweli, hatuna uhuru. Unasikia wanasimama tu tena hawezi wewe unaingia watoto wana njaa.

Mwisho kweli kama napenda sisi kutoka Isiolo hakuna kupanda kitu. Mwisho Mungu ameleta mvua tunapata mahindi hakuna market unakaa nauza kilo moja shilingi tatu nne. Mnaweza kulipa sisi kweli? Mimi naomba kama nyinyi kweli mnaangalia haki barabara yetu mtengeneze tupate bus inakwenda huko nini.

Mwisho ninasema mimi wafanyi kazi ya serikali wasiweke duka, biashara wakae kama wanataka kazi hio wakae. Sawa kwaheri.

Abdul Rahaman Konchore: Bwana Chairman kwa jina mimi naitwa Abdul Rahaman Konchore.

(Inaudible interjection from the chair)

Abdul Rahaman Konchore: Na mimi ni chairman wa Marsabit Ideginous Knowledge, Research and Development Group. Mimi nafikiri ninaanza na power ya President – Mimi ninaweza kusema ya kwamba President ingestahilika kwa hii Constitution kunyanganywa power kadhaa kwa kadhaa kwa sababu mara kwa mara naona President anasimama mbele ya umati ya watu na kuongea uongo. Bwana Chairman naweza kukupatia mfano mmoja ama mbili hivi.

Kuna 1987 wakati President alikuja hapa kwa campaign akuje kuomba kura alikuwa amesimama mbele ya umati hapa akasema ya kwamba wakati Hon. J.J. Falana aliomba mambo ya barabara alisema hio barabara itarekebishwa ambayo

haikurekebishwa mpaka dakika hii. Kama kungekuwa na sheria ambao angekuwa chini ya sheria tungekuwa na namna ambalo tunaweza kupeleka yeye kotini kwa kustakiwa kwa kuongea uongo kwa umati. Kwa hivyo mimi ninasema hii kwa mara ya pili tena alitangazia Kenya nzima kwamba masomo ya primary school itakuwa ni bure na saa hii unaona baada yeye kusema hivyo sijui kama amefikiria ya kwamba hawa watoto wale wanasoma shule wanataka chaki ya walimu kufundisha naye, wanataka vitabu, wanataka makalamu, wanakuwa na watchman ambaye anawachunga, wafanyi kazi wale wandogo dogo huko chini sijui kama amefikiria halafu akaona hio uwezo wote ataichukua ili watu wasipate namna ya kulipa ama ameifikiria tu kuongea kusema hii ni siasa wacha aongee namna hii. Kama tungelipata hio angekuwa chini ya sheria tungepata namna ya kustaki kwa kutolea sisi uongo kwa sababu mpaka saa hii karo tunalipa. Kwa hivyo mimi ninasema hio ya kwanza ya kwamba hio power ya President iwe reduced awe chini ya sheria vile waraia wa Kenya wako chini ya sheria.

Pili, ya pili ninasema juu ya wale watu ambao wamepigania uhuru wa nchi hii ambao ni kama wa Mau Mau. Hawa watu wengi wao nikitaja kama mama yangu hasa mpaka saa hii ako kitandani kwa sababu hana akili timamu kwa sababu ya kupigwa na Mabebetu kwa kichwa akaumia huko dani hakujua namna ya kujipeleka hospitali na kadhalika mpaka akaumia mpaka saa hii anakaa namna hio. Hakuna serikali inamsaidia hakuna kitu yoyote au usaidizi wowote anapata kutoka kwa upande wa serikali na serikali ilisema katika Constitution ya kwanza atachunga kila raia yote maisha yao yote maisha, afya, masomo na kila kitu. Kwa hivyo ninasema ya kwamba Bwana Chairman nataka kama serikali itaangalia haki ya mtu haki ya hawa watu walipigana haya matunda ya uhuru ambayo tunaangalia saa hii iangaliwe.

Inginge Bwana Chairman ninaongea juu ya vijana – juu ya mambo ya sports. Mimi naona kati ya Com. Dr. Swazuris wale waliongea yote sikuona mtu yeyote ameguza upande wa sports na upande wa sports sisi tuna vijana wale wako na afya kama ya kawaida ya wale wananchi wengine wa Kenya. Na sisi pengine wengi wetu hata katikati yetu hapa kuna wengine hata wanaweza kukimbisha swara halafu hata akimbishe swala ashike na huyu mtu hana namna kwa sababu hana namna serikali inaweza kushikanisha hawa watu wapatiwe nguvu. Mtu anaweza kuajiriwa si kwa kalamu peke yake hata mtu anaweza kujaliwa kwa upande wa physical fitness. Kwa hivyo Bwana Chairman hiyo ni moja na ya mwisho.

Mimi ninasema ya kwamba Wabunge wanajiongezea mshahara wanajipatia pension na hawakuangalia masalahi ya wale watu ambao wanawakilisha. Mimi ninapinga vikali na nataka iwekwe kwa Constitution ya kwamba mpaka mtu achaguliwe kwa mara ya tatu, ama mara ya nne mambo ya pension iwekwe kando kwa maoni yangu na ni hayo tu.

Dr. Paul Goldsmith: Let me briefly explain why I am here. I was one of the organizers

Com. Okoth-Ogendo: Tell us who you are.

Dr. Paul Goldsmith: Dr. Paul Goldsmith.

Com. Okoth-Ogendo: You think I know you?

Dr. Paul Goldsmith: You do know me indeed. And I know you. I was one of the organizers I think it was the first meeting to discuss council issues here in Marsabit, so I am sitting here not in the capacity of giving a view but just to try very briefly to summarize I think the issues presented at that workshop. So let me just jump into it I won't take much of your time especially of people here. I think the primary concern of people here even with the idea of Constitution or even with the present Constitution, I feel very much disempowered or unable to enforce a Constitutional right or measures. This is a century

(inaudible interjection)

Dr. Paul Goldsmith: Nitatafsiri mimi mwenyewe. Wajua tulikuwa na kikao hapa hivyo, Kiswahili ndio?

(affirmation from the public)

Dr. Paul Goldsmith: Kama kuna watu wengine wanajua wako hapa sisi tulikuwa na kikao hapa ambacho kilizungumza mambo ya Katiba. Nataka kuzungumza maneno mengi mengi kuna maneno kadhaa ya muhimu ambapo inajumlisha mambo mengi dani yake. Na la kwanza ni hilo. Watu walisema kulingana na Katiba ambao tunayo sasa na hata ile ambayo itarekebishwa sisi ambao tunakaa mbali na tuko nyuma kwa mambo kadhaa ki-elimu na mambo kadhalika hatuna namna ya kusimamia ile Katiba. Kwa kimombo mambo yenyewe na moja katika hao MaCommissioners ameanzisha makala juu ya mambo hayo yaitwa Constitution Review. Kwa hivyo neno lenyewe watu wanahitaji namna ya kujisimamia katika maneno ya Katiba yenyewe. This is the issue of mechanism and access to the Constitution. There is a lot of things that follow with that. This was very very strong because I know what I am talking about.

The second issue I think is best summarized as a right to life. Ni watu wamekaa sehemu ni kama maisha yao haina dhamani kama wenzao. Hii ni kitu watu wazungumza mara kwa mara, mimi najaribu kutoa maneno yenu kusema kwa kifupi. Kuna ile haki ya uhai na kulingana na maneno mengine ambao watu husema ya mazingara na miti na wanyama wa porini, hio haki ya uhai sio ya binadamu peke yake. Kwa hivyo hii ingine.

Kusema nitasema maneno mawili tu ingine. Katika mambo ya kusimamia kutandaza Katiba kuna maoni kama vile councillor Ndenge alisema kujumuisha (inaudible) mbali mbali kuweka kitu kama economy resources. Hii ni mara ya kwanza kusikia kitu kama hio na nafikiri kuna manufaa fulani na manaake hata mtu mwenye elimu nyingi na hata kwenye watu wa serikali wenye kusimamia hawajui watu hawa hawajui hata civil servants nini mambo hupotea kwa hivyo usiseme kwa kimombo use your friendly Constitution. Wajua Katiba ya South Africa kuna kurasa sijui ni 600, 700 karibu sio? Kwa hivyo naona kwa hapa Kenya watu wa Kenya ni watu wako na akili nyingi na creative na mambo kadhalika. A very usual friendly Constitution where may be things like this come in resources act to provide the mechanism for better access badala ati mimi nimeingilia upande wa

kilimo na ni sheria nyingi sana.

Kitu cha mwisho ndani ya akili yangu mwenyewe lakini kulingana na maneno yake, mimi niko katika hayo mambo ya Marsabit na nini na watu husema by administration powers majimbo na maneno kadhalika na watu wanalalamika upande wa parks. Mimi nachukua mfano wa kutoka nchi moja ngambo huko mbele ya bahari mbili kutoka hapo mimi. Kuna national park na huwezi kuona kitu kama district park pia ambao wananchi wenyewe hakuna namna ya kumulika Marsabit. Lazima iwe juu, sasa tukisema majimbo ina maana tofauti wengine wanatia moto lakini if you agree ile njia za kuwekelea mahitaji yenu hii ni moja tu that is practical mechanism of involving of sub-reality from for management of resources. District wakitaka kuweka mahali fulani ati ni reserve you wait district park kazi rahisi. Asante sana.

Com. Dr. Swazuri: Dika Jile.

Com. Okoth-Ogendo: Endelea Dika (inaudible)

Dika Jile: Itakuwa fupi sana. Juu ya KPR to be armed. I think this is under rating the Government, when it is to be armed one has a right to ask for protection from the police. You can call they have fears they can call OCS to come and guard their house or guide them. I don't see the reason why one has to be armed, therefore however for the sake of denial of right to say they should demand for the police to come and consult them but not the question of arming.

Now I am going to my next question, elephant named (inaudible) I was at the seen Mr. Commissioner at the time of the shooting of that animal. That was at the Karara 24 kilometres from here. Thereafter after the incident was reported the late Mzee Jomo Kenyatta offered a protection decree. Now since it originates from this area my request is it should be returned to this area so that it earns the revenue or whatever revenue it shall earn as long as it remained in this area should be shared to Marsabit. And human life is something very precious is not to be wasted. Hapa inasemekana ni ng'ombe mia moja, what is mia moja, something very precious. Nafikiri to be hanged anayeuauwawe pia that should be that. Human life is something very important.

Lastly, Ahmed is one of the names of our prophets. His name will not be put on either animal. Our silence in Kenya to that is not an indication that we accept we Muslims it feels our hurting, it hurts our feeling therefore I think this should not be repeated you should put it down (inaudible) and thank you Mr. Commissioner.

Andrew Aira Boru: Mimi naitwa Andrew Aira Boru Secretary ya DP hapa Marsabit.

(Inaudible communication from the Commissioner)

Com. Dr. Swazuri: Those of you who have memorandums you can come here and give them hakuna wakati kuongea. Kama you have a written memorandum just bring it ili kiongozi wa muda amalize.

Com. Okoth-Ogendo: Don't read it, just summarise.

Andrew Aira Boru: Nitajaribu kidogo tafadhali kwa sababu iko kitu muhimu sana very important hata wakati napiga telephone, nilikuwa natelephone kwa Mr. Nani anasema nilizungunza na telephone kutoka hapa mpaka Nairobi. Walisema that point is very nice therefore I want people to hear.

Kitu ya kwanza as far as Kenya is called Kenya because of 43 tribes and Parliament is designed to make these tribes to meet one another to conclude aids for development for Kenya it should be must for all these 43 tribes to have its representative in the Parliament from 210 seats designed for MPs and the remaining ones 67 to be distributed to all Kenyans for election. To do so give tribe like El Molo, Burji to be represented in the Parliament and local Government. Two, to do so it makes more tribes feel that they have independent as other big tribes and have equal rights economically, socially, poritically and other affairs locally on administration side by elected officials.

Central Government and local Government to be separated, a local Government to be empowered Constitutionally to run Government administration from district level of it or politically, socially or economically. Let central Government representative be elected locally by the people to all districts and abolish status of assistant chief to PC level. A post of Chairman of the County Council should be elected by the local people but not by councillors to all districts even that one of mayor as well as Chairman of the Committee and the County Council.

Four, let the local people be empowered to deal with their land at the district level in Kenya but not from the Ministry of lands because of the rate of corruption in the ministry. Despite elected Members of Parliament and council are given term of five years in the office, let the electors be empowered Constitutionally to put any of elected representative out of office with a note of no confidence if any representative does not do the work for the people that see way and properly. Let people be given power to remove once they don't do work for them.

Number six, power of the President to be taken away and given to the Parliament to deal with everything. Benefit for all Kenyans and not the President exercising the power for his province, district and tribe at par in the past. Because in the past when power was given to the President he only exercises it to his district or province or tribes but he forgets other tribes to have employment in high posts.

Let all people be disarmed even if the person is a minister and homeguard be disarmed too for there is no case of emergency let Parliament be formed to support police to enforce laws.

Appointed elders by Commissioner of police to over look enforcement of law as being implemented justly without corruption. Commissioner of Police and armed forces members be appointed through discussion of Parliament but not the President. I say wildlife are not important than human being, let all essential things like water be given to the local people. Animals are backbone for the economy of many districts in Kenya like Eastern and North Eastern. Boreholes, dams should be dug to be given more care on disease. Salary of the MPs be reduced for many Kenyans are jobless. Committee should be formed to view salary of employees as well as the MPs, assistant ministers, ministers and President.

Com. Okoth-Ogendo: Asante sana mzee.

Andrew Aira Boru: Thank you.

Com. Okoth-Ogendo: Jina?

Jarso James: Jarso.

Com. Okoth-Ogendo: Can you please summarize in two minutes. Jarso who?

Jarso James: James. Mr. Chairman because of the wide scope of my paper I would really ask you to give me ample time so as to present my time.

Com. Okoth-Ogendo: Just summarize you have a memorandum just summarize.

Jarso James: Okay. In this particular Review process I think the first and the paramount point of departure that you should take is you should know the nature and extent including the root cause of the crisis that is inherit rate in our Constitution. You can not just describe a particular treatment for a disease which you have not diagnosed. Accordingly in that respect let me give you a brief outline of the trend for agitation for Constitution Review in Kenya. The agitation for this review process can be traced back to the late 1980s and it calmulated from the fact that there was some form of poritical change that was taking place in Eastern Europe at that particular time.

I have said we can trace this back to the 1980s Eastern Europe at that particular time there was some form of poritical reform that was going on that particular region. Kenyans also felt the need that the same should be embraced by the Kenyans. Accordingly they took some measures which I may say were unsuccessful. The first step was to rebuild section 2A

(inaudible interjection from the chair)

Jarso James: I am giving that background because it will support

(inaudible interjection)

Jarso James: But the public do not understand the same.

(inaudible interjection)

Jarso James: Okay I am going over it very quick. Accordingly the repeal of section 2A was successfully undertaken but it did not address the anomaly because at first they perceived our problem as being inherent in the fact that it merely came from our having the wrong men in power. But that was not the problem, indeed the problem was inherent in the Constitution itself that was when the 1997 era witnessed the so called IPPG reforms. Even then the reforms were to a minimum extent and could not remedy the situation that is why this particular reform process was later undertaken. Accordingly, according to me the diagnosis of the problem is in the nature that we have to understand one that our problem derived from post independent Kenya inability to develop a culture of Constitutionality. Accordingly, Constitutionality is one of the defects in our inherent Constitution.

The second defect is the lack of a culture for the respect for protection and promotion of the basic human rights. We find that the Kenyan Government has been notorious for ratifying each and every multilateral treaty in this world yet no effort has been made to domesticate the same in Kenya. Indeed since Kenya is a (inaudible) we very well know that no international law principle can obtain the full force of law in Kenya unless Parliament domesticate the same. Accordingly since Parliament has not done anything no Kenyan can for instance involve any of the provisions of the universal declaration of human rights alongside the 1966 covenant on civil and political rights and the economic and social cultural rights. Simply because the same has no force of law in Kenya. Accordingly, I may say that one of the reform measures that have to be taken is the Constitution should declare the status of international law within the municipal system.

The other thing on the basic human rights we find that there are so many clobber clauses in our Constitution. You find that there is just the phenomena of the Constitution giving with the right hand and taking back with the left hand the same thing that it has given with the right hand. We find that this has indeed curtail the enjoyment of the rights that are guaranteed in the same Constitution. We are told you can have this right provided you do this, you can have this right provided it is consistent with this, this and this. Yet the same has been left in the whims of the Government of the day. The Constitution does not provide for instance you are told that you have the Freedom of association or of expression subject to what is justified in a democratic society.

Com. Okoth-Ogendo: Would you please summarize we have a lot of people who haven't spoken

Jarso James: Accordingly, let me go to the point on Constitutionality. In brief Constitutionalism is an aspect of limited governors. It connotes a situation of a Government of law as opposed to a Government of men. We find that our Constitution.....

Com. Okoth-Ogendo: Tell us what you want the new Constitution to do as you (inaudible).

Jarso James: Mr. Chairman this is what I want. We find that our Constitution does not embody the fundamental principles of Constitutionalism. We confer so much power on the President I am just citing the President as an example not that all the state powers have been conferred on the President alone. We confer so much power on a particular person, institution or body without subjecting the same to sufficient legal checks and limitations. In this respect therefore I propose that the doctrine of separation of powers has to be applied in a way that it is practical and ensure sufficient control of the exercise of state power.

The other thing is on the system of Government – We find that our system is the unitary one. Indeed the same has been alleged to ensure unity in our diversity yet the same has not been achieved. We find that in contemporary Kenya development agendas have been initiated

(inaudible interjection)

Jarso James: Okay, let me say this then, let us ensure equitable and just distribution of our resources. Let the Kenyan resources and development agendas not be ‘nairobisentry’. We find that if it is the Government ministries they are all headquartered in Nairobi. If it is the foreign missions and embassies everything is in Nairobi. If you have to follow up let’s say you are university student you want to follow up your loan you have to go all the way to Anniversary towers. Why don’t we have an Anniversary tower here in Marsabit?

(inaudible communication)

Sheikh Mohammed Noor: Sheikh Mohammed Noor.

Com. Okoth-Ogendo: Sheikh Mohammed Noor?

Sheikh Mohammed Noor: Kutoka Jamir Mosque. Basi hii ni maoni ya Waislamu kutoka musikitini kitu ya kwanza walitoka maoni ni juu ya Kadhi, Kadhi ni lazima awe mwenye mji au mwenyeji aliyejua shida ya hio mji. Kila wilaya iwe na Kadhi wake mzaliwa wa hio mji. Wanawake wajawazito wa Kislamu wakienda hospitalini wahudumiwe na wanawake sio wanaume.

Wafungwa wa Kislamu – Lazima wapewe ruhusa ya kufaa viatu kuingia choo na nafasi ya kuswali. Wafungwa wapewe pahali safi nathifu ya kulala kwani mkojoo ni najisi kwa dini ya Kislamu. Walimu ya dini IRE hawa wanasomesha shule lazima wawe Waislamu wasiwe dini ingine. Pia kutokana na Kadhi, Kadhi achaguliwe na ma-Imaams kote wilayani kisha awe na diploma au awe amefikia kiwango ya university katika elimu ya Kislamu.

Pia maoni ingine ya wasichana Waislamu wapewe ruhusa ya kuvaa hijab shuleni. Na mavazi ya kislamu yakubaliwe kwenye maofisi yote siku yeyote mafasi kama ya council, kofia, buibui na hijab na ipate kuhesimiwa. Kiongozi lazima awe mwanaume sio mwanamke sehemu yeyote kama mfano chief, Bunge, Rais na kadhalika kwani sio mafundisho ya Kislamu kiongozi awe ni mwanamke tunakatazwa na ni upotevu kutawaliwa hasa katika administration wanawake kutawala sisi. Sheria ya Kislamu inakataa ni mzuri watu kujifundisha juu ya dini na kufuata dini.

(inaudible interjection)

Sheikh Mohammed Noor: Nafupisha. Pia katika kurithi wanawake pia wanakubaliwa lakini nusu ya kurithi kwa ile msichana itakuwa nusu.

Maoni mengine Waislamu wametoa ni kwamba juu ya pombe hii tunahalamisha pombe ya shangaa tu mbali pombe inakubalika kwenye mabar yote inafaa kuwa haramu. Pia vile vile ipatikane uhuru wa kuabudiwa hasa katika mashule na kokote kwa sababu mashule zetu zingine inakubali Mungu fulani lakini sio Mungu mwingine. Sio lazima mtoto akiwa Muislamu lazima abudu vile Mkristo inavyotakikana.

Pia Idd-UI Fitri na Idd-UI Aha yote iwe public holiday. Ya mwisho kabisa Waislamu wasichukuliwe kuwa ni hatia wakiwa wanatairi watoto wao. Hii jambo ni (inaudible) hii jambo ni (inaudible) kutairiwa nadhani sijui kizungu lakini kutairiwa ya wanawake tunafahamu isiwe ni hatia kabisa kama vile Rais anavyosema ni hatia kutairi mwanamke si hatia kwa dini ya Kislamu.

Na tupatiwe uhuru ya kutairi watoto wetu naye ni suna ambayo ni yenye faida. Basi asante sana.

Hassan Ilchagi: Hassan Ilchagi. Bwana Chairman sina mengi ya kusema kwa sababu yangu mengi yamesemwa nitapitia ku-summarize juu. Kitu la kwanza mimi ni kutoka area ya Karare na nafanya na local NGO. Kitu ya kwanza Katiba ya kwanza ile tunakuja kurekebisha hata hatuelewi ni nini tunarekebisha sababu hatujui tunasikia tu. Iko masheria tunasikia tu lakini hatujui maana yake, kama Security Act, Agricultural Act, Land Control Act, Wildlife Conservation Management Act, Foreign Department Act, na Trust Land act.

Hizi zote hatuelewi ni nini tungali tunaambiwa turekebisha lakini hii yote kama ingerekebiswa unajua maana yake ingetufaa sana. Ndio tunasema the Land Control Act 302, the Wildlife Conservation Management act 376. Sababu sisi tuko katika hio mahali ya wanyama hapa Kobole pia ni kwa council ya Songa alisema, hapa sheria hatuelewi kabisa sisi tunakaa na hawa

wanyama tangu mbeleni na sisi tunachunga wanyama hata kushida wale walikuwa wanachunga hata hatufanyi chochote lakini sheria ile inatuhulumu wakati wanafanya katikati ya KWS na forests. On memorandum of understanding sisi community wale tunaishi huko karibu hata hatujulishwi kwa hivyo tunataka hiyo sheria inahusika na mambo ya foreign department na KWS sisi tulusishwe au irekebishwe halafu tukae pamoja kama jamii tunaishi karibu na park sababu hapa tunasema must be removed from the Kenya Constitution law that act excluding local communities from neighbouring parks and has denied the grazing pasture to water the water point.

The Kenya Constitution is silent on the issue of the basic right on trust lands from county council should be taken back to the community. Na vile ilikuwa wenzangu wengine walisema kwamba hii mambo ya trustland ati county council iko na power kusinda wananchi family (inaudible) wawe wanashugulikia sisi sasa irudishwe kwa community. Community sasa wameelewa katika citizenship tumejua na hio shamba irudishwe na national reserves au national parks zile wenzangu walitangulia irudi kwa mkono ya community sio tu mtu akikaa mbali Nairobi anasema mahali fulani imekuwa national reserve. Hii ni njia moja ilikuwa ni ya hatari kwetu kuchukua ardhi yetu bila sisi kujua. Kwa hivyo mpango wa national park na national reserve yote irudishwe kwa community vile wenzangu wale walichungulia vile walisema.

Turudi upande wa nikisema kwa ufupi kwa sababu nimeandika vile wengine wamesema mambo ya province. Wengine walisema Marsabit, Isiolo na Moyale iwe province lakini mimi binafsi ningependekeza Marsabit, Isiolo, Lodwar na Maralal iwe province moja. Mimi hio ni maoni yangu vile nimesema.

Mambo ya KPR, KPR ni mzuri kwetu na sisi kama sio KPR leo sisi Warendille tungehama Marsabit mountain. Kwa hivyo sisi tunakubali tunaungana watu wa Leisamis na North Horr KPR idumu na iendelee kutusaidia pamoja na serikali lakini itafutiwe njia KPR kama kuna allowances isaidiwe ndio wapate nguvu kulinda mali yetu na watu wetu.

Inginge ile ndovu ahmed ile ilikuwa Marsabit leo iko National Museums tunaomba hio ndovu yote irudishwe hapa Marsabit na iwe Karare kwa sababu hio ndovu tangu utotoni alikuwa hapa Karare na leo watoto wetu kwa hio ndovu wanasoma kwa history lakini ndovu watoto wa Nairobi ndio wanaona. Tunataka hio iwe ni national resource yetu moja irudishwe Marsabit watoto wetu waone the biggest elephant in the world iko Marsabit na iko Karare.

(inaudible communication from Com. Okoth-Ogendo)

Nolu Goracha: Naitwa Nolu Goracha. Sasa kitu mimi nasema Kenya yetu imepata uhuru 1963. Kutoka Kenya inapata uhuru 1963 sasa iko 1940. Hii uhuru nasema Kenya imepata bado fika (inaudible). Sasa uliza mtu anatoka hapa natoka Moyale unauliza unatoka unaenda wapi? Ninasema naenda Kenya lakini sababu hajui uhuru wa Kenya hata sasa iko watu hawajui iko pande gani. Wakati wa uhuru unagangana hapa akina Paul Ngache, akina ile mama anaitwa Bahati, akina Galgalo Gordana wale wanakufa juu ya uhuru hata sasa iko hapa hata plot ya kukaa hata moja hakuna nchi yetu nini hakuna

mwenyewe. Wakati Kenya inapata uhuru nasema nauliza Kenyatta mali yako ni ngapi hapa niende katika Kenya nasema majani na chai na kahawa. Fedha yote sasa inaenda ngambo nchi yetu hakuna mwenyewe sasa kahawa yetu ni mbuzi na ngamia na ngombe sasa hakuna hata market nchi hakuna watu. Afadhali nchi yetu inapata haki ya uhuru Kenya ipate. Sasa hapa hakuna haki yule mtu unashikwa hapa na police anakaa bila kupelekwa kotini mwaka moja, bila kupeleka kotini, bila kuwacha mwaka moja anakaa hapa nini ndani ya cell hajulikani pahali gani yuko.

Sasa hii wazee wanatoka ndani ya kazi au mama bwana yake anakufa ndani ya kazi mama hajui Kenya ni wapi naenda kutafuta haki ya bwana yake ambaye amekufa. Sasa miaka ishirini, miaka kumi hata sasa bado pata haki hajulikani Kenya iko wapi anaenda. Sisi wale wazee wanaenda retire hajulikani mahali anaenda kutafuta mali yetu atasema ni Kenya si ati hajui Kenya iko wapi, Kenya bado hata bado fika Isiolo.

Sasa kitu ya mwisho afadhali sisi naomba nyinyi muangalie mali yetu bila kupeleka huko Nairobi namna nini ile ya Kenyatta anapata market afadhali ng'ombe na ngamia na mbuzi yetu inapata market bila kusumbuka huko basi yangu ni ya mwisho.

(inaudible question)

Nolu Goracha: Si Kenyatta, sasa wale naangalia haki ya binadamu.

(inaudible communication)

Com. Okoth-Ogendo: Jina.

Elias Lema: My name is Elias Lema. I am a para-legal in human right education. I am going to very quickly, now the new Constitution must abolish what is known as trust land and Government land and ensure the traditional land ownership back to the pastoral community. The new Constitution must guarantee better system of livestock marketing to improve the economy of the pastoralist community. The new Constitution must better establish livestock slaughter facility for northern pastoralist. The new Constitution must guarantee us safe livestock route and holding grounds for pastoralist and their livestock. The new Constitution shall better guarantee protection of livestock disease in patrol zones. The new Constitution must guarantee to create state patrol policy that would place pastoralism at the bar with the other land use system in the nation.

Mimi nasema hapo kwa Kiswahili lazima hapo nimesema sisi ni watu ambao wanahamama na tunaweka wanyama. Kazi yetu ni kuchunga wanyama kwa hivyo serikali ifanywe serikali ifanye nguvu ili sisi tufike wale watu wameendelea mbali sana na mambo ya shamba kwa hivyo serikali ifanye iwezalo kulipa sisi pastoralist nguvu ya kufikisha sisi mpaka where people of central province are. The Constitution must secure the right of the local community to manage and control resources according with their own rules, traditions and norms. The new Constitution must establish civic education programme to be the right of the

people. The new Constitution must better establish pastrol security unit to move with the pastrolist in the desert on the camels back as the case was during colonial time. The Constitution must give legal recognition to pastrol land right. The new Constitution must establish pastrol institution to manage these rights within the pastrol communities. In the new Constitution the devolution of decision making authority and management of the resources is to be handed to the local at the local community level. The new Constitution must bar the position of control of arms. In the new Constitution the state better establish better human right para legals to give – in the new Constitution the state better establish human right para legal to give legal advise to the pastrol community in the new Constitution shall better protect natural resources for the benefit of the local communities and not for the governemnt of Kenya and few individuals. Sir I don't know one minute you give me because I have got a different thing which is

(inaudible interjection)

Hassan Wako Professor: Hamjamboni Tume ya marekebisho ya Katiba? Mimi naitwa Hassan Wako Professor, mimi kabila yangu ni Konso, Konso ni kabila ile ambayo hamjasikia kweli nyinyi na professor. Unaona wewe hujaangalia Konso vile tumetupwa? Mimi kabila yangu ni Konso. Tangu serikali ya koloni alituacha hapa na serikali ya Kenyatta alituacha hapa lakini serikali hii inayokuja hajajua sisi tuko hata saa hii wako wangapi hajui. Tuko watu 3,500 saa hii serikali ya Moi hajui sisi. Mimi nataka kwa Tume ya kurekebisha Katiba hii ya leo katika mjini Marsabit wajue watabue Koso ni kabila na tuweze kuhudumiwa vile kabila za Kenya wenzangu wanahudumiwa.

(inaudible)

Konso iko. Katika hii sheria mpya mimi ninasema ofisi ya sheria ya Nairobi ivujwe irudi katika mkono ya watu wananchi wasitutawale, Nairobi hapana tawala sisi. Sisi tunajitawala mali, miti, maji iko katika Marsabit ndovu wanyama ni wetu. Tunayanganywa mnyama wetu hata mwingine anaitwa Mohammed alikuwa ni mzee anachungwa Mohammed Era ndio ilitolewa jina Mohammed tulinyanganywa. Hio sisi tunaita ni lawama Serikali imetunyanganya mali yetu muhimu kwa shauri watalii wanakuja wanatuletea pesa. Saa hii watalii wanakuja hapa Marsabit wanaleta pesa hatujui iko wapi.

Mimi ninalaumu ufisadi Bwana Commissioner hebu tembea barabara hii wacha ndege, hebu tembea barabara hii kwa gari usafili vile wenzangu wanasisafiri wenzangu wanasisafiria. Wakenya wenzako wanasafiri uangalie ufisadi uko wapi? Ufisadi uko katika administration na wengine wanasemekana zamani wanaitwa utumishi kwa wote, hakuna utumishi kwa wote, hakuna, ni unyanganyi kwa wote lazima aitwe namna hiyo. Ukiwa kama serikali ya Rais Moi inakubali kuambia utumishi kwa wote iko wa Tume ya kurekebisha Katiba amwambie mkuu wa sheria afute hio police yote afute hio andike ile youth ilikuwa inatoka ndio iletwe police mpya utumishi kwa wote.

Alitwambia katika serikali ya ukoloni vile achukua kwa mkono wa ukoloni alitwambia maji nitapatia raia yangu mema mzee ndio alisema, Mzee hayati Mzee Jomo Kenyatta, huyo hana maneno. Alisema maji nitapatia raia yangu, alisema chakula nitapatia raia yangu, anasema uhuru aliotafuta ni shamba, kwa hivyo Rift Valley imepata shamba sisi watu hapa shamba yetu, ng'ombe yetu sababu hakuna bei tunataka bei ya ng'ombe soko yetu ikuwe hapa katika Isiolo ama Marsabit. Naomba mnisikilize na

mnifikishie hio report kwa Rais.

Com. Okoth-Ogendo: Yes madam.

Galgallo Guyo: Mimi naitwa Galgallo Guyo.

Com. Okoth-Ogendo: Galgallo Guyo endelea basi.

Galgallo Guyo: Mimi ningetaka kusema ya kwamba sheria iwekwe kwa walimu wa nursery kwa sababu walimu wengine wanandiikwa na serikali na walimu wa nursery wamenyimwa haki yao waandikwe na serikali ya Kenya. Na shule ya nursery katika Kenya haidumiwi vile inatakikana kwa hivyo serikali itoe resource ama pesa ya ku-maintain pre-school children kufanya iwe ni mzizi wa elimu waendeleo wapate wakati ikiwa mizizini kwa hivyo iwe sheria pesa ikigawanywa kwa primary schools zigawanye hata kwa pre-schools, nursery schools. Na pre-school teachers nursery school teachers pande hii yetu wamesahaulika sana hawana nguvu ingali wanafanya kazi nyingi sana. Hawa wapate mafunzo ya bure tuwe sawa na wale wengine. Na tena pande zingine nasikia ya kwamba mwalimu wa nursery wanaandikwa na local Government. Na local Government hawezi toshelesha haki ya walimu wa nursery kwa hivyo serikali iweke sheria kali kwa waalimu wa nursery wandikwe na serikali kama waalimu wale wengine.

Na kwa local Government iko inasemekana ya kwamba terms and conditions inasema ya kwamba the councillors are the ruling body of the local Government. Hiyo iwe sheria iwekwe ya kwamba councillors wasiwe na nguvu kushinda clerk to the council kwa sababu mimi kama sijachagua mwingine ama sija-elect mwingine awe Chairman wa council atanifuta kazi kwa hivyo haki hiyo itekelezwe vizuri councillors wasiwe na sheria hiyo mkononi yao.

Na vingine, ningetaka kusema ya kwamba divorcees, wanawake wakiwachwa na bwana wakae na watoto wao mpaka walelee iwe wakubwa kwa sababu watoto wanaweza kuangamia wakienda na bwana. Sheria iwekwe ya kwamba watoto wabaki na mama sio baba.

Na kingine ningetaka kusema ya mwisho ni kwamba sheria inapitishwa katika Bunge. Mabunge tukiwachagua hatuwezi ona tena na wanapitiza sheria huko kwa Bunge wanasema kwamba hizi zitendeke na hio inatendeka inaweza kutuumiza sisi waraia. Kwa hivyo ningetaka kusema ya kwamba sheria isiwe katika Bunge tu peke yake injulishwe hata raia wa Kenya wote wajue kwamba hio sheria imepitishwa. Ni hayo tu asanteni.

Com. Okoth-Ogendo: Asante sana (inaudible)

Hussein Hamisi: Thank you, I wanted to say only three

(inaudible).

Hussein Hamisi: My names are Hussein Hamisi.

(inaudible communication)

Hussein Hamisi: I wanted to say about education – We some of the students we are from, like me I am from Moyale and I came here to learn na school shule ya Marsabit au Moyale up to Isiolo, is not the same with the other schools in down Kenya. Marsabit Boys is the oldest school in Marsabit district and now with private school it is overcoming the Government school and there is no improvement in Government school now private schools like St. Paul is overcoming our school because of some problems from the Government. Kwa mfano some weeks ago there was fund rising in Buruburu Girls Secondary school where the Vice President was there for fundrising. They raised around 7 million Kenya shilling and I have never heard that there is a fundrising like that in Marsabit Boys there is no fundrising that was led by Vice President or other ministers they have never come to Northern part of Kenya to raise

(inaudible interjection)

Hussein Hamisi: I have never seen that is the Government now it is through the Government that he has to call them. So I think the private school is not allowed in Kenya but I don't know nowadays the private school is better than the Government school in Kenya all over Kenya not only northern part of Kenya but all over Kenya private schools are now better than the Government schools. And we are from the northern part of Kenya we are looking for the better schools down Kenya because our provincial schools like Marsabit boys or Moyale we are not our school is not good or better

(inaudible interjection)

Hussein Hamisi: Yes. So that is the first. Second is communication. The second point is communication concerning roads. Our roads is almost like this for some years ago, why our road is not tarmacked like the other down Kenya.

Next is freedom of living that is we have freedom of living mtu anauwawa in wrong way kama vile from Moyale to Marsabit or from Marsabit to Isiolo shiftas wanaua watu wanashambulia gari and where is the security? You know they are saying escort cars are following the lorries but still there is killing even some three weeks ago there was killings between Marsabit and Isiolo. But we don't know where the security and how namna gani serikali hawajui kuna watu wako dani ya mstuni kusumbua gari ama raia.

(inaudible interjection)

Hussein Hamisi: That is for security from the Government. Yes. The last thing is about health, yes right of health. When we go to hospital, the Marsabit district hospital sometimes you don't get the medicine that you have demanded because they tell you they write for you some note to look for that medicine in the town or clinic or chemist. If you don't find in Marsabit district hospital where do you find that medicine and it is a Government hospital. Thank you.

(inaudible communication)

Abubakar Maura Oganga: I will be very brief. My name is Abubakar Maura Oganga. First of all the first thing I had one of my maoni is that I think your work should not be pegged to the general election. That thing according to me it should be out of question. You should do your work diligently slowly because your people of integrity we have got no doubt about you people. There is nobody who can question your integrity so you should take your sweet time and give us a product that is going to lead us within 50 or 100 years without being amended ever again.

Kwa maoni yangu ya kwanza ningependelea kuwa Rais wetu asiwe Rais anayekuwa juu ya above the law I mean the President should be impeachable yani awe ni Rais ambaye anaweza ngatuliwa kutoka kwenye mamlaka na Parliament.

Jambo la pili ningependelea serikali ya mseto yani federal Government. Ile serikali ya mseto wa Kenya wataamua wenyewe mimi ziwezi nikawaeleza wataamua wenyewe ile serikali ya mseto the kind of federal system they would like to have. I will be very brief.

Ya pili ni upande wa wenye sheria wana sheria, Judiciary ningependelea may be the high court, kwa kiswahili siwezi tafsiri lakini the high court should be scrapped and instead we should have the law court, from the law courts we should go to the court of appeal and from the court of appeal we should have a Supreme court which will be led by people of integrity.

Jambo lingine ni corruption, ningependelea Kenya Katiba itolewe watalaamu waje waandike Katiba ambaye Kenya should be zero tolerance to corruption may it be on high level iwe ni mtu wa juu kiasi cha juu ama mtu wa kiwango cha chini wawe wanatumika sawa isiwe ikakuwa maskini hana uwezo mnyonge hana uwezo na ingawaje tajiri hawezi akalala cell itakuwa je mimi nikiwa sina pesa leo naimba kuku nikipelekwa nanyimwa board tajiri akija yeye anaimba maelfu anaachiliwa uhuru kwa sababu ako na pesa ya kuhongana. So Kenya should be zero tolerance and may be ikizidi sana tuweke execution as a punishment kwa kusudi wengine wasije wakajaribu kitu kama hiyo. Mtu auawe.

Jambo lingine ningependelea kuwa like Parliament state house iwe ni pahali pa raia watoto wa shule waweze kwenda state kama vile wanaweza kuingia Bungeni na kueleza mambo ya masomo, waelezwe kuhusu state house vile inaendelea sio wasikia

kwenye makaratasi na vitabu na ili hali huwezi unaangalia ikulu ya Nairobi yakaa namna gani Rais anakaa kwa ofisi inakaa aina gani.

And lastly with a light touch tunaingilia upande wa police. Upande wa police ningependa kuna police brutality. Mshukiwa wewe ukiwa unashikwa wewe ni mshukiwa wewe sio mahabusu, ukiingishwa kwenye remand ama upelekwe kwenye cell haufai kupigwa na askari ama kitu chochote kama hicho kwa vile uko na haki yako.

Jambo la pili pia ningependelea mambo ya askari kuishi kwenye kambi wala sio jeshi, watolewe wapatiwe house allowance waishi na raia kwa kusudi tuwe na uhusiano nao. Askari akiwa anatembea anasema ule ni raia mimi ni askari that notion is not what we want, we want people to have a community police system.

Jambo la mwisho ningependelea kuwa askari ukiwa ni askari waitwa askari lazima uwe physically fit, wewe lazima uwe ni mtu mwenye wewe ni shujaa umepelekwa Kiganjo umepelekwa training. Kuna kisa kimoja poleni sana nitawaeleza ilikuwa ni aibu sana kwa serikali yetu wakati tulipata mkasa wa 1998 bomb blast Nairobi wapata kuwa wakuu wa jeshi yetu captain, tumbo ni kubwa anashika fimbo na hakuwa na walkie talkie ili hali major kutoka Israel, major mwembamba anatembea kutafuta watu wale wamekufa wa Kenya na yeye sio Mkenya. Kwa hivyo ningependelea nitoe maoni yangu. It is just maoni askari asiwe na waist inapitisha 36 inches akipitisha apelekwe Kiganjo training. Asanteni sana.

Mary Anne Amina Ote: My names are Amina, MaryAnne Amina Ote.

(inaudible communication)

I will be very brief in summary I would like to touch on four areas expressing my sentiments together with the sentiments of women of my community the Burjis. So I am expressing the concerns of the Burji women. One is on identity – The Burjis are a community with its own culture, language, traditions, customs and way of life. They are ethnic group on their own thus we Burjis should not be combined with any other community because we are a minority like it happened very openly in the previous census. So we want to be identified in the Constitution preamble as a community, a Kenyan community standing on its own feet.

My concern number two is right to own property – The Burjis are development conscious people in this district up to Moyale region there are prominent farmers. As far as food production is concerned they feed the entire population of this place. Likewise they are the economic backbone of the district Moyale inclusive. The Burjis are peaceful community who live in harmony with their neighbours normally they never offend their neighbours but since they are minority though hard working they are often offended especially sometimes back, some years back we had tribal clashes in this place. Our crops were destroyed, our granaries were set ablaze, our shops were looted and a lot of property destroyed.

Therefore, I am asking that this basic human right and Constitutional right of peaceful existence which were violated should not be so. Our rights should be guarded, right to own land and other properties should be guarded, titles acquisition to be returned to the district level so that people can acquire title deeds for their plots and for their farms so that they can be able to borrow loans from the bank but this is not possible because of the bank rate which is very high this should be lowered.

My third point, the minority right – Being a minority group the rights of the Burjis are violated as far as many issues are concerned for example employment both in Government and the non Governmental sector. We need thorough consideration in all these sectors.

And my last point once again on the non-Governmental organizations which are based in Marsabit town – They should not assume that the people who live in this town are all well off economically just because geographically the region seems to be fertile and people seem to really work hard to survive. In most cases while the offices are situated within the town and some very good examples are NGOs which the local people within the town region have managed to come together to be able to make it stand on its two feet. You will find that they normally assist the outside division especially examples are women groups.

You go to these NGOs for assistance and then you are told since you are situated within the town you are not as badly off as those who are outside this town therefore we want the Constitution to be drafted in such a way that even the working of these organizations such as the NGOs should be looked into, if they are living with the people they should be for the people provide employment especially to the local people and all the assistance which is coming into these NGOs should benefit the local people regardless of discriminating their geographical areas. They should assist in school fees for children both within the division and outside and also women groups. Thank you.

Com. Okoth-Ogendo: Thank you very much madam. Finally Bishop you are the last person.

Rev. William Wako: Thank you Professor. I will be very brief. I will start with the vision

Com. Prof. Okoth-Ogendo: Your name?

Rev. William Wako: My name is Rev. William Wako, I am representing NCCK. Our vision in the new Constitution is for a new Kenya where citizens celebrate life abundantly, live in peace and find opportunities to exploit their talent where human dignity is protected and ideals cherished. A Kenya that is founded on justice and rule of law. I will talk on four main points. I will start with insecurity.

It is the primary duty of the Government in any country to provide security to its citizen, the frequency of violence and security that persist and especially in the northern part of Kenya threaten not just Constitutional reform but the very existence of this country. In the past the Government has issued numerous statements reiterating its commitment to establishing a peaceful environment in the country. It even established a Commission of inquiry and clashes. The Commission's findings however are yet to be made public. My suggestion now is the Government must take concrete steps to openly show its commitment to creating a legacy of a peaceful and a united Kenya at ease with itself. Some of these steps should include resettlement of clash victims, uniform application of law and efficient delivery of justice in accordance with the law.

Economy – The recent admission by the Government that corruption is a primary cause of wide spread poverty in the country is a positive gesture. However corruption is itself a symptom of a deeper malice affecting our nation. A Government based on criminalism and intent of perpetrating itself in office even at the cost of destroying national institutions. This situation can not last for long. My suggestion is the Government will have to implement remedial measures which in the end are disciplined management of the economy and involvement of the public in planning implementation and monitoring of economic policy.

Ethical and moral foundations – The Constitution of Kenya opens with the statement that Kenya is a sovereign republic. It has no preamble or preliminary ethical and moral statement. The preamble is in fact a national mission statement that of the 1996 South African Constitution eloquently demonstrates this point. It states that the Constitution is enacted by the people of South Africa, it recognizes the injustices of the past, it honours those who suffered for justice and freedom and recite the pledge of the people of South Africa acting through their freely elected representatives to build a united and democratic South Africa.

In our preamble I suggest that all stages in the reform processes in Kenya to be genuinely involved be made available. This means that all the stages in the reform process need to provide scope for Kenyans to agree on why they have to come together who they are and how they wish to be governed.

Supremacy of the Constitution – Ghanaian Constitution it is clearly recognizes that all powers of the Government spring from the sovereign will of the people. The supremacy of the Constitution should be clearly declared to outlaw both the unlawful as well as unlawful conduct. The Constitution should ambiguously affirm the supremacy of the people of Kenya as I had mentioned of this principle, the Constitution should provide for compensation for Kenyans who may have been killed, injured or jailed in the process of resisting the imposition of unConstitutional Government of the country.

Poor institutional design – Institutionally the Constitution of Kenya is designed to fall. It attempts an unsuccessful transit marriage of the Westminster parliamentary system and the American Presidential model. The result is a Parliament without teeth and a President without checks. In Great Britain the Prime Minister attends the house of commons and answers questions from Members of Parliament on the performance of his or her Government. The Kenyan President is a Member of the Parliament but never attends Parliament except on formal and ceremonial occasions. In America one in the Executive, no one in

the executive except the Vice President attends congress. Additionally congress can impeach, try and remove from office a President who has violated the Constitution. There is deep contradiction in the Constitution of Kenya System. I suggest therefore that the President should directly be elected by the people, he should not be a Member of Parliament, members of the cabinet should not be drawn from Parliament and if they are then they should be obliged to quit their seats in the house.

The President should have power to vet legislation and a special Parliamentary majority say 65% should be required to overcome the veto. The President should address Parliament once every year to inform the country on the state of the nation. For example, upon declaration of war should serve for a maximum of two, five-year terms all appointments by the President should be ratified by a relevant Parliamentary group. President should not appoint judges of the High Court and the Court of Appeal, and Attorney General. The Constitution should expressly provide for a coalition Government where no single party has won a majority sufficient to form a Government. I suggest a two chamber house to protect minorities in order to allay minorities fears. A second chamber which is not elected on a popularly based franchise should be Constitutionally created. A centralized state and control of elected leadership by administrative officers. Kenya has a dual system of Government.

Com. Okoth-Ogendo: Please summarize.

Rev. William Wako: An elected local Government structure and preferential, a Provincial Administration. In the content of democratic politics local Government should have more powers since it is answerable to the voters. In Kenya the elective system has been weakened in favour of the unelected Provincial Administration. The over role goal of any democratic system should be to decentralized power, deepen participation and give the people effective control of the machinery of the Government. I suggest therefore Provincial Administration all to be abolished and in turn then the local Government act should be amended to decentralize decision making to local authorities through the principles of subsidiary.

Civilian control of the police and forces – One subject missing from Constitutional Review agenda is the character of the police and the army. These bodies are extension of the Executives violating the Constitution requirement that they be they are supposed to be politically neutral. There should be an independent police service commission which should be headed by a legislative vet director general who should serve with good behaviour and answerable to the Parliament intelligent committee.

About social, economical, cultural and communal rights. I recommend that in addition to the traditional, civil and political rights, the rights in the Kenyan Constitution should be amplified to include economic, social, cultural and communal rights. To reduce the workload of the high court and to make justice more rapidly and inexpensively accessible and new small (inaudible) should be created.

Amendment of the Constitution – It only requires in our Kenyan Constitution now to amend the Constitution all members of the Parliament is only 65% who should be present. There are no mechanisms for consulting Kenyan eg. referendum or

