

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

VERBATIM REPORT OF

**CONSTITUENCY PUBLIC HEARINGS, YATTA CONSTITUENCY
HELD AT KATANGI TAC**

ON

20TH MAY, 2002

CONSTITUENCY PUBLIC HEARINGS , YATTA CONSTITUENCY, HELD AT KATANGI TAC, 20TH MAY,
2002

Present

1. Com. Mutakha Kangu
2. Com. Charles Maranga
3. Com. Hon. Mrs. Phoebe Asiyo
4. Com. Pr. Zablon Ayonga

Secretariat in Attendance

- | | | |
|----------------------|---|---------------------------|
| 1. Peter Kanyi | - | Programme Officer |
| 2. Lydia Manyoni | - | Assistant Program Officer |
| 3. Jacqueline Nyumoo | - | Verbatim Officer |
| 4. Rose Ngina Kimeu | - | District Coordinator |

Meeting started at a.m. with Com. Mutakha Kangu in the Chair.

Prayer: Tuchangie mambo ambayo yanaweza kuleta amani katika nchi yetu, kujenga nchi yetu, utupatia hekima, ukupatia nguvu za ki-mwili na ki-roho, ili, hii kazi tunaianza hapa Katangi iweze kukamilika vizuri. Tunaomba hayo kwa jina la Yesu Kristo Mwokozi wetu. Amen.

Rose Kimeu: Na kwa sasa, nitaenda kuwajulisha kwenu wale members wa Constituency Constitutional Committee. The Constituency Constitution Committee, wale muko hapa, mukaweze kusimama pia, niwatambulish kwa Commissioners na wenzenetu waliofika kutoa maoni.

Na kutoka pale mwanzo, tuko na Mr. Manyi -- Mr. Manyi ni wa kutoka area hii. Na karibu na yeye kuna Mr. Joseph Mukunzu – Joseph Mukunzu anatoka upande ule mwininge wa Yatta. Huyu ndiye Mukunzu, Manyi ni yule. Na pale kuna

Mrs. Pauline Chonda – Pauline Chonda anatoka Matuu. Na karibu na Pauline, kunaye Elizabeth Mukola ambaye ni Secretary wa Constituency Committee. Na pia, tuko na Mr. John Kimuyu ambaye ni Chairman wa hiyo Constituency Committee. Na mimi kwa jina naitwa Rose Kimeu kutoka Masinga, mimi ndiyo District Co-ordinator wa Constitution Review – Machakos.

Kufikia pale, nitaweza kuwaita Commissioners ambao watajitalishwa kwenu, ili tukaweza kuendelea. Asanteni.

Com. Kangu: Watu wa Katangi, nawasalimu, Hamjambo?

Response: Hatujambo.

Com. Kangu: Mimi kwa jina ninaitwa Mutakha Kangu. Mimi ni mmoja wa ma-Commissioners wa Tume ya Kurekebisha Katiba, na mbele yenu, niko na wenzangu watatu, na kama hatujazungumza mambo mengine, nitataka kuwajulisha kwenu ndio tusonge kwa mambo ya leo. Na nitaanza na upande wangu wa kushoto, mwenzangu ajijulisha kwenu.

Com. Maranga: Mimi naitwa Dr. Charles Maranga. Mimi ni Commissioner, na ninawasalimu watu wa Katangi, Hamjambo?

Response: Hatujambo.

Com. Kangu: Na kwa upande wangu wa kulia, nitasonga kwa mama.

Com. Asiyo: Mimi ni Com. Phoebe Asiyo, na nimefurahi kwamba tumekuja kusikiliza maoni yenu juu ya Katiba mpya hapa Katangi.

Com. Kangu: Haya, tumalize na Mzee mwisho.

Com. Pr. Ayonga: Mimi ni Com. Pr. Zablon Ayonga. Hamjambo?

Response: Hatujambo.

Com. Kangu: Na leo, tuko kwenu kwa utaratibu wa Kurekebisha Katiba, tukiwa kwa kiwango ya kuchukua maoni kutoka kwa watu. Na vile sheria inasema, tunachukua maoni kutoka kwa watu katika eneo lao la Constituency. Kwa hivyo leo, tuko Yatta Constituency – hii ndio sehemu ya kwanza. Kesho tutakuwa kwa sehemu ya pili katika hii Constituency huko Matuu. Sasa leo ni nafasi yenu, kutoa maoni kwa Tume ya Kurekebisha Katiba. Sio nafasi yetu kuzungumza, nyinyi ndio mutazzungumza, kazi yetu itakuwa kusikiza mambo yenu, kuyaandikisha, kuyanasa kwa hii machine, na ndio tuweze kuenda

kujua mulitaka namna gani.

Na kabla hatujaanza, kuna maelezo machache ningependelea kuwapatia. Tukichukua maoni, utaratibu wetu unasema, maoni inaweza kutolewa kutoka kwao, kwanza, mtu binafsi. Unaweza kusimama mbele yetu kama mtu binafsi, na ueleze vile ungependa ama vile unafikiria Katiba irekebishwe. Ama, unaweza kuja mbele yetu, kama mtu anayewaakilisha kikundi chenye kimeandikishwa kama kikundi cha watu, na upeane maoni kwa niaba yako, na kwa niaba ya hicho kikundi. Nafasi ya tatu ni kwamba, unaweza kuja kama mtu anayewakilisha kikundi chenye hakijaandikishwa. So, hata kama kikundi hakijaandikishwa mahali popote, lakini unajua unakiwakilisha, unaweza kueleza, “natoa maoni yangu kwa niaba yangu na kwa niaba ya kikundi fulani”

Na hayo maoni, tunasema, kuna njia tatu ya kutoa maoni. Unawezatoa maoni kwa njia ya maandishi, ile tunaitwa kwa Kiingereza memorandum – written memorandum, uwe umeandikisha, na utupatie, tutachukua na umalizie hapo bila kuongeza lolote. Njia ya pili, unaweza sema uko na maandishi, lakini, ungependelea kueleza machache yale ya muhimu katika hiyo maandishi yako. Tutakupatia nafasi ya kueleza, na tena utupatie hayo maandishi. Na njia ya mwisho, unawezapeana maoni bila maandishi yoyote, kupitia kwa njia ya kuzungumza tu, mbele yetu – orally. Tutaandikisha, na tena itanaswa kwa cassette, halafu tutaisikiza baadaye wakati tunafanya analysis.

Tunasema, ikiwa unatoa maoni kwa maandishi, na unataka kueleza hayo maandishi, tunakupatia dakika tano, ya kueleza hayo maandishi, na umalize, upatie nafasi wengine pia nao wapate kuzungumza. Ikiwa unatoa maoni kwa mazungumzo bila maandishi, utaratibu wetu unasema ni dakika kumi, lakini, sisi uwa tunasema, itategemea wingi watu. Tukiona watu wanakuwa wengi, ndio tupate kupeana nafasi kwa kila mtu, tunawezakatisha hiyo dakika yako, ndio kila mtu apate nafasi dakika kidogo kuzungumza. Kila mtu atoke akisema, “hata nami nilipeana mambo yangu”.

Now, jambo lingine, ni kwamba, mazungumzo mbele yetu, tuna utaratibu unasema, unaweza kutumia lugha ya Kiswahili, ama lugha ya Kiingereza. Hizo ndizo official languages. Lakini, twasema, ukiwa unataka kuzungumza lugha ya ki-nyumbani, vile hapa tuko Ukambani, unataka kuzungumza kwa lugha ya Kikamba, hatuvezi kukataza wewe ila tu, upeane habari na tutafute mtu wa kutafsiri mambo utakayo kuwa unazungumza. Kwa hivyo, uko na ruhusa, usifikirie, “ooh, wanatumia lugha yenye siwezi kutumia nieleze”. Uko na ruhusu kujieleza hata kwa Kikamba, na tutapata wa kutafsiri.

Now, wakati unatoka kupeana maoni, utakaa hapa, na utueleze mambo yako. Ukimaliza, unaweka – kuna register pale, unaenda unaandikisha jina lako na details zile zinatakikana, unaweka sahihi, ndio tuwe na record kujua tulichukua maoni kwa watu wangapi na akina nani. Hayo ndiyo maelezo tungependelea kuwapatia. Na kwa kutoa maoni, wakati muliingia, watu waliandikisha pale nje; tunafuata ile list, tunaita majina moja kwa moja. Tunafuata ile list, na yule aliyekuja kwanza, anapatiwa nafasi kwanza. Ikiwa umeingia na haujaandikisha jina, utoke pole pole, uende uandikishe jina ndio tutawenza kukuita wakati tunafikia jina lako. Usikae hapa, halafu mwishowe useme nilikuja mapema, na nimengoja muda mrefu, mbona wengine

wanaitwa na mimi siitwi. Inatakikana ujue, tunafuata hiyo list yenyen tumeandikisha.

Na mwisho, ni kwamba, sheria yenyen imetupatia utaratibu, inasema kukiwa na yeyote --Mkenya angependelea kupeana maoni kwetu kwa kisiri, bila watu wengine kusikiza, akitueleza, tutampatia hiyo nafasi. Nasema hivyo kwa sababu tunajua, kuna sehemu zingine unaenda huko, unapata wa-mama wanasema kuna mambo fulani hawangependelea kuzungumza mbele ya wanaume. Saa ingine unapata watu – wafanyi kazi wa Serikali, wanafika kiwango wanasema wangependelea kuzungumza mambo lakini hawataki kuzungumza mbele ya watu. Ama saa ingine unapata Sub-chief anaogopa, hataki kuzungumza mbele ya DO. Kama unataka hivyo, utuambie, tutatengeneza utaratibu, kwa sababu tunasema hatutaki Mkenya yeyote awachwe nje, aseme hakupatiwa nafasi ya kujieleza. Tumeelewana?

Response: Ndio.

Com. Kangu: Basi, tuenze na mtu wa kwanza, Rev. Fr. John Makewa.

Rev. Fr. John Makewa: My dear Commissioners...

(Interjection) Com. Kangu: Unaanza na kutaja majina yako, kwa sababu tunaanza na jina lako.

Rev. Fr. John Makewa: Okay. My name is Fr. John Makewa – the Parish Priest of Katongi.

My dear Commissioners, plus the secretariat, wale viongozi waliokuwa wanapanga hii mipango – Councillors and wananchi. Ninaweza kuchangia kidogo katika huu mkutano – huwa Constitutional Review.

Point ya kwanza: the Constitution should be written in simple language and be translated into various languages e.g. ethnic communities in Kenya.

Number two: that any fundamental amendments of the Constitution of Kenya shall be subjected to a national referendum.

Three: that the new Constitution should uphold the doctrine of separation of powers among the various arms of the Government – Judiciary, Executive and the Legislature.

Four: that nobody should be above the law. Everyone should be subjected to law equally.

Five: that the Constitution must be firmly protected from arbitrary amendments and that, in this regard, the new Constitution must have protective provision to cushion it from such arbitrary amendments.

Six: the Constitution must prohibit any fundamental alterations of its basic structures and principles by Parliament or any other such body without the approval of the people of Kenya.

Seven: that the new Constitution must facilitate national harmony, sustainable stability, based on the principles of social justice.

The respect for the individual rights of every Kenyan, irrespective of the race, ethnicity, age, gender, economic and social standing.

Eight: that the new Constitution should review the land laws and its tenure system in Kenya.

Nine: education should be free(inaudible) every Kenyan, since, when we got independence, we said, we will fight three things – poverty, disease and ignorance.

Ten: that the function of the provision of local services should be devolved from the Central to the Local Government Authority.

Eleven: that the new Constitution should ensure that every Kenyan is guaranteed ownership of a piece of land at least, in the country.

Twelve: that the appointment to the civil service should be based on merit and not on the basis of political whims.

Thirteen: that the Constitution should uphold and promote affirmative action to the citizens with disability or marginalized groups and special interest groups of our society.

Fourteen: that the new Constitution should make defecting expensive for MPs, so that they may be responsible for the high costs of by-elections that are passed onto the taxpayers.

Fifteen: that the Constitution should be readily available to the citizens in their local languages.

Sixteen: that the new Constitution to retain unitary system of government - hakuna Majimbo as opposed to the Majimbo.

Seventeen: that the protection of the fundamental human rights be guaranteed in the new Constitution.

Eighteen: that the new Constitution should prohibit nominations of a person who has been rejected by the electorate as Member of Parliament or Councillor.

Nineteen: that the new Constitution should prohibit engraving of Presidential portraits if possible, on the currency, because, if he dies there is another problem.

Twenty: that the new Constitution should prohibit the creation of new districts on tribal basis.

Twenty one: that the new Constitution should uphold and promote gender equality in public service appointments, political leadership and provision of economic opportunities and social (inaudible).

Twenty two: continuous voter registration should be there.

Twenty three: Constitution should have the election date fixed.

Twenty four: Electoral Commission should have powers to control the administration during election time.

Twenty five: (inaudible) should not serve one party – it should serve all parties.

Twenty six: Electoral laws should talk about qualities and qualifications of good leaders. Qualifications I mean, level of education. Qualities I mean, virtues and honesty.

Twenty seven: the winning President should be getting more than 50% of the total votes cast. If not so, a run-up should be called.

Twenty eight: guaranteed civil education be there.

Twenty nine: a Human Rights Bill.

Thirty: Presidential appointees should be vetted by Parliament and Parliament should have its own time-table rather than operating under Presidential orders.

Thirty one: nomination to Parliament and civic authorities should reflect special interests – youth, women and people with disabilities.

Thank you my dear Commissioners. Since I am going somewhere for another meeting, I request you to allow me to go.
Thank you for listening.

Com. Kangu: Thank you Reverend, but just hold on – we will allow you when you finish talking. We thank you for your views and you will give us your written memorandum. But after giving views, huwa tunasema, kama Commissioners wako na swali lolote la ku-clarify mambo umesema, wanaweza kukuuliza. So, napeana nafasi kwa wenzangu.

Com. Asiyo: Ningependa kuuliza juu ya affirmative action ambayo umeongea juu yake na ningependa kujua ni percentage gani ambayo unaona itafaa kwa watu walemvu, disadvantaged groups, pamoja na kina mama. Ni percentage gani unaona itafaa hawa kwa kazi ndani ya Serikali, hata kwa private sector, na vile vile hali ya uongozi?

Rev. Fr. John Makewa: Kwanza nitasema percentage nikijua ni percentage gani – lakin mimi ninajua ni wachache Madam – ni wachache lakin ningesema kama tungkuwa na about 40%, ingekuwa vizuri (inaudible).

Kama tungkuwa na wanaume, hiyo 60%. You know, Wanaume wawe wengi kidogo kwa Parliament.

Com. Asiyo: Kwa nini wawe wengi (inaudible) tunaona vile mambo imekuwa, na miaka hiyo arubaini wamekuwa uongozini?

Rev. Fr. John Makewa: Kwa sababu, we don't bring change instantly. Sasa hapa kama hapa tungeita watu wengi, unaona wale wamekuja? Ni kwa sababu, these people were not educated and they don't know the meaning of this meeting.

Com. Asiyo: These people, were you indicating wale walemvu.

Rev. Fr. John Makewa: Walemvu, na youths pia.

Com. Pr. Ayonga: Unaposema tu-prohibit creation of new districts, na hali district zingine, they are too large. For instance, Machakos is too large. Sasa ukiweka jambo kwamba iwe prohibited katika law kwamba haiwezi kuwa created another one. Si utawekewa watu mizigo zaidi, na hali district zingine ziko karibu, karibu.

Rev. Fr. John Makewa: Ni lazima kama kuna decision, kuangaliwe kwanza. Kama una (inaudible). Ni vizuri kuanzisha district kama kuna nafasi ya ku-create district, kuuliza watu, “is there any need?” Kama kuna need, ndio kuangalia resources.

Com. Pr. Ayonga: Unasema tuulize?

Rev. Fr. John Makewa: Yaah, unless you know, I select that.

Com. Asiyo: Lakini ningependa kuuliza, (inaudible). Hii Katiba, itakaa na watu wa Kenya kwa miaka hamsini ijayo. Ukitumia tufunge kabisa Serikali zinazokuja mbele miaka hamsini kutoka sasa, wasiongoze districts, na tuweke kwa sheria ile kuu kushinda zote, si tutakuwa tumeumiza vizazi vinavyokuja mbele?

Rev. Fr. John Makewa: Now, wakati nilikuwa naandika hiyo sio kusema, tusianzishe districts zingine. Nilikuwa ninaandika simple language. Ili ningojee nyinyi, muniulize maswali kama haya.

Com. Maranga: La kwanza kabisa, ni kuhusu sarafu. Umesema hutaki picha ya kichwa cha Rais kiwekwe kwa sarafu lakini kuhusema ni nini unataka tutumie kwa hiyo sarofu. Hiyo ni kitu ya kwanza.

Ya pili umesema, sheria za mashamba ziangaliwe upya. Lakini haukutupa mwelekeo ni vipi unataka sisi tuangalie. Umesema tu kuangalia sheria.

Rev. Fr. John Makewa: Katika nchi hii, kuna sehemu ambazo hasina watu wengi, na ukienda kama Korogocho, Mathare, unakuta watu hawana land.

Two, ukiangalia watu wengi hata hapa Katanga, wengine hata hatujui, na maskini kunao(inaudible) kuwasumbua. Kwa nini tusiwe na law ya ku-protect hawa maskini. Sisemi majatiri wasiwe na land kubwa – wawe na land. Lakini, kuna maana gani kuwa five thousand, three thousand, two thousand, na unaona maskini hapa. Na shida yangu, ni shida ya mwenzangu? Kwa hivyo, tuwe na law ina-protect hawa maskini. Wawe at least, hata kama ni acre moja. Land means a lot to (inaudible). Hiyo ndiyo nilikuwa naomba, kama kila mtu Kenya angekuwa na land, na mimi najua inawezekana kwa sababu nimetembea nimeona land imetoka hapa kilometre nyingi, haina watu. Tunahitaji misitu kwa sababu ya mvua. Lakini angalia maskini. Ukienda Nairobi, wanalia. Niliona mtu akichukua mavi, street boys wanakimbisha watu, unaangalia, unaenda, unakuta watu are living an animal kind of life. Kwa hivyo, akiwa na land mahali fulani, atapanda sukuma wiki, na atakuwa proud, inakuwa (inaudible).

(inaudible). Tukiweka na tukiwa na President mwengine, tunaweka hizi pesa zingine zinaanza kutolewa, zatolewa (inaudible).

Com. Maranga: Sasa tuambie tuweke nini kwa pesa – mlima Kenya, magari, ama Rev. John tunaweza kuweka K.I.C.C. on something national – lakini K.I.C.C. ni ya KANU. Lakini, hata Mt. Kenya wengine watasema ni tribal – Wakikuyu watasema mlima Kenya ni.....

Rev. Fr. John Makewa: Tutawajulisha watu, na tuwasomeshe, kwa sababu, hata Mt. Kenya tunapata maji ambayo

yanatumika kila mahali.

Com. Kangu: Thank you very much. Weka sahihi pale na utuwachie maandishi yako. Councillor Musau? Na utupatia full names Bwana Councillor.

Cllr. David Musau: My names are David Musau. I think you will excuse me Chairman Commissioner, because I was prepared to present my views tomorrow at Matuu. But when I found that I will not have time, I decided to come here. And I think you will accept my memorandum in my own writing.

Com. Kangu: It is acceptable.

Cllr. David Musau: Thank you very much. I will not take much of time because of just be expounding on what I have written.

The present Constitution of Kenya does not reflect much the wishes of Kenyans or the beginning of it (that is I am talking about the Preamble). So I am saying, the Constitution of Kenya should have a Preamble, and begin like, “we the people of the Republic of Kenya”, and then, the declaration is made. Because it is a covenant between Kenyans and the Government.

The President of Kenya – I am suggesting, he should be directly elected together with a running mate. That is, the President and the Vice President, both of them should be elected by the people of Kenya, so that no one will be just appointing the other and dismissing him time he feels like – at the one o’clock news.

And again, we are saying, never, never, and never again, shall Kenya have any one particular individual to be above the law.

During the elections, the Constitution of Kenya should allow Kenyans to vote using even birth certificates, school leaving certificates or passports unlike the current position whereby you have to have an identity card.

The Presidential candidate should garner 51% in addition to getting 25% in five out of the eight provinces in Kenya.

Changes of the Government: Here, I am saying that the Constitution of Kenya should be put clear; when a losing President should hand over power, how and when, and give a particular period when, if you loose, you stay in office for two days or for three days, and then you hand over to the succeeding President.

I am also suggesting in this memorandum that MPs or Councillors who desert their electorate midway, should be recalled through a petition in a special court, whereby, 75% of the registered voters of the constituency, all the wards, all the locations,

can petition through the Speaker of the National Assembly, who will then provide a mechanism of reporting to that special Constitutional Court, so that there can be another election immediately. Also, all senior appointments by the President, they should be vetted by the Parliament so that we have the distribution of powers.

The situation as it is in Kenya, the best way is to have strong local authorities. Council chairmen and the Mayors should be elected directly by the public and they should have executive powers, so that they will be able to choose their own Cabinet and also have their own speaker to control the council meetings because the chairman will be having executive powers.

I will urge the Commissioners to see that the Constitution that we are making now does not deny the Kenyans the right to choose the person they want. Be it a councillor, be it a Member of Parliament, just because of certain standards of education. What I would like to point here, the person to be elected should have wisdom and integrity, and should not be a criminal.

However, the person to be the Executive Chairman or the Mayor – this should be a mandatory of the Chairman, the Mayor and the Committee Chairman who are going to be in the Cabinet of the Local Authorities, should have a minimum education of up to Form IV.

We have had people who never went to school, but they had wisdom and integrity there is in the world, and have done well. Here in Kenya, we have got even people who have been educated and they have made our parastatals to collapse – when you read Kenya National -- you read Kenya Posts, there are very many which have gone under and they were under people who have a big line of degrees, etc. So, we need people of wisdom in a position of leadership.

These local authorities, to get them strong, they have to be autonomous. Today, the Local Government can be dissolved by the Minister for Local Government, through Cap 265 of the Local Government. So, we want them to be autonomous completely, but they must – I mean the employees of these local authorities should enjoy all the ILO charter. Such that, the councillors, if their local authorities are autonomous, they should not wake up one day and then they sack anybody, because of political convictions.

The Local Authorities in Kenya - we should say at national level, unlike the present day, there should be the Local Authorities National Assembly. And the members of the Local National Assembly should be nominated from all the local authorities in Kenya. And one of them, should be appointed by the President or the Prime Minister to be Minister for Local Authorities.

About land: I think the management of issuance of the title deeds should be decentralized so that the person and the people who are responsible, to issue ownership certificates of land at district level. People who know exactly what is happening, unlike the present position, whereby the title deed will be done by the Commissioner of Lands.

Then, I would like the Constitution to look (that is the Commissioners at the final stages), to see that the Constitution of Kenya, recognizes those very basic local issues of each area. For example, here as we are talking in Machakos or Ukambani, we have got sand.

We would like the Constitution of Kenya today to recognize this sand or classify – I think that is the best word – to classify sand as a mineral, so that it can help these people from this area. To-date, sand is classified under Cap 288 of the Agriculture Act as a royalty, and that is why it is not benefiting the people from this area. If it is classified as a mineral from this area, then, it could benefit the people from this area in the building industry, whereby they can (inaudible).

Then, there is also....

Com. Kangu: You have one minute.

Cllr. David Musau: Yes. Then, there is also like the ‘Yatta furrow’. We are saying the “Yatta furrow” should also be an issue that should be recognized in the Constitution. And, that in every financial year, it should be allocated some funds from the national banking so that it can be rehabilitated yearly, so that it can have water flowing from the in-take up to other areas.

Then also, the freedom of expression of press, movement, assembly, speech and association under, of the Kenyan people should never again be interfered with, from any quarter or by any individual or from any authority. Like what is happening in the Media Bill that was passed recently in Parliament which Bill is going to oppress even a newspaper vendor who does not even understand whether the publisher has given a few copies to the Registrar or not. So, we need those freedoms to be entrenched in the Constitution.

The Provincial Administration: these people also should be elected by members of the public, so that they elect somebody whom they understand properly.

And the people who steal from public funds – public bodies, private sector, should be prosecuted and be forced to pay back what they have stolen.

And then finally, on gender, I am saying that so that we will not have people who cannot perform, either men or women, we say, the Constitution of Kenya we are making should recognize gender equity rather than gender balance.

Com. Kangu: Thank you. You say that voting should be by birth certificate, school leaving certificate, but I don't know how that will relate to our ensuring that only citizens vote. Because a birth certificate could be issued to anybody born in Kenya, whether that person is a Kenyan citizen or not. School leaving certificates could be issued to anybody who has studied

in a school in Kenya, whether that person is a Kenyan citizen or not. How do we guard against that?

Then two, you talked about a Local Authorities Assembly. Can you tell us what will be the functions of this Authority? And how it will relate to Parliament and other Government institutions.

Cllr. David Musau: First of all, even when I was (inaudible), the same thought came across me, but I found those will just be isolated cases. Because even at the moment, we have got people who have been found with Kenyan identity cards and yet, they are just foreigners. So, I think they are just isolated cases which can be dealt with. Otherwise, to vote using birth certificates or leaving certificate will not de-franchise many Kenyans, as the ID is doing at the moment.

Two, these functions of the Local National Assembly - there are grants. When the local authorities become autonomous, surely there will also be a joint grant from the Central Government and it is this Local Authorities National Assembly which will ensure that any money that come in from the Central Government and taxpayers, are distributed properly and are allocated, and what they are supposed to do in each local authority. So that they will see which local authority will be represented there. And then, all functions of the local authority just on the ground, and any money allocated will go to the people unlike today where the check-off is not very clear.

Com. Pr. Ayonga: (inaudible) I mean of the election and there are many Kenyans who are not born in hospitals, therefore, they don't have birth certificates. There are many Kenyans who have not gone to school to have a leaving certificate. What would you provide for such people? If these two were going to be used to enable them vote?

Cllr. David Musau: In addition, you know, what I am suggesting is in addition to a national identity card. If somebody never went to school but has a national identity card he can use it to vote. If you don't have a national identity card, you use a school leaving certificate from Katangi Secondary School or primary, you go and vote. Instead of this idea of citizens getting cards. And then, the registration of voters should be a continuous exercise.

Com. Pr. Ayonga: Thank you.

Com. Kangu: Thank you, sign our register and hand in your memorandum. Do we have Peter Mutina? You have a written memorandum, so you move very first, five minutes to highlight the main points.

Peter Mutina: I am Peter Mutina, a water technician. And, there are some recommendations that I would like to make to the Constitution Review Commission.

We should retain the procedure of Parliament to amend any part of the Constitution by 65% majority votes. Parliament power

to amend the Constitution should not be limited. No part of the Constitution should be beyond the amending powers of the Parliament.

Citizenship: any person born of Kenyan parents be an automatic Kenyan citizen. Kenyan citizenship be acquired by naturalization, on application, the way it has been in the past.

Spouses of Kenyan citizen regardless of gender, should be entitled to automatic citizenship.

Patriotism to the Government is an obligation to a citizen and enjoy the rights in the new Constitution.

The Constitution should also allow dual citizenship. That is, you can be a Kenyan citizen, and at the same time, be a citizen of another country.

The national identity card should be a document that a Kenyan citizen should give as evidence of being a citizen. But the young, should also have birth certificates acquired at locational level to prove that they are Kenyan citizens.

Defence and national security: the Constitution should establish Military Para-military, Police Prisons, but not administration police. Proper discipline should be instilled to the Armed Forces as a mechanism to have patriotic forces.

Corruption should be eradicated especially in the Kenya police.

The President should be Commander-in-Chief of the Armed Forces.

The Executive should not have exclusive powers to declare war.

The Constitution should permit use of extra ordinary power in emergency situations, but only when passed by the Parliament.

Political parties: the number of political parties should be limited to three only. This is due to tribal diversity in Kenya.

Political parties should be financed from public funds. The conditions for financing of the political parties is that, the funds are audited by the Auditor-General. The same should be separated especially from the ruling political party.

The aim of the political party should not be, the post of Prime Minister or the President. The State should not deny political parties public audience.

Structures and systems of government...

Com. Kangu: You have only

Peter Mutina: We should adopt a hybrid system of Government in which Executive authority is shared between the Prime Minister and the President.

We should retain the unitary system of government in which all affairs of state are (tape complete)

Majimbo system of government would encourage tribal division hence wars and clashes.

We should adopt District Focus for Rural Development to devolve powers to all levels of government, such as, districts up to sub-locational level.

Legislature: the appointment of the following should be vetted by Parliament:-

- Public servants;
- Commissions and its Commissioners;
- Parastatal employees.

The Parliament should have power to control its procedures through standing orders.

MPs job should remain part-time occupation.

Changes should be made so that, age requirement for voting and contesting for Parliamentary seats on the Presidency. For one to contest Parliamentary seat, one should be aged 21 years and not more than 80 years. For one to contest for the Presidency, he or she should be 35 years and not more than 80 years, at the time of election.

Language tests are not required for Parliamentary elections. There should be a requirement that, one should have obtained “O” level with Div. II or its equivalent.

Parliamentary Service Commission should determine the salaries and benefits for MPs, but not the MPs themselves.

We should retain the concept of nominated MPs. Civic education should be conducted all over the country, and the Electoral Commission to ensure that nobody is barred from contesting the Parliamentary seat, so long as he or she qualifies.

Com. Kangu: Summarize.

David Mutina: Land: An individual is the ultimate owner of land. The Government has power to acquire private land on compensation for public use. For example, water, roads, electricity, security, environmental issues, etc.

Local Government or the Central Government should have no power to control land use by owner, except, when seen to be destructive.

No ceiling on land owned by an individual.

Process of land inheritance should be simplified. We should not involve court on death of the owner, as it is in the current Constitution, whereby we are having heirs of land going even to court when the owner has died and those who are supposed to inherit the piece of land. Going to court is very expensive to some Kenyans.

Com. Pr. Ayonga: You say 65% in Parliament can amend the Constitution. Is that correct?

Peter Mutine: Yes.

Com. Pr. Ayonga: Now, 65% of what? Are you saying 65% of 210 members sitting at that particular seating, or are you saying 65% of 20 members who are seated in Parliament? Which is which? Because we can't leave it like that. Many times, we hear the Parliament did not make a quorum.

Peter Mutine: I am talking about 65% of the total number of MPs in Kenya, which is.....

Com. Kangu: Thank you very much. Sign our book and present your memorandum there. Can we have Samuel Muningoka?

Samuel Muningoka: Mimi ni Samuel Muningoka. Mimi nitaongea kwa mambo matatu. Ni vizuri niseme points number one and number two.

Number one, ni juu ya business;

Number two, ni juu ya land, ambayo tunalima, pamoja na ukulima;

Number tatu, ni juu ya watoto ambao wamewachaa na wazazi ambao wamemalizwa katika Kenya juu ya AIDS.

Juu ya business, nyumba ambayo tumekaa tukifanya business, ni nyumba ambazo tunakaa kwa muda. Jambo ambalo inamaanisha sisi tukikaa muda fulani inaweza kubomolewa na ni mali yako mwenyewe. Business yenyewe, ambayo tunaifanya, ni business ambayo tumeachiliwa sisi tufanye vile tunavyotaka. Kwa sababu vitu vingine ambao tunauza ni sumu kwa wananchi. Wale ambao wanatuuzia sisi, ni wale watu ambao wamewachiliwa kutengeneza vile wanavyotaka, halafu wanatuuzia sisi. Ni vitu ambavyo haviangaliwi, na baada ya kuwa nimenunua, police wanaingia wanavitupa nje. Mali hayo yangu yote, yanatupiliwa mbali.

Upande ya ukulima: kwa upande wa ukulima, unakuta kuwa watu wakubwa wamewachiliwa kuagiza bidhaa au vitu vingine kutoka nje na wanakuja kuuza hapa ambako sasa sisi wakulima huwa hatuna mahali tutauza mazao yetu ya ukulima – hatuna market. Hii inasababisha mazao yetu kuharibika. Hii ni kuonyesha kuwa hakuna sheria ya kutulinda sisi wakulima tupate manufaa ya mazao yetu na tulime zaidi. Kwa sababu hii, utaona mashamba mengi yamebaki na vichaka, kwa sababu wakulima hawaoni faida, kwani, hakuna market.

Number tatu: wale watoto ambao wazazi wao wamekufa. Hawa watoto wamewachwa wakiwa wadogo na hawawezi kujilinda. Kwa maoni yangu ninaona, Serikali iwjajengee ma-hostels ya kuchunga hawa watoto na wapewe vyakula. Na wawe wakiangaliwa vile maisha yao yanaweza kuwa ya manufaa.

Upande wa education ya hawa watoto, hawasomi kwa sababu hawana wazazi. Wengine wakiwa wagonjwa hospitalini, ni shida, hakuna watu wa kuwahudumia. Wale wazazi wa watoto kama hawa ambao ni wagonjwa, ni shida, hawana mahali pa kukaa. Kwa sababu, sisi wananchi tunawaogopa kwenda kuwashika, kwa sababu ya kuogopa kuambukishwa madhara. Kwa hivyo, hiyo shida yote imekuwa nyingi na watu wamekufa na hatujui mahali pa kuapeleka.

Com. Kangu: Weka sahihi pale Bwana Muningoka.

Samuel Muningoka: Asante.

Com. Kangu: Tupate Christopher Mbuna. Endelea Mzee.

Christopher Mbuna: My name is Christopher Mbuna. My view is concerning the Members of Parliament. There is a law which states that, “Parliament should make laws”. But, my view is that, they should not vote for their salaries, because, when they are allowed to do that, they will favour themselves and spend all public funds.

The other one, is the distribution of public resources. Public utilities like water, electricity, and all what the Government can provide. There should be a law to ensure that every district is getting enough resources – enough government resources, so

that there is no misuse of resources by centralizing only in one area. I think there is need to make a specific commission.

The other one is the qualifications of Councillors. I think, they have got to be qualified educationally – that is form four with a good certificate. And also, we need a minimum age, should be over 35 years, because, he is supposed to co-ordinate with Locational committees and should be experienced and should know the needs of the people, for example water, where it is needed, the road is poor - somebody who is experienced.

The other one is this issue of protection of environment and natural resources, like trees, water, etc. Such resources should be protected by the law, and the Government should have a law which is to protect these resources like forests, water, to make sure that they are not misused, and bring alternatives. For example, these forests are very important. And when they are being cut, there can a problem like erosion, etc. That is all.

Com. Kangu: Thank you. Weka sahihi pale na sasa tupate Bwana Fidelis Muthama.

Fidelis Muthama: Mimi ni Fidelis Muthama Mwandiko. Ningependa kuongea machache sana, kwa sababu, mengi ningesema, yamesemwa na wenzangu.

Ningependa kuanzia na watoto: watoto yatima, wazee vikongwe, na vipofu - walemavu kwa ujumla, wanafaa kulindwa na kutunzwa na Serikali.

Number two, kule kutahili kwa wanawake kunafaa kumalizwa kabisa. Wanawake hawafai kutahili. Kuna wazee wamepitwa na wakati, ambao wanalazimisha dada zao kwenda kutahili, na ni madhara makuu, kulingana na maoni yangu.

Kule kuolewa, mtoto akiwa mchanga, ambaye hajafikisha miaka kumi na nane na kwenda juu, hafai kuolewa. Kuna wazee wanalazimisha watoto wao wa kike kuolewa mbali, hiyo haifai. Ni jambo ambalo linadhuru watoto wa kike.

Kuajiri, yaani ile ajira ya watoto ambao hawajafikisha miaka kumi na nane na kwenda juu, haifai.

Serikali inafaa kutufaidi na primary free education. Inafaa kusimamiwa na Serikali, na iwe ya lazima.

Medicine (madawa): inafaa kusimamiwa na Serikali.

Veterinary: hata mifugo yetu, wanafaa kutibiwa bure. Hata na ile mbolea ya mashamba yetu, na hata wafanyi kazi wao, wanafaa kuwa wanatulinda upande wa ukulima bure.

Maji! Hatufai kununua. Tunafaa kuwa tunapewa na Serikali.

Administration boundaries: Katiba inafaa kugeuzwa, tuwe na mipaka ya administration boundaries - provincial administration kutoka provinces nane zifike kumi na moja, ambazo nitaziita: Nairobi Province, Central Province, North-Rift, South-Rift, North-Nyanza, South-Nyanza, Western Province, Ukambani Province, Northern Province - ambaye ndio itakatwa kutoka Ukambani Province, na ile Coast Province.

Ningependa kutaja kidogo kuhusu majeshi yetu. Majeshi na viunga vyake (wakati tunasema viunga, ni Police na kadhalika kuna GSU, etc). Wanafaa kuwa na tume- wacha tuwache ile Armed Forces – majeshi wa silaha tuweke kando. Tuje Police, wanafaa kuwa na Tume kutoka kwa Bunge. Wasimamiwe na Tume kutoka kwa Bunge. Tume hiyo ndiyo itajua, wataajiriwa namna gani, watafunzwa namna gani, watalipwa namna gani, nguo wakatoa wapi, silaha zao zitakuwa namna gani. Hilo ni pendekezo langu kwa upande wa Police.

The Armed Forces – majeshi ya silaha, ile tunaita Kenya Army, Navy, na kuna ile Airforce. Nao vile vile, wanafaa kuwa na Tume, ambapo katika ile Tume, Waziri wa Ulinzi ni member, na Assistant Minister wa Ulinzi ni member kwa hiyo Tume. Ndiyo Tume hiyo ya Bunge - na utakuja kupata, majeshi yetu yote yanasmamiwa na Bunge. Tume hiyo ya Bunge ndiyo itakuwa inazingatia kila kitu kuhusu majeshi - Armed Forces. Iwe ni silaha, iwe ni uniform, iwe ni kuajiri, iwe ni kufuta, hiyo yote, isimamiwe na Tume kutoka kwa Bunge.

Upande mwingine..

(Interjection) Com. Kangu: Fanya haraka masaa yanakwisha.

Fidelis Muthama: Ndio, ndio. Upande mwingine ningependa kuongea ni upande wa uajiri wa Administration postings. Pale kwa PC, ningependekeza kuwe na “PS” – Provincial Secretary. Mtu anafaa plain clothes. Kwa DC, kunafaa kuwe na tume ambayo, ile Tume iko katika Local Government, tuseme ni Local Government kuanzia pale kwa District ambayo tume hiyo, ile kiti cha chairman, ndio kiti ambacho ni chairman wa Council wakati huo. Chairman wake awe ndiye anasimamia, Tume ile ya ku-manage district. Hapa kwa division, vile vile kuwe. Na wale watu ambao wako kwa council wawe elected, wawe ni ma-councillors, ma-chairmen - kwa division iwe namna hiyo. Hata kwa location, ma-chief wachaguliwe na wananchi. Assistant Chiefs na Chiefs, wachaguliwe na wananchi.

Kwa hayo machache, ni hayo tu.

Com. Kangu: Niko na swali.

Com. Kangu: Mimi niko na swali moja. Jaribu kufafanua, katika upanuaji wa provinces kutoka nane hadi kumi na moja. Umesema kutakuwa na North Rift na South Rift. Ningependa utueleze hiyo itachukua upande gani na upande gani.

Ukasema tena, North Nyanza na South Nyanza - utuelezee itachukua wapi na wapi. Tena ukasema, Ukambani na North Province. Tena utueleze hii itachukua upande huu, na hii upande huu. Please.

Fidelis Muthama: Yaani, hapo upande wa Rift Valley, ile province tunaita Rift Valley, inafaa kugawanywa iwe provinces mbili – South Rift na North Rift. Na Nyanza inafaa kugawanywa iwe South Nyanza na North Nyanza. Ile tunaita Eastern Province, inafaa kugawanywa – iwe Ukambani Province na kuwe Northern Province. Ukiangalia map ya Kenya, according to provinces, iko north side.

Com. Kangu: Sawa sawa, weka sahihi. Tupate Nicholas Musembi Kimende.

Nicholas Musembi: My dear Commissioners, I am representing on behalf of my group group which is in working within the Ukambani area. And our proposals are as follows:-

Com. Kangu: Taja majina ndio inaswe hapo.

Nicholas Musembi: Nicholas Musembi Kimende.

Com. Kangu: Endelea.

Nicholas Musembi: First: we need a Preamble in our new Constitution with a well defined vision of our country.

Two: we need recognition for both living and dead victims who struggled for the independence of this country.

Three: we need a coalition government, and the Office of the President should be a ceremonial one. The election of the President should be done by Members of the Parliament – that is MPs and once elected, he should cease to be a member of his own constituency.

In the absence of the President, the Vice President should assume all the powers and responsibilities of the President.

The President should be in office for only two terms of two years each.

There has to be a clause in the Constitution for calling back the President or any other elected member before the end of his or

her term by having two thousand signatures from each province in the country.

Validity of Presidential elections should be determined by the sitting MPs within a period of twenty-one days after these elections.

Removal of the President on grounds of incapacity should be determined by three-quarters of the sitting MPs.

There should be a legal proceeding for any President or any other leader within the country, in case of power misuse or office abuse.

The appointment of the Vice President, Cabinet Ministers, Assistant Ministers and Permanent Secretaries should be vetted by at least three-quarters of the sitting Parliament.

The Office of the President should be detached from the ruling party.

The Constitutional office should be vetted by three-quarters of the MPs.

The Attorney General to be appointed by a credible committee established or appointed by three-quarters of all MPs in a sitting in Parliament.

The prerogative of mercy should be exercised by a committee established within the Parliament with equal representation of the ruling party and the opposition parties within the country.

The Parliament should be independent in decision-making. Like in the issues of development, a sub-committee should be established to move the motion, tabled by the specific MPs.

Nomination of MPs should be vetted by three-quarters of all MPs based on: interest representation or a certain profession required to be in Parliament.

We need an independent credible Electoral Commission, appointed and vetted in Parliament. And its Chairman, vetted in Parliament after the elections.

Conduct of elections should be done by an independent Electoral Commission, without any external interference.

Alternative of any part of the Constitution must be passed by 90% of all the MPs.

Voting in Parliament should be done through a secret ballot.

Summoning of Parliament must be done by the independent Speaker of the National Assembly.

Prorogation or desolution of Parliament must be determined by a well defined national calendar.

Appointment of the High Court Judges should be proposed by Parliament, stated, and their security of tenure should be based on Parliament Principles e.g. in cases of dismissal, depending on their credibility and how they exercise their profession.

The Judges should be independent from other Arms of the government and must be accountable to the Kenyan populace through their representative.

A committee must be established by the Parliament based on credibility, transparency, honesty, within the framework of our law provision, by references and abuse in (inaudible) in the Constitution.

Appointment of the Judicial officers must be done by the AG and a committee set up by the High Court and vetted by High Court Judges and all advocates of the High Court.

Life must be treated as sacred and nobody or law should be enacted to take it away and anybody who takes it away, must be heavily punished without bail.

Anybody or authority who exposes any person to inhuman sickness, must be fined, or imprisoned for not less than five years, and be made to compensate the person fully.

There should be no taking away of one's property without proper reparation. If need be, this must be paid with interest within a period of 14 days.

Any arbitrary search or entry without a search warrant must be treated as an offence.

Freedom of conscious and expression must be treated as important, and any violation to the above, must be dealt with seriously.

(Interjection) Com. Kangu: Please finish up.

Nicholas Musembi: All monies collected by the Government in terms of assets or cash, must be paid to the consolidated account and be controlled fully by the Parliament through a motion system and the Official Leader of the Opposition, must be one of the signatories.

Contingency funds be controlled by a balanced sub-committee of both the Opposition and the Ruling Party – or the party in power.

Remuneration of all public officers must be vetted and approved by at least three-quarters of all Parliamentarians, depending on the duties and responsibilities vested on them.

Controller & Auditor-General must be proposed, vetted and approved by at least 90% of all Members of Parliament, and must be accountable to the same Parliament.

Appointment of members of Police Force must be based on merit and done by relevant authorities.

Appointment of Permanent Secretaries, Ambassadors and other senior government officers must be done by an independent Parliament by proposing, vetting and then approval.

..... (inaudible) laws must only be on persons not elected, who have served the government continuously for at least fifteen years, and this person must be not allowed to hold any public office

Com. Kangu: You have one minute left.

Nicholas Musembi: Okay. The retirement age must be reduced to fifty years, to create more employment for the youth.

The County Councils must have limitation on the way, they control, the trustland and the must rely on directly elected people's tribunal representative during arbitration.

Title deeds must be issued immediately the survey is done and complaints may be launched within fourteen days. Title deeds must not be viewed as the final saying towards one's ownership. Otherwise, there should be other evidences like, historical track records, community evidence and testimony. In case the government takes part of the land for any purpose, the owners must be compensated fully. And in case the government may not need that land, then it must be distributed to the so called "squatters".

There must be three political parties - that is the ruling party and two opposition parties, in the country.

There should be rules for three independent candidates during elections. Two of these must be from the civil society and the third one must be from the religious institution.

There must be no by-election within one and half years towards a general elections. Otherwise, the salary allocation for such defecting MPs should be used for development activities within the same constituency, and vested in the hands of two people elected from each location within the constituency.

For any person to qualify as a President for the country of Kenya, he must get absolute majority of all valid cast votes.

Com. Kangu: Utaulizwa swali.

Com. Maranga: You started by saying, you need ceremonial President. But the way you are also giving powers to that President, he looks to be more of an Executive President, rather than what you said. What is your position on that?

Nicholas Musembi: I am saying, when it comes to the appointments that are normally taking place, those powers should be vested in Parliament which should be doing if – that is, allocating or doing the appointments.

Com. Kangu: Okay, thank you. Sign our register, and then give us your memorandum even if it is written in that form. Now, tupate Benjamin Muasa, Hayuko? Peter Muli M.? Hayuko. David Mutisya K. Wewe ndiye Muli?

David Mutisya: David Mutisya Kiema.

Com. Kangu: David Mutisya Kiema?

David Mutisya: Thank you Commissioners and all Kenyans who are here. Well, I thought that we would use “the issues and questions” booklet and I have tried to give my views according to the questions which are laid down here. And I would think that you Commissioners, you are going to be able to read what is in our heart but not what is not in our minds.

So, for the first question here, I have answered - you are going to find me very first - I have answered “yes”.

The second question, I have said the national vision should be based on the fact that, at no point in time, should the present generation assume that we are making this Constitution for their own benefit. We are going to make the Constitution for the benefit of our good and grace and many many generations to come.

Question three: I have said the experiences that are meant for Kenyans to reflect, where short-sighted visions have caused upheavals in our neighbouring countries.

Directive principles of state policy: I would say “yes” for the first question. The democratic principles should be based in such a way that Kenyans are free to make and unmake their government.

Question three, I have said that “yes”, the year has diversified and (inaudible) Kenyans.

Question four, I have said “yes”.

Constitutional Supremacy: the first question, I have answered “yes”. The second question, “yes”, and the power to amend the Constitution should be shared between the Executive, Parliament and Judiciary. And if they fail to compromise, the subject matter should be brought to the public.

Question three, I have said “yes”, the parts shall be identified by the Executive and the Judiciary and the Parliament as the will of time grows. That is why they should share the power to amend the Constitution.

Four, “yes”, if the three Arms of the Government fail to agree on any parts (inaudible). The parts will show up in time.

Five: the composition of Kenya Review Commission which must change to something like Permanent Policy Review Commission of Kenya.

Citizenship: by birth, and through registration; that is number two. Three, I have said “no”. Four, I have said “yes” but if the parent is a man, he must proof that he has fathered the child who is going to be registered in our country as a citizen.

Number five, I have said the rights are defined in the Constitution. Obligations are also be defined.

Number six, I have said “no”. Number seven, I have said “no”.

Number eight, ID cards and birth certificates.

Defence and national security: I have said “yes” to number one. Number two, I have said, the “mechanisms in force”. Number three, I have said “yes”. Number four, I have said “no”. Number five “yes”. Number six, the Executive. Number seven “no”.

Structures and systems of government: I have said “yes” number one. Number two, I have said “no”, number three, “no”, number four “yes”. This is not only cheap, but it has also served us well. And again given the state of our economical development, we need to have a strong Central Government headed by Head of State. Number five, I have said “no”. We have a federal system of government in force, in the name of local authority, and provincial administration. And what is needed here is efficiency. So, we cannot afford to have a duplicate of what we already have. We cannot afford that luxury as a nation. Number six, the power is already at the lower levels as I have stated, but it is being misused.

Legislature: Parliament should vet the appointment of the following officers:-

Com. Kangu: Maybe you go faster, your time is running out (*tape complete*)

TAPE 2

Speaker: Programme officers,

Com. John Kangu: And you move fast your time is running out, you've got 2 minutes left.

David Mutisya: Yah I move very fast; like Chief justice should be appointed, Auditor General should be vetted by parliament, the Governor of Central Bank, Commissioner of

Police. I have said yes No. 2, so as to cover the vetting of such appointments.

Being a politician, is a full time profession but being a Member of Parliament should remain a renewal contract. And for voting, and contesting it should remain at 18 and 21 respectively but for the presiding should be lowered to 31 years. No. “6 yes, No. 7. yes”.

The Executive, “yes, 3 three terms of 7 years each. Yes, he is the Head of State, “yes”, we have not taken away but just being shared i.e No.4, in appointments of Chief Justice, Auditor General and all other related – Commissioner of Police, Chairm of the Public Service Commission. .

No. 5 I have said “No”, they should work harmoniously with one another. I have said “yes” - they are Presidential representatives to the people and a federal system in disguise like Local Authorities – i.e No. 8.

Judiciary: Chief justice: Chief justice should be allowed to form his subordinate court structure right from national level down to divisional level.

Qualifications: they should have diplomas in law. Chief Justice should serve 3 terms each of 6 years. The rest should serve 5 years in which they apply to the Chief Justice for the renewal of their contract and that should not exceed 3 terms.

Chief Kadhi should be entirely left to the Muslims, and the Muslims themselves will select their Chief Kadhis. The local government (*interjection*)

Com. John Kangu: I think you should be saying the last one.

David Mutisya: My last word – I'm presenting the papers. The Local Government: the Mayors should be elected by people, I've written them down, you are going to find them there.

Electoral system, they are there.

Now unless you have a question to ask me, I'm presenting these documents with you just to save time.

Com. John Kangu: Present your memorandum there and sign our register. Now I would like to recognize the arrival and presence of the Honourable Member of Parliament, Honourable Francis Philip Wambua. Mheshimiwa I will give you time to talk but I would like you to first hear your people for a while before we give you time to give your views. Thank you very much. Now, thank Fredrick Muumbi.

Fredrick Muumbi: Mr. Commissioners and the other Kenyans who have brought their views, I'm Fredrick Muumbi Katingi. In our new Constitution, I would like first to talk about school bursaries. They should be given to the locational development committee. In the new Constitution, government vehicles should be distributed to all but not the politically correct ones only. That in the new Constitution, no citizen of Kenya should die because of lack of drugs in government hospitals.

No businessman should lack where to sell his cereals while we have cereal boards in Kenya.

In the new Constitution, no citizen of Kenya should die of hunger because the government has to provide food for Kenyans.

In the new constitution, no citizen of Kenya should be unreached due to bad roads.

In the new Constitution, no trustland should be given to individuals.

Title deed could be renewed and the 90 years lease should be abolished.

In the new Constitution and Chiefs and Assistant Chiefs should be elected by the public through voting. Thank you, unless you have questions to ask me.

Com. John Kangu: Any question for him please? Thank you very much Mr. Fredrick. Now Patrick M. K. Gutu - you are not speaking? Thank you. Na John Mumangi, John Mumangi,

(*Interjection from one of the audience*) Basi hapa ni John Mumangi, ngoja pengine yako haijafikiwa. Kuna Mumangi mwingine hapa? Fine so you come we will change, you are saying you are Antony?

Antony Mumangi: Ninaitwa Antony - nafikiri ni hawa waliandika vibaya lakini ni sawa.

Com. John Kangu: Lakini hata John ni nzuri.

Antony Mumangi: Yote ni majina. (*Laughter*) Jina langu ni Antony Mumangi, na ninaseama ni asante kwa Commissioners kwa kuwa hapa Katangi, nawashukuru. Yafuatayo ni maoni yangu juu ya Katiba mpya ambayo tunataka iundwe mwaka huu. Kwanza, mambo ya vyama vya siasa: Kwa maoni yangu, ningependelea kuwe na vyama vinne, vya kisiasa - 4 political parties only - nne peke yake. Kwa sababu vikiwa vingi vitakuwa vya ukabila lakini vikiwa kama vinne hivi, vitakuwa ni vya Kenya yote. Hiyo ni number moja.

Hiyo nyingine, ni mambo ya elimu – education: ningependa Katiba iundwe ikisema, Elimu iwe ya bure kutoka standard one mpaka university -isiwe ikilipwa chochote, ilipwe na serikali. (*clapping*)

Kile kingine, kwa Katiba ambayo itaundwa mwaka huu, ningependelea kwa maoni yangu, kama inawezekana, kwa sababu tukikosa kuwa na PC na DC, na DO na Chief na Assistant Chiefs na wale Wazee wa vijiji, hatutakuwa na serikali thabiti. Kwa

hivyo maoni yangu ni tuwe na PC, DC, DO, Chiefs, Assistant Chiefs na Wazee wa vijiji. Hii iandikwe namna hiyo kwa maoni yangu.

Ile ingine, kile chama ambacho kimeshinda kwa wingi wa kura, kiruhusiwe hicho chama chenyewen - kiruhusiwe kuchagua nominated MPs na nominated Councilors. Lakini zile zingine ziachwe kwa sababu isipokuwa hivyo, itakuwa pengine chama kilishidana na kile kingine, na kikakishinda. Kwa hivyo kikishinda tena unaanza kugawa ule uzuri wako ulishinda, unaanza kugawia mwingine. Kile kimeshinda kwa wingi wa kura kiruhusiwe kuwa na nominated MP na nominated Councilors na wawe limited sio wawe chungu nzima.

Kiile kingine Wanacommissioners, ningeomba, ndio tuondoe hio tunaita corruption, kwa sababu corruption inaanza upande mwingine huko, na inakuja mpaka pahali ambako mimi niko. Ningependelea sababu kuna njia ya kumaliza corruption, kama ni upande ya police, police waandikwe, na wapewe mshahara mkubwa. Walipwe mshahara mkubwa, na akionekana akiwa ana corrupt afutwe saa hiyo hiyo tu.

Kile kingine Commissioners ningeomba, kama itawezekana, Waalimu, wanafanya kazi mingi sana. Ndio nyinyi mmetoka kwa walimu nyinyi nyote ambao mko hapo mbele. Waalimu walipwe mishahara mizuri sana kutoka primary mpaka university, walipwe mshahara mkubwa. (*clapping*) Kwa sababu ya kusema hivyo, hawa ndio wanasomesha mtu, kutoka pale ambao hajui kuandika mpaka anajua kuandika na mpaka anakuwa President amepita kwa mwalimu. Kwa hivyo mwalimu inafaa alipwe mshahara mkubwa sana. Kutoka Primary, mwalimu wa primary aanzie shilingi elfu arubaini, na wale wamesoma zaidi walipwe zaidi. Na vile vile, madaktari, upande wa daktari wa hospitali, maoni yangu, madadtari, walipwe mshahara mzuri, na wafungiwe kufungua biashara zao za hospitali, wafungiwe kabisa, sababu kule wakifanya kazi kwa government wanaimba dawa zote wanaenda kupeleka kwa clinic zao. Kwa hivyo wafungiwe kuwa na biashara ya aina hiyo lakini walipwe mshahara mzuri, kama ni elfu mia mbili, walipwe na wasiingilie biashara ingine.

Kile kingine bwana commissioners, ingawa sijui muda umembaki kidogo, najua,

Com. John Kangu: Kama dakika mbili.

Antony Mumangi: Nakimbia sana, kile kingine, kuna taabu ingine naona wananchi wanapata, kama hapa sokoni ya Katangi. Mtu ana biashara kama mimi mfanyi biashara, na mtu ameiba gunia ya mwingine kule halafu anakuja ananiuzia na mimi sikujua kama ameiba; Sasa yule mtu akishikwa anakuja, mimi nimenunua, na sisi wote tunachukuliwa. Kwa nini huyo mtu ambaye ameiba asiandamwe ye ye peke yake? Kwa nini aandamanwe na mimi? Sasa anaingisha mtu kwa taabu na mimi sikujua. Nilinunua nikidhania ni mtu mzuri. Kwa hivyo hiyo iangaliwe vizuri.

Na ya mwisho, Wanacommissioers, ni hii mambo ya barabara kama hii tuko nayo hapa Katangi. Mtu anaenda njiani, na kwa bahati mbaya anakutana na gari, gari iko na mtu ambaye anaendesha, na bahati mbaya, inamgonga; na anaabiwa - ama igonge ng'ombe, akigonga ng'ombe, hiyo mwenye ng'ombe, atalazimishwa kutengeneza hiyo gari, na ng'ombe hajui mambo ya barabara. Yeye alikuwa anachunga ng'ombe, au anapeleka sokoni. Kwa hivyo hii iangaliwe kwa Katiba na itengeneze. Kwa vile gari imewekwa insurance, mtu akigonga ng'ombe, mwenye ng'ombe asiingizwe kwenye taabu, sababu ng'ombe hajui kutembea kufuata sheria za barabara. Kwa hivyo hiyo Katiba iangaliwe sana sababu inasumbua wananchi hawa ambao hawana chochote. Unaambiwa “tengeneza mimi gari”, mwishowe unauza wale ng'ombe wengine wote ndio utengenezee mtu gari, na gari iko insured by the insurance company. Kwa hivyo maoni yangu ni hayo machache, Commissioners na ninafikiri mtayapeleka mbele. Nilikuwa nimeandikisha, sitapeana karatasi, lakini nitasungumza kwa mdomo, that's what I will do.

Com. John Kangu: Ukitaka utapeana, hakuna shida. Ngoja tuone kama kuna swalı,

Com. Phoebe Asiyo: Gari ikigonga mtu, iwe namna gani?

Antony Mumangi: Gari ikigonga mtu kwa sababu gari ni insured, huyo mwenye gari atengeneze gari yake, lakini asiingize mwenye kuchunga ng'ombe, kwenye matata. Iko namna hiyo.

Com. John Kangu: Asante basi na nitakujuliza sijui ni Japan, kwenye wanasesma, “the most important paid professionals are teachers” because it is said they are the ones who participate in preparing the future generation. They are the most important

paid professionals even higher than doctors.

Antony Mumangi: Ndio ninasema walipwe zaidi.

Com. John Kangu: Thank you. Tupate Councilor George Mutungui,

Geoge mutong'oi: Commissioners, majina yangu n George Kilundo Mutongoi. Maoni yangu ni kama haya ifuatayo. Kwanza: nataka serikali iwe ya vyama vyote.

2. Pili, Kenya isiwe na hawa watu wanaitwa “manamba”, kwa sababu tukienda “Country” bus wanaumbua watu sana, wanashidwa na vile wataendesha mambo yao.
3. Tatu, hizi mikokoteni, ziwekwe number, ndio ikinifanyia vibaya kule mbele niwe naweza kujua vile nitafutilia. Nne, Councils iwekwe nguvu, ndio wakipitisha mambo yao, waendelee wao wenyewe, isiwe inatafutwa, approval kutoka kwa Minister.
4. Gari, ikibeba zaidi, wale watu wamesimama, hawa washtakiwe hao wenyewe. Ni maoni yangu. Maoni yangu ni kama hayo.

Com. John Kangu: Asante bwana Councilor, basi weka sahihi and now lets have a student one - Joel Mutinda.

Joel Mutinda: My names are Joel Mutinda. And these are the points which I have.

Com. John Kangu: Sungumza kwa sauti, hata wenzako wasikie whether you have presented your views properly.

Joel Mutinda: These are the points which we have written down so that we may see our Constitution being run well.

First one is Job opportunities: – You find that in Kenya, those people who have opportunity in the government are the people who are given more priority in jobs. For example, you might find a minister having more than two departments to lead and that leads to unemployment for other people.

Also, rights of the youth: you find that the youth is denied the chance of having any property and this is leading to a poor society because you will find the youth don't have any property by the time they finish school.

Also we have suggested on this issue of Councillors and even MPs, that these MPs that there should be a provision for this electorate to recall them if they are seen not to perform. It should not be the case as it is now where they are elected and they are just in office for say for five years assuadily that nobody will take that chance away from them. Should be – I don't know how I can put it, but can be recalled for another to take over. Also, the issue of denying someone leadership for example as an MP, or even President because of bankruptcy is not good – let everyone be give an equal chance in leadership.

Also equal distribution of resources: you will find that in Kenya in those places which have big people like MPs and Ministers, they are more developed than the other places which don't have those people and that leads to us having a poor country.

Also, there is overreliance of support from foreigners you will find that in Kenya in everything we are doing, we are relying on foreign export or foreign support. In everything we have to do, it's a must to consider those people, or those developed countries, like America and that is not good because we have the independence. So, it seems like we don't have any independence or we have a half independence - that's what I can say.

Also there is a problem of succession: you find that like now we are campaigning for the DC who will take over after Moi is gone for retirement. So we have felt that it is good to have a commission which will involve every kind of people, from opposition and from local government, to choose who will succeed the retiring President instead of him appointing because this can lead to tribalism or regionalism and also may deny other trives the chances of leadership.

Also we have come to realize that teachers are undermined in the society. In this we mean that teachers should be given the first priority in the society because they are the ones who prepare the future “materials” i.e students and pupils, nitasema hivyo. So, in this case the payment or salaries of teachers is a really sympathetic issue and we don’t know how the future generation may be in running without education. There is a problem here.

Also. There should be limitation of owning land. We should have this limitation because you will find that those developed people, in today’s Kenya are undermining those people who don’t have any opportunities. Today’s Kenya is having discrimination against poor people; because if you don’t have any land, you will still remain poor. And for those people who have opportunities of owning land, they will have more land and more, thus leading to poor people having no land. Those are the points which we have brought. So I think on behalf of the students, the Commission which is here in front of me, will put into consideration those points and we hope that our Kenya will be run successfully. Thank you.

Com. John Kangu: Wacha Kidogo. Okay thank you Mutinda, you sign our register na tuplicate Nelson Mule.

Nelson Mule: Thank you Commissioners, my names are Nelson mule. I do not have any written memorandum but I have got a few points to make.

Its my proposal that we abolish the tests for MPs for as far as MPs and Councillors before they seek for seats for Kenya has already learned people. We may say for instance that we need farm for lease as MP aspirants, may be with passes in English and Kiswahili so as to be able to communicate. This should be the minimum requirements. MPs jobs should be a full time job and they should be going in for 5 year term and for two terms only. There should be an option of calling them back, through the courts, incase of any bad behaviour while holding the office, and that is for example through misappropriation of public funds, etc.

Presidential appointees should be vetted by Parliament, and these should include ministers, PSs, Heads of Departments, Heads

of Constitutional offices, Judicial officers, and so forth.

On the salaries, all government employees should have their salaries evaluated by a commission. This Commission should evaluate all government employees irrespective of the offices they hold. – from the smallest to the highest. In that case, we should have a standardized salary system, whether in the judicial side, in the parliamentary side or in the executive side. There should be a clear job evaluation and these salaries should be pegged on the per capita and the President himself, should have a certain percentage over the MP. There should be a clear system where the President's salary should be, lets say possibly 130% of the MPs salary. Likewise councilors, there should be a system of calling them up, through the court system incase of bad behaviour and that would include misappropriation of public funds, or any other bad behaviour.

On the courts system, most of the poor people are not able to - they don't have enough accesss to the court system. And that is due to lack of funds. Even transport to the court and even the police system is also cumbersome for them and taking into consideration, there are minor cases at the village level which, I feel should be dealt with at the village. The local people can elect a tribunal that should be recognized by the constitution. Those people should be paid and there should be a system. It help them make small cases in the villages and the local areas.

Land adjudication: – we should have adjudication officers to revisit all areas after every 10 years. That would simplify matters for possibly the wazees who passed away and then the brothers, the sisters, and his sons may decide to have their land demarcated or devided among them. It would be easier for them.

Mayors of municipal councils should be elected directly by wananchi of those areas. Same case with Chairmen of Councils and so forth - they should be elected directly and there should also be a way through the courts to call back, these officers in case of misbehaviour in the office.

Children born of Kenyan ladies and foreign men should have dual citizenship, on top of the Kenyan citizenship. They should be allowed that citizenship unlike the current constitution when they are not allowed. Security of tenure of office should be given to

judicial officers, Constitution officers, Heads of Government institutions, and so forth and these people should be vetted properly by the government before they enter into those offices.

Political parties should be limited *interjection*

Com. John Kangu: I hope you are finalizing.

Nelson Mule: Yes, political parties should be limited and this should be an option of independent candidate who should not necessarily be passing through any political party - they should be given free hand to seek for election in elective posts in the country.

Disabled should be given a chance of possibly 2% in parliament. We should have 2% of the elected MPs given to the disabled while nominated MPs should have 5% given to the disabled and this should be done in proportion to the representation of the party in Parliament.

Basic rights should be strengthened. Let me be general on that: education, food, water, health and so forth should be catered for by the government to a reasonable level.

National Cereals and Produce Board, or any other organization which should be catering for the management of the cereals should have stores in every sub-location and the size of the store should be relevant to the production of that area. We should not have a case where some areas are advantaged. You find their cereals is being sold at 1,000 shillings per 90kg of maize, while in others we are selling at 300 shillings per 90kg bag.

Com. John Kangu: and now you have to finish within the next one minute.

Nelson Mule: I think I have finished.

Com. Pastor Ayonga: Bwana Mule, you said if I heard you correctly, that Councilors or MPs who are performing, can be recalled, but this recalling you said, this should be done through the court, now, who goes to court?

Nelson Mule: Any voter.

Com. John Kangu: Any voter can go to court?

Nelson Mule: Can go to court and

Com. Pr. Ayonga: Did you take it into consideration that cases here in Kenya, through our courts, takes so long and recalling someone through a court can go beyond his term in office?

Nelson Mule: I was mentioning that in the hope that we are going to re-organize the court system to be fasterer.

Comm. Kangu: What grounds does one require to move to court before an elected Member of Parliament or Councilor is recalled? What would be the grounds you shoud arrange and prove?

Nelson Mule: Lets say for example, we have the roads allocation for every constituency, don't you think we have it right now? Assume that the roads allocation has been mismanaged by your MP along with or in corporation with the Engineer in that way, and you know that this MP is the one who was supposed to have taken care of your fund for that area. I think I should have a chance of going to court. As as a voter if I realize that that amount is not doing anything, I should be able to go to the court and prove that the amount as allocated for that year, has done nothing. And I think a voter can be able to prove that in court.

Comm. Phoebe Asiyo: Are you now giving a parliamentarian the power to the implement project because that is not of their roles.

Com. Maranga: They only approve Budget, but after that they don't follow up, and whether a Permanent Secretary does a road or doesn't, it is not the whole of the Parliamentarian. Are you now giving them a new role to implement projects?

Nelson Mule: I hope they have a say in that.

Com. Maranga: No they don't?

Nelson Mule: But I also was giving that one as an example. Because if there was something (*not clear*) which you were sure they are supposed to have done.

Com. John Kangu: Fine, Bwana Nelson, thank you and you sign our register; but it's something you worthwhile to go and think about and may be do a detailed memo on what you think will be ground or the basis on which an elected person can be recalled. If you did oral that you pass over to our district coordinator, it will get at our office and that has to be before we finalise taking views so that we can take that into account when we are doing analysis. Thank you very much. Sign the register.

Tupate another student Patrick Oroko. Patrick Oroko, unataja jina ndio uanze kuzungumza.

Patrick Oroko: To the commissioners and the audience at large. My names are Patrick Oroko from Katangi High School. I'm going to present views. I will talk about sharing of powers, you find that in the government most powers are allocated to certain individuals. So we are proposing that the powers be subdivided among several groups so that even the opposition and the citizens have a say in the running of the country.

The second point is about political parties: you find that many political parties are not given the chance in the government ruling. On the structure of the government, the structure of the government should be changed, such that the President is not given much of the powers in ruling the nation. It should be sub-divided into maybe a group of people who will be leading the

country.

On another point, I want to talk about educating the citizens about their rights. You find that most of the citizens don't know their rights. Mainly what they are talking about is ways of improving the nation, there is no rise that we don't know - even it should be included in the syllabus for the students to be knowing their rights as they go out of school.

Another point I would like to talk about is the land and property rights: Here, I would like to say that, one should be able to own the land and the government should take the land and relocate one to a different place. Instead, the government should pay for the land in cash, and let the owner go and buy the land at a place of his wish but not on being allocated a place which may be he doesn't like. We should also be free to own a land anywhere otherwise this system if buying land within one region encounters tribalism.

Another point is this organizations that contribute in the Constitution Review, their views should be beneficial to all the citizens. Like for instance FIDA when they are talking about Constitution Review, they say that when a man rapes a woman, he should be sentenced to death. And what about when a woman rapes a man? What will be the consequences?

So, on another point, I would also like to talk about political discrimination, where you find that a certain area is the one that is producing the resources but the resources don't benefit that area - they go to benefit on other sides and you find that like now, the national parks where they are situated. The people who live around there, they usually don't benefit from the money, it goes benefiting other sectors that may be not that efficient. So there should be uniform development throughout the nation – they stop discriminating other areas.

Also about sex education, it should be taught in schools. You find that most of the proposals that we give out are not acted upon, They are kept in places and sex education was passed out along time but up to now, I can say that, we have never been told anything concerning sex education.

Another point is auditing of accounts: I would like to suggest that all the government institutions and parastatals, should audit their accounts because you find that, the leaders who are managing them, they are never asked where the money goes, so they are given the powers to even mismanage the institutions. There should be a special board for auditing government accounts and also be able to give proposals on improving it.

And the last point I would say that those political leaders and also officials who like giving empty promises to the citizens, should be sued if they will not have fulfilled their promises may be after the given period because, you find that they just give promises when it comes to elections, “tutajenga barabara” after election there is no road that they make. So may be after may be 6 months after their promises, they should fulfill it, if not they should be sued and you will find that at least they will be giving us promises that they will fulfill; and I hope with that ...*(interjection)*

Com. John Kangu: (*not clear*) are you thinking about human resource, are you thinking about any specific resource like water or whatever? What are you thinking about?

Patrick Oroko: On the resources side, in some areas lets say, some areas are more productive than others. You find that areas in the North Eastern part are so much undeveloped. This is because the resources gotten may be from the tourism industry, not all of them go to the tourism industry to develop the national parks, to create roads in the national parks; you find may be they go to build roads in the Rift Valley part. So even these resources, they should be taken may be to even that North Eastern part, they create a company there, so that even the human resources will be shared because people will move from this region to that region to go to work, but you find that most industries are concentrated in one area. So, many people live in one area and the others remain undeveloped, so you will find even when it is time for a calamity, lets say a bomb lands in Nairobi, you will find that most of the manpower will be destroyed because they are in Nairobi while in North Eastern, there is nobody even, an electrician is hard to find there.

(clapping)

Com. Phoebe Asiyo: We have put all our eggs in one basket.

Patrick Oroko: Yes we have

Com. John Kangu: So you are saying that we should distribute things from Nairobi to other parts?

Patrick Oroko: Yes.

Com. John Kangu: And that, that affects even the distribution of the human resources?

Patrick Oroko: Yes.

Com. John Kangu: That's good, thank you.

Com. Phoebe Asiyo: Did you read the red book that we sent round?

Patrick Oroko: The small book like?

Com. Phoebe Asiyo: I think you should get - can you give the schools some of those books to read? Then you can write to us and tell us what you think. But I think that your thoughts are good, but they are not clear, and maybe if you read those questions, you will be able to write to us as a school and tell us what you think, about this devolution of power I think.

Patrick Oroko: We have also _____ (inaudible) about Constitutional Review - we just hear them in the press and at schools
... interjection.

Com. Phoebe Asiyo: Okay, I'm suggesting that you get a few copies of the red book to read.

Com. John Kangu: Thank you very much. Now tuplicate James Mwali, James Mwali. Kama Bwana Mwali hajasungumza, ile list tuko nayo, tumeona wanafunzi wawili hapa pekee, kuna wengine wanataka kusungumza? Who are they because we understand you may want to go back to school? There is Susan Kiiru, ako wapi? Basi uwe tayari, tukimaliza na huyu mzee nitasonga kwako.

James Mwali: Jina ni James Mwali, thank you Commissioner, mimi nataka kusungumuza juu ya majimbo majimbo, mimi

sipendelei majimbo, ya kwanza: na sipendelei uwezo wa mtu mmoja katika Kenya kama kiongozi, uwezo wake awe ni kuwa ana uwezo kushinda Mungu - yaani akitaka kila kitu, yeye ndiye anaamlisha. Kama KBC, akifanyiwa mkutano kama wa chama, hapo ndio mayoe inatokea, kwa chama kimoja, na tuna vyama vya upinzani, hiyo mimi sipendelei.

Ya tatu, ni mila za kienyeji: kama sisi ni Wakamba; ingawa wengi ni Wakristo, lakini hatujasahau na kimila yetu maanake wakati tunakwenda oa msichana, sisi hutengeneza “karubu”. “Karubu” ni ile pombe ya kienyeji. Lakini saa ingine ukitengeneza, unakuta kuwa Chief ama Assistant Chief, anataka hiki, ama barua, lakini tunataka tuwe huru kama zamani, tuwe tukioana kwa hiyo, kwani hiyo ni kimila..

Ya nne, inaweza kuwa je, kama mjumbe kama ni mtendaji wa vitendo, tumruhusu miaka kumi na mitano peke yake kama vile Rais vile tulisema, miaka kumi basi. Inaweza kuwa? Hiyo ni maoni yangu,

Ya tano, ni chama: mjumbe akiwa na chama, na yeze aone chama chake hakimpendelei sana, aondoke ajihusuru katika chama, anapenda kutengeneza chama chake, *end of tape 2 side A.*

Alitoka akaingia, akapiganie tena, apate ujumbe.

Ya sita ni Katiba tunayotengeneza, inaweza kuandikwa kwa kila lugha, lugha arubaini na mbili katika Kenya. Maanake kila mtu awe akijua Kenya ina sheria hii, ukikataa kusoma Kizungu au Kiswahili, unasoma kwa lugha yako. Inaweza kuwa mzuri?

Com. John Kangu: Wewe eleza vile unataka?

James Mwali: Hiyo ndio nataka.

Com. John Kangu: Yes.

James Mwali: Kwa hivyo maoni yangu na hayo sita, majimbo sipendelei,

Com. John Kangu: Haya asante basi,

Com. Phoebe Asiyo: Ningetaka kujua hivi mzee, unasema mjambe aende kwa Bunge mara tatu peke yake, kama yeye ni mtu mzuri, anaweza kukumbaliwa siku ingine ikisha kaa kama miaka tano, arudi tena, au unataka aende kabisa?

James Mwali: Aende kabisa.

Com. Phoebe Asiyo: Asichaguliwe tena mara nyingine?

James Mwali: Na si kama Rais, Rais tumesema ni miaka kumi, kweli anaweza kupigania tena? Basi mjambe kama hivyo, miaka kumi na tano.

Com. Phoebe Asiyo: Asante.

Com. Kangu: Ndugu umesema, hupendelei majimbo, yaani federalism, ile inategemea mambo ya kutawanya nguvu sehemu sehemu, na tena unasema hupendelei nguvu iwekwe kwa mtu, sasa tutaenda namna gani? You don't want decentralization, you don't want centralization.

James Mwali: Majimbo, kama mkoa huu wetu wa Eastern, hatujapata nguvu.

Com. Kangu: Nguvu ni nini?

James Mwali: Hatuna yaani, kitu kama kupata uchumi, kama upande wa Nyanza, wana bahari, wanauza samaki, kama upande wa Mombasa wana bahari, meri inaingia, kama upande wa Central, kila kitu wanacho, kwanza upande wa Rift Valley, mvua inanyesha kila wakati, sasa tukigawa majimbo, afadhali serikali iungane, muungano tu. Yaani Minister akichaguliwa

Mombasa, kama anasimamia kitu fulani, hivyo ndio nataka iwe kabisa.

Com. John Kangu: Enda uweke sahihi pale na tupate Susan Kiiru.

Susan Kiiru: Well, the Commission and house at large

Com. John Kangu: Sema majina yako.

Susan Kiiru: My names are Susan Kiiru from Katangi High School and these are some of the proposals we had made, that I myself have made.

One of them is about the increase of the teacher's salaries, and that the government should give free education to students.

Second one is about, Acts which are passed and nothing is done. We hear people say that this and this will be done but nothing is done.

My third point is, there should be no privatizing of industries. Like the Donde Bill, there should be no privatizing of industries and also there should be transparency in the ballot.

I think the President should be elected, and a Presidential candidate should be between 21-35 years. Young people are being rejected for old people yet the young people are the ones who have potential.

And the other one is, Majimbo should be abolished. That's all.

Com. Phoebe Asiyo: Susan you say that there are very many promises that are never fulfilled and you are saying you would like to see young people become leaders, if today you are elected Member of Parliament for this area Susan, what would you do in order to meet these promises that people make and they don't fulfil?

Susan Kiiru: First of all you have (*interjection*)

Com. Phoebe Asiyo: What would you personally do?

Susan Kiiru: I would provide roads, for example from here to Matuu, the road is so poor, the means of communication is so poor...

Com. Phoebe Asiyo: You would do that?

Susan Kiiru: Yes.

Com. Phoebe Asiyo: From what funds? Where would you get the funds to build that road Susan?

Susan Kiiru: From companies or I would ask for the funds from non-governmental Organizations to help in the construction.

Com. Pr. Ayonga: And what do you do when the funds are not available? They tell you, no funds, you want to do something good but there are no funds. Arent the people going to think you are making empty promises and then they take you to court after six months?

Susan Kiiru: I would just try and find ways in getting the funds.

Com. John Kangu: Okay, I have got two questions. How much do you want the teachers to be paid? I don't know what figure you have in mind, have you thought about it? And then the second question is you said about Presidential age, what is your lower limit and your upper limits?

Susan Kiiru: My lower limit is 21.

Com. John Kangu: For President?

Susan Kiiru: Yes.

Com. Wambua: Upper limit?

Susan Kiiru: Around 35 or 40.

Com. Wambua: So all Presidents between 21 and 35 (interjection)

Com. Phoebe Asiyo: She is relegating all of us from President! (*laughter*)

Com. Kangu: Upper limit we are saying, the age which somebody should not be able to now get the seat.

Susan: Okay, around 50 to 60.

Com. Kangu: Good, thank you. And the amount teachers have to be paid? How many hundreds? How many thousands?

Susan Kiiru: I think it should be above 30,000.

Com. Phoebe Asiyo: For the primary or for secondary?

Susan Kiiru: I think for primary should be above 20,000 and secondary above 30,000.

Com. Phoebe Asiyo: Nursery?

Susan Kiiru: Nursery? (*laughter*) above ten.

Com. Kangu: One question Susan, your colleague Oroko has emphasized that we need to decentralize things from Nairobi, we need to have some factories here and so on. And I think that can only be done if the people around here are given power to make decisions on certain matters, but you you are saying you don't want majimbo, and probably it is through those federal arrangements that the local people can make decisions on some of these things: How do you reconcile your position and what your colleague has said?

Susan Kiiru: I think there is some sense in what he said _____ (inaudible)

Com. Kangu: So what is your position now? Is there a way to draft?

Susan: Okay.... *Interjection*

Com. John Kangu: Why don't we allow Susan to go and think and write because we are putting her on the spot?
(*laughter*)

Com. Phoebe Asiyo: Go and think in the school and write to us.

Com. John Kangu: Thank you, go and sign the book and .. now we have heard the students, anybody else among the students? What is your name? And any teacher with these students who also wants to give views? Any teacher? Fine, lets have the teacher first.

James Wambua: I had already registered.

Com. John Kangu: You have registered?

James Wambua: Yes.

Com. John Kangu: Whats your name?

James Wambua: James Wambua.

Com. John Kangu: Fine, endelea basi with your views.

James Wambua: Yes, mine, much has been talked about, leadership, I will just mention about the Provincial Administration. There is somewhere the government has forgotten, that is the village elder, whereby the Village elder works for the Chief who is paid, he works for sub-Chief who is also paid by the government but this same village elder is paid through the cases he handles at the village level which uncreases the corruption rate.

Com. John Kangu: What do you recommend?

James Wambua: I recommend that they be paid by the government.

My second point is about the rules for the workers. The Kenyan workers, I want a law whereby, those workers who are working in town, are accountable to where they come from, they develop where they come from. There are people who go to town and then remain there, instead of coming to invest in their villages. Infact they can employ one person in the village or two people in the village, but there are those people who remain in town permanently and never come back home, that is why we are lavishing poverty and having an increase the rural urban migration. I'm saying that if there was a law where by these people are forced, all are forced to invest in their home ground, I think some rural urban migration would be reduced to some level.

My third point is about the educational system, you find that the education system we have in Kenya, is from standard one to standard 8 and form 1 to form 4. Okay there are cases of dropouts in schools in form three, that is, students of drop out in the

form three and when they go looking for jobs, he finds that he only has a certificate for standard eight yet this person has been to school up to form three and dropped out may be because of school fees.

So how will this person prove that he attended secondary school? This is why we should have the KJSE in form two reinstated and this would be a problem as most parents can afford educating their children up to form two (*clapping*)
I think I am through with my views.

Com. Phoebe Asiyo: We want to know, how can you implement or how can you force people, to serve people simply because they came from an area? How will you operationalize this thing you are recommending?

James Wambua: Yes, I'm suggesting that, we have seen, for example those people who work in the rural areas, you ask anybody around here, maybe he works in agriculture, he is a teacher, and he works in his home area. That area, when it's not month end, you will find that the people will say that there is no money in the village, because the teacher, or the agriculture officer has not been paid. If the rest of the people in town were somehow educated on investing in their home areas, I think with 6 people in one village, employing one person, poverty level would be reduced in that area.

Com. Phoebe Asiyo: So you are suggesting civic education.

James Wambua: Yes, civic education sort of.

Com. John Kangu: My question is about - you are saying reinstate KGSE certificates?

James Wambua: Yes.

Com. John Kangu: I'm asking the question, it means if we reinstate that kind of position, it means we are changing the system. So what education system are you recommending? Because as I know there is 8-4-4 alright, there is no examination between form one upto 4, so what you are saying actually, you are trying to change the system. So which system are you

recommending?

Com. Pr. Ayonga: I'm recommending the same same system,

Com. John Kangu: Which one?

James Wambua: The 8-4-4 but with a change of the system whereby there will be 8-2-2.

Com. John Kangu: I understand, 8-2-2-4?

James Wambua: Yes, 8-2-2-4 that's what I actually want to recommend.

Com. John Kangu: But Mwalimu I thought that in schools, we have what we call school leaving certificate and this is going to help the student who drops that XYZ attended this school from such and such a time, and he or she dropped at such and such a time. That would help that particular student, that he or she had reached such a class rather than bringing 8-2-2?

James Wambua: But that certificate does not have any results and can therefore not gauge the level of education of the student. It just says that he had reached this certain level, so in Kenya we have been used to valuing the certificate more. So the certificate... *interjection*

Com. John Kangu: That will change our attitude?

James Wambua: That is if it changes but it should be I think it is possible I

Com. John Kangu: Thank you, mwalimu, one question, on an issue you have raised which is connected towards what your students have raised. You are saying the people who come from certain areas, and work elsewhere, should be made to develop the areas they come from, and that raises a very important question, why do the people leave the villages to go and work elsewhere? You parents, you educate your children, they finish and you yourself tell them, "my son go to Nairobi that's

where you can get a job”, how do we go about to bring the jobs to the villagers, to keep these people in the villages instead of our asking them go to Nairobi? Because that is the problem. You will not want your son to sit here if there is no job he can do in the villages. So, how do we get the jobs to the people in the villages so that the money they earn infact can actually be spent in the villages to circulate around? Thas how the villages will develop. Because when they go to Nairobi they spend everything there and you cant blame them because they cannot be spending there and then carrying some to bring here. He cannot afford, its so little. How do we bring their jobs in the villages?

James Wambua: But infact my point was this, if it is industries, to be brought in the villages and at that level, I was talking about the workers, those who intentionally go to work in towns and they refuse to go home. They just refuse. What is later, is a coffin, no house no nothing.

Com. John Kangu: So the economic dynamics are the ones that force them, because even if, you see what is happening today is that someone wants to have a house in town, you are telling him he must also have a house in the village, he cant afford, He will come and put up a house in the village, employ his cousin to sleep there, he pays him, in Nairobi he is paying another person to sleep in his house. And the economy cannot sustain all these, how do we go about to avoid this idea of having a house in Nairobi and another house in the village to make it affordable for our people?

James Wambua: Okay, I think we will go back now to decentralizing the way you have talked about. (*laughter*)

Com. John Kangu: Thnk you very much, go sign the register. May be at this point Mheshimiwa we can give you a chance to also say what you have.

Hon. Francis Wambua: First of all, Commissioners I would like to apologize for coming late because I had to attend another Parliamentary Committee on security because I’m the chairman of the parliamentary security office. I’m honourable Francis Philip Wambua. First of all I would like to welcome you all the Commissioners in my constituency and for one, I will read some of the points which I have written but because tomorrow we are together again in the other meeting, I will present the written

one which of course will compose of everything.

So then of course you can list records for the first instance, which of course I would like my people to hear from me in this _____
(inaudible)

1. First of all the government of the day, should be responsible for free medical care for all its citizens because they pay tax equally.
2. Education should be free to all students in all the forms.
3. Judiciary: judges, magistrates, should be appointed by an independent commission but not the President so that they can do their work perfectly without being given orders from above. Kenya law must be reviewed to determine the sentence according to the weight of the crime, because sometimes a person may just steal kuku here and when he goes to the court, he may be sentenced for 10 years na mtu mwininge aimbe 10 million, which is public fund na aende na 6 months. So, according to the weight of the crime, the law should be amended to determine that, because there are so many people who are running away with the tax payers' money and they are jailed for months, when some people who just make very petty crimes go for many years in prison.
4. All government officers, ministers, should be compiled to automatic resignation when they are charged in a court of law for corruption, misuse of public funds, or misuse of office. It has been noted that ofcourse some of the officers, even ministers, after they have been charged, they still have the bendera on their cars and they have been charged in court. So they should at least be made to resign automatically – that should be a law to that effect.
5. All government officers should be appointed by an independent commission so that they can perform their duties perfectly without fear or intimidation because for instance, if the officers are being appointed like PAs and others by the government of the day, they will still work favouring that government of the day or probably they will just get some orders from that government and they will never do the work perfectly and they are public servants who should at least give equal service to all.
6. All Bills and motions passed by parliament must be implemented by the government of the day immediately. You have seen that ofcourse the parliament has passed a lot of Bills and motions and probably because these Bills and

motions are not favouring the government, it refuses to implement it and yet the parliament is composed of all the parties. So, we don't see the reason why these Bills and motions are not implemented. So there should be a law which of course should compel the government of the day to implement those Bills and motions when they are passed by the parliament.

7. The government of the day, should be entitled to building schools and health centers in all the country and equip them equally and not to leave this for the public to conduct harambees because they are collecting fees from the schools and also the public are paying tax, we have seen that of course some of the areas are suffering. For instance our schools don't have equipment for science and they don't have good labs like other schools in other areas. These commitments are left for the parents to do that. And the schools children are paying school fees like in those other schools. So the government should be compeled to build and equip schools equally because it is the government that collects fees from the students. In that vein Katangi High School dere should be equipped in the same way as Alliance High School for both sit for the same examination.
8. The other thing is that the country wealth must be distributed equally for development. For instance you have seen or you have heard the contribution of some of my people here, that the roads are bad, the hospitals are bad, dispensaries are not well equipped. They think that of course the Member of Parliament is the one who usually should do that but you know of course that it is the government which builds roads, equips health centers and gives medicines to the health centers, so when this wealth is not distributed equally, probably a Member of Parliament may be blamed for nothing, for not have done the work for the public which of course is the work of the government. So the wealth of the country must be distributed equally. Whatever cause is making roads to be good, in Rift Valley, should be the same for making roads good in our Eastern Province or elsewhere in Yatta where I represent.
9. Administration should be replaced by elected development officers whose terms should be reviewed is the term of parliament. For one, we have experienced what the administration are doing in our country and because they are for instance the DCs and the DOs, and they come from different places, they don't mind about the development in the places where they are, but if we have development officer who knows that he is elected by the people and his term will be reviewed at a certain term, he will do better than a District Commissioner, who ofcourse is in charge of

the security, he is in charge of the development of that area, and yet when the money comes, sometimes they don't mind. That is why you have seen some of the areas, although the central government gives the funds for a certain district, these funds are not utilized equitably because those who are the Heads, particularly the DCs and the DOs don't mind even if those areas are not developed or not.

10. So at least, we should replace them with development officers who are elected by the people of the same area who know that after a period of time, which is five years, they will be reviewed for re-election. I think these will do better than the D.C and the like.
11. All security should be left to police force and a police station should be placed or built in all locations. We have problems of orders being given, some by the administration for instance you find that the DC or DO is in charge of security in his respective area where he may give some orders on some security operations and also the police boss of that area, there are police posts in the area, so there is contradiction of orders because the police officers give their orders on security and how they want to maintain security and the administration also gives orders on security matters. That is why of course if I am in charge of internal security and I commit crime ----- when we have a Minister in charge of internal security and another in charge of local government we get problems like the ones we had recently of kiosks. We called all the Ministers and the Minister of Local government said that was not aware who had given the orders to demolish kiosks, yet they are the people who are collecting funds, who are collecting rates from the kiosk owners. Then the administration are giving orders for the kiosk to be demolished while the local authority has already collected rent from the people. So this means that there is duplication in giving orders. So everyone should be on their own. The administration should be left to govern the country and the police should be left to take care of security.

Those are the points I had for today but I will give more when I will present again tomorrow. It is good that you have come and the people have been enlightened now. They will go out knowing that that is the work of the government. I usually go there to present their problems and if the government does not listen, if it holds to deaf ears of the government, that is why you find some areas are developed than others. Thank you very much commissioner.

Com. Pheobe Asiyo: Mheshimiwa, I wanted to ask you one question. Do you know where this country is right now economically? You also know the political situation of this country, I would like to feel that you can give us some answers to some of these problems so that when the new Constitution comes in place, it will change all these problems that this country is now suffering. You were talking about motions being passed in parliament, and not being implemented. Yet, I know that if you yourself, even proposed, a private members motion for a bridge that is broken to be build you know that that bridge will not be rebuild if you didn't have the money - even if it was private. So that any implementation of parliamentary Bills and motions will depend very much on one if funds are available and two, if there is political will to do it.

But you are also talking about sharing of resources: your people have just told us here that they do not want to hear anything about the word "devolution" of power. May be they are thinking about that Majimbo thing that was there before.

But what I want you to tell me - what power do these people have to change all these terrible things that are happening? Unless they have the decision, unless they can make the decision themselves and implement those decisions, they will just say that there are no industries here. But this area can perhaps be one of the richest in this land, because they have a lot of land. Look at Botswana: the whole of Europe eats meat from Botswana although it is dry because they have developed that industry. If you were to have the power in your hands now, develop just livestock, build a big airport here, get everybody who has some livestock to have it right here. The Athi River thing (KMC) which fell because it was not in the hands of the people - the people of this area. You definitely would create fund that will build all these roads. Why is nobody talking about devolution of power - not majimbo, so that they can have the decision in their hands and implement some of these problems that are really worrying them. I would like your wisdom in this so that when we write, the new Constitution would cater for what is now causing a lot of problems for Kenyans because Kenyans don't really know why we have come to this stage. If this Constitution must get Kenya out of this situation in which we find ourselves, so tell us a form of government, a system of government that you personally feel would bring power back to the people instead of one man sitting in Nairobi to decide whether this area, Yatta will get money to build roads, or whether the money will go to Nakuru, or to Nyeri.

Hon. Francis Wambua: Yes, thank you very much, Madam Commissioner and one, I was not prepared to go to that way but because you have asked me, I will do it. I'm sure that of course you know the type of government we are having today and

you as a person, you have been a Member of Parliament for sometime I know you and the problem we are having in our country is that, especially the government of today, when of course we go to the terms of parties, there was something which sometimes we used to call it at least if it is KANU which is leading, "Kanu zone" and we find that, we are all paying tax, we are also having money from donors, and when we are paying this money from the donors we are all equally paying that money as Kenyans and we are entitled; but when we go to the development of the area, you find other areas are more developed than others even if the economy is the way it is. The economy is not just bad in Ukambani and in good position in Rift Valley. If the economy is bad, let us use the little fund that we get from the tax payers and from the donor community and distribute it equally. I will give you an example in Ukamabani we have been crying for water and at any time when a minister presents his Bill for allocation, we allocate the Ministry of Water the money that the ministries requires – even more; but you find that no development of water projects takes place here.

I would say that we here are lucky for God has given us two big rivers – the Athi River and Tana River. We have shown by practice through the Yatta furrow which is just a small furrow, we have been selling goods and brings fresh exchange to the country; but when we ask for more water, water which is passing by through here, we are told that there is no money yet, we have allocated money to the Ministry concerned to provide water by digging boreholes or to construct tanks. That is why I am saying that, the government of the day, no matter what party an MP has been elected – myself I don't belong to Kanu, but we are all equal with perhaps the exception of the minister who have been given that portfolio by the President or the President himself.

So whatever the President is doing for Kabarak High School, if it is in government money going to Kabarak High School, some money should also come to Katangi High School because my Katangi people are also paying taxes. (*clapping*)

Com. Phoebe Asiyo: Why don't you just call that money from the government and bring it here so that you can share it among yourselves? If they are keeping it there, why don't you find a system that will bring all the money here?

Hon. Francis Wambua: That is what I'm coming for. Now for instance, I put a private motion, just at least to allocate something, very little according to our economy. For instance I asked for 400 million to be allocated to all the 4 districts within Ukambani for water. 400 million to our country is very little - its just a peanut, for every year and with that money, if that

money is given to our district in Ukambani, we could know what to do because we know our problems and our problem is water, it is not even electricity, it is not even telephones. Telephones and electricity is not a problem for us, but we need water most than these other essential things. We know these other essential things that can help us to develop our country; but when we are denied this for instance, when this motion will go through, the Parliament will pass it and then that is when I'm told that there is no money and that is when it is not implemented, while ofcourse other things are being implemented. ***Interjection***

Com. Kangu: Mheshimiwa, the problem we have is this, there is something structurally seriously wrong, that's why you can sit as an MP and you know such much has been allocated to this ministry, but nothing comes here. So the question is, how do we change this structure? You see the position is that, its like mmechinja ng'ombe yuko hapa, na mmechukua kisu, mmeweka kwa mkono wa mtu mmoja na wengine wako na mikono mitupu. So he will end up cutting all the meat, na wengine wanaangalia, wanajua ng'ombe iko, but they have no knives to cut. How do we give the other people the knives? So that they can also cut their share of the meat? There is something structurally wrong! your vote allocations are given to the ministries, but we know as a factor and Kenyans know, this money can easily be diverted to one place, other places get nothing. I can tell you as a fact that you may even find project aid money that is brought specifically for projects in Ukambani, but because of the structure we have, that project can be diverted to another corner of the country and Ukambani people will never know. How do we change this structure, so that these things do not continue? ***Interjection***

Com. Phoebi Asiyo: And Mheshimiwa, this new Constitution must do that for the people of Kenya; so tell us how we should do it.

Hon. Francis Wambua: Okay, I will just want to come to our people, the voters ***end of tape 2)***

TAPE 3

Francis Wambua: Our voters sometimes - I don't know the way they are now because I think they might have changed; the problem is the government of the day. That is the major problem at least. And the other thing, when we are voting and you know it, our people get bribed by the government of the day or the party which is leading the government, by giving us maize as if we are kukus and we vote for them. What of course for one thing I would request - not just the Kamba community but all Kenyans, is to vote perfectly and to make change in this country; because for instance, we are talking of corruption and we have even been called by the IMF and the World Bank in Mombasa when we were there last month, they told us how the

problem of corruption started. But the corruption in Kenya is well known that it is from the top to the bottom and unless this government is changed, this corruption will never end because there is no thief who will go and catch another thief.

(Clapping)

Com. Kangu: There is a question we asked, we agree with all the corruption. But the question we are asking as a Commission, how do we ensure that the national resources are evenly distributed? What mechanism, what type of government do you want us to put in place because the current one has failed? That's what people are saying. How do we put it?

Com. Wambua: Thank you very much. I got your point now. The government which of course Kenyan people may benefit, is the government of collecting units of the party because for instance, this government today is not for Kenyans but it is for only one individual person; it is for Moi because Moi appoints the Judges, Moi appoints the Ministers and if he wants to sack them, he does not even consult them, he sacks them anytime he wants. So, we would like a government of national unity which of course we can at least sit together as people of all communities and form a government together which is a government of national unity.

Com. Kangu: Yes, Mheshimiwa I think we will (inaudible) you to think about these issues and tell us because when you tell us the problem is the government of the day, tukirudi kwa yale nimesema mambo ya kisu, hata tukitoa hicho kisu kwa yule ako nacho saa hii tupatia mwingine, kama ni yeye pekee bado ako na kisu, the same thing will happen.

Interjection: Will happen, yes.

Com. Kangu: Ndio unasikia Wakenya wanasema; the Kikuyus have had their turn, the Kalenjins have had their turn, “it should be our turn”. We are saying we want a system under which it will be a turn of all the Kenyans at every given time. How do we get a structure that can ensure that? Let us hear more from you tomorrow. Thank you very much.

Com. Wambua: Thank you very much.

Com. Asiyo: There was a lady teacher who wanted to speak.

Com. Kanga: Yule mwanafunzi yuko wapi? Please, come. What is your name? Eeh? You had registered? Could you be there in the afternoon?

Com. Asiyo: But there was a teacher.....

Com. Kangu: Fine, then we should finish with you if you will not be coming in the afternoon. What was your name?

Mwaka Kiema: Inaudible.

Mwaka Kiema: The Commissioners and the people present, my names are Mwaka Kiema and these are the points I have. First, I would like the education system to be restructured in that.....

Com. Kangu: Wale wanazungumza, tupatia Bwana Kiema nafasi tusikize maoni yake anavyosema.

Mwaka Kiema: Exams: We should have exams and certificates to be awarded at the level of Form Two and also in Form Four. This will remove workloads for students in secondary school. My second point; Ministers and Managers of government Parastatals should be people of credibility i.e. people who haven't been involved in any corruption charges of embezzlement of public money.

My third point; Vice President should be elected directly by citizens. This, I think, will avoid a case in which one a person, that is the President, will elect the person whom he thinks if he elects from such and such a tribe, he will have support from the tribe he has elected the Vice President.

My fourth point is that date for elections should be set Constitutionally. If I think you have heard the time for election being taken as a "weapon" by the person in power. My next point is that names of Ministers to-be - those to be appointed by the President should be sent to the Parliament for vetting so that the President does not appoint people who have very bad family records or who have been involved in corruption. There should be creation of job opportunities by making sure that nobody owns two public offices at a go. Also, because now everybody is here for Constitutional Review airing his ideas but I know if many of us here are asked what they are trying to say, many will not say what they had come for. So, my point is that there should be a publication of the Constitution in the languages which are understood by the citizens so that every citizen knows what the provision in the Constitution.

My next point is that there should be equal distribution of resources regardless of political influence. With this I mean that when it comes to allocation of funds for development projects, they should not be allocated with consideration to whether the person who has tabled the motion in the Parliament is from the opposition or the ruling party. Then, there was this issue that Mayors should have degrees. My point is that Ministers should have degrees. A Minister for Finance should have a degree in commerce for he is concerned about public money utilized; wise usage of money. If it is the Minister for Transport and Communication, he should have knowledge about those things but not a person to be appointed a Minister and he is a Minister of the things he does not know much about.

Then, there is this thing of property ownership. I think the youth are very much

sidelined when it comes to that

because Constitutionally, nobody under 18 years is supposed to own property. I think that one should be changed because this brings laziness and it (inaudible) because if a person knows that at the age of 18 he can own any property, he will have to work from a tender age to have property of his own by the time he leaves school. Those are the points which I had.

Com. Kangu: Asante Bwana Kiema, jiandikishe pale. There was teacher lady; where is she? Tell us your name.

Teacher: My names are Faith Musau.

Com. Kangu: Who?

Faith Musau: My points mainly dwell on the Human Rights or the basic rights of a woman. It has been said that majority of us may be don't know what we are trying to review, and that is true. But when you look at the Human Rights in Kenya, you realize that some of them, that is the citizen rights, some of them are not okay and may be the government of the day does not adhere or does not respect most of them. So, when we look at the right to life, I think that is a right that is God-given and the right to life should not be violated. In this case, there is a question here that if the Constitution guarantees the right to life, should the death penalty be abolished? I would say yes, the death penalty should be abolished and instead of death penalty we have life sentence a person who deserves that kind of punishment should be sentenced to life imprisonment.

When it comes to; "should the Constitution provide security"? I would say yes. The Constitution should have a kind of law that looks into the public's security in that, you realize that in Kenya we have several groups that are coming up; a group like the Mungiki, the Manamba and the street children and you find that those are a threat to the public security. So, I think the Constitution should look into that to enforce a kind of law that looks into this, or that can govern such groups that are coming up or that can make sure that such groups are not a threat to the public.

When it comes to the health care, I think the basic healthcare should be provided for by the government. You realize that today many of us are dying because we are not be able to afford simple medicine because of the level of poverty in Kenya. So, I think basic health should be provided for by the government. Water to be provided freely, i.e. free and clean drinking water. At least there should be a pipe within two metres of every home so that we may eliminate some of the water borne diseases. You will realize that when we take water that is not safe from wherever then we are giving the government a lot of work to provide the healthcare. But I think if the Constitution could look into that so that the government provides clean drinking water, then most of the problems we are having among the mass and on the citizens can end.

When it comes to education, my feeling is that education should be provided freely especially from nursery school, primary school - that is basic education to be provided freely. When it comes to secondary, the government to provide a few physical facilities such that the parent is left with very little to cater for in the secondary school. When it comes to university, most

students we see from the rural areas located in the deeper remote areas, most of them will pass very well, need to go to university but they don't go only because of lack of university fees. So, I would request that if it is possible, the government should also look into such things and see how it can help us because, I think we are talking about eradication of poverty and if these students from the rural areas or from the poor families are educated, then they can eradicate it themselves.

When it comes to shelter, I think that the government should provide shelter especially for the squatters and the street children. You realize that the government or some wealthy people would come and buy a very huge chunk of land and say that that land is theirs, then the squatters living on that land will have to lose their land and these people have been born there, their parents were born there, their grandparents were born there, so they have nowhere to go. So, I think the government should look into that because I believe that squatters are also citizens, they were born in Kenya and they have the right to live in Kenya. So they should also be provided, for even if it is a few acres of land so that they can have a place for them to have a home.

If I may go back to education, let me say that I feel that the education system in Kenya today is so much confused or we are getting so confused because there is so much work, so much load for the students and so many subjects have come up in the recent past. When you look at some of the subjects that are coming up it's like they are just picking some materials from other existing subjects. A case in point is Social Education Ethics, Sex Education and Aids Education. Though it is good to provide this education because of the (inaudible) but I feel that all that should be put in one subject so that the students will have a lesser load. And most of what is put in sex education can be put in Social Education and Ethics or most of what they call Social Education Ethics can be put in Religious Education and all that is one. I tend to believe that Social Education, Religious Education and Social Education and Ethics is almost one. So, I think maybe the education system should look into that. Still on education I feel that the nursery school teacher does a lot of work. So, I think the government should consider employing nursery school teacher instead of letting the nursery school teachers be paid by the parents. The nursery school teacher should be paid and provided for by the government.

When it comes to provision of food, I think the government should control the quality because you realize that in the shops we are buying some food that is rather sub standard. So, I am saying that the government should look into the quality, the availability of food and the cost of food. Employment, I think is a right of a citizen. A citizen should have a right to employment and just wealth. Just wealth here, I mean that a citizen should be given money in terms of salary that is equivalent to the work that he does. So, I think that should guide the employers in Kenya. They look at the work they are giving to their employees and they look at the money they are giving to the employees and decide to see if that is just wealth that is being given; it is money worked for, not for the work of the employee. Even if it is not in the government sector - it should also be in the private sector. Many people are getting very little rewards for what they are working for in Kenya. I think that one should also..... (inaudible).

The other thing I wanted to talk is the right of inheritance and here I am going to talk about women. You realize that when a

woman - you all bear me witness that women work very hard to provide for their families. And then, in case of divorce I tend to feel that at least there is a divorce, the custody of the children, or their care should be divided between the parents in a court of law. So, I tend to think that the property should be divided in a law court and this property should be divided equally instead of (inaudible). In case of a death of a husband, I think that the property should go to the immediate family and I think the government should look for a way - or the Constitution that we are forming, to look for a way on how to push the 'clanism' that comes in, or the people that come in to get the wealth of a man who has died. That should go to his immediate family which means the wife and the children. That is all.

Com. Asiyo: You talked about education. You are a professional; I believe you are (inaudible). Are you telling us that we need to over haul the whole system of education? Because you talked about so much workload or subjects at school and you also talked about other subjects that in your views, should be put together. Can you tell us, because we need to know your position so that put the right things or presentation.

Faith Musau: Now, I tend to feel that-----

Com. Asiyo: Could you be talking of a complete overhaul of the 8-4-4 system?

Faith Musau: A complete overhaul?

Com. Asiyo: Mmh.

Faith Musau: Okay, not necessarily; because when we look at the 8-4-4 system of education, the objectives of the system are very good and they can help them very much if we go by the objectives of the system. But, I think what is happening and what is confusing the educational system are the many subjects that have come up in the education system. So, I think what should be looked at is the number of subjects in that they are several subjects-----

Com. Asiyo: To re-organize them if we don't need them?

Faith Musau: No, don't withdraw any but combine some of them.

Com. Kangu: Thank you Mwalimu na register there. Nataka kusema tuchukue break ya 40 minutes halafu turudi saa nane na nusu tuendelee na wale wenye hatujafikia. Tutakaa mpaka tusikize kila mtu. Tunaelewana? 40 minutes, saa nane na nusu turudi tuendelee. Asanteni.

Com. Kangu: ----- today you are not a working man, very good.

Com. Maranga: He is a very good chair today.

Com. Kangu: Thank you.

Com. Maranga: He has improved, he has learnt from the wazees.

Com. Kangu: Eeh, I'm learning. (*Meeting breaks briefly*)

James Mwingea: Kwa jina ni James Mwingea na nitazungumza machache tu kuhusu Katiba ambayo inafaa Wakenya wote. Ningombma Commission itengeneze Katiba ambayo itafaa kila Mkenya hata yule atazaliwa kesho iwe inamfaa. Nitaanza na elimu. Elimu iwe kuanzia nursery mpaka university iwe ya bure ili mtoto wa Kenya apate haki ya kuwa na elimu. Maanake inaonekana 78% ya Wakenya ni maskini, yaani ni watu ambao ni wanyonge. Na iwapo elimu itakuwa ya bure, kila mtoto atakuwa na haki ya kupata elimu.

Nitaenda upande wa land and settlement. Ardhi inazidi kupungua kwa wingi wa watu na hili lingefaa, Katiba tutakayotengeneza iingie sana kwenye lands and settlement kuwe na kiwango cha ardhi ambayo mtu anaweza kumiliki. Wengine wamejilundikia akari kama elfu tano kwa mtu mmoja na wengine hawana hata mahali pa kulima sukuma wiki ama kupanda mahindi kumi. Kuwe na kiwango cha kumiliki ardhi.

Tatu ni katika administration. Chiefs na Assistant Chiefs wawe wakichaguliwa na wananchi. nne, katika Parliament; katika Bunge. Yule ambaye amechaguliwa Bunge, akienda huko Bungeni asichaguliwe tena kuwa Minister au Assistant Minister na chama ambacho kitashinda, tuwachague wengine wa chama chao kuwa ma- Minister ama Assistant Ministers. Yule aliyechaguliwa kuwa Mbunge awe Mbunge kamili bila kuwa na cheo kingine chochote ili tuangalie upande wa kazi kama itainuka kwa sababu mtu mmoja amejilundikia kazi kama tano au sita. Ingefaa Kenya iwe mtu mmoja kazi moja. Hilo ndilo pendekezo langu.

Katika security; kuwe na tume ya kuajiri askari iwe ni Army Forces, Police, administration, waajiriwe na tume ambayo inawaajiri na kuwafuta kwa sababu tulio nao wameandikiwa huko na huko na wengine hata hawawezi kazi kwa sababu wamesukumwa wakaingia na tumepata hapo mtu wa kutupatia taabu saa yote. Tukichagua Councillor, Mayor asichaguliwe na Councilors wenywewe. Mayor achaguliwe na wananchi na asitoke katika Councillors.

Yule aliyechaguliwa Council, na Councillor flat na Mayor atoke mahali pengine tumchague. Commission ningombma iangalie Katiba ambayo ingefaa Wakenya wote; mdogo kwa mkubwa, mwanamke kwa mwanamme - tuwe kitu kimoja. Katika haya

mambo ya ufisadi, kuwe na tume ya kutumikia ufisadi maanake kama ni polisi walichaguliwa kuenda kusimamia ufisadi, wanaenda kuendeleza zaidi kwa sababu wamezoea. Yes, wamezoea. Hiyo ningependekeza kuwe na tume ya kusimamia ufisadi. Naona hapo nimefikia mwisho.

Com. Ayonga: Je, umesema kiwango kiwekswe cha kumiliki ardhi sio?

James Mwingea: Ndio.

Com. Ayonga: Hujatwambia hicho kiwango ni kiwango gani?

James Mwingea: Kiwango ambacho ni kama cha 15 acres.

Com. Ayonga: 15 acres?

James Mwingea: Kila mtu awe na hizo.

Com. Ayonga: Kila mtu apewe 15?

James Mwingea: 15 acres.

Com. Ayonga: Na je, huyu mtu aliye na eka nyingi zitafanywaje? Ananyang'anya? Serikali itanunua?

James Mwingea: Serikali itanunua igawie wale ambaeo hawana.

Com. Asiyo: Nina swalii ambalo nataka kuuliza. Umesema kwamba watu wakichaguliwa kwa Bunge wasiwe Ministers au Assistant Ministers. Hiyo ni serikali ingine kama ile ya ki-Amerika inayotumia hiyo njia. Lakini unajua nchi hii ni nchi changa na watu wakichagua mtu ambaye wanampenda sana, aende akae pale na hana nguvu na kuna mtu sasa atapewa kazi ya Minister na Presidnet huyu atafikiria aje na wale waliomchagua watafikiri nini kama anaenda pale na hana uwezo wa kukata shauri ya nchi au za wale waliomchagua? Kwa maana Minister amekuwa appointed na ni mtu tu wa kutoka nje?

James Mwingea: Chama ambacho kitashinda ndicho kitachagua ma-Minister kutoka kwa chama hicho ambasi sio MPs.

Com. Asiyo: Inaudible.

James Mwingea: Ili mtu awe na kazi moja.

Com. Asiyo: Hiyo tumejua, lakini huyo ni kiongozi amechaguliwa na wananchi wake. Unasema Minister achaguliwe awe juu

ya huyu MP?

James Mwingea: Eeh. Kutoka chama hicho hicho lakini sio yule MP.

Com. Maranga: Nikuulize swali lingine. Ni faida gani tutapata tukifanya namna hiyo?

James Mwingea: Tutapata faida ya kuwa na kazi na kazi nyingi. Watu watainukia wamepata kazi. Percentage kubwa itaingia kwa kazi kuliko vile kwa sasa tuko sababu mtu mmoja ameshika kazi tatu au nne - amechukua mishahara ya watu watatu na ingefaa hiyo moja ili wengine wawili nao wapate.

Com. Kangu: Okay, thank you very much. Bwana Chief, I had called you, sijui whether you want to say anything. Yeah, please. You can choose to-----

D. M. Muthai: Jina langu ni D. M. Muthai, DO wa Mbui Division and Katangi. Jambo la kwanza ningependekeza kwa hii Tume ya Katiba ni juu ya Provincial Administration kwa sababu hapo ndiko niko. Jambo la kwanza ningependekeza ni kwamba kuwe na Provincial Administration Act ambayo wataalamu wenyewe wataweka yale maneno ya administration kwa hiyo Act. Singependekeza tuchague Chiefs na Assistant Chiefs kwa sababu hii ni nchi changa sana. Tukisema tuwachague kama huu Mkoa pengine tuko na Assistant Chiefs kama elfu mbili na ma-Chief kama elfu moja. Tukisema tuchague hao watu, itakuwa mzigo tena na tunajaribu kupunguza mzigo wa tax-payers, kufanya huu uchaguzi. Itabidi tume ziundwe nyingi za kusimamia uchaguzi wa national elections na administration elections na kazi ya Councillor ni kama itakwisha tukipatia Chief na Assistant Chief nafasi ya kuchaguliwa.

Jambo la pili ambalo ninapendekeza ni kwamba wakati tunachagua Councilors kuwe na kiwango fulani cha elimu wakati tunachagua Councilors kulingana na vile vitu siku hizi vinaenda. Nataka at least kuwe na certificate ya Form Four kama C+ and above ndio awe Councilor for better delivery of services. Tukienda kwa County Council, ningependekeza County Council ipatiwe mamlaka zaidi kutuamlia social affairs katika kiwango hiki cha chini na kwa sababu kuna wataalamu kwa hiyo committee, tuangalie ni which powers can be given to our Local Council to be made definite. Kwa Municipality, ningependekeza kama yule msemaji amesema hapa, Mayors wawe elected directly na kuwe na kiwango cha elimu ya mayor pia; at least a diploma and above kwa sababu, Mayors are in charge of towns. Hatutaki kuwa na illiterate Mayors to run our accounts and then of course they are elected after four years. Hatutaki mayor akae miaka miwili, miaka miwili hakuna kitu anachowenza kufanya cha maana.

At least a Mayor should stay for four years; every four years we elect a Mayor. Tukienda kiwango cha MPs, napendekeza kwamba constituencies ziwe zinaangaliwa sio vile wengine wanasema in terms of population; some places are vast. Kwa hivyo, every area has its own unique problems. Kama hapa unaweza kupata hii sehemu ni kubwa na population iko chini. Hatutaki

Mjumbe kwa sababu hapa population ni ndogo, awe ana-extend mpaka Ndiuu mpaka Kitui. Tumesema every place has its own unique problems, iwe inaangaliwa kulingana na vile iko. We should not just follow the criteria of population

Vile vile tunataka wakati MPs, kwa sababu hapo ndio ile kiwango kikubwa sana cha kuchagua wawakilishi wetu, kuwe na minimum education level; at least wawe na degrees and above so that we can have quality representations in Parliament na wawe wana their ethics. Hatutaki hiyo ethics iwe upande wa civil servants pekee. Kama ni kusema mtu awe na bibi mmoja - kama ameo a kwa kanisa awe na bibi mmoja. Hatutaki mtu awe huko na ana bibi kila mahali - everywhere they have wives including our wives wanakuwa mabibi zao. Lakini wawe ni watu ambao have morals.

Secondly, ningetaka MPs vile vile, kuwe na method of recalling them, some of them kuwa go and just sit in the Parliament and then after 5 years they come and ask us tuwapigie kura tena. Tunataka a way vile tunaweza kuwacontrol kwa Bunge, vile performance ya mtu iko na the way we can recall them back. Na ile mishahara yao, iwe inaangaliwa na Tume moja ya kuangalia mishahara ya wafanyi kazi wote wa Kenya. Kusiwe eti unakuta MPs are earning so much money and they work only for a quarter month. Other workers work for 30 days and they are earning Ksh. 3,000, Ksh. 4,000; tunataka mishahara yote iwe standardized. Na kama ni kufanya kazi pale kwa Bunge, wawe wanafanya kazi like all workers in Kenya. Kama tukisema ni saa mbili, because we are paying them to be there, wawe wakiwa pale saa mbili ili mijadala yote iwe inafuatwa, kilo kitu kinaisha on time. Kama ni kutoka five kama all workers, wawe wanatoka five. We pay them a lot of money to be in that House.

On the Presidential elections, ningependekeza Prsident tu, kusiwe na Prime Minister na Vice Prime Minister. Kwa sababu, hivi vyeo ambavyo tunaongeza vitakuwa mzigo kwetu kama wale ambao tulalipa ushuru; it is going to be a burden. The system which has been there has served us well. We have been a stable country in relation to other countries; lakini tukianza kupunguza tuanze kupatia watu wengine mamlaka, je hizo pesa za kusimamia wale watu zitatoka wapi? All those offices you want to create, who will be - hiyo pesa itatoka wapi? Kwa hazina kuu. It means we are going to pay more taxes to maintain those offices. Ningependekeza juu ya yale maneno ya President that when it comes to those powers which people wanapendekeza zitolewe kutoka kwa President, kuwe na Tume ambayo itakuwa inapendekeza kwa President. Kama ni some ranks in the government, kufika kiwango fulani kabla hajafika kwa President ndio aseme, iwe imepitia kwa tume to advice. Kama ni appointment of the Judicial service officer, kuwe na tume ya kuangalia, ndio inapelekwa kwa President kukubali ile. Hatutaki hayo maneno yanatoka moja kwa moja mpaka kwa President na hatutaki hayo maneno yaye yanatoka hapa yanaenda yanakwamia kwa some Body. We don't want a "sitting duck" President - President ambaye hana mamlaka. This is a young nation, we need a strong President. Hatutaki President ambaye hawezi kuchukua uamuzi. We want a strong President because this is a growing nation.

Also in future, we do not want to be holding elections at once. Kwa sababu tunafanya uchaguzi kutoka chini kwa Councilor, Parliament and Presidential. Hii ndiyo imefanya Parliament tuishiwe hata kama iko na watu ambao wamesoma - inafanya

“anybody”..... If my tribe for instance, I am a Merian na Mmeru amesimame kama President, ni kumaanisha kutoka Councilor, utakuta wameingia kwa chama chao even if they are not people of quality; kwa sababu wanasesma “huyu ni mtu wetu”. Kwa hivyo, tunataka ili people wa-make a logical election, tuwe tuna-hold elections separately. Kama ni Civic elections, tuwe tuna-hold hizo civic elections halafu towards the following year tunafanya Parliamentary and later on Presidential - people are going to make a logical choice. Lakini sasa nikiingia kwa chama kama ndicho hicho kila mtu anaingia kwa hicho chama. So tunapata watu wengi ambao they cannot perform who are in Parliament, in the Councils but they cannot perform.

So much about politics. Nikienda kwa maneno ya kutunza mali ya wananchi wa Kenya, ninapendekeza kwamba kuwe na anti-corruption body na ipatiwe mamlaka ndani ya Katiba; ipatiwe powers na hii maneno ya kuchagua who are going to be members of that body should not be left to Parliament alone. Politicians have a lot of interests in whatever they do. “Wanasikia mimi niko wapi”? We want a body ambayo itachunga watu wote and then it should define what is corruption. Sio kwamba nikija hapa Council inipatie plot Katangi watu waseme I have grabbed; I have not grabbed, I am a Kenyan and need that plot like anybody else. It is good to be specific; what is corruption - tunai-define, na ichukue hatua with all powers; powers ni kumaanisha to investigate and prosecute.

Nikitudi nyuma kidogo kuna those who watchdogs ambazo ziko Parliament which are not effective. These watchdogs committees - Public Accounts Committee, tukiangalia kwa makini once they get the report from Auditor General, wanapatiwa wanasoma, they read it to the Parliament and then it splits. Nothing is done. Can we give those public accounts committee more teeth, wawe wanawenza ku-prosecute mtu? Kama mtu haonekani kwa ukweli, awe anapelekwa kortini.

Again, once the Public Accounts Committee recommends the action to be taken and will not malice, the anti-corruption body takes up these cases plus other cases halafu ndio inaenda ina-prosecute. Halafu, kwa maana ya setup of the court, tunataka office of the Prosecutor General iwe independent. Hatutaki iwe chini ya Attorney-General, hatutaki mtu akishikwa na polisi anapelekwa kwa polisi amu-prosecute. Because if a crime is committed by a policeman, at the end he is going to be prosecuted by a policeman, it means that this Kenyan will not get fair hearing. Tunataka if there is a complain against the police, there is a place you can go. If it’s a criminal, kama ni maneno ya criminal – askari amekutendea kitu kibaya there is a place you can address that issue and not with malice. Kwa sababu ikienda huko juu wakati unaenda kortini ku-complain against askari, sio polisi anakuwa prosecutor. We need hiyo line up itengenezwe na people of integrity.

Nikisema maneno ya social affairs, napendekeza ya kwamba akina mama wapatiwe haki. Those women who are married rightfully plus those who are married “not rightfully” wawe wanapatiwa haki. Mwanamme akiamua kupata watoto na mama, wawe wanapatiwa haki ya urithi plus wale ambao wana haki kwa hilo boma, wapatiwe. This is a situation I am talking about an experience here in Ukambani whereby mtu akifukuza bibi, anafukuza bibi na watoto. Hajali pahali hao watoto wanaenda; huwa unakuta kwa sababu bibi amefukuzwa, hana haki ya shamba na wala watoto wake hawana haki ya shamba. Most of these women are giving us a lot of problems kwa sababu anakuja kwa ofisi kwa kuwa mzee amefukuza na watoto na watoto

ni wazima.

These women should be given a right to have ownership of that land as long as they are not selling that land, as long as ile mali hawauzi, inakaa hapo ndio watoto warithi. Tunapendekeza wale watoto au yule mama wapatiwe hiyo haki. Vile vile kama mtu alikuwa ameenda town na akaoa bibi mwingine, ninapendekeza yule mtoto vile vile au yule mama ambaye yuko huko na alikuwa anapewa support na huyu mwanaume, apate haki because at the end of the day, walikuwa wana-rely kwa yule mwanaume wote.

Again, napendekeza kwamba rape should be a capital offence and especially wakati mtu ananajisi mtu na ana Ukimwi. That should be in the Constitution ya kwamba, mtu kama amenajisi na kwanza ana ukimwi anyongwe. He or she should not be given a chance to kuharibu wengine. The way the law is, is still very very weak. Nafikiri kwa sasa kwa sababu tutakutana Yadui wiki hii, naomba kukomea hapo.

Com. Kangu: Asante sana Bwana DO.

Com. Asiyo: Unasema kwamba MPs wawe full time, waanze asubuhi mpaka saa kumi na moja ili waweze kumaliza miswada zote za Bunge. Lakini hawa watu - nimekuwa mmoja huko kwa miaka mingi - wana kazi nyingi sana outside Parliament. Kwa maana kama wakashinda kule kwa Bunge, hawatapata NGOs au Donors ambao wanaweza kuwaleta kujenga sehemu zao kule ambapo wamechaguliwa, kwa maana kule kwa Bunge hawawezi kupata pesa nyingine zaidi ya kuleta hapa kujenga the constituency. So I would like you to think about this a lot more seriously. Number two, we were told by a girl that when they see a Policeman, an Administration Policeman, they see a rapist, they see a murderer and number three they see a thief. This is what a young secondary school girl told us in Machakos. What do you have to say about Provincial Administration Police - because you are their boss here, you know kind of training you give them and you know how they behave in this area?

D. M. Muthai: Hoja ya kwanza kuhusu mawaziri, we are really tired kuzingia time wasted kwa sababu hakuna quorum and yet these people are paid a lot of money to be in that House. So, mapendekezo yangu ni kwamba hata kama hawawezi kufanya kazi siku tano kwa wiki, we want them to be there at least four times in a week. Hiyo siku moja ndio anashughulika na hiyo kazi ingine ambayo umeeleza. Lakini kama ni kufanya kazi, wafanye kazi kutoka asubuhi mpaka jioni, Friday kuachwe namna hiyo kabisa; Friday, Saturday and Sunday ili washughulikie hiyo kazi ingine ambayo umeeleza. Lakini hatutaki iwe kwamba tunakuta asubuhi – hakuna quorum, saa nane hakuna quorum – the whole week. Unakuta somebody who is an MP just appears physically halafu anapotea.

So, maneno haya ambayo umeeleza kuhusu vile mtoto alisema akiona askari, I believe that in every bag there must be a rotten egg. Wakati mtu mmoja anafanya dhambi haismekani hiyo kanisa yote ni mbovu. Wakati councillor anafanya kosa or MP hatusemi wote ni wabaya. Wakati askari amefanya makosa – there is – iko barabara ya ku-accuse huyo mtu. If somebody has

raped a girl, ye ye ni hatari na hiyo issue has not been taken anywhere, these things are even occurring in the villages and these people are not even complaining also; they are there and even here they are there. Imekuwa kazi ngumu kwetu sana, it is not an isolated case ya kwamba kama askari amerape mtu ni hatari. Mmoja amependekeza hapa akasema kwamba wanetaka ile utaratibu wa ku-remove their genitals. That is true, mmh. (*End of side A*)..... two thousand ndio achukuliwe.

Com. Asiyo: (inaudible) it is very important that (inaudible)

D. M. Muthai: So, we are saying that a body that will angalia merits, the (inaudible) process should be followed in all aspects. Kuanzia recruitment of anything. Hatutaki watu wawe na interests zao, everybody has his own interests lakini tunataka (inaudible) ifuatwe in every sector of this nation so that kama ni recruitment of police, watu wapelekwe huko amba wanataka kazi, wanafaa kuwa kwa ile kazi. Kama ni AP vile vile. Some people wanaenda huko kwa sababu wamesukumwa. Wewe ni mzazi nyumbani na umeshindwa kutengeneza huyo mtoto unasema, akienda kwa jeshi atawekwa discipline alainike.

Com. Kangu: Na anapeleka huko ugaidi?

D. M. Musau: Anapeleka ugaidi huko, wanaenda wanapeana pesa mtoto anaenda. So, this is normally what happens. Unakuta wengine kwa sababu wako na nguvu wanasesma “ninataka fulani na fulani achukuliwe na wanachukuliwa”. Corporals amba wanataka ile kazi haswa wanasikia ameitwa kwa sababu mtu asikie ni wito, ataenda pale kwa sababu you are desperate. Siku hizi hakuna kazi. Yes.

Com. Kangu: Thank you we are satisfied na DO na V. W. Musyoka, yuko?

Musyoka: Yes please.

Com. Kangu: Please, take seat. Na ujue bado tuko na watu wengi so uende kwa haraka, dakika tano hivi ili tuwapatie nafasi.

Musyoka: Yes please. My dear Commissioners,

Com. Ayonga: Anza kwa majina.

Wambua Musyoka: I am Victor Wambua Musyoka. I am the Chief (inaudible) location. My dear Commissioners, what I am presenting here today although I have not planned for a long time, is just a few points. One, according to the nature of the work that I am doing, I am meeting a lot of barriers such that we need some kind of a Provincial Administration Act which will enable us to carry our duties in a manner such that it has some power, and that the people I am

administering, they will have a way or manner to follow. I think that's the only opinion I had on province Administration.

The other one is education: In the area I am now giving my services, there are so many children who have left school or they have dropped school because of lack of financial support and some of those children are very bright and it is my wish and my hope that the government or the Constitution, will give the children free education because some of the children from the poor families and even some of the children whose parents have died, have left school or they have dropped out of school due to lack of school fees. So I was requesting if the children may get free education and especially the basic education that the children may need future.

At the same time, we are requesting that our traveling be looked into and especially the officers in the field. We have a very big problem especially when we are traveling to problems here and there and we are requesting the government if it can facilitate us with movement. At the same time, I was also proposing that children's rights should be adhered to. But this option of not punishing children in school, it has brought children to a standard that some of them have become so much totally arrogant such that the children cannot be corrected. You find some parents are not very strong or some children are orphans and we find that when the children are left especially uncorrected - not punished, this time I mean correction in school, you find that the child really becomes a weakly citizen in future.

At the same time, in the area of my jurisdiction and the areas that you have already stated, rape has gone to a very high standard to an extent that some people are raping even young children, and some children even women in genera, are not very strong and anybody who is a bit more strong than them, can do the act in an un negotiated manner. So, I was proposing that whoever is caught to have committed the act of raping should be given a maximum penalty and if possible, the person should be screened to be identified whether he was HIV positive and if he was positive of HIV, that person should be taken as a killer because he has the intention of raping that girl for self (inaudible).

In one way or the other, I have come to understand that some people may think of killing the senior people or the big people - and you know with out counter parts – that is the ladies, you will find some people use them to kill the senior people. They go and infect the wives of senior peoplw with the Virus and subsequently the husband will be a victim. So such issues should be taken seriously and a solution be sought.

At the same time, we have a very big problem especially with the non-governmental organizations. Some people here and some outside the country, are “dumping” a lot of money here and the money has not been accounted for and let's say if it is money which had been given to assist a certain area, nobody knows how much money was given and subsequently you will find that very little has been done and it is not known how much money has been put in that project. So, we want a kind of a law or a kind of a transparency to know exactly how much was brought and how is that money managed and the project which of course is being taken by the non governmental organization.

At the same time, those Non Governmental Organizations have already started some projects here and they have handed over the projects to us. But the management of the project has got no kind of power because the Provincial Administration used to be the overseer of the project. You will find that the Provincial Administration is sidelined in a way or the other and the project within no time collapses. So, we are requesting for a method or a way-----

Com. Kangu: Jaribu kumaliza.

Wambua Musyoka: Yeah. We are going to find a way in which those projects will be managed so that they benefit the public and I think that is the little I had.

Com. Kangu: Thank you Bwana Chief, weka sahihi. Tupate Moses Mutua. Endelea Bwana Mutitu.

Bonface Mutitu: Thank you Commissioners and members of public. I am Bonface Mutitu Thua and I start with political parties. Political parties have to be reduced to 3 or 4. Such a parties should be financed from public funds. We should adopt a Parliamentary system whereby a Prime Minister is appointed from the majority party in the Parliament and have a ceremonial President. The Prime Minister be empowered to control the government and be subjected to a vote of no confidence if he or she mistrusts or mismanages the government and the country. Being a Member of Parliament should be a full time occupation. The people should have a right to recall their MP if he or she fails to deliver, with a vote of confidence voted against the MP with $\frac{3}{4}$ of the total votes in his or her constituency. MPs should act on basis and instructions of their constituency.

Kenya should do away with nominated MPs and Councillors. If there is a need for nominations, the nominating parties should pay their nominated members. There should be no special measures of political gender issues in politics. All are politicians and equal; let the male and female campaign and the best politician will win. We should change to a system that demands multiparty representation in both the Legislature and Executive levels of government.

The Presidential tenure should be fixed to two terms of Presidency. Provincial administration can be done away with and be replaced with Provincial development officers with no party or parties interests or influence down to the sub locational development officers with the committee of twelve members. Alternatively, the Provincial Administration can be elected by the public. Mayors and Council chairmen should be elected directly by the public. Council Chiefs and for this matter, I have taken Councils Chiefs to be clerks and the others should seek approvals from Councilors before any Council operation is done.

Councilors should be holders of O level certificates with a minimum of B or equivalent grade. We should retain the single majority rule as the basis of winning an election. Candidates who fail to seek nomination in one party can switch over to another party but a defector from one party to another, should not vie or contest the seat in the following by-election. The Constitution should provide security, healthcare, water, education, shelter, food and employment as basic rights for all

Kenyans, The responsibility of ensuring the above basic rights are enjoyed by all Kenyans should rest on Provincial Development Officers and their committee or elected Provincial Administration.

The Constitution should provide free and compulsory education up to primary level and in public secondary schools and colleges, there should be cost sharing between the parent or guardian and the State with the State contributing 65% of the total cost. Kenyans need an independent Judiciary with creation of a post for Minister for law who will deal with matters of law in Parliament and other stations concerning this matter with the Attorney General being the government advisor on such matters.

Kenyans need more powerful anti-corruption authority headed by the Parliament to deal with hard-core corruption in the country. There should be a different Parliamentary committee to monitor the working of different public commissions and parastatal authorities, so that such a commission and authorities will work for the benefit of mwananchi but not in favour of the ruling party. I think I have finished.

Com. Ayonga: You have said that Member of Parliament to be working full-time and all these years I have been believing they were working full time because after they are out of Parliament, they go to the constituency and they are working. They are seeing their people, they are seeing the projects and they come back on a Tuesday afternoon to sit in Parliament. Now, which full-time is this that you are considering? Are you saying they should be in Parliament from Monday to Friday like everybody in the office and when do they go to their constituencies?

Bonface Mutitu: They can go to their constituencies during their recess tune and they can be in Parliament from Monday to Friday according to my view. But Madam Commissioner here says they need to see NGOs and other people.

Com. Kangu: (inaudible).

Bonface Mutitu: Yeah, and in such matters then, we can give them one day; either Friday or Monday.

Com. Asiyo: (inaudible) because if somebody wants to take over this seat here, they can always organize very many people to sign a paper saying we want our MP to be recalled.

Bonface Mutitu: (inaudible) can be dealt with, can be approved by almost $\frac{3}{4}$ of the total voters in your constituency.

Com. Asiyo: (inaudible).

Bonface Mutitu: But not to such a large number.

Com. Kangu: Okay. Thank you very much. Bonface Mutitu. Tunasikia kuna mtu anakimbia mahali - Paul Karanja; na kama kuna wale wameingia na hawakuwa hapa asubuhi, watu wanaandikisha majina pale kama unataka kuzungumza. So, ujiandikishe ndio tutaweza kukuita. Endelea Bwana Paul Karanja.

Paul Karanja: My names are Paul Karanja, I have got some few things I would like to pass across and they may not be in the order that you have seen in the booklet-----.

Com. Kangu: No, they don't have to be in that order.

Paul Karanja: So, I will start with the education system. I would prefer the system to be changed to 7-4-2-3 and more stress to be put in specialization especially from Form Three such that, if your are in form one or form two you can be able to learn all the subjects but from Form Three, Form Four, then you would have decided what you want to be in future. Still on education, money for research should be increased such that the researchers will have enough funds to research on various issues. Three, teachers' views should be sought before any changes are made especially in the curriculum. We should also have free education for all students up to university level. The issue of brain drain especially in our country has become quite rampant and this should be stopped by making sure that the remuneration of various people is quite in order and at par with other countries to which they are running to.

In agriculture, I would like the government to subsidize the farmers to encourage them to do the farming. We do not want the issue of, or a case whereby the farmers are doing the farming then they are being told that a bag is going to cost them 400 shillings or 2 shillings per kilogram like has been the case here. So, we would like the government - even if the market is down and we do not have enough funds, we would like the government to subsidize so that per bag it could be a thousand or two thousand shillings. This way, we are not going to fail the farming in Kenya. The plantations that we have should not be divided into small units because they will not be economically viable. The agricultural inputs should also be subsidized by the government. The bodies that deal with agricultural implements and goods - like KPCU should be independent and should be run by very efficient people.

When it comes to the Parliament, we would like the elections to be done every five years and the performance of the MPs reviewed after two years. And, there should be a performance index or a performance index should be created so that the public can judge what their MPs do when they go to the Parliament. The Ministers should be appointed by the President but they should also be appointed according to the career they have been trained in. For example, we would expect a doctor in medicine to be appointed Minister for health. We would also expect somebody who has done something in energy to be appointed Minister for Energy. And in this case, I have in mind somebody like the Energy Minister today is Raila, I think he has done something to do with energy; I don't exactly know what it is, but I know it has something to do with energy.

The benefits of MPs should be decided by another body. The resources in the country should be divided equally in all parts. In this case, I have decentralization in mind. An MP who has been accused and proved guilty of a criminal offence, malpractices, corruption, should not be allowed to continue to hold any public office at any given time. Nomination of MPs should only be there to cater for special cases especially may be the disabled, the blind and any other special category that the government may deem fit or the people may deem fit.

On the part of the Executive, the President should not be above the law. However, the law should be made such that it is going to protect him from people who might try to just frame things for the sake of it. So, we would like the President not to be above the law but at the same time, the law should protect him. In the Judiciary, the public should be educated about their rights and expectations when they are accused. On the Local Government, I would wish that the name of the Council to be changed to be called the House of Common. In other words, I am recommending a two-chamber type of a House. The House of Common should be used to collect views from the public because they are the ones that are just on the ground. We should have at least, maybe a “Sub-House” in every Province to represent the same.

The number of Councilors therefore, would have to be reduced accordingly because they may not fit in that particular House the way they are right now. Their terms of office should be like that of MPs. Neither the President nor the Minister should have the power to dissolve the House of Common. Its formation and the way it is going to be dissolved should be guided by the Constitution.

Land and property rights: Kenyans should be allowed to own land anywhere in the country. All the idle land should be demarcated to the landless and immediate owners be remunerated by the government. Women should also be allowed to inherit property especially if they are not married.

Culture: Some of our cultures have made us to be more tribal. In this case I would wish that all tribes - or we try rather to intertwine all tribes such that we are going to have a common tribe; just one of them. In this case, I have in mind eradication of the quota system which was brought sometimes back. We also have in mind, teachers who should be posted to any part of the country unlike today when we say the primary school teachers are posted in their districts. The mode of communication in all our institutions right from – I don’t know whether it’s kindergarten- right from kindergarten should be Kiswahili. This is going to enhance national unity.

Com. Kangu: (inaudible).

Paul Karanja: Yes. Then finally, I wish to try to safeguard the children’s rights. I wish the government could bring up centers so that those children who belong to the working mothers should be catered for in those particular centers. This will have the issue of maids who are relatively young kids being taken care of. Otherwise, thank you very much.

Com. Kangu: Asante. Thank you very much Paul, sign our register. Nicholas Musembi, hayuko. Titus Nzachio, mwalimu Titus Nzachio, Abedneko Moto, Councillor Kinyua Ikombe.

Councillor Kinyua Ikombe: Mimi ni Diwani Kinyua Ikombe. Katiba ya Kenya, ningependelea kwanza iweke supremacy of the Kenyans. Shida tuliyo nayo tunaona ni kwamba Executive, Legislature and the Judiciary zinashikana. Kwa hivyo, tunahitaji ziwe separated. The Constitution should define, distribute and limit powers of individual institutions to avoid abuse of office. We have seen that the Attorney General should be the legal government advisor and should not be a director of public Constitution.

Citizenship: Kenyans should be allowed to be citizens in at least two countries. Political parties should be regulated by a commission which is established by an Act of Parliament and funded by the state depending on the number of seats both in Parliament and the Council.

Legislature: It must vet, approve and discipline executives or non executive public appointments and it should have power to sensor and even to summon when necessary, those a government appointees. Parliament can impeach the President and it should set its own calendar and have power to establish commissions.

Executive: Its powers should be limited and if it fails to perform, 80% votes of Parliament should remove it. Ministers should not be MPs but should be answerable to Parliament. The Head of State should attend Parliament. All wealth of political leaders and government appointees should be declared before clearance for an office. The oath of office should be done traditionally e.g. Kambas use (inaudible) instead of the Bible.

Judiciary: The Chief Justice and judges should be approved by Parliament. The names should be given by the President. It is necessary to have a Parliamentary judicial committee. There is need to have supreme courts in Kenya and Constitutional courts. An independent judicial service commission should appoint the magistrates.

Local Government: We support a unitary government with empowered local authorities. Local authorities to be established by a Constitution and not an Act of Parliament. They should be given an autonomy and the remuneration of Councilors to be drawn from the government's consolidated funds.

Electoral system and process: We should retain the simple majority rule as the basis of winning an election. We do not want the 25% requirement at least in 5 provinces for presidency. The Constitution should be harsh on election rigging, vote buying, bribery, intimidation from headquarters and cheating. Candidates should be free to join any party at any time.

Basic rights: 10% of national budget should be donated to farmers as grants without interests by the government in arid and semi arid lands for better farming. In every year term, the House or the Government should undertake at least one marshal plan to improve these disadvantaged areas; they are also lands. Education should be compulsory and free up to Form Four, that is the old system; the 7-4-2-3. God said don't kill, so the Constitution should not have the death penalty. We should have medical care freely. Kenyans should know what is happening in State House, there is no need of hiding. Relief food should be discouraged by the Constitution but use the same funds to pay people to improve their lands; that is, give the cash and pay in the building of dams, service dams and all these things to improve their area. The government services should be decentralized to location e.g. public trustee system, that means the Chiefs should finish the process on behalf of the relatives or the bereaved family.

Land and property: If the government acquires private land for any purpose-----

Com. Kangu: (inaudible).

Councillor Kinyua Ikombe: It should compensate 150% above market rate. Foreigners should be allowed to own lands at a lower lease not exceeding 20 years which is renewable. In land transfer, the land officers should come to people at locational level and the government should facilitate that. Kenyans should own land anywhere in Kenya. After ten years, the government should offer Kenyans free survey services for those who may need demarcation among the family members.

Culture: The local authority should preserve the culture of tribes within their areas for generations to come and research purposes.

Environment natural resources: Sand should be classified as a mineral and the government should plant enough or more trees putting into consideration that we also use.....(End of Tape)

TAPE 4

Councillor Kinyua: Village Elders. The constitution should have some kind of allowance for them. We need in the Constitution, need to relay visa requirements for foreigners. MP remunerations should be subjected to National Referendum. The President should serve for two terms and there is need for Ombudsman's office. Other than supplementary Registration, our Constitution which we are to form now should not be changed through only by Parliament, but National Referendum on request by Parliament.

Political Parties should not be allowed to spread propaganda. That aspect is dangerous and hinder development in our country. Two per cent of electricity production should benefit the locals. That's all.

Com. Hon. Mrs. Phoebe Asiyo Thank you Bwana councillor, you sign and give us the memorandum, sasa tutamwita

Dominic Kibii.

Dominic Kibii: Jina langu ni Dominic Kibii. Mimi kwanza nitaanza na elimu. Tunaomba elimu iwe ya bure. Tunaomba matibabu yawe ya bure. Tunaomba ikiwezekana Machifu, ma Assistant chifu wawe wanachaguliwa na wananchi. Upande wa msahara nataka kuwe na tume ya kuangalia mshahara ya watu, ninataka wataongezwa wajuwe kwama mwananchi watapandizwa kodi . Kama ile pesa imekuwa nyingi badala wale watu kuongezwa waongeze wafanyi kazi ili kazi iwe rahisi na kila mtu awe anapata kitu chake cha kuendelea.

Polisi: Naomba kama polisi anakusika kwa kusingizia, ama kwa kuhongwa na mwingine ukishida ile kesi selikali ipatiwe advocate ili polisi alipe.

Traffic Act: Upande wa Traffic, tunaomba serikali kama magari tunayotumia hayafai, tunaomba serikali iyaondoe. Yale yanayofaa weka barabarani. Sio gari linawekwa mafuta halafu ukiwa huna pesa ya hongo hufiki Machakos.

Civil Servants: Wafanyi kazi na watumizi wa matibabu. Ninaonelea sio vizuri wawe wakifanya biashara kwa maana kazi waliopewa hawataindeleza zaidi. Kwa maana watakuwa wana..... huku na huku. Hapo ndio mwisho.

Com. Hon. John Kangu: David Makau.

David Makau: I am David Wambua Makau and I have these observations. We should have senior government official like the Permanent Secretaries employed or appointed the Public Service Commission rather than the President because, most of them when they are appointed by the {resident they tend to serve the president but not the wananchi. So let us have a commission like the one that employs officers.

The law empowerment should be changed all or strengthened that we don't have discriminative laws. We have had situations where the common man does something, he heavily penalized but a senior or big person does the same but nothing is done to him. We should do away with this discrimination. We should also have one minister in one ministry so many of them for that is misuse of public funds.

Village Polytechnics: Village polytechnics should be revived to take care of standard eight leavers who should have somewhere to be trained.

Parastatals should have their accounts published in the press so that people may know how much profit they are making and the profit should be shown where it goes. Because it is being said that parastatals make a lot of money but where the profit goes it is not known. They should produce their accounts so that people may know what they are doing. That is all but before

I finish, I may have a question that you may wish to answer.

Com. Kongu: Please raise it.

David Makau When you are doing this Constitution Review you are given so many views and all of them cannot be implemented or they cannot be contained in the final paper, now which procedure should be followed. Can we have a situation where these contents may be interfered with by the big people again?

Com. John Kongu: The law under which we will operate under at the moment says we will report back to the people and we will take the views. We are supposed to go and prepare a first report together with draft Bill and the law requires that when those documents are ready we publish them and send them to the people distribute them across the entire country. The Acts says we should give the people sixty days to read through them and discuss, debate them, and be satisfied that what we have put is what they would like to have. If they think there is something that they should not like, the law requires us after those sixty days to go back to the people at the Provincial level to hear their comments about that report. And once we take the comments we revise the report and draft Bills then we call the National Constitutional Conference to discuss, debate and adopt or reject those recommendation and after the National Conference if there is anything not decided the law says we send them back to the people, through a referendum and they decide by way of the vote how they want those issues to be determined. And after that a final report is done and goes to Parliament which will enact what will have come up with.

That is what the law says, but of course you are aware you have heard some people saying that because we are asking for more time to do all these things, that they will rather do away with the referendum, they will rather do away with national conference, they will rather do away with reading of report by the people. If they will be able to do that, we have very little to do about that but of course these process is supposed to belong to you the Kenyans if you sit back and fold your hands and watch they can easily do that and they render you irrelevant. So you must stand up and say what you want But the current law says: The people are recognized and they are given a major role to play so the current law requires as not to report to the president or to the Parliament but in fact to the people. when we finish hearing your views we will bring the report back to the people, that is the position thank you very much.

Com. John Kongu: Josephine Ndida.

Josephine Ndida: I am Josephine Ndinda Ndacho. A teacher by Profession. I have a few observations to make regarding the Constitutional Review.

Education System: I would prefer we revert back to the 7-4-2-3 and at the same time, I would wish that if there are any amendments to be made in the Education System, the teachers should be involved because we are the stakeholders, we are

the ones who handle the students. We are the ones who handle the parents, and we know the problems that are likely to face if we are overlooked.

Still on education, we are experiencing a problem because of political interference where you realized that you may wish to offer your services where needed according to the TSC Act. But then you cannot just work in areas because of political patronage. So you may be forced to flee where you wish to work. So that one should also be addressed as far as the education system is concerned.

There is a problem which we are facing in the country and that is the abuse of offices that we serve. I talk about political patronage and here we have had cases where somebody somewhere, feels they are above the law. So they can make any utterances anywhere anytime any place. So, there should be a law protecting, or we charge those who make such utterances for example somebody wakes up today and says that now this area is a catchman area and those people who have settled here should leave immediately. So we wonder whether those people are Kenyans or are not Kenyans. And we at the same time wonder whether such a person realizes that such place is a catchman area at that particular time. And if you have been settled all through and it has been a catchman area why should we talk about it right now?

Inheritance of property in the country: I don't know what law says about the inheritance in case the head of a family dies. There is a wife and Children. The children involves sons and daughters. For the women our hands are tied by the fact that somebody come in saying that I should not inherit because it belongs to ABCD who is either their brother or cousin. So there should be a law protecting a wife so that she becomes the rightful inheritor of the property in case the husband dies before her. Now, if there is a daughter in that family who has not married then she should get a share of her father's land because she belongs to that family.

Domestic Violence: We have got cases where wives are beaten to death by their husbands. I don't know what the law says about that but I remember a case when I was in school that I witnessed, somebody passing near our school, he was carrying a panga and he was saying that "I am going to the police to report that I have killed my wife but I have not killed 'somebody'". I don't know whether it is a property to be slaughtered anytime at the husband's mercy or not.

We still have cases of rape within the family circle where we have for example a father raping their daughters. Sometimes even uncles raping the nieces. So there should be a law that protects the women from such abuse.

Land issues in the country: We are almost 40 years old after independence and I wonder why we still have squatters in the country. I don't know what it means to "squat". When you are squatting, you are neither sitting nor standing. So this person who is a squatter today in the country is neither settled nor does know whether they get land. It is very lamentable to have a Kenyan as a squatter 40 years after independence.

The other day there was a problem in the country, there were clashes, we don't know whether they political or just ethnic clashes but whether they are political or they ethnic clashes. Let me not commit myself I am a civil servant. But then

Com. John Kongu: You are talking to the commission you can say what you want nobody will (inaudible) if anybody does, you report to us.

Josephine Ndida: I have a feeling those was a political clashes called may be by party aligned to a certain ethnic groups. If somebody can go scot-free when so many people were displaced and others have lost their lives. I don't know whether we really have Constitution that protects a common mwananchi in the country. We should have a law that actually bars those people who have abused their offices when they are suppose to be our saviour. That is all.

Com. Ayonga: Mama Josephine you have talked well about these domestic violence. But it will seem like you are one sided. I don't know whether you are aware that many men are being beaten by their wives but they don't say it out. Men are always afraid to say it because other men are going to see them as weak. So these are but beaten they go quiet. Now, why don't you say there shouldn't be any violence against anybody, whether he or she in a home? Rather than just make it look like it is only women who have beaten who fall under violence when women are burnt men alive? When women have taken axes and cut men "neck"? I think we need to have a legistration that gives everyone protection. Men and women should be protected. That is the kind of nation we would like to see.

Josephine Ndida: I will go for that but in most cases women have been pushed to the wall and the few who have raised alarm on the domestic violence against the women and the girl child, have been regard as an element but-it should not contained in a society. Because a women has been taken as a second class citizen which should not be the case. Not to be taken as second rate human being because in the eyes of God we are all equal.

Com. John Kangu: We are all equal and we should love one another and we should treat one another as human being. But then men are beaten and are quiet. (Laughter.)

Josephine: Let them complain, let them say it our.

Com. John Kangu: Victoria Musembi, Morine Nzioki, James Makau, Simon Muthusi, Not there. Mwalimu Samuel Musau.

Samuel Musau: To the Commissioners and entire house my remarks are few. I am Mr. Samuel Musau. I will touch on the Presidential election. I feel about the age of the President should be 35 year and above but less than 80 years. On the mode of election, I feel he should be elected and garner 25 % in at least 5 provinces , and based on the simple majority in the first

round so, I am not for the 51%. I also feel that a President should name a running mate as Vice-President so as that to strengthen the institution of Vice-President. I also feel there should be no need of a Prime Minister because of job description and policy and power conflicts. Because it is Un African to have a ceremonial President. I also feel there should be provision for a coalition government in case a winning president comes from a minority party.

Concerning government appointments, I feel Presidential appointment should be vetted by parliament and also any scandalous civil servant should be impeached by the Parliament. As for the system of government I feel we should continue with unitary system of government but the Provincial administration should be strengthened for service delivery . Concerning the Presidential powers, such as powers to declare war the President can propose the President can propose but all the same, it should be approved by the Parliament.

Concerning the education system I feel we should revert to the old system but staggered in 5 phases that is 7-2-2-2-3. Seven years in Primary, with exams in form two, another exam in form four and then two years of "A" levels and three years of university. This is to ensure that some of these children who drop out because unavoidable circumstances like expulsion don't leave without a certificate. Also because 8-4-4- objectives have not been realized because they were meant to instill practical skills at every stage from primary but that is not a case. What is happening as you can see is a replica of the old because it has become like(Inaudible) knowledge just like the old system.

Also this one has been said that before policies are adopted, important stakeholders should be involved especially the teachers and the steps implementation should be followed. If the curriculum is to be adopted there should pilot study of that curricular schools up to the university level because it applies to the rest. Concerning local administration, I feel the mayor I am for his appointment not election or nomination, I feel he should be appointed by the Public Service commission but the councilors can be elected because they are more close to the people so, I feel the Mayor should be appointed and a particular level of qualification be set. This is because if a Mayor is appointed his job will have a more professional dimension than a political dimension-because very few mayors last to the period that they are supposed to be there because of conflicts they are mostly thrown out of offices before their times and over and this renders the operation of the Council inefficient. That is all that I have,

Com. John Kangu: Thank you very much. Let us have Margaret Machibu? She is not there. Simon Mutinda., Sebastian Maingi.

Sebastian Maingi: Dear Commissioners, My names are Sebastian Maingi. Here are some of my points. President: I need a ceremonial President, Prime Minister and Members of Parliament. There three arms of government should be independent from each other to allow checks and balances

Police Force: Be delinked from the office of the President to avoid break-up of political rallies caused by the office of the

President:

Judges: Should be nominated by the law professional and determined by the Parliament.

Local government: Should be autonomous and the Local Government Act Cap. 265 should be abolished.

Land: Stakeholders should be involved in any government land transactions in their area.

Education: We need a Constitution which states how free education should be catered for and recommended.

Courts of Law: Should be extended to the divisional level and High Court remain in the district headquarters.

DDC: Should be headed by the local person but not the civil servants

Resources: We want a Constitution which says how the National Resources should be distributed to the tax payers.

Chief and Assistant Chiefs should be elected by the people from their area administration and should be given 5 years term in office and be elected again.

Electorate Power: Should be empowered to recall their leaders e.g. councillors, MPs, and even President if they can combine to 51% of the votes cast against that particular leader.

Civic Education: Be mandatory to all and compulsory subject in schools starting from Primary level to all Kenya universities.

Law Application: There should be no body above the law even if it is the President. The law should be applied to each equally. That all I have.

Com. John Kangu: Thank you very much. Bwana Councillor umesema the Constitution should provide for free education and be implemented. I agree with you. Many people have said free education but they have not told us how it should be provided for. Do you have an idea on how it should be provided for?

Sebastian Maingi: That one is I think (inaudible) should know how it should be provided for.

Com. John Kangu: Thank you. Unaweza kupeana memo yako. David Mbaka, Patrick Nyoro?

Patrick Nyoro: My names are Patrick Nyoro, I am talking on my behalf and on behalf of Katangi Scholar Organization. Kenyans should have access to land and no squatters whatsoever. No the landless people should exist in their own independent nation. Land Survey and demarcation should be simplified and the cost of land transfer lowered to a level where the common Kenyan can access the services. Title deeds should be received with minimum cost and conveniences to all land owners. Presently the community around cannot access credit because they do no have title deeds. Land allocation meant as a appreciation for political loyalty should be nullified and the allocation of land should undertaken by a special land board established and overseen by Parliament. The future government should be given a Constitution obligation to reclaim and develop arid and semi arid areas such as the Yatta. This should be done by making annual financial budgetary allocation towards the reclamation of this for the sake of development and food security.

Electoral Process: Kenya should maintain the present representative electoral system. Voter registration should a continues process and either a voters card or the identity card should be constitutionally acceptable for voting. The numbers and boundaries of the present constituencies should be reviewed with a view to ensuring equal level of representation. Presidential elections should be separated from Parliamentary and Civic polls. This will allow Kenyan keener evaluation of Presidential aspirants with a major base being personal competence and ability as opposed to parts affiliation.

A wining Presidential candidates should garner at least 50% of the total vote cast plus 25% in at least in five provinces. This is a major mark that can test popularity.

The Constitution should specify and stipulate a fixed election dates. The present practice in which they incumbent president holds the secret of the election date big negative of democratic practice which give the ruling party undue advantage over the other interested groups.

Legislature: Parliament is a supreme organ of the State and hence it should vet the following appointments: Ministers and Assistant Ministers; Permanent Secretaries; Police Commissioner, Chief of General Staff, Chief Justice, Commissioner for Higher Education; Head of Public Service; Vice-Chancellors of public universities and other vital cores in the Civil Service.

Parliament should control and determine its own procedures and calendar through the parliamentary service commission. The President should have no power to adjourn, prorogue or dissolve parliament.

The Constitution should give the electorate power to recall their own performing MPs through a sizeable number of percentage of voters in the Constituency. I think this should have done us proud the people of Yatta. The Constitution should provide for live coverage of parliamentary proceedings by different media houses to ensure that members of the public closely monitor the work of their MPs.

The concept of nominated MPs has been abused in that it accommodates election losers. The constitution should be transparent and provide for an increase for the number of nominated MPs to cater for special interests groups that is the youth, women and disabled.

Local authorities: for the sake of practical decentralization of governors, Local authorities should be strengthened and their autonomy should be guarded by the Constitution. Financial spending by the councils should be approved by a full council as opposed to the present case in which the Minister for Local Government approves spending by the council. Council clerks should be appointed in consultation from the relevant council and should answerable to the local authorities not the central government. The President or the minister should have no power whatsoever to resolve any council. The full council should stipulate the circumstances that warrant desolation..

Educational qualification for Councillors should be secondary level certificates of about C+ and above and the mosord candidates should possess a degree from a recognized institution of higher learning. The concept of nominated councillors should not be allowed to accommodate election losers. It should cater for interests groups and people with special talents and professional expertise to offer advisory services to the council. The Government should provide free and compulsory basic education funded from the consolidated fund. The Constitution should provide for trade unions representation for all workers. All workers in Kenya including civil servants should belong to a trade union of their choice.

The constitution should safe guard the freedom of expression. Political parties should never be limited. Democratic parties elsewhere in the world has shown that political parties limit themselves automatically as they continue to practice demoracy. Very important, Kenyans have a right to information. The media Bill that has been passed in Parliament should be objected by all Kenyans. Because this one denies Kenyans the right to information. Kenyans should have a right to justice and a suspect is not guilty unless proved so. Therefore, police custody before trial should not exceed 24 hours. The right to live is God given, and therefore there should be nobody who should deny another the right to live. Therefore capital punishment should be abolished and replaced with imprisonment for life.

In regards to the Judiciary there is a saying going around that there is no need of hiring a lawyer when you can buy a magistrate because there is a lot of corruption in the present Kenyan judiciary. To curb this we are saying that where must be an anti-corruption court run by magistrates and judges appointed, but vetted by Parliament. The majority of Kenyans have no access to copies of the Constitution and as such, we are saying, that this Constitution should be translated into all local languages and provided. We should adopt a parliamentary system of government whereby we should have Prime Minister appointed by this majority part in Parliament and answerable to Parliament.

A Government of National Unity should be adopted to promote national unity checks and balances and equal developments. Kenya should retain a unitary system of government but much of the power should be devolved to the Local authority.

Future Presidential candidates should be degree holders and should not be above seventy years of age. They should never be above the law neither should they practice the prerogative of mercy. Because these compromises the independence of the judiciary. The Provincial Administration is a colonial concept and it must be Kenyanized by making sure that it is either scrapped or chiefs and DOs others in the provincial system are appointed or elected rather.

Very important about higher education: The Commissioner of higher education should be a renowned scholar appointed from the large pool of Kenyan Educationists with parliamentary approval. The Chancellor of all public university should not be the president. This post should be held by an educationist with a good record of academic excellence. He should be elected by the joint University Council and Senate of all public universities. The Joint Admission Board should be the sole admitting organ to public universities. This has been compromised by the infamous parallel degree programme that is not only promotes inequality in educational opportunity, but also highly waters down academic standard in our university. The Higher Education Loan Board should provide loan on flat rate basis and the Constitution to provide for the repayment of the loan upon the graduate employment. The security of this loan therefore, should be the employment.

The cluster system of admission to different faculty should be scrapped for it adversely affect children from poor background. The rich and might evade the cluster through parallel degree programme.

Lastly on Cultural Diversity and Value: the Constitution should recognize and protect social and ethnic social culture practices that seek promotes peaceful co-existence, unity in diversity and social development. However retrogressive aspect of our culture should be constitutionally given new impact from gradual growth. And I have in mind things like female, Genital Mutilation wife inheritance of these things are retrogressive. They should not just be put away radically we should give people education about them. Thank you very much.

Com. Hon. Phoebe Asiyo: can you help us with the breakdown of responsibilities that you feel the local authority should be empowered to have and the responsibility also of the Government of National Unity?. You know that something happened recently in this country which has shown the people the way. Like for example it was agreed in Parliament that five million shillings to be given direct to the people to do their roads loan. That has done some very good work. Now you are getting nearer there but you have not specified the set of responsibilities that you feel the local people should have.

Patrick Nyoro: We are talking about a situation where the local authorities have been strengthened and given autonomy and there is going to be budgetary an allocation. Instead of allocating this to the Ministry, we can allocate funds to the local authority. This ways they will cater for the problem inherent in that local situation.

Com. Hon. Phoebe Asiyo: And what about the function ?

Patrick Nyoro: Dealing with social services like health, education ...

Com. Hon. Phoebe Asiyo: roads?

Patrick Nyoro: Aspect of roads development etc.

Com. Hon. Phoebe Asiyo: Education up to what level?

Patrick Nyoro: Education of up to say primary and secondary by giving bursaries. From the allocation they are getting from the Consolidated fund, they can be give some chi-in-as part of them.

Com. Hon. Phoebe Asiyo: Agriculture?

Patrick Nyoro: Agriculture, water etc. You find that most of the things that can press at the rural community actually can by the local community.

Com. John Kongu: You are saying we should strengthen the local community. Right now, the Local authorities we have are in a state of confusion. If you ask the Councillors they will tell you we have very many different types of local authorities. We have cities, Municipalities, Town Councils, Urban Councils, County Councils do we strengthen all these confused types of local authorities or do we streamline and settle for one specific type of local authority and probably even draw the boundaries afresh? Because some of the local authorities are so small, others are so big and so on. How do we go about when strengthening these local authorities?

Patrick Nyoro: We will draw the boundaries and the definition of the local authorities function in the present day Kenya such that they can even cater for that work which is done by provincial institutions other than carrying out development issues. So they should be redefine and draw again and streamlined for the sake of common Kenyan.

Com John Kangu: Along what line: if you go to Uganda, they have defined the district as the local authority and power is devolved to the district, then from the district they go down to the village. They start with what they call "LC1" one, and go up to "LC5". The District Commissioner who is elected, is the "LC5". Now, if we are to re-draw or re-define our local authorities. Do we them at the provincial level, at the district level and the constituency level or what level?

Patrick Nyoro: In as much as we agree that the district should be a good focus. There is a controversy about these districts that have been created out of political will. If we come up with districts created constitutionally, and then we base our division of

local authority from the district then I think that is going to be better for us.

Com. John Kongu: How do we deal with district environment that have been created out of political manipulation? Some are so big, some so huge, some small. If you go to Marsabit district, it is as big as Central, Nyanza and Western Provinces put together – How do we deal with this?

Patrick Nyoro: I think the district should be divided again and the ones which have been formed out political manipulation dissolved. And then to curb this issue of tribal grouping lines, we can come up with a situation whereby we are following the population for a certain region and we make sure that, that region does not represent one tribal grouping. To make sure that it is not a tribal affair. We can have a district e.g. Machakos that incorporate Kambas and other tribal grouping. That we are going to solve the problem of tribal issues.

Com. John Kangu: Thank you.

Com. Hon. Phoebe Asiyo: We need your input in issues of foreign affairs. But you Com. Kongu can write and give us more elaborate document.

Com John Kongu: Alex Mwathi, he is not there, Joseph Mutunga. You want to speak Kikamba. Tuseme Kiswahili.

Joseph Mwathi: Langu ni moja au mawili. Tukiangalia katiba ya zamani tunaona sisi watu wa biashara, tunaumia sana. Kama mimi niko na duka ya kununua mahindi na niko mahali ninangojea mahindi ili ninunue, mahindi inaletwa na kijana, mwanaume, au mwanamke na mimi ninanunua. Wakinaka hapo mara ninaona wanakuja na askari. Twende kwa sababu gani? Ati hiyo mahindi nimenunua ilikuwa ya kuiba. Sasa niko na makosa gani? Wanasona makosa ni kuwa nimenunua mahindi ya kuiba. Mimi ningujuaji mahindi hiyo ni ya kuib? Sisi wafanya biashara tunaumia sana kwa maana mahindi au mayai hayana alama kuwa ni ya kuibwa ana hatuwezi kujua yaliyoibwa. Kwa hivyo tnataka hi irekebishwe kwa sababu tunaumia sana na tunachukuliwa tu na kufanywa kwa sababu sisi hatujui mahindi ya kuiba ni gani na ile isiyo ya kuibwa ni gani. Inakuwa kama kumbe sisi ndio wenye makosa hata kuliko aliyeiba hayo mahindi

Com. John Kongu: Asante sana. Weka sahihi. Simon Kilei, Mary Muthua. Stephen Kitavi.

Stephen Kitavi: Jina langu ni J.M. Kitavi, na niko na maoni kidogo I have got some few words to say. What I am saying on Agriculture Sector is that I think something can be done in our country because we have some cases like Ukambani when have got a lot of rivers around. If irrigation can be done, we would have more employment rather than go to and concentrate in cities. Our children when they leave school they go and search jobs in towns. If it can be changed in a way that these can be given money to pump this water passing around, we can have a lot of jobs with us. Also in that area, people can be given seeds

mostly those.....(inaudible) So I think the government can set a fund or a certain amount and assist in buying of seeds for the farmers.

Education sector: Actually the education system we are having now is rather difficult for the young kids and the subjects should be reduced. We often see young Kinds of Standard one and Standard two carrying a lot of books and yet they are very heavy to the young ones.

Also I feel on education, we have orphans – they don't have their parents and are whereby we don't have mother or father still in school. If Bursaries could be provided to those children whose parents have passed away so that they do not keep roaming about. Since when their parents were there the children were going to school. I think it can be a very great help to our children who can do better.

Provincial Administration: I think this sector should continue because they the once who are nearer to the people, they are ones who are direct to the people, and they know the matter in most cases. One thing I can add is that they should be given more education e.g. seminars, trainings so that they can be better equipped to handle the people better. But scrapping them out can bring a lot of thugs to the area because I believe that anybody who comes from Nairobi or Machakos will know the people better than the Provincial Administrations. I feel they should be retained but given more training.

Law Courts: We can have more of Law Courts in the area to avoid of concentration of cases in our few courts. If it can be extended to divisional level, I think it can serve us better and it will avoid many people waiting for judgement. I propose courts should be increased.

Medical Services: Medical services should be extended to local areas to avoid congestion in general hospitals where people mostly die without seeing doctors. That is all. Thank you.

Com Kangu: Can we have Joshua Kingoo, Joyce Kavuse?

Joyce Kavuse: *Sivitale ithiwe na ndawa ya mana na maternity ithiwe ya mana.*

Translator: Anasema anataka hospitali ziwe na madawa ya bure na pia ile maternity fee iweze kutolewa.

Joyce Kavuse: *Kila utoi nitukwenda twithiwe na sivitale vakuve nundu kundu kwinge kwi na ngale.*

Translator: Wangependa serikali ijenge hospitali nyingi katika kila kijiji.

Joyce Kavuse: *Mandakitali ala mena wea moo na maadikitwe ni silikale nundu muwau athi sivitale, nitukwenda matakitali asu maikethewe na masivitale moo. Nundu muwau athi sivitale eandikiwa ndawa akauwe kwake.*

Translator: Wangependa hao madaktari wenyе wako na clinic zao wasiweze kua pia wameajiriwa na serikali.

Joyce Kavuse: Aya, uvoo wa kisomo.

Translator: Upande wa elimu.

Joyce Kavuse: Kisomo nitwenda uvoo wa fees utheli. Kuma nursery mbaka secondary na university ona mbesa sya (inaudible) ithele na kuthowa mavuku.

Translator: Kwa elimu anasema hawataki ama wanataka ile karo ya shule itupiliwe waweze kusomesha watoto bure kutoka nursery mpaka university, na serikali iweze kupeana vitabu vy a kutosha katika shule.

Joyce Kavuse: Nienda tutungiwe kisomo kila cha tene chasomawa ni syana na alimu matekwevva.

Translator: Wangependa kurudishiwa ile elimu ya zamani yenye watoto walikuwa wanasoma bila kulipa

Joyce Kavuse: Twenda asyai metawe activity fees na asyai metawe makatavawa vata wa skulu. Aka ala mateatwae mailwe kunewa mali undu umwe na syana ila sya aume.

Translator: Wale wasichana ambao hawajaolewa waweze kupatiwa mali sawa sawa na vijana ndugu zao.

Joyce Kavuse: Aka asu mateatwae manewe kitheka nama.....aka ala nthiwa maile kwithiwa na haki ya mali ya mume woo na syana syake na kitheka na indo syake.

Translator: Wanawake ambao wameifiwa na bwana zao wangependelea waweze kuwa na uhuru wa kuamuru au wa kulinda ile mali ya bwana wake pamoja na watoto.

Joyce Kavuse: Silikale niyaile kumamanthia syana nthiwa kitheka.

Translator: Serekali angependelea ipe watoto wale ni mayatima pahali pa kukaa na pia wapewe mashamba.

Joyce Kavuse: Silikale imanthiea masquatter kitheka, matoe, kila Mukenya wonthe ethiwe na kitheka.

Translator: Angependa kila mwana Kenya aweze kuwa na shamba ama mahali ya kukaa ma squatter wapatiwe mashamba na serikali.

Joyce Kavuse: Kila mundu muka wina mume niwaile kwithiwa na title deed yake na mume titile deed yake ya kitheka.

Translator: Kama ni bibi na bwana, waweze kupewa title deed moja ya shamba yao.

Joyce Kavuse: Mbesa sya Kanzo ndunthu kila muthenthia syiekwe, twenda ithele.

Translator: Angependa Local Authorities wawache kuwatoza zile pesa nyingi wanalipiza sokoni mtu akipeleka mali yake

kuuza.

Joyce Kavuse: *Ma-Mayor na ma-Councillor na ma-Chairman mekalai miaka itano kivilani, mainthuvawa ni andu miaka itano yathela.*

Translator: Meya na Council chairmen waweze kuwa wamechaguliwa na wananchi directly na pia wakae kwa kipindi cha miaka mitano.

Joyce Kavuse: *Iwete twenda kithiwe na kisomo na itheka, isomothwe ikwate mawia.*

Translator: Watu wasiojiweza anapendekeza wapewe elimu na serikali pia wapewe mashamba, na watafutiwe kazi.

Joyce Kavuse: *Nyumba syonthe sya maploti twenda setiwe nzia ya kwisila ngali, kisululu na andu.*

Translator: Angependekeza nyumba ambazo zimejengwa sokoni ziwe zimetengenezwa in such away that accommodates the disabled.

Joyce Kavuse: *Aka na etu. Mundu osa mwitu wa mundu, theo yithiwe vo. Mwitu athewe na mituki mbee wa mwaka umwe utanathela.*

Translator: Angependekeza ya kwamba marriages ndoa zote zifanywe official within one year.

Joyce Kavuse: *Syana sya mwitu usu syonthe ila methiwa masyaete syaele kwivwa mali ya ithe na inya wake.*

Translator: Kama watoto wote wamezaliwa katika ndoa watoto wote waweze kupatiwa mali.

Joyce Kavuse: *Syana syonthe sya aume na sya aka ni syaele kutetha asyai moo.*

Translator: Watoto wote wamezaliwa na mama na baba waweze kuwangalia wazazi wao wakiwa wazee.

Joyce Kavuse: *Aka mamathiwe mawia na mainewa mawia undu vatontheka na maimathiwa kisomo cha ngumbaru.*

Translator: Wanawake wapatiwe kazi yani employment , na waweze kupatiwa civic education ama elimu ya watu wazima.

Joyce Kavuse: *Aka mamathiwe mbesa sya biashara nikana mamine ucha.*

Translator: Wanawake wasaidiwe na mikopo ndipo waweze kupigana na umasikini,

Joyce Kavuse: *Aka maandikwe mawia ta aume malike mbungeni, PC, DO, na ma-Councillors.*

Translator: Wanawake wachaguliwe katika bunge na wapewe kazi kama vile PCs, DOs, DC na Councillors.

Joyce Kavuse: *Aka nitukwenda kalobo kavetangwe Kenya yonthe vamwe na vangi na changaa nundu nichanangete syana sito.*

Translator: Wanawake wangependeza kwamba pombe ya kienyenji ipigwe marufuku na madawa ya kulevya , ili tuweze kupata maendeleo. Ni hayo tu.

Com. Hon. Phoebe Asiyo: Ni hayo. Asante sana. Weka sahihi upeane hiyo. Tupate Daniel Musyoki? Hayuko. Katangi Co-operative Society.

Elijah Rafiki: Kwa majina naitwa Elijah Rafiki. Nanatoka Katangi Co-operave society. Maoni yetu sisi kama wanachama wa Katangi Co-operative Society ni ya kwamba katiba ya nchi hii yetu ni lazima iwe na utangulizi kuonyesha yenyewe imeundwa na WaKenya, wenyewe.

Kuhuzu uraia wa nchi, mtoto aliyezaliwa na wazazi wote wawili wakiwa raia WaKenya bila shaka huyo ni raia WaKenya kamili.

Mtoto akizaliwa na mzazi wa kike wakenya ni lazima apewe uraia kwa sababu mama mzazi ndiye amzinda kwa muda mrefu.

Katiba inapaswa kurundiza wakenya wawe na uraia wa nchi mbili. Kwa mfano wale watoto wetu wanaenda masomoni ngambo wakipenda kuwa raia wa nchi hizo waruhusiwe.

Kitambulizo cha taifa ndio cheti sahihi ambacho mwananchi aweza kubeba lakini kiwe kinatolewa bila malipo ye yeyote.

Vyeti vingine kama vile paspoti kwa Mkenya wa kawaida kinafaa kuwe kinapewa bila maagizo mengine ama kwa(inaudible).

Kunapaswa kuwa na serikali ya mseto ambapo mamlaka yatagawa kuandamana ma mzeto ambapo(inaudible) hizo hatuoni maoni ya fulani amri jeshi mkuu.

Uwezo wa Raisi yapaswa kupunguzwa kwa asilimia hamsini.. Kamati maluumu ya Bunge iwe na uwezo wa mamlaka ya serikali kwanzia Mawaziri, Makatibu, Mabalozi na kadhalika. Lakini Raisi awe ni mmoja wa wanachama kama mbunge lakini sio kwamba Lakini kamati hiyo iwe ikimruhusu Raisi kutangaza tatizo kama Raisi wa nchi.

Kwa upande wa Vyama la kisiasa nchii hii iwe kama imepotezo mwolekeyo kwa maana Vyama vyote(inaudible) ina maana kwamba nchini hii inapaswa kuwa na vyama viwili tu vya kisiasa. Kwa maana(inaudible) arbaini ina maana gani. Tufuate mutindo kama vile America, Uingereza ambako kuma vyama viwili tu vya kisiasa. Kwa wakati huu muundo tulio kwa mahakama, wale majaji wanahailiza kesi bila wapawa wao wakichajuliwa kulingana na

ujuzi wa kazi. Tanaonelea katiba kunakuwa na maana kuwa na Wizara ya katiba nchini kuona kwamba Katiba inatumika kama vile ilivyo.

Mbunge ama Diwani akichaguliwa na watu halafu awe hazikilizani na watu wenyewe na hafanyi maendeleo yejote katika sehemu yake kwa muda ya miaka miwili apaswa kusimamiswa kazi na watu kuwamua kuamua kuna mdogo utaitwa.

Kwa matibabu, katiba mpya inafaa iangalie sana kuhusu afya ya Wakenya kwa sababu kila kitu kimegeuzwa kuwa pesa. Asilimia hamsini ya vifo katika nchi hii vinatoka kwa anjiri ya umaskini. Kwa sababu hakuna daktari atakayejadili mambo yako bila pesa. Kwa hivyo matibabu yapaswa yawe ya bure . Daktari na wangizi wanaofanya kazi katika hospitali ama zohanati zozote wakiwa wafanyi kazi ya serikali hawapaswi kuendesha kazi yejote.

Sisi kama watu wa Yatta Constituency ni jambo la kuzangaza kuona la kwamba shida letu kuu ni maji ya Yatta tuko katikati ya mto Tana na Athi River. Ingekuwa jambo la maana kama katiba mpya itaweza kutambua umuhimu wa matumizi ya maji hayo. Kutokana na maoni yetu wenyewe kwa vile Raisi wa jamhuri atakuwa akimaliza vipindi viwili cha miaka mitano itakuwa haina maana kuweka picha yake katika pesa za nchi ziwe na picha ya mwanzilishi wa taifa hili..

Com. Kongu: Japheth Wambua, Kasiva Kimuli,

Kasiva Kimuli: *Kindu chakwa cha kunena ni thina wa kisomo.*

Translator: Yake ya kuongea yanahusu shida za elimu humu nchini.

Com. Kongu: Majina yake?

Translator: Majina yako kwanza? *Witawata mbee?*

Kasiva Kimuli: *Nitawa Kasiva wa Kimuli*

Translator: Jina yake anajulikana kama Kasiva Kimuli

Kasiva Kimuli: *Syakwa sya kunena, thina mwinge we kisomoni.*

Translator: Maoni yake ya kwanza ni kuhusu elimu.

Kasiva Kimuli: *Kisomo kuu kwitu ni mbetu na musoa wambatetwe kuma nursery kui kuvikia primary, kuvikia secondary, kui kuvikia university.*

Translator: Anasema ya kwamba elimu mukiangalia hapa kwa hapa kwetu kwa vile ni nchi kavu, elimu imepanda juu kwamba wenyenji hapa hawawezi kumudu gharama ya elimu. Kwanzia nursery mpaka shule za upili.

Kasiva Kimuli: *Kwou nundu ukwati ni munini nursery mwana aitomwa na amina kutomwa aivika musye, masomo*

nimavetokie.

Translator: Na kwa vile mapato ya hapa ni haba anashangaa ni kwa nini nursery elimu imekuwa kali namna hii.

Kasiva Kimuli: *Nakwa kila utumitwe ndii nacho.*

Translator: Na mahitaji yale yanahitanjika kwa shule za primary school ni ya juu mno kwamba hata uwezo wa wenyeji kuyapa ni shida sana.

Com. John Kangu: Sasa mama unapedekeza namna gani?

Kasiva Kimuli: *Kethwa nivatontheka kuma nursery kuvikia primary, kui kuvikia university nuutumanthia twisomethya syana ata kisomo kikatweka cha mana.*

Translator: Pendekezo lake ni kwamba elimu iwe bure kutoka nursery mpaka university.

Kasiva Kimuli: *Kwa uu kiu kikethiwa kuu kwitu kui tontha kwithiwa thina mwinge, ingei kama maoundu maingi.*

Mwana ate kutumwa nokwithwa asoma akawata syindo syake.

Translator: Anasema ya kwamba hiyo elimu ikiwa ya bure mambo mengi hapa umaskini mwingu utapungua na kila mtu ataweba kumuelimisha mtoto wake.

Kasiva Kimuli: *Ethiwa mwinena ouwo Katiba ethiwa nivatontheka tusisyu tuvetange thina usu na tuiyambatilya kuu kwito.*

Translator: Anasema kama ni Katiba ya kweli inayoundwa kwa wakati huu, elimu iwe ya bure ili tuwone ya kwamba sehemu zingine zinainuka katika elimu.

Kasiva Kimuli: *Kwou tukasovewa kisomo na ndawa sivitale, kwiyethewa na thina. No ukua tukethwa twi andu mekwekika.*

Translator: Jambo lile lingine mi ya mahospitali, hospitali gharama zake zimekwenda juu Zaidi kama ingekuwa ya bure shida nyingi hazingekuwa kwa wananchi.

Kasiva Kimuli: *Kila kingi watata kwona otau meilye nainde musee nunthsaa kana kana nikanthusaa ninye kumantha mbesa. Ainge ala mena andu ma kumanenga mbesa ni avotho.*

Translator: Kaa vile mnabyoona wazee wengi huku na wato wengine wameingilia sana mambo ya unywaji pombe. Hivyo ya kwamba pombe ingepigwa marufuku kabisa kabisa tungezaidiana sana kuondoa umasikini.

Kasiva Kimuli: *Kethiwa nikutontheka kalobo nuveta.*

Translator: Hizo pombe za kienyenji zipigwe marufuku.

Kasiva Kimuli: *Vakatiwa kalobo kamwe kala kathea mwitu na kasasya kana kakivangoni.*

Translator: Lakini kuwe na pombe zingine ambazo zimeruhusiwa za kienyeji zile za kuenda kufanyia ndoa, mahari ya wanawake zile even recomended hata kwa wazee wa kijiji.

Kasiva Kimuli: *Kiu kikethiwa mouwo nikwithwa.*

Translator: Na maoni yake ni kwamba hayo mambo yakinendeka anaonelewa sehemu yenyewe yanaweza na sura ingine mpya. Asante.

Com. John Kangu: Bwana Charo?

Josephat Charo: My names are Josphat Charo. I want to air some general views from the people of Chemchunga sub-location. We need the President powers to be controlled. That is the President should to be under the law , he should not above the law. The vice- Pthe parliament. On the part of the Government Land, alot of power has been concentrated in the Executive; Powers should be shared among the three arms of government. Judiciary should exercise democracy. We need the judiciary to be independent and impartial to either sides. Bribery has limited the truth and confidence in the judiciary. The law is foreign to wananchi that is the language used in the Constitution is hardly understandable . So, it should be written in a simple language or even mother tongue for everybody to understand. I have in mind that the language to be translated into mother tongues. The books of law should be made available at local bookshop at affordable prices all even issued freely. We need special lawyers or advocates for fighting for the rights of the poor. I mean if a poor person takes a rich person to a court of law. The rich person in most cases hires a lawyer to handle the case on his behalf.

Executive should not interfere with the judiciary. Corrupt leaders should not be left to drain the country's resources they should be punished and made to pay back whatever they have stolen.

Police are very oppressive and brutal. Police posts should not be turned to courts. police officers should be allowed to decide cases because we have law court for that purposes.

The Provincial Administration lines is corrupt and unfair. People should have the mandate to elect leaders for example chiefs who are committed to serve fairly and honesty. If he abuses his powers people should be give the mandate to pass vote of no confidence as a way of eradicating the corrupt leaders. Their terms of services should be specified. For example three or five years.

On the part of Mayors and Local government: Mayors should be elected by wananchi and their terms of services be specified. If they misappropriate public funds people should given the mandate to vote a vote of no confidence if even their terms is not

yet complete.

Hawkers should be exempted from paying the levy to the local government, and licence fee should be minimized for common wananchi to afford and gain profit. The National wealth should be equally distributed regardless of peoples status or political stand. I mean clean water, distribution of infrastructure, health facilities, power or electricity, job opportunities etc.

Human Rights should be protected at all levels without any discrimination. Education should be included as basic human needs and therefore primary school education should be free and secondary school fees be reduced.

Women to be given equal chances in different fields like men. Outdated all traditional laws against women should be eradicated as a under law enforcement. Such as wife beating, female circumcision, women inheritance, and many other things. Children abuse should be eradicated. But corrections of deviants should be encouraged in schools. Since children are becoming quite unruly following the banning of children beating

Small scale farmers' produces should be bought at honourable prices since majority of Kenyans depends on agriculture to encourage ways of fighting poverty.

The government should explore industry in the rural areas. On the part of traditional brews some of them which have been banned should be legalized to cater for the needs of the low income earners and also rooms for some traditional practices to take place e.g. dowry payments. Thats all (end of tape). **END OF TAPE 4.**

Com. Kangu: Sasa mtu wa mwisho tuko naye hapa ni Francis Murithi.

Francis Murithi: The President should not be above the law.

There should be room for impeachment if he abuses the office.

And for one to qualify to vie for a Presidential seat, he should be a graduate from a recognized institution. He must be over 35 years. He should garner 51% of the votes, so that he can be a popular leader and 25% from five provinces.

The Vice President should be directly elected by the people, to avoid cases whereby the Vice President becomes a sycophant. In such a case, you find that, he can be fired at will, and therefore, he cannot carry out his duties accordingly.

The Presidential aspirants should not vie for any Parliamentary seats. This will give room for the electorate to have only the credible candidates, and in this case, we shall avoid joy-riders.

Parliamentarians should be degree holders also, from recognized institutions of learning, because we find that, what goes on in Parliament sometimes, the language is so difficult for somebody below that level and that is why you find that some are dosing when the proceedings are on because they can't comprehend what is going on.

The appointment of the Cabinet should be vetted by Parliament. And after that, they be appointed by the President, whereby, a Minister should be given a Ministry in a field he is experienced in. This will get rid of cases where the officials of the Ministry take advantage of the ignorance of the Minister. For example, we had a case recently, of the Labour whatever (you know what is going on).

When we come to the civic candidates, they should be at least Form IV leavers.

Let the constituency boundaries be re-drawn to have a suitable representation and equitable distribution of the resources based on the population. This will get rid of cases whereby you find that, a constituency is 10% of what another constituency has, meaning that, the representation is not fair.

Let the President not be the Chancellor of the universities. Let there be an academician, who is appointed by the university board. The Vice Chancellors should also be appointed by the Senate to avoid political infiltration into the education sector.

On corruption: let the corrupt individuals face the full force of the law. Whatever has been stolen from the public coffers be returned to the public. If such amount has been deposited in the foreign account, let that money be returned to the country, if not so, the accounts to be frozen wherever they are, and let them be government property.

In recent times, you find that we are complaining of unemployment, yet, we have heard of cases where retired officers are hired to do some jobs which can be done competently by young graduates who are loitering around. And that is why, you find that, criminal cases will fail to decrease because.....

(Interjection) Com. Kangu: One more minute – please wind up.

Mureithi Murithi: Parliament should be independent and to avoid cases where the Executive, that is the President dissolves, prorogues or adjourns the Parliament at will. There are cases of lack of quorum in Parliament, you find that these Parliamentarians are giving us a raw deal. We are paying them hefty allowances and salaries, yet, they are not doing enough – they are not delivering. So, something should be done to avoid such instances.

The Judicial appointments should be done by the Judicial Service Commission, and vetted by Parliament.

On land: no Kenyan should be a squatter in the country. We have so much idle land which is habituated by animals.

Others, you find that, a single person is owning thousands and thousands of acres, whereas, there is somebody else, who does not own even a quarter of an acre. It is an insult! So, I would propose that, those idle lands be re-claimed by the Government, let them be sold to the landless at subsidized prices. That is low prices, and limit the size of land that an individual can own i.e. 50 – 100 acres, so that everybody can enjoy.

And then on education: let there be free, mandatory basic education.

(Interjection) Com. Kangu: And that is the last point?

Francis Murithi: And lastly.... yaah, yaah, it is still on education.

(Interjection) Com. Kangu: Finalize now.

Mureithi Murithi: fully implementation of the Koech Report, because you find that, quite a substantial amount of resources was used on that purpose yet, nothing has been done. And, avoid political appointments on the education sector. Thank you.

Com. Kangu: Thank you very much Mr....

Mureithi Murithi: I am Mureithi Murithi

Com. Kangu: Na sasa, kulingana na ile list tulikuwa nayo, wale waliandikisha majina kuzungumza, tumemaliza - wale walikuwa wameandikisha majina. Ikiwa kuna yeoyote ako hapa alikuwa anataka kuzungumza, tutakupatia nafasi kule Matuu, kama utaweza kufika huko. But I hope there is nobody, at least we have finished.

Nataka kuwarudishia shukurani, kwa kuchukua nafasi yenu, kuja kukaa na sisi, kutupatia maoni yenu vile mungependelea maneno yaendeshwe. Kwa hivyo, kabla hatujamaliza tena nitauliza wenzangu, kila mmoja kusema jambo moja, halafu tufunge mkutano. Tutapatia District Co-ordinator atumalizie mkutano, kama atapata mtu wa kuomba tumalize, tutamaliza. Lakini kwanza, my colleagues, you have something? Yes, Pastor.

Com. Pr. Ayonga: Ningesema tumetoa maoni mzuri sana hapa kwenu, mumetoa maoni yaliyo na maana sana, yale ambayo yanamulika shida ambazo, sio za hapa tu kwenu, lakini ni shida ambazo ukienda pahali pengine, utazipata zimefanana kabisa; na tutaziweka maanani. Na kwanza, nataka pia tena mukumbuke kwamba, kila neno ambalo lililosemwa, liko kwa cassette. Hata wakati ulipokooa, kama ulikuwa unaongea kwa hii cassette, maneno yako yaliingia pamoja na kohozi lako. Kwa hivyo, hakuna neno la kupotea. Na Mungu awabariki sana.

Com. Asiyo: Hata mimi narudisha asante sana kwa wale wote waliofika hapa leo kutueleza maoni yao juu ya Katiba mpya ya Kenya. Tunajua kwamba maoni yale muliyoyatoa, yakiwekwa pamoja na maoni ya wana-Kenya wote, itatuwezesha kupata Katiba mpya, ambayo inaweza kulinda nchi hii kwa njia inayofaa, kwa miaka mia moja iijayo, bila kusumbuka kurudia rudia mara ingine. Kwa maana, maoni yametoka kwenu, sisi hatuwezi kuandika maoni yetu. Yale mumetuambia, ndiyo tutayarekebisha, yawe kwa lugha inayofaa, halafu yatatoka vile vile, kwa Katiba. Na ninawapa asante sana kwa ukarimu wenu, na kwa kufika kwa wingi kutoa maoni yenu. Asanteni, na kwaherini.

Com. Kangu: So, Co-ordinator, you can now take over, uendelee.

Rose Kimeu: Nami, sitasema mengi, kwa maana mumeyasema. Na, kwa leo, tulikuwa hapa Katangi, nataka kuwajulisha kwamba, kesho kikao hiki tu, hawa Commissioners watakuwa wamekaa kwa Matuu Catholic Church hall, kusikia maoni ya watu wengine wa Yatta. Kwa vile nyinyi bado muko Yatta Constitutency, wale ambao walipitwa na ya leo, tumesema muweze kufika kesho kwa Matuu Catholic Church hall, tuendelee kupeana maoni yetu kwa Tume ya Kurekebisha Katiba ya Kenya.

Na kwa sasa, ningependa kumuuliza Pauline, atufungie mkutano wetu wa leo, kwa maombi.

Pauline: Baba katika jina la Yesu Kristo, nasema ni asante leo, kwa maana Baba umetuweka hapa, umetukutanisha na hawa wanatume wa Kurekebisha Katiba, na tukawa na mkutano wenyе maarifa, tukatoa maoni yetu, tukiwa na utulivu mwingi, na tukawa na uhuru nydingi, na tukawa tukitarajia. Chochote kile tulisema, chochote kile tulandi, chochote kile tulifanya hapa, kwa ajili ya watu wale watakuja nyuma – kisasi chetu, yatakuwa pia ya manufaa.

Narudishia asante kwa Mungu Baba, kwa maana ni ye ye ametuwezesha kuwa hapa, na tunafikiri mambo yote kwa maana iko mikononi ya Baba aliye juu Mbinguni, itakuja vile tuliovyoyapanga, na Mungu atabariki mambo yote yale tulikuwa nayo hapa. Na sasa ni wakati wa kukumbukana Baba, nakuuliza na naomba, kila mmoja wetu akitoka hapa, awe amelindwa na nguvu zako Mungu Baba, kwa maana ni wewe Mfalme wa Wafalme, ni Mfalme wa amani.

Bwana wa Mabwana, ninakurudishia asante sana kwa maana hii imepangwa kutoka mwanzo tuwe hapa, ili tukasaidiane kwa kurudisha Katiba yetu kama vile tunavyotaka iwe. Ishikane pamoja na ile yote ya Kenya nzima, tuwe na Kenya ya manufaa, kulingana na mapenzi yetu Baba. Na Baba, katika jina la Yesu Kristo, Baba nakuomba na kusema ni asante sana.

Wale wote wanasafiri kwa vitu vimetengenezwa kwa mikono, Baba uwe dereva, na tukifika mahali tunapoenda, Baba tutakurudishia asante. Na wabariki wote wale walikuja hapa kwa ajili ya kuchukua maoni na kwa ajili ya kutoa maoni - Baba tuwe tumebarikiwa. Na sasa Baba, naomba nikisema, kwa hayo yote Baba, ubarikiwe Baba, ushukuriwe, na, let all the people praise your name, because you are a worthy Lord.

In this meeting Father, we have been successful in all what we have planned, and this is because of your will. Let your will Father be done, in all ways Father, so that we have a very stable Kenya in the future, so that our generations will enjoy whatever we have planned. Ooh Lord, give us wise and knowledgeable things to put in our new Constitution Father. If all that goes well and ends very well, our Father, we wont forget to thank you Lord, because you are our everlasting Father. And Father, I also praise you and thank you Father, for everything. Now that we are coming to our next station which is Matuu, I put it in your hands so that it will just likewise be like this one at Katangi which has been so successful in many ways. Thank you Father, bless our Commissioners Lord with more strength in their bodies and also in their minds and their souls Lord, so that they finish up the work you have committed to them. In your name Father, we shall be praising you. And Father, this minute and the next time which is before us, I put it before your hands. Thank you Father, and with all this Father, I say, let it be now according to your will, not our will Father, so that all things will be in your way, and so that we shall be happy in the Name of Jesus. And in the Name of Jesus, Father, I pray and say thank you for all. In Jesus Name, I pray. Amen.

Meeting ended at 6.00 p.m.

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