



[REDACTED]

[REDACTED]

[REDACTED]















































































**(CKRC)**

**VERBATIM REPORT OF**

**CONSTITUENCY PUBLIC HEARINGS,**

**LANGATA CONSTITUENCY, HELD**

**AT P.C.E.A. CHURCH**

**LANGATA**

**ON**

**29<sup>TH</sup> MAY, 2002**





**CONSTITUENCY PUBLIC HEARINGS, HELD AT P.C.E.A. CHURCH, LANGATA, LANGATA**  
**CONSTITUENCY ON 29 MAY 2002**

**Present**

- 1) Com. Zein Abubakar
- 2) Com. Prof. Wanjiku Kabira
- 3) Com. Ahamed I. Hassan

**Secretariat in Attendance**

- 1) Maimuna Midau - Programme Officer
- 2) Moses - Assistant Programme Officer
- 3) Josephine - Verbatim Recorder
- 4) Mary Njoki - Language Interpreter

**The meeting started at 9.30 a.m. with Com. Zein Abubakar in the chair.**

**Com. Zein Abubakar:** I would like to declare this an official sitting of the Constitution of Kenya Review Commission for the purpose of collection of views, to amend our constitution. (Ningependa kutangaze kakao hichi kama kikao rasmi cha Tume cha kurekebisha Katiba ya Kenya kwa minajili ya kubadilisha katiba yetu). Naona akina mama wame kuja kwa hamu sana. Kama kawaida ninge penda kumpa nafasi hii Esther Walia, atufanyie kazi yetu ya kwanza kama desturi ya kuanza ya kurekebisha Katiba. Esther Walia ni mshiriki wa tuma ya kurekebisha Katiba katika eneo la Dagoreti na Langata. She is the coordinator of the Constitution of Kenya Review Commission. Esther.

**Esther:** Good morning everybody, my name is Esther and I would like to call upon the Constitution Constituency Committee that I work with in Langata, to introduce them and probably give the chairman a few minutes to mention to you anything he would like about the Constitution Review process. Bishop let me nominate you to lead us in a word of prayer.

**Bishop:** Let us all stand up in prayer. Heavenly Father, God of all ages, thank you for giving us today, thank you for giving us your blessings for today, thank you for giving us this occasion that we all admire and cherish. We thank you for bringing us together to discuss issues for this beloved nation, as we sit down to discuss all this issues Oh Lord, pull us with strength and

endeavour give us strength and capacity to handle this affairs which are too complicated for our understanding. May all that we say and do be to the glory of thy holy name. We ask this in the Lord Jesus Christ. Amen.

**Chairman (Gordon Muga):** Good morning everybody, my name is Gordon Muga. I am the chairman of Constituency Constitutional Committee for Langata. Dear Commissioners, my colleagues the 3 C's, the staff of the Commission, I wish to welcome everybody for this yet another hearing session of the deliberation of the Commission. Mine is just to welcome you, I want this day to end up with efficient undertaking by each and every group here, and hopefully we should leave this place fully satisfied that we have made presentations, that will help to be very constructive to the process of the Constitution review.

I would wish to mention that we would rather be very brief in our presentations. Our presentations are about five minutes hearing and anything after five would be repetitions and for that matter, if somebody has got a memorandum, keep that memorandum with you, summarise after you have completed your presentation, as the memorandum and thereafter you come over here to register as a group or as a person. But really, if we have be brief, I think it will not be boring, it will be very efficient and properly done. Thank you very much and I wish to welcome all of you to Langata. Thank you.

I have forgotten a very important aspect of my duties. I have colleagues here, Committee Members, I have got Medina Ebrahim, Tomas Oduor with me and last but not least our lady coordinator, Esther Walia, by the way Esther Walia is very efficient coordinator not that I like her as my daughter but I work with her father as very close colleagues at work, so you can see how well the Langata 3C is functioning. Thank you.

**Com. Zein Abubakar:** Thank you very much Mr. Chairman, I would like to be the first person to recognise the good work you have been doing in this Constituency and to the benefit of the public. We had a trial run in the beginning in which we collected views in this Constituency, yesterday we were in Kibera and today is going to be the last session in this constituency and we would like to thank the Chairman and the Committee for the tireless work they have put into this process and the session today. If we have a lot of views it will be partly because of the good work this committee has done with our Coordinator Esther Walia.

My duty and privilege is that we just share with you some of the things we are expecting from the presentation that you are making today. Allow me to first introduce myself, my name is Abubakar Zein I am a Commissioner with the Constitution of Kenya Review Commission and I would like to pass the microphone to the Commissioner next to me to introduce himself.

**Com. Ahamed I. Hassan:** My name is Ahamed I. Hassan I am also a Commissioner. Thank you.

**Com. Zein Abubakar:** Thank you very much, we are expecting to be joined by a third Commissioner, Prof. Wanjiku Kabira, she is held up for good reasons, and she will be here. You notice that the first thing I did was to declare this an official sitting of

the Commission, that means that there are certain procedures that we will follow once we have declared this an official sitting of the Commission.

I will continue with the introduction so that you know who are the other staff members who have come with the Commissioner and what function they will be performing today. It is very important for you to understand what functions they will be performing so that we have a procedure which is clear to everyone and that there is no misunderstanding.

I would like to ask the team leader of our staff members, the programme officer Maimuna Midau to introduce herself after I have mentioned her name and introduce other members of staff before I go on.

**Maimuna Midau:** My name is Maimuna Midau, I am the Programme Officer, with me is Moses, he is the Programme Assistant, next to Moses is Josephine she is the verbatim recorder and we have a language interpreter who is somewhere around here.

**Com. Zein Abubakar:** May be I should just say this, when you came in you found that there is a Registration Form which you had to fill out there. This is the first form, which you have received from the Registration Desk. We shall use this form to call people on first come first serve basis, so that when you are called you will come to this microphone, you need to mention your name, and I will tell you in a moment why you that is very important that you mention you name, before you start presenting your views.

Maimuna will be making sure that everything is running smoothly. The young man at the centre is a reporter, so he will be taking notes of all the things that are going on. The lady next to him as you have been told is a verbatim recorder. We are going to record the session today verbatim, meaning that we will not loose a single word of what you say. She has tape recorders with her and she would be doing that, so if you see that sometimes, we are posing, we are taking notes seriously, you will not say that, why are they not taking my submission and I am making important points.

There will be a procedure for us in the Commission for us to process the verbatim recording and shall be availed to us.

The other thing, which we need to share with you, is that, because Nairobi is a cosmopolitan capital, we agreed that we should use English or Kiswahili, because we assume that this would be comfortable to most people. We will be using English and Kiswahili interchangeably and you are free to give to give your memorandum in English or Kiswahili. Is there anybody who would want to submit in a different language than English or Kiswahili? At the moment there is no one but when we do get a request to we will look for ways of interpretation so that people are able to follow what is being presented.

The chairman has made some observations as to how you are going to submit your memorandum, there are 3 ways of doing it.

The first one is that you have a written memorandum and if you want to submit that to us without oral presentation, in other words, you want to submit the written memorandum and either sit and listen to others or go away, the young man there whom we introduced has a register. If you want to submit without oral presentation, you will go straight to him, hand in your memorandum and sign our register, which indicates that you have given your views to the Constitution of Kenya Review Commission.

The second way is that you have a memorandum and you want to give highlights of that written memorandum. We suggest particularly to those who have written memorandum that we may not have the time for you to read the memorandum, so it is very important for those who have written memorandum who want to accompany it with oral presentation, to come and give us the highlights. We have a mechanism in the Commission to read each and every memorandum that we have been given.

The third way of giving the submission to the commission is that you want to make oral presentation, which means that you will just come and give your name for the record and start to give your submissions. As the chairman said, we will initially give you five minutes but if you have good reasons why you need to go for more than 5 minutes, a minute extra when we say your time is up, we will say please summarise.

What you need to know also is that if you finish, the Commissioners who are sitting here today may ask you a question to clarify a point, we can only ask clarificatory questions so that you might need to explain something either one commissioner or the panel did not understand. So you hold on a minute after you finish and if we have no questions, you will proceed straight to the registration and you will register there. That is as far as the procedure is concerned.

Let me add one more thing, that it is very good and we have gone to very many places and we found out that a lot of people want to talk about the problems we have as a people and as a Nation, it is good to talk about the problems that we are facing and some of the things we feel are not going on well, but it is very important for you to recommend to us what to do about them.

It is also good sometime to give historical context, what you should know is that the time you use to give the historical context counts as part of the five minutes. We are familiar with historical contexts, if you go straight to your proposal as to how we shall amend our Constitution and what changes we need in the Constitution, it will be very helpful for all of us.

The other thing which I should mention is that we have gone to other places and people ask us, that if I make a submission which displeases a certain person or an office and they are not happy with what I have presented, will I face any consequences? The answer is no. You are protected by the same law that protects the Commissioners in their work, that there will be nobody no action against you for any views that you present before the Commission.

In other words you are protected to give any views you feel are important to be give to the Commission, but that is not a licence for us to come and attack individuals or institutions, you can not make it personal. Related to that, we normally ask people to use language which has decrum which means it can be used before a gathering like this, where we have old men, young men so that we need to interact with each other using a language of respect. Are all those things acceptable to all of us? Are there any questions? Yes Sir:

**(Interjection)**

I do not have a written memorandum, but I would like to mention my main points and highligh my main points (**inaudible**)

**Com. Zein Abubakar:** You are allowed to do that Sir, before you came in I was addressing that issue and I was saying that If you can do it 3 ways, written memorandum without speaking, written memorandum with speaking and oral presentation without written memorandum all of those three are given with exception of the first one. If you are going to address us you will be given five minutes, so you choose how to use the 5 minutes.

I think at this juncture I would like to welcome my teacher Mwalimu and ask her to introduce herself, we are just about to start.

**Com. Prof. Wanjiru Kabira:** Thank you very much my student. My name is Wanjiru Kabira, I am one of the Commissioners, my sincere apologies for coming late.

**Com. Zein Abubakar:** Mwalimu I had already told them that you were held up for good reasons and that we were expecting you any time. Being there no other matter to address, just one little matter that I told you we will use this format that, first come first serve. We would like to vary that when conditions demand that we vary it, and we will do it when we have good reason e.g. when we have an expectant mother who can not wait for long time we shall ask you to permit us to use our discretion and allow her to speak if we have a person with a disability, we will do the same, old person and any other person who has a good reason but we will inform you before we exercise this discretion. Thank you very much.

I would like to call the first person. Bishop Eng. Calleb Olali, please you will be the first person to open the floor, you have five minutes Sir. Do you want to sit or stand ?

**Bishop Eng. Olali:** Thank you very much Mr. Chairman, first of all I must really join in thanking and congratulating your representatives in Kibera Langata Area because they have been quite close to us. “Nomiya Church” is one of the Independent Churches in this country and is predominantly Luo, that is why whenever anybody comes to Nomiya Church all the addresses are in Luo and we found it very difficult interpreting the language of Constitutional Review Document into Luo, but we managed with the assistance of your people. Nomiya Church represents members in Nairobi are close to 5,000 with about 1,500 in

Kibera only and the role of any Church as generally acknowledged is to deal with morals of individuals, families or society.

We have looked into some Constitutional issues that touch on integrity and economic capacity of Kenyan society, which are also areas that carry the final mention of the economic lamentations of resources for poor governance that has been a talk of the day. As a Church, our recommendations are sincere and therefore become our hope.

Hope that this effort will come out with a Constitution that Kenya needs but not necessarily what we like. Hope that all the varied ideas of Kenyans will be purified and synthesized by the Commissioners into a document that tells all about the society governance that Kenyans have longed for, and hope for a document that sports a bottom line of peace, understanding and prosperity. We have 6 items we want to raise.

1. Citizenship: While citizens from other countries have always been allowed to become Kenyan citizens with all the privileges while many indigenous Kenyans who are citizens by decent, do not have similar opportunity to become citizens of other countries and therefore must have their heritage protected. Given the present poverty level and high birth rate with the increasingly diminishing employment opportunities, registration of citizens from other countries particularly India must be restricted. Moreover, it is no secret that this paper citizen still remains citizenship of their countries of origin while working in Kenya.

2. System of Government: We feel that the idea of having President and Prime Minister is to share power and authority thereby creating a kind of checks and balances in the government system. We recommend of course a Ceremonial President and an elected Prime Minister as the head of government.

3. Parliamentary and Council Representation: People need deliberate civic education as what is going on now about the Constitution, we need civic education before election so as to be aware of the actual role of parliamentary or civic representatives before deciding on whom to elect.

Other than the present language test prospective candidates should pass aptitude tests conducted in public by the political parties they wish to represent, so that candidates are prequalified on the strength of their moral background, understanding of their own academic potential, personality and integrity.

4. Forth item we want to bring her Mr. Chairman and I appreciate that you are going to protect me is the role of women in Kenyan society. Nomiya Church respects the role of difference sexes in family life and in the Church. We believe that women must be loved and respected in their natural God given roles but without sacrifice, harmony in family life, by hurting the very basic of the family foundation in the name of gender balance.

In designing government set up, once equal opportunity has been declared, the issue of gender identity should not arise, as long as we respect the natural limitations of different sexes.

Poligamy, which is an accepted practice in Nomiya Church, is also an accepted African family set up. Our Constitution should formally accept this practice so that certificates for marriages are issued to all accepted marriages and all married women are given marriage certificates whether they are 3<sup>rd</sup> wives or 4<sup>th</sup> wives.

5. The fifth item Mr. Chairman is Religious Courts. There has been a record of violent confrontation amongst members of the same religious organizations, particularly Christian Religious Organizations. In many instances this has led into fragmentations and even deaths of certain members of these organization, in the name of freedom of worship, as the government puts it thereby hiding serious and punishable offences.

This is a situation, which has been quite prevalent amongst Christian Religious Sects. We therefore recommend, that the revised Constitution should allow for the setting up of courts, similar to Muslim Kadhi Courts for Christian Churches in particular, to handle church disputes. The set up should take the form of lower courts for each registered denomination and an umbrella court, sort of an Appeal Court for all Christian religions. We hope this will probably will help arrest certain problems that have been frequent in churches and are not dominant in Muslim Religious Organizations.

6. Land Laws and Community Life: Mr Chairman in many parts of the country some own large pieces of land which are not put into productive use, the government should tax all pieces of land which are not utilized, this will enable such pieces of land to be sold or leased to Kenyans who would activate such idle resources.

Given that there is also a growing of inactive old age, terminally ill and desperate orphans in our society. The government should set up Public District Community Homes where the above members of our community can be provided with basic needs and care. I believe that an arrangement will be made such that apportion of an individuals NSSF contributions, can be channelled back to individual district of origin to serve this purpose.

The implementation details can take the form of the government taking up Kshs. 10/= from every individual contributor to be channelled back to the district of origin of the individual contributors and I believe that even people who are currently helping Non Governmental Organization will monitor the performance of this particular centers and therefore extend their assistance based on the integrity of the management that is displayed in such homes.

Mr chairman, I think my 5 minutes is almost over and I believe that this particular points that we have brought forward will be taken into consideration. Thank you.



**Com. Zein Abubakar:** Thank you very much Sir, I think Commissioner Kabira want to ask you a question.

**Com. Wanjiku Kabira:** Thank you very much Bishop Calleb for your views, one of them is that I do not think you do not need the protection of the chairman. Did you say that once equality is accommodated so in other words you proposing?

**Bishop Calleb:** I am proposing that when we declare all Kenyans above the age of 18 and probably maximum age 55 we are describing Kenyans can be given the opportunity to now stand for Parliamentary or Civic Election that is all without saying that we want 10 seat for women and 15 seat for men. That is breaking us into some kind of identity where we are categorizing women as a particular category of individual below a natural human being.

**Com. Wanjiku Kabira:** But you accept the principle of equality.

**Bishop Calleb:** The principle of equality I accept fully.

**Com. Wanjiku Kabira:** The other question is that you suggested that we have a Ceremonial President and an Elected Prime Minister.

**Bishop Calleb:** Ceremonial President in my suggestion is to a point a president who is there and not anybody to be where you ask the public whether you discipline or not. I think these modalities of this controls can be worked out in a way that parliament can get rid of the President and at the same time, the President, one of the powers that is given is give the powers to put the Prime Minister to task on recommendations on a group of an institution like Parliament but this will help like and check and balance of the whole system where the President or the Prime Minister will not have absolute authority.

**Com. Wanjiku Kabira:** Where does the Vice President come in, in that set up?

**Bishop Calleb:** The Vice President in our Constitution should go together with the President and therefore does not have executive controls over the government.

**Com. Zein Abubakar:** Thank you very much sir, please come and sign in our register and hand in the memorandum.

**Com. Zein Abubakar:** Thank you very much Bishop, now I would like to call Fatuma Ali Saman as our second presenter.

**Fatuma Ali Saman:** Good morning, I am Fatuma Ali Saman and I am going to present (inaudible). I have a memorandum but I would like to highlight a bit, but I will not go into the details because of time.

On the issue of introducing a preamble in our Constitution, we are proposing that we adopt a preamble, which is set in my memorandum so I do not need to go through it.

1. On the issue of Constitutional Supremacy, we propose that we need to strengthen the existing mechanisms to avoid abuse and misuse of the Constitution like what has happened before. We are therefore proposing that there be set a Parliamentary Constitutional Committee, which shall consider any proposals for Constitutional amendment. The committee will intum recommend to parliament and the parliament will propose the amendment through a referendum.

2. On the issue of minority and the marginalised, we propose that these groups be consulted and involved, to avoid further marginalization.

3. On Citizenship, we recommend that the following should be automatic citizens: Any child born in Kenya or born to a Kenya parent be it female or male as we know only male were considered, any child adopted by a Kenyan Parent.

4. On the issue of Intelligence: We propose that any Intelligence other than those of Defence Force or Police, be set up through a parliament. Any such service established including any within the Defence and the Police, should have as their primary objects regulated by the Legislature and must provide coordination of Intelligence, Civilian monitoring of these activities and services as will be set up by the legislation.

5. On Political Party's: We are of the view that Political Party's are important in any democratic society and they ought to play a bigger role than they are doing now. We are saying that they should work towards the realization of their manifestos, practice democracy within their structures of operations, they should assist in poverty eradication, creation of job opportunities, education, economic improvement strategies, empowerment of people.etc.

We are also suggesting that 3 major parliamentary party's should be funded from the government revenue. These major party's should only qualify if they have a national outlook or have the interest of the country in their operations.

6. On the Structure and Systems of Government, we propose a unitary system of Government where there is strict devolution of power to the Local Authorities should be observed, and implement to enable governance to be closer to the people.

We further proposed that we should retain the Presidential System of Government, although we recommend reduction of Presidential powers, as it is stated later. The Vice President should be given specific functions by the Constitution with noting the role of Prime Minister, if the Vice President specific duties and powers of the executive will be devoced. Therefore there is no need of a Prime Minister.

7. On legislature, we propose that we retain the Single Chamber Legislature and expand the functions of the same. We propose to include appointments of the following, Cabinet Ministers, Speaker, Deputy speaker of the National Assembly, vetting of permanent secretaries after their appointment by the public service commission, heads of all Government Institutions, Chief Justice and Judges, Auditor General. Setting up of regulations and laws to govern the disciplined forces, to have unlimited powers to control its standing orders on management of national resources.

8. On the issue of Judiciary: We propose that various changes in the judiciary as the current system has not served us well, we feel that instead of a Supreme Court, we should have a Regional Court of East Africa, that will otherwise deal with functions of a Supreme Court.

As we want to have a constitutional culture, we propose that there be established a Constitutional Court. We propose that, other than Judges, other judicial officers be appointed by the Judicial Service Commission and those being appointed should be “inter alia” and should have the following: They should have a first degree for Magistrates, others to have proper professional qualifications, be of high moral standing and a maximum age of 60.

We propose a tribunal to discipline Judges and other judicial officers made up of Chief Justices and other persons of high moral standing.

Kadhis and chief Kadhis should have at least an LLB degree in Islamic Shari'ah and be graduates of the Kenya school of Law, they should be familiar with the common law. They should also be appointed by the Judicial Service Commission on recommendation by 3 Muslim institutions to be identified by the Commission. Kadhis courts should also deal with matters of children, matrimonial properties, administration of state for deceased Muslims and trust properties. This should be allowed in the Kadhi's Court because they have a certain stipulated shari'ah, so that Muslims can freely enjoy the freedom of worship.

8. Executive Power: The Constitution should specify the qualification of a President and this we proposed the following:

He should be a Kenyan citizen by birth, minimum age of 35 with a degree or its equivalent, should have a clean record, a person of good moral standing and not beyond the age of 65. The president tenure should also be fixed to 2 terms of 5 years each.

**Com. Zein Abubakar:** Fatma, your time is up, I gave you 30 seconds and I am giving you one more minute to summarise.

9. On the issue of Electoral System, we are proposing that we continue with the representative system, we further propose that we maintain a simple majority rule.

10. On the rights of the vulnerable groups on the current Constitution, the rights of women has not been fully addressed and we are suggesting set aside a chapter to deal with rights of women. We propose the following:

Equal Rights and Dignity, the Constitution must state to provide facilities and opportunities necessary to enhance the status of women and should protect women and their rights taking into account their unique status.

11. We are suggesting that there should be participatory governance and we propose that the Non-Governmental Organizations be given a role in governance, at the moment they are playing a complementary role.

Finally, it is my prayer that the views of Kenyans are going to be taken into consideration seriously, and the work of this Commission will not be a waste. We therefore hope that we are going to have a new Constitution before the next election. Thank you.

**Com. Zein Abubakar:** Thank you very much Fatma, just hold on. No question, thank you, please go and sign our register, Thank you very much Fatuma. I would like to call Bwana Waigayu E. Kariuki. Welcome Sir.

**Waigayu E. Kariuki:** Thank you, my name is Kariuki Waigayu from the P.C.E.A. Langata Church. I will summarise our presentation starting with:

The form of government: We feel that the present form of administration, what we call the Provincial Administration (interjection – inaudible) should be replaced with elected county's, we are looking at County Councils instead of Provincial Administration.

Boundaries should be drawn without ethnic considerations like in the present system, should consider sound economic and management considerations, these should be guiding criteria for the creation of councils.

The powers as we envisage is that the County councils should be followed by Municipal and Urban Councils and then the village and trading centers, this should form the hierarchy. These Councils should also be collectors of all the taxes and remit a percentage to the Central Government. The councils should be responsible for the initiation of development of public projects and infrastructure within the areas of jurisdiction.

On the Presidency, have are recommended basic requirements for a President of this country taking into consideration that Kenya has changed over the years, there are many educated people now. The first qualification is that he must be a university degree holder, should be married, and living with the spouse and the children, should be morally upright person with no criminal record. The tenure of the President should be 2 terms of 5 years each. The functions and duties of the President should be clearly defined in the Constitution, and the powers should be shared with the parliament, to avoid an autocratic type of rule.

Appointment to Constitutional offices like Attorney General, Chief Justice, Chairman of Electoral Commission, Judges and so on should all be vetted by parliament. The Constitution should provide for the impeachment of a President in the event of misconduct, dishonourable acts like divorce, criminal acts, acting ultra vires and being partial. Those are grounds of impeachment of a President.

A serving President should not be honoured, by having any institutions or public facilities named after him including inscribing his portrait on currency notes and so on, but this should be as an honour after retirement.

The President should not be an elected Member of Parliament representing a Constituency, because he should be able to represent one Constituency called Kenya. Ministries should only be created by parliament, the number of Ministers and Assistant Ministers should be limited to one per ministry. All Ministers and Assistant Ministers should be vetted by parliament, to ensure that they are knowledgeable people and of high integrity. Appointment of Permanent Secretaries including heads of civil service should also be vetted by parliament.

On public institutions, we feel all heads of Public Institutions including universities, parastatals and so on should be advertised in the media, so as to make them competitive and to attract best qualified candidate and must be vetted by parliament before their appointments.

There should be security of tenure for these people and a legally constituted authority should do sacking with reasons attached like the Public Service Commission. To establish or abolish any public office should be the prerogative of parliament on recommendation from the relevant Service Commissions and Ministries.

On the Electoral System, there should be a separate date for the election of the President and the Vice President (one day) and the other elections can be held on a separate day. The Vice President should be elected by the people as a running mate of the President, and in the event of the death or resignation of the President, the Vice President should take over and continue with the rest of the term of that President so that we do away with (90 days)

Boundaries should be passed on provisions except in areas like North Eastern where geographical factors have to be taken into account but the rest should be based on population.

Parliament should have the powers to impeach Members of Parliament in the event of gross misconduct, financial scandals, criminal offences or dishonourable acts.

Registration of voters should be automatic on attaining age 18, and voting should be made compulsory to those who are able to

vote. The President should have no powers to dissolve parliament, parliament should be guided by its own callender as to when it should be dissolved. The date of the general election should be fixed by parliament.

On the qualification of the Members of Parliament, the Vice President, we feel they should have university degree and Members of Parliament should have a minimum of division 2 in form 4 or the 8 4 4 system C plain. Citizens should have a right to recall a member of parliament provided they constitute 65% of the registered voters.

All citizens should be provided with legal presentation so that people are not going to court without presentation.

**Com. Zein Abubakar:** Bwana Kariuki your time is up, I gave you one more minute and I am giving you another minute to summarise.

**Bwana Kariuki:** Quality education should be provided to all including text books and to facilitate this, we are recommending that and a National Education Fund similar to N.S.S.F., National Hospital Insurance Fund should be established so that our education is provided with its own funds and not begging at the treasury.

On natural resource: All natural resources should benefit all citizens and should not be allocated for individual gain.

We also note that shelter is a human right and the United Nations Human Charter has not been given much consideration in this country, we are asking that the government should set aside adequate land for housing and provide good infrastructure to enable citizens acquire decent and affordable shelter.

On Human Rights: We are suggesting that all laws on international charter should be respected and arrests and harassment should by Police should stop unless they have reasons do to so. Thank you very much.

**Com. Zein Abubakar:** Thank you Bwana Kariuki, just hold on. There is no question for you please go and sign our register and hand in the memorandum. Thank you. I now would like to call Kabashia Gatu. Karibu Mzee, Welcome Sir.

**Kabashia Gatu:** Thank you Commissioners, my name is Kabashia Gatu I come from Justice Peace and Reconciliation Committee of Karen Parish, PCEA Karen. I will give a summary of what we have.

On the Constitution, we feel that the state must ensure that all Kenyans are educated on the Constitution, any intent to change the Constitution must be advertised in all media at least one year prior to parliament debating on it.

The new Constitution must allow for a coalition government and should protect individual rights and not necessarily group rights.

On the devolution of power, the new Constitution should provide for a Federal System of Government, where power is split between Central and Regional government. Such regional government should not be based on tribal boundaries.

On the Executive, we are suggesting that an Executive President should not be a Member of Parliament. Parliament should be composed of an upper and lower chamber. The lower house to represent constituencies and the upper chamber to represent regions.

Local government should have Mayors elected by the people and to be independent from the Central government. Provincial Administration should be abolished.

On elections, we suggest that the election date and the change of government should be mentioned in the Constitution. Electoral constituencies should be based on population and not geographical size.

On defectors, we suggest that defectors should be barred from contesting the following election and they should not be allowed to move to another party if they are not nominated in the first party.

We suggest the national ID and passports should be adequate for people to be eligible to vote and not necessarily registered voters card. Identity cards should not reflect the ethnicity of the holder. We feel that the 2002 should be held under the new Constitution.

Political Parties that have more than 10 seats in the National Assembly should get funding and the civil society should be given all the seats that are available for nomination. Presidential, Parliamentary, the upper and lower house elections should be held at different times.

On the question of Land: There should be no sealing on land but all unutilised land should be taxed. All independent treaties should be honoured but even that land should be cancelled if not adequately used. All land allocations should be done by Commissioner appointed by court and not by politicians.

National Languages: We suggest that indigenous languages should be taught in schools upto standard four and should be available for study in higher education. However, Kiswahili and English should be our national languages.

We suggest that the auditor general should have the power to prosecute. The Attorney General should not be a Member of Parliament but he should be the chief prosecutor with tenure of office.

We should have a Minister for Justice who is a member of that cabinet of that parliament. The Judiciary should have supreme and Constitutional court, and there should be an ombudsman. Commissions that are appointed by the President should be sanctioned by parliament and we suggest that such Commission should report to parliament three months after the completion of their work. Failure to do this, they should report directly to parliament for debate.

The succession and transfer of power: We suggest that a former President should be immune from prosecution of criminal offences but should have provision for security and welfare by the state.

Election results should be declared at the polling stations. We suggest that parliament should have the powers to impeach the President or Members of Parliament.

On the National Court of Arms, we observe that KANU symbols of the National Court of Arms should be removed. Thank you.

**Com. Zein Abubakar:** Bwana David Oduor Oludhe, you are welcome.

**Oduor Oludhe:** Thank you very much for giving me a chance to speak, I am a Langata resident and my contribution to the Constitution Review of Kenya as follows:-

First of all I propose that we form a Constitution Authority of Kenya with the same principles as Capital Markets Authority so that it can safeguard the constitution. There is no use taking a lot of time and effort to come up with a Constitution, only for the Members of Parliament to water it down through amendments as happened with our first Constitution. The Constitution Authority of Kenya should be formed to make sure that this does not happen and in our Constitution there should be some parts which can only be amended through referendum so that our Members of Parliament do not mess up the Constitution.

It is very important that some areas of the Constitution be only amended through referendum so that every Kenyan has a chance to agree whether it should be amended or not. The Constitution Review of Kenya should also be given sovereignty of Research Funds, 5% of our budgets should be allocated to research by the Minister for Finance in areas of medical, agricultural, industrial and parliamentary research.

Our Members of Parliament must have resources to do proper research so that when they debate in parliament they come up with facts. That money should come from the Research Fund managed by the Constitution Authority of Kenya. Any Kenyan who has something important to help this country, can get funded through such funds.



The Constitution Authority of Kenya should also have a department which can strengthen government policy, at the moment government policy are very weak in many areas like land use, we do not have land policy in this country so any farmer can mess up with the land and this is why we have problems with land slides. This is because, farmers are not utilizing land properly and they are cutting down trees. Policies towards land use and towards protection of environment must be looked at. At the moment we are having unleaded petrol transported via land, suppose these vehicles which transport petrol got accidents, we will have environmental contamination.

The government should intervene here so that the Minister of Energy should have a central policy on the introduction of unleaded petrol in Kenya, this should be connected to the Central Government not left for individual companies. The unleaded petrol should be transported via pipes not via land. There are other areas, which I have not mentioned where government policy is lacking. The Constitution Authority of Kenya can help the government formulate these policies.

There should be not taxation in computers and softwares so that Kenyans can catch up with the rest of the world. So that as many Kenyans as possible can have access to computers.

**Professional Fees:** Professionals like doctors spend a lot of money paying professional fees where they belong to other bodies outside Kenya and it very vital that doctors belong to these professional bodies. It is only this way our doctors can learn what is happening in the world. I propose that the doctors can claim this through tax relief, not only doctors but even other professionals like engineers and the rest because these fees are usually very high.

**Re-Elections:** I propose that re-elections should be done away with in Kenya, if a Member of Parliament dies his wife should succeed him. If a Member of Parliament is a women the husband should succeed him. If the Member of Parliament is unmarried, the Member of Parliament should indicate who should succeed him when he dies. There should be no re-election at all because Kenya is a poor country and we should not spend taxpayer's money on re-election.

**Com. Zein Abubakar:** Bwana Oludhe, your time is up I am giving you one more minute to summarise.

**Bwana Oludhe:** Thank you very much. Another thing I want to talk about is concerning taxes. A propotional taxes should be retained in the provinces so that the provinces can use the money the way they like in developing their facilities, not all the money should go to the central government. Thank you very much.

**Com. Zein Abubakar:** Thank you very much Bwana Oludhe, is there any questions for him? No. Please sign our register that you have given views to the Constitution of Kenya Review Commission. I would like to call Philip J. Kimwele. Karibu Mzee.

**Philip J. Kimwele:** Asante sana mwenye kiti, I just want to share a few thoughts with you Commissioners and Langata

residents. This is on three facts, the first one is:

**National Manners:** I think it is Shakespear who said “ Manners Maketh a Man” and I would like to see “ Manners Maketh a Nation”. As Kenyans, we should have respect for ourselves; our behaviour in town is not good. We go spitting all over the place, urinating over the places and these are not good.

We are a developing country and we need to encourage tourism and you cannot encourage tourism with rubbish in the streets. This should be looked into, I am not sure if this is a proper subject for this Constitution but I think there should be a statement to that effect.

**Security:** Security in our country, be it in the village or in the towns is out of hand. People are living under Gods mercy because somebody can walk into your house at any time even during the day. In the rural area where I come from you buy your goat of cow when you come it is not there. This is a very technical area and I cannot make many suggestions there but I am told unemployment could be a contributory factor to lack of security. We need to do what we can as a nation to reduce anything that would cause fear among the citizens.

**Development:** Development in this country, I have been here since 1963, Uhuru time and this has been top sided. I am saying this with due respect, because it has been a high potential land development. We would like the new Constitution providing for balanced development of the country. The dry areas are parts of Kenya and in fact most of the land in Kenya comprises of dry land.

I come from Mwingi and we would like to see these areas developed not for personal benefit but for everybody’s benefit. If you start projects in Ukambani or North Eastern the people here in Nairobi will get employment there, even from Mombasa. This area should be looked during our budgeting. Our budget is done from Nairobi by senior fellows and they do not know about the small person in the village, we should plan from the village up. This I mean that we should get the views of the “Mwananchi”.

We have District focus, which have been identifying areas of priority but there is no budgetary support. We need to get the villagers to identify what they want to do and provide budget which should be at the divisional level or the locational level so that a councilor and the chief should be responsible as to why the budgetary allocations are not implemented. Thank you very much.

**Com. Zein Abubakar:** Thank you Mzee Kimwele, you have used 4 minutes and almost the 5<sup>th</sup> one, Thank you very much. Mzee Kimwele. Tafadhali nenda pale ujiandikishe kwamba umetoa maoni kwenye Tume cha Kurekebisha Katiba. Ningependa kurudia bahadhi ya mambo tuliwaeleze watu waliokuwa hapa mapema na kuna wengine wanakuja baada ya sisi

kuanza kazi, kwa hivyo wanakuliza mambo ambayo tayari tumeyaeleza.

La kwanza, ukiwa una tatizo lako tafadhali usije hapa mezani saa zile tunaendelea na kazi kama Commissioners uje utulize maswali. Ukiwa na tatizo lako ambalo haliweze tatuliwa pale mlangoni uje kwa Maimuna Muidau ambaye ndie kiongozi wa wafanyikazi wa tume.

La pili, ukiwa umejiandika jina lako katika list pale, baada ya list kujaa tunaletewa, lakini tunangojea ijae. Sasa nimepata lists zingine mbile, kwa hivyo usiwe na wasiwasi kama umeandika jina lako.

Lingine muhimu ni kwamba ukifika hapa unapewa dakika 5, ikiwa una written memorandum ni dakika 5, uchagua yale muhimu. Summarise and highlight what is important in the memorandum. If you are going to speak orally, ukiwa una mazungumzo peke yake pia una pewe dakika 5 lakini tunakuomba uwe kama Mzee Kimwele unachagua yale muhimu, unayataja na unamaliza kwa muda uliyopewa. Asanteni. Sasa nataka kumwita Mzee James Mageria. Welcome Sir.

**Mzee James Mageria:** I am James Mageria representing Justice Peace and Reconciliation Committee of the PCEA Church nationally, we have a memorandum but I would like to mention only 3 things.

1. We are happy and thank God that at last we are going to have a Constitution of the people for the people and by the people including Wanjiku. For that reason, we would like to make sure that the Constitution recognises that fact by having a preamble, which should read as, follows. “We the people of Kenya united in our desire to remain one people aware of the responsibility before God and men and women, united in our rejection of all forms of evil including homosexuality, lesbianism and Satanism, desirerous of establishing governance structures that promote justice, peace for all humanity. Recognising that human dignity is inviolable hereby adopt this constitution as our Supreme Law”.

2. To recognise that we have a wonderful, meaningful National Anthem, we have listened to many other National Anthems and when we compare with our National Anthem we feel that we are blessed to have such a humble prayer that if answered by our actions too, Kenya would be different. We would like to suggest that the words of the National Anthem be entrenched in the Constitution itself so that nobody messes around with it at a later date. This is important because if it is given the prominence and importance it really has it would direct people towards a vision and have principles that will guide this nation.

3. This country being a country that has recognised the importance of the people themselves, we have seen that we must move from politics of representation and control to politics of participation and accountability where people are not just elected to control the people who elected them, in other words we do not want where the tail wags the cow.

We want to move into politics of participation by “wananchi” as we are participating now and accountability by those people who have been elected to the people of elected them. One way of doing this is to provide for the office of ombudsmen who will

listen to anybody who goes to them with complaints against any authority including the office of the President and other authorities but not only listen but be vested with power to take appropriate action to put right whatever may not be right. There are many other things and we have a memorandum of 21 pages and so I beg to end there and may God bless us as we make our new Constitution. Thank you.

**Com. Zein Abubakar:** Thank you very much, any questions for Mr. Mageria? No. Thank you, please sign our register and hand in the memorandum. I would like to call Joseph K. Wachira. Karibu.

**Joseph K. Wachira:** Kwanza nashukuru wale wote wamepata hii nafasi kutoa maoni yao. Yangu nitaongea kidogo tu. Kwanza ni mambo ya leadership.

**Leadership:** President achaguliwe na watu, na maofisi kubwa kubwa. President awe na powers yakuchagua mtu mmoja kati ya watu 5 kati ya wale watakuwa wametolewa na parliament. Hii ni kama ofisi ya Attorney General, Chief Justice, Police Commissioner, Army Commanders, Commission of Lands, Provincial Commissioners etc. Hii mambo ya kuwafuta kazi iwe imepewa kwa wale wamechaguliwa na parliament na makosa yao yatajwe kabla wajatolewa.

Kwa wale wanaonelewa huruma kama wamekuwa convicted, naonelewa President awe na powers hizo, za kuonea huruma wale walio kuwa convicted.

Kwa upande wa Land. Naonelea kwa upande wangu, county ingetakikana kwa kwanza iangalie wale walio occupy mahali ili wawe regorganised, kama wenye title halafu iwe recorganised kwa jina lao.

**Government land na trust land:** Wale wakaazi wa area fulani wanafaa wawe considered, kwa uamuzi. Kama ni kushtaki wale wamekosea hau watu wawe na jukumu kuliko kupa jukumu city council, washikane pamoja na City Council waweze kumchukulia mtu hatua. Hii iwekwe katika Katiba.

Kwa upande wa Jua Kali, kila area iwe na nafasi ya watu wa jua kali kufanyia kazi, hii iwekwe katika Katiba. Tena vitu ambavyo vimetolewa na vilikuwa vimepangiliwa kwa mambo kama hayo makanisa, jua kali, soko ya wananchi yarudishwe bila kujadiliwa kwa vyovyote. Iwe ni offence kutoa watu walivyopangiwa community utilization.

**Parliament:** Kuwe na body nyingine ambayo itajadili mambo ya parliament, sio kama wanataka kujiongezea mshahara yao wanapitisha wenyewe.

**Polisi:** Tuwe na kikundi ya kuchukulia hatua Polisi ambao wamefanya makosa. Sio Polisi wenyewe wanajishtaki.

Election: Muda ukiisha na watu wawewanaelekea kwa uchaguzi naonelea kwamba serikali isiwe umesimamiwa na President, iwe imerudi kwa Attorney General au Chief Justice awe ndiye amesimamia wakati huo.

Political Parties: Wapewe equal rights, kwa mambo ya pesa, magari na kadhaliki wote wapewe. Lakini isiwe individual party, ati sababu ilikuwa uki tawala hapo mbeleni.

Registration: Citizenship, mambo ya kuandikisha wageni na kuwapa vitambulisho yafike mwisho. Inatakikana mtu achunguzwe ukoo wake, halafu awe registered.

Inquiries: Kama hii ya katiba tunafanya sasa, iwe hatia kufanya mambo kama haya, bila wananchi kujujishwa matokeo yake. Nitafika Hapa.

**Com. Abubakar Zein:** Asante sana Joseph kwa kutumia muda wako vizuri, kuna swali lolote kwake. Hakuna swali, tafadhali andika jina lako kwenye register na utoe memoranda kama unayo. Sasa ningependa kuita Peris Wanjiru Kabaru, karibu dada.

**Peris Wanjiru Kabaru:** First and foremost I want to take this opportunity to thank you for giving me an opportunity to speak out on the views. I am here representing the P.C.E.A. Langata Parish youth group. I would like to congratulate the review process for the good work they are doing and also urge them to simplify the process to the people especially the languages in publishing of books should be simple and easy to understand.

Election, the local people need to be given the freedom to vote out a leader from office before his term expires if he proves to be incompetent. The people and not the councilors should elect mayors.

The local authorities: There is need for local authorities to be decentralized from the central government this is because the local people pay taxes but the services are not provided. We could take a good example of the Langata community who have developed their infrastructure without having to rely on the local government to fund their projects. The local people should also have a say when it comes to paying of taxes rather than leaving their money to be squandered by those in power.

There should be a forum or mechanism for which the constituents in a constituency are able to address their members of parliament easily. e.g. Hon. Beth Mugo the M.P. of Dagoretti constituency has an open post office in Dagoretti Constituency for her constituents.

Segregation of duties: It has been noted that there are many provincial administrators, we have D.O.'s, sub chief's, and the likes, we would have segregation of duties to approach people so that there is no duplication of work. All parties represented in parliament respecting of party in power should have access to the government, in this way they will be able to meet the needs

of the people especially on financial matters.

**Presidential Powers:** The president should not have power to nominate M.P.'s, heads of parastatals, permanent secretaries, commission of exercise such as the Anti Corruption authority this should be done by parliament. He should not also have the right to reshuffle cabinet ministers, ministries at his wish, this should be agreed upon by the parliament.

**Police Force:** They need a body to regulate police behaviour in society e.g. beatings reported and yet not action is taken. Appropriate training should be rendered to the Police, because if we have an accident in town and a Policeman is there, he should be first person to reach out to the people but because they do not know how to administer First Aid some of these are left like that.

**Prisons:** Taking a good example of the Kingong'o case prisoners should have a right to report any mistreatment that occur in prison cells.

**Education:** The President should not be chancellor of universities, his role is passive and not active and he is not involved in matters concerning administration, finance and other operations. Equal distribution of teacher's country wide especially in rural areas. Learning resources such as science operators should be easily accessible to all students countrywide.

Loans offered by the higher education loans board should be strictly given to poor students only, we should not have a case where the rich Permanent Secretaries or Ministers are the ones getting Kshs. 42,000/= while the poor students only get Kshs. 3,000/=.

The system of education should look for an alternative for those who do not make it to the local public universities. Right of citizens should be taught from the first primary school so that they are entrenched at an early stage. The educational curriculum should be reviewed regularly so that students do not keep learning outdated policies.

**Imigration:** There is so much paper work in imigration offices, which slows down work expecially in the processing of passports thus the need for computerization.

**Maintenance of government offices:** It has been noted that government offices are poorly maintained are seen with dark corridors and faulty lifts, there is need for a system which will ensure that these standards are upgraded and properly maintained.

**Land use:** There should be a system to ensure that land does not lie idle for a period of time, e.g. if one purchases land and does not develop it within a specific period, it should be taken back by the government for reallocation and proper

development.

**Environment:** Deforestation should be curbed and independent bodies should not be manipulated by the government should effect policies.

**Judiciary:** Cases should not take too long in court because this delays justice and a system should be implemented for petty cases so that cases do not pile up in our courts.

**Civil Service:** The government should provide better incentive to the civil servants to motivate them to work as well as increase their salaries.

**Employment:** Where as there is a loud cry of unemployment there are those who hold many posts e.g. we find that the President is the Commander in Chief of the Armed Forces, he at the same time is the chancellor of all public universities and holds other posts in the country. There should be a policy, which defines that, one man for one job. The government should also invest in projects that provide employment and sustenance. With those few points I hope that the views we have brought forward will be looked upon and amended. Thank you.

**Com. Zein Abubakar:** Thank you very much Peris for using your time well. Please sign our register. Ningependa kukumbusha watu, kwamba ukifika hapa tafadhali taja jina lako kwanza kwa sababu tuna reckodi kila kitu, utaje jina lako kwanza kabla ujaendelea na mazungumzo. Ningependa kumuita Bi. Grace A. Nyawara.

**Bi Grace A. Nyawara:** As you have heard, my names are Grace Atieno Nyawara, I would like to talk about 3 things.

1. Women Property Rights
2. Child support right.
3. Rape.

Women Property rights, nowadays you can find that a lady is educated, trained and well employed and earning good money and she buys items to put in her house, but when it comes to the rights, your husband can chase you away and he remains with those things, so we want women rights such that if I buy an item and we are 2 wives that item should be mine.

**Child Support:** In many occasions children are frustrated in that if the mother disagrees with the husband, the children are not given proper support, the lady is not allowed to stay with the children, the husband can not support the children they are staying with their mother. That issue should be corrected.

**Rape:** I want to talk about this seriously because you will find that, there was another case where a young girl was asked to produce witness. How can a rape case have a witness, is it possible? I think something should be done about that because when it is a rape case, one cannot invite somebody to come and witness so even in court you cannot produce a witness.

The last one is creation of acts: Many ladies take advantage of street children, they even borrow children to go and sit on the streets so that they can beg for money. Hii ni shida sana kwa sababu wanachukua watoto wa wengine, wana enda nao kwa street, wana kaa chini wakiomba pesa. Tafadhali tutafute njia ya kutengeneza mambo kama hayo, kwa sababu hao akina mama wanachukua advantage. We should take care of all our children in Kenya. May God bless you. Thank you.

**Com. Zein Abubakar:** Thank you very much Grace for your views and the time you have used, please come and sign the register, uandikishe pale kwenye register and kama una memorandum unatoa. Sasa ningependa kuita Mrs Judi A. Omondi. Karibu madam.

**Mrs Judy A. Omondi:** Thank you commissioners, ladies and gentlemen. As you have heard my name is Judy Omondi, I am a resident of Langata. First and foremost I will talk about something, which I think is an issue, I wonder why we should have boarding and lodgings in residential areas. Surely something should be done about that, we need bars for entertainment and refreshments but do we really need boarding and lodgings in residential areas?

Secondly I want to talk about the taxes put on children's cloths and foods such as lactogen and the rest. I think these taxes should be put on luxuries, e.g. casinos, cinemas, alcohol and cigarettes.

**Affiliation:** The repeal of the affiliation act, this was an act of parliament that bound men who have children out to wedlock to maintain them. The act was repealed by our men dominated parliament, the reason given for the repealing was that the act was being misused or abused by our women who lured men to have children with them. Surely was something put in place to safeguard the rights of the children born out of wedlock? These children are innocent and they need to be protected and something should be done about it.

**The disabled:** You find someone is deaf and dumb and when he or she goes to the doctor, the doctor can give wrong prescription because of the language barrier, something should be done about it. In fact I have written this and I will hand it over because it is so long and I cannot go through it. So I hope you will take my humble request. Thank you.

**Com. Zein Abubakar:** Thank you very much madam, we will read that memorandum please (in audible). That was Judy Omondi we were sorting out the equipment, now I would like to call F. T. Nyamo, Karibu Bwana.

**F. T. Nyamo:** Commissioners, my name is Francis Nyamo from the Kenya School of Professional Studies, Nairobi. The



recommendations are on enhancement efficiency of Kenya's education system through formulation and implementation of appropriate legal framework.

I have a written memorandum and I will highlight a few points. One can talk about importance of education in our lives in the development of the country or the nation and one need only to mention a few countries that have benefited from taking care of their education. The so-called Asian tigers are one of the best examples, they have taken care of their education efficiently. They have looked after distribution of resources and have reaped huge benefits from that.

In Kenya, we do have education being handled haphazardly and I venture to say education has been made a toy for some individual or a group of individuals, they play about with it, they disturb it, they forget it and so on.

Section 72 Sub Section 1f of the Constitution of Kenya recognises importance of education but approaches it under the protection of the right to a person's personal liberty. It is very clear that the Constitution does not clearly and without doubt endorse education for all as fundamental right. A good, efficient education, which is measured through and above ingredients. First, the enrolment rate, equity in provision of education, relevant of education programmes, quality of education programmes, completion rates of education levels, drop out rates, cost of education and its consequences, achievement at the end of educational level and participation by gender in education and schooling.

Through out Kenya's independence, the efficiency and effectiveness of education system has been monitored using these tools. Necessary improvements have been suggested through the proposals and the recommendations of various education commissions, working parties, task forces, sectional papers and plans. Unfortunately, most of these recommendations or commissions have been implemented selectively as a result of which we have misdirected resources, time, money and so forth. Because there has been no conclusive, comprehensive and consistency implementation of most of these commissions proposals, the education sector has for a long time now operated without solid guidelines, plans and stability, consequently, the efficiency and effectiveness of the education system has been compromised despite wastage of a lot of resources in preparing reports which are eventually ignored.

Meanwhile access to quality and relevant education continue to be compromised as costs of education continue to rise effectively shutting many children from school. A brief illumination of continuing the duration of education would shed more light on the gravity of the issue.

First, gross enrolment rate, this dropped from 95% in 1989 to 79.4% in 1997 and continues to drop due to these facts of poverty and cost sharing.

Completion rates: Currently you may not want to believe but it is about only 50% in primary schools and 67% in secondary

level. Effectively, half of the pupils who enroll in primary one are unable to complete primary 8 while a third of those who enroll in form 1 do not complete form 4.

**Transition Rate:** Currently, 50% of the pupils who sit for the KCPE examination fail to secure secondary school places while 90% of the students who sit for KCSE examinations annually fail to secure places in local universities.

**Performance in National Examinations:** While at KCPE level performance in key subjects like mathematics, English and Kiswahili continue to be a cause for worry, about 70% of KCSE candidates only managed to score a maximum of Grade D+ which denies them opportunities for further career advancements.

It is recommended that Commissions or task forces, when appointed must be given appropriate terms of reference, must be given time frames and it be compulsory that these recommendations be handed and be made public as soon as they are published. In order to ensure that popular and wise decision on education are made the power to make and enforce various key policy decisions and directives should be vested depending on the nature of the decision and activities on the following:

Top civil servants in the Ministry of Education, the Minister for Education, parliament, and heads of institutions established under the ministry of education, an act of parliament. This is a written memorandum; I will highlight a few points.

In conclusion, the incorporation of the above mentioned recommendations I have highlighted them all in the current constitution review process will go along way in safeguarding the rights of Kenyan citizens and guarantee them an opportunity to lead a decent and fulfilling life. With those few remarks Commissioners I thank you very much.

**Com. Zein Abubakar:** Thank you sir, please submit your memorandum and sign our register. Ningependa kumuita Ibrahim Yakub Nyagai. Karibu bwana.

**Ibrahim Yakub Nyagai:** Thank you Commissioners, even though earlier speakers have highlighted some points, it is my time also to propose and give them to you.

My name is Ibrahim Yakub Nyagai and I am one of the members of Langata Islamic Welfare Organization just a few meter from here and I stand before you as our desire to live in unity as Kenyans and harmony and this is what has brought us here to give our views so that we can be united and have a document which can unite us as Kenyans.

First, I would like to state on personal law, this personal law caters only for specific categories of people, the Muslims, Christians, Hindus and traditionalists who profess the customary law.

To come to the point is, as an organization we feel that we should bring this forward and this is the Kadhi's court. As Muslims, we feel the Kadhi has got limited powers and it only caters for marriage, divorce and inheritance and in this case it is subordinate to the high court and we propose, because the High Court can overturn the rule of the Kadhi, therefore we propose, the Kadhi's court to be expanded to have an appeal that is at its jurisdiction. For somebody to be appointed as a Kadhi or judge they should state his or her wealth before being appointed and this can also help to eradicate corruption. He should have a degree in law, Secular degree from the Kenya School of law and Islamic Sheria degree from a reputable institution and he should be appointed by the judicial service commission on the recommendation of a legitimate Islamic institution.

Secondly, citizenship, a person should be a Kenyan citizen if he is born in Kenya of Kenyan parents and a native should become a Kenyan citizen. Any Kenyan should have multiple citizenship. I propose free compulsory primary and secondary education provided by the government.

People who profess the same religion should provide religious education in public schools. This is because students in public schools are taught religion, which is not their religion, this is the basis of every child that he should grow according to the religion of his parents until he grows up to make a decision.

Land: Land should be held communally and whoever owns large piece should be taxed. Land should be owned uniformly throughout the country, in terms of acreage.

Discrimination: This is very common in our republic, yet Kenya is a country which is a ecumenical state and those in authority should not use their powers in public service to discriminate others.

**Com. Zein Abubakar:** Bwana Yakub muda yako umeisha nakupa dakika moja zaidi.

**Bwana Yakub:** In the electoral system, civic and parliamentary election should be held after every two years and I also propose community right, in the recruitment in the police force e.g. if we have police men who come from Langata to serve this area, they are in a position to know the area properly.

Leadership at all levels for those aspiring for leadership should actually be academically tested, be of integrity and morally upright. To summarise, we should have Kiswahili as a national language taught in schools, so that we can be united as Kenyans.

**Com. Zein Abubakar:** Napenda kuita Zakumo Mwangi, ametoka. Rev, Mungai Wakasa.

**Rev. Mungai Wakasa:** Asante sana Commissioners, ningetaka kuchukua fursa hii kuwakaribisha Langata kama kasisi

mwenyeji, Karibuni sana, pia niwia radhi niseme kwamba kuna facilities ambazo wananchi wangependa kutumia. Pale chini utakuta pahali busara ambapo sote tunaweza kutumia kwa haja. Hapa kuna ofisi, ikiwa una haja yoyote ungependa kusaidiwa kama karatasi ya kuandika jambo la kupatia Commissioners wetu, tuna weza kuwasaidia ukipeleka ombi lako kwa ofisi. Asante.

I would like to present this memorandum, my name is Mungai Wakasa I am a minister with the P.C.E.A. Church and I would like to touch on a few social and social political issues.

The first thing I would like to talk about is patriotism. This has not been clearly defined for us Kenyans and I pray that in our new Constitution, there will be an act that will dwell on patriotism, define it for us and seek to entrench it within the lives of Kenyans. I have a few proposals:

We should consider a national dress/ attire, secondly there should be a national activities e.g. compulsory six months national service after school, during which time people will be taught basic military issues and things to do with leadership, because it is from the youth that we will get the leaders of this country. I also want to propose that Kenyan history with bias on our achievements and potential be taught and be made compulsory and examinable up to form 4 level, not just general history and government and it should be impartial history, it should not bring party politics in the name of history.

Morals Code: There should be a requirement that Kenyans behave in a civil manner everybody. I want to propose a few things that can be considered on this.

We should provide a smoking bay on every public place and every public institution where smoking is not prohibited should be made to provide a smoking bay. There should be a minimum age at which a Kenyan can be considered able to freely and soberly engage in activities like smoking or taking alcohol, the proposed age here is 21 years.

On morals, prostitution, what we call commercial sex should be illegalised. Nairobi and most of our cities are stinking because we do not have a responsible way of disposing our litter and I would like the new constitution to provide as a requirement that littering be made illegal and garbage bins should be provided by councils, municipal councils and institutions like schools and churches so that Kenya is a better place to live in. There should be a provision for community policing so that those committing petty offences may be charged at local level.

On sexual behavior, the Constitution should defend only that which is universally accepted as natural sexual relationship. Homosexuality and lesbianism should be outlawed. Rape and incest should be severely punished with a minimum of 10 years imprisonment. Close blood relations should not be allowed to marry or engage in sexual activities.

On parenting, there should be what Kenya considers responsible parenting. No child in Kenya should be called illegitimate, there is nothing like illegitimacy, children come not because of their choice but because two people got together and so the child is legitimate.

Parents must therefore be required to take full responsibility of their actions. On street families, this should be eliminated by providing a national benevolent fund, which will be administered at the lowest administrative level. This will enable the authority in question to get to the roots of the families, we have many families whom we cannot account for but they have their roots.

Right to life to the unborn: Abortion should never be allowed, where on medical grounds it has to take place, the doctor should be required to write a comprehensive report which should be served to the relevant authority and this will help to check false medically sanctioned abortions.

On religion: There should be freedom of worship but, at the same time the religious bodies, should be made to outline their doctrine and beliefs and make them public. Secretive religious organizations should be outlawed. Religious bodies whose doctrines cause their followers to perpetrate hateful activities against others should be outlawed.

National leadership should not be pegged on one belief system any Kenyan of good standing can lead this country. Thank you very much.

**Com. Zein Abubakar:** Thank you very much Rev. Mungai Wakasa for your representation and keeping time and more importantly please extend our appreciation to the management for your kindness and hospitality. Thank you.

**Rev Wakasa:** Thank you, God bless you.

**Com. Zein Abubakar:** You too. Please sign our register. Just a small matter to share with you, when you hear the sound system buzzing it means that there is a mobile phone on and somebody is being contacted and that interferes with our recording, so please if you have a mobile phone switch it off or divert your calls. Mine are diverted so they do not come I only use this for time keeping. Thank you very much. May I call Samuel Ogendo. Bwana Samuel Ogendo. Kawaida tunaita mtu mara mbili ukiwa hauko tunasema hauko ukija baadaye unaeza kusema alafu tutaangalia list. Waweru Njoroge. Karibu Waweru.

**Waweru Njoroge:** I am certain that this Commission will go down the annals of history of that one that sealed the opportunity to write wrongs, to restore clearer thinking that will in view honest practices that will enable this Kenyan society to carry its affairs with practical celerity and eventuality place out feet on upward pass. I think that will in capsule all that I would have for you but I would like to specify some areas before my time is over.

We would like freedom of press be absolute, because free press is not a privilege but an organic necessity for a great society. I would like to substantiate something, we have books journals and newspapers may be whose contents and unpalatable to the state, I think it will be un serious to punish the vendors who sell them or the booksellers if those particular newspapers have been officially banned. Even if the government of the day may not be comfortable with those books, they should not sue the booksellers and should not harass the vendors.

We would like the law on defamation of libel be properly redefined in cognisant with freedom of expression and divergence of opinion in a society that is expected to nurture and democratic culture.

Judiciary: This is where radical changes are required. Look at the modern problems with modern glasses. It is long time we had judges in the model of the late government marshal, but it is unfortunate we cannot provide a government marshal if they are going to be appointed by someone.

We want positions of Judges to be advertised and be worn by the most scrupulous lawyers we have around. We would like freedom of expression in the judiciary because litigants are not allowed even lawyers to some extent they cannot criticize a judge. We would like the media to be given freedom to scrutinize judges' performance and analyse their performance generally.

Poverty Eradication: We want nothing more than if the unbridal capitalism that Kenya practices should be stopped if at all we are looking at the time that we should live with not poverty in our midst. I recommend that there should be a provision for an agilitarian a society where people have equal rights.

Since independence the sloganeering concept was taking us to the promises land. The same does with you commissioners in this review process, is aimed to take us to the Promised Land. But I would like to tell you that you cannot have Promised Land with no land. Therefore, I would like you to check on this issue of land, with a view of limiting land ownership.

Finally, I hope the Constitution you will give us will not be good enough to take us to heaven, but we pray it will be good enough to deliver us from hell. Thank you.

**Com. Zein Abubakar:** Thank you Waweru Njoroge, unatakiwa urudi hapa u sign register yetu utaulizwa ueleze mambo hapo.  
Rose Mugo.

**Rose Mugo:** Nimewasalimu nyote, hamjambo? Jina langu ni Rose Mugo, ningependa kuchangia kidogo kwa vile tumeelezwa mengi. Nitaanza na umaskini. Tulikuwa tunasikiza radio miaka mbili ilio pita kwamba mwaka 2000 hakutakuwa na umasikini, lakini na umasikini umezidi kabisa. Watu wanapewa retire, wengine wanakuwa wezi, wengine wanaomba omba, hiyo ni uchumi

na uchumi yenyewe inatokana na sisi wenyewe.

Tunachagua wabunge, councilors, kama wakilishi wetu na hao ndio wanajua mambo yanaelekea wapi. Kwa hivyo ningependekeza raisi awe na kazi moja na wabunge watutumikie vile wanatuambia kwamba tukiwachagua wata tutengenezea mashule na mambo makubwa, na wakichaguliwa kuwaona ni shida. Kwa hivyo ninaomba watutumikie inavyostahili.

Ningeomba kwa upande umaskini, sisi ndio wengi, mtoto wa maskini anafika form 4 na hakuna degree kwa form 4. Kunatakikana wachanganywe kwa bunge, wale wamesome mpaka form 4 pamoja na wele wana degree wawe wabunge, rais na councilors.

Ningependekeza tena hospitali na shule, siwekwe kwa Katiba ndio tuweze kuwa na free education na health. Watoto wale wanarandaranda wapewe haki yao sababu ni watoto yatime (chokora). Wakikosa chakula wanaenda kwa barabara, kwa hivyo tuna taka haki ya watoto kwa Katiba, wawe na sheria yao.

Haki za akina mama, akina mama wamekuwa nyuma siku mingi ata wale wamesome Ukiingia kwa nyumba, bwana anaweza kukufukuza ata kama ulimpata akiwa maskini na mkafanya kazi pamoja. Ukinunua ngombe, wakati wa mwisho bwana anakunyang'anya mali yako na bwana anatafuta ndogo ndogo. Sasa kama ni Mkikuyu, na mtoto ni wa mama utaenda na watoto watakuwa chokora. Inastahili akina mama wapewe haki hao ndio tugawe mali sababu mali ni ya watoto. Kwa hivyo akina mama wawe na haki zao katika Katiba.

Kuna Polisi: Hawa Polisi ni uniform tu, wengi hao ni wezi, ukisikia kwa radio, wanaiba na bunduki, ni maskini gani anaweza kuwa na bunduki. Maskini hana bunduki, sheria izingatie mambo kama huo kwa sababu raia ndio wanateseka. Yangu imefika hapo.

**Com. Zein Abubakar:** Asante sana Bi. Mugo, tafadhali andika jina kwenye register. Bi Mugo inaonekana kwamba maneno yako umeyazungumza kwa amasa mpaka imeaguzwa watu wengine. Lakini ningependa kutoa onyo kwamba tukishakubali kwamba kukiwa kuna mtu ameniguzwa neno lake na nimefurahia na nimeanza kushangilia huku kuna wale ambao wataanza kusomea. Kwa hivyo tutakuwa tumeanza mtindo mbaya. Ikiwa unakubali na maoni yake ikifika wakati wako njoo useme mimi naunga mkono yale yalioseme na Bi. Mugo na naongezea hivi. Lakini usianze kushangilia kutoka huko. Sijui kama ni sawa hio. Ni wawa? Asante sana. Ningependa kuita Bi. Conelia Akinyi Omondi. Karibu dada, fursa ni yako.

**Conelia Akinyi Omondi:** Asante ni sana kwa majina naitwa Conelia Akinyi Omondi. Ule ningependa kutaja kwanza ni kuhusu hospitali, tunaonelea ya kwamba hospitali itengwe ya kuwasaidia wale wasiojiwezi kwa sababu tuna shida. Watu wanakufa sababu hawana pesa ya kadi. Tungependekeza kwamba serikali itenge hospitali, kando ya kusaidia wasiojiweza.

Shule: Tungependekeza mashule yawe free kutoka class 1 to 8 kwa sababu watoto wako kwa streets kwa sababu ya karo.

Choo: Kila mara tuna lipa choo, tungependekeza sherikali itengeneze choo ya wananchi iwe bure.

Walimu: Hao na macho yetu, mtu awezi kuwa na degree bila kufundishwa na mwalimu, kwa hivyo ningependekeza walimu waongezwe mishahara . Madaktari pia.

Ya mwisho ningependa kusema kwamba, sisi tunaishi kwenye Slums tuna shida sana. Tunataka serikali iangalie masilahi yetu, mtu kama ameishi mahali kwa miaka kumi apewe mahali papo pawe pake. Asanteni.

**Com. Zein Abubakar:** Asante sana Bi, Akinyi tafadhali andika majina kwenye register. Ningependa kuita Bi. Beth Wanjiru.

**Bi. Beth Wanjiru:** Asante sana kwa vile Mungu ametupatia siku hii. Majina ni Beth Wanjiru kutoka Wilson Mutumba nafurahi kuwaona nyinyi nyote.

Kenya yetu kutoka wakati tulipata uhuru, Kenya hakuna uhuru kwa vile ambavyo tumefinywa pande zote. Kama maskini kusomesha watoto wetu ni shida, kwa sababu tukiwafikisha Class 8 tunakosa pesa kuwapeleka mbele. Tunasikia kuna bursary, lakini hakuna bursary tunapata. Nikiongea, nimesomesha watoto sita na wawili wako University. Haya mambo tunataka yangaliwe na Katiba. (interjection) in audible. Nataka watoto waangaliwe kama wamepita wasomeshe waendele mbele. Kwa sheria watoto wa matajiri huendelea na masomo mpaka ngambo hata kama hawajapita vizuri, Katiba iangalie maskini ili tuende njia moja.

Barabara zetu ni mbaya, tunataka ztengenezwa. Sisi kama akina mama tukishikana kwa vikundi, tunataka vikundi hivyo viangaliwe kabisa. Zile pesa tunasikia za kusaidia akina mama, hatujui zinaenda wapi. Wamama wapewe nafasi ya kuongea kwa sababu mnajua nyumba ni ya mama. Kwa hivyo katika Katiba akina mama wapewe uwezo wa kuzungumza. Wale watoto wanaorandaranda wanatoka kwa tumbo zetu, wana kosa chakula, masomo kwa sababu hatuna uwezo hata kidogo. Hao watoto wajengewe manyumba na wasomeshe ili tusiwe na umaskini na chokora. Hata nyinyi matajiri munaombwa pesa na hivyo ni si vizuri. Tulipigania uhuru na tukasema tutagawa mali ya uma, ule upendo umeenda wapi? Hakuna. Turudishe upendo Kenya yetu iendelee. Mimi sina mengi ni hayo tu.

**Com. Zein Abubakar:** Asante sana Bi. Wanjiru, tafadhali jiandikishe jina kwa register. Sasa kukumbusana mambo si vibaya. Si sawa wala hairushiwi wakati kuna mtu anazungumza anatoa maoni rasmi kwa Commission hii, kwa watu kuzungumuza mambo yao huko. Wale wanaorushiwa kuzungumza ni ma Commissioners wanao uliza maswali au wanaotoa mawaidha, mtu aliyepewa ruhusa kuzungumza au pale kama unajiandikisha kwa register.



Ukiwa unataka kuzungumza na mwenzako, tafadhali mtoke pale nje mzungumze mmalize maneno yenu halafu mrudi ndani. Au sio sawa hio? Asante. Sasa ni zamu za Bi. Jane Nyambura. Bi Jane Nyambura mara ya pili, kwa hivyo ametoka. Bi. Kezia Ochieng’.

Karibu Bi, Kezia. Tafadhali yale ya kukumbushana ni simu, ikisikia titi ni simu, Tafadhali zima simu.

**Bi. Kezia Ochieng’:** Asante sana Commissioners kufika, ingawa nimeandika kwa kengereza lakini nitajaribu nizingmze kwa kiswahili ile tuweze kuelewana. Kabla kufika kwa mchango yangu nitaongea juu ya huyo mama aliongea. Habari ya watu kulewa ovyo ovyo na kushikwa juu ya changaa’ na watu kunywa 10,10, ni kwa sababu hatuja legalize pombe, kama Uganda wana “Uganda Waragi” na iko legalized na serekali inaangalia na madaktari wanachunguza. Naomba Katiba ieleze kwamba changaa’ na 10, 10 inauwa watu wetu kwa vile kila mtu anataka kuburudika.

(interjection)

**Com. Zein Abubakar:** Kwa hivyo unapendekezwa na nini?

**Bi. Kezia:** Napendekeze mlegalize changa’a iangaliwe ili watu wale wasioweza kumanage pombe waweze kunywa changa’a na waburudike kama wengine, sio kwamba wawe walevi.

La pili ni mama mboga pale town. Akina mama huuzwa mboga ili watunze jamii zao, City Council itamshika huyu mama pamoja na mtoto wake. Kwa hivyo ipatikani njia ya kuwasaidia.

Babarabara: Barabara ambazo zimetengenezwa na kuharibika tena, wakati wa repair, kila constituency ifaidike kwa hizo repair ili watu wote wawe na barabara mzuri, tunaona kama kuna moto hapa Kibera tunaambiwa barabara haikuwa na access. Umaskini tulioambiwa utaisha mwaka 2000 ndio sasa umezidi.

Powers of the President: President asiwe na powers za kuajiri na kufuta watu. The powers should be reduced. Ministers na civil servants wasiwe wanakuwa fired and hired kama atakavyo President.

Wanaweke wafundishwe rights zao, bwana akifikiri unaambiwa kwamba ulikuja bila kitu na utatoka bila chochote unanyag’ anywa hatata watoto. Baba akifikiri na hata kama hana watoto wakiume mali yake inachukuliwa na uncles na ana watoto wasichana. Wengine wananyag’anywa land na wanateseka.

Wale wanaofanya kwenye industries na horticulture unapata mtu amepata ajali kazini, amekatwa mkono, mwajiri (muhindi) atampeleka hospitali na kusema huyo ni unknown person. Hawatapewa chochote, wala hasaidiwi atatoka na umaskini. Mshahara ni midogo, nyumba hakuna. Wenye kuuza maua wanapata pesa nyingi huko ngambo. Akina mama hawapewi likizo

ya uzazi, watoto wanakuwa na malnutrition. Chemicals zinawaharibu macho. Tafadhali wasaidiwe.

Shelter, tuliambiwa tulipigania umaskini, kutojua kusoma na kuandika. Lakini shelter hatuna. Nyumba zinajengwa na bei iko juu. Kwa hivyo tunaishi kama ma squatter. Serikali itatusaidia ili tupate shelter. Yule mama amesema ameishi Kibera maika kumi, hawezi kumiliki hiyo land kwa sababu yeye ni squatter.

Maji: Kama hapa Langata hatuna maji na tuna M.P. na Councilor, kwa nini hatuna maji, yanakuwa rationed. Tunapata maji kwa siku mbili halafu hakuna.

Prison: Prisons zimejaa na inatakikana wenye petty offences wanapelekwe wafanye kazi kwa Chief. Lakini watu wanapelekwa jela, wanakuwa wagonjwa, chakula hawapati, hawapelekwi kokini wala hawapelekwi hospitali. Kwa hivyo tunaomba Prisons upinguze watu.

Members of Parliament: Kila mara tunasikia Members of Parliament wamejiongeza mshahara nyingi na wengine ukisema unataka nyongesa wa mshahara unafukuzwa kazi. Tunataka powers za members of parliament kama wakijiongeza mshahara na waki retire wama fanya terms moja na mimi nimefanya kazi miaka 25 retirement dues zangu in Shilingi 300,000/= yeye yake ni mwaka tano na anatoka na ma milioni.

Local Government (interjection)

**Com. Zein Abubakar:** Bi Kezia nisha kuongeza dakika moja na sasa nakuongeza ingine ile imalizie.

**Bi. Kezia:** Nikiacha zingine mta soma nasema kwamba, abortion isiwe legalized.

Press: Tuwe na msimamo na T.V. na radio zifike hata kwa rural areas ili mambo yanayoendelea wajue.

Corruption: Wale wamepatikana na uwizi watolewe kwa public office, na wakipatikana na hatia wafungwe na warudishe pesa. Asante sana.

**Com. Zein Abubakar:** Asante sana Bi. Kezia andika majina kwenye register na utuachie hiyo memorandum tutaisoma. Sasa vile vile tukukumbushane mambo ambalo tushakubaliana. Kila mtu anasikia yale maneno yanayozungumzwa hapa na wale wanaozungza wana taja maneno muhimu lakini pia kwa vile inashikiliza unakuwa shaidi wa mambo yanayo semwa hapa. Siku ile ninaandika repoti kuwarudishia nyinyi mtakuwa mashaidi kuuliza yale yalisemwa nikiyasikia, yamo mle ndani?

Kwa hivyo kuna umuhimu pia ya kusikiliza. Kuna wale wanaotoa maoni na wanaenda, ikiwa una dharura au sababu muhimu ya

kwenda ni sawa. Lakini ikiwa una uwezo wa kukaa na kusikiliza wengine wanavyo sema, ni vizuri kusikiza ushaidi huo ndio watu wote wanaokuja kutoa ushaidi wakajua, Langata tulipokuwa tumekaa katika kikao cha P.C.E.A. Church, watu walisema nini usaidi huo ni muhimu sana. Sasa ningependa kuita Rtd. Lt Col. S. C. Mugambi aje ato maoni yake. Welcome Sir.

**Rtd. Lt Col. Mugambi:** Commissioners, members of the public, my name is Rtd Lt Col Mugambi, I am the Chairman LAPSCO, Langata Peace and Security Concern. It is an organization that has been formed by Kenyans to look into matters of security and peace in slum area in Langata and in general particularly in Kibera. I am also KANU chairman for Mukomaine Sub Branch. I want to contribute of 4 points.

The Constitution amendment is to be able to reinforce the governance, so that Kenyans can be able to stay in harmony and peace. In governance, we are looking just at the top level how we are administered. Without looking at the Permanent Secretaries, or Ministers whom I feel are people entrusted with looking at the policies of running this country. I am looking at the President the P.C. D.C., D.O., Chief and Assistant Chief. This is where Kenyans are affected most. As you have heard most of the people are talking of problems in the country. Rather than contributing towards the amendments, reviews they are talking about problems.

We are looking at governance, now when you look at the system, we ask ourselves, are we taken care of administratively, and do Kenyans have the morale. When I talk of morale in the country, I am talking of people who have peace, living in love, unity. If the P.C. D.O. D.C. Chief are empowered up to that level you find a gap. This gap is between the chief and the common mwananchi. If we do not extend our administration to the grass root then governance issue is lacking.

We would like the chairmen of localities, be given powers by the government or the Constitution and they get recognized. e.g. in Langata and in the rural areas we have estates here, we have organization and chairmen, rarely do they meet their chiefs, when there are problems of water, infrastructure, they do not know where to take their problems, the councils are not there to be told. What we are trying to say is administration should be extended to the localities and therefore, we should have Chairmen of organizations elected by the people of that locality and those Chairmen are recognized by the government and have allowances allocated to them so that they can be motivated to work. In that way instead of Assistant Chief going to 50 Estates in a Sub Location, we will have chairmen who have been given power by the government and they are earning money to the chief on behalf of the people to solve problems.

In this way, Chiefs should not be of Standard 8 or Form 4, they should be graduates. An Assistant Chief should therefore be a Deputy Chief and should remain in the chief's camp not in the sub location. Currently some chiefs are not working and therefore there is a gap between the government and the people at the grass root level.

Administration of Justice: I represent the slum community in this area, I live in the Estate and I know both problems of the poor

and the rich. People in the streets and estates are arrested for minor offences like loitering. I remember one time I sent my mechanic to go and have dinner and come back as I was waiting for him. On the way about 20 metres the police arrested him. He was being taken to the Police Station for loitering. Other people told me and I went and explained to the policemen what happened but they refused. What I am trying to say, that the Constitution should look at the petty offences that make the mwananchi suffer, so that the O.C.'s is given power in the Police Station to deal with petty cases.

Judges and Magistrates are told that they are corrupt, but if they are over loaded with petty offences, which they are unable to solve, they become overworked and we think they are corrupt because of petty offices. I am saying this because very many people are arrested in Bars, they are taken to Kibera without bond. When you say you are not guilty you are charged Kshs. 30,000/= or taken to Industrial Area. Actually for no mistake but because you do not have money, you will be forced to say you are guilty and then you will be taken to the cells. The Commissioners and lawyers to work on this and see how best the administration of justice can be done to help people from harassment.

Land Law and Ownership of Land especially to the poor and the slum dwellers. The government should consider anybody who has a title deed and he allows people to settle in his own land without complaining it means he has consented to this. If you have a title deed you have a security of your land and you should call the Police, Chief to remove them but people stay for 20 years then you come that you want to go to court to challenge after 20 years. You find that there were only 100 people at the beginning now they are 5,000, this should be looked into so that these people are legalized as the owners of that land.

Election of Mayors: Mayors and Chairmen should be elected by the people so that the responsibility of the Mayor is to the grass root not to the councilors. The Mayor will favour a Councilor while the people without Councilors will be left to suffer.

**Com. Zein Abubakar:** Bwana Ogambi nimeshakuongezea dakika moja na sasa nakupea moja ya mwisho.

**Bwana Ogambi:** O.k. Bwana Commissioner my last point is about peace Committees and Security Committees. These should be put everywhere and the government should recognise them so that they can be able to help the Police and the Chiefs on tackling the problems of security. These security committees will be will be intelligence committees and should include wananchi Thank you very much.

**Com. Zein Abubakar:** Thank you very much Sir, please sign our register. Ningependa kumwomba sasa bwana Joseph M. Gishane. Mara ya pili bwana Joseph M, Gishane ayuko. Lilian Kanaya. Karibu Madam.

**Lilian Kanaya:** My name is Lilian Kanaya, I am here on my own behalf. First of all because I am a senior citizen, I would like a Constituion that cares for senior citizens and when I say care, it is one that ensure that all senior citizens are taken care of, even if they are on pension and the pension be updated as per the inflation rate. If this is not done those senior citizens, I being

one of them we shall be very need, and this does not give a country the pride that it deserves.

I would like a Constitution that takes care of street people. This is something that if find is not instilled in the society at all even the children or their mothers but they seems not to have been any mechanism in place to take care of them. It is possible that they are in the streets because of sickness, which is sometimes due to mental illness and they need to be taken care of.

In the same light, many of our organizations there is always a mention that the holder of this position even if it the President of the Republic of Kenya should be one whose mind is sound. This indicates that it is only a person with a unsound mind that is incapable of doing things. I would like a Constitution that will explain the reasons why a person cannot be given a particular job for any other reason or behaviour.

I would like a Constitution that ensures that there is education for all. The mechanism can be looked into. Just to repeat what somebody had said, we should not have illegitimate children because it is the state that should take care of all the inhabitants of the country.

Finally, I would like to state that because of what I have found lacking. There is an organization that I would like to introduce to the commission. An organization that is called Syproprenum Foundation of Kenya, it caters for people who are disabled through, mentally illness and if there is any question that the Commission would like later, regarding how their interest can be taken care of, I will leave my address there for contact. Thank your very much.

**Com. Zein Abubakar:** Thank you very much madam and sign the register. There is an indication that there are observers amongst us. Joseph Ngilo you want to observe, Millicent Odhiambo, Jane Nyanjom all of those are observers. Now I will go to Councilor George Ouma. Karibu Councilor.

**Councilor George Ouma:** Commissioners na wananchi wote ambao wako hapa, mimi kwa jina naitwa coun. George Ouma na represent Nairobi West Ward kule upande ule umepakana na Arthi River. Mimi nime kuja kama mkaazi wa Langata, kwa hivyo nilivyosikia kwamba watu wa Katiba wako hapa nikasema nitakuje nitoe maoni yangu na wananchi pamoja.

Nilikua nataka niongee kwa kiswahili ili watu wote wajue nitakayo nasema. Nataka kusema kwamba powers ya raisi lazima iwe reduced, maana yake akipewe powers nyingi watu wengine wanaumia, na uchumi ikizorota akuna mtu anaweza kusema chochote maanake amepewa powers ambayo ukitoa maoni ambayo hayalingani na yake unawekwa ndani. Kwa hivyo nataka Katiba ya sasa iwe imetoa President powers, ili awe kama Ceremonial President.

Tuwe na Ofisi ya Prime Minister ambaye atapewa mamlaka ya kuendeleza kazi ya serikali ndani ya bunge na President akae tu na siku ya Madaraka ndio aongee na watu. The day to day running of the government business should be done by the office of

the Prime Minister. Na tunataka Prime Minister aunde serikali yake na achaguliwe na wananchi. Maana akichaguliwa na wananchi atafanya kazi bila uoga na akichaguliwa na President atakuwa anafanya kazi na uoga.

Local Government Act, mimi kama diwani niko ndani ya hiyo, tunataka powers ya waziri wa local government iangaliwe. There is a section under local government act cap 265 ambayo inampa waziri powers nyingi ambayo inasema kwamba waziri akikasirika na Municipality fulani anaweza kuvunja na kuweka Commissioners.

Itolewe na iandikwe kama ifuatavyo “kwamba ikiwa raia na serikali watakuwa hawajatosheka na kazi ya hiyo Municipality, serikali itaweka inspectors ambao wataangalia haya mambo na kama hawafanyi kazi sawa sawa baadaye ivunjwe” sio waziri ndio amue hio. Hata kwa ministry zingine, kama juzi waziri wa culture and sports alivunja KFF hizo hatutaki. Tunataka wananchi wakae bila uoga. Mambo kama haya hatutaki maanake waziri alipovunja alivunja bila sababu na maneno ilienda kotini, haki ikatolewa na wakaregeshwa. Hiyo ni kuvuruga wananchi moyo. Those are outdated laws, they should be repealed along with the Constitution where we are amending the old Constitution which is contradicting development.

Ya mwisho, mama moja alisema mambo ya 10 10 (changaa) iangaliwe, naunga hayo mkono sababu. Sisi kama watu wa COMESA au East Africa ukienda Uganda. “Uganda Waragi” inatengenezwa na akina mama, inapelekwa kwa factori na inasaidia wananchi na watu wanapata kazi. Watoto watu wana maliza university na akuna kazi. Watapata kazi wapi? Ukienda Tanzania, kuna “Konyagi” na imetengenezwa, inapelekwa factory na inasaidia uchumi. Kwa nini tusifanye hivyo hapa Kenya? Hapa Kenya ukiangalia whisky ni ya mzungu, vodka na brandy, sasa tunalinda kazi ya mzungu. Kuna mama alisema atujapata uhuru ya uchumi, sababu hatuwezi jivunia kile tumetengeneza na tunajuvunia vya mzungu, tumekosa njia. Kenya itengeneze sheria yake ili rahia apate pesa ya kusomesha watoto.

Provision ya Majimbo: Mambo ya dot.Com, tunaweza kuleta mtu wa kusumbua watu kama Hitler. Hapa Kenya tuna bahati tuna President Moi sasa ni Mzee anasikiza maneno kwa makini, lakini tukiweka Dot.com tunaweza kuwa na “Hitler” ambaye huwezi kujua pahali pa kwenda. Ikiwa tuna Majimbo unaweza end North Eastern na ukae. We can still talk of Kenya as a nation but at the same time let us have a provision under it, for the Majimbo ili mambo ikiaribika sana tuko na alternative.

**Com. Zein Abubakar:** Asante sana councilor George Ouma tafadhali sign register yetu pale. Let us have Arogo Isaiah x 2, Meshack Onyango X 2, Zazarina Waititu. Karibu.

**Zazarina Waititu:** Good morning Commissioners and everybody here, I wish to thank Commissioners and Prof. Yash Pal Gai for preparing this booklet which I have gone through and there a some points, I would like to echo which might have already been contributed but it is necessary to add forth to it. It is the preamble, there is need to change this to read as follows “ as people of Kenya we consider ourselves equal regardless of political opinion, race, colour, creed or social status and will unite to build a strong and peaceful nation. ”On constitutional supremacy the Kenya Constition shall be amended by 2 thirds majority

vote in parliament after a referendum to be conducted by the commission appointed by parliament”.

Members of Parliament: Being a member of parliament should be a full time job dedicated to serving constituents, failure to which he or she could be voted out.

Code of conduct or ethics: There shall be a code of conduct or ethics established by religious bodies but sanctioned by parliament to determine behaviour of those in leadership. Failure to follow the laid down code of conduct, a member shall be compelled to resign the office or seat.

Parliamentary salary remuneration: This should be reviewed from time to time by an independent body comprising the exchequer, controller and auditor generals and representatives from the civil society. The new Constitution shall provide for nominated M.P.'s with special skills and expertise, which will include the vulnerable groups, women and youth.

The Executive: The current governing system is bast if all are responsible and managed the political affairs in a proper way, that means the government did its own job and that we citizens also were committed to supporting our government. So the issue of good governance and responsible citizenry could work very much for the current system which is to have President and a capable Vice President. There is no need at all to change the order to create room for Prime Minister as this will bring unnecessary expenditure of public funds.

There is duplication of duties and therefore provincial administration should be abolished and their duties be discharged by elected members of local authority.

The judiciary: The Constitution shall provide for a Supreme court, Court of Appeal, High Court, subordinate Court, Election Court, Constitutional court and an office of Ombudsman. Election court shall hear and determine all petitions within 2 years after the election. There should be free legal aid for capital offenders and for poor suspects and all criminal cases shall be tried and determined without the limitation of time. The consent of the attorney may not be required. The attorney general shall also not interfere with the privately instituted cases.

Basic rights: The state to take responsibility of maintaining public security, health care, water, shelter, food, employment and free education up to O level for all citizens. Here I would like to add that it is amazing when we mix with people in the slum and the country side, we realize that the education has not reached some groups and I would recommend to the Commissioners that adult education be re-established.

Right of the vulnerable group: Affirmative action for women rights to be fully realized not as a priority now as a Kenyan woman today is better prepared and will be most competitive in parliamentary election and this is most evident in the youth of today.

The women who are below 35 today are very aggressive and will be able to compete competently.

Children rights should be guaranteed in the Constitution in accordance with the International Convention as well as Kenyan Customary and Cultural values.

Management and use of natural resources: Social welfare be established in the Constitution by the mechanism to ensure equitable distribution of national resources would be a way forward for the Constitution.

Environment and Natural Resources: Water, forest, ecotourism, mineral, marine resources etc are owned by the state and parliament should protect them from destruction or misuse through adequate legislation.

Land and property right: The state shall own all land and control whenever there is misuse any land lying idle shall revert to the state for public use and the state shall adequately compensate for both land and development. We would like the government to give the chance to those who are landless and poor to be able to own land in Kenya. There should be land-filling modalities which will be determined by the land reform commission appointed by the executive and vetted by parliament.

There should be a review of taxation laws in order to enable more people to pay taxes. I have witnessed small-scale businesses of people operating closing doors or having to run away because they cannot pay for the licences. In the past we have heard a lot of taxation and it is an issue we would like the constitution to address.

Finally it would be good if there could be housing projects for slum dwellers initiated by the government and the city council. This was very evident back in the 70's and those houses have been very helpful and affordable. We want this initiated as soon as possible. May God help Kenyans to produce a Constitution that will protect and promote everyone's interest.

**Com. Zein Abubakar:** Thank you very much. Please sign our register. Ningependa kumpa fursa hii bwana James Gatune X 2 ningemwomba Dima Bonaya X 2 na Joseph Nyalik. Dorothy Oloo X 2, J. K. Mungai karibu bwana.

**J. K. Mungai:** Distinguished Commissioners, my fellow ladies and gentlemen.

(interjection)

**Com. Zein Abubakar:** Please state your name.

**J. K. Mungai:** My name is J. K. Mungai and the presentation I am going to make here is from, Kwinda PCEA Church of East Africa which is about 4 Kilometres from where we are and they have sent me here to present their views together with mine.



We have touched on quite a number of issues, quite across the board so it is order that I read so that I am able to cover all of them in a shorter time.

Kenyans are eagerly waiting for a new Constitution to govern this country into the future. The present Constitution is not even what we started with, it has been manipulated to suite and protect. Kenyans are tired of authoritarian rule especially exercised by the provincial administration and the police. Although we say we are democratic, our democracy is not as it is known elsewhere. It is our hope that the new Constitution is going to be people centered and provide ways and means to Kenyan people to discipline government officials who misuse their positions of power. The following are the views on various important issues in the Kenyan Constitution.

**The Government:** Kenyans are centrally governed and in reaching its people the government has its appointees in the provincial administration namely, PC, DC, Chiefs

**Com. Zein Abubakar:** Bwana Mungai, nakuomba msamaa ungesita kidogo watu wakae, kwa sababu the movement may interfere with your presentation. Please come in and settle down so that Mr. Mungai will continue with his presentation. Thank you very much please give your hearing to Mr Mungai, please continue sorry for the interruption.

**Mr Mungai:** Kenyans are centrally governed and the government has appointees in form of P.C., D.C., Chief's and sub chiefs. The government agents use draconian methods to govern the people and an example is a D.C. who ordered that a Kiambu man be plucked his beards because it was long. There has been propaganda that a Central System of Government can not work. Kenyans have not been informed on how a Federal System works, some areas, which generate a lot of resources, are made to suffer because they do not support the ruling party. In future we suggest the following:

The country be divided into blocks, you could call them county's but what I mean is that a block should be slightly bigger than a district and slightly smaller than a province where the official of that block are elected by the people and we do away with provincial administration. A block like constituency in Meru district can form a block, those in Kisii should form a block. The block should undertake most of the activities presently undertaken by the central government such as running of schools, hospitals, agricultural extension, road construction and others. The federal government at the apex should undertake activities such as major roads, university education, research work and overall coordination of all the blocks.

The Federal Government should be in charge of tax collection with an agreed percentage that reverts back to the blocks. Federal Government to be in charge of high court and Court of Appeal and jails but other small courts, magistrate courts to be under the blocks.

**Comments of the President and the Executive:** Kenyans are tired of party politics that allow Presidency all the time, you find a

President is elected and he continues with party politics from the first day until the five years are over. We are saying we would have a non Executive President, Ceremonial President above party politics. This President should be elected for a two five year term and we feel that 25% rule of the votes cast in five provinces is unitive because of the existing differences in understanding between the urbanites and the rural people. If there are several Presidential candidates the one who gets majority votes should be the President.

The qualification of a President: Because of the importance of the office of the President we are suggesting that a President should be a person with college degree and should be between 35 and 75 years.

Portrait of the President on the Currency: We have heard instances where Presidents change the currency and they put their portrait. This is expensive to the country and we are suggesting that portrait of President should only be put on the currency when these Presidents are dead.

Presidential duties: Presidents should serve all Kenyans without discrimination. Provision should be provided for impeachment of a President who does not live according to the oath of that office. The President should appoint distinguished Kenyans to the posts of Chief of General staff, Auditor General, Chief Justice and Chairmen of the following: Electoral commission, Public Service commission, Judicial Commission, Parliamentary Commission and other high office. President should have powers to dissolve parliament, nominate members of parliament to represent special groups.

The Executive: These should comprise of the Prime Minister, we are suggesting a government that a non partisan President and the executive comprising of Prime Minister, Ministers and their deputy's, Permanent secretary's and other public servants. The Prime Minister should appoint senior government officials such as ministers, their deputy's, head of civil services subject to approval by parliament.

Civil servants who fall under various Commissions or Councils should be appointed by their respective council e.g. Judges should be appointed by the Judicial Commission while university chancellors should be appointed by the University Council not the President being the Chancellor of all the Universities in the country.

If the President is not a graduate and he is made the Chancellor of a University, I think we are making fun of ourselves. All these posts should have security of tenure not a President waking up one morning and saying so and so should go, no, we are saying the Constitution should provide tenure of these important officers. Once one is appointed to these high offices they should be able to serve at the pleasure of the people of Kenya and not at the pleasure of the President. Parastatal heads should be appointed by the respective votes of directors. Attorney general should be appointed by the Prime Minister with the approval of parliament

Electrol Process: The size of constituencies should be revisited and boundaries should be delineated according to population size to avoid a situation where a member of parliament represents 5000 people and another one represents 50,000 people. The Electrol Commissioner should be appointed by parliament and should represent all parties and act and seen to act impartially. All regions should be represented well. Ballot boxes should not be transparent as been advocated many people to avoid voters' influence but a process be put in place to ensure fairness in voting.

Parliamentarians and Councilors who change parties should lose their seat and be bared from standing for the next five years to avoid the state wasting funds in by-elections which is a waste of public resources.

Parliament should be dissolved by the President and not the Prime Minister. Date of the next general election should not be a secret weapon by the President but should be within the parliamentary callender. Members of Parliament should be qualified with at least a minimum of high school education packed by two years of post high school training but the President should have a University degree and Councilors should be at least high school graduates.

Members of Parliament and Councilors should be impeached if found guilty of financial of criminal scandals. Members of Parliament and Councilors should only serve two five years term consecutively. Electrol votes should be issued all the times to enable more Kenyans to vote.

**Com. Zein Abubakar:** Bwana Mungai, you started at 12.03 and I allowed you to go on and now it is 12.14 to take into consideration the disruption of people coming in so I am going to give you one more minute to summarize.

**Bwanga Mungai:** I will be very brief: On the resources and the economy. The new Constitution should make deliberate effort towards resource re-distribution. Public land which has been acquired should be surrendered such land include, research land, forest reserve, parks and others.

Any future public land can only be distributed with full knowledge and consent of the people living on around the said land. Such allocations should be ratified by the respective development committees. Idle land should attract high tax to avoid some individual or absent landlords holding land. The Constitution should put it loud and clear that Kenyans can own property or leave anywhere in the country. If the government of the day runs the economy down, there should be provision to pass a vote of no confidence to allow a new government.

Co-existence of people and wildlife: The Constitution should provide for compensation when our wildlife encroaches on people and property.

Individual right: The Constitution should protect human rights in the following ways, no one should be harassed by the Police,

every Kenyan should enjoy freedom of movement anywhere in the country and Kenyans can own property anywhere in the country.

There should be provision of representation in court provided by the state.

All Kenyans should have access to education, by extension state should provide free education upto high school.

All Kenyans should be able to access medical facilities. All Kenyans should have passports without harassment.

The Constitution should allow Kenyans to have dual citizenship. This will resort to lower unemployment. A child born of Kenyan citizen should automatically enjoy Kenyan citizenship like wise a spouse of a Kenyan should automatically enjoy citizenship.

Kenyan identity card should not show once tribe. Kenyans should continue to have freedom of worship.

The Constitution should discourage abnormal behavior such as homosexuality, lesbianism, female genital mutilation and others.

Last but not least, if one willingly transmits AIDS to another he should be charged with murder. Thank you.

**Com. Zein Abubakar:** Thank you very much, please sign our register and give in your memorandum. I would like this opportunity to welcome pupils from Uhuru Garden Primary School and tell them that you are now witnesses to a very important and historical event in our country and this is the making of the new Constitution for our country. I am also glad to inform participants in this gathering that there will be two representatives of the school who will give views on behalf of the children and this is the kind of event which you will be asked very late in your life by your children and grand children, were you there when this was happening?

We are happy that you were able to come and participate in this important national function. I would also like to remind Kenyans who have come to give their views that listen to the views that in the morning I had said that we are using this list which you sign in when you come in but I had also explained that we will use discretion to vary that format when conditions demand that we do so.

I indicated to you the conditions, which will demand our variation of this format and just to remind you that I will give preference to the children to speak before the others who are ahead of them so that they will be able to leave and go back to school. First I would like to use this discretion to give a change to Mzee Rev. Geoffrey Muiruri who is an old man to give his views. Rev. Muiruri.

**Rev. Muiruri:** Sir, I am sorry that I had not got that form and again as I am just from bed and I felt that I should have a chance to come and say something about what I have seen about the roles of Kenyans. I am 88 years old, I belong to Kikuyu tribe, in Kikuyu tribe we have a system of dealing with law.

We begin with teenagers, they have what we call “chama cha vijana” also between teenagers and 30 years, we also have a group called “Jama ya anake”. The first one is ‘Jama ya inii’, Jama anake, Jama athuuri” and these people were governing. Things were not dealt with old people unless the young people were defeated.

Wale vijana wadogo wana peleka kwa wakubwa ikiwashinda wanapeleka kwa wengine mpaka inafika kwa wazee. Kwa wazee kuna vyama pia, ilikuwa sheria mzuri kama mtu ameua kama kuangalia habari ya kifo kama ni kulipa na malipo hayakuwa personal, yalikuwa ya familia. Familia ilikuwa ikipeleka habari hizo kwa wale wanaongoza ile familia.

Sherikali ya Kenya ilipoingia iliondoa sheria ya kienyeji ambayo haisaidii hata kidogo. Maana mtu akiiba anawekwa jela miaka mitatu akitoka ile mali aliiba ana kaa nayo. Lakini zamani mali hiyo ingerudishwa kwa mwenyewe.

Mtu akiua, hakuna habari kama familia yake watalipwa ni yule aliyeuwa auwawe. Unapata pengine sheria ina muondoa katika hali ya kuua na ameua anarudi kwa wenyewe bila charge. Jambo hili inafanya sheria kuwa hafifu. Kwa hivyo, mimi ningeliza ikiwezekana jinsi tukivyokuwa tukitawala nchi yetu zamani yafanywe pamoja tuwa na sheria ile itasaidia nchi yetu zamani, tupewe nafasi ya kutengeneza sheria za kienyeji, kwa kabila na pamoja tuwe na sheria zitakazo saidia nchi yetu. Nasikitika sita sema zaidi. Thank you.

**Com. Zein Abubakar:** Asante sana Mzee, tafadhali mpelekee kwenye register pale tumueshimo umri wake. Sasa nimerudi kwenye list vile niliaidi. Njeri Mungai, karibu Njeri.

**Elizabeth Mushoki:** Good Afternoon Commissioners, Ladies and Gentlement I am not Njeri but Elizabeth Mushoki of this Church and I am representing the women view of this church.

**Com. Zein Abubakar:** Is Njeri part of that, yes. Thank you.

**Elizabeth Mushoki:** We are saying that women must be allowed to inherit the property of their parents irrespective of their marital status. We are also saying that abortion should not be legalized. It the concern of the state to protect right from conception.

Widows must be taken care of by the relatives of the families of their husbands while the property of the deceed husband

should be passed on to the widows and not to the entire families. The widows and their children should be the ones to inherit the late husband estate.

Land laws should be reviewed: Some areas are not clear, It does not specifically state, when a portion should be put and by who.

Senior public servants including those in electoral realms must be delinked from the government in all areas so as to be seen to be serving everybody, as opposed to the status today where you see public servants are moving with political parties that is in leadership of the day.

Freedom of Worship we appreciate, but it must be taken care of to eliminate cult some of which have come in and are threatening peace and harmony in the community. Some of which have brought in devil worship as a system of worship and we are calling upon the government to tell us what happened to the devil worship Commission. Commissions should not be formed if their recommendations are not acted upon as it is a waste of public funds and we should also endeavour to register such organizations that have already been deregistered and found wanting like Mungiki's and others.

One message to the youth and that is immorality and God hates immorality, that should not be a system in our country.

The President, public servants and the judicial officers must be in the fore front of passing a Godly image to our youth. Their public life should be open to scrutiny and if one is found to be immoral, stolen state funds they should be removed from their respective positions.

There should be age limit for such senior public officers and this should be between age 45 years to 65 years. Security of tenure should be established to protect their positions and should not go beyond two terms of five years each. The qualifications have been said before and we are echoing it should be university degree and those with criminal record should not be given an opportunity to lead in our country because we would be sending a wrong message to our youth.

We must have in a place well-thought, articulated house policies. We should protect and stop our people from living in slums, we should not be taking pride in hosting the biggest slum in Africa that is Kibera, and this should be a thing of the past. Every Kenyan should be leaving in a decent house, which should be taken care of by the constitution, provided with water and other sanitation facilities.

We should have a good policy that is workable, we should not wait until there is no not food that we seek international community when we have rice rotting in Mwea, Viazi rotting in Eldoret and in North Eastern people are dying of hunger. This is a shame to the country, we should ensure that we have a working food policy.

Divorce should not be seen to be favouring men. We are asking that when courts are hearing divorce cases and marital issues, there should be gender equality on the bench. We are also saying that rapists must be jailed for life, removed completely from the society. The taxes that we pay are hurting us, because they are not ploughed back into the system so we want the government to account for the taxes that they have received from the society, otherwise they are stealing.

Public servants should be employed irrespective of their ethnicity and gender if they are qualified. Age limit must also be enforced. Our children should be allowed to obtain ID card and passports after attaining the age of 18 and a voter's registration card. It should not be a reserve of a chief to decide, this should be automatic. They should be registered in schools for ID cards and passports because they are Kenyans.

We want the system to ensure that the ballot boxes are transparent. Measures must be put in place to protect our industrial capacity in our country. Today's climate has killed our industries and our children are unemployed. We want this Constitution to ensure that we will protect the agricultural sector, cotton, milk, sugar, rice and the horticulture so that our industry can grow and this will curb unemployment.

**Com. Zein Abubakar:** Madam, your time is up, I gave you one more minute and I am going to give you one more minute.

**Elizabeth Mushoki:** Our handicapped children, these children should be the concern of the state, today the responsibility has been left to the churches and other well wishers. We want to see that in every region we have a school for the blind way from the pre unit to high school and we do not want our blind children struggling for school places with sighted children as it is in Thika School for the blind. These schools should be managed by the state.

We want to appreciate that we have sign language going on. We want sign language speakers to be everywhere where there is public settings like hospitals, T.V. and our children should be removed from the streets to places where they can be moulded to be useful members of the society. Thank you.

**Com. Zein Abubakar:** Thank you very much madam, please sign our register and give your memorandum. Nilisema nitatoka tena, sasa nimetoka, nitaita mwanafunzi wa kwanza kuwakilisha wenzake. Ruth Muiruru X 2. Karibu Ruth wakilisha wenzako, karibu hapa usiogope Ruth. Taja jina lako, shule, darasa na miaka yako.

**Ruth Muiruri:** My name is Ruth Wamboi, I am a pupil at Uhuru Garden Primary School, I am in Class 8 and I am 14 years old.

From the Constitution we have these day, it does not represent enough of the children, first I would like to ask if racial

discrimination in school is stopped because these days, there are different races in different schools. Mixed races schools are only for the rich. Poor children should be given free education since they do not have this privilege. Child labour should be abolished since children are the future leaders of this country.

There should be no discrimination of handicapped children in normal schools since all children are the same. Shelter should be provided for street children in the cities where they can get one meal a day and have basic needs like food, clothing and shelter. Teachers should also get a fair share in the demand for payment since they are the ones who educate the future leaders of tomorrow.

Child abusers whether physically or sexually should be locked for not less than 20 years since they destroy the child's moral. Those who receive and give bribe should be prosecuted and given a jail term of not less than 2 years since they encourage corruption in this country which leads to the deterioration of the economy.

Members of parliament should be able to explain how they acquire their wealth, and if it is by illegal means, they should be prosecuted and removed from their office since this also increases the deterioration of the economy. That is all I have to say.

**Com. Zein Abubakar:** Thank you very much Ruth, for the first time I am going to change our procedure and ask us to clap for her for her presentation. Thank you very much Ruth, please sign our register. I am going back to the list, Margret E. Awino, hayuko, David N. Mutemi. Karibu. Niliikuwa nimezunguza kuusu simu za mkono tafadhali msizime.

**David N. Mutemi:** My name is David Mutemi; I have a few comments to make. First is the prolonging the life of parliament. The present constitution stipulates that the life of parliament can be prolonged in the case of war or national crisis. I would like to say that apart from war, prolongation of the life of parliament should be done by way of referendum. The people who gave the leaders the mandate to represent them for 5 years should be asked whether they should increase that period. I think that should be the right thing because elected leaders fear voters and the accretion rate is about 65% so if you say that M.P.'s should decide whether to prolong the life of parliament, they will agree.

**Controller and Auditor General:** I want to propose that we create another type of audit, performance audit, we have a director or commissioner of performance audit who should be reporting to parliament. I am saying this because performance is very poor in the public sector and of course the controller and auditor general reports on funds but nobody reports on performance.

When you go to public offices you will find that most people are not working and they are being paid. We should have their performance evaluated so that a report is made and people are paid for work done. If you stay in the office according to regulation in the public sector for one year you are entitled to an increment whether you work or not. If we have performance audit it should be possible to get an increment even within 3 months depending on your performance, and those not performing



should be sacked.

Sometimes ago some people were called independent M.P.'s, Members of parliament who were not taken to parliament through a party. We would like to have that provision in the constitution that you do not have to belong to a party to go to parliament. You can contest an election as an independent candidate, this is because we want people to be independent and we would like to get independent views from people who have no allegiance to any political parties.

**Appointments:** Appointments to high offices, commissions, parastatals. All Presidential appointments should be vetted by parliament and this has been said by many of the speakers.

**Citizenship:** It is very easy to get Kenya citizenship even within a month, I think there should be no hurry in giving citizenship, we have no jobs, no idle land and so the issue of giving citizenship to foreigners should be scrutinized thoroughly e.g. in countries like Denmark it takes 7 years to be granted Danish Citizenship. I would suggest that a parliamentary committee looks into cases of request for citizenship and make recommendations to parliament to grant citizenship to those who want to become Kenyan citizens. It should not be very easy in that somebody getting citizenship in one month of so. I think I have exhausted my points.

**Com. Zein Abubakar:** Thank you very much Sir for using your time well. Timetoka kidogo kwenye list ili nimruhusu mwanafunzi wa pili atoe maoni yake. Danson Kachumbo. Danson kama mwenzako alivyofanya utaje jina, shule, miaka yako na darasa uliyoko sasa.

**Danson Kachumbo:** My name is Danson Kachumbo, I come from Uhuru Garden Primary School, and I am 14 years old.

First of all I would like to say that children should have freedom of speech. What I mean is that when the government is trying to make a difference in the country, it should appoint a girl or boy to represent the children here in Kenya.

The government should provide schools with all the stationery. Equal education should be give to every child in Kenya, not only in Nairobi where we should have the best education.

Children's rights should be stated clearly in the Constitution, we deserve to be listened to, we should be allowed to contribute to the education curriculum and abusive parents should be apprehended. As children we should be allowed to elect our leaders at 15 years of age as opposed to 18 years. Our teacher's salaries should be increased. That is all I have to say.

**Com. Zein Abubakar:** Thank you very much Danson, you did not say what class you are in.

**Danson:** I am in class 8.

**Com. Zein Abubakar:** Thank you very much, like the young lady who spoke, let us give him a round of clap. Thank you very much Danson, please write your name in the register. For the information of the other students, both Ruth and Danson will appear in the final role of register of Kenyans who gave views to amend the constitution. Thank you Danson. Narudi kwenye list, Peter Kamande. X2. Waiguru Kariuki, Karibu Mzee.

**Waiguru Kariuki:** Thank you Commissioners and members of the audience. My name is Waiguru Kariuki, I was formerly a Deputy Commissioner of Lands, and now I am a retired person and I am the Chairman of the Presbyterian Church Men Fellowship, Milimani Presbitary of the PCEA. Church. I have a memorandum regarding land tenure and policy in Kenya and I would like to proceed to summarise my recommendations.

Land is a basic need in Kenya because Kenyans depend on land for space for shelter, food and livestock production, cash crop and forestry, communication network, mineral and water resources, leisure and recreation, residence, business and industry. Because there is a lot of pressure on land in this country which has put agricultural land to uneconomic sub division and fragmentation of agricultural land with the following consequences:

Declining the agricultural productivity of the land especially in the former native reserve, the influx of rural population in the urban areas in search of employment opportunities e.g. “jua kali” activities, shortage of land for decent residential accommodation in the urban areas leading to the sprawling slum settlement in the urban and peri urban areas, rising level of unemployment and under employment in urban areas giving rise to escalating lawlessness and insecurity. I believe land is a basic human right and therefore I recommend that land be declared to be a basic human right, essential to life and be protected as such in the Kenyan Constitution.

That land is a fundamental factor for economic development. Kenya is not an industrialized country and does not have any significant mineral wealth, land is therefore the most important natural resource the country has for the generation for economic development.

We find that land is also very scarce in Kenya because out of the 582,646 square kilometers of land only 98,050 square kilometers or 17% of the land is suitable for agricultural activities. Indeed it is said that 80% of the population lives on that 17% of the good agricultural land and therefore there is pressure on land, it is therefore recommended that all land in Kenya whether public or private, whether agricultural or urban must be declared to be a fundamental national asset essential for economic development, and protected as such in the constitution of Kenya.

1. Land ownership: At independence, Kenya inherited a three-fold nature of land ownership that is government land, trust land,

(native reserve) and private land ownership. We know that essentially all land belong to the indigenous people of Kenya before the European colonization accordingly all land should be held by county council in trust, for the people and therefore it is recommended that all public land in Kenya now vested in the government of Kenya and various county council in urban areas, as declared as public trust land and be protected as such in the constitution of Kenya.

2. All such public trust land be vested in respective County Council, Municipal or City Council where no County Council exist, under whose jurisdiction the urban areas are situated and protected as such in the Constitution of Kenya. This means that it is being recommended that no government should own land for the fact that that ownership as I am going to indicate later on has resulted in government adopting a policy of land allocation to private individuals rather than for public interest.

3. Land policy, land tenure and allocation of public trust land. At independence the Kenya Government inherited a dual land reform policy, one of resettlement of people in the former White highlands and adjudication and registration of land in the former native reserves.

These policies helped a lot in giving people access to land but eventually the government in 1978 abandoned this policy and the government adopted a silent policy of allocating land to private individuals through private means. Before that time land particularly in urban areas was allocated to a policy of advertising land throughout the Kenya Gazette for people to apply in various townships and municipality and the city of Nairobi.

When that policy was being used it was considered by plot allocation committees in various districts and townships. This policy has been abandoned altogether by the government, since 1975 and since then allocation of land has been given to influential members of the public who have access to higher authorities and therefore they got this land and some of them have been subdividing and selling this land to other people at exorbitant prices.

Over the years, this has deteriorated to an extent that plot reserved for religious, education, nursery school, open spaces, sewage disposal systems, urban parks and road reserves have not been spared this corrupt practice generally known as land grabbing in this country. Because of this reason, I must mention that the authority making grants of disposition of any space rights / interest over land lies with the president of the republic of Kenya in terms of section 3A of the government land act and therefore, that is why it is recommended that of the important role the agriculture sector plays in feeding the nation and the growth of natural economy and considering the explosive nature of the problem of land lessness, its resultant sprawling slum settlement in urban areas.

The agricultural land be declared to be a fundamental resource for human settlement and that no haphazard subdivision of the landfarm sector should be allowed. Except in accordance with the land reform policy, geared towards increased productivity of agricultural land and resolving the problems of land lessness and slum settlement in urban areas and be protected as such in the

Constitution of Kenya.

So land should not be owned by the government.

**Com. Zein Abubakar:** Thank you very much Mr. Kariuki, If you have not read this word for word sir, I have given you 11 minutes, please hand in and sign our memorandum. At this time I would like to take a short break and ask Com. Hassan to continue with the session, we will pose a little bit to allow the students to walk out before we call the next person. Thank you very much.

**Com. Ahamed Hassan:** Brian Okutonyi X2, Sili Akatsa X2, Samson Ongugo X 2, Lawrence Kachira Mwega, Mugumori residential Association.

**Lawrence K. Mwega:** Jina langu ni Lawrence Kachira Mwega na ni Chairman katika Mugumuini Area Mugumuini Residential Association. Sina mengi sana nikizungumza sana, mimi ni mtu wa siasa kwa hivyo nitaongea juu ya vitu 3.

Wakati tulipigana, mimi nina miaka 70, ningetaka vijana wetu wawe Rais na Waziri Wakuu, hii ni kwa sababu hao ndio wanajua taaba ya wale vijana wengine. Inatakikana wakae chini, kwa hivyo Katiba lazima kuwe na kikao cha wazee cha kuwajulisha Rais au Mawaziri wakikosea.

Mambo ya watu mahalum, wabunge maalum wanaochaguliwa wawe wanawake. Sababu ni kuwa, wanawake hawana nguvu ya kushindana na wanaume. Wawe wanawake wa kila kabila moja moja, katika mabaraza na bunge.

Machifu na Sub-Chief wanakula pesa ya wananchi bure sababu wanafanya mashamba yanyakuliwe bure. Sababu ni kuwa, hao ndio wanaangalia masilahi ya wananchi na wanakubali maploti yanyakuliwe. Wanachukua pesa kwa wanawake wa kuuza mboga, afadhali kuwa na chairmen pahali penye watu wengi, na wadhifu wa Sub-Chief uondolewe.

Kama mimi nina watu 4,000 na nikiwambia mambo wana sikia maneno yangu. Jizi niliwaita nikawaambia kwamba mabibi hawatapigwa na mabwana, na walisikia mambo yangu. Kwa hivyo nasema serikali iunge wazee mkono mahali wanafanya kazi.

Miaka 40 ya uhuru, wazee akina mama na wanaume hawajapata kitu. Nataka wezee wajengewe mahali pa kukaa kama wamekuwa wazee. Hapo pahali pachangwe na wananchi wa Kenya, kwa kutoa pesa kidogo kama 10/= kila sikuli wazee wafurahie kuishi, kuliko kufa baada ya kufanya kazi. Kama mimi nina miaka 70 nilipigania uhuru na nilifungwa, nikachukuliwa na majeshi 30 kwa nyumba na akuna mtu ananijua. Kwa hivyo jambo hili liangaliwe katika Katiba.

Mambo ya serikali: Rais na Waziri Wakuu wagawane kazi na Committee ile itakuwa ya wazee ya mwaka mmoja itachunguza

ni nani amefanya kazi mzuri ili aendelee. Hakuna haja ya kusema eti Rais akae miaka 5 au 10, anaweza kaa mpaka afe ikiwa watu wameonelea amefanya kazi vizuri.

**Com. Ahamed Hassan:** Jaribu kumaliza Mzee.

**Mzee L. Mwenga:** Kwa hivyo vile raia wanasumbuliwa na Polisi, inatakikana wapewe mshahara mzuri sababu ni watu wazuri.

Wabunge wanafanya kazi kubwa na wasifanye biashara. Katiba iseme kwamba kila mtu afanye kazi mmoja sababu kwamba watu ni wengi na kazi ni kidogo.

Ya mwisho ni ya Mabarasa ya Mji. Wakubwa wote, kama Mayors na viongozi wote wachaguliwe na raia na wakumbuke raia.

Hii ni kwa sababu wengine wamechaguliwa na marafiki na wamaleta uchochezi kwa kazi.

Hii katiba iwe nafasi kwa wale walipigania Uhuru, wapewe siku ya maombi kama ukumbusho, na pia kumtolea Mungu shukrani kwa siku tulipopoata Uhuru. Mahakama itumie amri kumi za Mungu.

**Com. A. Hassan:** Wanjiku Kamau, Langata P.C.E.A. Church School X 2, ayuko. Rosemary Omolo X 2, Zaddock Oyasa X 2.

**Zaddock Oyasa:** Distinguished Commissioners, members of the public, my name is Zaddock Wayasa, I am a retired officer who worked with a company and now I am a businessman and I am a resident of Langata.

My presentation this afternoon is to highlight a few areas, which I have personally observed, since independence upto now, which has affected the people of this country and I am appealing to the government to look into them.

One of the areas is the infiltration of Churches in our country. I appeal that there are several churches that have come into our country which to some extent has interfered with the peace of our people. There are many denominations, which have come in the country.

**(Interjection) inaudible.** Song in the background, Noisy.

**Com. Ahamed Hassan:** Asante sana, tafadhali tuweze kutulia tuweze kumsikiza bwana Zaddock.

**Zaddock Oyasa:** Thank you Bwana Commissioner, ladies and gentlemen, I will continue to give my presentation. I had mentioned a few things but there is one area which I have not exhausted and I would like to repeat.

My presentation on the issue which I have personally observed, is about the Churches in our country. Several churches have come and the government should look into this because some are interfering with peace in the country. Some Churches have created some kind of preaching, devil worshipping, because you find a husband and wife going to different Churches at the end of the day there will be a quarell in the house and when this is reported to the police, the whole thing is not dealt with well to show the cause of the trouble. My appeal is that the government should control these churches.

Youth's: In regard to the "Matatu's" that we have in the country, is an issue that once you own a Matatu the order of employing the drivers and manambas is not looked into because this is a full time job but our boys have been left in a way that they are treated as if they are not employed. The government should give the Matatu owners the opportunity to access the drivers and let them know that they are on full time employment. I am a resident of this area and I have witnessed quite a number of our boys hanging around as if they are not in employment. Once this is not rectified we will mess the lives of these youth.

Another thing that the rest have mentioned but I would like to stress is about our Members of Parliament and Councilors. My appeal to the government is that the Members of Parliament should be educated, with an age limit of 45 years so that when one is 50 years, he / she is a grown up such that there are no fighting in parliament. We are giving the chances of not communicating effectively as to why we elected them and this is a shame to us. The Councilors should be about 35 years old with education upto Form 4 level, so that we ensure we elect mature people who will represent our needs.

The last issue is about Identity Cards, for example if you are a Luo from Suba like me, I loose my Identity Card in town, I will be forced to go to my home district and this is a waste of our resources and therefore the government should look for a better wayof ID replacement.

Another area I want to mention is about Government Aid and Taxes, there are some areas like in Suba that I mentioned. I am appealing to the government to consider some areas like Suba where I come from we do not hear hour these funds are utilized, we do have road neither any development. The government should consider these areas.

Last but not least the passport, I am appealing to our government to allow some people who wish to travel outside the country to get passports easily. For example if you want to visit your child outside. We should be respected the way we respect others who come to our country. Thank you very much.

**Com. Ahamed Hassan:** Thank you very much Bwana Zaddock, we want to acknowledge and welcome the area Member of Parliament Hon. Raila Odinga who is also the Minister for Energy and Chairman for the Parliamentary Select Committee of the Constitution of Kenya Review Process. Welcome Mweshimiwa, we already heard your views in Kibera the last time we were there but we will still give you time to give your views. Perhaps you can do that now. Let me give you the opportunity now and

may be say hellow to his people.

**Hon. Raila Odinga:** Well, I do not want to use this occasion to great people, but shall I say Good Morning everybody.

I just want to address Members of the Commission who are here and tell them that they are all welcome to Langata Constituency and I am sure from yesterday they have seen that the people of Langata are very eager and keen to present their views to the Commission on the Constitution Review. We said that this process should be people driven, the people only drive it when they come in large numbers like you have done today. This is how we Kenyans are going to be able to prepare a new Constitution. The Commissioner said that I already gave my views the last time they came to Kibera, but I am going to get this opportunity to present my views and that of my party at a later stage.

This occasion is for you as the residents of Langata Constituency, to tell the Commission what exactly you want to see in our new constitution, or how you want the constitution to look like so that when they are going to record your views this will be taken and will form part of the bigger draft of what Kenyans have said about the Constitution.

You may have heard that the Commission requested that they need more time, the time the Commission need is to be able to go to every part of Kenya to collect views of the people, and we as the Select Committee of Parliament sat down and looked at their programme and we agreed that indeed they have a lot of work before them, they need atleast more time.

We are going to recommend that they be given more time but not too much as they want, so that Kenyans have an opportunity to present all their views available. I want to thank them and tell them that we are with you in whatever you are doing here, we think that at the end of this process which has taken too long and caused us a lot of pain and money, we will end up with a constitution that answers the needs of our people today, tomorrow and in the future. With those few remarks, I thank you.

**Com. Ahamed Hassan:** Thank you very much Mweshimiwa Raila for those comments. Sasa tutaendelea na list yetu. Richard Gathogo. Karibu.

**Richard Gathogo:** Hon. Raila, mjumbe wa Langata, Commissioners, kwa vile saa ime enda naona nitakimbiza yale nitakayosema.

Jina langu ni A Richard Gathogo ni mkaazi wa Langata iliyoko karibu na Karen. Ningeomba Commission hii, kwa sababu muda wao sio kubwa sana wa kutengeneza mambo ya katiba wahimize vitu viwili kwa katiba hii.

Umoja: Umoja wa nchi ya Kenya, Wakati tulipigania uhuru mwongozo wetu ilikuwa ni umoja, na makabila haikuwa na umuhimu wowote, tulikuwa tunataka umoja. Wakati Constitution ilifanyiwa ishara ya huo umoja ilikuwa ni bendera yetu.

**Inaudible (noise and song at the back ground as the M.P. is leaving)**

**Com. Zein Abubakar:** I think it is wise to give five minutes break so that Mzee akiendelea kutoa maoni aendelee bila wasi wasi.

**Mzee Gathogo:** The commissioners, I would like to say that when Constitution making happens, there is a fundamental reason why people go into trouble of making a Constituion, we have read in history about the constitution making in America, France and more recently in South Africa and Uganda. There is usually a reason, as I had started saying earlier that here in Kenya we had a Constitution at independence, which was to govern the Kenya Nation after colonialism.

If we look back at what the people of Kenya come out with, we come with a Constitution that was meant to create a nation that did not exist before. We had a territory as defined by the colonialists, but after independence we wanted to make a nation, you can see that reflected in our Court of Arms, where you will see that there are contributions from various attitudes of communities in this country. If you look at our flag, the colours are as a result of some people making a deliberate efforts to bring the spirit of these divided people in one unit called a nation.

This motto that we attribute to our beloved leader, the late Mzee Jomo Kenyatta of Harambee he meant to say that we are different people, with different interest but we can come together for one good purpose and we can achieve it. I would very much appeal to our commission that they should find out what is eating the Kenyan Nation, why do we want another Constitution, why don't we continue with that one that has served us for the last 40 years. There must be a fundamental reason for this.

I would like to recommend the standard format of power sharing nearly all over the world we have mainly the 3 institutions of the Executive, Legislature and the Judiciary, I would like to support that. In addition to that, I would like a bill of right incorporated in our constitution. There is another aspect of the Constitution coming up with of an office of an ombudsman and I would like that to be part of our new constitution. The Commissioners are in a position to know much about the Ombudsman than I do.

I would also recommend other Constitutional offices like the Electorol Commission, the Judicial Service Commission, Public Service Commission and a new institution that will take care of our land so that we have a reference point. You remember there is somebody who talked about three laws governing our land, which is the result of confussion of bad things that we should have so may laws. I would like the land not to be owned by government but by the people who occupy a particular area. It should belong to the community such that when the government wants such land they should negotiage with the owners of the land.



The other aspect is that I would like the commission to recommend that Provincial Administration be done away with. Instead of that we should have elected office, where we have a leader of a certain administrative area who is elected like the Mayor instead of being elected by the Councilors, he is elected by the people. He should head the administration of that area.

The administrative areas should be reduced from the current size of districts. As for me I have been in provincial administration for 6 years and the areas as they are now have been politically messed.

Economically, you know what is happening our County Councils, they are either too large or free to interfere with the affairs of the county councils. I would prefer the areas reduced to an area, which is a reasonable size for available manpower and resources.

If that is not the position, we should continue with the present system where the areas are too large and when corruption comes in it becomes a major corruption, but if it is a small area, corruption will be reduced.

(Interjection) not audible

I would like the commission to have a preamble that would state, its own purpose, why is it there, how can it be changed and by who? Changing of the Constitution should be by 90% of the National Assembly if not, by referendum.

I would like the executive to have the President and the Prime Minister. The President should be incharge of Judges and Security that is police and army. The Prime Minister should be responsible for the day-to-day affairs of the country.

Finally, I would like to say to the Commission, it is not the paper work that matters, it is the spirit of the people. The Constitution by itself means a lot as you can see in American Constitution, they have had problems but the spirit of equality and freedom is there even if it is a black person who is discriminated against, if he goes to court he gets justice, because the spirit is there. They do not bend the law to say that because it is a black person he should not be given justice. In this way we can save this country from chaos if we have the spirit of bringing it and keeping it together so that it can operate in peace. Thank you.

**Com. Zein Abubakar:** Please sign for us the register. Mr Malaki Ngugi.

**Malaki Ngugi:** Thank you commissioners for according me this chance to give my views on constitution amendment. I come from Anglican Church and I am serving at Holy Trinity – Kibera. I am the Chairman of Nairobi DCC of NCCK.

1. My proposal is that in our new Constitution we should have a preamble, saying who we are, and what are our objectives and justice and peace should be stated in our constitution.
2. In our current Constitution, we have about worship which I must say that this is causing some confusion because we have allowed people to worship anything they like. I would propose that we worship the living God only, creator of Heaven and Earth and these upcoming and mushrooming cults should be controlled and the devil worship should not be allowed in our constitution.
3. In our current Constitution, we have given the President too much power that he is above the law, I should think that the President and his agents should not be above the law and if the President or his agents fails to take a necessary action to save this country he should be taken to the court of law and be charged. Since he is the appointing authority, nobody should use the name of the President that he did not take appropriate action to save this country.
4. The appointment of Senior Government Officials, including Permanent Secretaries, Chairman or Managing Directors of Parastatal bodies, Commission of Police, Commissioner of Prisons and others of the like must be people of high integrity and therefore such appointments should be vetted by parliament.
5. Corruption, as we all know that corruption has eaten our society, we should not tolerate corruption and if anybody is found practicing corruption, he must be punished severely and I propose 10 years in prison and should never be reappointed as an official in the government.

Economic crimes has caused this country unemployment and thus anybody found practicing this kind of evil in our society, should also be put in prison for about 10 years. We had hope in this country at one time and because of these economic crimes our industries have died and the result of this is that many young people are jobless. There is no point of taking our people to universities when as there are no jobs.

6. Judicial or Judiciary departments, people of high integrity should be appointed and should be given tenure of office. The Chief Justice must be a graduate and a person who has served in the appeal court for a period of 10 years. Court file missing should be history, and anybody found tampering with court files should get adequate punishment.
7. Central Government: Anybody should be allowed to work in any region regardless of his or her ethnic background and this should be covered in our constitution so that we can accelerate the development of this country.
8. Local Government: Local Government should create some areas or districts where hawkers are allowed to sell without interference from the Askaris and I propose if these districts are opened today and it can do its work from morning to 1.00

p.m. Another district somewhere should be given from 2.00 p.m. and our cities will be clean and the hawkers will earn their living without must interference and harassment from the askaris.

9. Security: Every Kenyan should be accorded security irrespective of his or her status in the society, we should be protected by the law enforcement officers without biasness.

10. The government should take care of street families. Some land should be apportioned where these street families are taken, rehabilitated e.g. an agricultural kind of project is given so that they will be able to become productive Kenya citizens. They should also be given chances to work in industries and therefore everybody will feel that the government has taken care of everybody.

Thank you very much Commissioners for according me this chance.

**Com: Wanjiku Kabira:** Thank you very much Rev. Manaseh, please give us your memorandum. I want to take this opportunity to welcome the students from Loretto Convent, Valley Road, we are very happy that you are here and we will give you a chance to speak after a while after listening to a few other people. It is a very important occasion and earlier on we had Uhuru Garden Primary School who participated in this process. We are very happy that you are able to come this afternoon.

We shall call Teresia Kerubo X2, not in, Chrispus Kinyanjui, H. D. Manyora X 2, Elijah Owuor X 2, Perez Anyango X 2, H. N. Karanja.

**H. N. Karanja:** Thank you very much for giving me this opportunity to give my views on the Constitution review.

(Intejction) not audible

My name is Humphrey Karanja.

1. I would like the Electrol Commission to be very fair during the elections, I suggest that the Chairman of the Electrol Commission should have one term and should be elected in between the elections. Half of the Commissioners should be replaced in between the electitions so that we have half who proceed to the next elections.

2. Land: I would like all the land to be taxed, that the higher acrerage the higher the rate of taxation, e.g. 1 acre can be tax free but 100 acres should fetch Kshs. 100/= per acre to the government. This will discourage people from obtaining a lot of land while the rest do not have such that if you are not able to pay taxes, you should surrender the land to the government and this can distributed to others.

3. Local Government: The local government by January should have public accounts, which are audited by September of the previous year, and these accounts should be made available to the taxpayers.
4. I would suggest that if we have a Commission like this one, when you finish the report, since you have used public money, the report should be made public. This should apply to all Commissions appointed using public money.
5. I would like to have a country where if we have a minister who is reported negatively, he should resign and give way to an inquiry, until his name is cleared completed before he can serve again.
6. Presidency: I would like the president to serve for two terms and should be answerable to all for his misdeeds. That is all I have.

**Com. Wanjiru Kabira:** Thank you very much Bwana Karanja, please sign our register.

Next is Johnson Theuri Githai.

**Johnson Theuri Githai:** Thank you distinguished Commissioners, Ladies and Gentlemen, my name is Johnson Theuri, and I am a retired public servant, retired as secretary in the Ministry of Health. Prior to that I was a Principal Lecturer and Deputy Head of Local Government Department of the Kenya Institute of Administration, prior to that I served on a board and Executive Officer, Examination Officer, examining accountants and company secretaries of this country, prior to that I was an Education Administrator and prior to that I was a Teacher and Headmaster, I am about 70 years old.

Madam chair, I would like to state very briefly that this Commission recommends that Mayors and Chair Persons of County Councils be publicly elected and the terms of office of such, be 5 years, subject to good behaviour.

Our Parliament should be what we call a bi-camoral legislature, two Chamber Parliament, the house of representatives and the senate and that all members elected be vetted by an independent Ad Hoc Commission.

Madam Chair, I would recommend that Local Government Authority be truly body's cooperates whose budgets and decisions are conclusive and not manipulable by some higher authorities. Their administrative decision and accounts be subject to examination by the Controller Auditor General so that abuses of legal processes and misuse of public accounts can be exposed and culprits appropriately taken to the law.

Pension: Here I have direct interest because I am a pensioner, I recommend that pensions of retired civil servants should be reviewed simultaneously with the civil servants salary review at any one time this is being done. At the moment the pensions of

senior citizens are left to the pleasure of some higher authority and this is injustice to us.

Ministers or Secretary of state be appointed extra-parliamentary i.e. from outside politicians, so that the politicians can effectively control them first. Appointments made by the President be subject to approval of parliament and be absolutely on merit and not rewarding, families and children of those families as it is the case today.

Finally, Ports of Survey for writing off any government vehicle or machinery be entrenched in the Constitution we envisage at the end of this process, to avoid waste of public funds. Thank you very much, Madam chair, Ladies and Gentlemen.

**Com. Wanjiku Kabira.** Thank you very much Mr. Githai, do we have Monica Aswan, she is not there. We will break away from our list and ask Fourdosa Ahamed.

**Fourdosa Ahamed:** My name is Fourdosa Ahamed I am 15 years old, and I am in Form 4 at Loreto Convent Valley Road, I feel very pleased to come here and give my views to this commission and there are a few points we feel should be addressed by the commissioners.

One is that we feel strongly that there should be a government that is broad based and includes parties that have representation in parliament. In doing this we feel that the interest of the nation will prevail instead of having the interest of one party being articulated at all times.

The public should have a say in the appointment and dismissal of senior government official especially those who have been implicated in grafts. This could be done through seeking referendum from the people as has been in the other countries like Pakistan where it has effectively worked.

Senior government officials, Members of Parliament and Councilors should have a minimum education, say 'O' Level so that they can be informed in the decisions that they make. Obviously, when someone is educated, you will feel you are in a better position to come up with policies that reflect the wishes of the people. That is all I have to say.

**Com. Wanjiku Kabira:** Fardosa, Please sign your name and thank you very much, can we give her a clap.

**(People Clapping)**

Next is Sharon Mwakugu. Sharon you will follow the same, please give us your name, your age, your class and your school for the purposes of record.

**Sharon Mwakugu:** My name is Sharon Mwakugu, I am from Loreto Convent Valley Road, I am 17. First I would like how honoured we are to be above to give our opinion on what we think.

First of all we feel that the sentences for defilement and rape should be equalised because it almost nonsensical for a man to be charged for 14 years for defiling a minor and yet he will be given life sentence for defiling an adult and yet the trauma or the damaged caused is more or less the same.

We also feel that we would like to have a country where women representation in parliament is adequate and if possible as with our neighbours in Uganda, and this could be effectively achieved by stipulating that the 6 out of the 12 nominated Members of Parliament should be women.

Government expenditure on luxury should be reduced as this money could be used to subsidize other ministries e.g, education. This can be done by releasing minister's allowance, holiday, housing and car allowances. That is all I have to say. Thank you,

**Com. Wanjiku Kabira:** Thank you very much, Sharon, can we please give a clap.

**(Applause from the public)** Can we listen to Angela.

**Angela Githua:** Good Afternoon, like my colleagues I would like to say I am very honoured to be here because we feel as the youth we deserve to give our voices because we are not the leaders of tomorrow, we are the leader of today.

The first point I have is about the President powers, we believe that it should be reduced in a way that his rule will be both effective and fair e.g. in his appointment of ministers, I believe that this should not be the privilege of the President. The appointments should be done on qualifications, that is the officer should be qualified to do this job and this will reduce the number of educated and unemployed people in the country.

We also fee that the expatriates who in the country should not be allowed to do work that can be adequately done by Kenyans this is because we have Kenyans who are qualified to do this instead of importing labour. If there is no Kenyan qualified for that job the expatriate should just work for a while.

I also believe that the government should try and make the tax collection effective because there are large companies who are evading the collection of tax. The government is suppose to start collecting tax from Jua Kali and this is not fair because the man earns very little.

Our country relies so much on agriculture and it does not make sense for us to excessively tax the farmer who gains very little

from farming as is helping our country.

**Formation of Sects:** I believe that sects should be curbed as they go against humanitarian rights because we can see we have Mungiki, Kamjesh who abuse the rights of expression speak, dialogue which in our constitution is very wrong and I believe the government should do something about this, because one is above the law.

Another alarming problem is security in schools, right now the rate of abuse in schools is 17% which is below 37% which is in the domestic Act, other than that there is no other place that has much abuse even in the community. Children spend most of their time in school and I believe this should be a safe place for them to learn and express themselves without having to worry about such abuses. The government should cater for the security of children in schools.

The government should limit land ownership, there are people who have a lot of land and we have 3,000 squatters fighting over a very small piece of land. The government should be able to cater for this because we are not going to talk about of land and yet one person coming to own the whole country, we should pass a bill that will help people get land. Right now so much land allocated to the public park, that land should go to the people. Thank you very much.

**Com. Wanjiku Kabira:** Thank you very much Angela and those are the 3 representatives from Loreto Valley Road, is there anybody who wants to add a point? You will do, O.K. please give us your name your age, your school and your class.

**Lydia Kuria:** I am Lydia Kuria, I am 18 and from Valley Road, I think my colleague missed out a point on the police. Recently there have been a lot of crime and the police have been shooting innocent people saying they are criminals, and yet they have not been proven and sometimes they shoot the innocent by standers. I think there should be a law that should stop the police from shooting aimlessly because even innocent children in the streets become victims. I think it is unfair and it should be addressed. Thank you.

**Com. Wanjiku Kabira:** Thank you very much Lydia, please let us give her a good clap.

**(Applause from the public)** Do you want to speak, O.K?

**Anataya Nyanida:** My name is Anataya Nyanida, I am 18 years of age and in Loreto Convent Valley Road, I strongly believe that the penalty for female genital mutilation should be very high, especially because we are trying to stop it as it is a very cruel thing that leads to the spread of many diseases as tool used to circumcise the girls are not sterilized.

**Domestic Violence:** The women should be protected and assured that the people who violating them are punished severely.

**Education:** I believe that education should be free in Primary School as there are many people who cannot afford education

mostly in government schools.

**Com. Wanjiku Kabira:** Thank you very much, It is very important that Loretto Valley Road has participated on this process and the names of those who have spoken will appear on the annals of our history as people who have contributed to this process including the school itself. I want to welcome Langata High School, there are some representatives, they have just arrived. We will give a chance to listen to 2 or 3 other people then we will give you a chance. Can we allow Lucas Obati.

**Lucas Obate:** Kwa jina naitwa Lucas Obati kutoka hapa Raila Estate, mimi ni business man katika Langata area.

Agenda yangu number 1 ni malipo ya chumba cha maiti (mortuary) kulipa bei ghali zaidi ya mtu aliye hai, kwa hivyo katika manyumba zetu mchana mmoja nalipa 30/= peke yake na mortuary ni 400/= hadi 600/= kwa siku. Hakuna haki na hakuna ukweli kwa kulipa rate ya mortuary. Maiti ni kupoteza si kupokea kwa hivyo hakuna faida yoyote. Haya mambo yafutwe yawe chini ya Idara ya Afya kuchunguza hali maiti, unaweza kuwekwa vyema katika chumba cha kuhifadhiya maiti.

National Hospital, Kenyatta Hospitali, kuna matatizo yanayo tukumba. Mtu akipelekwa hospitalini anaweza kufa akiwa mahututi kwa kutotibiwa na daktari kwa sababu hana pesa. Serikali ubadilishe mtindo, ambaye mgonjwa anaweza tibiwa halafu baadaye alipe.

La pili, matibabu la kulaza mgonjwa hospitali na afe, baadaye daktari atadayi malipo yake na tukiangalia ukweli tutaona hii aina ukweli. Kwa hivyo daktari asidai kwani hata mimi nimepata hasara. Garama itakuwa mara mbili. Lawyers pia ni hivyo hivyo, atakwambia kesi atashinda, tukienda kotini mtu wangu anafungwa na lawyer ataendelea kudai pesa. Sheria kama hii ifutwe, kwa sababu kesi ameshindwa.

Kusafirisha maiti nyumbani, hii imekuwa ghali inagharimu shilling 100,000/= au 50,000/=, serikali itengeneze njia ya kushafirisha maiti kwa kila province, ili mambo ya kuoza maiti kwa mortuary sababu ya kukosa pesa ikome. Ni vizuri kupeleka maiti nyumbani kwa sababu bei ya shamba ni kidogo ukilinganisha na bei ya cementry hapa Nairobi.

**Com. Wanjiku Kabiri:** Bwana Lucas, wind up.

**Bwana Lucas:** Miaka ya kusoma ni mingi kwa sababu tangu amalize University unapata amefikisha miaka 35 na kupata kazi ni kama miaka 5. Kwa hivyo katika Katiba watoto wachunguzwe mapema kile wanataka kufanya, kwa mfano, kama anataka kuwa daktari, engineer na kadhalika.

**(Noisy background)**



Bunge: Sio wajibu wa rahia kuchunguza kama mbunge ana deni, wale wamechaguliwa pia wachunguze kama kuna deni. Kwa hivyo kama mtu ana deni ata ya Kshs 10/= asikubaliwe kuingia bunge.

Wabunge wenye pesa nje, walete pesa zao hapa ili uchumi wetu uendelee mbele.

**(Noise in the background)**

**Com. Wanjiku Kabira:** Asante sana, thank you very much Loretto Valle Road, we will give you a minute to leave so that we can continue. We will have Mary Atieno X 3, Sila John Nzuki.

**Sila John Nzuki:** Commissioners, ladies and gentlemen, I am Sila John Nzuki. I am representing Langata Youth Self Help Group and I am also a freelancer. I have come to give our views here.

First and foremost, people have talked about legalizing changaa, which I do not agree with this because changaa has brought about deaths, because of the chemicals being used, it also leads to breakages of homes and marriages and so it should not be legalized.

Environment: On deforestation, I would like to put this across strongly and ask you to talk to the people concerned to help us out. We find that people cutting down trees to build houses are destroying most of our forests. We wonder what is happening in the forestry department and yet our President said that if you cut one tree you should plant two and those found cutting down trees should be arrested and this I support.

Security: There is a lot of insecurity in the country and yet we blame the Police force, which I do not think is the case because, they are paid poorly. They should be considered in line with the M.P's in terms of salaries, so that they can do their work.

Taxation: We pay a lot of tax for example on electricity, exportation e.t.c. The government should reduce the tax so that even the farmers are able to get profit.

Terms of Payment: Teacher's salary should be considered in issues relating to salary.

Education: This should be free and fair for all, those who fail should be considered along with those who perform well because they are future leader. Our Public Universities are charging a lot of fees so the poor are not able to afford the fees.

Youth: The youth should also be represented in parliament who will represent their views and the problems to the parliament. He / she should be elected by the youth. Members of Parliament should not increase their salaries at will while the common man

suffers in poverty.

Labour day: The percentage increase for the labourers is normally very low, the Minister of Labour should consider this and make it abit higher. For example 6% this is very little and for the common mwananchi. I pray to go to help us change this government and get somebody who will help us.

**Com. Wanjiku Kabira:** Thank you very much John Nzuki, I would like to know if Robert Omolo is here, Robert Omolo, John Obiyu X 2, Ndilali Ibrahim X 2, Mohammed Zaid X 2, Odete Opete X 2, Mathew Ireri X 2, Victor Muliru. Please give us your name you age, class and the name of your school

Victor Muliru: My names are Victor Muliru from Langata High School, I am in Form 4.

The offset of the problems is Kenya is as a result of the nature of politcs in this country. We all know man by nature in a politics animal and therefore the solutions for the problems we are facing in this country will come through solving these political problems.

Presidents Powers: The President of Kenya has vast powers, like the power to appoint judges, if I have the powers to appoint a judge, then I have the power to manupilate that judge in any decision he will be making concerning the juridiction of the cases in the law courts.

These powers should be cut down such that the President is not in any positions to appoint judges rather these duties should be taken to parliament. The President can appoint somebody but parliament should debate on the person.

The appointment of the Civil Servants in Kenya, these people are being appointed by the President and this has resulted in economic weakness due to corruption. If the President has be powers to appoint a civil servant, he can also manipulate the same and he will stay in the office to serve the interest of the President and not the public. This should also be done by parliament.

President's appointment and sacking: Why should somebody be appointed and sacked at any time? If the person is competent enough to serve the office he is elected, so he should be left to serve that office. If one is to be sacked this should be done officially giving reasons for this and it should be gazetted. For example two weeks ago we had the sacking of the N.S.S.F. boss Mr. Konzolo. The reasons for sacking should be made public.

We should have a system where by if a president is elected and does not serve the people appropriately, after two years in office we should go for opinion vote like what happened in China, where we ask the public if the person in power should continue holding the office and let the people decide. If he is voted out the president should step down or resign. In Kenya this

duty is delegated to parliament through a vote of no confidence but we all know that we as citizens, we have lost confidence in our parliament and we can not trust them with this duty.

The other issue is that we should take care of our senior citizens as we all know that old is gold, if we loose the old people of this nation, it is like abusing them. We should create a social service system whereby if a man/ woman say above 70 years retires from the public office the citizens should contribute toward the up keep of these people. It is not fare to live our old men fending for themselves.

All public office holders should declare their wealth, in this way we will be able to curb corruption in this country.

We should create a free health care service for all, poor people who can not afford medical care should receive free heath care service.

We as students have not been taught what the constitution entails, we should set aside Constitution education. Majority of people in this country are not informed of their rights if you ask somebody of bills of rights as mentioned in the Constitution they will not be able to mention. A syllabus should be created on Constitution education so that we can know how we can participate in the country's nation building. That is all, thank you.

**Com. Wanjiku Kabira.** Muliru, please come and sign our book. Thank you very much you remind me of a Maasai proverb which says "Wisdom are no grey hair". Now I will call Daniel Kichovi. Daniel, you will give us your name, age and your school and we will give you 5 minutes.

**Daniel Kichovi:** I am Daniel Kichovi, I am 18 years old and I am from Langata High School. Just to add on what my partner shared with you on education and knowledge about the Constitution in school, we find that some of us do not know about the Constitution e.g. When Donde Bill was being discussed the other day, most of us were not quite sure what it was all about. I suggest that the Constitution education should be part of education in our syllabus.

To expand on education, I advocate for free and compulsory education for all. You find that a primary school child pays over 50,000/= per term for primary education yet some poor people in the slum cannot afford that. The govnrment should come up with a policy, making education free at least in the primary level.

Members of Parliament tenure in office: When they seek for votes, they make many promises and after election they do not fullfil these promises. Duration should be fixed so that we have frequent by-election after 2 years,so that people can practice they democratic rights. That is all I have, thank you.

**Com. Wanjiku Kabira:** Thank you very much Daniel, next is Margaret Wanjeri.

**Margaret Wanjeri:** My name is Margaret Wanjeri, I am from Langata High School, I am 16 years old.

My main concern about the Constitution Review is about the Human and Child Rights. Child labour is very rampant especially in large plantations, like in Thika where they grow plantations and coffee. The Constitution should cater for children's rights and any person below the age of 18 should not be employed especially in these plantations where they are over worked and given low wages.

Child Abuse: Rape cases deserve very harsh sentences so that they can be disciplined.

Music Industry in Kenya: The Constitution should regulate the radio stations to be playing the local music more often and should ensure the local music does not get into the market illegally. That is all I want to say, thank you.

**Com. Wanjiku Kabira:** Thank you very much, Wanjeri. I there somebody from Langata High School who wants to say something? If you think about it later we will still give you a chance but as we said to students from Valley Road, it is a great honour for yourselves and the school to have participated in this process and the name of your school and those students who have participated from your school will be in the annals of history of this country for participating in this major event. ‘

I will go back to the original list, Dilali Hamisi, Washington Akaranga.

**Washington Akaranga:** (Deaf: through translator) My names are Washington Akaranga, I am presenting, Nairobi Deaf Association, this is an association, which is registered by the government through the Attorney General's office and I am the chairman of the association.

I would like to present my views to the Constitution Review, the first point is about sign language.

Sign language should be recognised as an official language to be used by the deaf people, the government has ignored sign language which means that deaf are using the language but do not realize that is an official language to them as a language they use on daily basis.

Education: Many teachers in schools for the deaf who have been appointed by the government to work in those schools do not communicate with the children, this I have observed myself, the reason being that they do not know the language and can not be able to teach effectively. The children do not understand the verbal method of communication and they need to be taught using

sign language. The teachers are not deaf, if a hearing teacher goes to a blind class, they cannot understand braille and this is the basic principles I am talking about. Teachers who work in the schools for the deaf must have the language to communicate with the children in those schools.

The heads of department of education who supervise the teachers do not know sign language. What do you supervise when you do not know the language? It is impossible to supervise a language you do not understand. If they understand they will be in a better position to know the schools can develop. At the moment if you go to schools for the deaf, they do not know how to tell the children, Hello or how are you? in sign language.

Sign Language Interpreters: If a deaf person commits a crime and he is taken to court or in the cells, they cannot know if the person is guilty or not guilty because there are no sign language interpreters. The government should appoint sign language interpreters in courts. If this is done even other staff members may want to learn the language. At the moment we only have 2 people who work as sign language interpreters in Kenya, while we have a large number of deaf people.

In Hospitals, we have deaf people who get sick, women get pregnant and when they go to the hospital there is communication breakdown with a lot of paper work trying to communicate with the doctors through writing, some do not know how to write, so they can not express themselves. The government should appoint sign language interpreters in hospitals or the hospital staff should be taught sign language, same to the police force.

Access to information: Most people have televisions in their homes, when I see a T.V. I wonder for what use I should be by the television because it does not help me. I see the pictures and I cannot understand what is going on. For example, I can see President Moi but I cannot understand what is going on. We need to have interpreters on T.V's or a caption of interpreters inset in the television so that the deaf can get access to information.

Employment: This is another big crisis for the deaf, the government does not employ the deaf at all and we feel they should be employed in various sectors/ ministries. We find that they are employed by Indians who pay them 100/= which does not benefit them. They are citizens like any other citizens yet there should be a law to protect them.

Driving: The deaf can also drive, but the government does not allow the deaf to own driving licences, they can also drive since they can see. I have been to other countries where the deaf drive why not in Kenya. The government should look into this so that we are empowered to have driving licences. I can see, I can work, I can drive and the only thing is that I cannot hear so this should not be a big problem. In most cases our eyes are more sensitive because they replace the ability of the ear in most cases.

Communication: The deaf can do many things, they can work on computer, use mobile telephone, we should develop

information technology for the deaf.

Parliament: We feel strongly that the deaf can also become Members of Parliament and Ministers, they also need to be appointed in big posts. Our neighbours in Uganda have one Member of Parliament who is deaf, in South African also. What about here in Kenya?. If these people are appointed they can look at problems of the other disabled persons and sort them out. I had other many points but I have my presentation, which I am going to give you so that you can have all the records. Thank you very much Commissioners.

**Com. Wanjiku Kabira:** Thank you very much Mr Washington, we will definitely read the details of your memorandum and we appreciate that you have presented today.

**Com. Zein Abubakar:** We are clapping, but we should also tell him this through the interpreter. (the interpreter does this in action).

**Com. Wanjiku Kabira:** Langata High School, you can leave at Leisure. You want to speak? O.K. Give us your name, age, class and school.

**Mohammed Abdul Rashid:** Good Afternoon, my name is Mohammed Abdul Rashid, I am in Form 4 at Langata High School. I am going to talk about inappropriate technology. Many industries have closed down, farmers who take raw materials to industries for manufacture, if the industries have closed down what kind of technology do we have?

We need live transmission on what goes on in parliament, we do not need to be told this through the press what my Member of Parliament is doing while I can get the first hand information through T.V. Thank you.

**Com. Wanjiku Kabira:** Please come back and sign our book, If the Langata Secondary School wants to Walk out please let us know or walk out quietly because we know some of you have to travel far from here.

Do we have Cyrus Irungu? X 2 Mary Okumu X 2, Kenneth Miriti.

**Kenneth Miriti:** Commissioners, ladies and gentlemen. I have a very long submission but I will summarise the important points.

1. Constitutional Supremacy: Kenyans have important values that should be reflected in the constitution, these include, integrity, honesty, morality, justice, freedom of association, freedom of speech, freedom of access to information and respect for human rights.

2. Parliament current powers to amend the constitution should remain but constitutional issues that are decided by referendum should not be amended by parliament but only by another referendum.

3. The public should be involved through referendums in amending fundamental constitutional issues and this should not be restricted only to parliament. The Electoral Commissions should conduct such referendums.

The Constitution should have rules and mechanism on how often the constitution should be amended. This can be done after say 10 years by an independent Commission of about 27 people of the highest moral and ethical standing.

Constitutional amendments should not be left for AD HOC committees or when people agitate for it on the streets to be amended. This should be entrenched in the Constitution.

4. The provincial administration should be abolished and its various functions transferred to other arms of government, such as the police, judicial, local authorities and government ministries.

5. The number of government ministries should be about 15 with one minister and 2 assistant ministers in each ministry.

6. The office of ombudsman should be created with branches in all districts of the country. Currently, law on taxes binds Kenyans today but have little redress when services are not provided or when these taxes are not put to the intended use. This is why the office of the ombudsman should be created.

7. All holders of public offices including the President, Ministers, Senior Civil Servants, heads of parastatals and board members should declare their wealth and that of their spouses and sign a code of conduct before taking up office.

They should be asked to declare their wealth annually and this information should be available to the public and especially the Anti Corruption Authority and the Kenya Revenue Authority.

8. The President and any of his Ministers can be removed from office through a vote of no confidence requiring a two third majority in parliament due to abuse of office, fraud, incompetence, corruption or negligence e.t.c.

If the President is voted out through such a vote of no confidence then only a Presidential By Election should be held within 90 days and not a parliamentary By-Election, In the interim period the Prime Minister will be acting as President and If he is also removed then the cabinet shall elect one of their own to act.

Ministers so removed from office may not be re-appointed until after the next general elections.

9. Political Parities: Political parties should be funded from the consolidated fund in proportion to the number of seats won during a general election. However, this should be restricted to parties that attain at least 10% of sitting Members of Parliament to encourage the growth of strong political parties.

10. Structures and systems of Government: We should adopt a hybrid unitary system of government in which power is shared partly between the President and the Prime Minister. They should be running mates during the elections.

The post of Vice President should be scrapped and one of Prime Minister and Deputy President should be created.

11. Legislature: Being a Member of Parliament should be a full time occupation. They should be fully preoccupied with the needs, problems and issues facing their constituents. Moral and ethical qualifications should be introduced for parliamentary and presidential candidates.

Any person convicted for a criminal offence should be barred from contesting a parliamentary seat. The people should have the right to re-recall their Members of Parliament for a petition to the speaker presented by not less than 20% of the registered voters and not less than 2 years after an election.

12. The Constitution should permit a coalition government. The public should have a constitutional right to evaluate the performance of their Members of Parliament and Councilors through live coverage of parliamentary and council proceedings by Television and Radio by any broadcasting station.

13. The Executive: A retired President should not continue to enjoy any state benefit, except for a state pension should he continue in active politics. If they continue in politics then, the respective political party of which he is a member should provide this benefit.

14. Local Government: Mayors and Council Chairmen should be elected by the people. Local Authorities should operate under the central government but only for the purposes of submitting budgets and service delivery plans for approval. These budgets and delivery plans must be done in consultation with the people.

An independent Local Government Authority should be established to monitor service delivery, make recommendations and audit Local Authority.

15. Electoral System: The election date should be specified in the constitution. I suggest December 1<sup>st</sup> after every 5 years. The



winning Presidential candidate should attain at least 50% of the total votes cast in order to be declared the winner. If this requirement is not met in the first round of voting then a run out should be held between the first 2 candidates within 14 days. This will ensure that the executive have popular mandate necessary to carry out his or her duties with confidence, and the common tendency among Kenyans of voting for a candidate from their tribe.

Candidates who seek nominations in any one party should not be allowed to switch over and seek nomination in another party.

During elections, votes should be counted at the polling stations and the results announced within 12 hours after voting is completed.

16. Finally, Presidential powers should not be reduced, I suggest that we need a strong president in order to be effective but, with strong checks and balances in the form of an independent judiciary and an independent parliament. Thank you.

**Com. Wanjiku Kabira:** Thank you very much for your presentation Keneth. Do we have Elizabeth Muchoki? Hassan Ochieng, Jane Mwangi, Damanus Adera Gero, Catherine Odera, Emanuel Asabina.

**Emanuel Asabina:** Good Afternoon everybody, I am Emanuel Asabina from Langata Peace and Security Concern. I have by verbal presentation here and it is very short.

We should have parliamentary nomination seats restricted to special cases such as the deaf, blind and the disabled and at least one seat for children, yule ambaye amemaliza Form Four.

Tusiwe na holidays minge kwa sababu holidays zinaleta maafa, ukiona wakati wa Christmass magari wanaongeza bei, watu wanawacha kazi wanakimbilia nyumbani. Kwa hivyo wakati wa holiday watu waendeleo na kazi ili tuendeleze uchumu wetu.

Wale watu wasiojiweza wapewe mshahara from the suspense account na tuwe na mahali pa wazee (nyumba ya wazee kama Catholics wanavyofanya).

Tufundishe Mother Tongue mpaka University level.

Kila siku ya soko kwa kila Province, tuwe na Constitutional Review na lawyers wa kufundisha watu sheria kulingana na vile wanaweza kujitetea mbele ya mahakama. Na mahakama zifanye kazi kilia siku, Saturday and Sundays usiki na mchana because crime is everywhere in the society.

Badala ya wanaume wameoa sana, tuwachiwe wanawake waoe sasa, kwa sababu hao ni wengi, wameshinda wanaume.

**(laughter)** At least wanawake wawili wanaweza kuungana pamoja waoe bwana mmoja and the qualification should be that wajenge nyumba kwanza halafu waite Councilor aangalie kama hio nyumba inaweza kutosha watu wawili au watatu.

**Traffic:** Wale wanaingia kwa gari ambalo limejaa, watandikwe viboko. Yale magari ambayo yamegongana, inatakikana traffic Polisi, aandike statement vile mtu atalipa mwingine, hakuna haja ya lawyer.

**Sanitation:** Public Health Officers wawe wakienda mahali kama kwa barabara ambapo wale wendazimu waoshwe na wasuguliwe meno. Kwa sababu kazi yao ni ya afya ni lazima wahudumie watu wote.

**Maternity Leave:** Kama bibi anaenda maternity leave, wanaume pia waende maternity leave.

**Com. Wanjiku Kabira:** Than you very much, Emanuel for your vies. N. G. Gachugu, Judy Amunga, Kiptoo Cheruiyot.

**Kiptoo Cheruiyot:** Kwa jina naitwa Kiptoo Cheruiyot. Kwa mambo ya security hapa Kenya hatuna tumaini na Polisi, wameshindwa na kutulinda. It is my wish that kila mwana Kenya arushiwe ku own gun na iwe na sheria kali ili kama mtu anumia vibaya, ichukuliwe. Maoni yangu ni kwamba kila mwananchi awe na bunduki.

**Mambo ya election:** Mtu aruhusiwe kusimamia kiti chochote, cha Councilor, bunge, presidency, awe a clean person yule hajausika kwa corruption yeyote katika nchi yetu. Akiwa ameiba, ama amewahi kufikishwe kotini kwa jambo lolote, huyu mtu awe barred from contesting any seat. Pia asiteuliwe kufanya kazi lolote katika serikali.

**President wa Kenya** awe hana chama chochote ili afanye kazi yake bila ubaguzi, awe mtu neutral. Asichaguliwe kuwa mbunge. The post of Prime Minister be created na asichaguliwe na raia, ile party with majority seats ndio itatoa Prime Minister.

**Ya mwisho ni kuhusu Chiefs na Assistant Chiefs.** Tukisema Provincial Administration ni na corruption, sio eti ni D.C., au D.O., ni yule aliye karibu na wananchi anumia nafasi yake kunyanyasa wananchi. Kwa sababu Assistant Chief ndiye anumika kuchanga pesa ili zifike juu kwa D.C., post ya Chief na Assistant Chief ziondolowe, na instead raia wachague watu hawa wawili on the ground sababu raia ndio wanawajua, ili wakikosea wanatolewa na raia na wengine wanachaguliwa.

**Ardhi:** Kila mwana Kenya apewe ardhi, sio eti watu wengine wana shamba kubwa na wengine hawana pahali ata ya kaburi. It is shocking to learn that places like Taita Taveta ni ya watu wawili at the expense of more than 10,000 people, which is a shame.

**Com. Wanjiku Kabira:** Kiptoo, thank you very much please sign our book. Can we ask Josephine Aska next?

**Josephine Aska: (Though translator)** I would like to request if I can present this memorandum as I am not feeling very well is this O.K. Ladies and gentlemen my name is Josephine Aska I am representing deaf women and the following are the views of the deaf women.

**Citizenship:** We should have an affiliation act, passed. Deaf women feel oppressed every time and we need laws, which do not oppress deaf women. National laws and cultures oppress women and this culture should be done away with.

**Human Rights:** The Constitution should ensure that everybody, whether women or men have their rights to food, clean drinking water, education and the deaf should have interpreter services.

**Education:** Deaf women should have equal education opportunities as other people e.g. now I am in Class 8, but in school I am given a Class 3 book to read. What happens when I go to the outside society? I would not be equal with other members of the society, as I did not get proper education. Laws should be made where the deaf can fit well in the society and this will happen good interpretation service.

All Kenyan citizens have right to security and employment and this should be same to the deaf women. Kenya deaf women must not be oppressed because of the attitude people have, we should be treated with respect and self esteem.

**Affirmative Action Policy:** Employment opportunities in various sectors should be availed equally to both men and women and the deaf considered too. If it is 50% for men, the same should be for women and if say 50% for disabled men; the same should apply to the disabled women. We should have position, which considers people with different disabilities not people with one kind of disability taking all the positions.

The government should care for the needs of the disabled persons, pastrolists and the children.

**Political Parties:** Disabled people should be free to have their own constituencies. Other people carry elections on their behalf while they do not understand what is happening, we need our own day of elections. During this time for election it should be equal to both men and women.

Nomination to parliament should be equal for both men and women and equal as well as for the abled and disabled. 25 seats should be for the disabled and out of these some should be for deaf women.

**Local Government:** Disabled people have a right to participate in local government, if they want to be elected as Councilors, they should be given the opportunity. The seat in the Local Government should be shared equally between men and women.

**Business Licences:** We should have deaf women allowed to operate their businesses without business licence as these are small businesses that assist them in getting their daily income and since they get very little profit, they should be exempted from obtaining licences.

**Public Finance:** The disabled should have equal share in public finance. They need to have representatives in the boards and committees. For example in the National Fund for the Disabled, the disabled are not represented which means that we do not benefit from these funds which are suppose to benefit only the disabled persons.

Many times we hear that the Government has gotten money from outside like donation to help people but we do not understand where the money goes and whom it caters for. We have problems as the disabled women yet we do not benefit from such funds. We should have a representative so that we also can get little benefit.

**Family Protection and Child Rights:** The Constitution should state clearly that when a child is born, whose is it and to what limit? It should be stated clearly who owns the child from the time he or she is born and upto what age.

The Constitution must protect the rights of children for example discipline, discrimination from the society, the parent and any other person. The Constitution should protect children who come from families with problems, where parents are in conflict as this affects the childs psychology.

**Com. Wanjiku Kabira:** Josephine can we request that your summarise because you have a memorandum and there are about 20 people who wants to speak. I that O.K.?

**Josephine:** Actually I am about to finish. The Constitution should protect women from oppression, where women are torched and killed anytime. The Constitution should be clear and state what should happen to those who oppress women.

Women should have the right to own property whether married or not married.

**Elections:** The electrol commission should make places for elections accessible to the disabled women, whether physically disabled and have interprators available e.g. in this hall where we are how many disabled people will get access to this place?

**Courts:** The courts should provide interprators for the deaf and the deaf should have the right to choose the interprator whom they want to use. The deaf women should have women should have legal representatives if they want to make statements in police stations or anywhere. The police should ensure they have an interprator so that they do not force her to write the wrong statement.

In cases of disputes between the deaf, the Constitution should ensure that there is a neutral interpreter for both parties.

The law should protect us from sexual harassment especially for deaf women. We should have access to information before Washington mentioned that we do not have interpreters on the T.V. and important informations are delivered especially on HIV Aids and we do not get this information. Very many deaf people are dying of HIV AIDS and they do not understand that there are such diseases.

Ministers: The Ministers should be from age 30 to 45, married with families and are in good financial position with leadership qualities. Such a Minister will be in a position to lead the country well. Thank you very much.

**Com. Wanjiku Kabira:** Thank you very much Josephine, can we have Margaret Kiragu.

**Margaret Kiragu:** Commissioners, wananchi, we have been here for a long time until we now we feel sleep. My name is Margaret Kiragu I am Director of Kenya Women Youth and Youth League, Chairperson Langata Constituency on Saba Saba Asili and I am also the Nairobi Provincial Representative, Saba Saba Asili and also an aspiring candidate in this constituency. I also welcome you as the parliamentarian of this area. Karibuni sana. (**Applause from the public**)

My first is that I will address the commission because I feel my people have sent me and I have to say something that concerns them. We commend you for the work you are doing, it is a hard job and we appreciate that you are trying. We have invested a lot of money on you and we expect a very fair play in return and particularly in the provision of education.

If you look around many people are busy doing their work because they do not know what is happening. There was no proper publicity and people cannot be asked to give information as they are ignorant of what is taking place, they will not be able to contribute. Most people do not know what the Constitution is all about, I heard another young man talking about it. It is not only students who do not understand the constitution, even the people outside do not understand.

We expected the commission to bring civic education in our area, which they have not done. We actually demand Civic Education to be carried out here and recommend it be a continuous process through out, as we need it in our daily lives. We already know that this constitution should be inclusively satisfactory and if some are left out, it will mean that only a small percentage will be contributing, which is not fair. Here in Langata not many people have contributed and this I want noted.

Finally If I go back to my views because I have not presented any.

**Com. Wanjiku Kabira:** I was going to say you would spend the 5 minutes before you give your views.

**Margaret Kiragu:** I was sent and so I had to say that. My first view however is:

**Gender Issue:** Women represent a great percentage in Kenya, it is actually more than men and if you look around in all areas of power sharing we find that there are no women, either it is 1 or 2. This is not only in Parliament or Local Government but I am also talking about Churches, Committees and other areas where we should include in all power sharing.

More importantly, in Local Government particularly in the coming general election, we want one-third representation in Local Government, and one-third or more in Parliament, so that women in Kenya can be properly represented. If a President is a man, the Vice President should be a woman and vice versa.

**Inheritance of Property:** We find that, it is the women who are being inherited in some areas. We want to come against Women Inheritance and demand that policies should be properly laid that women should inherit property whether they are married or not.

**Citizenship:** We find that if a foreigner comes and marries a lady from Kenya and they get children, the children are foreigners too. We want these children to become Kenyan citizens and we demand that citizenship should be considered and changed.

Women should have a ministry headed by a woman.

**Land:** There should be a proper land policy, there is a lot of government land lying idle when our people are dying of hunger and lack of shelter in slums. We would like the government land utilized and sub-divided to those in slums / squatters.

Wale matajiri ambao wana shamba kubwa kama acre 20 au 50, wasikubaliwe kupata mashamba kama hayo, bali yagawanywe ile tusiwe na squatters wengi. Squatters or slums ziwe kwa sheria ili wawe recognised by the government. Kila mara tunaona wanahamishwa, hii si vizuri kwa sababu hao pia ni wana Kenya na ni wetu.

We also need to think of policies on basic needs. Yaani mahitaji muhimu. Kama free education in Primary Schools, free Medical facilities, houses should be up-graded and we have seen in slums where they have up-graded houses in slums for example Nyayo Highrise where the slums were up-graded and grabbed by the rich and right now Highrise is for the rich, nor the poor.

**Food Security:** We need food, as Kenyans are hard workers and food should be preserved and stored properly. Proper mechanism should be put in place for growing food and preservation.

Liberalization: Hii mambo ya liberalization, ukienda Uchumi unapata unga ya Jogoo iko na bei ghali kuliko ya ngambo. Kwa hivyo tunataka proper mechanism institutions put in place. Liberalization should be controlled.

Political Parties: There are so many political parties and so they should be minimized and the remaining should be funded during elections equally. If one is elected and one does not deliver people should vote the person out as they do not have to stay in parliament for 5 years.

People should be empowered and the current Constitution is expansive and the language is difficult so it should be translated into all languages in Kenya. Asanteni sana.

**Com. A. Hassan.** Thank you very much Mrs Kiragu. Next is Murumba W. Edwin – Western Province Professional Association.

**Murumba W. Edwin:** Commissioners, Ladies and Gentlemen my name is Murumba Wangamati. I am a Political Scientist by profession and I come from an Association called Western Province Professionals and Development Association where I am the Interim Secretary General.

Type of Government: We should have a Presidential type of government with elected governors being the head of our provinces thus Presidential government with a federal structure. The characteristics of such government should include the separation of powers between the Executives, Judiciary and Legislature and checks and balances within the same.

The Executive should include the President and the Ministers, all the Ministers and their deputy's appointed by the President must be vetted by 2-third majority of the central parliament or the legislature for that matters on the grounds of academic merit and corrupt free status.

Judiciary: Attorney General to be appointed by the President but must be vetted by 2-thirds of the legislature, the same applies to all the Judges appointed by the President and the grounds of the vetting should be under academic and a history of non-corruption involvement.

A Supreme Court should be introduced to replace our present High Court, for it to be the highest court of the land. The Court of Appeal to hear cases that involve the interpretation of the constitution.

The Attorney General and the President should not have powers of withdrawing any case that is before any court, as most of the times we realize that they use their powers to set free thieves like those who loot government funds.

The President may have powers to pardon certain criminals but not corrupt criminals or murderers.

Any case placed before a court must not take more than 3 weeks to be disposed off, even if it involves intensive investigation.

Judiciary: We should have a clause introduced in the Constitution about Public Litigation whereby Judges pass judgements considering public mood and lobby. We have had cases where there is public outcry over scandals like the Goldenberg scandal and we find a court sitting in place setting the person free or just having political manouvres, and throwing the case without being accountable to the public.

Legislature: The people should elect Members of Parliament and the same individual should not seek to be elected back after serving for 3 terms of 5 years each. Members of Parliament should serve for a maximum of 15 years. 2-thirds majority of the legislature must vet all Presidential appointments i.e. Permanent Secretaries, Police Officers, Army Chief's and Civil Servants in general. The grounds for vetting should be academic qualifications and lack of a corrupt historical past.

A judicial review commission that sits at the Supreme Court must review all laws passed by the legislature so that such laws are not found to be repugnant or inconsistent with the Constitution.

Members of Parliament salaries should only be reviewed by an Independent Commission and not in parliament.

The public should have powers to recall and remove or vote out their Members of Parliament before 5 years due to lack of delivery of service.

Governors to head our provinces: Governors who will be in-charge of our provinces should be elected by the people to replace the present Provincial Commissioner and they should serve for a period of 6 years. The Governors should be in charge of certain taxes or a certain percentage of taxes say 60% of taxes collected within that province to remain within the province for development purpose and 40% should be taken to the central government.

We should also have regional parliaments at the Provincial Headquarters, to decide on how the 60% tax is used every year. This will ensure equitable development and for the semi arid provinces, they should receive more money from the Disaster Funds set aside by the central government.

Consolidated Funds: The usage of the consolidated funds should be decided upon by the 2-thirds majority of legislature which should be done before its usage. What happened during the Goldenberg scandal should not be repeated.

Taxes should cater for free health and primary school education and electricity in our homes without paying for transformer and



posts, which the Kenya Power and Lighting Company ask for.

All public trust land allocation must be revoked and no future repetition of the same, likewise all passed looted public money must be brought back to the treasury and stern measures to be taken against future perpetrators e.g. death sentence will be befitting.

Human Rights: Universal human rights must be entrenched in our constitution and only Supreme Court should be endowed with powers to execute cases that touch on of human rights.

Office of the Ombudsman: The office of the Ombudsman must be initiated to ensure that Police and Civil Servants do not violate the ethics of serving the common man and this office must have the powers to prosecute any Police Officer, Civil Servants or private entrepreneurs who commit offences to the public members.

The Provinces must be consulted in entering of any treaty with any other government by the central government. Bilateral economic relations can be entered between a province and a foreign government and provinces should be incharge of their own security arrangements unless such arrangements are insufficient to meet the needs and this can only be justified by the Provincial Parliament.

Provinces should give of reserve 30% of the seat in their parliament to learning institutions and employment opportunities for women and those with various disabilities.

Changing of the Constitution should be by 2-thirds majority of the central parliament after receiving at least 2-thirds signatures of the population from every constituency of this country.

Citizenship: Kenyans should be allowed to have dual or muti citizenship without necessarily losing their Kenyan citizenship.

Elections: This should be conducted by an independent commission chosen by the President and vetted by 2-thirds majority of the central government parliament on academic and moral grounds. Thank you.

**Com. Ahamed Hassan:** Thank you very much. Next is Samuel Otieno Otucha X 2, Grace A. Onyango X, Margret Awino X 2, Isaac Aringa, Joel Kome Philip X2, Peter Odhiambo X2, Tom Okong'o.

**Tom Okong'o:** Thank you Commissioners, Ladies and Gentlemen. Most of my proposals have been aired and I will not repeat them but one on Presidency is that:

The current constitution just talks about the minimum age but does not indicate the maximum age. This should be reflected in the current constitution. My proposal is that it should be 70 years maximum.

**Education:** I would like to propose that there should be free education for children with learning disabilities especially the mentally handicapped. Many parents are suffering because they have children with learning disabilities especially the Down syndrome but the cost of education is too expensive for the special cases.

Lastly, there should be a strict law on print and electronic media especially on entertainment. There is a lot of pornography in our media and it has become a challenge due to moral decadence. I would be happy if the constitution will state strict measure on what goes on in the media like television, computers, videos and prints. Thank you.

**Com: Ahamed Hassan:** Ralf Kimotho X2, Patrick Mwasia Nziu, Josephine Mwendu X2, Erick Nsioka.

**Erick Nzioka:** Good Afternoon Commissioner, my name is Erick Msioka. I do not have a lot of views but I have suggestions on the Electoral Commission, which I suggest should be independent and should have security of tenure.

I also suggest that it should have a 3-man Commission appointed by 75% of Members of Parliament or directly by the people. We must have all powers pertaining to elections so as to order for a repeat or elections.

**Local Government:** We should have an Executive Mayors in charge of our towns and City's like what is in New York where these people are in charge of water, police under the jurisdiction of the Mayor.

**Public Posts:** All public posts must be approved by parliament and parliament must have powers to remove all corrupt officials, from the President downwards. Thank you.

**Com. Ahamed Hassan:** Thank you. Msioka please come back and sign the register. Next we have Councilor Gladys Ogola O.X2, Samuel S. Luoro.

**Samuel S. Luoro:** Thank you Commissioners, the points I had have been raised by quite a number of people and in the interest of saving time, I will not repeat them. There are a few points I am going to raise.

**Land Control Boards:** This should be held in an open boardroom and not in the District Officer's so that anybody who wishes to raise an objection or any issue can be present. There have been cases where land is sold and the families are not represented and yet the land board passes that. This should be like the Liquor Licencing Board or the Transport Licencing Board.

There should be no Special Land Boards to hear application for consent from individuals. People should pay a certain fee and they have a special board to hear their cases. This is subject to abuse and corruption.

Regarding Public Service: I am of the view that there should be a mechanism for the review of their salaries every 5 years based on the country's economy as given by the Ministry of National Planning on the rate of growth, annual growth for an accumulated period of 5 years. The same should apply to review of pensions for pensioners. In this country pensions are paid on the 10<sup>th</sup> or the 15<sup>th</sup> of the following month while in other countries it is paid on the 25<sup>th</sup> of the actual month the pension is suppose to be paid. This we should have on the 25<sup>th</sup> of the month it is due.

Chapter 5 of the Constitution of the rights of a person: Right to life is very important and I would urge that the police be ask to shoot the tyres of vehicles and not the person. We know of a Church Minister who was shot when his car was carjacked and reported. If they had shot his tyres, they would have saved these lives and arrested the carjackers.

Section 76 talks about personal liberty, arrest and search without the consent of a person. I know of cases where people have their houses searched without their consent and this should not be the case.

Freedom of Expression, Association and Assembly: This should be enforced so that people are able to express their view to congregate without harassment. This goes to the question of civic education, if people were educated about their rights as citizens of this country they would be able to know their rights. At the time of independence we have leaflets know as "Teach Yourself Citizenship" just before we became independent and this helped people to understand their rights. This should be done.

The office of Ombudsman should be created to hear complaints from the public.

On Chapter 2 regarding Ministers, Assistant Ministers, Permanent Secretary's and the rest I am of the opinion that we should have a maximum of 15 Ministers and 20 Assistant Ministers. Where there are ambassadors, they should have multiple accreditation for one to represent more than one country.

Parliament: No sitting parliament should review its allowances and salaries, this should be done for the purposes of reviewing the salaries for the coming parliament and not the sitting one. The same should affect the President and Ministers.

Nominated Members of Parliament should represent special interests like the physically and impaired or disabled persons.

There should be a vetting system by parliament on the appointment of Ministers, Assistant Ministers, Judges, Permanents

Secretaries, Ambassadors, and Heads of Parastatals.

There should be a government of National Unity to incorporate all the parties elected in parliament in order to have a Unitary Government in this country.

The retirement age of the President: A President should be between the ages of 35 and 70 and subject to 2 terms of 5 years each. Ministers should not serve for more than 3 terms in parliament, Members of Parliament should not serve for more than 4 terms and the age limit should be between 18 and 70 years.

Civil Servants should retire at the age of 55 with a leeway made to employ on contracts of 2 terms each, experts who might be able to advise on government on areas where their expertise is required. Thank you very much these are the views I had.

**Com. Zein Abubakar:** Thank you very much Bwana Luoro. Jackson Wachira, Karibu Mzee.

**Jackson Wachira:** Thank you very much for giving me an opportunity to appear before you. I shall not repeat comments that I have heard since I entered this hall. My first point is that:

Our current Constitution does not have a preamble and I think it is important the next Constitution has a preamble. Perhaps among the things that should be highlighted in the preamble is that leaders are the servants of the people but not their masters. The other is about sovereignty, that it belongs to Kenyans and vested in the hands of Kenyans.

Supremacy of the Constitution: The Constitution is a creation of the people (Kenyans) and they formulate the Constitution to provide guidelines for the management of their affairs and therefore parliament, which is a creation of the constitution, cannot and should not have the rights of amending the constitution. The people should only amend the Constitution, not indirectly but directly through referendums.

National Security: I want to highlight that the Para Military, those who are 50 years and above know that the Para Military was created during the emergency, and was created purposely for the freedom fighter during Mau Mau but after colonial period the independent government continued to have the Para Military which I think has outlived its usefulness. We know how the para military has been used by the government, mainly to suppress the rights of the wananchi who want to express their views. I think this should be abolished and absorbed in the regular police force.

Emergency: Who should invoke the emergencies? While the executive can invoke the State of Emergency, it should only do this for a short period of thirty days pending consideration of the matter by the National Assembly where it indicates that it should have various committees like on security e.t.c.

The Constitution should enshrine Committees of Parliament as it is now, the Committees of parliament are created through standing orders but I think they should be enshrined in parliament including Foreign Affairs Committee, Finance, Planning and Development committee, Education e.t.c. as I have stated in my memorandum.

**Judiciary:** There is need for a Supreme Court and I will not go into that very much.

**Land and Property Rights:** Individuals should own land and forest, national parks should be held in trust by the state, but the change of use for this should only be done through referendums. In other words the executive should not just wake up one day and decide that say 20 or 30 acres of the Nairobi National Park is given to somebody. Kenyans should be free to own land anywhere in the republic.

**Fundamental Rights and Freedom of individuals:** The Constitution should ensure that these (they are currently Chapter 5 of the constitution) are not abused such that Kenyans today cannot meet in groups of 6 or 10 freely and discuss. They have to go and seek permission or inform some authority. There is a need to strengthen that part of the constitution.

**Local Kenya Languages:** The Constitution should recognise the languages and the Local Authority should be elected to ensure that they are strengthened, and it should not be the business of the National Government to do this.

**Code of Ethics or Conducts of Public Offices:** This should be formulated by a consortium of professionals so that it observes conduct of public officers.

**International Relations:** The executive should not be the sole authority to deal with foreign affairs, Parliament through its Committees should have a Committee that handles foreign affairs in the government.

**Com. Zein Abubakar:** Mr Wachira, I had give you 2 minutes already, I am going to give you one more minute Sir.

**Mr. Wachira:** There should be an office for the Ombudsman; I will not go into details.

The Constitution should give specific dates for Presidential, Parliamentary and Local Authorities elections, so that Kenyans are informed as to when elections are to be held. Presidential aspirants and heads of government should be stated per many people. The Provincial Administration has outlived its usefulness and elected representatives should replace it. Terms and conditions of service for all public servants from the lowest to the highest. In Kenya today we do not know what the terms of service for the President are! These should be known so that when he retires, questions are not raised.

Impeachment: National Assembly or parliament shall impeach with a view to removing from office, President, Vice President, Ombudsman, Prime Minister and Ministers for serious misconduct such as corruption, gross abuse of office, gross misuse or misappropriation of public resources.

Lastly, Constitution should be translated into Swahili and in Kenyan languages. Thank you very much.

Com. Zein Abubakar: Thank you very much Bwana Jackson Wachira. Engineers S. M. Gatua, Laban K. Kimondo, Philip Wambugu, Jarred Mauwongo, Washington Owino.

**Washington Owino:** Thank you very much Commissioners and all the attendants. First of all I am of the view that the post of Prime Minister and his two deputy's be created and they should be elected by the people. The President and the Vice President should not be elected by the people but instead should be appointed by the sitting government.

On the labour sector: I am of the opinion for employment law to be enacted so that employers are under law to offer employment on contract basis, that can only be stopped when someone is involved in corruption, theft, or incompetence. The employer may also terminate the contract if the sector is not performing well. I would urge that after signing the contract, the employees should be paid the total amount due as per the contract.

Abortion: I am very much against abortion and I would like our Constitution to state that no doctor shall be allowed to carry abortion and anybody who goes for abortion should be fined or even imprisoned, as this is against one of the ten commandments which state that 'thou should not kill'.

In matters relating to public offices, I would request that divorced persons should not be entitled to hold a public office, this is because such a person is not able to take care of the small basic unit, the family. For that matter he cannot take care of an office.

The Attorney General and the head of Electoral Commission should be appointed by the parliament through a well-set commission of professionals.

The law should be enacted such that the sitting Members of Parliament should be suspended when they fail to attend parliament sitting for three consecutive days. The current time given in the present parliament is a long period yet they are paid a lot of money at the expense of the electorates. They should perform their duties as far as they are concerned.

Public Offices: We should use strictly national languages i.e. English or Kiswahili in public offices and this should be supervised thoroughly so that we may enhance good communication in our public offices. Those are the views I have, thank you very

much.

**Com. Ahamed Hassan:** Thank you very much Mr Owino, please sign the register. Owen Patel X2, Duncan Wanene.

**Duncan W. Wanene:** Thank you honourable Commissioners, mine is very brief. My name is Duncan Wanene I am a media consultant and a I am a voter in this constituency. I will begin with thanking the Commissioners and I will address my brief comments to the Chairman of this Commission.

Mr. Chairman, please let me first congratulate you and your fellow Commissioners for your appointment to this noble task of reviewing our Constitution. Your success in this important work will truly be recorded in annals of history for the present and future generations of Kenya. I would therefore urge you Sirs and Madams not to be discouraged by the behaviour of any individual group or organization that my attempt to manipulate this exercise for whatever reason.

Your intergrity and impartiality are an asset in ensuring that the constitution of Kenya review assignment is completed in time and for the benefit of all Kenyans. To achieve this objective, Mr. Chairman, I recommend that there must be:

1. Clear separtion of powers between the Executive, Legislature and the Judiciary.
2. Strong safeguards for the independence of important government departments.
3. An effective system of checks and balances.
4. Strong constitution guaranteed for freedom of the press, worship, assembly, movement, opinion, expression and free and fair elections.
5. Independent and impartial Judiciary.
6. A genuine representative parliament.
7. An independent and impartial Electrol Commission.
8. Effective safefuards against corruption and mismanagement in public and private institutions.
9. Proper use and efficient management of our national resources including land and forests.

Mr Chairman, in order to achieve these objectives, the government must have a political good will. This is because most Kenyans work hard and they deserve a better deal at the end of the day. We need to eradicate the culture of greed, corruption, nepotism and selfishness that has unfortunately developed in our country since independence. Instead we need to promote patriotism, nationalism and visionary leadership based on fairness, justice and compassion.

Before I continue Mr. Chairman I would like this commission to be very very serious to look into the provisions of civic education. Education is a continuous process and our people need to be educated, particularly on the importance of a constitution. Please Honorable Commissioners provide basic education to our people to the fullest extent possible.

Last but not least Mr. Chairman, we need to have National Elections scheduled for the end of this year. With political good will the constitutional review exercise can be completed in time for elections, without extending the current life of parliament. Thank you.

**Com. Ahamed Hassan:** Thank you and please sign for us the register. Sara Njenga X2, Cliff Mutema X2, Titus Mutua X2, Mathew Nafula X2, S. G. Muiga. Anybody else who is here and wants to give views? Now those who are left here we want you to tell others that the business of collecting views from Langata Constituency is not ending today because we are still going on with collection of views and right now we are in Nairobi Province and that is we are in Langata Constituency, next we are going to Central Province, Rift Valley, Nyanza and Western.

We shall finish Western on 8<sup>th</sup> August hopefully, until then anybody can still prepare his views in form of memorandum and either bring it to the Commission at KENCOM HOUSE or give it to the CC members of the District Coordinator, Esther Walia but if you know where our offices are KENCOM House, 2<sup>nd</sup> Floor you can bring them there. So please this is not the end of collection of views. We are still collecting views at the Commission Headquarters until August 8<sup>th</sup>.

Otherwise, we are very grateful for the views you have given and I think this will conclude our hearing in Langata Constituency as this is the second venue, yesterday we were in Kibera and today we are here. Like I said we are still collecting views until 8<sup>th</sup> of August so please feel free to prepare your views and bring them to the commission before 8<sup>th</sup> of August 2002.

We want to thank very much the Chairman of the 3 C's and its members for a job well done and the coordinator who is not here now. We are also grateful to other members of staff who have come with us for this exercise. Hopefully, we will go on with the business of constitution making and we hope to meet you another time. Perhaps you could close with a word from the Chairman 3C's.

**Chairman 3C's:** I wish to register my very strong THANK YOU to everybody who took his time, especially the respected Commissioners who have persevered all this time without lunch with soda and water only. It is rare that somebody can speak



