

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

VERBATIM REPORT OF

CONSTITUENCY PUBLIC HEARINGS,

MAKADARA CONSTITUENCY

AT MBOTELA SOCIAL HALL

ON

WEDNESDAY, 29TH MAY, 2002

CONSTITUENCY PUBLIC HEARINGS, MAKADARA CONSTITUENCY, HELD AT MBOTELA SOCIAL HALL ON WEDNESDAY, 29TH MAY, 2002

Present

Com. Charles Maranga
Com. Abida Ali-Aroni

Secretariat in Attendance

Roselyn Nyamato - Programme Officer
Ibrahim Alubala - Asst. Programme Officer
Zipporah Wambua - Verbatim Reporter

Meeting started at 9.00 a.m. with Com. Maranga in the Chair.

Com. Maranga: Mimi nawaita kabisa tuje hapa tuanze huu mkutano wetu wa leo, kwa sababu tumechelewa.

Do we have any member of the three C's here? Okay, do we have somebody who can start us off with a word of prayer? Nani anaweza akatuanzia mkutano kwa maombi? Watu wa Kanisa, basi mmoja wenu aweze kutuanzia kwa maombi ndio tuendeleo na mkutano wa leo. Please.

Tuko na Simon Ng'ang'a, tusaidie. Tusimame tuanze mkutano. Kuja tu.

Simon Ng'ang'a: My name is Simon Ng'ang'a and I come from Our Lady Queen of Peace Catholic Church, South 'B'. This is the Church that burnt down. We would like to start with a short prayer.

Mungu mwema, tunakuomba asubuhi ya leo. Tunataka kukushukuru asubuhi ya leo kwa kutokusanya hapa, kwa huu mkutano wa kujaribu kutengeneza Katiba yetu ya nchi yetu tukufu ya Kenya. Tunakuomba ututumie Roho Mtakatifu atuongoze sisi wote, wale tuko hapa, Wakristo, Waislamu, na kabila lolote, na yeyote anakuomba wewe. Wewe ni Mungu mwema, ni Mungu anatupenda, na ni Mungu anapenda nchi yetu ya Kenya. Tumekutana hapa kwa sababu tunataka ukubwa wako uonekane katika nchi yetu. Ni ombi letu utakuwa na sisi kutoka mwanzo mpaka mwisho. Kwa hivyo tuongoze, uongoze ma-Commissioner, uongoze wale wote watapeana maoni yao -- ndio yale watasema yatakuwa ni ya kutukuza jina lako. Twaomba hayo machache tukijua utatupa mengi hata yale hatukuomba. Ee Mungu tusikie.

Com. Maranga: Asante Simon Ng'ang'a kwa hayo maombi.

Sasa tumeanza mkutano wetu rasmi wa Tume ya Kurekebisha Katiba. Taratibu yetu, kabla hatujaanza pengine wacha niwajurishe ni akina nani wako hapa. Tuko na Com. Abida Ali-Aroni ambaye ni naibu wa mwenyekiti wa Tume ya Kurekebisha Katiba, na ninamuomba awasalimu.

Com. Abida: Hamjambo!

Response: Hatujambo.

Com. Abida: Karibuni.

Com. Maranga: Mimi ninayeongea ninaitwa Dr. Charles Maranga, vile vile ni Commissioner, lakini mimi saa hii wakati wa asubuhi ndiye mwenyekiti wa mkutano wa leo. Wengine ambao tuko nao hapa sasa, tunao wale watu wametoka kwenye Tume ya Kurekebisha Katiba. Tunaye Roselyn Nyamato – Programme Officer; kama una taabu yoyote, huyu ndiye unamuona, ndiye anaangalia maneno ya Secretariat. Ibrahim Alubala vile vile ndiye Asst. Programme Officer. Tunaye Zipporah Wambua, ndiye anatusaidia kwa upande wa kunasa sauti za watu. Tunaye vile vile anayetwa Rose ambaye, kwa wale ambao hawaelewi lugha kwa kuzungumza, anaweza akafanya sign language. Kama kuna mtu ambaye hawezi akasikia, Rose anaweza kutusaidia.

Basi kwa sababu tunataka kuanza, masharti ni machache sana. La kwanza kabisa, unaweza kuongea kwa lugha yoyote ile ambayo unataka, lakini sana, sana tungependelea watu waongee lugha ya Kimombo ama Kiswahili. Pili, tunampa kila mtu

dakika tano atoe maoni yake. Sisi kama wanatume, tutawauliza maswali kwa kutaka kuelewa zaidi unamaanisha nini. Kama una memorandum, vile vile una haki ya kutoa memorandum bila kuongea, na unaweza ukaifanyia registration kwa Roselyn Nyamato, halafu uwache hapo memorandum.

Sisi hapa tutafuata vile watu wamefanya registration; ukiingia unajiandikisha na utaonyesha kama unataka kuzungumza ama unakuja kusikiza tu. Kwa hivyo, una haki ya kukaa na uzitungumze. Hayo ndiyo masharti ya Tume ya Kurekebisha Katiba. Vile vile tunaomba watu wakati wanatoa maoni, unaheshimu maoni ya wengine na wewe unasikiza tu vile watu wanatoa maoni.

Kwa hivyo tunaanza sasa, na mtu wa kwanza kabisa anaitwa Simon G. Ng'ang'a.

Speaker: Samahani. Tafadhali utaketi hapa na ukimaliza kuzungumza, utakwenda pale kufanya registration na kupeana memorandum yako. Asante.

Com. Maranga: Nga'ng'a, ukianza kutoa maoni, unaanza kwa jina lako kamili kabla ya kutoa maoni. Vile nimeona umeandika memorandum, unatupa main points halafu pengine tutakuuliza maswali. Asante, karibu.

Simon. G. Ng'ang'a: Thank you very much. My name is Simon Gakuru Ng'anga. I am the Chairman of Justice and Peace Commission of Our Lady Queen of Peace Catholic Church, South 'B', and as I said before the prayer, it is the church that burnt down.

We have come here as a team; I have my colleagues – four of them - and we would like to give our views as a team. I will be calling one of my colleagues to expound briefly and then we shall give a written memorandum.

I would like to start by introduction: the Justice and Peace Commission of Our Lady Queen of Peace Catholic Church, South 'B,' which is affiliated to the Catholic Arch-Diocese of Nairobi Justice and Peace Commission, is pleased to present a written memorandum to the Constitution of Kenya Review Commission. Our church falls under Makadara Constituency and our views are therefore presented at the Mbotela Social Hall on Wednesday, the 29th May, 2002 at the public hearing.

Preamble: we at Justice and Peace Commission of our Lady Queen of Peace Catholic Church, South 'B', strongly feel that the Constitution of any country and in particular, the Constitution of Kenya is a sacred document - which should be the leading light to our country and its citizens. It is, therefore, our prayer that the people, maybe the Commissioners charged with the responsibility of reviewing the current Constitution of Kenya will do so with due diligence and the seriousness that it deserves. It is also our hope that they will be able to incorporate the views of all the citizens of Kenya, in realization of the fact that the constitution is their document, and for the future generations of Kenya. We also hope that they will complete the exercise in

the stipulated time-frame. As it is impossible to give our views on the review of the whole Constitution, we tend to dwell on a few areas that we strongly feel that they need to be reviewed and entrenched in the new constitution. These are as follows:

At this juncture, I would like to invite my colleague Dr. Maurice Owuor to expound on this. Dr. Owuor please.

Dr. Owuor: Thank you very much. My names are Dr. Maurice Ajuang Owuor, and I am a member of the Justice and Peace Commission of this particular church in South 'B'. The areas which we felt that the Review Commission should pay attention to: are structures and systems of Government. According to our memorandum, we have the Executive, and the following are areas we would like to be reviewed as far as the Executive is concerned:

We recommend the retention of the Presidential System of Government: with a President with checked powers, unlike the current situation where the President has too many unchecked powers.

We also believe that the President should not be above the Law, and should be liable to civil and even criminal proceedings, during his term in office. The President should not be the power to hire and fire people into and from various executive positions such as: the Police Commissioner, heads of various parastatals, the Chief Justice, the Permanent Secretaries, the Cabinet, the Provincial Administration.

We also believe that all Presidential appointments should be vetted by another authority such as: the Parliament, Judicial Service Commission, Public Service Commission and, at the same time, the President should be non-tribal. They should be the President for the whole country, whether any part of the country or a group of people voted for him during the elections or not. The President should also have minimum educational qualifications, and we believe that a minimum be a university degree in any discipline.

The Constitution should be very specific on the tenure of office for the President. We recommend that the current two five-year term tenure be retained. The President should be above forty years of age and below seventy-five years.

The Constitution should allow the impeachment of the President by Parliament, if the people feel that he/she has performed below expectations, or for misconduct such as abuse of the office.

The Provincial Administration should be retained, but they must be appointed through the Public Service Commission, and should never be appointees of the President.

The whole Civil Service including Provincial Administration, should be de-politicized, and should not attend political functions either as participants or observers. In other words, they should be non-partisan.

The provision of the current Constitution stipulating that a presidential candidate has to attain 25% votes in five Provinces, should be scrapped; and replaced with a provision that a candidate must garner 50% of the popular votes; failure to which there should be a re-run or a run-off between the two candidates with the highest votes.

The President or the Vice-President should not necessarily be Members of Parliament, but should be elected together by the people in a separate election from the parliamentary and local elections.

The Vice-President should not be an appointee of the President, but his running mate, to be elected by the people.

Parliament: Parliament should be fully independent from the Executive and it should be assertive. It should have its own calendar, and not be at the mercy and whims of the President. It should vet all Presidential appointments, and have power to reject any appointment in total or otherwise.

The Electoral Commission should ensure that all constituencies have equal populations, in order that Political Parties have a proportionate voting rights in the House.

A Member of Parliament's job should be on full-time basis: the requirement – “may not miss eight consecutive Parliamentary sessions”, should be removed completely. A person cannot serve as a Member of Parliament for more than two five-year consecutive terms.

To qualify to contest as an M.P.: one should be thirty years and above, and below seventy-five years. Moral and ethical qualifications for Parliamentary candidates should be set. An M.P. should seek the views of his/her constituents on all major Bills being passed by Parliament.

The Constitution should set a National Remuneration Committee/Commission, to determine salaries of all public offices including those of Members of Parliament. The concept of nominated MPs should be scrapped completely, and replaced with reservation of seats for certain categories of citizens such as the disabled and women.

Defection to other Parties after an M.P. has been elected should be prohibited until the expiry of a five-year term.

The Judiciary: The Judiciary just like Parliament should be independent from the other two Arms of Government -- that is the Executive and Parliament. We recommend that the current judicial system be retained but two other courts be established that is: the Supreme Court and the East African Court of Appeal as a final court. This should be in recognition of the newly established East African Co-operation.

We recommend that the following (other) courts be established: the Family Court, the Commercial Court, the Corruption Court and the Constitutional Court. Even though we are aware that there is the Family Division, the Milimani Commercial Court, and the Anti-Corruption Court, but these should be established and entrenched into the Constitution.

The Council of Elders should be given judicial powers to determine matters pertaining to traditions, such as family disputes on land and marriage. Free legal aid should be extended to the less economically disadvantaged citizens of Kenya.

Local Government: Mayors and Council Chairmen should be elected directly by the people, at the same time as the Parliamentary elections. They should enjoy the same five-year tenure as MPs. The Local Authorities should be given autonomy to work independently, and the Central Government to clear supervisory and advisory role only.

Chief officers should be answerable to the Mayors and Council Chairmen. They should also be employees of the Local Authorities, and not appointees of the Government. The provision to retain nominated councillors should be abolished as they only serve the interest

Councillors as the servants of the people should be men and women of high moral integrity, who would be expected to work full-time. Their minimum education should be 'O' Levels standard with a minimum of D+. Neither the President nor the Minister for Local Government should have the authority to dissolve Councils, as they are not their appointees, but rather elected by the people.

Land and Property Rights: every Kenyan citizen should have right to own land anywhere in the Country and should be issued with a title deed in order to secure bank assistance.

The Constitution should protect those lands that are trusted to the local authorities for public use. Nobody should allocate them be it the President. A ceiling as to how much land an individual should own should be entrenched in the Constitution, as we have so many landless Kenyans while a few people own thousands of acres of land that lie idle. Our recommendation is that nobody should own more than 100 acres of land. All idle land should be taken over by the Government and distributed to the landless, with compensation at the going commercial rates prevailing.

Land transfer procedures should be simplified as it is currently very tedious. Public institutions such as schools, churches, mosques, etc should not buy land. They should be allocated land by the Government from the land designated for public utilities.

Agriculture: the Government should assist farmers in their effort to produce food for their families and for economic purposes.

Agricultural based industries should be encouraged in the rural areas to create sufficient jobs for the people and to avoid influx or exodus into towns in search of jobs. Farmers should be protected from illegal farming imports.

Slums: no more slum dwelling should be allowed to flourish in any town in Kenya. The current slums such as Kibera, Mathare, Mukuru, Marigoini and other such slums in Nairobi and elsewhere in Kenya; should be taken over by the Government, and developed into low-cost housing projects for the poor. Water, sanitation and electricity should be provided as a matter of policy.

Religion: freedom of conscience should not be absolute, especially the mushrooming of various sects which thrive on insulting other religions, should be checked.

Registration of voters: this should be a continuous process, and should go hand-in-hand with issuance of IDs as our youth are turning eighteen every day.

Health: public health should be free as a lot of Kenyans die from treatable diseases, due to high costs of treatment.

Education: every Kenyan should be given an opportunity to learn, to read and to write. Primary education should be free and compulsory to all children. Any parent who fails to send his or her child to school should be prosecuted. Every child, be it a boy or a girl, should have equal opportunity to education.

The Government should allocate the highest percentage of its annual budget to education.

Street People: the Constitution should address the problem of the street people or street children. The Government should allocate land and funds to interested parties such as churches/NGOs, with a view of giving them the authority of rehabilitating these people into normal and responsible citizens. A special commission should be set up by the Constitution to deal with this explosive issue.

Security: we strongly feel that security of any nation is of paramount importance, and it is the responsibility of the Government to ensure proper security for its citizens and their properties.

Environmental Issues: the Constitution should protect our natural resources such as forests and rivers, and prohibit illegal allocation of forestlands. Pollution of rivers, lakes and oceans should be prohibited and made criminal offences. Planting of eucalyptus trees near the rivers and water catchment areas should be prohibited.

The chief conservator of forests should be given a lot of powers to enforce all the matters pertaining to the environment. The

Constitution should give this office security of tenure.

All the mineral wealth and other natural resources of the country, should be protected from exploitation by unauthorized individuals and foreigners. Wealth from natural resources such as oil and minerals should be exploited for the good of all Kenyan citizens only.

For the office of the Commissioner of Mines to be able to perform properly, it should be given security of tenure. The holder of the office should be a geologist of high calibre with extensive experience.

Commissions of Enquiries: the Constitution should define the criteria under which various commissions of enquiries should be formed. The Constitution should also make it mandatory that the findings of any such valid enquiry are made public, as soon as it completes writing its report. This is in view of the fact that the money used is from the taxpayers.

The Conclusion: it is our humble submission and prayer, that our contribution will go a long way in assisting the Commission to come up with a Constitution that will make the lives of the current citizens of Kenya and those of generations to come proud of Kenya.

May God bless you all!!!!

Com. Maranga: Is there anybody else who wants to ask anything? Now you need to sign. Do we have any comments from your colleagues of whatever is left out? Okay.

Com. Abida: Thank you. I think you should just probably – the Dr. should sign our register

Com. Maranga: Did the others want to speak? You said you were four of you. It is the same document. Plus him, he has signed and he also signs because he has presented. Hand over that document to us. Otherwise, we say thank you very much. We have taken your views.

Simon G. Ng'ang'a: Just one comment. It is our prayer that in future, please when we are having these proceedings, you could possibly think of providing a soda or something; because if we sit here until the evening, if you cannot provide lunch, at least provide a soda or some refreshments to the participants. Thank you very much.

Com. Maranga: That is okay Bwana Ng'ang'a but you know very well if the Commission operates on a budget, and you know even when people come to church, you don't do that. This is voluntary. Thank you very much.

The next person is Salma Mwangi.

Salma Mwangi: Habari za asubuhi? Kwa jina naitwa Salma Mwangi, nimetoka katika kikundi cha wamama cha Sisters Muslim Network. Mada yangu ya kwanza ni uraia. Pendekezo letu kwa mada hii ni kuwa, kila afwatawe awe raia bila upingamizi: mtoto aliyezaliwa nchini Kenya au mtoto wa mzazi M'Kenya, mtoto aliyepatwa na mzazi M'Kenya. Ni pendekezo letu kuwa wageni wenye visa halali kuingia nchini, watega uchumi walioishi Kenya wa kiasi cha miaka mitano wakupaliwe uraia wanapotuma maombi. Wana'Kenya wote waume kwa wake wawe na haki sawa ya uraia. Jinsi zote waume kwa wake, wanaaki ya kupata uraia kwa bibi au bwana zao na vizazi vyao. Pendekezo letu, marekebisho yatakayo kubalia uraia kwa upande zote mbili.

Haki na majukumu ya mwananchi yasizitizwe na kila mwananchi bila kujali alivyopata uraia wake au uhuru, kufurahia usawa. Baada ya marekebisho, dhibitisho la kwamba wewe ni mwananchi liwe ni -- kitambulisho cha nchi, pasipoti ama cheti cha kuzaliwa.

Mada yangu ya pili ni idara ya mahakama. Tunapendekeza kujaribu nafasi mbali mbali katika mahakama, kwa sababu mkondo ulioko sasa haujatutimizia haja zetu kama ipasavyo. Badala ya koti kubwa, tunahisi ya kwamba tuwe na koti ya jumua ya nchi za kifaraja mashariki, ambayo itafanya shughuli za koti kuu. Tegemeo letu ni kuwa na utamaduni wa kikatiba, tunapendekeza tuanzishe koti ya kikatiba. Tunapendekeza ya kwamba bila kuwahusisha ma'judge na maofisa wengine wa mahakama, waajiliwe na tume ya huduma za mahakama, Waajiriwa wawe na yafwatayo: shahada la chuo kikuu kwa hakimu, wengine wao waendelezwe na kosi, wawe na sifa mzuri, wawe na umri usiozidi miaka sitini (60). Pendekezo la Baraza: hukumu wafundishwe na Judge nidhamu, hata maofisa wengine wa mahakama. Baraza liundwe na Judge Mkuu, na watu wengine wenye kusifika na wawe na heshima.

Kadhi na Kadhi Mkuu wawe na vyeti vya uwakili vya chuo kikuu, pia wawe na cheti cha Islamic Sheria, na pia wahitimu kutoka chuo cha Sheria cha Kenya. Kadhi na Kadhi Mkuu waajiriwe na tume ya huduma za mahakama, na kupendekezwa na viama vitatu vya kiislamu -- ambavyo ni vya kuchaguliwa na hiyo tume. Tunapendekeza ya kwamba, koti ya kadhi ijadilie: mambo ya watoto, mali ya ndoa, usimamizi wa shamba la Muislamu aliyefariki, na mali ya uma. Ili Waislamu wafurahie uhuru wa kuabudu na kutekeleza Sheria, itakuwa ni muhimu koti ya kadhi ipewe mamlaka ya juu. Uwezo wa mahakama uhimizwe na idhara ya mahakama iliyo huru.

Katiba ihakikishe ya kwamba, watu wote wawe na njia ya kufikia koti kwa urahisi, ili kurahisisha kwa mienendo ya koti. Kupewa nafasi ya Sheria kwa wananchi ambao hawajiwezi bila kutumia maneno maana inawahusu. Tunapendekeza kuwa marekebisho ya sheria za kimahakama zitungwe na Baraza la Watunga Sheria. Ni hayo tu.

Com. Maranga: Kuna swali? Kuna swali kutoka kwa Com. Abida.

Com. Abida: Ningetaka Salma ueleze kuhusu mambo ambayo ungetaka koti ya kadhi ifanye, ukiwa utaweza kurudia kwa sababu sikuelewa. Ungependa kadhi afanye nini?

Salma Mwangi: Pendekezo letu ni kuwa koti ya kadhi iwe kama Koti Kuu, kadhi aweze kuamua mambo yote ya Waislamu. Kwa mfano, sisi Waislamu tukipeleka kesi zetu kwa mahakama makuu, hatuamuliwi vizuri. Kwa mfano, mali ya Waislamu, kama mwanaume amekufa, mzazi wake ana percentage yake, ndugu zake wana percentage yao na bibi na watoto vile vile. Hii koti nyingine haituamulii mambo yetu sawa sawa.

Com. Maranga: Mimi niko na swali. Unasema tuwe na mahakama ya Africa Mashariki. Lakini Africa Mashariki unajua ni jumuiya ya nchi mbali mbali: Uganda, Kenya, Tanzania na pengine Rwanda. Hii jumuiya ya Africa Mashariki ilivunjika mwaka sabini na saba (1977), na hilo ni swali ningeuliza hata ile group ya kwanza, itakuwa aje! Hiyo koti tena itapotea ama namna gani?

Salma Mwangi: Kwa maoni yetu, kwa maoni yangu mimi binafsi, sioni kama koti ya jumuiya ya Africa Mashariki inaweza kuvunjika. Mimi nina imani nayo kuliko hii koti yetu, kwa ajili koti zetu zina corruption nyingi sana. Kwa hivyo sisi hatuna imani nazo.

Com. Maranga: Ehe nakubali lakini (inaudible) wacha nimuulize Bwana Owuor. Hiyo koti ya Africa Mashariki, just in case we have again a problem with the federation, what will we do and maybe it will be the highest court of the land?

Dr. Owuor: I think that with the current trend in the world that is the integration trend within regions. It is the way forward for our region also to have a regional court. So that like say in Butiama Court of Human Rights where if a citizen is unable to find legal redress within the boundaries of his nation i.e. if he has exhausted all the legal avenues, they he can appeal to this Regional Court. So I think that we are moving towards the right direction by having the East African Court of Appeal. (Abida's question is inaudible).

I believe that these regional courts should have independence. It should be able to operate independently from a political perspective. Citizens can actually have confidence in this particular court. They will not feel that it is an extension of

Com. Maranga: Thank you Dr. Owuor for your intervention. Thank you. Zuhura Amani. Unanza na majina yako.

Zuhura Amani: Kwa majina naitwa Zuhura Amani, natoka kikundi cha Muslim Sisters Network.

Mapendekezo yangu ni kuhusu kiongozi wa serikali. Napendekezo ya kwamba, Katiba inayokuja inafaa kutaja sifa za Urais. Awe ni mwana chama wa Kenya, awe na umri kuanzia mika therathini na tano, awe na sifa nzuri, asiwe na umri zaidi ya miaka

sitini na tano. Muda wa kushikilia ofisi, uwe mara mbili, isizidi miaka mitano.

Katiba inafaa kupunguza uwezo wa Rais iwapo atavunja Sheria, na anaweza kuhukumiwa.

Kadhi. Kadhi na Kadhi Mkuu awe na vieti vya uakili vya chuo kikuu. Pia awe na cheti cha Islamic Sheria cha Kenya, aajiriwe na Tume ya Huduma za Mahakama. Kadhi ajadili mambo ya watoto, mali ya ndoa, mali ya kafu.

Desturi: ningependekeza kwamba Katiba inapaswa kuunga mkono: kuinga desturi, ukabila na tofauti. Ningependekeza tuwe na lugha moja ya taifa -- nayo ni Kiswahili, lakini Katiba itunzwe na itambue lugha nyingine za makabila mbali mbali.

Com. Maranga: Asante Amani. Utuwekee sahihi kwenye kitabu chetu rasmi. Anayefuata anaitwa Dolrose Ogina. It is your turn.

Dolrose Ogina: Thank you very much for this golden opportunity to contribute to the Constitutional Review Procedures. I am going to present from the Kenya Women Political Caucus. Women's memorandum to Constitutional Review Commission:

The introduction part of it: Kenya Women Political Caucus

Com. Maranga: Just a minute! Since you have a memorandum, I will be more than happy if you give me the summary of the main issues, because I want to give you five (5) minutes and I don't want to stop you on the way. Give me the highlights. Thank you.

Dolrose Ogina:

Preamble: Common experience - we should acknowledge oppressive colonial history as a common struggle by women and men for independence. That should inspire in us a nationally vision that encompasses:

1. A sense of common unity and future
2. Tolerance for diversity
3. Patriotism/nationalism where country is put above self
4. Inclusiveness
5. Justice as our shield and defender
6. Peace
7. Liberty
8. Equality regardless of race
9. Ethnicity, gender and political affiliation
10. Respect for human rights

National vision: we envision a country that works towards the attainment of a common heritage of peace, nationalism, unity and prosperity, by entrenching respect for human rights and truly enhances the principles of inclusiveness, equality and equity for all citizens.

Directive Principle of state policy

Democratic principles that should be included in the Constitution:-

1. Supremacy of the will of the people. Power resides with the citizenry and the state gets its authority from the people through delegated power.
2. Power and authority of government is based on the Constitution -- which is the supreme law of the land.

Following this –

3. A system of devolution of power where citizens participate in governance at all levels.
4. The people express their will through regular, free and fair elections of leaders at national and local level.
5. The constitution cannot be overdrawn or suspended, save through a national referendum.
6. All people should be involved in governance through continuous and/or sustain civic education. This should be the primary responsibility of the government.
7. The provision of the constitution should be popularized using local languages.
8. The government should adhere to the rights of the citizens, whereas the citizens should conform to the duties as enshrined in the Constitution.
9. Respect of the rule of law.
10. The principle of the best interests of the child should be incorporated.
11. Openness, accountability, accessibility of government.

Values: values should be included in the constitution and these should include:-

1. Human dignity and quality
2. Respect for human rights
3. Respect of the rule of law
4. Equity and equality, including positive discrimination i.e. affirmative action to achieve equality
5. Non-discrimination
6. Inclusiveness
7. Participatory governance
8. Respect for diversity
9. Accountability
10. Placing the country above self

Constitutional Supremacy: the new Constitution will have undergone an elaborate consultation with the public before being passed. Consequently, it should not be amenable to ease amendments by the Parliament. This is especially in regard to clauses that may be considered as the core of the Constitution.

The Kenya Women's Political Caucus suggests that the 65% should be retained for amendment of some provisions since conducting national referendums maybe an expensive exercise. However, the provision on the following areas should not be amended by national referendum:-

1. The Bill of Rights
2. Presidential Term
3. System of Governance
4. Transition of Government
5. Political System (Multi-Partism)
6. Principles
7. Citizenship
8. Manner of electing and removing the President

Citizenship: women have faced discrimination in this part of citizenship provision in the Constitution, and in particular, Sections 90 and 91 that currently render women second-class citizens as they do not have the ability to confer citizenship to children born abroad of Kenya non-fathers, or to confer citizenship to their spouses.

Kenya Women Political Caucus recommends that:-

1. Automatic citizenship be accorded to any child born within or without Kenya so long as one of his/her parents is Kenyan.
2. Dual citizenship should be allowed in recognition of the increasing number of children of mixed heritage.
3. Kenya women and men should be able to confer citizenship to foreign husbands.
4. Passport should be issued as a right.

Bill of Rights: human rights inherent in women and men, and are antecedents to constitutions and laws.

Com. Maranga: You should be winding up!

Dolrose Ogina: Okay. In this regard, recommendations by the Kenya Women Political Caucus are:-

Human Rights: One, Section 82. 4'b' should be amended, as it perpetuates discrimination against women, and further promotes the practice of harmful cultural practices.

Two, in order to outlaw direct and indirect discrimination, the following wording consistent with “*CEPDAW*” should be adapted: discrimination shall include any distinction, exclusion, restriction or preference based on, which has the purpose or effect of nullifying or impairing the enjoyment of exercise of an equal footing of rights, benefits and entitlements, in the political-economic-social-cultural or any other field of public life.

Three, the principle of affirmative action should be constitutionally entrenched. It is suggested that in particular, women should have a minimum of 30% seats reserved in Parliament through a system that is similar to the one that obtains in Uganda.

Four, the freedom of association should be construed and regarded to include the freedom of choice in marriage. Ethnicity should be acknowledged and a system put in place to cut its discrimination in this regard.

Five, equality should be entrenched in the Constitution as a fundamental right, and provisions for affirmative action -- aimed at protecting or advancing persons in categories of persons disadvantaged by unfair discrimination for purposes of achievement of equality shall not be seen as counter-equality or discriminative.

The following should be added to the list of areas for non-discrimination:-

1. ‘Ethnicity’ should replace the word ‘tribe’

2. Pregnancy
3. Marital status
4. Age
5. Disability

Freedom and security of persons: provision should acknowledge the vulnerability of women to violence, both by public and private actors, and violence against women by private sectors. Private actors should be recognized and construed as: torture, inhuman, cruel and degrading punishment or treatment.

Freedom of the media should be more clearly and strongly entrenched. The right to know and the right to information should be enshrined.

Com. Maranga: I give you a minute to summarize! I think you can do summary only that you have decided to read. Thank you.

Dolrose Agina: Okay. Political Parties: political plurality needs to be legally enshrined in the constitution. There should be no law that allows for the participation or involvement of only a single political organization or party, or persons having a single political ideology. Parliament should not be allowed to make laws that are a bridge to the right of political parties to carry on their activities freely or ban political parties. There should be easy registration of political parties based on the following criteria:-

“Parties that fail to garner at least four seats in the general elections, should not be recognized as official parties of the next election” but the (tape complete) by having a geographical representative and parties leadership, with an ethnic outlook should not be registered. Due membership to political parties to be disallowed. 35% of the party executive body leadership

Com. Maranga: I think I don't have a choice Ogina, because you have written a memoranda and we know we are receiving Kenya Women Political Caucus all over Nairobi, I think we will get your views. Otherwise, I want to say, thank you very much, maybe I want to ask you one question before you proceed. You say you want us to entrench affirmative action, what about when it will reach a time when women are more than men, will you also amend the constitution to have affirmative action for men?

Dolrose Ogina: I believe that there definitely will be an outcry. Since we are the ones who make up the nation, we will do something about it at that time.

Com. Maranga: I think men will fight it at that time. Thank you very much, you can register with us. We are happy with your presentation. Now, the next person is Hon. Paul Mugeke who is a Member of Parliament for this area. He was with us yesterday at Kaloleni Social Hall and today has found time to come. So, I think I want to welcome him to this area even though he is the Member of Parliament. So, I don't know whether Mheshimiwa this is the appropriate time you want to speak or you want to hear your people first, before we give you a chance when you so wish.

Hon. Paul Mugeke: Let the people speak first.

Com. Maranga: And then you will. When you are ready, you will let us know through a note. Thank you. The next is Samuel Maina. Samuel I can see you have a memorandum, please summarize your memorandum in five minutes, so that we can also to ask you any point for clarification.

Samuel Maina: Thank you. My concern here is security: this is an area which concerns everybody in our society. The work of the Police is to protect the lives of the people and their property. So they are the servants of the people. But here in Kenya, the case is different. I will not judge the Police in the other countries or the world at large because I have never travelled outside my country.

How they conduct their duties is totally different. They behave as if they are the masters to these Kenyan citizens. They arrest people, making charges on you which are not correct, and you made to appear in court. They will plant whatever they think is good for you or whatever will satisfy them.

When taken to court, the court might find you guilty or not but you are made to suffer for a mistake not done. My argument is this, if the viction appeals and is not found guilty, that officer who has made this person to suffer, should be sentenced to jail for not less than ten years, and also pay for the losses and damages to that victim. By doing so, the law enforcers will obey and protect the law, and not behave as if they are above it. Majority have taken the advantage to enrich themselves with it.
..... (inaudible).

Another area which is disturbing our society are emerging bars in the estate. You will find them in the residential areas, next to your house. They are a menace to us in this manner: they play loud music throughout the night. How do we escape our children to do their homework for study in that situation? We parents also suffer most. You come home very tired, you want peace, you want to rest, but how can you, based in a situation like this? And to make matters worse, the owners of these bars live away from this residential area. My argument is, let us have a limit, they should disconnect their life bands when it is midnight, they should take beer quietly, show that we have a share of peace. Should any bar get caught playing loud music at that time, he/she should get their permit cancelled.

Com. Maranga: Thank you Mr. Maina. I now want to ask you to sign up our official register and hand over the memorandum. Thank you very much.

Yule anayefuata sasa ni Raphael Okoth. It is your time now Sir, I can see a memorandum? Summarize the main points in five minutes. Thank you. Start with your name please.

Raphael Okoth: My name is Raphael Okoth. I am a businessman in Mbotela and I am also aspiring to be a civic candidate.

I think we will need a preamble and this preamble, I think I will read it the way I have written it then I will summarize the rest. We the citizens of the Republic of Kenya, regardless of our various ethnicities, religious beliefs, social and racial standing, do hereby enact this constitution with firm believe that all Kenyan citizens are born equal and free under the rule of law, having the ability to determine the destiny of this nation.

As Kenyans, we shall endeavour at all times to use our positive cumulative experiences, skills and talents, to enhance high Godly living standards, and create a solid democratic country in which every citizen's basic human rights shall be paramount, and that every Kenyan shall have an opportunity to develop and apply his potentiality for the benefit of this country.

As we embrace a Godly spirit of unity, working together for the benefit of each other, and in all thought of fullness and love, which was so wisely initiated by the founding father of this nation Mzee Jomo Kenyatta, and it being deeply rooted in our African culture from its inception, our various communities will join hands together and work towards creating an effective social-political and economic structures in Kenya. Ultimately, our constitution will guarantee that every Kenyan shall enjoy a peaceful life, in which his basic needs are met, his skills, and talents and efforts are recognized and rewarded. Basically, that is what I would like to see in the Preamble.

Principles of State: if we seriously look at two aspects of our culture (the Harambee Spirit and the Nyayo Spirit) pulling together as a Nation, putting our resources together and being mindful of other Kenyan's welfare, I think if we enshrine those in our Constitution and live by them, I think we should have a good country. Of course there are other aspects like the citizens participating in the democratic process in Kenya, respect of individual property and state property, protection of our natural resources, promotion of integrity, honesty, truth, justice, righteousness, freedom of association, freedom of expression, the rule of law, etc. I also believe that a constitution should not, once it has been ratified, no amendment should be made to it except through the will of the people, through consultation of the citizens.

As for citizenship, we Kenyans have 42 ethnic groups, so anybody from those – any child born out of those, automatically becomes a Kenyan. But, I also do recognize that we have Asians, we have Indians, Europeans who have lived in this country

for generations, those are Kenyan citizens and their offsprings ought to automatically become Kenyan citizens.

However, there are situations where we may want to become a Kenyan citizen. If somebody applies to become a Kenyan citizen, he should not be given automatically, or it should not be bought. I think that this person should be above 18 years of age. He should be able to say I want to live in Kenya. Under 18 years of age, this person is not able to make that kind of contribution. The person must have no known criminal or negative to the (inaudible) of Kenyan Political disruptive record. In other words, the person should be clean without any criminal background, or should be a person who will not destroy our basic democratic structures in this country. They must pass a test in Kiswahili -- not only speaking but reading and writing also -- if they want to be Kenyan.

He must also know the Kenyan history and our Government for him to be a Kenyan. He should be able to sing the national anthem and also recite the royalty pledge. He must be a responsible individual whose presence and abilities are seen to be a positive contribution to the country of Kenya. In other words, we don't want just to make any Tom Dick and Harry a Kenyan citizen. He must be a person who will also help us in the development of this country.

A desire to be a citizen should be followed by a proper application procedure. Right now I don't think that is the case, and we need to scrutinize these people who are coming into Kenya and want to be citizens. So, I firmly believe that we should not allow dual citizenship. You are either a Kenyan or not a Kenyan.

Obligations of a citizen: I think currently, our citizens do not even know what their obligations are. Basically, I would say that one of the obligations of a Kenyan: he should use his knowledge, skills and talent, in order to help this country build a stable social-political and a well sound economy. When (did not complete).

Com. Maranga: Wind up.

Raphael Okoth: Structure of Government: I do not see the need of these many posts that are being created at the moment. I believe that if we have a President, a Vice-President, Ministers, Permanent Secretaries and the Civil Service in that order, that is enough. Kenya is still a poor country, we cannot afford a bloated structure. The duties of the President (and this one I hope you don't ask me to wind up because I need to read this, it is important to me):-

The President should be the symbol of the state of Kenya, and must be a person of the highest moral integrity -- as the Head of the State. He will perform ceremonial duties such as hosting/visiting Heads of State, opening and closing the Parliament, be the Commander-in-Chief of the Military Forces, sign laws enacted, swear in the Cabinet, swear in the Chief Justice, uphold the Constitution, be the Head of Government, appoint Ministers, appoint Permanent Secretaries, appoint Heads of Parastatals, and all these with the help of the Judicial Commission and Parliament. He manages the economy, ensures good governance,

who strengthens the rule of law, respect of the citizens rights, encourages participatory democracy through civic empowerment of citizens, as well as being transparent and accountable, and all that goes in Government. He ensure the professional establishment of a professional Civil Service, and safeguards our national interest.

Now, if the President goes against that, then there is a problem.

Com. Maranga: Mr. Okoth, you have written the memoranda, you are reading it is to us, we had said you highlight for us the main points. I will beg you to give your last sentence. Thank you.

Raphael Okoth: If the President goes against the destruction over democracy and good governance, and ignores our freedom(s), interferes with the Parliament and Judiciary, and ignores the citizens of this Country, then I think that President should be thrown out.

Com. Maranga: Thank you very much. Hand over your memorandum. Thank you for your views. I wanted to ask you one question – on citizenship and I think it is important I ask you now. Now, you said you want to know anybody who is coming to Kenya, that they must have no criminal record. Assuming somebody has come from Bangladesh, the very remote area of Bangladesh, how do you know that the person was not a criminal? You are a Kenyan, somebody has applied, he has come, he is over 18, how do you get the record, the past history of that person, maybe that person has come from South America or the Indian sub-continent or the Russia, how do you get that record? Maybe you can tell me how you are going to do that.

The second question is about dual citizenship. You are saying we don't need it. But I am asking you, you are the people who are sending so many kids out of this country to America and sometimes America can accept them as citizens. You know very well that if you are a citizen of America, there are benefits you get which you otherwise cannot get -- not only America, maybe many other countries. You remember we had somebody who was running 1500 metres, who decided to become another citizen of another country, he is now is it in Netherlands? We said we are going to strip you of that citizenship. But when he comes to Kenya, he comes as a Kenyan, after all he comes from a very rural home in Nandi Hills, so what do you do with that? Thank you.

Raphael Okoth: I think we have structures in place. We have the Intelligence in this Country, we have Immigration officials. It is their duty to scrutinize whoever comes in this Country and based on their findings, we provide/we may consider this person to be a Kenya citizen or give him citizenship.

Now, the second question about Kenyans going abroad and changing their citizenship. Well, those are done for economic reasons, and I believe that once they renounce the Kenyan citizenship, they are no longer Kenyans and they should be treated

as foreigners . If they come to visit, they apply like any other foreigner would apply to enter this country.

Com. Maranga: Thank you Okoth. You can now sign up. The next person is Moses Alwala. Moses is not there, okay the next person is Peter Kyengo. You are still preparing your notes. Okay maybe Mheshimiwa I think this is the time I will give you a chance to address us. Thank you.

Hon. Paul Mugeke: Thank you very much. My name is Paul Mugeke.

I believe you have heard a lot from us in Makadara. It is just about three months ago, when we met in Kaloleni, I think the session yesterday in Kaloleni area here. I will be very brief. I am just wishing, at the moment we all know we have ((inaudible)). Even in 1992, we still had ((inaudible)). This system should not be allowed. We should have a different ((inaudible)). I am just saying this because even this year, if we are going to have the elections, we can have about five or even say more than five candidates. And at the end of it, we end up having a minority President. We should have the provision for a run-off where if we do not have a clear winner with more that 60%, we organize for a run-off.

The other issue which I will just repeat because I know ((inaudible)) is the power of the President to appoint civil servants. At the moment, we have got very many civil servants with bad records. Some of them are in court, some of them should not have been appointed in the first place because of their records. So, we should have a process where Parliament has the power to vet all appointments by the President, in Parastatals and even in Government, starting with the Ministers upto the level of Deputy Secretary. If we do this now, will avoid having criminals in our system and even this should vary ((inaudible)).

The other small issue which I am going to repeat relates to the Employment Act. At the moment, if a company is ((inaudible)) under, and you appoint receiver-managers, when they start say paying their debts, they start like paying secured debts. Maybe ((inaudible)) terminal benefits for the employees, some who may have been working with this company for more that thirty years. So we should have the Act revised, so that they start by paying the terminal benefits of the employees who filled those factories. Industrial Area – in Makadara and is a big problem for us, because if a company is under receivership, its managers are appointed, and when they are winding up the company, they start by paying secured debts. What Asians are doing currently, when they want say to wind up, they go to the bank, borrow heavily and refuse to pay, and the company is put under receivership. At the end of the day, all terminal benefits of the people who have worked for that company are lost. So we should revise that section of the law to ensure people who have worked so hard, at the end of the day, they are paid their termina benefits. Thank you very much.

Com. Maranga: Just a minute, there a question from Commissioner.

Com. Abida: It is really not a question. I just want to be clear on what you are saying, because you are talking about a

minority President. Are you referring to his tribe or what are you referring to, because we need to be clear -- you are saying the President is the minority President. I would like to understand more what you mean by that.

Hon. Mugeke: I think it is important that I expound on this. When you talk of minority President, we do not imply that the President has been elected say by the Kikuyu, by the Kalenjins, by the Luyhas. We are implying that the people who elect the President, if you work out, he was elected by what percentage, you will find out that he was elected by maybe say 25-30% of all Kenyans who participated in the elections (the votes). Thank you very much.

Com. Abida: You are talking about the votes?

Com. Maranga: Thank you Mheshimiwa, that is Mheshimiwa Paul Mugeke. Thank you for those views. The next person is Teresia Gitonga. Teresia Gitonga wakati ni wako.

Teresia Gitonga: Mimi ni Teresia Gitonga. Ingawa nilitoa maoni jana, kuna kitu nilisahau. Nilisahau hii nomination, wakati tunachagua watu, tunafanya nomination kabla ya uchaguzi mkuu. Maoni yangu ni kwamba nomination ikifanywa, ifanywe siku moja ya viama vyote. Kama vile uchaguzi ni siku moja, nomination pia iwe siku moja, ndio tusiwe na corruption ya watu wa vyama vingine kwenda kuvamia viama vingine na kunominate mtu ambaye si mzuri.

Tena, kitu kingine ni wakati wa clearance. Watu wapate clearance kutoka ward zao zile wametoka, maana huko ndio grassroot mahali wanajulikana na watu, ndio tuepukane na mambo kwa sababu wakipata clearance kutoka juu, wanaclear watu ambao hawafai, na ndio maana tunaona watu wengi wamechaguliwa, lakini si watu wa kweli. Watu wa kwao walikuwa wamejua, lakini hawakupata nafasi ya kupeana clearance, kwa sababu mtu anajulikana na watu wakubwa.

Vile vile maoni yangu kwa hizi Matatu, ama gari zinabeba watu. Zimewekwa music ambayo inaharibu watu ambao hawependi hii music. Kwa hivyo ningepomba hizi zikomeshwe, na kuwe na sheria ambayo itazuia hivo vitu kuwekwa kwa magari ya wananchi kusafiria.

Tena kuna goodwill. Watu wakikomboa manyumba wanaweka goodwill. Hiyo Goodwill, hakuna kitu kiko ndani ya hiyo nyumba, na tena pesa hizo sio zile zitarudishwa. Kwa hivyo hii goodwill ni kama unyanganyi tu, kwa sababu ukitaka ofisi ama nyumba mahali, unaitishwa goodwill na pia utaweka deposit na kulipa. Kwa hivyo sasa watoto wetu ambao wanaingia mjini sasa hawawezi kukaa karibu na mji kwa sababu hawawezi kulipa malipo ambayo inatakikana. Ni hayo tu.

Com. Maranga: Okay asante, tupatie hiyo memorandum. Kwenda weka sahihi uko, umesahau jana uliweka sahihi. Kuna mwingine ambaye ninamwita Amina Mutooni. Amina Mutooni na wewe uliongea jana. Ulisahau nini? Okay sawa, wewe uliongea, sasa hutaki kuongea. Asante. Yule anayefuata ni Lucy Wanjiru. Lucy! Wapi Lucy? Pastor Moses is the one

next. Sasa kuja hapa utoe maoni yako. Pastor Moses Ndingu.

Pastor Moses Ndingu Ndaburi: Naitwa Pastor Moses Ndingu Ndaburi from Urban Research & Development Centre for Africa. URDCA wishes to give views on the following areas to reflected in the Constitution:-

- a) Education: URDCA proposes that the Government should provide compulsory free education upto standard eight level, for all children.
- b) Health: there should be guaranteed-free medical services for all Kenyans. Hospitals should be equipped with adequate facilities, medicine and proper security, and staff for evident delivery of services to the Kenyans. This should be combined with proper and strict administration and (inaudible) for all health policies.
- c) The Government should plough back current (inaudible) value (inaudible) of all regions (inaudible) which the Government could use and develop other further organizatioins.
- d) The right of disabled in Kenya should be recognized. The Constitution should respect their needs and they should be provided for by the Government.

Com. Maranga: Asante Pastor. I now ask you to sign our official register and ask you to hand over your memorandum. There is that gentleman who was Kyengo, now it is your turn. Peter Kyengo. Anza na majina yako.

Peter Kyengo: My name is Peter Kyengo. Mine are only a few words. The Presidential term should not exceed five years. Let us give those who attain eighteen years enough time this year so that they can vote in the next general elections.

It has come to my knowledge that there are those who did not have time to get ID cards or replace the lost ones. Security should be beefed during the next general elections. Free education and free medicine should be given to every Kenyan because there are those who can't raise money for whatever is required.

Com. Maranga: Unasema ati term ya President iwe wakati moja.

Peter Kyengo: Miaka tano tu!

Com. Maranga: Miaka tano tu. Hata akiwa mzuri namna gani?

Peter Kyengo: Ikuwe tu miaka tano.

Com. Maranga: Na hutaki arudi?

Peter Kyengo: Unajua, tunataka kupatia kila Mkenya nafasi aweze kuwa.....

Com. Maranga: Okay, asante. Thank you very much. Hiyo ni sawa, tumefurahi. Hii free education, umeseme ati iwe kutoka standard one to eight.

Peter Kyengo: Primary, kwa sababu unajua wakati huu tuko na watu wale wenya hata hawana. Ukiwaambia watoe kitu, tutakuwa na watu wengi Kenya wale hawajasoma. Hivyo tutarudi nyuma.

Com. Maranga: Okay, thank you very much. Asante sana. Who is next, I think I have not got the list of the other side. Okay, sawa. Mwangi ulisema unaongea? Wapi Jane? Jane Mwangi! Sawa tu, wachana na yeye. Then, the next person is huyu anaitwa Elijah Omondi. Wapi Elijah? Okay, it is your turn.

Elijah Omondi: Asante sana ma-commissioner, viongozi wote walio hapa, kwa jina vile mumesikia ninaitwa Elijah Omondi kutoka National Youth Movement.

Kwanza kabisa, ningependa kuzungumzia kwa upande wa Urais. Tungetaka commissioners wakiandika Katiba, Rais lazima awe ni mtu ameenda shule kwa kiwango cha Form IV. Awe ni mtu alipita, na awe ni mtu ameparticipate katika ujenzi wa taifa kwa miaka zaidi ya kumi, na anasitahili kuwa mbunge. Tungependa kuchagua Rais awe na 51% ya kura ambazo zimepigwa.

Ningependa tena nguvu zake za kuteua Mawaziri, Heads of Parastatals, PCs, Ambassadors na wengineo, hizo nguve zitolewe kutoka kwa ofisi yake.

Kwa upande wa education: ningependelea Katiba ikiandikwa, muweke nafasi ya watoto wa primary wasome miaka nane bure; na kwa upande wa secondary school, watilie mkazo sana wale wasiochiweza, ama wale wametoka kwa familia maskini pia serikali iangalie vile wanaweza kupewa full bursary -- bila kuteua kabila, kwa sababu hapa Kenya siku hizi ni tajiri ndio anapewa bursary.

Tukiendelea tena kwa upande wa intake ya education yaani ya university, serikali ama Katiba ikiandikwa upya, mnafaa mutilie mkazo sana mahali wananchi wanatoka. Kwa sababu kuna Provinces zingine wako na facilities za kutosha, mnaweza kuweka labda ni 'B', na Provinces zingine, hawana facilities na hawana mambo mengi ya kutosha, mnaweza kuweka labda pengine 'C'.

Upande wa afya: tungependa serikali itilie maanani sana ya kwamba yule mwananchi asiyejiweza, apate matibabu ya bure kwa

hospitali za Serikali. Daktari yeyote yule anafanya katika hospitali ya serikali, asipewe cheti ya kufanya kazi yake binafsi huko nje.

Ningependelea ma-dispensary, district hospitals, divisional hospitals, wananchi ambao wanaishi hapo wahusishwe ku-manage hospital kama hizi. Wananchi nasema mtu kama councillor, watu wa kanisa, a Residents Association wahusishwe to run hospitali kama hizo.

Nikimalizia, mimi na wananchi kwa jumla sana sana kutoka National Youth Movement, tungependa uchaguzi uwe baada ya miaka tano vile imekuwa ikipangwa kwa hizo miaka zote bila kujali Katiba mpya, ama Katiba kitambo, kwa sababu pia Katiba kitambo tumefanya nayo uchaguzi mara nane. Kwa hivyo mambo ya extension ya Bunge, sisi watu wa National Youth Movement tumekataa kata kata. Kwa sababu wakipewa fursa, wabunge, ya kuongeza life ya Bunge, siku za usoni pengine watataka pengine kujiongeza miaka kumi na tano. Kwa hivyo, nikimalizia naomba tu hilo ndio mhusishe kwa hiyo Katiba ambayo

Com. Maranga: Asante. Ngojea kuna maswali. Com. Abida.

Com. Abida: Ningetaka unieleze, maoni yako ni kwamba tufanye elections with or without a new Constitution? Kuna mambo mengine ambayo yanasemekana hayako katika Constitution hii tunayo wakati huu, kwa mfano transitional arrangement, vipi mamlaka yatatoka kwa Raisi aliyeko kwa wakati huu kwenda kwa Raisi mpya, kwa mfano? Pia, kuna watu wengi ambao wanasema kwamba kura hazijakuwa za halali na wangetaka marekebisho mengi zaidi ili kuwezesha kuwe na kura za halali nchini Kenya. Ungependekeza kufanywe nini hasa ikiwa hatuubiri Katiba mpya?

Elijah Omondi: Kitu ningependelea kusema kulingana na hilo swali umeuliza, na kulingana na mazungumzo niliyoyazungumza, sisi Wakenya tuko tayari kabisa kwenda kwa uchaguzi mwaka huu, na Katiba ya kitambo ama Katiba mpya. Kama Katiba haitaweza kurekebisha yote, tungependa mabadiliko kadha wa kadha. Kwa sababu vile nimeonelea kwa upande wa KANU na kwa upande wa Opposition, wanataka kuhuzisha, wameleta mambo ya ukabila sana katika hii transaction inafanyika. Kwa sababu unapata kwa upande KANU wanataka kuhusizha M'kikuyu pengine apewe cheo fulani, Mjaluuo apewe cheo fulani, nimeonelea Opposition wana-prefer kuwa na Prime Minister ndio waweze kuaccommodate watu tofauti tofauti. Kama kuna marekebisho kidogo yanaweza kufanywa kulingana na vile Wa'Kenya wanataka, pia sisi watu wa National Youth Movement, hatutakataa, lakini uchaguzi ufanywe mwaka huu.

Com. Maranga: Thank you very much. You now sign our official register please that you appeared before the Commission. The next person ambaye ninaita ni Joseph Nyandika. Wakati ni wako utoe maoni, uanze na jina lako kamili halafu utaanza kutoa maoni.

Joseph Nyandika: Asante sana Bwana Commissioner. Majina yangu ni Joseph Nyandika. Maoni yangu nitazungumzia kwanza kuhusu ukosefu wa kazi katika hii nchi. Ningetaka Katiba ya sasa irekebishwe in such a way that ardhi yoyote (yaani land utilization) isikae bila kutumika ki sawa sawa. Ninamaanisha hivi, upande kama wa North Eastern, sehemu kama za Ukambani ambapo kuna ukame, Katiba irekebishwe in such a way kwamba Serikali itafute vitu kama loan, ama pesa, zile wananchi wanatoa kama kodi ili waweze kufanya irrigation. Hii ardhi, wale ambao hawana kazi, kuna watu ambao wamesomea mambo kama ya agriculture, waweze kupelekwa huko. Kuna wale ambao wanaweza kufanya kazi ya mikono hata kama mtu amesoma, kazi ni kazi. Waweze kulima chakula ambapo kuna nchi zingine ambazo zinakihitaji. Zinaweza kuwa zikinunua na zikifanya hivyo, Kenya at least tutakuwa financial stable.

Kuna wale wananchi ambao hawajiwezi, hawana kazi: ningetaka pesa kama hizo na zingine kama kodi inakusanya katika hii nchi, wananchi wa Kenya wale hawana kazi, wafikiriwe kupata kitu kama subsistence allowance kila mwezi. Hiyo itategemea utajiri wa nchi, siwezi kusema ni kiwango gani. Ili kila M'Kenya awe anapata mapato. Kwa hivyo nimezungumzia upande wa ukosefu wa kazi na land utilization. I think you now you will define it better, you are experts on the field.

Upande wa administration kama chiefs na assistant chiefs: ningetaka hawa watu mahali wameandikiwa kazi tuseme kama hapa mjini, utaratibu unafuatwa, kwa sababu hao watu hawaendi transfer. Hata uko reserve, hawa watu wawe wakienda transfers. Kwa sababu mfanya kazi yeyote wa serikali akiwa mahali kwa muda mrefu, anafanya hapo kama boma yake, haelewi kinachotendeka. Anaanza fitina na watu na hali ya maendeleo katika sehemu hiyo inakuwa ngumu sana. Kwa sababu akikuonea kijicho hata kama wewe ni mtu wa Maendeleo, hakuna vile utaendelea.

Nikija kwa upande wa hospitali: nafikiria nitaunga mkono mambo yale rafiki yangu amesema, lakini hiyo inategemea utajiri wa Nchi. Kenya ama nikiangalia vizuri katika Africa, ukweli ni kwamba corruption imekuwa cancer ambayo haikingiki. Hii mimi nikiangalia, ninaona ni viongozi wetu ndio wamekubali hayo. Wamekubali namna gani? Tuseme nizungumzie serikali kama ya Kenya ambayo iko sasa. Kuna pesa nyingi sana - kwa sababu fedha ya Serikali inatokana na kodi ile inatozwa Wananchi. Kenya ni nchi moja inatoza kodi kubwa sana kwa wananchi. Kwanza, hii kodi is not collected properly. Wale matajiri ambaye na ma'PS (Permanent Secretaries), the responsible people in this country, ambayo ni ma'Ministers, ambayo ni wabunge tuko nao -- biashara wako nayo, nyingi zao hazitolewi kodi, ama kama zinatolewa, sio kwa usawa. Hii kodi pia ikitolewa, kuna vitu vingine katika maofisi ya serikali mbali mbali. Unaona mtu kama PS, mshahara yake unakuta iko less than Kshs.100,000/-. Sidhani kama ni haki mtu kama huyo kupewa nyumba kama Lavington, na hizi nyumba pesa haziwezi kutosheleza kulipa yaani kununua hata curtains (to furnish that house). Sasa je najiuliza, serikali yetu ya Kenya, inajua huyu mtu anapata pesa wapi?

Ningetaka Katiba ibadilishwe, Katiba ipendekeze kwa serikali ya kwamba mfanya kazi alipwe mshahara kulingana na kazi ile anayofanya. Hiyo ni kumaanisha kwamba kweli PS ni mtu anafaa kupata kulingana na mahitaji ya sasa --mshahara wake ingekuwa one million plus, kuliko kudanganyana. Pesa nyingi anazopata za ma allowance ya ukora ukora uko ndani,

zinamfanya yeye mwenyewe anaweza kuendesha mercedes benz, anaweza kuendesha pajero, at the same time, watoto wake wanaweza kuendesha peugeot, wanaweza kuendesha nini. Kwa hivyo ni vizuri hizi pesa zikitolewa za kodi, tunapendekesha mtu apewe mshahara unaotosha mahitaji yake, na corruption iwachwe kabisa. Anayepatikana na corruption, hata ni vizuri apigwe risasi, kulingana na maoni yangu.

Naona Commissioner ananipa..... ningekuwa na mengi ya kuzungumza lakini nikipewa warning kwa sababu mnaenda na time, nafikiria siwezi kuendelea sana lakini ninapendekesha kwamba mapendekezo yenu yawe: ni mtu apewe mshahara kulingana na kazi yake. Mtu kama Minister, ni vizuri Wabunge wamepewa mshahara mzuri, naona ni vizuri sasa, sio mbaya sana kwa sababu Mbunge ni mtu mkubwa ambaye ana-represent watu. Lakini sio ile mambo yakudanganyana ati pesa inapeanwa kidogo na zile zinaibiwa ndio nyingi mtu anaiba kila siku. Ni afadhali mtu apewe mshahara wa haki. Corruption, mimi naona sheria yake iwekwe ngumu; kwamba mtu akipatikana na corruption, na ikitibitishwa, sio mtu hata wa kufungwa ni mtu wa kunyongwa, ili watu waweze kuogopa na nchi iweze kuwa stable financially. I am sure Kenya has the money and it is capable of catering for its citizens. Thank you very much.

Com. Maranga: Asante Bwana Nyandika. Nakuomba uweke sahihi kumaanisha kwamba ulifika mbele ya Tume ya Kurekebisha Katiba. Mwingine sasa ni Wairimu Mungai.

Wairimu Mungai: Hamjambo! Mimi naitwa Wairimu Mungai. Nitaongea kama Wairimu Mungai sio kikundi. Niko tu na points kadhaa ningetaka kuongea leo.

Ya kwanza ile inaniudhi sana ni hii ya retrenchment. Inaonekana hii Serikali yetu haina haja ya citizens. Haina concern na kwa hivo hata pahali watu hawastahili ku-retrenchiwa, tunaona makampuni yanaretrench. Kile kinanishangaza kabisa ni mahospitali. Ma-hospitali yana- retrench. Sasa ninashindwa, na vile watu wamekuwa wagonjwa, inakuwa aje ati nurses wanakuwa retrenched? Tuseme hata kama wewe hauna haja na watoto wako kama wewe ni mzazi, hata umwite mtu mwingine ati aangalie watoto wako, kweli atawangalia vile ungewaangalia? Kwa hivyo makampuni yanakuja hapa, they are having a field day, kutendea wafanyi kazi vile wanataka. Kwa hivyo lazima kuwe na Sheria ya ku-protect wafanyi kazi kutoka minimum wage. Hii minimum wage watu wanapewa, hata kusema kweli, nafikiri ni madharau sana. Watu wengi wameajiriwa na Wahindi na hata zile pesa wanapatiwa, ndio inazidisha mushrooming of slums. Sana sana retrenchment upande wa akina mama, tunaambiwa ati ni fair na hakuna discrimination, lakini mara nyingi tushaona mama, saa zingine ako na watoto, labda mtu anaomba ruhusa kwenda kupeleka mtoto kwa clinic ama ni mja mzito, anaenda clinic yeye binafsi, ukiangalia record anaambiwa ati wewe ulikuwa na absenteeism kwa hivo wewe utaretrenchiwa. Sasa unaona. Sisi wamama tunafanya kazi ya kujenga taifa, kuzaa watoto na kuwalea, kisha we suffer kwa sababu ya ile kazi tunafanya.

Maternity leave: ningependekesha iwe kwa sheria miezi kama sita hivi. Kwa sababu wajua mtoto kama humlei vizuri (kuna) wale watu hawafanyi kazi, na cases ya single parents/mothers), sasa kama mama hayuko kulea mtoto, na huyu mtoto ndiye

atakuwa leader wa kesho, kama apatiwe foundation mzuri atakuwa aje leader mzuri? Kwa hivyo lazima tuangalie, tuwe na vision, na tuangalie wakati wa future ndio tutengenezee sheria leo ambazo zitatusaidia in future.

Halafu nitatajia kidogo, juu ya Executive: kusema kweli tumeongea mengi na lakini tukiona shida nyingi, sheria nyingi za nchi hii, ni kwa sababu hii balance of powers haiko sawa. Inaonekana, according to the Constitution, President wa hii nchi yuko na powers nyingi sana. Hizo ukiangalia ndizo zinafanya hii Kenya iwe na shida nyingi, ukiangalia kila arm (economy, etc), kama huyu mwenzangu amesema, mtu anajiriwa kazi, ama anappointiwa mahali but it is not on merit. Kwa hivyo hata kama ni economy, hata kama ni nini, kila kitu hakifanyiki kwa sababu hakuna transparency. Kwa hivyo hizi executive powers, ningependekeza ziwe at least balanced kidogo.

Halafu sharing of resources: Watu wengi wamekuwa discriminated. Kwa hivyo lazima sheria iandikwe ati resources ziwe equally distributed to each citizen. Kwa sababu kila mtu ni citizen wa hii nchi na hata wamama, hata viwete, hata pastoralist, kila mtu awe ni M'Kenya, ajisikie ati ni M'Kenya.

Na dealing on that, there is the issue of land. Again, land hiyo ni kitu very expositive in Kenya na ningependekeza ati M'Kenya kwa sababu sisi tunafanya civic education na tunaambiwa Kenyans ni wa'Kenya. We are talking about nationhood na tunawaambia wewe ni M'Kenya. Kwa hivyo anybody should own land anywhere in Kenya and that is very important sababu watu tuseme sisi ni wamama, sisi tunaolewa, naweza kuolewa anywhere in the Country. Sasa nitakuwa M'Kenya gani kama nikienda mahali fulani na nitaambiwa nirudi kwetu. Kwetu ni wapi na nishaolewa? Kuna vitu kama hizo.

Nikimalizia, ningetaka kuangalia juu ya basic rights. Hizo basic rights, watu wengi hawana. Nimesema mara nyingi na nitaongezea tu, tuseme kama health, wamama sana wanaudhika because of their reproductive role. Wanaitaji ma hospitali na ma health centres hata zaidi ya wababa kwa sababu akiwa akiwa mjamzito, akiwa kama mtoto ni mgonjwa, lazima tuwe na health centres nearby. Wamama wanataapika sana kwa sababu ya lack of health facilities.

Education. Hii Nchi aiwezi kuendelea bila masomo. Na kama hata wamama hawasomi, na sisi tuko half of the population, inaoneza ati half of the population will be back-up na hatuwezi kuendelea. Kwa hivyo, ningependekeza kuwe na Sheria ya kusema, hata adult education ianzishwe tena. Wale hawajasoma maana yake ni wamama wengi, waanze kusoma. Na isiitwe ya gumbaru sababu that is demeaning. Iitwe masomo ya Maendeleo. Halafu kila mtu ndio ajue kuandika na kusoma na kuwe na materials nyingi sana hata kama ni za Kiswahili za lugha kadhaa kadhaa, ziwe na freedom of reading ndio watu wawe na competition, hata media hiyo unasikia ati kukatisha rights za media, hiyo iondolewe. Tuweke freedom of media ndio watu wengi waweze kuanza publications, ndio kuwe na materials za kusoma. Ukienda rural areas, kuona karatasi ya kusoma inakuwa ngumu sana, kwanza ukienda na Nation hivi, watu wataikimbilia wale wanaweza kusoma hawa wa youth lakini bila kusoma, communication hatuwezi kuendelea. Nafikiri nitamalizia tu hapo. Asanteni.

Com. Maranga: Asante mama na uweke sahihi kitabu chetu rasmi. Thank you for your views. Anayefuata sasa anaitwa, Kambara Mbara. Okay, you start with your names.

Kennedy Mbara: My names are Kennedy Mbara, Legal Affairs Co-ordinator, National Youth Movement and a lawyer by orientation.

I am going to submit my views verbally and preferably in English. To start with, I would wish that the Constitution that we are going to make, gets a comprehensive preamble that binds the Government of the day to the people which it governs and therefore, the word 'people' and their commitment to that particular Constitution must clearly come out. I am of the opinion that it is even wrong that Kenyans currently accept the Constitution that is in place because there is no preamble that binds them to that constitution, so that will be very necessary.

Second thing, the Bill of Rights, Chapter 5 of the Constitution. It is evident, that though our Constitution guarantees us to very many fundamental rights and freedom, these rights and freedom have been abused by individuals and the Government of the day. I am taking for example Section 75 of the Constitution, that guarantees the citizens the right to the ownership of property and therefore, I am by extension meaning the right to the protection of livelihood has been greatly abused. We are seen shops and kiosks being demolished, that is contrary to the spirit of that Constitution. I am being given grounds that a kiosk is a kiosk because it is on a road reserve, otherwise, it would be a shop or a wholesale. So, the demolition of such a kiosk in itself is a violation of Constitutional rights. The Constitution should not be amorphous as to leave room for the violation of such right.

The freedom of association, assembly, movement, conscience, and many others that guarantee political freedom in this country, should be strengthened. I am of the opinion, therefore, that the Public Security Act and Public Order Act as it is today, should (inaudible) the spirit of the Constitution. Therefore, the Supremacy of the Constitution has not prevailed on those two Acts. Therefore, there is need to strengthen those particular sections.

The other question is about Presidential powers, in regard to appointment of key civil servants and public officers. We are of the opinion that if the rule of law and separation of powers has to be realized in Kenya, then, it is unavoidable to isolate the institution of Presidency from these other organs. It is my view therefore that an appointing council, be constitutionally executed and installed to look into issues of appointment of chief civil servants like: Permanent Secretaries, Police Commissioner, Chief of the General Staff and many others, so as to avoid cases of sychophancy and political loyalty.

The other one is about employment. In many countries, it is the duty of the Government of the day, to make sure that those who are professionally qualified as per its educational standards, are guaranteed livelihood through employment. In circumstances where they have not done so, and in Botswana for example, the citizens have been guaranteed an "unemployed

people's benefits". If the Government of Kenya that we have currently, and the one that we are likely to have in the future, are concerned that they are Government of the people, then, it is very important that they bind themselves to the people and guarantee qualified Kenyans (professionals) jobs, which jobs if they cannot offer, then, they should be in a position to pay Kenyans who are unemployed an "unemployed people's benefits".

The other one is about Section 59 of the Constitution. Life of Parliament, its prorogation, dissolution, etc. We are currently talking about the extension of the life of Parliament, to give the Constitution Review Commission of Kenya time to complete its work. It is my view that given the fact that the current Constitution is still in force, that in itself is a Constitution. We are only given one circumstance where Parliament can extend its term, that is when Kenya is at war. I am convinced that though we have minor wars whether ethnic, clashes, etc, that in itself does not amount or guarantee the nation to extend the life of its Parliament. I look at it as a ploy by Parliamentarians who know that under all circumstances, they are unlikely to capture back their seats if elections were called today, to extend the time and continue earning the huge salaries that they earn currently.

The other issue is about Transition, that is Section 7 and Section 8 of the Constitution. You realize that the Constitution currently tells us that upon a Presidential election, the Presidential Elect shall assume office as soon as they are declared elected. Section 8 of the same Constitution, tells us that, that particular Presidential Elect cannot assume office until he takes oath of office. To me, these two Sections are in contradiction. I am trying to look at a situation where a President has just been elected immediately, there is the incumbent that is going out, then a state of emergency arises before the one who has just been elected takes an oath and I see Kenya in a very volatile situation, because we are not actually sure of who is supposed to proclaim the state of emergency. That is the question that our Constitution should address.

Another thing, we need an independent Electoral Commission that will mid-wife the electoral process.

The other issue because of time, is that the Government should be constitutionally obliged to provide free basic education to the citizenry.

The other issue is that Constitutional education and any desirable legal education, should be enshrined in our curriculum -- right from the very basic institutions of learning, and not only at our public universities and other institutions that teach law.

The other thing that I would want to submit is that, the posts to the Provincial Administration that is: the Chief, Assistant Chief, PC and DC, should be made elective. Therefore, it is should be upto the people to decide whom they want to be their Provincial Administrator at whichever level.

Then, there should be respect to the Childrens' Right and Women's Rights. The Constitution should allow that aspect of positive discrimination. The disabled and the youth should also not be forgotten on the same note.

Com. Maranga: You wind up.

Kennedy Mbara: The other issue is about the independence of the judiciary. The Constitution should address that question because as of now, it is very armorphous, and I have the feeling that the Executive has got an influence on the same.

Third last, tax from the local level should be left to the local people to empower themselves at the level, because tax that goes to the Central Government has proved that it cannot at any level help the locals.

Second last, the people at the Constituency level or Ward level should be empowered through the Constitution, to summon their leaders and to review the progress of these leaders, and know whether they are worthy or not. If they are not, then they should be impeached, and a replacement as enshrined by the Constitution, be found.

Then, if one is qualified to elect, then he should be elected. I am therefore saying that the fact that one needs to be 21 years old to qualify to be elected as M.P. does not hold any water. If I can vote at the age of 18, it means I am qualified to determine who becomes my leader and therefore, I am also qualified to lead and therefore, I am also qualified to lead. So the voting age should be 18 and at the age of 18, one should be qualified to be elected as a Parliamentary candidate among many other qualifications. Thank you, those are my views.

Com. Maranga: There are questions. Hold on! Hold on!

Interjection (Question): Have you told us you are a lawyer?

Kennedy Mbara: By orientation.

Interjector: Orientation. Whatever that means. You have talked about independence of Judiciary. What would you like to see that will make the Judiciary independent? Could you elaborate on that!

Kennedy Mbara: Currently, you know very well that the appellant Judges and the Judges of the High Court are appointed by the President or at the recommendation of the Judicial Service Commission. That particular recommendation is not guaranteed that it will be heeded to by the President. So, I talked of an appointing council, that in this case if legally relevant, should exclusively preside over the appointment of the judges, and the question of the President getting involved should actually be done away with.

Com. Maranga: Thank you Kambara Mbara. Thank you very much. You sign our official register and thank you for

your presentation. Please sign. The next person now is Veronica Wangui. Okay, wakati ni wako. Uanze na majina yako.

Veronica Wangui: Jina langu ni Veronica Cicilia Wangui na nimetoka South 'B', Our Lady of Visitation Catholic Church.

Maoni yangu ya kwanza ni: Bunge la wakati huu lisiongezwe muda wa kuendelea kwa sababu enough is enough.

Jambo la pili (nitawaambia yangu kwa kifupi), watoto ni wetu wote na huo ndio uliokuwa mwenendo wa mwafrika, mtoto awe ni wangu au ni wako, sijui tofauti zake. Mtoto ni mtoto. Na kwa hivyo ni vizuri yeyote ambaye ameona mtoto karibu amulee vile anaweza kulea mtoto wake, ninasema hivi kwa sababu kwa nyakati hili, nimewalea watoto wasio wangu na nikawanyonyesha kwa sababu mama zao walikuwa wamekufa. Na hili ni jambo ambalo unifurahisha sana nikifikiria kwamba nilimpa mtoto uwezo wa kuwa na uhai. Nikiwa huko kwa watoto, kulea kwa watoto si rahisi na ninataka kumaanisha kwamba yale ambao watoto wanafundishwa siku hizi ni mambo ambayo ni mabaya zaidi.

Tumewahi kusikia mtu akiitwa hodhari wa kukimbia, hodhari wa kuruka, lakini sijawahi kusikia Nchi yeyote ambao ina hodhari wa usherati. Siku hizi tuna mafunzo ya vile watoto wangeweza kuwa mashujaa na wawe hodhari wa usherati. Hayo mnayaona kila siku, kwenye television zenu, condoms zikiwa advertised. Na hata wale wanafanya hivo, hawafikiri ni nani na nini wako kwa hiyo nyumba. Mimi mara nyingi nikiona hizo advertisement za Trust, nikiwa na mchukuu wangu, mimi uondoka sababu yeye anataka hiyo TV iwe on wakati huo, mimi nataka nizime na mara nyingi huwa na kidonda ambacho uniuma kwa roho nikiona mambo ya aina hiyo.

Ya tatu, vijiji vile mnaona hapa njini, wale wanaishi kwa vijiji awaishi sababu wanapenda na wengi wao ambao mnaona wanaishi kwa vijiji, wengi wao ni kukodesha wamekodesha. Kwa hivyo hizo nyumba sina Landlords. Na nikumaanisha maskini ataendelea kuwa maskini zaidi. Maoni yangu, hivyo vijiji vivunjavunje, na wale wanaishi huko wapewe uwezo na serikali, wapatiwe mikopo ya kujenga nyumba zao wenyewe, ziwe ni makao yao. Kuna wakati tulikuwa na mpango wa aina hiyo na unaonekana katika Otiende Estate – Lang'ata. Kwa hivyo, wale wanaishi kwa vijiji wakipewe hiyo nafasi, umaskini utapunguka katika Nchi hii.

Kuna jambo lingine la nne, ambalo ni la kuuzunisha. Hawkers wanakimbizwa kama wezi, hawaonewi huruma. Awe ni kiwete haonewi huruma. Awe ni mama mzito, awe ni mtu ambaye yuko na uhai wa kawaida, wote wanafanyiwa uhaini kama wezi. Hili ni jambo ambalo lingefaa likomeshwe na wale wote wasiojiweza, ikiwezekana wapewe nafasi zao na wapewe licences za kule wanaweza kufanyia biashara zao na tuwe tukiwatembela ili tuwajenge financial na tuwajenge kiroho na pia tuwape moyo wa kuwaonyesha mapenzi.

Jambo langu la tano, ingefaa kila mtu awe akifanya kazi moja. Kuna watu wengine ambao wanafanya kazi mbili, tatu, nne, tano: yeye ndiye informer, ndiye karani, mtu mwingine. Kama kazi hizo zinaweza kugawanywa, nafikiri nchi hii hatungeweza kuwa vile tulivyo. Pia tunaona watu wengine ambao wametolewa nje ya nchi hii kuja kufanya kazi Kenya, na zile kazi

wanafanya zinaweza kufanywa na watoto wetu.

Ningetoa pendekezo pia zile pesa zote zinakusanywa pahali popote, kwa maofisi, kwa councils, kwa serikali, kila pahali panahusiana na kurokota kwa pesa, kuwe na parameter ya kuona ni pesa ngapi zimekusanywa na ni pesa ngapi zimetumika siku hiyo, ili tujue pesa za councils and na za serikali hupotea kwa njia gani.

Jambo langu la saba, mambo ya goodwill inatakiwa kumalizika upesi manake huu ni wizi bila kutumia nguvu.

Jambo langu la nane: tuwe na mali na makao popote chini, bila kushugulika huyu alitoka upande gani, maana yake hata wale watu wengi wana mali na manyumba na mashamba hapa nchini, wengi wao si Wa'Kenya. Wanatoka inje na wamepewa nafasi ya kuwa na mali pahali popote. Kila mtu angekuwa na mali kila pahali na asibaguliwe hata kidogo.

Neno langu la tisa, Katiba ingetakiwa iandikwe na lugha zote, ifundishwe hata kwa mashule kuanzia primary, secondary, mpaka university irudiwe, ili kila mtu awe akielewa Katiba yake inasema nini na inamaanisha nini. Ni jambo gani linamhusu kama Mwananchi wa Kenya, kuitunza na kuikinga na pia kutoharibu. Asanteni sana.

Com. Maranga: Asante Mama Wangui. Tuwekee sahihi na utuwachie hiyo memorandum yako. Weka sahihi kitabu chetu rasmi. Hiyo ni mzuri, kwetu sisi, kama tume, hayo ni maoni muhimu. Asante. Adan Abdi! It is your turn.

Adan Abdi Hassan: Firstly, I greet you Review Committee and all people who have gathered in this hall. I have several things to say about the review of the Constitution but I will divide them into three major ones:- education, infrastructure and economical rectification (how to rectify the economy).

Firstly, when I am saying education, we know there are many students who dropped from school and currently, having nothing to do they are at their homes. We know the Government helps the Jua Kali Sector and it advocates for Jua Kali. Places that we know that are totally neglected are District Polytechnics, which sometimes back used to work well, and drop-outs used to learn something like masonry, carpentry, tailoring, etc. So, District Polytechnics should be looked at.

The other one is infrastructure, that is the construction of roads. I think giving out of tenders, currently, under the charge of the Ministry of Public Works -- giving out of tenders should be made a Bill of the Parliament. The Parliamentarians should think of it.

The other one is about housing. I think it is the duty or the role of the Government to give housing to its citizenry. This is also under the Ministry of Public Works, but it has totally neglected housing. That is why there is upcoming of slums and to reduce this, the Government should build houses for the citizenry and give affordable rent.

What I am saying about economic rectification. At one time, they were 27 Ministries but they reduced to 15 Ministries, but still the number of Ministers was maintained. So, the Ministers should be reduced to a reasonable number and more so, the Office of the President, I think there are grouped Ministers there. They should be two or if possible one. Also, in each Ministry, there are two Assistant Ministers. All these, should be reduced to save money for the Government. Still in the Office of the President, the Provincial Administration, as it has been said before me, the PCs, the DCs, all these posts should be electable. The creation of location, sub-location, day after day, this also should be reduced. The chiefs who are now more of policemen than elders should be made elders. When I am saying that, I mean, currently, the chiefs have guns, they have uniforms, of which they can sometimes use to intimidate the public. So, they should be more of elders than policemen. I am saying that the guns should be taken from them, their uniforms too, so that they can communicate to their people while they are elders. That's all.

Com. Maranga: Thank you Adan Abdi. Thank you for your views. Sign our official register. The next person is Simon Idi Ochola.

Simon Idi Ochola: My name is Simon Idi Ochola. I would like to suggest that in the new Constitution, the AG's office be split into two so that we have two Attorneys Generals. One will be the Government legal advisor, and the other one who will be in charge of prosecution. I am saying so because in the current set-up, the Attorney General handles tasks as the Government Legal Advisor and as the Prosecutor. This way, I feel that he may not discharge his duties impartially. I also suggest that both Attornies General have, so that they could be listening to complaints from members of the public.

Another issue concerns the tenure of the executives of vital institutions such as the N.S.S.F. I would like the tenure of the chief executive of the N.S.S.F. to be entrenched in the Constitution, so that he is not subjected to abuse or pressure from the Government as we are witnessing now. I would like a situation whereby, the chief executive can only be removed from office for misconduct via a commission that will investigate and recommend his dismissal.

Another issue concerns amendment. I would like the new Constitution to actually state and define clearly what a minor amendment is. I believe that the Constitution is the supreme law of the land and Parliament should not be given executive powers to amend it to any extent and then delude us into believing that it is a minor amendment. For example, our Constitution limits the term of the President to two five-year terms, but we witnessed a situation whereby an M.P. was suggesting that he will bring a Bill in Parliament to amend that clause so that the President can serve for a maximum of two terms. I believe that if that is done, it will infringe on the rights of the people, because the Constitution is made not only by Parliament but by the Society.

Another suggestion is that I also would like the Kenya Broadcasting Corporation to be made autonomous, so that people have

national coverage of all regions, all people of various political parties, people of various political persuasion, among others.

I am also suggesting that in the new Constitution, we have a President who will be ceremonial, who will have ceremonial powers and a Prime Minister who will be appointing Ministers. I am also suggesting that the President that we will have, should be the Chief Commander-of-the-Armed Forces, and declare war in consultation with the Prime Minister.

I also suggest that the outlawed Kenya Anti-Corruption Authority, be reconstituted and entrenched in the Constitution. I believe that the Kenya Anti-Corruption Authority that was declared illegal was not unconstitutional. It was not contradictory because as they said, they said that it tended to usurp the powers of the Attorney General when it comes to prosecution, but I don't believe that. The Kenya Anti-Corruption Authority had the blessings of the Attorney General.

Com. Maranga: Okay, wind up!

Simon Idi Ochola: I also like the role of MPs to be redefined. At least I would like a forum to be created whereby we can question our MPs, and censure them make suggestions. I would also like to add on what my colleague just said, I would suggest that an independent judiciary to be there, at least so that we don't just rely on a system whereby: the Judicial Service Commission recommends names and the President appoints them. We want that the Judicial Service Commission to be the one that not only recommends, but also appoints. It should be given the powers to sack, to discipline and conduct other matters.

The other point is that, I would like the Mayoral office to be elective (that is by the people). I would like Parliament to be given the powers to determine the number of ministries. The rights of people should be catered for. We are tired of witnessing situations whereby police are breaking up meetings after declaring them illegal, while actual fact, they are only being broken up because they are to be attended by people of a different political affiliation. That is that I have.

Com. Maranga: Thank you Simon Ochola. You can now sign up our official register and leave your memorandum behind. The next speaker is Peter Jomo. Peter Jomo, it is your turn sir.

Peter Njomo: Mimi jina langu ni Peter Njomo, ni mkaazi wa hapa Mbotela. Mimi jambo ningetaka ku-suggest ni kuhusu hivi vioski ambavyo tuko navyo huku. Uakuta ya kwamba ma-chiefs na city council: hatuelewi hasa nani yuko na lile jukumu la kukupa, hiyo kiosk na unakuta unapewa na City Council, Chief naye anakuja anasema unatakiwa kufanya hivi na vile. Kwa hivyo unakuta huyu mtu ambaye alikuwa anajaribu kujitafutia, yeye anakosa namna ya kujitafutia maanake ana harass-iwa.

Jambo hilo lengine ni wale ambao tunachagua kama MP na pia watu wa City Council. Unakuta ya kwamba ni vizuri kisheria waweze kujua ni kazi gani ambayo tunawachagua wakafanye. Wawe wanahitajika kisheria kuwa wanajua zile Sheria ama kazi ile wanatakikana kwenda kufanya.

Jambo hilo lengine ni la shule ama education. Shule unakuta ya kwamba watu wengi sana wanataka kuwa wanapeleka watoto wao shule, lakini hawana uwezo. Ningeuliza serikali iweze kuiweka kama Sheria, wenyewe ndio watakuwa wanafunza ama wanasaidia WanaKenya.

Makao: kama ukiangalia kwa cities nyingi, tuko na shanties nyingi, na ni kwa sababu wengi wetu hatuna uwezo. Hiyo pia ningeuliza iwekwe kikatiba Serikali iwe inajengea watu wao makao.

Jambo hilo lengine pia ni manyumba ambazo ziko kwa miji. Utakuta ya kwamba cities ama ile Council ambayo iko huko ina-charge pesa. Lakini hizi nyumba utakuta zilipakwa rangi miaka mingi iliyopita. Serikali inatakiwa iwe inachunguza mambo kama hayo ili wawe wanalinda wananchi wao. Sitaongea mengi, nitawachia hapo.

Com. Maranga: Asante Bwana Peter, sasa uweke sahihi kwenye kitabu chetu rasmi. Mwingine ni Anthony Kinyanjui.

Anthony Kinyanjui: Mimi naitwa Anthony Kinyanjui, kutoka Maringo.

Kile kitu ningetaka kuongea, ni kuhusu employment. You find that kama tunapelekwa shule na wazazi wetu, wanataka tufundishwe tupate elimu, mwishowe tuajiriwe kazi. Lakini hata kama umemaliza masomo, maybe umeenda kwa college - maybe hata kwa university, employers the first thing wanauliza, ni experience. Surely, mtu ako supposed kuwa na experience akiwa mwanafunzi. Juu, ukitoka shule, college, unataka kazi, halafu wanataka experience. Ni experience gani ilhali nilikuwa nikisoma. Nimekuwa masomoni miaka hiyo yangu yote, na hatukuwa tumepatiwa grace period ya kupata hiyo experience. Hata kama uko na hiyo experience, there are some places kama Industrial Area, ukienda huko, unatoa C.V. yako labda umefanya kazi miaka kumi. Lakini huyu Muhindi anakwambia, “hapana, hii pesa hatuwezi tukalipa wewe”, so what do you do? Anakuandika kama casual. Unakuwa casual miaka mbili miaka tatu na ulikuwa unataka hiyo experience. Kitu kingine, hii casual unafanya kama ni wiki mbili tatu, unaambiwa hapana, usikuje kazi kusudi wasikuandike permanent. Surely, hatuwezi tukaendelea namna hiyo. Kwa hivyo hilo ningependa, liangaliwe.

Kitu kingine ni haya mambo ya polisi. I will be happy if I get any leader who will actually tame the police. I have been a victim of police brutality. Hata kama ni kwa town ukipata tu kwa street, “we Kijana kuja hapa”. Wengine, “we Waria kuja hapa”. Mimi si Waria, mimi ni Mkikuyu. I don’t know whether they mistake me for Waria. Kuwa Waria sio mbaya, ni binadamu, na ni Wanakenya. So, unakuta usiku unatoka tu hata kama ni kazi, “unatoka wapi?” Natoka kazi. “Saa hii ni saa ngapi?” Unatoka wapi, nini surely, the country is not under curfew. So, we need that freedom of movement, hata kama mtu anatoka kukunywa pombe. Kukunywa sio mbaya, na kama ni mbaya wafunge hizo bar na wachukue hizo licence.

Kitu kingine, ni kuhusu mambo ya dini. Kenya has been a Christian State for the last hundred years. Ukiangalia, pia kuna wakora wengi Kenya. Wengi wao ni Wakristo,. Sina ubaya na dini yoyote ya ukristo, kuna hiyo freedom of worship: but I

feel there is nothing big to actually change and move to another religion that can actually work in Kenya. Since independence, Kenya is almost a Christian State. Tukiangalia kidogo, pengine tukijaribu dini nyingine, tuone iko namna gani. Hereby, I am not proposing, and even if I were to do so: as long as there is that freedom of worship, I can suggest the situation of not worshipping anything at all in a true democratic society. Hata tunasikia ooh kuna hii dini fulani. It should not be surprising nikisema ati there should be that freedom of not worshipping anything at all.

Kitu kingine ningetaka kuongea mwisho ni kuhusu hii civic education. Wakati mwingine unaweza kuwa na shida, uko kwa koti, you go to a lawyer, yet there are some legal terms you don't know. Sisi watu hatujasoma kabisa, quotation za sheria hatujui. Unasikia tu kesi yangu imeenda "latin" sijui ex-party, single-party. Surely, we need basic education. They make this language much simpler. To me, that is Latin and I am not a master in linguistics. So, they should prepare that language for a lay-man to understand case yake iko nama gani. Asanteni.

Com. Maranga: Okay, asante Kinyanjui. Sasa wewe ulisema, one minute, let me ask you one question. Ulisema you need to have freedom not to worship.

Anthony Kinyanjui: Not to worship anything at all.

Com. Maranga: What does that mean?

Anthony Kinyanjui: What it means is that a good number of religions are actually registered, so those are societies. Meaning that you must follow the section of that society. There are some cases where they have got what we call "animism". For example in my case now, I am not a Christian, I am not a Muslim, see? So that sort of religious anarchy should not be there.

Com. Maranga: Okay, thank you. Thank you for your views. Sign our official register. The next person ambaye tunataka anaitwa Simon Mutiu.

Simon Mutiu: As I am old now, I am Simon Maweu Mutiu and I am under Kenya Finance ofnaudible). I need money to build my house, by materials, to give children education and insurance. Please mention my request (inaudible).

Com. Maranga: Asante Bwana Mutiu. Tumesikia maoni yako. Sylvia Opondo. Sylvia it is your turn.

Sylvia Opondo: My names are Sylvia Opondo. I am representing Mariakani Women. This memorandum is written by Isabel Mbugua, Sylvia, Lucy, Faith Gikunya and Jeniffer Mbugua, of Mariakani Estate – Makadara Constituency.

On Political Parties, we had the following views. That the Constitution should regulate the formation, management and conduct of Political Parties. That affirmative action should be put in place to increase representation of women in all party leadership sectors. That the Government should fund all Political Parties, but the Party should be limited to membership. For example, how many are registered in each Political Party? That the Constitution should make it clear for women to access the judicial system, by putting in place special courts to deal with women issues.

That there should be no defection from party to party until end of term which is five (5) years, currently.

On the electoral system, we thought that the barriers that keep women away from vying for electoral seats are: cultural barriers and finance. These should be done away with by introducing affirmative action and financing political parties.

We should also have seats reserved for special interest groups such as the disabled, aged, youth and women.

There should be a limit on how much money can be spent on an individual candidate in an election campaign. Women candidates should be financed for their campaigns just like all men candidates equally.

On legislature: the minimum qualification for M.P. should be 'O' Level and there should be no nominated MPs because it is used by the ruling party to mask voting powers.

On Local Government: affirmative action should also include Local Authorities.. Councillors, Mayors and Council Chairperson should be elected directly from the people. The Council should have more powers devolved from the Central Government. The minimum qualification for Councillors should be 'O' Level, and there should be no nominated Councillors. The President and the Minister in charge of Local Government, should have powers to dissolve Councils only through referendum in that particular authority.

On Constitutional Commission: we found that we need a Constitutional Commission – and offices to forge the implementation of all policies, with clear and fixed-up positions. The recommendations should be made public immediately after the Commission completes its task within a defined period of time. The Commission should have security, of tenure -- to avoid interference from the Executive. The Commission should also be gender-sensitive e.g. have 50% representation of women.

On Presidential elections: the President should be elected by majority votes in all provinces. The President election should be after the Parliamentary and Civil elections. The V.P. should be elected directly by the people. The power of the President to hire and fire, should be abolished, unless the referendum decides so and that the President should have a running mate who should be of the opposite sex, that is a woman.

On Land Property Right: We women see that female offsprings, regardless of marital status, should be entitled to inherit family property and land. There should be a ceiling on land owned by an individual. The procedures of transfers of land should be simplified. The language should be simple and precise. Men and women equally should have access to land, to ensure this: couples should have land registered in both their names and equally, their children should inherit regardless of gender.

Kenyans also should have land anywhere in the country, and the Government should ensure there is protection and security of private property. The Constitution should ensure that ownership of property and land is not subject to customary law, but by a uniform law. The Constitution Land Commission should be established to lead, and not wazees who keep on asking to TKK (toa kitu kidogo) and normally follow customary law.

Participatory governance: The Constitution should institutionalize the role of civil society organization, by reserving seats for them in Parliament. Mechanisms should be put in place to ensure maximum participation in governance by women, persons with disabilities, the youth, the elderly, and by giving each group a percentage representation. That is all I have.

Com. Maranga: Questions. Just hold on!

Com. Abida: We would like to see a ceiling in ownership of land. Do you have any acreage that you would wish to recommend? Acreage. We want to see a ceiling in ownership but there should be a law saying you should not own more than so many acres. Do you have any number that you would wish to recommend?

Sylvia Opondo: I don't have any number but anybody - male and female - should be buy the acreage that they can afford.

Com. Abida: Thank you. The other question you would like to see special courts dealing with women issues. Currently, we have a family court, isn't it good enough for women issues?

Sylvia Opondo: We don't see it working because most of women issues, especially in terms of land, goes back to the wazees who decide on the basis of the customary law.

Com Abida: So what would you like to see? A court for women? What do you define as women issues, because it would be important for the Commission to understand, what are these women issues that you are talking about?

Sylvia Opondo: Women issues such as the changes we want on specific issues of land inheritance and anything else that involves women.

Com. Abida: (inaudible) Anything that comes into your mind that you would want to have a special court of a woman in this country other than inheritance? Anything else?

Sylvia Opondo: I have also mentioned land issues, land ownership, rights of women.

Com. Abida: Thank you.

Com. Maranga: Thank you very much. Sign our official register. The next presenter is Tony Wambua. Tony you talked yesterday, if you talked yesterday unless you have a burning issue, we have your views, and you spoke at length. Is there anything you want to add?

Tony Wambua: Yes! Commissioner, I have a few items that I also mentioned yesterday. They are very burning and some of my members are here, they would like to hear.

Com. Maranga: I give you one minute! One minute only because you spoke yesterday.

Tony Wambua: Thank you very much. I would like to take this opportunity, my name is Tony Wambua. I am the Chairman of Kenya Micro Enterprises Tenders Association. Sisi ni waalimu. Tumeketi na tukaongea. Tuna members hapa tunataka kuongea kidogo kwa sababu tumeongea tukiwa huko Kaloleni. There is an item that some members said I did not deliver as they wanted. So, I just want to revisit that item.

Com. Maranga: Give your memorandum.

Tony Wambua: I have not written the memorandum.

Com. Maranga: Do it in one minute. I will stop you for sure. Thank you.

Tony Wambua: Com. Maranga I am very sorry but I would like to raise something that is very adamant and that is about identification (citizen identification). A lot of micro enterprises kama watu wa Jua Kali, they feel that they are badly harassed by the Police, especially since we are not employed. The only item that we carry is IDs but every time unaulizwa, “unafanya kazi wapi?” That is becoming an issue. We would like it to be entrenched in the Constitution that the only item that should be carried by a citizen of this Country is only the ID, which represents everything.

I would also like to mention something that my members felt should have been expressed that other time. This is the item on basic rights. My members are very concerned. The Jua Kali people feel that they have been victimized all way round by the Government, because some of the items that there are involved in/aer not appreciated. Wa-Jua Kali wanasema serikali hii haioni kama ni Wakenya kwa sababu, kila wakati watu wa Jua Kali wanakuwa na kazi mahali, they are not recognized.

They are not recognized in ownership of land. This is an issue that is very disturbing kwa watu wa Jua Kali. Tunafikiri ni our right, we have a basic right that Jua Kalis lazima wapatiwe land ya kufanyia kazi na serikali.

Com. Maranga: Tony! you raised that issue yesterday. It is very fresh in my mind. Thank you very much. We are asking you some questions. Thank you.

Tony Wambua: Okay, thank you very much, I will not continue but I think those are some basic things that although a lot of people want to talk, although you did not give me enough time.....

Com. Abida: Mr. Wambua, quiet. Mr. Wambua, let us be fair. We gave you a lot of time yesterday, we have people here who have not spoken but before you go, you would like Kenyans and especially your members (Jua Kali) to use Identity Cards for identification. Now, we know that sometimes we have undesirable characters. When a police officer or any law enforcement officer asks for another ID, it is maybe to be sure that you are a person who is not a vagrant. We have a law that disallows vagrancy. Isn't there a way that your Association can give your members Identification cards because other employers have made it their business or organizations. For instance I am a Member of the Law Society and I am given a kipande saying this is a member of the Law society. Can't you do that? How else would the Police then know whether this character is desirable or not, we are talking about insecurity in this country.

Tony Wambua: Thank you Commissioner. That is a very a partent question but I still think a lot of our people/Jua Kali today, they don't have an ID. Wengi wetu tuko kwa ma Jua Kali, hata hatuna ID, kwa hivyo, to add another one, it is a burden. We would like to do that, but we would to be recognized as the Jua Kalis and receive an ID.

Com. Maranga: Thank you very much Mr. Wambua. Thank you, sign our register. The next person is Caroline Akinyi. Akinyi! The next is Karen Magara.

Karen Magara: My name is Mtumishi Karen Magara, mkaazi wa Makadara. First and foremost, I would want to appreciate the fact that you are seated here today, participating in this very very important process.

My first emphasis will be squatters. In the Kenya today, majority of our people are living in slums. You will live in a slum for ten years, fifteen years, twenty years, and still you are a squatter. So, what are we saying? We need to give these people title deeds. Because for sure, if you have been living in a given area for twenty years, you are entitled to be a Kenyan citizen and therefore you should be given that land. So this issue of squatters every other time yet the people have lived in a given area for fifty years and being called squatters, should be scrapped.

No. 2, I want to emphasize the fact that we want inheritance both for daughters or girls and boys. Let us have that equality because we kind of have a very strong feeling, because some of us come from some societies/tribes, that quite don't recognize the girls. So, I would want to say that it will be very fair for all, if you have ten children regardless of whether they are girls or boys, they are entitled to the land. So, land title deeds as I have said in the issue of squatters should be very paramount, to these citizens that you are serving.

Provincial Administration: hawa watu wametusumbua sana. Provincial Administration, we should scrap this. Provincial Administration tafadhali, tutoe hicho kitu. These people, we are paying them, sisi tunakatwa mshahara/taxes and we are paying these people but they are really harassing us. We really don't understand who are the people behind them. So, Provincial Administration should be scrapped. Let us remain with the Parliament and the civic (the locals). Provincial Administration, hao machief wanatusumbua ati tumetengeneza chang'aa, watolewe. Sisi wenyewe, tunajisimamia. Tuseme we only have two bodies that we can recognize. Provincial Administration itolewe tafadhali.

Now, specific date of the life of Parliament. Kenyans, we are left at ransom. Yaani, we don't know what is going to happen next. The President has that power, that we can't know when we are going to have our elections. If you declare that after five years, this date, we are set for elections, sio secret weapon ya President. Sisi tuambiwe kama Wakenya, tumesema, kama ni five years, iwe ni five years. Hakuna ati the President ndiye ako na powers ya kusema elections zitakuwa mwaka huu ama la. Sisi ni Wakenya and we have given these powers, and it should be very clear, because this is what we want as Kenyans. So, let it not be a secret weapon for the President. Like now, Kenyans are living with a lot of uncertainty. We don't know what is going to happen next to our country. So if at least we were sure, and for real there are going to be elections by December, we could be very comfortable. Knowing that we are going to keep these Members of Parliament out of Parliament sababu wametusumbua sana, would be a relief (people clapping).

Now, I also want to advocate for the Constituency Assembly. Kila mara unasikia Mjumbe anasimama uko Parliament anasema, ati watu wangu wameniambia. Walikaa na watu wakasema nini, siku gani? Sisi tuwe na Constituency Assembly. Sisi tuwe kama tunaenda Tom Mboya Hall, kama ni Makadara, twende huko, sasa tutume kama ni Mugeke tunatuma, tuseme Mugeke akienda kusimama Parliament, kama ni mimi munatuma kwa sababu mimi nataka kuwa Mjumbe wa Makadara (people clapping). Kama tutakuwa Tom Mboya Hall

Com. Magara: Karen Magara, I want to caution you, this is not a campaign rally, and let me tell you, you are addressing the Commission.

Karen Magara: Okay. Sorry. So, tuwe na (maoni yangu) Constituency Assembly, tukienda huko, nikienda kusimama Parliament nikisema watu wangu wamenituma, kweli nimeongea nao hapo Tom Mboya Hall, na nikienda huko naenda kusema ile tumejadiliana.

Parliament: huu muda wa Parliament inakuwa too long. Wacha tuseme namna hii, badala mtu aende five years, tupate two-and-a-half years. Mtu aende uko, two years na nusu ikifika, arudi kwa constituency, aseme amefanyia watu wake nini. Sometimes when we have these people going for five years and they are doing a lot of nothing, and we don't know what to do with them because they have to be for five years. But if we had a period of two-and-a-half years, they will come back to us and tell us what they have done. Tukisikia hawajafanya kazi mzuri tunafanya nini, tunawatoa, sisi ndio tuliwapeleka huko.

I want to raise a concern. When Raila was given to chair the Parliamentary Constitutional Review Committee, he was in the Opposition. Now, he is in the Government. We are threatened. We are not sure whether that guy is representing the common person (people clapping). So, Commissioner, I would want to say that we should have somebody else now that Raila is in the Cabinet, ndio tujue, because we are not sure whether he is going to be fair to us. Let us have somebody to chair that Parliamentary Constitutional Review Committee. That is very important.

Nikimalizia, Commissioners, I would also like want to raise the concern that I don't know whether you were entrenched in this Constitution. So, I am afraid that you may be kicked out any time. Thank you.

Com. Magara: Karen you remain where you are. We are going to ask you questions. Maybe before you are asked the questions, as far as I know, Hon. Raila Odinga was elected amongst the Parliamentary Select Committee Members. So, I don't think we have any way we can control who should be elected to chair a Committee of Parliament. I think they are following their own Standing Orders. That is not within our (inaudible). I have just made a comment. Another question!

Com. Abida: Karen, you are recommending constituency assembly. Could you tell us more about these constituency assemblies, how will they be disseminated?

Karen Magara: Now, thank you madam. My thoughts on the constituency assembly are that, we want to have a sitting with our Member of Parliament either after three months. We say, we are going to have a representation from the Ward for example. Let us have two from every Ward, let them go to that assembly, and let us meet with our Member of Parliament. Then we can air our views and we shall representing the Wards from where we have come. So that when we meet the Member of Parliament, we are able to say this is what we want. Now, when you go to Parliament, say now the people of Makadara sent you.

Com. Abida: Did you look at the issues and questions for the review process in the Red Booklet? Did you have a look at it at all?

Karen Magara: No!

Com. Abida: Anyway, there was a question as to whether MPs while voting should do it on their conscience, or instruction from their constituencies. What would be your response to that?

Karen Magara: Madam, that is very important. I would want them to vote on the understanding that they have consulted with their electorate, so that they don't go there and say, "wamesema vile tumesema" na hatujasema, sisi hatujamuona kwa miaka tano.

Com. Maraga: Thank you Karen. There is one question I want to ask you. What should be functions of an M.P.?

Karen Magara: The functions of an M.P. I want to say that, an M.P., we have a different interpretation or understanding of the roles of an M.P. in a given area. Wakenya sisi tunajua, ati nikiwa Mjumbe, lazima ufanye Harambee, lazima ujenge shule, lazima uangalie maneno ya bara bara, lazima unini.... that is wrong.

The functions of an M.P. is supposed to represent and make laws in Parliament. That is a very important function. Ndio akikuja kutuambia, akienda kutengeneza, anatengeneza vile sisi tunataka, si yeye vile anataka. That is a very crucial/primary function of an M.P. and there are others which of course I can give detailed information.

Com. Magara: Karen, sign our register. Thank you very much for your enlightening views. Thank you very much. The next person is, I think Cllr. Thomas Mboya you spoke yesterday unless you have a burning issue. Cllr. where are you? He is not there, I think he spoke yesterday. Then the next person is Swalen Njoroge. Swalen Njoroge! Hayuko. The next person is Cllor. Mutunga Mutungi. It is your turn.

Cllr. Mutunga Mutungi: Thank you. My names are as you have said, Cllr. Mutunga Mutungi, I am the Area Councillor for this Ward. I should have welcomed you in this Ward but bilatedly so, welcome to Mbotela..... (inaudible).

Mine, only two points. I know you have heard so much about the change of Councils, the Mayor being elected (I don't want to go back to that). Mine is on our country. My point is that the name 'Kenya' should be protected by the Constitution, and should not be changed by any Constitutional Review or amended by any military dictator, or any President for his/her own reasons.

Our national history and heritage should also be protected by the Constitution, namely: our national anthem, crown and national flag. The reason for saying so, I have sighted an example, in the Congo where we have Military Regimes and change of names of countries. Any time there is a 'coup d'etat', we hear Congo Brazaville, there is now Democratrice Republic of

Congo, etc.

My second point is about our rivers and forests which should also be protected by our Constitution. I know we have Ministry of Natural Heritage but then, our catchment areas and river-flows should be protected by the Constitution, so that the people in the lowlands and in the semi arid areas can get water. This will make sure that no private developer or institution, can divert the water for his/her own consumption to the detriment of the people living downstream.

The point is if we are able to pump oil from Mombasa upto Uganda, why can't we pump water from Lake Victoria to North-Eastern Province where there is no water. The oil going to Uganda is an uphill task, while if you open up rivers from Lake Victoria upto North-Eastern Province, it will go on natural force.

The other one is about the Councils. Those points have been raised, I don't want to go on with those. There is a write up that I would like to present (inaudible).

Com. Maranga: Thank you Councillor, thank you very much. Sign our official register, thank you for your presentation. The next person, it seems like we have a combined effort between Joseph Omar and Bilhia Auma. Is it combined effort? Joseph Omar! Where is Julia Auma, I think you presented yesterday or what? Yaah. So where is Julia Auma? She is not there. Okay, you can hand over the memoranda to us. Thank you. You can hand over to our Secretariat. Then, we have the next person is Joseph Njuguna. Joseph! It is your turn.

Joseph Njuguna: Kwa majina naitwa Joseph Njuguna. Kitu cha kwanza ningesema, Kizungu sikielewi vizuri kwa hivyo nitatumia Kiswahili. Mimi shida ninaona, inaanzia kwa mamlaka ya juu. Hatukuwa na nafasi ya kufunzwa Katiba vizuri kwa sababu hata shuleni hatukujua Katiba ni nini. Tumeanza kuisikia wakati huu wa viama vingi. Kwa hivyo, mbeleni hatukujua Katiba nini especially sisi watu wa Eastlands. Kwa hivyo mimi kwangu pahali ninaelewa naona mamlaka kuanzia Ofisi ya Rais ndio ingeenda ikipunguzwa, yaani Rais apunguziwe uwezo. Sio ati yeye ndiye awe final man yaani kila kitu kikipitishwa, yaani yeye akisema kitu hata Parliament ikijaribu kupinga, haiwezi. Sio Rais huyu, lakini Rais yeyote atakaye kuja baada ya wakati huu, au wakati wowote, awe mamlaka yake ni kidogo.

Tukiangalia kama City Council, unakuta (wakati huu tuko na vyama vingi: chama ambacho kimechagua Mayor ndicho kinalaumiwa na Chief Officers wanachaguliwa na Minister. Unaona hao Chief Officers wana nguvu kuliko Mayor. Kwa hivyo, Mayor analaumiwa bure kwa sababu hawezi kufanya kitu. Council Mayor apewe mamlaka ya kusimamia Council kabisa, finance na kila kitu. Chief Officers wawe chini yake. Ikifanyika makosa, kiwe ni chama kile kimechaguliwa na wananchi. Sio inasemekana ni Mayor mmoja na hana uwezo, yeye ni ceremonial tu.

Upande mwingine, sisi wafanyikazi – Kenya hatuna nguvu, hatuna chochote. Hata tukikosa mshahara, unakuta migomo yetu

yote inaambiwa si halali. Unakuta saa zingine tumekaa kwa miezi mitatu au minne hatujalipwa, lakini tajiri anatumia nguvu zake kuleta polisi kuwapiga watu na kuwanyima haki zao.

Kitu kingine nikiangalia kama freedom of press: kama saa zile hiyo sheria ilipitishwa, unaona Bunge inajikinga kuficha mambo kwa mwananchi wa kawaida. Kwa hivyo, hiyo sheria kwa wananchi wa kawaida iliwanyanyasa. Haifai, hatujui chochote.

Upande wa vyombo wa kueleza habari kama Radio na T.V., inafaa vipewe uhuru wa kutangaza hata rural areas. Watu wa Nairobi tu ndio wanaelewa vitu vile vinaendelea Kenya, lakini ukiangalia kama North-Eastern ama sehemu zingine, hakuna stesheni za utangazaji. Mimi ningefikia hapo.

Com. Maranga: Asante Bwana David Njuguna. Tuwekee sahihi kitabu chetu rasmi. Asante kwa maoni yako. Anayefuata sasa ni George Onyango.

George Onyango: My names are George Onyango and here are my proposals:-

Concerning Constitution and Administration -- Kenya should be governed as follows: the President should be - the Head of State, Commander-in-Chief of Armed Forces in the Country, Chancellor of all Public Universities. His functions should be to appoint an Executive Prime Minister from the party with majority seats in Parliament, from the party's nominees. He should also appoint the Speaker and Deputy Speaker of the National Assembly, after the four mandators have been elected by Parliament; He should open and close sessions in Parliament in consensus with the Speaker. He should appoint ambassadors and High Commissioners to various countries; senior army officers; and Vice-Chancellors of public universities. He should be presiding over public holidays, and be seen as symbol of national unity. He should be non-partisan, in Political Parties, just as current Speaker. If at the time he is elected in the office, he holds a seat in Parliament, he should resign immediately as M.P. He should have all his functions done in State House.

To avoid tribalism, the President should be elected by Parliament after general elections are concluded. He should have a Vice-President as his Chief deputy, elected by Parliament. The Prime Minister should: be the head of the Executive Arm of Government: leader of Government business in Parliament; should chair cabinet Meetings and appoint Cabinet Ministers, Assistant Ministers, heads of parastatal bodies, Permanent Secretaries, and other senior government officers. He may have two deputy Prime Ministers or one deputy Prime Minister, appointed by himself. He should have his office at the current office of the President at Harambee House, Nairobi.

We should have two Houses in Parliament -- The Lower House which should be the current Parliament. The Upper House should comprise of majority of members who have retired from the Lower House or ex-civil servants, ex-social workers, peasants, farmers, ex-army officers and any other people from all walks of life including the disabled in society. They should be above 65 years of age to give advise to the young generation. They should be elected by the Lower House. The Lower

House should comprise of members elected directly by people that is wananchi, from various constituencies within the republic.

The current Councillors should continue operating the way they function. The Kenya Government should adopt a Unitary System of Government, to bring people of various ethnic groups to live in harmony.

Some of the functions of the offices that operate in Nairobi should be transferred to district levels in various parts of the country. This will stop people from travelling long distances to come to Nairobi to sort out small issues. Even Chiefs' Camps within the location should be added some offices to sort small problems that take people to Nairobi. People in locations should be given full authority that is Chief's Act, to deal with local thugs, and this will reduce crime within the locality. Since this Act was abolished, crime has increased tremendously across the country both the in rural and urban. Criminals are only people who can be happy with the abolition of Chief's Act and politicians who do not care about the life of common man. If every ten homes in rural areas could have somebody in charge, if a stranger comes to stay in a village, he should be reported to the head of the ten homes. In some areas in town, every ten houses should be headed by a person, who should be in charge of inflow of visitors. This will reduce the criminals' network. Police force should introduce special police units to deal with parking boys and girls in all towns, as in Uganda.

Special prisons should be build for parking boys and girls so that they should be trained as artisans and given through courses, because most of them are not disciplined and are future criminals. They upset tourists and they are killing the tourism industry within the country.

On the side of labour, all companies should recruit 50% of both permanent and casual employees from employment stations established by the Ministry of Labour and Human Resource Development. Even 50% of civil servants should be absorbed from employment offices.

The Government should abolish cost-sharing and provide free medical treatment in all government medical institutions.

Education should be provided free in primary schools. Koech Commission of Education should be adapted in the education system. Mock exams should be done away in primary and secondary schools. They should be scrapped and criminalized. Any teacher or heads of teachers forcing pupils to do it should face the full force of the law. Instead, the Government should introduce national examinations done in Class IV, preparing those who have performed averagely well to join Class V and another final primary examination in Class VII to prepare them to join Form I class. These should do other national examination in Form II. Those who perform well should join Form III and Form IV for the Ordinary Level School Certificate. Then they will join Form V and VI, where they should do Advanced Level School Certificate for preparation for University education.

The university course should take three years only. So, I recommend 7-4-2-3 system of education. All technical courses should not be done in schools because schools, do not have enough equipment. They should be done in colleges only. Mock examination certificates are not recognized in industries of employment (inaudible).

Therefore, national examinations introduced in Class IV, VII, form II, Form IV, and form VI and university and colleges, that is, these levels should have certificates, diplomas and degrees, that should be recognized in all institutions and industries.

The Government should provide bursary funds for bright orphaned children in all sectors of learning.

When we come to land, land should be distributed to every Kenyan from the province or district that is originating from. Any Kenyan may buy land elsewhere within the republic without discrimination. Those people with large plots of land should surrender some to those who do not have any. Laws should be introduced to block land grabbers. Squatters should be settled in their respective province or district of origin to avoid tribal clashes. Idle land should be made into settlement schemes to allow every Kenyan to buy land.

Land inheritance.: land inherited from ancestors should be checked well, such that nobody from that particular family is a squatter elsewhere. There are land grabbers within ancestral family land.

Population: it should be controlled by the Government.

Each family (that is husband or wife) should not have more than four children, enable parents educate and look after their children very well and effectively. Polygamy should be discouraged and where it is practiced, the partners should register with the Government and some guidelines be given to control population.

Destitute children should be taken to childrens' homes under the guidance of special police force.

Provincial and Administration i.e. PC, DC, DO, Chiefs, Assistant Chiefs, Sub-Chief, Headmen and Village Councillors should be appointed by – the Prime Minister, Public Service Commission or senior provincial administrators to make administration strong and effective. Those posts should not be scrapped. Scrapping them is madness.

Let me remind you of my earlier point. All these criminal people are therefore politicians who do not care of the welfare of a common man living in a village or a slum areas can advocate for abolishing the Chief's Act. Maybe, those who are ignorant of the usefulness of the Act can also advocate for abolishing it.

Donors - the World Bank, the International Monetary Fund (IMF) and western countries are ignorant of a widow staying in a remote village in Kenya. Let them not pressurize the Kenya Government on how to run her internal affairs. Please Commissioners, make a Constitution that benefits common man, but not somebody staying comfortably in a big house in Nairobi. Though the common man does not know the law that protects him or her, but you are going with views.

Justice: there should be a Minister for Justice and Constitutional Affairs, that deals with justice and drafts or writes Bills to present them to Parliament for debating. The Attorney General should not be an M.P. or a Member of the Cabinet but should deal with prosecutions only, and other legal affairs. The Minister for Justice and Constitutional Affairs should be appointed by the Prime Minister and should be conversant with the laws. They should be Principal Legal Advisors of the Government on matters pertaining to the law. This will make the Judiciary independent. Ladies should be allowed by law of land to inherit properties, land and any other estates of their parents just as like men do in African society.

With this contribution, I beg to leave.

Com. Maranga: There are questions.

Com. Abida: Clarification. You want mock exam scrapped, why?

George Onyango: This is just because it is a burden to pupils. I have introduced a mechanism way where children sit the exams being done in form of mocks comfortably. I have said that in Class IV, there will be exam an and that is nationally recognized, Standard VII and others because

Com. Abida: Thank you. University courses should only take three years. Why again?

George Onyango: That one I was saying because I was advocating the scrapping of 8-4-4 system, in which there people in universities stay for four years. If the former system is re-introduced, I think it will take 7-4-2-3, that in University, it will take only three years.

Com. Abida: Okay. You would like Kenyans to have only four children. What do you want the law to do? Can the law go to people's homes, can the Constitution really determine how families live?

George Onyango: This is what I proposed. If the Government can provide free medical services, education and some other things, I think in Scandinavian countries, they have prescribed the number of children that a person should have so that the person looks after his children effectively.

Com. Abida: So what do we do with those who have more? If we have to recommend effective laws, what do we do with those who have more? Do we kill the children or what do we do?

George Onyango: We cannot change nature or we cannot change history, Mrs. Commissioner. What we can do there is just to leave them but in future, such a thing should not be repeated.

Com. Abida: Should they repeat, what will the Constitution do to them? You see, it is one thing saying and another effecting the law. Should those who will probably by next year or five years down the line have five children, what do you recommend the law to do to them?

George Onyango: I recommend the Government to take responsibility of excess children that maybe there so that

Com. Maranga: I have one question. The system you have recommended is 4-3-4-2-3, it is not 7-4-2-3, that is the other way round. Now, the other point I want to ask you: you are saying you settle squatters in their districts of origin. First and foremost, most of these Kenyans have moved from their districts because there is no more land. So, how do you take them back to the original districts? Where do you settle them?

George Onyango: I knew that I had a question to answer there. I have also put it very clearly in my memorandum that there are land-grabbers within the family (ancestral family). So, if somebody is taken back to where he belongs, he will at least get land somewhere. If it can be checked very clearly, so that to avoid these tribal clashes. I have also recommended that idle lands elsewhere in the country, should be made into settlement schemes, so that anybody from any part of the country should go and buy land there.

Com. Maranga: Okay. That is okay but squatters have no money to buy and you said they back to a place like Vihiga where there is no land. There is a problem. Thank you Mr. Onyango, thank you for your views. Please sign our register. The next person is Kelly Musyoka.

Kelly Musyoka: My names are Kelly Musyoka. I would like to touch on the taxation issue which really affects Kenya. First and foremost, I would like to hold the view that Kenyans should be protected from foreigners who come to pick jobs here, which Kenyans are qualified to do -- for example drivers, any job, even medicine. If we can have enough doctors, we don't need a foreigner who comes here. On that note then, we need to talk about taxation whereby Kenyans are taxed heavily. If the Government of Kenya can be made to provide jobs for their Kenyans, then, we should look at the taxation on the V.A.T. line, whereby the purchasing power of Kenyans is improved. When the purchasing power of Kenyans is improved, then it means that every Kenyan can purchase, consequently, they will have to be taxed in one way or another.

So I will recommend all other taxes like Pay as you Earn (PAYE) (everybody purchases something in one way or another), the Government should come clear and give recommendation of the minimum salaries that can be given to their citizens. If we give the minimum and we give a good reasonable start, they will be improving the purchasing power of every Kenyan, and therefore the Government will have to get tax from the Kenyan citizens. Thank you.

Com. Maranga: Thank you Mr. Musyoka. Sign our official register and give us your memorandum. The next person is Simon Mwai. I think Simon you spoke yesterday, unless you have new points. I give you a minute, your case is like the one of Tony Wambua because we already have your memorandum. Thank you. I give you a minute.

Simon Mwai: There is one pressing issue about this land and land law (squatters). It is like it was in 1962 when people were crying about land, that was the main issue, that is why they had to fight for freedom. The Mau Maus were doing the same for the land issue. So I think the best thing is to have a Constitutional Land Reform. We should have this kind of thing going on as of how people are going to maintain the land, own land, and how many acres one should own whether you are rich or you are poor.

A rich man should have a maximum of 100 acres in a family and a poor man should have 5 acres. With that, we could give the landless and squatters some land somewhere.

The other right I should say is about the laws of oppression and depression. People are oppressed like I said yesterday. People were arrested here and there without any crime or any wrong doing. You are picked on the street, you have nowhere to give a report that you have been arrested, and you are jailed or given a sentence of two years on an offence you don't know where it came from, and you are a citizen. To be idle and vagrant is not part of our system. We all live on this land.

The other issue is the Presidential elections: the President should be elected by the people. The Vice-President, the MPs, the councillors and all the ministers should be appointed by the Parliament because they should have one-man-one-job. Everyone should have one vote so that we can increase the capacity of employment.

The last thing is about the use of herbal medicine. We should legalise the use of herbs and ban all the drugs that are dangerous unless they are recommended by the doctors.

Com. Maranga: Thank you very much. Thank you. We have questions to be asked, sure.

Com. Abida: Mr. Mwai you have talked about Oppressive Laws. Can you identify some that you would like to see changed?

Simon Mwai: The first law is about Peace (inaudible). When you are somewhere maybe you are resting and say you are idle, they come and arrest you and say you have nothing to do when jobs are scarce everywhere. You have finished your school, and you don't have anywhere to go.

Com. Maranga: Thank you Simon Mwai. Hand over your memorandum and sign our official register. Thank you for appearing before the Commission once again. Thank you. Mwingine ambaye ninaita sasa ni Kola Were. Kola Were!

Kola Were: My name is Kola Were. I am representing Mbotela Residents' Welfare Association. I might not say all of what we considered, but we looked first of all at the preamble. We said that the Constitution should have a preamble and we request some musicians from Kenya to write it.

Preamble

In the preamble: we should highlight the unity in ethnic diversity, the well intended Harambee Spirit, security of all citizens, and being mindful of others. We should also highlight equitable distribution of all national resources and income. We should also condemn corruption and other financial (inaudible).

On the topic of Supremacy in the Constitution, we said that, any part of the Constitution shall be discussed by the civic assembly. Here I should define what civic assembly is because I happen to be in one - the Nairobi Civic Assembly. Nairobi Civic Assembly is composed of Ward Civic Assembly who will elect five people to Constituency Civic Assembly, who shall also elect another five people to the Nairobi Civic Assembly. This is how we suggest that we should have governance in our Provinces. In any case of dead-lock in the change of Constitution, then the Electoral Commission shall conduct a referendum.

When we come to citizenship, we agree that all people born of two Kenyan parents are automatic citizens of Kenya. All citizens should enjoy the same rights and obligations. A spouse who is not a Kenyan, is married to a Kenyan and gives birth to a child, the child is not an automatic citizen of Kenya unless he buys it.

We turn to identification of citizens of Kenya. We said that carrying of documents as proof of citizenship, should not be included in the Constitution, because it has been misused: first by colonial administrators as a weapon to harass and oppress Kenyan-Africans into forced labour. Secondly, it is now used by police and Provincial Administration to intimidate and coax bribes from poor citizens. Instead, any document should suffice, especially employment cards, payslips, licences, and if you don't have it in person, they should give you time to get it, or send someone to get it for you, instead of being harassed or bribes.

We looked at defence and national security. We said that (inaudible) forces should be established by the Constitution (right now they are not). The Constitution should not allow extra-ordinary use of power during emergency. In fact, the

Parliament should discuss what amount of power to be used for that period. That is to say, the President should not just one day wake up and say that this tribe or this group of people are becoming (inaudible) and declare a state of emergency on either a town, a city or a province.

Then we get to Political Parties. The Constitution should regulate the formation, management and conduct of political parties, and restrict them to five Parties. These five Parties should have a specific number of employees countrywide. Those employees should be paid by the State. That is the only aid that the political parties will get from the Government.

We looked at the system of government: the Constitution should retain the Presidential System and Unitary System. Which means we do not want 'majimboism'. The Parliament then should effect the appointment of chief officers like AG, Chief Justice, Judges, Judges of High Court, all Commissioners including High Commissioners, Chairmen of authorities and parastatals. Those ones should actually be vetted by Parliament.

Then we come to Parliament. The Parliament should be a full-time occupation, because we have seen.....

should carry out using the civic assembly, so that they can be given more either a salary or allowances, but they should not do it by themselves. Each political party should nominate a woman M.P. and if they are five Parties, those are five women, and if a disabled attains a second or third position in an election, he should automatically be nominated as an M.P.

Further to these, we have got eight Provinces. We are suggesting that the Constitution should accept eight nominated women from all eight Provinces, and that will the women to thirteen MPs.

The Constitution should allow for a coalition, because we are seeing that in future, when tribalism goes, people will be bound to coalesce. The Constitution should not allow the President to dissolve the Parliament, unless at the end of the Parliament.

We looked at the Local Authorities. The Constitution should scrap the Ministry of Local Government, because it seems Kenyans are tired of paying Councillors, then paying the Chiefs who do the work on behalf of the people, pay the MPs, and finally paying the Town Clerk. The Town Clerk earns from the taxes of the people his place should be taken over the civic assembly.

On the Electoral Commission, we said that candidates who fail to get nomination in one party should not be allowed to be nominated in another party. You go to a party because of its policies and how can you change the policies overnight?

Then we came to rights. We felt that death penalty should be abolished because if we say that everybody has a right, even murders have a right. If you murder a murderer, you should also be murdered.

The Constitution should establish the office of an Ombudsman, which should be the check-balance. So that, if some Minister errs, then you report to the Ombudsman, who now will take it over. We said that ethnic and cultural diversity should be encouraged and protected by the Constitution, because we still remain an ethnic-based society. The Constitution should also recognize and promote ethnic languages, and it should also honour cultural beliefs and practices, so long as they do not contradict peoples' pleasure.

Com. Maranga: Thank you Mr. Were and now I ask you to hand over your memorandum and sign our official register. Thank you for appearing before the Commission. The next person is George Aguda. George Aguda! Five minutes, summarize your main points.

George Aguda: Thank you Commissioner. Most of the things have been said. My names are George Amolo Aguda. I am a resident of Mbotela.

Commissioners, mine is only one. We have a Constitution. A law which protects Kenyans from harassment by the police. Mostly, we Kenyans have suffered a lot and according to Section 76 of the Law, a policeman should not beat anybody. He should only arrest him, then take him to court. I was requesting you the Commissioners to check on that.

Another thing, just concerns the policemen. A Policeman should not be allowed to carry whips. They get you at night, they beat you up and they tell you there is nowhere you are going to take us. So, mine is only that. Thank you.

Com. Maranga: Mr. Abuda, let me ask you a question. If you say Policemen are not supposed to carry weapons, then how do they arrest criminals who are armed for example?

George Abuda: Thank you very much. I said whips!

Com. Maranga: Thank you very much. Sign our register. Thank you for appearing before us. The next person is Winnie Peres. Winnie Peres! (I think she was from KWP caucus). William Mugo, it is your turn.

William Mugo: My names are William Njoroge Mugo. I am an M.A. student at Daystar University. I will be speaking briefly on ten issues.

The Executive: the country should have an Executive President but whose powers derive from the Parliament. Any man or woman running for the presidency should at least be a degree holder or its equivalent. Presidential appointments for all constitutional offices must be vetted by the Public Service Commission and approved by Parliament. A presidential candidate

should not run for a parliamentary seat. A President should be elected with at least 50% of popular votes. A Presidential candidate who gunners 50,000 votes nationally should automatically qualify to be a Member of Parliament.

The Judiciary: there should be a Supreme Court which should be above the Court of appeal. There should be created the office of public prosecution, which should be autonomous from the office of the Attorney General. The Attorney General should only be the Chief Government Legal Advisor. The Judiciary Service Commission should appoint judges and magistrates who would then be vetted and approved by Parliament. Only lawyers with over fifteen years of practise or teaching in from recognized institutions should qualify to be appointed judges of the High Court, Court of Appeal and the Supreme Court. Judges and Magistrates should declare their wealth on entering the service, and at such times as might be deemed fit by the Judicial Service Commission.

The education sector: there should be free and compulsory primary education. Here I would like to add that I am also recommending that we revert to the 7-4-2-3 system.

The Legislature: all those seeking to be elected as Members of Parliament should at least be 'O' Level holders – Div. III or K.C.S.E. Grade C- (minus). The constituents should be given powers to recall the incumbent MPs whom they deem to be non-performing. This should include the use of a petition signed by at least 35 of all the registered voters within that specific constituency.

Members of Parliament should declare their wealth before taking the oath of office, and at such times as might be deemed fit by the Parliamentary Service Commission. The Parliamentary Service Commission should be sole body charged with looking after the welfare of the legislature including their salaries and allowances.

The election procedure: registrations of voters should be a continuous process, allowing those who attain the age of 18-years to be automatically registered as voters. There should be the provision to allow individuals not aligned to any political party to contest for Civic and Parliamentary elections. There should be proportional representation in each constituency with the idea of one-man-one-vote reigning supreme. The Electoral Commission should be given more powers to disqualify or penalize corrupt candidates. The Electoral Commission should also deal with those who propagate acts of violence during the campaigns during the election period.

Human rights: there should be included in the Constitution, the office of the Ombudsman. Its responsibilities will be to investigate complaints made by citizens who feel that their human rights have been violated by the Government and/or its agent. Human rights should be taught as a compulsory course to students at all levels of education (I mean from primary to university level).

Local Government: there should be direct election of all Mayors, their deputies and Town Council Chairmen by the electorate. Mayors and Council Chairmen should be at least 'O' Level holders – Div. III or K.C.S.C. Grade 'C'. The Local Government Act should be amended to give councils more powers to run their institutions, without undue interference from the Central Government.

Immigration. A Kenyan citizen should be allowed to hold dual citizenship as long as he/she abides by the law of the land.

The Agricultural Sector: there should be a ceiling on how much land an individual can own. Idle land unless left idle for purposes of research, should be taxed.

Public Officials: Public Service Commission officials should be appointed by the Executive, vetted and approved after scrutiny by Parliament. All senior Government officials should declare their wealth on entering the Public Service, and during such other times as may be deemed fit by the Public Service Commission.

Communication & information: the right for all citizens to access information should be entrenched in the Constitution. Media organizations should be left alone to come up with mechanisms to regulate and discipline their members. Public servants must be compelled by law to give information that might be of public interest, as long that information will not jeopardize national security. The freedom of the press to report and analyse views should be entrenched in the Constitution.

Miscellaneous: there should be provisions in the law for re-possession of property acquired corruptly or illegally. A permanent Anti-Corruption Authority should be entrenched in the Constitution. Thank you Commissioners.

Com. Maranga: Thank you very much. Thank you for your presentation. I think that is a good memorandum. Please sign our official register and give us the memorandum. The last speaker before we break for lunch is Betty Moraa. Lakini uliongea jana mama, unless kuna kitu umesahau kabisa, then I will give you one minute. Kuna kitu cha maana unataka kuongezea? Okay, kuja uongezee, wewe ndiye utakuwa mtu wa mwisho kwa saa hii ya asubuhi. Tutaenda lunch halafu tutarudi hapa saa nane. Thank you.

Betty Moraa: Majina yangu naitwa Betty Moraa. Kile kitu nataka kuongezea kwa ile maneno niliongea jana, nataka kuongezea kama vitu viwili tu, sio maneno mengi.

Sasa kile kitu mimi ninauliza Commissioners, kiko kitu kimoja kinatusumbua sana sana upande wa wanawake. Sasa, ikifika wakati wa uchaguzi, tunasikia mwanamke fulani yeye ndiye anasimamia wanawake, Kenya au Nairobi. Huyu mwanamke hatujawai kumuona akiweka mikutano akituhutubia sisi wanawake. Tukiuliza ni nani anachagua huyu mtu tunaambiwa, “anachaguliwa na President”. Kwa hivyo, Commissioners ile kitu nilikuwa ninataka kuwaomba sisi hayo maneno ya

wanawake kuchaguliwa na President au na Wanaume, tumekataa. Tunataka kama ni uchaguzi, wanawake wachague yule mtu wanapenda wenyewe. Kwa sababu hao wanawake wanachaguliwa, hatuoni yale maendeleo wanafanya, ndio tunaona sasa, mtu akichaguliwa anaendesha vitu vyake kivyake. Akiulizwa, anasema sasa unajua, maneno yamekuwa magumu, sioni vile yanaenda sasa. Kwa hivyo, kitu nilikuwa ninaomba, kama ile Katiba ya zamani ilikuwa inasema wanawake wachaguliwe na wale watu wanakaa Parliament, sasa tunaomba hiyo sheria itengenezwa, tukienda huo mwaka wa kupiga kura, wanawake wachichagulie yule mwanamke wanataka.

Kile kitu kingine nilikuwa ninataka kuongea ni upande wa slum. Kwa ile Katiba ilitengenezwa zamani, slums zilisahaulika. Zilisahaulika namna gani? Ukiingia upande wa slum; hatuna: maji, shule, makao mazuri mahali tunalala, hospitali, na barabara. Pia tuna watoto wengi. Kama sasa hizi, hii miaka tano tangu uchaguzi mkuu, tuno watoto kama elfu thelathini (30,000), hawaendi shule kusoma, wanarandaranda. Kwa hivyo tunaomba hiyo Katiba ikienda kutung'enezwa, mkumbuke slums please kwa sababu watu wanateseka.

Nikienda upande ya Ukambani, tukiangalia huko, kuna mashamba ya kutosha, ile shida iko Ukambani, hakuna mvua ile inanyesha. Sasa ndio naomba Serikali, kwani nasikia miradi huja Kenya. Ni kwa nini wasichukue hata mradi moja wapeleke Ukambani, wavute maji tupate chakula cha kutosha. Kwa sababu saa hii bila chakula hakuna uhai. Kwa hivyo ile Katiba ya kitambo ilisahau Ukambani. Mradi upelekwe huko watu wapate chakula. Naomba hii Katiba iendelee haya maneno upande wa Ukambani, maji yapatikane.

Com. Maranga: Asante. Unaulizwa maswali kidogo.

Com. Abida: Betty Moraa

Betty Moraa: Yes!

Com. Abida: Huyu mama ambaye alichaguliwa na President, ni nani huyo?

Betty Moraa: Yuko mwanamke wanasema ati ako kwa Maendeleo ya Wanawake.

Com. Abida: Sasa, hii Katiba tunatengeneza ni ya nchi. Kama unaongea kuhusu hicho chama cha wamama, lazima kiko na Katiba yake. Sasa hiyo unafaa uende huko kwa headquarters halafu unaomba wabadilishe Katiba, kwa sababu hii sasa tunafanya ni ya nchi. Tafadhali. Kwa sababu Katiba ya nchi haiingilii mambo ya vyama. Hicho ni chama cha wanawake. Sasa wao wako na Katiba yao, unafaa uende huko, na uombe wabadilishe ndio muweze kuchagua kama wamama kiongozi wenu. Sawa! Kwa sababu Katiba haingilii vyama.

Betty Moraa: Sasa unajua, sisi tunaambiwa, mwanamke fulani anakuwa appointed na President. Sasa kama haingilii chama, inakuwaje anakuwa appointed na President?

Com. Abida: Sasa ndio unafaa uende huko kwa headquarters, Maendeleo House, uongee huko, useme munataka wanawake wajichagulie kiongozi. Hii tunatengeneza ni Katiba ya nchi hapana ya chama cha wanawake, unanielewa vile ninasema? Kuna pahali kule utaongea maneno hayo usikike sawa sawa. Asante

Betty Moraa: Okay, sawa sawa.

Com. Maranga: Basi, wananchi wa Makadara na kwanza sana wale wanaishi hapa upande wa Mbotela, nataka kuwashukuru kwa wakati huu wa asubuhi, tumeendesha hiki kipindi hadi saa saba sasa, zimebaki dakika sita ndio ifike saa saba. Kwa hivyo tunaenda kipindi kifupi cha lunch halafu tutarudi hapa saa nane, tuendeleo na wale ambao watakuwa wamefika. Asante!

Com. Abida: Tunaanza mkutano, tafadhali. Kama vile asubuhi tutafuata orodha ya majina kama vile mulivyojiandikisha. Na tutaanza na Bwana John Gitonga kama yuko hapa. John Gitonga, hayuko? Joel Ochao, John Wainaina, Okinyi Odera, Dennis Odhiambo, Peter Karanja! Tafadhali kuja hapa mbele, nitakupatia dakika tano.

Peter Karanja: Kwa majina naitwa Peter Maina Karanja, mimi ni mkaazi wa Mbotela. Pia nimekuja kuakilisha kikundi kikundi kinaitwa Mwangaza Community Services. Yale mambo ningetaka kuongea ni machache tu.

Kwanza, nilikuwa ninataka kuzungumzia hawkers and slum dwellers. Katika hali ya kufikiria ama kuangalia, shida zilizoko, mimi ningetaka serikali ama tuwe na Sheria itakayo linda hawa watu. Wapewe pahali -- plots and title deeds. Kwa sababu unapata ya kwamba slums zimeendelea kuwa nyingi na kama hatuwezi kuangalia hayo mambo, basi nchi yetu inaonekana itakuwa kijiji. Kwa hivyo, lazima tutafute njia, maanake ni watu wanajulikana. We know these hawkers, tunajua hawa slum dwellers. Kwa hivyo kuna ule mpango unaweza kupangwa na wakapata mahali.

Pia, ningeozea kuhusu squatters maanake tunajua kwamba kuna these squatters wale wamekaa katika Government forests. Ni watu wale wameishi kule pengine kutoka 1958, na wengine ni wale walikuja wakifukuzwa kutoka hizo forests. Unapata ya kwamba wale watu wamekuwa ni maskini sababu hawana mahali pa kwenda. Kwa hivyo, tungetaka Sheria iwekwe -- hakuna haja tuwe na squatters katika nchi yetu maanake mashamba yako -- kwa hivyo kama wanaweza kukatiwa mashamba katika Government forests, ingekuwa ni vizuri maanake wanajulikana, they are there, they are known.

Pia ningetaka tuwe na sheria ile inalinda wale watoto genius, kwa sababu unaona kwamba tuna watoto kama hao. Hata ukiangalia kama town ukienda pale KCB utapata kuna watoto wanafanya mambo ya ajabu. Nikisema ya kwamba hao

watoto wataenda into waste kwa sababu hakuna sheria ama hakuna mtu anawaangalia. So, unaona ya kwamba kama tanaweza kuwa na sheria kama hiyo, ya kulinda watoto kama wale, regardless ya background provided mtoto anajulikana yeye ni genius. Wakiwa educated, basi tunajua ya kwamba watakuwa faida kwa nchi yetu. Kwa hivyo ningetaka tuwe na sheria kama hiyo/Serikali iwe na part.

Pia ningezungumzia kuhusu hali ya maisha tuseme kama wakati kuna kiangazi. Tunajua ya kwamba nchi ni kwetu watu ni maskini kweli, hata kupata chakula inakuwa shida. So, tunaweza kuwa na sheria ya kwamba hakuna Mkenya anayesitahili kufa katika Kenya, ingekuwa ni vizuri. Kama atakufa, basi Serikali inakuwa responsible, inaweza hata kushitakiwa, kwa sababu kwa nini akufe? So, lazima kuwe na fund ya kwamba hakuna Mkenya anayesitahili kufa katika nchi yetu.

Halafu, pia lazima tuwe na sheria ya kuguide small and medium business people: kwa sababu tunajua ya kwamba kama sasa, economy ya nchi hii imesimamiwa na wanabiashara wadogo. Lakini tunaona ya kwamba hawa wanabiashara wadogo ndio wanadhulumiwa zaidi. Unaona ya kwamba kama City Council and the Government, hakuna ile Sheria inawalinda. Kama juzi, hata muliona kwa TV or kwa gazetti, hata Mayor mwenyewe akisema ya kwamba wale watu wamebomolewa vioski vyao ama wameharibiwa mali yao, waende wakashitaki City Council. Lakini anayejua kweli, hakuna sheria kama hiyo. Kwa hivyo hata kwenda kotini itakuwa bure. Kwa hivyo tungetaka kuwe na sheria ya kusema kwamba sio tu wanabiashara wakubwa wanasitahili kuwa na sheria yao, hata wanabiashara wadogo pia wanataka kuwe kuna sheria ile inawalinda. Kwa hivyo kama wameharibiwa mali zao, lazima walipwe.

Com. Abida: Tafadhali wind up!

Peter Karanja: Okay, asante. Pia tuwe na free primary education katika nchi yetu, hata medical, pia tungekuwa nayo. Anyway haya ni mambo ya future hata tukisema: maanake unapata ya kwamba, katika Kenya watu wamesoma sasa, we are educated. Sijui tanaweza kufanya vipi ama ni mbinu gani tanaweza kutafuta ndio hawa Wanakenya wenyewe badala ya kuenda kutafuta kazi nje, wawe wanafanya kazi hapa nchi ni kwetu. Kwa hivyo ni kama kusema ya kwamba, wacha tuwe na free market ama Serikali inayokubalia watu kuanza biashara zao kama ni factory kwa sababu hao watu wataajiriwa. Kama sivyo, basi lazima tufikirie vile tunaweza kuwa na welfare society, of which maybe hawa Wakenya badala ya kwenda kutafuta kazi nje na wako pale wanaweza kutusaidia, basi tuwe na welfare katika society, of which watakuwa wakilipwa kitu kidogo. So, hayo ni yale mambo ningetaka kujadilia tu kidogo. Nimeshukuru. Wakati wangu umekwisha.

Com. Abida: Asante! Jiandikishe pale kwenye ile meza. Next tuko na Onesmus Mboru. Onesmus Mboru, yuko hapa? Richard Mwangi? Fredrick Arika? Five minutes.

Fredrick Arika: My name is Fredrick Arika. I am representing Jericho combined efforts. First of all, I will speak about working. I believe that if we have a preamble in our Constitution, it will be of importance to us. The reason why I would

believe it will bring a lot of independence, promote dignity and individual unity and integrity of Kenyans.

Secondly, I believe we should have a free independent judiciary, that will foster the free flow of everything concerning law and order in this country.

Thirdly, I will talk about the structure that I believe should have. Since multi-partism is here with us in this country and we have accepted it, I am of the feeling that all political parties should be included in all matters concerning the construction of the Government. That the Government structure must be (inaudible).

The state should sponsor political parties, and bring a framework that will strengthen and make them focussed. Further, I will talk about the Executive:

We believe that we should have a ceremonial President in this country, and introduce a Prime Minister -- who should be the head of the Parliament chosen by the legislators and the Parliament. Members of Executive should be members of legislature.

The President should not have a separate electoral mandate, and should be elected by the people. The Executive should separate from legislature, and together with President, should be forced to resign. The President should when elected, cease to be a member of the legislature, and may select a maximum of two ministers outside Parliament.

Ministries should be reduced favourably. Election of the President should be before the term of Presidency ends.

Candidates and parties which promote violence should be deregistered.

The Judiciary should be independent and delinked from Government control. The Constitution should be adapted, to ensure the Government does not interfere, undermine or ignore findings of any nature. The Constitution should also ensure that the Government implements any recommendations from the bodies of the Auditor-General and Commissions established -- to probe murders and assassinations. The media - we believe that Government should not interfere with this part of (inaudible).

Third, we believe that the Parliament should be given the mandate to choose the head of the police. It should run, safeguard and protect the lives of Kenyan citizens by making it against the (inaudible).

Local Authorities: we believe that Local Authorities Act should be reviewed, strengthened and be people-centred, for effective management of hospitals, schools and housing.

About land distribution: we believe that it should be entrusted the County Council to protect the communities from being exploited by land administrators.

On the distribution of resources in this country: we believe that this is an area that should be looked at properly, because there are some areas that have lagged behind because of poor government policies. At this particular time, I will talk about for example the Thika Fish Industry, which I believe instead of being located somewhere in Kisumu, is located somewhere in Thika, reason why we don't understand.

Com. Abida: Thank you very much. Sign the register. Joel Ochaya? Joan Wainaina, Okinyi Oduro?

Okinyi Oduro: Thank you for giving me this opportunity to air my views. My name is Okinyi Oduro. I have only three points I want to elaborate on.

One, is that the Police Commissioner should be appointed by the Parliamentarians.

And another thing is that the Administration Police should be incorporated within the regular Police Force, so that they might help the Police in fighting crime.

Lastly, I would like to ask you guys that when the Constitution is ready, at least it should be readily available for every Kenyan to get it (as in it should be sold in our local textbook centres, libraries, etc). This is because most guys didn't know what the Constitution entailed. At the moment we are reviewing something which people don't know what is supposed to be reviewed and what is not supposed to reviewed. You may find that we have really been wasting a lot of time repeating things that have already been said, we wanted the general elections to be held on schedule. Thank you.

Com. Abida: Thank you. Sign our register. Denis Odhiambo

Denis Odhiambo: Good afternoon. My name is Denis Odhiambo, I am from Hamza Ward. I am very grateful that I have been accorded this opportunity to air my views. Mine will touch on basically two things:-

I am of the view that we should have in the Constitution, a law that checks on extravagance, especially within our Government. For example the ministers should not be using a fleet of five vehicles per minister. Also, a situation whereby, like you Commissioners, are using very expensive vehicles to come here, while we could have had something like a mini-bus to take care of you here (such things).

Things like civic education that are being taught now that we have constitutional review should be a continuous process. We

should have a law that mandates that the media to be teaching Kenyans on civic education. We may also put constitutional rights that Kenyans should know all through (let us say after the news or something like that) so that Kenyans should know what actually our Constitution entails. Civic education should also be taught in schools and people should grow knowing the Constitution. Like now we are here to air our views, some of us do not know what the Constitution entails. So, we don't even know what to change. If you don't know what it entails..... Those are my views. Thank you.

Com. Abida: Thank you very much. Onesmus Mboru, Richard Mwangi, Otieno Michael?

Otieno Michael: Asante sana kwa kunipa fursa hii. Majina yangu ni Michael Otieno. Sasa, pendekezo langu la kwanza ni kuhusu shamba. Shamba toka jadi ni kitu ambacho huwa ni cha familia. Na, wakati wowote, mtu anataka kuuza shamba, inatakikana idhini ipatikane kutoka kwa familia nzima. Kama ni baba, mama na kama kuna mtoto ambaye yuko juu ya umri wa miaka kumi na mitano anatakikana naye pia awe na nafasi yake atleast apige sahihi kuonyesha kwamba amekubaliana. Family nzima iwe imekaa, ikakubaliana shamba iuzwe. Kwa sababu hapa tumeona ugumu sana. Baba anatoka (pengine anaishi Nairobi), anaenda nyumbani, alisema anaenda tu kusalimia watu kule, halafu anaenda amekata shamba, anauza pesa haujui ametumia namna gani. Inapotokea shida, kama pengine bill ya hospitali, inasumbua, hivyo ni vitu vinaeleweka. Familia ikae, family nzima, watu waelewane.

Pendekezo langu la pili ni kuhusu usalama. Sasa hapa, hasa sisi vijana, tumepata shida sana kwa polisi. Tunatembea pengine baada ya saa kumi na mbili hivi, tunakutana kundi la askari wanatembea watu kama sita. Wanakusimamisha, wanakuambia kijana unatoka wapi, unawaambia pengine nimetoka kazini/kibarua, kutoka kutembelea rafiki. Wanakuambia leta kitambulisho chako, unatoa kitambulisho, kama ni cha kazi unatoa, ooh! amepita na wewe, unaenda. Sasa pale, inabidi utoe shilling mia moja (shs.100/-) ama mia mbili (200/-) ili uwachiliwe. Kama hauna hizo pesa, umesukumwa mbele. Wakati huo wamezunguka na wewe, wamekufikisha station saa tano. Sasa kesho utaenda kotini, ooh! umekuwa charged pengine drunk/disorderly na wewe pengine ni mtu ujawai kulewa. Ukitoka huko, huyu polisi pia hakuna mahali unampeleka. Kushtaki polisi kwa polisi mwingine pia tena unajitupa kwingine tu. Kwa hivyo hapo nataka kuwe na kamati, at least kila mtaa uwe na ofisi, mahali unashitaki Polisi (mahali rasmi pa kushtaki polisi), kwa sababu polisi ni mwanadamu tu na yeye pia wakati mwingine anatokosea, ama hamsikizani na yeye anataka kukuwekelea tu kitu.

Halafu, pendekezo la tatu ni kuhusu afya. Afya ni muhimu kwa kweli, ili tuwe na afya, tunakula. Kununua vyakula ni jukumu letu lakini wakati tunakuwa wagonjwa, ni jukumu la serikali itupe matibabu ya bure. Kama inalazimika ati haya maneno ya cost-sharing, inatakikana kwa mgonjwa tu ambaye yuko admitted (inpatient). Kwa hivyo, kile ninaonelea, kwa hizi health centres, hizi ambazo wagonjwa wanaenda wanatibiwa na wanaenda (haya magonjwa madogo madogo), mtu ambaye hayuko admitted (outpatient), hafai kulipa pesa yeyote. Primary health-care should be free of charge.

Pendekezo langu la nne ni kuhusu urithi. Katika familia, wakati baba anakufa, hasa, mnaenda nyumbani kwa mazishi, halafu

