

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

VERBATIM REPORT OF

**CONSTITUENCY PUBLIC HEARINGS, LAGDERA CONSTITUENCY
HELD AT DADAAB (KEA & UNHCR)**

ON

JUNE 7th , 2002

**CONSTITUENCY PUBLIC HEARINGS, LAGDERA CONSTITUENCY, HELD AT DADAAB REFUGEE
CAMP STAFF, 7TH JUNE 2002**

Present

1. Com. Ibrahim Lethome - In the Chair
2. Com. Abida Ali-Aroni
3. Com. Ahmed I. Hassan
4. Com. Domiziano Ratanya

Secretariat Staff In Attendance

1. Ismael Yusuf - Programme Officer
2. Regina Mwachi - Verbatim Recorder

The meeting started at 12.20 p.m. with Com. Ibrahim Lethome in Chair.

Com. Lethome: After meeting the officials of UNHCR were told that, we have a lot of Kenyans sitting in the camps here, working with the refugees, who would also like to contribute to the Review Commission. But maybe before I go into the business, I would like to introduce the Commissioners who are with me here. On my right, we have one of the Vice-Chairpersons of the Commission, who is Com. Abida Ali-Aroni, on my immediate left is Com. Ahmed Issack, then we have Com. Ratanya M'chokera, Domiziano Ratanya M'Chokera from Meru. My name is Com. Ibrahim Lethome, I will be chairing this sitting for today. But maybe I will request the Chairperson, who is with us here, Abida Ali, to just give a few remarks before we start, on the purpose of our going around, on what we are doing, so Abida Ali.

Com. Abida: Aha... thank you Lethome, I won't be saying much I am sure you all know why we are going around the country. The only thing I would wish to say is that, we are very happy to meet you, and we felt obliged because we didn't want to... we know you were busy yesterday, and we felt that our trip this side will not be complete if we didn't give you an opportunity to talk to us, because the Constitution will affect you in one way or the other. So we are really hoping that, although you hardly get papers but we notice that you have TVs around here, so we know that you have an idea, of what has been going on and as Kenyans you will wish to contribute towards a better country; if you think we need to really have a better governance, and more development as a nation. So please feel free, we've been telling Kenyans everywhere that this is, a lifetime opportunity where you can talk, say whatever you want to say, so long as you don't you don't insult anyone and, rest assured that nobody will arrest you. We as a Commission, we did request, and it is there in the act that governs the process, that there is freedom of expression, tell us what you want, feel free; although every information we have here will go into our

data center, it is information that is going to be made public, but you all have, protection of the law, and you don't need to worry in making your contribution. So we welcome you and it is our hope that we will have more of your colleagues coming in, so that when we go back, I would probably say that, although today was supposed to be our rest day that you sacrificed on your part and, we also sacrificed so that we could have the views of Kenyans who leave far from Nairobi; and who sacrificed to work in the refugee camp. Welcome to the hearings this afternoon.

Com. Lethome: Thank you Abida for accepting to give the opening remarks, and then we have a Programme Officer there. His duty will be to record whoever speaks, then will need some data, some information from you. That is your name, your address, and if you represent any organization, then you'll put it in the document that we have there and sign on that document, just for our records. And as you are told by Abida, you should give your views without any fear, in fact you should have been in Dadaab yesterday, and listen to the people talking about the police, about the M.P.s, about the chiefs and the D.Os; all of them saying they don't want them, they don't want the Provincial Administration. In short feel free and say anything as long as you don't insult anybody, this is not a political meeting, it is not a political rally, but contribute to the new Kenya that we want to build, contribute to the new Constitution that we are about to write. Then we have Madam Regina, her work is to record. Everything will go on record, she has very sensitive tapes here, so as you speak, she will be recording you, she will also be recording whatever you say. Then we have Bikech who is a reporter from the Standard Newspapers, because it is only through the media, that people outside can get to know, what the Commission is doing. So all this are Officers of the Commission, you know the two gentlemen there, they are part of you people. In fact the gentleman wanted to go out because he thought it is just a Kenyan affair, I told him as long as he doesn't give out his views, he is welcome. He shall sit down here and listen to our views, maybe it will be an experience he might use in his country, when he goes back there.

So I am waiting for the list, each person will be given five minutes, within the five minutes, please try to make maximum use of the five minutes by recommending, making recommendations of whatever you feel is wrong in the country, and you would like it maybe to be addressed through the Constitution. So within those five minutes, you can make your recommendation, after that maybe the Commissioners will have questions to ask you, as a way of seeking clarification from you. So you feel free, if you feel you can answer some of the questions we ask you, do so, if you feel you need more time to go and think them over, you are free to do so. So, it is a very free forum, we want to talk in a very free atmosphere.

Interjection: Sorry, as members of staff who work in a refugee camp, and who work for International Organizations. Perhaps we may have, certain special information or ideas, which we want to contribute; because we have gone through this Province, we have gone through Modogashe, I was going through Modogashe, he I was going there, and this guys have come from Garissa. So we have been collecting views from the Kenyan people in this Province, and we are very much aware of the problems, of this Province. So on top of that, we expect you as members of staff- this is our expectation I am not trying to impose any ideas-but I am hoping that as we talk as members of staff who work in this environment, in the refugee camps, who have worked with the refugees, maybe you could give us some ideas on what you think can be done to improve the situation.

Because we have had other views, I am hoping that we will get some other information from you, on the type of things you have seen here, what you think can be done better, and how the Kenyans refugee policy, can for example be improved, and such other issues. This is a very special panel because, this is the first time I think we are having four Commissioners sitting in one panel, because usually we sit three Commissioners in every panel. So this is a merger of panel three and panel four. And therefore it is a very special session today. Thank you.

Com. Lethome: Yah.. So, I just said you will have five minutes, to give your recommendations on whatever you feel like. And then we would like each one of us, to respect the views of the others. I know, one of you might stand up here, and give views that may not be liked by the others. You respect his or her views, let him talk, or let her talk; you will get your time, so we respect each others views. Okey. And I think that is about all.

Interjection: Yah..

Com. Lethome: If I could get the list we could start off immediately. Can I have the top list please? Lets get the top list and we take off. Because we have another lot waiting for us at 2.30p.m. in Dadaab. It is good to begin with a lady, Amina Issa. So you will sit next to the lady here, so that she can report..... okey, Amina.....

Amina Issa: My name is Amina Issa, and I am from Garissa District, Garissa Town, my views are that, the infrastructure, in North Eastern, especially Garissa District, is not as good as good as it is in the other parts of the country. And being part of the country, I would like the government to improve that, especially the road system, medical care facilities, and also develop the economic standards of the community around. Looking at the climatical conditions in the District, there is a possibility that the government can look for options to improve the lifestyle of people around. Looking back at the drought that has hit, the district for the last few years. It is important that the government looks for options like in other parts of the country to improve the situation. One other thing, that I know of, is that we are not in a position to get some of those facilities, or much care in this place from the government is because, we always say that there is a security problem around this part of the country. I think, the government can do something about that. It is the responsibility of the government, to take care of the security of all the nationals in Kenya, and North Eastern, specifically Garissa District being part of the country. Then it is the government responsibility, to work on the security situation, in Garissa District. That's all I have.

Com. Abida: Just a minute Amina, you propose that the government should think of alternative lifestyle. Being a person who lives here, can you make recommendations, on what you think the government would give as an alternative other than, rearing of animals. What else can people do here?

Amina Issa: Okey.. the lifestyle, of this Somali community, has been of nomadic nature, that is taking care of our animals all through. But with time, life has been changing, people have been moving to seasonal agriculture. Whereby they use the rains that

come up, and I think the government can be in a position to think of irrigation systems for Garissa District. The river passing there in Garissa is a great resource that we can work with, and help the people generate income, and even generate foodstuff for the people.

Com Abida: Amina, I don't know whether you are aware that the river is not in Northeastern Province, it is in Coast Province, because of the three mile trip. Do you have anything to say about the three miles trip?

Amina Issa: I know there is that, but when you look at it apart from the three miles trip, the government has the capacity to put pipes through, and build it because this is a resource for the country. Then I believe every Kenyan has the right to the resource of the country.

Com. Lethome: So you don't mind the river remaining in Coast Province?

Amina Issa: What I know, currently is that, the river passes right through Garissa, and Garissa is part of Garissa District, and I believe all Kenyans would accept that it is also part of Garissa.

Com. Lethome: Okey, thankyou Amina try to register. Thankyou very much. So can we have Galgalo Mohammed, from GTZ. Regina, you really have to be tough. Bikech can assist you.

Galgalo Mohammed: Thankyou so much, I am Mohammed Galgalo, from Moyale District. I am here as a Kenyan, not as an agency worker, to present my views. I think the first thing I would like to comment about is the current succession issue which is going on. To my understanding, the succession is revolving around one personality: President Moi. I don't see any institutions managing the succession, so I don't know if there is a loophole in our Constitution, but to my understanding the succession is revolving around one person, our institutions are not managing it. So, the second issue which I would like to raise is about taxation. I think everybody understands that we Kenyans are among the most highly taxed in the world. But contrary to that, we are not getting the services which we pay the tax for. I think the whole of Northeastern Province, and even the Northern part of Eastern Province including Moyale, Samburu, Marsabit and Isiolo. We don't even have a tarmac road, we don't have good hospitals, we don't have, a good telephone system, so actually we are not getting the services which we are supposed to get. And the third comment is about the land tenure system. If you look at this area, especially Garissa and the whole of Northern part, this land is trust land. It is not individually owned, and it belongs to everybody even those from outside can drop in, and there is no much management from the local people. The local people really don't have a lot of control over this land; so maybe the land tenure system could also to be looked into.

Com. Lethome: What would you recommend, or try to advice those people?

Galgalo Mohammed: Maybe those who can, own to be given title deeds. And also the education system. First, if you look at the educational infrastructure in the Northern part of Kenya, it is very poor compared to the other parts. This includes the buildings, the facilities and the teachers. Also if you look at the education curriculum. We are learning about coffee production, and we don't produce coffee in the Northern part of Kenya. So, can we learn of the Zebu Borana cattle and something like that, which is more relevant to us, than the coffee production and that of tea. Also another issue is, as the whole world knows, there is a lot of corruption in Kenya. Almost institutionalized. So, can we have a good system which can tackle this corruption, maybe something similar to the disbanded K.A.C.A. I think that is the much I can say right now, unless there are some questions.

Com. Ratanya: Mohammed, you have talked about succession and transition, and you say its just revolving around one person. What is your recommendation, if you think there is something missing there?

Galgalo Mohammed: You see right now, there are a lot of questions, there is a lot of misconceptions, there is a lot of suspense. People are not very sure that even the election will be held after five years. Why are people having a lot of questions? Is it that our Constitution is not clear about this, or what? Okey, we are five months, or something like that to the elections, if they are going to be there as scheduled. We Kenyans, don't know who is going to be our next President, we don't even have a clue. So, I think there are a lot of question about the succession. So it is not being managed by our institutions, it is revolving around one personality.

Com. Ratanya: Now, whom do you think should initiate this transition issue. Is it the Commission? Or which institution do you think should manage this? Or should lead the country to that type of thing?

Interjection: Our Constitution, should be very clear about this, so that there is no manipulation at all. Right now there is a lot of manipulation, that parliament wants to extend their sittings for five or four months. So what is in the Constitution to counter this? We elected those people for five years, and the five years are ending in December, so, why the extension as being proposed right now?

Com. Lethome: Well Mr. Mohammed,

Mr. Mohammed: Yes.

Com. Lethome: I don't like provoking you, but I am going to provoke you, because I just came back from Isiolo District. The people of Isiolo, Marsabit and Moyale, feel that Eastern Province is just too big, and it is unfair for them to remain in Eastern Province; and they would like another Province curved, out of Eastern Province. That Province will put together people who have similar lifestyles, they are calling it Borana Province. What do you say as a person from that part.

Mr. Mohammed: Actually indeed, my personal views is I don't recommend that. We have seen people being divided into so many Divisions and so many Districts, for the last ten years. Those divisions into several Districts have just continued to divide people. It has not brought anything important. So even if the government says that, they are bringing services closer, by dividing Divisions into so many Divisions; we have not seen those services, so I don't really see any benefit that a new Province will bring to us. Maybe instead of giving us a new Province, give us more infrastructure, which is not available right now.

Com Abida: Thank you Mohammed. There is a gentleman here who has requested to be given priority because he is rushing for Friday prayers. I hope you don't mind. He is Hajir Noor Maalim. You know for us we are travelers, we are allowed to pray later. So Haji, Haji Noor Maalim.

Haji Noor: It is unfortunate that you caught us offguard and we are not that prepared to make substantial presentations, but all in all, we have problems, and hopefully the Constitution will address our problems.

- 1) The issue of our land, being regarded as trust land: I think I will recommend that this land should not be regarded as trust land. It should belong to the people, it should be theirs, but not land under trust.
- 2) About education: Kenyans take a number of years completing their 8-4-4 education, this is because of the delays that is caused by the system. If you finish your O-level examination, if you are offered for admission to a University, you have to wait for a whole year doing nothing, absolutely, because there are no opportunities in Kenya for you to go into, for that particular one year. So, you waste time, and at the end of it you leave the University when you are nearly twenty seven years old. And you will find most scholarships, most opportunities, for University fresh graduates, the age limit is 25 years. Therefore, that knocks out of most of the opportunities in the world. Therefore, the 8-4-4 system, should either be reversed, or we should remove this bracket between the levels of education.
- 3) The other thing is about the powers of the Kadhi Court: The Kadhi act, thus empowers the Kadhi to deal with only civil cases, is against all the teachings of Islam. We as Muslims will wish that, even the criminal cases, the Kadhi is given the powers to deal with criminal cases, because they are fundamental aspects of Islam, and by violation of this fundamental rights, we are violating the fundamentals rights of freedom of religion.
- 4) About the banks: Islam regards interest as 'haram', unlawful, but the system of banks in Kenya, are banks that operate on interest systems. So I will wish to recommend that, interest free banking systems, be incorporated in Kenya.
- 5) About the powers of the government: I think you have implied by saying that the people do not want the administration, do not want the police force in Daadab, that the powers of the government are excessive. I will recommend that the powers that are vested in the administration officers, the police force, the government, in particular the administration; be curtailed, or limited to some extent, because they have violated various basic human rights in our Province. An example of this violation, is in Wajir, when the government under the guise of operation, have used military force to terrorize wananchi, during the day, while the wananchi had been terrorized at the night

by the bandits. Therefore, I wish to recommend to the Commission, that this powers of the government be somewhat restricted. Thankyou.

Com. Abida: Now, Your proposal on the Kadhi's act. Now this is a secular state, we've received several recommendations, like yours, but from the Muslim community. If your recommendation is accepted, how do you envisage a legal system where Muslims are under the Kadhi, where Islamic criminal law is being practiced, as opposed to the other Kenyans. Let us look at an example like here in Dadaab, how does it operate? Do we have codes where only Muslims are arrested and taken there, as opposed to the other Kenyans; or in a situation where Muslims enter into contract with non-Muslims, so how do you draw a line? Do you see it really working in this country? If not, if there any difficulties, what specifics would you recommend that you think are workable, in a situation where Muslims find themselves in this country?

Com. Lethome: First I would go to the law of tort, and the law of tort is, if the case involves two Muslims, then I recommend that that Islamic law applies. But if it is a contractual case, where there are conflicts between or there is a disagreement, a breach of contract between a Muslim and a non – Muslim, at that time I wish to recommend that it should be at the convenience of the two parties. They can be given the option whether to go to a Kadhi's court or to the other court. I think this system can work, because if we find we can also have Islamic system, by the way in Nigeria we have the Islamic courts, and they can be able to operate, in co-existence with other secular law.

Com. Ratanya: There is only one clarification about banks. What about those who borrow from the banks, we could also recommend that the bank should not charge them interest. Those borrowing and those lenders should both not pay interest.

Haji Noor: We should come up with a system where banks generate their income, not from interest but from participating, or getting involved in active business, in active commercial business, commercial transactions; but not getting money from money they lend to others, their customers. They should give interest to customers at zero interest, and they should receive money at zero interest. Even loans given by the government should also be at zero interest, like the Higher Education Loans Board, the loans which are given to the Ministry and the government to assist the students in institutions of higher learning there should be zero interest. Why are we told to pay interest while, my own religion, my own fundamental belief, is against this system?

Com. Lethome: George Njoroge

George Njoroge: My names are George Njoroge, I come from Thika District. One thing I would like to talk about is the government. I think our government, there is one place where it fails. If you look at the government, the system, their mechanisms are not actually working properly according to the Constitution. If you look at for example, the appointments within the government, you will see that most of the appointments are just based on the tribal lines. According to the Constitution, appointments have to be done on merit not on tribal considerations, The government has also taken the trend of rewarding

communities for example if there is an appointment, they just appoint that person on tribal merit, the tribe is rewarded to please, maybe a certain grouping. This is mostly in appointments to the cabinet, and mostly the notorious parastatals.

And also I could like to talk about the Judiciary systems. Actually our Judiciary system, has a lot of corruption in it, you will see most of the serious cases, like corruption cases, they are just mentioned once, and then they just disappear. It takes a long time for that case to be mentioned again, and if it is mentioned, that case just dies that way.

Another thing is about our security system in Kenya. Of late, I think the Kenyans here are lax on security, recently we have heard of some intrusions by foreigners, and if you look the machinery that is supposed to be aware, they actually don't know anything about it, so security is lax, the person or the machinery that has been put in place by the government, is actually dead. In this region, we find that most of our security people suffering. Notably to mention the police, they don't have facilities, they don't have communications, they are just coping with the structures that they have.

Interjection: Those are the problems, just make recommendations.

George Njoroge: My recommendation on security, the government has to take it seriously, we have to improve. As you know, the police are human beings too, but they are subjected to some problems, they are also victims. So we recommend that the government has to improve the communications network, they have to improve the roads, mainly for example between here and Garissa, we have poor communication, infrastructure is just dead. So we need the government atleast to improve the infrastructure of the communications.

Another thing is about education. Most of our education was mostly provided by the government, but now since the private sector has come up we need to come up with some sort of schemes, like special schemes for parents, children and paying school fees, those kind of things atleast to improve their education. Thankyou.

Com. Lethome: When you are talking about appointments, I hope you are talking about presidential appointees, appointments like, maybe appointments of the high court, the Chief Justice, people like the Attorney General, and other appointments, like appointments to the Cabinet. Right now all this appointments are done by the President of the country, as the Chief Executive. So would you recommend under the new Constitution, that such appointments be done by the President, or what do you have in mind?

George Njoroge: I think the President should not be the only person who can appoint somebody. I think appointments can be through a committee or a Commission, whereby the appointments should be based on merit, but not directed by the President, or an individual person.

Com. Lethome: Can we have Tamara Akinyi, Tamara Akinyi?

Tamara Akinyi: I'd really like to talk about education, and the emphasis that should be laid in educating Kenyans. We can see right now that, majority of Kenyans know how to read and write; but I don't think that majority can actually sit down and critically analyze a situation and actually give some creditable analysis of something. That means that, in the next few years to come, we will have a society which knows how to read and write; but cannot actually implement something. This leads me to the recommendations that a lot of the teachers issues should be taken into consideration. Starting by giving teachers a bit more incentive, this is true because we are all what we are, right here right now, because of the teachers who taught us way back. Right from nursery there should be more incentives given to these teachers, so that they can at least feel that their efforts are being appreciated.

Second issue in education, is the facilities we find in government schools. The facilities you will find in a government school in Nairobi, is totally different from the facilities you will find in a government school in Northeastern, in rural Nyanza, in rural Central Province, or whichever other Province that we have here. What is the difference in those facilities? And yet all of them are so called government schools? At this rate if they don't have enough facilities, you will find definitely that Starehe will, oh sorry, maybe Pangani will always lead, and State House will, always be at the top. But all this other small schools in the rural areas, much as they are government schools, do not perform as well as the other people. There should really be a balance, in all government schools, in that all of them are given the same facilities, and the teachers are basically given the same incentives so to speak.

Another thing is, I think the government should really start considering to going into a welfare state. Kenyans are poor, we are poor, majority of the nation lives below Shs. 80 a day. The government can put into their financial budget every year, come up with a way that they at least supply some basic requirements for the very poor in society. Basic requirements meaning, good housing, food, clothes, schools, medical facilities for this people. I think we can actually go along way in even eliminating the most irritable street children. I really think that should be taken into consideration.

Another thing is medical facilities: district hospitals or whichever other places, I'll first of all start talking about the District hospitals. Again just like the schools, you will find in Nairobi if someone has to go for some major something, you have to go to Nairobi. We are considering this person is in the rural area, has minimum income, or none at all, they have to go doing some harambee from people who don't even have anything, really, to get their operation done at Kenyatta National Hospital. Stay there for another five months, because they cannot pay the bill which is incurred there. Why can't the government actually put as much emphasis as they put in the other hospitals, to this District hospitals, where majority of Kenyans live, to put them to a standard that will be able, in one way, or another, to make sure that this rural people have a better medical situation, where they can get their operations done, where they can get their medicine in time and not just prescribing the daily aspirin for everything that comes about. Drugs as much as they are supplied in the national hospitals and everything, they should be an almost, not

really equal amount of drugs also, in the District hospitals, in the health centers, and as better drugs as they are supplied in the other hospitals. That's all I have.

Com. Lethome: Register please Can we have Khwaka Okubo. I hope I have pronounced the name properly. Khwaka.

Khwaka Okubo: So I want to talk about various issues, the first issue I want to talk about, is the education system: I think there is a problem with education planning, there must be a very serious problem in education planning, because they are not very clear about whether they are planning education because of the social demand; or whether it is because of the economic demand, or whether it is because of what the education system will return back. Because I don't know, I haven't known exactly how education systems are changed. For example, my feeling is that, somebody just woke up one morning and decided 8-4-4. The next morning they are going to wake up and state 10-12, or something. I think the community has to be consulted about what kind of education they want. I also think that the government has not paid a lot of attention to basic education, as you can find in many places there are the municipal schools, the government schools, but you will find that the government has not paid any attention to the early childhood education, that is nursery school. Parents are paying so much money for nursery schools, you find a parent is paying about 5000/= per term, and parents are so happy when children go to primary schools, because there they might spend something like 300/= per term, or something like that. I think the government has to take special interest in early childhood development,

I also want to talk about agriculture: not really agriculture but, here generally, I come from a place called Ndal, we plant a lot of maize and beans, we put in a lot of money, a lot of labour to cultivate this things, and the government doesn't care about the farmers, that is what I feel. Because what the government is suggesting as the price, for example now the price of maize. What we put in was so much higher than what the government is suggesting the price should be, they are saying a bag of maize, 90 kgs should be 400/=, it's ridiculous. There should be some sort of standardization in the government for the price of goods. Farmers should not be exploited by middlemen or any other people. There should be a standard cost or price of certain things, and that is how it should be; the government should look into such matters and be serious about it.

I also want to talk about marriage: I don't know whether there is a law on bigamy, but I think there is something about bigamy, I think it should be scrapped off; I don't think there is anything wrong with bigamy; we are Africans. If a man wants to get married to five wives, let him get married to the five wives, so long as he is able to maintain them. Now the question should be, if he gets married to this five wives, is he able to maintain them? And if he is not able to maintain them, then he should be taken to court not because of bigamy or polygamy but because he is not able to maintain his family. Then he should not be allowed to get married to them, but I think that it would help a lot of people.

The issue of tax: I think Kenyans must be the highest taxed people in the universe, let me not talk of the world. We pay so much tax, I come from a place called Ndal, as I had said before. There is no water system, there is no communication system,

there are no schools, we learn under trees, I learnt under a tree myself. The same school which is under a tree is the one that my children might go to. The government doesn't care about us. It is like we are not in this country, I think the government has to be more serious about even the kind of people who are to represent that place.

I am also concerned like, for example when people are travelling from this place, this is Kenya, I hope; when you are travelling from this place, to go to even Nairobi, or even to go to Madogo, we are checked so thoroughly, we are checked like we are coming from one country to another. This is Kenya, we should be allowed to pass and go wherever we want to go, without having to be checked, we are Kenyans, this is Kenya, if the government has a problem with the aliens, let them go to the borders, not between my District to another, if that's the case then we should have different countries instead of Provinces or Districts. What they do is very bad, it is humiliating, and I think something has to be done about it. That barrier should be removed. That is all.

Com. Abida: Now, first I want to find out where Ndalú is, to begin with.

Khwaka Okubo: Ndalú is somewhere in between Bungoma District, and Transzoia.

Com. Abida: The other one is for information, that..., which Province?

Audience: Western?

Khwaka Okubo: When you have land there, you can have two title deeds for your land, or three, because your land might land in Kakamega, Bungoma and Transzoia. That is a problem.

Com. Abida: Now, then this I thought I should probably share with you, just for your knowledge, that in Kenya polygamy is not outlawed, it depends on what system of marriage you keep, if you decide you are a Christian, then you have to have a monogamous marriage. But for Muslims, and Africans, you can get into a polygamous union. So would you like us to continue with that, or you want us to allow Christians, and we are talking here about freedom of worship, because their religion insists on a monogamous union. But Kenyans have a choice.

Interjection: If you register with the Attorney General what is it are you telling us?

Khwaka Okubo: So like somebody can have like three, four wives?

Com. Abida: I understand under statutory, you cannot; and under Christian marriage also. But you can make a choice, you can either become a Muslim and then your husband will have those choices, or marry under traditional rules. So it is really a

personal choice.

Khwaka Okubo: I believe that statutory thing should be reviewed, seriously we are Kenyans, we are Africans.

Interjection: Your problem in bigamy.

Khwaka Okubo: Yah, it is an offence, you can actually be put in for a year. The only problem is that it is only the first wife who will inherit his estate. So that is where I am having a problem, you know because if it was registered like the Attorney General said first, if this man had one, two, three wives, they are all registered. All the wives will be able to get something, when the man dies. But if it is an African sijui what this bla bla things, which are documented and the government doesn't understand, it puts the other wives at a disadvantage.

Interjection: I want to assume that you are a Luhya from Western Kenya, you are a Bukusu, so you must have, I am sorry, so you must have, some traditional marriage ceremony among the Bukusu. When a Bukusu man wants to marry you, he will pay certain things to your parents, and then according to the Bukusu customary law, it becomes a marriage. But I think what we are talking about is really the African customary marriages. Because that one, a Bukusu man can still marry another second wife, and a third wife, and a fourth wife, and a fifth wife. But you see if we took this to a church and in civil marriages, then it becomes a Christian marriage. Maybe what we should say, is that we should, issue marriage certificates, to the customary marriages that will take place in Ndal. Okey, thank you

Com. Lethome: About education, we could answer this one because you put a lot of emphasis on the problem facing our education sector, and the children. Right now many parents would like to take their children at least to primary schools. They are not able to do so, because although we are told education is free, you know, I know, that it is not free. So what would you recommend, in as far as schools fees, and whatever payments are made in schools.

Khwaka Okubo: Okey, I am not sure whether Kenya is a poor country or rich country. But the way, if people come to invest Kenya, must be a rich country. Surely it should be able to offer free education to children, starting from nursery school now the problem is, to go class 1 you have to pass through I don't know, baby class, middle class and that costs a lot of money. It is more expensive than secondary schools, we shouldn't have that bla bla if we have free education. And what I mean by free education, maybe Kenya might not be able to do this, but from what people are paying as tax, I am assuming that is what goes to pay the employees and what, then parents maybe should be let to take their children to school, and then maybe the only thing they should look into is feeding and uniform, but education should be free. You know, Kenyans pay so much tax and we get so many donors who are giving out, a lot of funding and such like things.

Com. Lethome: Ahmed Rashid.

Ahmed Rashid: First of all I would like to welcome the Commissioners to Somalia, as my colleague has just said. Because we don't consider ourselves actually to belong to Kenya, as the country would like us to believe; because if we are Kenyans, and we are subjected to a lot of harassment when we are going and meeting the rest of Kenyans. We are told that the Constitution gives us the allowance of going anywhere in this country, so long as we are Kenyans. But having identity cards, does not always mean you are a Kenyan in this part of the country. If the identity card itself is enough, or sufficient to make an individual to be a Kenyan, I think we would not have been subjected to a lot of harassment, when we are visiting the other parts of the country. And I think we might not talk of the reviewing of Constitution to reverse this scenario, because the Constitution clearly states that we have a right to go and live in any part of this country. But I think that one is not acknowledged, with the knowledge of the country, with the knowledge of the government, those barriers are put in place to specifically sieve the people who are living on this part of the country, when we are going to the other part of the country, and it is not happening to the other parts. When you are coming from Central Province, coming to Nairobi, or coming from Rift Valley, or coming from Coast Province, I think such barriers are not put in place. But why is it in place in North Eastern Kenya? That's why it is a joke, whenever somebody leaves this part of the country going to Nairobi, you will here people saying, you are going to Kenya or....

Interjection: What do you recommend there?

Ahmed Rashid: What I would like to recommend is that the country, I think the Constitution allows that as I told you, to move freely. Those barriers should be removed, for us to move freely without any interference, or any other whatever.

The other thing is, I will call it face identity. When you are in Nairobi, or any other part in this country, I think any other person can very easily pass a police barricade, or a police barrier without any form of identification. The last time I was moving with a Ugandan colleague, and he was an alien and I am a Kenyan. The Ugandan friend just passed without any police officers stopping him, and somebody just grabbed me by the back, he told me can you identify yourself? And the Ugandan has gone. Why has the government made some people to be hunted for, specifically to be hunted for, and the others are just moving and living around freely?

Com. Abida: Ahmed we have a problem. You are complaining, you see we understand all those frustrations, but what would you like to see the government do for people like you? You see that is the only way I think we shall help each other, because if you complain, without making proposals, there is very little we can say about your problems. Tell us the Kenya you would like to see.

Ahmed Rashid: Now, as I said, I don't know how to recommend, because if it is an issue of free movement, it is already there in the Constitution. If it is an issue of living wherever you want, I think it is something that is already there. Like the case of the trust land that was talked about here. I think we have a right to own land, title deeds are there to be issued, but then why are

some people not entitled to own some land?

Com. Abida: Can I help you, why don't you tell us you could like to have title deeds, other than asking. Because it really helps if we can have recommendations from you, other than us picking your complains and assuming, and we may assume right or wrong, because we really may not share your problems. We can take the problems but you will leave a gap, because we will now start debating, what did Ahmed really want for himself and his people? Can you tell us for instance, we want title deeds, we want....

Ahmed Rashid: Freedom of movement, rights to own property because this one is a trust land, why are we not entitled to own this property, and other people are owning property in other places? Freedom of movement, as I said earlier, also removing some of these stereotyping. A student was asking me last time, the difference between a robber and a bandit, and I jokingly told him that a robber is any Kenyan with a gun; and a bandit is a Somali with a gun. Because you will always hear, yah, you will always hear in media reporting and talking about bandits attacking people in the rest of the country, and robbers attacking people in Nairobi. Why don't you talk of bandits there. I think such stereotyping should be removed, because they are the ones that are making people here to be marginalized.

Com. Lethome: What would you recommend as far as that is concerned, this discrimination against the Kenyan Somali.

Ahmed Rashid: And to this discrimination, the law should, I don't know whether it should kind of fine such people, who advocate for such stereotyping. Why should a thief in one place be called a robber, and another thief in another place be called a bandit? If he is a bandit, he is a bandit in Nairobi, as well as in Garissa, if he is a robber, he is a robber in Garissa, and a robber in Nairobi. I think such things should be removed.

The final thing I would like to talk about is democracy, I think we have gone too far on the issue of democracy, especially when we introduce democracy in the school system. I think you talk of democracy in nursery schools, and democracy in primary schools, and I think democracy, according to my understanding, is willingness or freedom to do something. So long as it does not infringe on another persons rights. So if you give such freedom, without guiding this children and tell them you are free to do anything, I think this kind of freedom that we are giving this children could be harmful and we should not give children democracy, we should give them rather guided democracy, because if you give this children democracy, and they fail us...

Interjection: Get to your point, I don't understand

Ahmed Rashid: No democracy in schools, no freedom,

Interjection: Freedom to do what?

Ahmed Rashid: Freedom to do you know...

Interjection: Are you talking about caning or something, punishment.

Ahmed Rashid: Yah, caning, and some children making some other decisions that might not be to their own good, for example, if a child tells you I don't want to do the sciences, and all this things. Then should we allow them or should we not allow them? We should not have such uncontrolled democracy, that we have already given to the school system.

Interjection: What type of discipline would you like to see in schools? How would you like the school to be disciplined?

Ahmed Rashid: To be disciplined? You cane them, I think you should give us an option because you have removed the cane, we should be given an alternative. Yah, I am a teacher.

Audience: (Laughter). Do you cane your students?

Interjection: No, but I don't cane my students.

Com. Lethome: You know you began by saying very well that the law is clear, that nobody should be harassed, there should be freedom of movement, but anytime you are crossing over not only the Somalis, even our sister there complained she is a Luhya, she is a Bukusu, she complained also. That means maybe there is a problem with the law enforcement agency. What would you recommend about the law enforcement agency, and to be specific, the police of Kenya, do you think they are well trained, are they doing their work properly?

Ahmed Rashid: I think, probably we should be give them some kind of training that will enable them to handle people whom they are supposed to be assisting. Because they are talking of 'utumishi kwa wote' but they don't know how to serve this people, they are supposed to be serving. So I think we should kind of, try to set a curriculum that is going to make this police officers very friendly, and very approachable, so that if I have a problem I can visit them, or they can help me without any problem.

Interjection: Franklin Kirima.

Franklin Kirima: Well my names are Franklin Kirima, and I am a care agent. My greatest quarrel is with the City Council. I think we all know that this City Councils, and local councils, are among the most corrupt institutions we have in Kenya. When it comes to their performance, like for example the Nairobi City Council, is doing very little, it is not performing even half of what

it should do, things like garbage collection, what it is doing is just harassing hawkers who are....

Interjection: What do you recommend?

Franklin Kirima: What I want to recommend is that, we should come up with small Districts as the Omamo Commission said. We should come up with boroughs that should help cater for small Districts within the city, that is one issue. I think we should do away with the City Councils and come up with this boroughs as recommended by the Omamo Commission.

The other thing is government distribution, procurement, and budget lines. I think we all know that this ends up wasting a lot of taxpayers money, we have seen several new cars, and new offices being grounded, and yet they are functional. I propose that we should come up with some Commission, that should cater for government institutions procurement procedure; especially Ministries and Parastatals. We should come up with some Commission, that should cater for that. Things like, government institutions tenders, the way they are given, they are always in favour of some successful people, no equal chances are given to small businessmen. So I think we should come up with a Commission that should cater for tenders, government institutions tenders, and procurement. I think that is all.

Com. Lethome: You know this is a very interesting sitting, we have the whole of Kenya here, I am sure you will agree with me. Listen to this, this is David Kipkemoi.

David Kipkemoi: My name is David as you've said, well I have recommendations for the agricultural sector. One, I think the government can do better by trying to protect these agricultural sector, because it is through the agricultural sector, that maybe Kenya can gain industrialization. I really don't believe in any other industrialization apart from that which will start from the agricultural sector. So one, is inputs, farm inputs, I think government should waive taxes on farm inputs, things like fertilizers and the sort. Well I know it does so for agricultural machinery but I think that is not enough. Secondly, I think it should be even looking at the question of land, in the sense, it should not go ahead to subdivide land into small units that are not agriculturally productive. I take for example, like this A.D.C farms, so I think it should not go ahead and try to subdivide the A.D.C. farms; if anything they should be used for the purpose they were meant for.

Thirdly, the government should introduce protectionism in agriculture. Going to the supermarket this days, you realize that products from South Africa are so common in our supermarkets. I don't know really the reasons why, but some of this people get export compensation. So once this products arrive at our markets, they are cheaper compared to our eggs, or whatever in the supermarkets. And of course a supermarket is a business enterprise, so it will opt to buy from cheaper sources.

Away from the agricultural sector, I think the other issue is that the government should a welfare system in place, for the vulnerable members of the society. Until the 90s, or until the introduction of the structural adjustment programs, the government

used to offer some subsidies in the medical and the educational sector, which is no more. So I think the government can do better, because we have seen that more children are dropping out of school, because they cannot afford costs. So the government should stop in and try to see if, at least they subsidize the education system and even the medical system in this country. So that persons who are not in a position to pay for services, can be paid for, by the government.

Another issue that maybe welfare would tackle, is the issue of old age, or the elderly persons of our society. I think in this particular country, we still have the African way of caring for the elderly, but then there is a trend emerging, that would see a situation where nobody, will take care of this particular persons. So I think a welfare kind of a system or policies will try to address this particular issue.

Then, another issue that I wanted to talk about is on the refugees. I think this country has no law regarding the refugees. Kenya as a country has been a host to so many refugees; but surprisingly up to the present we don't have a law regarding the refugees. And this has led to the rights these people being tramped upon, because there is no law as such, to protect them. We are talking of a population in Dadaab of around 30,000 people. This people are only confined here, they cannot move out of this particular camp, so can you imagine yourself, as a Kenyan, being confined into your districts, and not moving out. So I hope this Commission should try to address the issue of this refugees. They can even integrate them into the local community, or allow them to engage in business like other people.

Another issue that I wanted to talk about is on the education system; well, I know a lot has been said about this system, but I would recommend that we go back to the old system, was it 7-6-3, whatever it was. The 8-4-4 system is expensive because of the huge investment requirements. We should go back to the old system and try to separate technical schools from academic schools. We should make sure we have schools at District level that address persons who want to pursue technical education, and those who want to pursue academics.

Lastly, it is about sports; sports is one area that is a very lucrative currently in the world, but Kenya as a nation, is not doing anything to promote sports activities, as a way of the young members of the society trying to gain an income from sports. So, I think issues of unemployment can be addressed, by trying to revitalize the Sports Department, in the Ministry of Culture and Social Services. I think that is all.

Com. Lethome: Okey, thankyou Kipkemoi, do you have anything Maina? Henry? Balifa Abajila?

Com. Abida: Where are you from?

Balifa Abajila: From Tana River District.

Com. Abida: I was just wondering whether you are from Kenya.

Com. Lethome: We just doubted whether that name is Kenyan.

Balifa Abajila: Yah, everyone has been doubting like that, apart from the Tana River people. So, I would like to recommend one main thing, and this is war against corruption in Kenya. I am saying this, because most of the problems we are having in Kenya, are as a result of corruption. Like the leaders we have, I don't want to victimize anyone but most of the leaders that we have in Kenya, are really corrupt. For example, if you go to a college, you want to be enrolled for a course, you are told you have to bribe; and it has been a very big problem to most Kenyans. When you want to be employed, maybe you have trained, you are told you have to bribe, and yet you are trained by a Kenyan college, so that one is a very big problem. You go to business you find that we still have problems because you are being taxed, you drive your car you have to bribe, for you to go through, which is not really good. So, I think if we can start a war against corruption in Kenya, we can have a better Kenya in future.

The second thing I would like to recommend is that, I would like our leaders in Kenya to change their attitudes towards attaining wealth, and this goes to the first recommendation, because most of the Kenyans for example a headmaster, he would like to be rich through getting bribes from maybe parents. You cannot be allowed to register unless you bribe, so he is using that post to become rich, he is using that to have enough wealth. I think Kenyans should be satisfied with what they get, and if someone wants to be very rich, he should go to school, learn, get a better job; so that he can have a bigger salary, but not getting money from poor Kenyans. That's all.

Com. Lethome: Which kind of punishment, or perhaps what type of penalty may be given?

Balifa Abijila: Well I don't want them to be punished, but I want them to change their attitudes, because you can keep on punishing them, they are still not changed. So my main problem is for them to change their attitudes towards getting wealth. But...

Com. Lethome: We have heard policemen appearing before us, and talking to us. When you talk about you driving a vehicle and somebody asking for a bribe, that is a police officer for sure. And they said they do that because their terms of service are very poor, the salaries are very poor, so they have to collect money from you people on the way. What do you recommend, so that these people, this women in white shirts and men in blue shirts stop taking bribes from you, what do we do about their terms of services?

Balifa Abajila: I think the national...

Com. Lethome: Just a minute, Regina, please..

Balifa Abijila: In that case, I think the government should improve their payments, I mean they should be paying them better than they do.

Com Abida: I would like you to probably tell us how you think the Constitution can assist in changing the attitude, because here, you know it will be very difficult for the state for instance, to change the attitude of Kenyans. Now we are trying to change the Constitution, how do you see the Constitution assisting in the change of attitude for Kenyans. What is your recommendation for the Constitution on that base?

Balifa Abichila: Well I may not have, maybe what I can say about what Kenyans can do for them but they would only tell them like people who are working as teachers or in every sector, this should be made like a rule to all people that they should stop corruption; and they should change their attitudes towards getting wealth. And also I thought of a very long plan, that in school, because this pupils and students in school they are the leaders in our future, so we should have a lesson maybe, that we should be teaching this students in schools, to have the right attitude towards attaining wealth. If they can be taught at that age, then by the time they are becoming leaders, they will have correct attitudes towards wealth. So they will not be copying their former leaders, that is just but a long time plan, which would really help.

Com Lethome: Can we have Borness Chepkurui, Borness Chepkurui?

Borness Chepkurui: So I am Borness Chepkurui from Kericho District. So my first recommendation is on the type of employment in Kenya. You know right now Kenya is strategizing on poverty reduction, but from the practical arena you find that, you might find some have trained from a private sector, others have been trained from the government sector, but there is a lot of bias as per the sort of opportunities that might be available. So you find somebody who has trained from a private college, he has used a lot of resources, he has tried his level best to maintain himself, or train himself and get some papers from that training. But you find the government will give first priority to the people who have trained from the government institutions. So I think the government should recommend that everybody who has the best academic qualifications, should be given first priority.

Then my second recommendation is on the resources which are available in Kenya. You know every individual in Kenya is working towards developing this country, but unfortunately you find that most of the Ministers who are appointed always channel the available resources to their constituencies. If somebody has been given a post to be Minister of Energy or Minister of whatever else, you find that, that person is not even working for the whole community, what he does is run to his own constituency, or his own home District and starts doing development in his own district. So leaving the other people prone to problems. You find some people come from areas which are very productive, but they don't have roads, they don't have any access to the market to sell their produce, so such people are bringing down the development of the country, in the name of just

developing their own district.

Com. Lethome: So what do you recommend?

Borness Chepkurui: So the recommendation here is that, there should be even distribution of the available resources in Kenya. Then the other third recommendation that I have here is about the system of education in Kenya. From my own point of view, I know that the primary schools are not integrated with the nursery schools. Most of the nursery schools that we have in our country are run by the County Councils. This County Councils have managers who might not even be having any qualifications to run the schools. You know the foundation of a child is very important, if the child does not get proper education, then that person is not going to have good education. I would recommend that the government incorporates the nursery schools together with primary schools the other recommendation is that the government should also provide materials and facilities and learning resources to all primary and nursery schools.

Sometimes back, in the 1970's, 80s, there was this scheme of Kenya School Equipment Scheme. Upto now, that scheme has been scrapped off and many parents are not in a position of providing books and stationery to their children. I understand the scheme was replaced by this milk scheme, but the milk was not of much importance to me, so I recommend the government revives the Kenya School Equipment Scheme to assist the parents in providing books. I think that is all about what I had to recommend.

Com. Lethome: You are not under any obligation to answer any question from the Commissioners if maybe you have not thought of it. Think over it, you can even send your answer to us in Nairobi, there is no problem. You spoke about Ministers taking resources to their constituencies. Essentially, every Minister is a member of Parliament of a certain constituency, what do you recommend? Do you recommend that we continue in that way; we appoint Ministers from amongst the MPs, the sitting MPs, or what do we do?

Chepkurui: I beg your pardon?

Com. Lethome: You see, you complained that Ministers take resources to their constituencies, because essentially they were elected by a certain constituency. So they tend to take all the resources there. So what do you recommend? Do you recommend that we continue that way, or maybe instead of having Ministers being appointed from MPs, we appoint them from outside Parliament; or ministers who do not represent any constituency.

Borness Chepkurui: But you see it would mean the same because here it is the attitude of that Minister to develop the whole country as a whole, rather than just develop his own constituency alone. So what I would recommend is that the Ministers should distribute the resources evenly among all the Districts. Thankyou.

Com. Lethome: I think some people have left because of prayers, Steven Ngunjiri, Ngunjiri has left also. Jasper Ndolo Kinama. Jasper Ndolo Kinama.

Jasper Ndolo Kinama: My name is Jasper Ndolo Kinama, I have a few recommendations here, on the government of Kenya. Having been trained as a teacher in Kigari Teachers Training College and after having completed and actually having passed satisfactorily; I have not been employed by the government of Kenya, as it has been my intention. I therefore recommend that the government sees to it that they employ all teachers who have been trained in the teacher training colleges in Kenya. I am saying that because I am teaching in a refugee set up, and I feel as a teacher, and our profession is a noble profession, if I continue teaching in a refugee set up, then in future I will have nowhere even to land myself on, I will just go and land on a very dry stone and then I will die from there. Therefore we need teachers who have been trained in Kenya, to be taken to their local schools and teach there. After that we can have somewhere to land on in future, when we are old, because of course our salaries are very meager. We need to be more.

Interjection: Therefore what do you recommend?

Jasper Ndolo Kinama: Therefore this salaries have to be increased because what we do is a noble profession, and we need to be placed in the right places so that in future we can have somewhere to land on.

The other recommendation is on local brews: local brews, like changaa, like karubu in Ukambani. Within my home there are so many places where there are a lot of brews everywhere, and this is actually affecting education in the rural areas. Therefore I would recommend this local brews, although it is good to have them anyway because we have the tradition which require them, but they should be centralized maybe in their market centers; but not everywhere in the rural areas, and they should be legalized properly. If somebody is asked to take the brew he has to go there and then has to behave, not to behave anyhowly, therefore the government has to look into that.

The other issue is the infrastructure: especially where I come from, I come from Kamuoso Sub-location in Ithima Location, back in Makueni District. Where I come from, there are no roads, there are no telephone lines, there is no electricity, and therefore we are disadvantaged. I would like that something to be done in that area. The other one is about taxation: Here in CARE, I have been given a contract, but still I am taxed, and this contract is on yearly basis, it is not a permanent employment,

Interjection: What do you recommend for this?

Jasper Ndolo Kinama: Therefore there is no need to tax people who are under contract, your money is taken by the government you remain poor, then what have you been working for? In teachers training colleges, we did education for personal development. If instead of developing ourselves, everything is going to the government; then why are you getting the

education?

The other issue is on the Provincial Administration: looking at the lower levels where we have chiefs, sub chiefs, most of them are not educated, they lack management skills, they lack administrative skills, all these and therefore we need people who are educated.

Com. Lethome: What level for chiefs?

Jasper Ndolo Kinama: At least it should be even more than form 4 level something should be added, not only form 4 leaver who is just coming from class like that, there should be some kind of a training. The other issue is on street children: you find that in most of the towns in Kenya, we have street children, and I am wondering how comes the government has been unable to eradicate this problem of street children. Therefore, the government should do something to ensure there are no street children, because our government is not poor. The other issue is on Rural Industrialization: we always complain of rural-urban migration, because people migrate from rural areas to go to the urban centers, because that is where they can get jobs, they can get luxuries, things like that. Therefore we need industries in the rural areas. I understand in Kenya, we have so many people who are trained in many areas, they can be utilized in the rural areas; to ensure that this rural areas even if they are not equal to the towns, they balance to some extent, but not the balance to be like that, it has to be equal or make at least come closer.

As my colleague has said about corruption, this is now too much; it is tearing Kenya apart, therefore I will recommend that, a strong law be passed against corrupt people, if you are caught with corruption, a strong law acts on you properly, not caring whether you are related to the boss, or to the senior government officers or what, corruption, direct the law hits you, then I think that is what will assist us. Thankyou.

Com. Lethome: Okey thankyou Ndolo, can we have now Samuel Otieno Ongeru.

Samuel Otieno Ongeru: Now, thank you very much the Commissioner for having this meeting to hear the views from various people, this is a very important meeting. Now most of the things have been said by our colleagues, but I am going to say something which is very important and if the government can take action against it, then the forthcoming generation can have permanent life. Now I am going to talk about AIDS.

It seems as if most of the Kenyans have been affected by AIDS, and this is a very sensitive area and everybody is worried. In this century, Kenya is facing a very rough time because most of our colleagues are going; and before we do anything else, we have to think about this very seriously This AIDS is going away with big people, small people, everybody else, and we don't know what to do, we are confused. My recommendation is; before the government does anything, why can't they think of what is the cause of this thing, of this HIV/AIDS. If they can hire a specialist who can also find out what is happening, such that

in the next century, other people who are not affected remain so. If the government can get some money, or write a proposal to other countries which are developed, have a lot of money, we can at least have guidelines on how best we can help in this situation, because we are facing a very bad situation. So my recommendations are very simple;

- 1) Kenya should find a way of hiring a specialist to come up with clear research, on this very serious disease.
- 2) Those people who are affected by this disease how best we can help them, because I heard there are some drugs that can assist this people, to reduce AIDS; but that one only to reduce, but to reduce that is very expensive it is about 7,000/=. A poor person cannot get that. So now if the government can write a proposal that they are unable to reduce this using such drugs, they can get money from the donors to assist the wananchi, because people are dying seriously. We don't know where this disease comes from, and people are dying and this should be the first step that Kenyans should take action against.

Betty Kweyu: In trying to pass the refugee bill because even up to last year when they were trying to bring it up to Parliament, it was only Kenya that had the UNHCR taking care of the refugees. The government is only involved in security matters when it comes to taking care of the refugees, I have not seen anything personally that the government has done to this people other than keeping them here; and keeping them here for security reasons. And even if we talked about security reasons, we do not only have countries that are at war, we do not only have refugees from countries that are at war, we have refugees from Uganda, Uganda is now stable, they do not have a lot of war, so why do we have to keep them up here? Those countries that are at war, are the ones we can be able to say that maybe if this people came into our country, we get them those passes to get in, there would be a trick. But we have Ugandans here, we have Ethiopians here, what do we have to do with them? Even the Somalis there is nothing bad as trying to confine people here, and only keeping them here for security reasons; and not doing anything as a government. We have UNHCR it is the only thing taking care of this people, what are we going to do as people of Kenya, because everybody is a potential refugee. We do not know what is going to happen to us tomorrow, we might be the ones climbing up the Somali border.

Then my second point, is on the clear-cut line between The Executive and The Judiciary system. This are two arms of the government, but we find a lot of interference between the Judiciary and the Executive, such that we are going to find people stepping on the wrong toes and getting, you know like you are not supposed to get the term, but somebody who has committed the crime is the one who is going to go scot free, and you who has not committed that crime; you are going to get in, and serve a sentence that is not yours. Why don't we have some justice, why wouldn't there be a clear-cut line between the Judiciary and the Executive?

My third point is also on the Presidential terms: I can see developed countries are doing well, because we have a President coming in for not more than two terms, we at least need new ideas, I mean even if you were one person, and you want to serve for more than three terms; nobody is a super human being, and therefore you get exhausted. We need new ideas from the young, and the energetic, and we want this older people, once they have served, they can stay back and be advisers to those

who are coming in. They will guide them on this and that but this young people, this new people coming in, are the ones with better ideas than what this older people have.

Com. Lethome: How many terms should there be?

Betty Kweyu: Two only, maximum of two. And then thirdly coming to immigration, like let say I was supposed to get a passport here, it would actually take me a long time to get a passport, and this small thing, this identity I have here is an ID, why don't we have a passport to be able to identify us. I mean the other countries are doing well with their passports other than this small identity cards. And if it got lost, you are really going to undergo a process to try and get it. Why do we have a lot of red tape when we are going to apply for passports? Why can't that process be hastened? Why do we carry identity cards while we can get those passports? At least if we got those passports, we can save this money that is being used to prepare identity cards, and it can be channeled to something else.

And then birth certificates; in Kenya today if you have a birth certificate, it does not necessarily give you the guarantee of being a citizen in this country. Personally I think that is not fair, because even to get that citizenship of this country just because you were born here, it comes by default, there are a lot of questions on whether you are a genuine person, maybe they might be doing it for security reasons; but I don't think it is worthwhile, it is really discriminating. And if like I am a woman, and I got married to a Kenyan man, chances that I will get that citizenship, okey they are there, but not as high, they are not there. And what about a man who gets married to ma? What am I supposed to do if I decide I am going to stick in my country, can't I be considered as a woman? Why do we have to follow the men all the time? I will not go to his country just because I have stayed with him.

Com. Lethome: Recommend, recommend something....

Betty Kweyu: I want to recommend that the government should be able, if I a woman, if I married somebody from outside, he should be given citizenship. If I want us to settle in this country. For the birth certificate if you were born in this country, and you have a birth certificate issued in Kenya. It should come by default that you are a citizen.

And then I wonder what happened to the technical schools, they have become schools, that nowadays just give the kind of education like any other college would give. So what happens to those who do not go through class eight, and they have to get some vocational training? I think they need some training, with a valid certificate, and therefore I am just calling for those technical schools to be revived. We do not need them to go into this academic system that other colleges have, we need them to help these other people who are dropping out, find something to do, other than going to struggle with books. Not everybody is smart, some of us are good with our hands, some of us are good with our brains, so why don't we give those people a better chance, those people who are good with their hands a better chance, by reviving those technical schools we used to have. That

is all I have.

Com. Lethome: This raises a question for you, I heard you ask a question, why can't this people go back to their countries like Uganda or other..

Betty Kweyu: I didn't ask for them to go back to their countries; but I need to clarify that. What I meant is that even them they have to have their problems in their country, they have not been fleeing to this country and I do not see that is there something which is not at war right now, there are no arms.

Com. Lethome: No, my point I wanted to gather from you is that, it is against international law to force a refugee to go back.

Betty Kweyu: I want them to be put into venues, to be assimilated, to be removed from this camps, they have no reasons being here,yet their reason for escaping is different, from this others that have escaped from war; and we are not sure whether they were the ones involved in the war.

Com. Lethome: Thank you very much, can we have the last talk from Michael Ochieng'.

Michael Ochieng': Good afternoon. I am Michael Ochieng' I am a Kenyan, though am late, I would like to give my ideas. I know maybe some people have talked about them but I feel....

Interjection: It doesn't matter just talk, it doesn't matter.

Michael Ochieng': Fine, I have a problem with land tenure, land is a big issue in Kenya today. The problem is that we have many people, few rather, few compared with the population, few people who have tracts and tracts of land, and the majority do not even own land. The question is, what makes one have ten thousand acres of land, and another one lives on half an acre? What is the criteria that is used, that somebody can have 500 acres of land, and here I am Michael Ochieng' I have nothing? Yah, that is the question?

Com. Lethome: Are you recommending a ceiling?

Michael Ochieng: No I am not recommending a ceiling, I am saying that mechanisms should be put in place, that at least once you are a Kenyan, you have access to land, you were born Kenyan not by mistake, not by choice, you were born by design to be a Kenyan, God design you to be a Kenyan and knows that there is at least a piece of land for you in Kenya. But the situation as it comes now, some of us may not even have an inch, while quite a number of people have that, I don't know,

am not going to talk about how they acquired it, that is not an issue, but we need to address that, so that it brings in some equality. I am not saying that people should have equal land, but at least a Kenyan should have, and should be in a position to own land; because land is a resource in Kenya, and we are not going to go away from that.

Two, the other thing, is that I don't know-you are Luhyas I think you know where-the other problem is that resources again, when you look at the resources here in Kenya, majority of Kenyans, majority of the population actually are poor, a big group. Now the question is, what can be done? Of course I believe this people acquired their wealth, possibly rightfully, and if they didn't acquire rightfully, that it is the question, why didn't they acquire it rightfully? What can be done, that will bridge this gap between this few up here with a lot of resources; and this big mass here languishing in poverty? Because I believe that most of our programmes, most of our poverty eradication programmes, most of our development programmes, may not succeed if you have a big number of people dying because of poverty. Even HIV/AIDs you cannot succeed, if somebody is poor there are so many ways doing it, you can not go to school when you are poor, you can not go to Dadaab, you can't put on, you would have to stick to oboto, the second hand clothes. So whatever you are doing, must bring this mechanism that will somehow address this matters down here, and avoid this situation of having very few. Because the trend is that when such a situation comes nature will take care of its elf. This masses will revolt against the minority and you know what happens, we don't have to explain that.

Com. Lethome: Specific recommendations that would help us, you said you can't go to school without money, what do you recommend?

Michael Ochieng': Yah, there should be, those who have money should pay school, but there should be provisions for those who do not have money; to allow their children go to school. I cannot take my child to university because I may not even afford the school fees. I can not take my child to Alliance, if today my child is admitted to Alliance.

Com. Lethome: So free education for the needy.

Michael Ochieng': Free education for the needy, should be accorded. Three: we are now sitting here for the purpose of the Constitution, now I don't know, is there a possible way that you can put it that, the Constitution you will come up with should be respected? Yah, should be respected, we can have a very good document here, that says we do this we do this we do this, but then do people who are doing this, and this people who are implementing it, respect it? I don't know how you are going to do it, but that is very important; because even if we have a good Constitution like the ten commandments, and nobody respects it, it is not going to make any change. People should be held accountable for their actions.

Com. Lethome: What are your recommendations?

Michael Ochieng': People responsible in positions must be held accountable and must adhere by the Constitution of the land.

The other thing I want to talk about is the refugee bill. Kenya does not have a bill on refugees and I believe that, that is not the right thing. If you look around, Kenya has been harbouring this refugees for some time; and I think it is better we have a bill, so that it should be clearly indicated who is a refugee and how should they go about. We don't want this harassment that comes around here. I say this because I am sensitive, and I have relationships with the refugees; and they are people like me and you, they deserve their rights to be taken care of. I think the bill should come up and that is something quite a number of people have talked on and I don't want to add on it.

Another thing is about taxation; I don't know which law talks about taxation, something should be done, that the taxes that we pay, are translated back into services. You are being deducted by P.A.Y.E, you are being deducted I don't know what, they are so many VAT etc. This begger here who begs to get his food, when he is going to buy a soda, he pays VAT. The same way like me who is paid by CARE International, the same way like the Minister who is being paid by, I don't know what, so it is terribly unfair. If actually you look at it, taxes should be put in a way that meet their purpose. They should meet their purpose. I can't understand why we should tax, and then don't use this money to improve the services. Well, I think those are the few points that I would like to address now.

Com. Lethome: Thank you very much Michael, you can register. I think we have to come to the end of this session, which has been very interesting; because unlike other meetings that we have been having in the Provinces in other Constituencies, we are having people from the same community. We had the whole of Kenya today. Yah, we had somebody from the Coast, Abajila is from the Coast Province, we had Nyanza Province, we had Rift Valley and everybody. The views that we had today are very interesting, and we would like to assure you that everything that you have said will be incorporated in our final report; which will be again publicized and circulated back to you people, for a period of two months or less maybe. At least you will have an opportunity of looking at our report, just to be sure that what you are saying here is not futility, is not a waste. Many Kenyans have been expressing their doubts, saying that many Commissions have been set up before this one, what have they done? But this is a different Commission all together, it has been set up by an act of Parliament, whatever we are doing today is a requirement of an act of Parliament, a legal requirement; and after that you will have representatives from the different Districts all over Kenya, coming to Nairobi, to participate in a national conference on the Constitution. Whereby they will debate on all the points, before we send the final report to Parliament. So this is not an exercise futility, we are assured by the law under which we operate, unless it is repealed, that we are going to take it to its logical conclusion.

So once again thank you very much, we know that had we given you enough notice, we would have heard even more, but this is not the last time. Chepkurui you can still prepare your views, send them over to us in Nairobi, we have representatives every District level, so in Garissa we have an office, through which you can send your views. We have also an e-mail, if you can just get in touch with our Programme Officers, you can get our e-mail address, you can email us. So thank you very much, we would also like to thank our host, Mr. Katanda for the trouble he has taken to bring us here. Its been quite an experience for all of us. So on behalf of the Commission, I would like to thank you all very much. May God bless you.

Meeting ended at 3.00 p.m.

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