

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

VERBATIM REPORT OF

CONSTITUENCY PUBLIC HEARINGS

AINAMOI CONSTITUENCY, HELD AT

KERICHO TEACHERS COLLEGE

ON

TUESDAY 16TH JULY 2002

**CONSTITUENCY PUBLIC HEARINGS, AINAMOI CONSTITUENCY, HELD AT KERICHO TEACHERS
COLLEGE ON 16th JULY 2002**

Present:

Com. Nancy Baraza
Com. Ahmed Isaak Hassan

Apology :

Com. Dr. Mohammed Swazuri

Secretariat in Attendance:

Programme Officer - Solomon Anampiu
Asst. Prog. Officer - Nelson Ashitiva
Verbatim Recorder - Zipporah Wambua

District Co-ordinator - Caroline Langat
3c Member -
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The meeting started at 10.00 a.m. with Com. Nancy Baraza in the Chair.

Com. Baraza : Good morning everybody. We would like to start our proceeding for the day and before we start I would like my brother the Muslim to come and pray for us, open for the day with prayers.

Prayer:

Al Haji Abdulla Kiptanui: Tuombe: Kwa Jina la Mwenyezi Mungu, mwingi wa rehema mwenye kuneemsha neema kubwa kubwa and mwenye kuneemisha neema ndogo ndogo. Hakuna mwingine atakayestahili kuabudiwa kwa haki ila ni wewe Mwenyezi Mungu wa pekee. Na Mtume Mohamed wa walau wa dei wa salam, ndio Mjumbe wako Mwenyezi Mungu wa Tawala. Eh, Mola tunakuomba utujalie tunapoanza hii kazi ya kusikiliza na kutoa maoni ya Katiba ya nchi hii Mwenyezi Mungu sana wa Tahala. Ni wewe ndio umelinda hii Kenya tangu tulipopata uhuru, tunaelekea miaka arobaini sasa, Mwenyezi Mungu tunashukuru kwa ile amani umeweke Mwenyezi Mungu. Eh, Mola tutakuwa na Commissioners. Commissioners wametembea na Mwenyezi Mungu umewalinda, tunakuomba uzidi kuwalinda ili waweze kutekeleza Katiba itakayochunga nchi hii kwa miaka nyingi. Ewe Mwenyezi Mungu, nakuomba katika nchi hii yetu kuna masikini, kuna matajiri, kuna vilema, kuna wagonjwa, na kuna wale waliokuwa na njaa, Mola aliye mgojwa umponye, aliye dhiki umuondolee dhiki. Eh, Mwenyeze Mungu hata wale wana njaa, uwashibishe, Mwenyezi Mungu tunakuomba hata kiongozi wa nchi hii pamoja na Serikali kwa jumla tukae kwa amani na uongozi mwema kutokana kwako. Amin. Salaam Aleykum Walahmtulahi Wabarakatu.

Com. Baraza : Asante sana, kabla hatujaanza mkutano wetu ningetaka kuwajulisha commissioner na Officers ambao tuko hapa kufanya hii kazi, mimi hapa niko na Mwenzangu Commissioner Ahmed Isaac Hassan, na mimi hapa ninaitwa Commissioner Nancy Baraza, tuko na mwenzetu mwingine ambaye tunatarajia kukuja Dr. Mohammed Swazuri, na kutoka Nairobi tuko na Programme Officer, Mr. Solomon Anampiu, and his deputy is Mr. Ashitiva, and we have Miss Wambua there, she is the Verbatim Recorder.

Na hii kazi tuaifanya, kwa njia hii. Ukija hapa kwa mlango utajiandikisha hapo halafu tutakuwa tukifuata hiyo list kuchukuwa maoni na unaweza kupeana maoni yako kwa njia tatu. Unaweza kupeana maoni kwa njia ya memorandum, kama umeandika memorandum na kama uko na ile memorandum, utakuja hapa mbele ukae hapo halafu tutakupatia dakika tano, na uta-highlight tu usisome neno kwa neno. Alternatively unaweza kuwa na hiyo memorandum na hutaki kuisoma, utaenda tu hapo u-submit your memorandum, u-sign halafu uende zako kama unataka au ukae usikilize wengine. Na njia ya tatu unaweza kuwa hauna memorandum na hiyo pia ni halali. Utakuja tu hapa, tukupatie dakika zako halafu utuambie maneno yako. Na pia tutakupatia dakika tano. Na vile utatumia hizo dakika zako vizuri, utupatie mapendekezo, don't go into long history. We are experts here, we know the problem. Utuambie tu vile ungetaka, yale maneno Katiba inaweza ku-address. Na Lugha ambayo unaweza kutumia ni lugha yoyote ambayo wewe uko comfortable nayo. Kama unaweza kuongea Kimombo hiyo ni sawa kwetu kwa sababu itasaidia kumaliza haraka au Kiswahili hiyo pia ni sawa, au Kalenjin au lugha yoyote ambayo unataka kutumia mradi utueleze tupate interpreter. Na sheria ambayo inahusika na hii kurekebisha Katiba inakulinda. You are protected by the law, hakuna mtu ambaye atakunyanyasa kwa yale maneno ambayo utanena mbele yetu. Sheria inakulinda. Na hiyo, mradi tu usitusi watu. Don't use that opportunity to abuse, to use foul language, Usitumie lugha chafu. Sema tu maneno yako and focus on issues not on personality. Na ukimaliza kutupatia maoni yako Commissioner anaweza kuwa na swali atakuuliza tu ya ku-clarify an issue, na kama hutaki kujibu you are under no obligation, but it will just be for clarification.

But I want us to stand in a minute's silence for a very, very, brilliant First Vice Chairperson of the Constitution of Kenya Review Commission, the late Dr. Ooki Ooko Ombaka, one of the best and most brilliant sons of this country, he loved this country, he wanted to see it in a better shape tomorrow, we are sad that he couldn't live to see his wishes come to completion but we are sure that as Kenyans we will be influenced by what he stood for. So let us stand up in a moment of silence for the Late Ombaka.

Com. Baraza : I will start with Joshua Terer. Mr. Joshua Terer.

Joshua Terer : I am Joshua Terer from Catholic Justice and Peace Commission. My highlight to the Constitutional Review are:

The Preamble : The preamble should be our National Anthem where we ask God our Creator to lead us where citizenship responsible, our country and its people be dignified, justice for all as we dwell in unity, peace and liberty.

The System of Government: The unitary system of government. We also propose for the creation of two houses in Parliament, the Upper and the Lower.

We also propose that Chiefs be transferable. We also propose three months maternity leave for women and both spouses also be entitled to leave and allowances. We also propose for a ban on traditional practices of women marrying women, wife inheritance. We also propose special votes for the disabled. We also propose that defectors of parties not to contest in the ensuing by-election. We also propose MPs to go for two terms of five years each. We also propose MP's Constituency offices. We also propose the electorate be empowered to recall MPs with one tenth signatures of the total votes cast in the last election. We also propose holidays for prisoners, for married prisoners that is to attend to the biological call. We also propose grouping of inmates according to their academic qualifications. We also propose tax offices in every District. We propose age bracket for the President of 35 to 65 years. We also propose that the Commission should work earlier a ray time framework, that is no extension of the Commission time as there will be no civic education for the people again. Actually that one we mean that, that one will only be an advantage to some politicians who are not ready yet to arrange their time. Thank you.

Com. Baraza : Mr. Terer, you don't want any extension of the Commission? It ends in October and we haven't finished collecting views from around the country as the law requires and I don't know if you have read the various stages through which we have to go, so I don't know if you think by October, we will give you a Constitution which Kenyans have been yearning for.

Joshua Terer : Before you arrived at October, you must have sat down and seen all these and focused.

Com. Baraza : Okay, register there. Mary Bii

Mary Bii: I am Mary Bii from Sentweke Location, Women's Organization, I have to present women's critical areas in the Constitution. We propose the following: Women critical areas of concerns in the Constitution. One, property and inheritance rights: We propose the following: Recognize the convention on the limitation of forms of discrimination against women in the Constitution and ensure domestication of the same. Entrench Affirmative Action for allocation of resources for women and other, marginalized groups in the Constitution. Second critical areas are : Women participation in the legislature, local authorities, governance and decision making. We propose the following: Separation of powers of various organs of the State, so that each organ is autonomous. Devolution of powers in all government structures to ensure local authority and local communities participate. Women will have easy access to leadership positions if this happens. Eliminate all forms of discrimination on the basis of sex in recruitment, appointment and training in the disciplined forces and all other institutions of governance.

Every Presidential aspirant should have a running mate, Vice President who is of the opposite gender. The President and the Vice President of the State should be of the opposite gender. Second critical area is that of upholding children's rights – children's rights have often been marked between general human rights, denying them their individuality, as children. We propose the following : Constitution to have a clear uniform definition of a child as any person below the age of 18 years. Recognize general human experiences of a non-discrimination on the basis of age, sex, language, looks, colour, religion opinion and apply to children's rights. Same rights and liberties to the female and male children. Provide appropriate family environment and at alternative care to all Kenyan children, boys and girls.

Second area, Disabled : Disabled face the following problems, fatalistic attitude, lack of support, shame, discrimination. We propose the following: Physical and mental development should be given to the disabled people. Skills for development, starting from disabled children into mainstream schools, running training centers to help disabled to build up their social skills and overcoming social problems; taking awareness programmes in schools through Community Based Rehabilitation services, creating opportunities, starting the very special application service by which disabled staffs members can be employed. Thank you.

Com. Baraza : Thank you very much , please register there and give us your memorandum. Matthias Ng'eno.

Mathias Ng'eno : My names are Mathias Kimutai Ng'eno, Corporate Secretary Kericho Branch. And my proposals to the Review Commission are as follows :

Retirement Age: The teaching profession is such that the more you teach the more knowledgeable you, the better teacher you are. In connection with this, I would like to suggest that the current retirement age for all graduate teachers, all graduate civil servants, in our country be pushed from 55 year to 60 years. This is because all those civil servants and teachers who are

graduates, spend extra time to the benefits of this country to get a degree are used to be worried that they retire after a short time, we want them to teach and to write books when they have enough time to teach and retire at 60 years. Therefore my proposal for retirement age is from 55 to 60 years for graduate teachers and civil servants.

Two, caning in schools: The idea of caning in itself as a corrective measure was not a bad idea, what will happen in our country is that in some cases a few teachers have administered caning and it has resulted in death of certain pupils. I would like to propose the following, caning should be administered by trained discipline masters and mistresses, who have been trained in elementary medics. As we all know we have not reached the standards of the western world where we say caning is illegal. Children are not being caned in school, but then when they go home, they are caned by their parents on disciplinary grounds. So what I am proposing is caning should be re-introduced but only administered by the people, teachers who have been trained, so that if they have been trained it means, if they cane and kill, they can appear before the court.

Third and last one, we are all aware all our retired civil servants have suffered a lot, trying to look for their pension, yet they have served this country for a long time loyally and wisely, but it has taken them time to get their pension. What I would like to suggest is for our Constitution to allow for the formation of civil retirees union, Kenya Union of Retirees. This union will fight for among other things, better pension for our retired civil servants and teachers and better terms for our retired civil servants and teachers. Thank you very much.

Com. Baraza : Thank you Mr. Ng'eno register with us. Jackson Mutai? Jackson.

Jackson Mutai : I am Jackson Mutai, I am surrendering my memorandum.

Com. Baraza : Mary Korir, is Mary there? Isaiah Baliach? Mr. Baliach

Isaiah Baliach : My name is Isaiah Baliach, I only wanted to submit the Region's memorandum.

Com. Baraza : Cheruiyot Soi? Cheruiyot Soi.

Soi Cheruiyot : Majina yangu naitwa Soi Cheruiyot. Pendekezo langu katika hii Tume ya Katiba ni kama ifuatavyo: Ningependekeza kwanza kabisa muda wa Tume ya Katiba iongezewe, sababu ni kwamba hatutaki kwenda kwa haraka haraka na jinsi Mwenyekiti anasema ya kwamba anataka, ameomba Tume yake iongezewe muda kwa sababu tukiiharakisha tutapata sheria ambayo itakuwa na madoadoa ambayo haitatusaidia kwa sababu kuna sababu kwanini ameomba muda uongezewe ingawa alikuwa amesema tutamaliza Katiba yetu, ama Katiba itakuwa tayari mwezi wa kumi. Binadamu si kamili, na muda tungeomba uongezewe.

Jambo la pili, Pendekezo langu katika mashamba makubwa makubwa hasa yamejaa sehemu hii yetu, tungeonelea ya kwamba asilimia hamsini (50%) ya mapato yao isaidie wananchi katika sehemu ambayo wanakotoka. Hasa kwa upande wa mahospitali, waweze kujenga sehemu zote. Pili wajenge mashule. Tatu, wasambaze hata maji, ndiposa wananchi wa sehemu hizo waweze kufaidika. Mashamba mengine ya Serikali hasa misituni na sehemu za mito, zilindwe. Isiwe sehemu ambayo wanyakuzi wananyakua, badala ya wanyakuzi kuinyakua, kuna jamii zetu ambao hawana mashamba wanaotaabika, hasa jamii ya Talai na Okiek ambao wamekaa msituni kwa miaka mingi.

Tena, muda ama muhula wa Bunge upunguzwe badala ya miaka tano iwe miaka miwili. Sheria iundwe ili mtu anapostaafu asipewe nyathifa zingine kwa sababu wengi wamekaa katika nyathifa tofauti tofauti na wamekuwa wanyakuzi. Wakipewa sasa wawe wakurugenzi sehemu zingine watanyanya raia na tuko na vijana wengi ambao wamemaliza shule ambao badala ya kupewa nyathifa kama hizo wanakaa nje.

Pendekezo langu lingine ni hili Serikali za wilaya, sheria iundwe ambayo itasema ya kwamba Mayors wawe wakichaguliwa na raia, na sheria iundwe pia kusaidia raia kwa njia moja au ingine ili msaiki Mayor anapokosa ama anapotenda jambo mbaya katika ofisi ama akitumia mamlaka yake vibaya raia wawe na sheria ambayo inawapa nguvu wapige kura ya kutokuwa na imani na kumtoa kwa ofisi. Asanteni sana

Com. Baraza : Thank you, please go and register there. Fred Abichi

Fred Abichi : Well thank you very much, I am Fred Abichi, Kericho Teacher's College. Okay first and foremost, a student, yes. First and foremost, I would like the Constitutional Review Process term to be extended but as we administer that, let us delink totally from elections because linking it to elections would cause unnecessary unease to the wananchi. Okay, now my dear Commissioners, I think one of the best ways to get these views is by creating conducive environment which, I think you are not creating for us when you come here to tell us that may be a limit of 5 minutes or you give us restrictions on which lines to talk about, you know the Constitution, I don't think whether it will come out democratic as we expected. So come here, sit there, listen to our views, give us that time so that by the end, we have something which the wananchi shall have participated fully.

Com. Baraza : I hope you didn't get the impression that I said these are the things you should talk about. I said just give recommendations on what you want to talk about but do not create the impression that I am limiting you on what to submit on.

Fred Abichi : Thank you very much errors and visions are also there, plus misunderstandings for human beings, sorry for that.

Now to start with, I feel that for efficiency and equality, a salary approval Board should be set to ensure that all Kenyans earn what they have worked for.

Two, coming to the age of candidacy for Civic, Parliamentary or Presidential post, I think we should have no limit but it should be depended on the ability, the capability of the person, where capability here means language competent, and financial stability, which will lead to effective management. And popularity as well. Let us not have a limit that let our President be of this age bracket. But we should continue having that two year terms for somebody to serve in that Presidential capacity. For the MPs, I feel that we should have three terms.

Okay coming to Constitutional Amendments. I feel that Parliament should be empowered, as currently, to amend Constitution. But before doing that, I propose that the MPs be given time, to go back to their Constituencies, hold up public rallies and come up with a signed memorandum from the Constituencies directing them to support or oppose the intended bill to be supported, without which if they fail to do as the Constituents were willing, the Constituents should be given powers to fire their sitting MP if he or she doesn't comply with whatever instructions are given by the MP.

Coming to Judiciary and the Attorney General's office, bearing a significance of those offices, I feel that they should not be answerable to the President as they are currently. To ensure that the Attorney General's office works independently, and the Judiciary works independently, to eradicate this issue of corruption that we have been talking about, they should be answerable to the public, therefore I think the Chief Justice should be elected by Judges and the Attorney General should be elected by the MPs.

The next point is Mayors, that is the local Government. I think the Councillors should continue electing the Mayors, because Councillors are answerable to the people and people can talk to them, if there is any problem or a lack of confidence on the Mayor, and the Councillors after electing the Mayor should be given powers to fire the Mayor in case, there is a problem, otherwise, thank you very much.

Com. Baraza : Let me clarify again. Sikusema kuja uniambie hii na hii, nilisema. Yah, nilisema yale maneno unataka kutuambia, sema hivi. So I am not restricting you on your view but we are also working within a time frame, so I cannot give you a whole day to say your views. Al Haji Abdulla Kiptanui. Al Haji umeandika makosa hapa, Kiptoni, ni Kiptanui.

Al Haji Abdullahi Kiptanui : Asante sana, sisi tumefikiria kwamba kama Waislamu, tuanze na Preamble katika Constitution yetu ya Kenya kwa sababu the current Constitution does not have. Niseme tena, mimi naitwa Al Haji Abdullahi Kiptanui, na-represent Supreme Council of Kenya Muslims, Rift Valley na tena National.

Kuhusu mambo ya citizenship of Kenya, a citizen of Kenya may hold multiple citizenship, tuna-propose hiyo. A child born in Kenya or a child born of a Kenyan parent, a person who is native born Kenyan, a person of other nationality who is legalized by the statute as being a citizen, every person born in Kenya before or on the date of independence either of whose parents or

any of whose grandparents belong to community indigenous to Kenya.

Interest free financing business: Muslims have difficulties acquiring loans or even charging their Title for bail in case of a court case, so we propose interest free banking, general laws of taxes and charity, recognition of the part and Sadaka in case of the Muslim Community in the calculation of government taxes or by Muslims, and then Works. We propose a Works Commission with National jurisdiction with the majority of members be respected Muslim Leaders.

Foreign Policies and International Relations : Muslims in the country are increasingly found themselves in a victim position. So we propose that Parliament be involved directly in all decisions regarding the relationship between Kenya and any foreign country, where such relations has direct impact on the life of the people of Kenya. This should include teaching and concession.

Education, we propose, this is the only area where the Kenyan Muslim have become the victim of discrimination. So we propose free and compulsory universal education, from Pre-primary, Primary and Secondary level. And then we also propose, old people who profession the same religion with the pupil and children should be recognized to provide religious education. And there should not be any student before, to dress in school uniforms but undermine the religious belief.

Minority, we propose minority right to be catered for by the Constitution. Because most of them economically are the dismembered community.

Equity and economic resources, we propose that all Kenyans, both individual and group enjoy equal cess to all public resources.

Infrastructure : The Muslim propose that the town planner should not discriminate the community, you find that when they are planning the town they always set aside, instead of religious purposes plot, they say Church plot, when the Muslim apply, they are told those are plots set aside for the Church but the Muslims are no where, so we found that the Muslims have been the most disadvantaged in the current Constitution. Discrimination and non-discrimination, we propose as follows: The State of the Republic of Kenya shall be ecumenical State, which is to say that the Government or any authority or person in the public service should not use the religion when delivering public service.

Electoral Systems : We proposed as follows, we said winner take it all. Presidential election should be done once in every five years. Parliamentary election, once in every three years. Because when they go there, wanajitengenezea allowances, wanajitengenezea tu, lakini to say three years is enough for them and also for the Civic leaders.

Com. Baraza : (inaudible)

Al Haji Abdullahi Kiptanui : Yes, I am about. So tunapendekeza pia kwamba wale Waislamu ambao wako scattered, katika urban areas, walindwe na sheria, kwa mfano ukiangalia Kibera, ukiangalia Pumwani, ukiangalia Swahili village katika Kericho, ukiangalia Nubian village katika Kisii, these are the most neglected people. Na tunataka Constitution iangalie hawa, na iwalinde kwa sababu most of them wanaishi katika slum areas, and do temporary occupations so you find that the Kenyan Muslims, wanakuwa kama second or third class citizens which we feel that the new Constitution should be very clear.

Identity : This is an area where the Muslims have been the most victims, they cannot get ID. Even when I am Kiptanui, provided that my name is Mohamed so I have to fill questionnaire, the Shifta ilikwisha zamani sana, na ilipokwisha haya mambo ya screening cards na vetting cards, should end in the new Constitution.

Freedom of Religion : Ingawa kuna freedom katika current Constitution, lakini Muslims hawana freedom kamili ya Constitution, kwa hivyo tunaomba, tunapendekeza kwamba the future Constitution iangalie mambo ya freedom of movement for Waislamu kwa sababu hata kuna watu saa ingine wanatoka Mandera wanakuja kufanya biashara hapa, wanatoka sehemu zingine wanakuwa rounded up na kushikwa wanakuwa kama aliens, even when they have the National ID. Card. Kwa hivyo this should end in the new Constitution.

Com. Baraza (inaudible)

Al Haji Adbullahi Kiptanui: So, may I propose the last one Madam, kwa sababu nimeandika hii memorandum mtasoma. Sisi tunaomba Parliament ku-extend the life of the Constitution Review Commission, kwa sababu we need an up to date Constitution, in the next Government. Na pia tunaomba Commissioners, nyinyi, msitu-confuse. Kwa sababu wengine wanasema hatuwezi kumaliza Constitution na utakuta hata Chairman mwenyewe anasema tutamaliza Constitution September, sasa tunashindwa ni gani munaomba iwe extended na ni gani ambayo mtamaliza.

Pili Federal System of Government should be enforced. Na tuwe na Central Government, na hiyo Central Government, all the powers za Republic of Kenya ziwe vested in the President, because we don't want a powerless President, lakini awe in charge ya Central Government, pamoja na Regional Government. Kwa hivyo tunataka the Federal system of Government to control its own resources.

And last because of the time, Madam Commissioner, tunasema ya kwamba Constitution ambayo inakuja ama ijao tunataka Local Government. Local Government ingawa wananchi wanasema Mayor na Chairman wachaguliwe direct, lakini kuwe na section ambayo inaweza kufanya Councillors au mwananchi to recall Mayor or Chairman. Kwa sababu wanaweza ku-mess.

Basi ya mwisho, ni next Constitution: A Commission should be set to determine the salary and allowances of Members of

Parliament, they should not go there and make all the allowances and salary, sitting allowances, by themselves. Hata mimi ukinipa nifanye kitu mimi nitafanya kwa sababu I want to --- nataka ni faulu. Kwa hivyo Madam Chair, Commissioner, kama kungekuwa time tungezungumza mengi sana kuhusu Community lakini kwa sababu hakuna time nasema asante na tuna -----
(end of side A

Com. Baraza : (inaudible)

Francis Bett : Commissioners, first and foremost, I want to pass my (inaudible) that you lost your Vice Chairman Mr. Ombaka. Ombaka was known to me personally and I know you have lost a brilliant person.

First what I have to say, the Constitution is a very vital document, it is an important instrument in the national management of our affairs, so there should be a Preamble for that instrument. I have in mind similar to the one which we have in the, appropriately adopted from the United States of America. It should first of all indicate our commitment to peace and work in unity. Our commitment in the unity of purpose. That is what I see should appear on that Preamble and it should be an item that unites and binds us up all as a people in this country.

The next item is the issue of Supremacy of the Constitution, it must be an instrument that cannot be changed at will any how by any person. We are all aware of what happened to Paul Ngei those days, the constitution was simply changed to suit that person. It should not be done that way it should be done for the National interest for the interest of every Kenyan not to suit individuals or the whims of individuals

On Citizenship, I think I entirely agree with what is in the current Constitution, but there are other categories of citizenship which need to be incorporated in there, whereby you have skilled individuals coming in to our country for a time for a season and give us those skills they have. There are always situations whereby somebody somewhere is a rich person has got money but he doesn't know how to spent it and he wants to come and invest it in this country, let us give that person for residence for a season to invest those particular assets he has for the benefit of our economy. The other area is this issue at the moment where citizenship forms are given to a few individuals to peddle around for financial gain as far as I am concerned is extremely immoral and lacks national interest. So that should not be allowed, in other words I am saying the issue of making a person a citizen of this country should be done with order and with purpose. Not for gain financial gain of the individual.

The next item we all have political parties, I am told they are well over 40. My view is as many parties as we have in this country, the more we get confused as a people. If there is a way in the law, which is covering, to limit those parties, I know it will require a lot of education, it will require a lot of fitting on the part of those people who want to form parties. But parties between two and three would be more reasonable to me, by pushing them to 42, I am told in the Congo they are over 200 parties, it serves no purpose, because it will be just out of confusion, it will create state of burden. So that is my view in that

situation, and political parties should not also be seen by the ruling party as enemies. The moment you translate them as enemies then, you will be seeing your brothers on the opposite side as enemies and you will not work. What we are simply saying is, let us have variance in view but let us live as a people.

The Government I would want, the system of government, the current one is okay, the way it is structured, I hear people talking of Prime Minister, now the issue is what will the Prime Minister do which could not have been done by the Vice President, if the Vice President was given the ability to do it? So it is only us to change our attitude and have commitment, have wisdom, have order in the cause of our work. Otherwise talking of whether you have a President who is ceremonial and then a Prime Minister (destruction by mobile reception) . So I am indeed, what you only need to do is to clean up the system that we have. I am saying this because I was working for the President for over twelve years, so I know what I am saying, in that we only need to clean up, we only need to put in order what is in there. The issue of Prime Minister and such, I mean it is like just giving a new dress to a person who is naturally dirty, that new dress will still be dirty.

The next one is the issue of Ministers, the Ministers should not be picked from among Members of Parliament, you will all remember when the Vice President, Saitoti, was picked as a nominated Member of Parliament, I think somebody will agree with me, he worked well as a nominated Member of Parliament. The moment he became an elected Member of Parliament, his abilities were now divided between his work and his Constituency. *Akiamka asubuhi anakutana na watu mlangoni. Ile kazi ofisini inapoa kwanza*, then in the process we lose, so my recommendation is, those Ministers to be appointed from among Kenyans of specific intellect, specific professionalism and all that, and once they are placed in position, kindly place a Minister of Health to be somebody with some knowledge akin to that Ministry. Somebody of Commerce to be somebody who is a business man as opposed to where we can be having a Professor Ongeri a medical fellow being the Minister for Industry. Well, I don't know. Now the issue of nominated Members of Parliament and Councillors, it should be done away with, it serves no purpose, it is mostly intended to serve selfish ends and unnecessary political manoeuvre it doesn't help this country.

The other item is MPs and Councillors who have been elected should not be allowed to shift positions after they have been elected. If you are elected in KANU why shift to the opposition, if you are elected in the Opposition why shift to Kanu. It means you are simply a political prostitute as far as I am concerned. If your mind is clear that I have to follow the principles of KANU stick in there until after that term of Parliament 5 years, you wait until after 5 years then you can shift. But shifting this way is extremely wasteful, it is disrupting and extremely unexpected we don't need it.

The next item is the issue of the term of office for the President. I agree with the current arrangement and I would recommend that if you have a President who is 35 years, he will be 45 on the end of the two terms, assuming he holds the two terms, he will be 45 *angali ana uwezo wa kuongoza*, but do not give him that chance hold him out for one term and then he can come in after that skip for one term. Or two terms assuming that guy who comes in stays for two terms, he can still come back. I am saying also, a person of 75 years old need not come up for Presidency.

The next one, at that time senility is checking in. Now the President the Ministers and senior officers, should not be allowed to engage in private business, directly or indirectly should not be allowed to do that, because when they do that they will mess up. Ukitaka kufuata biashara hii pengine Rais anafuata hiyo biashara tutafagiliwa jamani? So let me recommend the President be properly remunerated, the Minister be properly remunerated. Tengeneza retirement package ya huyu jamaa ili akitoka kazini haoni tofauti na wakati ule alikuwa kazini. Lakini asipoona kitu ya ku-retire to, ataanza kufanya biashara basi, kazi yetu inaharibika. So can we request that they dedicate all their time to our service.

Now we think there should be a provision on how to impeach the President. Akifanya makosa, already must see where he can apologize. Kwa Waafrika Rais hana apology jamani. Unakuta tu wale wa America na wale wengine wako na apology, lakini wetu hawana. There should be a way of humility, a law that makes them to be humble.

For the Mayor and the Chairmen of the Council, I would recommend that they be elected directly. I am now told by the Commissioner, my time is up.

Com. Baraza : Just give a summary of your last points.

Francis Bett : The Mayor and the Chairman, directly be elected. The election should not be linked to this Review. I have a strong believe the Review exercise must be given all the time it needs to give us a clean neat comprehensive document. Thank you very much.

Com. Baraza : Could you please leave it to us there, we will read it, we assure you that we will digest it very well. You want to be there?

David Sang : Okay, my names are David Sang Kipcheswa from the (inaudible) location Kericho District. I am doing the section of the disabled in our location. So I only say a few things here and there shortly.

Bunge iwe na jukumu yoyote ya ulinzi wa usalama na ubadilishaji wa sehemu ya Bunge.

Raia wa Kenya sharti awe na kitambulisho, na toaji liwe la bure. Pia watoto wa mzazi mmoja wapatiwe vitambulisho.

Ulinzi na usalama : Our President should be above the law. Na pia yeye asimamie jukumu lake. Askari Police wakome kabisa kutoa hongo tuseme TKK kwa mtu yeyote. Mtu akiwa na makosa tuseme kwa hawa madereva wawekwe ndani directly. Ni jukumu la Bunge pia kuwa na mamlaka na uwezo kamili katika hatari yoyote ya mtu.

Vyama vya kisiasa : Tuwe na jumla ya vyama viwili tu na zingine zifutwe kabisa kwa sababu zinalete ama zinafanya watu

wakose msimamo wao Kabisa.

Aina ya Serikali : We need a Federal type of government whereby the President to be elected, we should be having a Prime Minister and Minister, also the money from our products of every district or province to be given to the District to develop their home area or to build some factories and roads there.

Bunge : Kazi ya Bunge, Bunge ibaki kuwa na masaa maalum, that means wananchi to elect, tuseme wakiwa na Bunge tena wakiwa ndani, Parliament House, they should talk something which of course can make people unite. Katiba iendelee kufuata muundo wa kisasa, Chama chenye nguvu zaidi kinaundwa na Serikali. Vote of no Confidence is not allowed to the Ministers. Rais hana uwezo wa kuvunja Bunge. Uchaguzi wa Bunge ufanywe katika nyakati mbali mbali, tuseme miaka kumi two terms.

Mamlaka ya nchi : Nchi yetu ya Kenya imo mikononi mwa Rais kwa hivyo kipindi chenyewe ni watu wachague Rais and two terms in ten years,

Mahakama muundo wa mahakama ulioyoko kwenye katiba ya sasa ni sawa kabisa, lakini kurekebisha tu. Utoaji wa Rufani, Court of Appeal, should be abolished, if possible, should be, mtu tu ama one, who has gone astray kutoka kwa sheria awekwe jela tu badala ya kwenda Court of Appeal.

Mitaa : Wazee wa kijiji wachaguliwe na wananchi na kulipwa na serikali kwa miaka kumi

Councillors : These to be elected by the people. Mayor to be elected by Councillors. Mkuu wa Wilaya that is the DC should be in charge of the Mayor tuseme tu kwa mshahara na marufurufu.

Voting style : Voting to be in a secret ballot. Should be free and open. No forcing of common raia of what type to use. Somebody with a lot of votes, anybody with a lot of votes should be announced a winner in all levels. We should start from villagers, our villagers sub-location, location, DCs, to the National level. Two parties only should be competing or should be in our Kenya now. Such that tukiwa na a lot of parties, that will make a lot of people in our country be corrupt, to be also confused in all those things.

About haki yetu ama Haki ya Kimsingi : About the, Katiba iliyoko sasa iendelee kulinda usalama wa uhai, mali na maji, afya, makaazi, elimu, chakula na mengi mengi,. Hukumu ya kifo iendelee zaidi kwa watu wakorofi. Anayepaswa kuwa na jukumu la kuhakikisha Wakenya wote wanafurahi sana kimsingi, wale wote wanaoshikilia nyathipa za juu au watu wa serikali. Mzee wa kijiji lazima alipwe ikiwezekana na serikali.

About also the disabled ones, ama kwanza Secondary, pesa za secondary zimepanda juu sana kwa hivyo naomba Katiba ya

sasa ipunguze kidogo. Na malipo ya masomo ya msingi iendelee hadi daraza la nane.

Com. Ahmed : Maliza

David Sang : Karibu nimalize. About all married women are supposed to respect their husbands. That is now about masilahi ya wanawake. They are supposed to respect their husbands and play their roles as women. Customary law as the Bible teaches us and not to be overpowered by divorced women or unmarried women who have no stand or direction.

Disabled people should be considered by not taxing them too much i.e. in education side, the fare, nauli za gari, hospital bill, disabled get opportunities, also their parents should assist. They should be assisted by the Government with any generating project.

Children, another point is children are supposed to be given their rights all the three basic needs, my last let me just read it. Title Deeds should continue as usual. Also my last one parking boys or machokora hawa should be done away with by forcing them to polytechnic schools or if not they should be jailed. And lastly, it is just these public toilets. Public toilets zile choo za town hapo, ninaomba sana, ninaomba serikali, there should be no charging because if they continue charging people in the district or in the towns all the towns will be so dirty because people might not be having money to pay their whatever, so they will just decide to mess anywhere when they want. Thank you very much and God bless you.

Com. Baraza : Just a point of clarification, you want us to take the street people and jail them, just because they are street people or what do you have?

David Sang : Wakikataa kuwekwa kwa shule au Polytechnic Schools, or Schools, they should be jailed. Hata nilisema tuseme to set an example to others, they should be burned, wawekwe tyre mmoja halafu (interjection)

Com. Baraza : You know we are creating a new Kenya, where we don't want these discriminations, yes, there are people out there who think people with disability are a nuisance supposing somebody said jail those people with disability, they are a nuisance and you also said divorced people and women who have no msimamo supposing we say jail them. What are you contributing to us in terms of equality, in terms of non-marginalization?

David Sang : About these unmarried women they are ones who are contributing mostly about that, they are saying that we should play the same role with the husband. Hawa wanasema ya kwamba ati ukiwa na mke, ati inakupasa mfanye kazi nyumbani na yeye sana. Saa zingine unamkuta Mzee anaenda shambani kutoa mboga, saa zingine anaosha mtoto, anaosha nguo mtoto. Sasa those who are unmarried women are the ones now who are contributing a lot to these people who are married whereby there will mislead them.

Com. Baraza : Thank you. J.K. Arap Sang?

Jackson arap Sang : My name is Jackson Kiepegon Arap Sang from Kericho Orphan Centre. A non-governmental organization operating in Kericho and Buret district.

Now the Supremacy Kenyans, the new Constitution must reinstate the supremacy of the people of Kenya in order to ensure that Government exists for the purpose of the serving the people, and here also we are saying that controversial issues affecting our country should be fought through a referendum. Such issues are matters pertaining to land, the power and structure and privileges of the Parliament, the matters pertaining to the office of the President and Vice President and any other matter that will touch the fabric of this country.

Office of the President : Kenya should retain an Executive President. The President should be 40 years or above, or over, the President should be elected by at least 51% of the votes cast. Apart from garnering at least 30% of votes cast in at least five provinces. The President should not be a Member of Parliament. The President should have a minimum of one degree. His running mates, that is the Vice President should also be subjected to the same requirements as him or her. The retiring President should be given privileges such as housing security and pension etc.

Now we come to the area of Decentralization and Devolution of Power, we need a Regional Government that is a Majimbo system of government. But this does not mean that people who live in that District, in certain areas should be sent away, but they should live there but we have a Majimbo system of government. So the powers they should be transferred, certain powers should be transferred from the Central Government to Local Authority and Chairmen of Local Authorities or Mayors should be elected directly by the people. The Local Authority should also be empowered to run certain services at the local level with the funding for such services provided through the Central Government that is from the taxes collected from those Regions and such services they should be provided from the taxes.

Land and Settlement : We suggest that the Constitution should empower the Local Authorities to repossess all unutilized land and limit the size of land an individual should be allowed to own. We have people having thousands of acres in this country while others are languishing in poverty in the bushes, for example in this country we have people who are seriously marginalized these people are the Talai, who are marginalized by white men they were marginalized by the first Government of this country and the current government is marginalizing these people: the Talai, the Okiek, the Elmolo, the Sengwere and the Endoroisi. These are people who are languishing in the forests, they are living in slums in town and this is shame for us.

Now we come to Provincial Administration should be scrapped because it has become and agent of irregular transfer of land and it has become and impediment to democratization. The Chiefs have become small brutes wherever they are so we feel that

these Provincial Administration should be scrapped and something else should replace it.

Economic Rights and Ethics : Those people occupying offices and they fail to do what they are supposed to do, should be brought before the law, in this country the people who are being jailed are just chang'a drinkers and the rest, but people who still millions and billions are not jailed, they are given loans and they go outside to steal even more. We recommend the creation of capacity to embrace legal framework among officials and swift punishment of the offenders. Severe penalty should be given out against the persons who contravene regulations governing the management of public funds. We propose that if officers misuse the public funds should be barred from holding offices in future. Retired civil servants should not be appointed to head Parastatals. As unemployment remains high, in this country, let us give these jobs to people who deserve not people who have retired. We propose also that appointment to senior public offices be carried out by an Independent Commission to reduce the favouritism of nepotism which is rampant here.

We now come to Human Rights, we propose for the establishment of an anticorruption body establishing an office of Ombudsman to handle public complaints and prosecution procedures. This will strengthen the delivery of justice and the confidence. We propose the establishment of a Supreme Court and the appointment of Judges, senior Judicial Officers be done by Parliament or an independent body established by an Act of Parliament, we say that village elders, Chiefs and the Assistants chiefs should be elected directly if there will be, if the Provincial Administration will continue. Chiefs, okay we propose first that Provincial Administration should not be there. This does not mean that the chief will not be there, but these people should be there but elected by the people.

The new Constitution should safeguard the rights and freedom for people with disability and we suggest that an establishment should of disability bureau to spearhead development of initiative to address problems and challenges which faces the disabled. This organization will provide and opportunity for policy dialogue and joint consideration of key issues of equity and sustainability of programmes to improve living standards of the disabled.

Citizenship and Expatriates Kenyans should be entitled to Passports on application, if you apply for Passport today, you are subjected to unnecessary questions, no person should be considered for the award of citizenship unless they have lived and worked in Kenya for at least 7 years. Persons intending to come to Kenya and work as expatriates should be vetted by relevant professionals and business organizations to ensure that foreigners are not given work permit when we have qualified Kenyans who can perform the same.

Lastly, we ask that the Constitution that will be written out of the current exercise, should be stamp out Human Right abuses. There are some practices that encourage human right abuses in Kenya today, land grabbing, mismanagement of Government Institutions such as schools and colleges and hospitals and Parastatals, misuse of power by senior civil servants, torture of suspects by law enforcement officers, indiscipline in general public of the Kenyan society. Nepotism and partiality in

employment promotion and enrolment for training in certain lucrative professional courses, (inaudible) and miscarriages of justice in matters of rape, murder, theft, felony, arson and etc.

The high cost of obtaining justice, cases drag for long Court costs are high and advocate's fee and the like are very high. A frame work should be established that will help the poor people in such cases. Also we have deplorable condition of prisons where we throw our people to go and reform them are actually the worst places we even turn them into the best criminals. We also have a problem selective administration of justice should be eliminated. Shavering those who give to bribe while arresting those and jailing those and punishing those who do not have anything to give.

So lastly, there is problem in criminal law. Why jail somebody for drinking busaa and you give somebody who has stolen millions you give him, what do you call it, bond, mtu amemeza million kumi amemeza million ishirini anapewa bond, mtu ambaye amekunywa busa anawekwa ndani, I think there is some unfairness in the criminal law system in this country, it should be streamlined. Thank you.

Com. Baraza : Thank you very much can we have the memorandum. Stanley arap Mutai

Stanley Arap Mutai : I am Stanley Arap Mutai the Executive Secretry KNUT, Kericho Branch.

Ours is written in point form I am going to rush. On the Executive, we propose that the Constitution should specify qualifications for Presidential candidate. The Presidential tenure should be 6 to 5 year term. The functions of the President include Commander in Chief of the Armed Forces but when it comes to Universities, I think, it should be limited to the Agriculture and other sectors. The Constitution should set limits for the Presidential powers over Universities, over the Shows, the appointments in various departments. Five, impeachment of the President in case of abuse of power, on relationship between President and Parliament, the Parliament should be supreme. The President should not be a Member of Parliament from any Constituency.

The Provincial Administration should be streamlined on their defined roles. We should retain the Provincial Administration but their roles should be well defined.

On Judiciary : The Structure should be retained, we need a Supreme Court, we should have Constitutional Courts, Judicial Service Commission and Law Society of Kenya being partners should appoint those who are working there but be vetted by the Parliament. At least a diploma in law should be the minimum qualification for the Judicial Officer. The tenure of Judicial Officers should be three years. A Commission should be used to discipline Judges and other officers enjoying tenure of office. The Chief Kadhis should be restricted to Judicial work. The Chief Kadhis should have policies similar to the magistrate. Judicial Service Commission should appoint Kadhis with Muslim Supreme Council. The Kadhis should handle matters related to Islamic law only, for example marriage, divorce and succession. The Kadhi's Court should not have affiliate justification.

Judicial power of the State should be set such that exclusively in Court. Free legal service should be given to those who are not able to pay. There should be a qualification right to legal aid one is unable to raise the funds. There should be provision for Judicial review of law lead by the Legislature.

On Local government, the Mayors and Council Chairmen should be elected by the people directly. The two year term is not adequate it should be five years. Councils should not continue to operate under Central Government. The Chief Officers should be directly answerable to the Councillors. The minimum qualification should be O Level certificate. The language test is not enough when vying for local authority seat at least O Level certificate. There should be moral and ethical qualification for local authority seats. A Commission should be set to determine the remuneration of Councillors. Nomination of Councillors should be from special groups, the rule should be from the parties they represent. The Minister in charge of the Local Government has the power to dissolve Councils in circumstances where the misappropriation of funds has been detected.

The Electoral System and Process : We want to propose that the civil servants who always resign before they go to solicit votes should be given three months leave but a paid leave so that in case they are not elected, they should automatically recover their job. We have seen so many people losing job especially teachers who come to look for seats may be in Civic and Parliamentary seats but later they are rendered jobless.

We should continue with the representative electoral system, the simple majority rule should be abolished. One should win with 51% majority votes of the total votes cast. The Electoral process should be designed in such a way as to increase the participation of women in Parliament and Local Authority.

The minimum percentage should be 51% of total votes cast in Constituency and Presidential Candidate.

On Electoral System : There is this issue of 90 more Constituencies to be created with us in the National Union of Teachers, Kericho Branch, we are saying this 90 seats should be given to vulnerable groups and interest groups, even trade unions like Kenya National Union of Teachers should be given one seat in Parliament so that they can take care of our interests in Parliament.

Electoral System, the candidates who failed to seek nomination in party should be allowed to switch over and seek nomination from another party. After defection and crossing the floor from one party to another one should seek fresh mandate from the people.

We should not retain 25% from 5 provinces, instead we are saying we want 3 parties in this country but not forty. Ours is three parties so that we can remove a 25% from each province and go to 51% of the total votes cast.

We should have seats reserved for specific interest groups as I said, towns and cities should have only one MP like Nairobi one has access to so many areas within a very short time, people there have televisions, they have radios, so even an MP sitting and addressing these people is very simple, but we should have one MP representing Nairobi area, towns like Nakuru should have only one Member of Parliament, instead of so many of them. The stake holders should be consulted during demarcation of Constituencies and wards not having political leaders. On the Electoral System there should be no limit on election expenditure.

Let a person use any amount of money he gets, election date should be specified in the Constitution. The Elections of 2002 should be free and fair. Counting of votes should be done on electoral areas, ballot boxes should be transparent. Provincial Administration should be delinked from from election process. The date for election should be given earlier. Proper training should be given earlier. They should be people of high integrity in the society and honest. The Commissioner should be appointed by the President but vetted by the Parliament. Electoral Commissioners should enjoy security of tenure, the retirement of Commissioners should be ten years. The Parliament should remove the Commissioners from office. The Government should budget for the Electoral Commission and the current number is enough.

Basic Rights : Our Constitutional provision for fundamental rights are not adequate.

Social, Economic and Cultural rights should be included, and when it comes to basic rights with the school we say school uniform should be abolished in Kenya to allow children from poor families to attend school and teachers should be well remunerated for better quality education. Teachers Service Commission should have powers to employ and fire teachers. The Decentralization of TSC will encourage tribalism, nepotism and many other vices and the Government should employ enough teachers. Thank you very much.

Com. Baraza : Give us the memorandum, we shall read it. Diana Chepkoech?

Diana Chepkoech : My name is Diana Chepkoech,

Com. Baraza : (inaudible)

Four. Memorandum from (inaudible) Primary School presented by Diana Chepkoech, Eight year old girl. The Commission of Kenya Review should include children in the Constitution Review. About

our Rights, the children should be fully respected especially, administering discipline in the right manner. In School, the children should not be punished in school also orphan children, the chief in the area should be concerned about the number of orphans. Children should be recognized in the school and also in the village so that the government can assist those children especially in education.

Com. Baraza : Please switch off your mobile phones because they are messing with our recording.

Diana Chepkoech : and their future life and the girl should be equal in education with the boy.

Com. Baraza : Zakaria Ng'eny? Joel Kiprono arap Terer

Joel Kiprono Arap Serem: Kwa jina ni Joel Kiprono arap Serem, kutoka Kipsigis. Naongea juu ya utawala ambao Katiba yake inaendelea kuundwa vile nafikiria utawala wa kugawa kati zote itakuwa tumegawa rasilimali kwa mfano upande wa Ardhi, watu wangekubaliwa kuchukua Title Deeds zao katika Jimbo zao kuliko tunapoenda Nairobi kutafuta Title Deed na kule kwa Nairobi kule Ardhi House utaambiwa ya kwamba enda room hii au hii ambao utashinda Nairobi kwa muda mrefu. Kwa hivyo ningomba tu Commission hii watufanyie mambo ya Majimbo Kwasababu majimbo itakuwa kila pahali, itakuwa ikiendesha kazi zaka binafsi. Kwa mfano nitaenda kama kwa Province yangu nitachuku Title Deed inaweza kuwa kazi rahisi.

Na jambo lingine, ma-Province yote katika Kenya yatapanuka zaidi tukitumia njia ya Majimbo. Yatapanuka kwasababu hatuwezi kupeleka makao yote Nairobi, kama ilivyofanywa hapo awali. Wakati huu, unaona Nairobi inapanuka mpaka karibu Ukambani kwa sababu ya rasilimali za nchi yote ya Kenya, watu wamepata ma-kazi yako huko kwa mfano kama ukitaka pesa za NSSF mpaka usafiri Nairobi. Na ukisafiri kule huwezi kupatiwa siku hiyo na urudi. Utashinda pengine week moja kwenda kesho rudi mpaka pengine umalize week nzima. Kwa hivyo tungeomba wakati huu inapobadilishwa Katiba tufanyiwe mambo ya utawala wa Majimbo ili kila Province iwe na mambo yake pale pale karibu na wenyewe. Kwa hivyo ni kama mimi naongea tu kurekebisha mambo ya utawala iwe namna ya kimajimbo wakati huu. Basi hakuna point ingine, hiyo yote nilikuwa naongea juu ya mambo ya title deed. Tena tusipewe Title Deed ya kusema muda wa siku 99 mimi naona hii Title Deed yafaa siku 99, kwa nini hatuwezi pewa Title Deed ya milele kwa sababu shamba ni yangu milele na watoto wangu. Kwa nini mimi napewa muda wa mwaka 99 ikikwisha niombe tena. Hiyo inatakiwa Title Deed iwe free ya mwenye shamba hiyo milele hata familia yake. Hiyo ni swali lingine. Basi nafikiri mambo yote yarudishwe kwa Majimbo yake, kuliko kusafiri Nairobi, watu wa Kenya nzima wamechangia Nairobi ya kutosha, sasa wachangia Majimbo yao vile vile halafu majimbo yao yapanuke kwa kujengwa. Asante sana sina mengine mimi.

Com. Baraza : Tumeelewa hio, lakini wengine wanasema ati mambo ya mashamba ni ya Mungu ati shamba yote ni ya Mungu.

Joel Kiprono Arap Serem : Hata tukisema shamba ni ya Mungu na tunaishi huko, shamba si ni ya Mungu tu?

Com. Baraza : John Ndathi?

John Ndathi : Thank you, My names are John Ndathi, Kericho Teachers Training College, here are my recommendations. The Legal System and the Judiciary. The Judiciary should be empowered to deal and bring to book those people who have perpetrated the legal justice by misappropriation and mismanagement of public funds. Also, the Judiciary should be empowered to persecute justice and justice for all those people who are named in various reports instituted by the President. Like the Akihumi Report, we don't know the fate of what happened.

Also another item is the Police force – Since they are the implementers and enforcers of the law and order, they should be people with some sound mind, by this I mean, they should show a high academic grade nowadays we are told that they are taken with a grade of D. These are total mistake, they should be taken with grades above C or B, they should be people with abstract reasoning, by this I mean they should be people who are ready to listen to people before accusing them with any injustice and unspeakable horrors.

Third item is the Political parties and their powers. They should respect and guard its citizens as solely benefactors. They should not deliver the usual lip service, and has no democratic credentials. They should contribute to the compass of enlightenment and those as guided by its political manifestos. The party should not be content to implement tribal master plans, also they should only serve two terms of five years each or like now we are casting for an era of change, we want a change to be done. Thank you.

Com. Baraza: Thank you very much, just register there and leave us the memorandum. David Tuwei? Ameenda, okay. Martin Nyaingiri? And where is Martin? Just come over, Tuwei is there okay.

David Tuwi : Well my names are David Nasura Tuwei. I am here on behalf of the Talai/Laibons/Orogoik community. Talai,

Com. Baraza : (inaudible)

David Tuwei : Talai

Com. Baraza : (inaudible)

David Tuwei : Yes,

Com. Baraza : (inaudible)

David Tuwei : Laibons, Laibon,

Com. Baraza : (inaudible)

David Tuwei : Orogoik

Com. Baraza : Orogoik

David Tuwei : Yes, Community

Com. Baraza : (inaudible)

David Tuwei : Yesterday I was in Nairobi, together with the Pastoral Hunters collected, and Minority people of Kenya, we presented a Constitution memorandum to Prof. Ghai, today I am here to present one for the Talai Community. As you know may be most of the people in this country, what I realized yesterday is that they don't know about these people, they don't know who these people are. In short the Talai Clan is a minority, sub tribe who have been segregated tribally, exploited economically, dominated politically and educationally, because, there has been no one to struggle for their survival. The State in which they are currently in is not of their own making.

So in short, 1905 Samoe Quoitalel, who was a member of the Talai, who was a leader of the Nandi country, because in those days. Kenya was not there, so in 1905, Samoe Quoitalel was assassinated by Captain Menesagen. 1909 the British Government, Colonial Government introduced an Ordinance, the Native Removal Act of 1909, so as to use that Act to remove indigenous leaders from their areas to other places to give way to the white.

So in 1914, three Elders from Kipsigis who were brothers to Quoitalel Samoe and who were leaders in Kipsigis were detained.

I have got here a copy of the detention order which was signed by the then Government of Kenya, somebody by the name of H. Conway Francis, on 7th day January 1914. This Detention Order clearly indicates that these Elders were politically detained, so I am saying that the Talai community, the Talai leaders, were the first political detainees in this country, 1914 in East and Central Africa, or recently South of the Sahara.

Quoilekem was detained in Murang'a, it was then known as Fort Hall and here is where he met the first President of this country Peter Johnstone Kamau as he was known by then. Peter Johnston Kamau was a student at Thogoto Mission School, so they developed a relationship and Quoilekem encouraged Kenyatta to fight for uhuru. Before Quoilekem died because he died in that year 1916, he blessed Jomo Kenyatta, by then he was Peter Johnstone Kamau. He gave him an attire like this, we call it Sambut, he gave him a fly wig, he gave him a belt, we called it Kenyatet in Kalenjin, he gave him a snuff container made of ivory. He asked Mr. Peter Johnston Kamau to go to Loita and meet his cousin a Laibon from Maasai for further instructions.

On 18th July 1916 Quoilekem died, I have got a letter here, written by the then DC of Fort Hall about his death. 1934 the sons of this leader were found with guns in Kipsigis land. After being found with guns, an ordinance was passed the then British Government and this is the copy of the Ordinate, which I may read to you, just the title of it. Colony and Protectorate of Kenya in the twentieth fifty year of reign of His Majesty, the King George the V, an ordinance to provide for the remove and settlement of the Laibons

Com. Baraza : (inaudible)

David Tuwei : Yes.

Com. Baraza : (inaudible)

David Tuwei : Yes.

Com. Baraza : (inaudible)

David Tuwei : Yes.

Com. Baraza : (inaudible)

David Tuwei : Yes.

Com. Baraza : (inaudible)

David Tuwei : Yes.

Com. Baraza : (inaudible)

David Tuwei : Yah, I will supply it.

Com. Baraza : (inaudible)

David Tuwei : Yes, I will supply you with it.

Com. Baraza : (inaudible)

David Tuwei : Yes, I am coming to that, I am almost through.

Com. Baraza : Then just give it don't read word for word we know the History.

David Tuwei : Yah, I am almost through.

Com. Baraza : (inaudible)

David Tuwei : Yah, I will give you all the material,

Com. Baraza : (inaudible)

David Tuwei : Yah, I will give you. So this ordinance was used to collect all the Talai from the Kipsigis land, they were transferred or rather detained in South Nyanza.

Com. Baraza : Nineteen what?

David Tuwei : 1934

Com. Baraza : All the Talais?

David Tuwei: Yes. Were rounded up from Kipsigis land, they were taken to South Nyanza, Kwasi. I have got a map showing that, they stayed in Nyanza up to 1962, they were brought here to the Kipsigis land and unfortunately they found that their land which they were staying before, had been demarcated and other people had been given. So they were some here at Kericho township from 1962 up to now they are still there, some have been taken to Kipkelion, they are still there. So the Talai Community have got this recommendation to the Constitution, that they want Cap.69 to be repealed, this was for that Ordinance. They want it to be repealed and all the Talai people to be resettled in Kipsigis land where they belong. Two the Talai Community is proposing that a Constitutional Commission to be formed to address the past historical injustices and quantify them. This Commission should establish a trust fund to compensate the Community. The said Commission should recommend what further action to be taken against the Colonial Government even as far as to International Court of Law. Three the Talai Community is proposing that a Ministry for the Minority and the Disabled to be introduced so as to be addressing the issues for all the Minority and the disabled. Minorities here mean all the marginalized Communities, like for

example the Talai, Okiek, Sengwer, Elmolo, Kalas, Mijikendas from the Coast, some Somalis, Nubian excetra. So, since we are a minority tribe we cannot vote in a block until we get our representative in Parliament and Civil seats. The clan therefore would like the Commission to pass an act that at least a representative from the minority tribe be nominated to Civil service, and Parliamentary seats to look into our affairs. Also the priority should be given to the minority tribes when it comes to employment. There has been a lot of discrimination on the side of employment especially to the marginalized tribe, not only Talai, all the marginalized tribes. In conclusion, because I am not going to read everything because of time, since the Talai Clan has gone through hardships for a century, due to the colonization by the British Government, they have not recovered from the effect of the poverty the colonialist brought to them. They were the only ones to be deported as a Clan in the history of African reaction to the European intrusion and even globally. Normally a leader or two would be exiled, but not hundreds of people. This was a violation of the human rights, we are asking Kenyans or any well wishers who are in a position to volunteer and forward our plea for compensation from the British government. I am glad to mention to you that yesterday, the President of Ilo, I talked to her, accepted my plea and in fact she said that she will do something about it. I might be invited to may be some function outside the country like Geneva, so that I can put to the International world our plea. Thank you.

Com. Baraza : Thank you very much. Just a point of clarification. Now Talai, you speak a language called Talai or you are part of Kipsigis?

David Tuwei : We Talai or rather Laibons are found in all the Kalenjii people and even Maasai. So we speak, we have been assimilated in Kalenjins and Masaais, we have got Laibons in Maasai, we have got in Baringo, we have got in Nandi, we have got in Kipsigis, even Keiyo with Sengwer, we speak Kipsigis, those who are in Kipsigis speak Kipsigis, those who are in Nandi speak Nandi, those who are in Tugen speak Tugen, those who are in Maasai speak Masaai.

Com. Baraza : (inaudible)

David Tuwei : Yes, a clan or a sub-tribe.

Com. Baraza : How does one identify, I mean you are scattered all over, how does one identify these as one community?

David Tuwei : Yes, yah, infact

Com. Baraza : How many are you ?

David Tuwei : In Kericho here, we are between 5 to 10,000.

Com. Baraza : and in Nandi?

David Tuwei : Well they are more than that

Com. Baraza : How many are they?

David Tuwei : It is about 20,000

Com. Baraza : In Tugen?

David Tuwei : In Tugen, they are very few, may be about three hundred. Thank you very much

Com. Baraza : Give us your memorandum and include those figures.

David Tuwei : Yah, also I forgot the I am going to give you the book which I have authored about the Talai Community. Your copy and also give one to Prof. Ghai, and somebody I have written now.

Com. Baraza : Unawapatia wakubwa tu pekee yao?

David Tuwei : What, Yah, this one ni wakubwa pekee yao. Not everybody, you know about this affair, this one, if I can remember it is over hundred years. It is being handed over from generation to generation it is only person having it. So in this generation, I am the only one having it.

Com. Baraza : How come you (inaudible)

David Tuwei : To do what, to have it? No but you can decorate it. (laughter)

Interjection from the floor : (inaudible)

Com. Baraza : Yes?

Speaker from the floor : Nataka kuongeza kidogo hapo, Watalai wote wakikutana wanajuana, hata kama wako Maasai, Nandi, popote pale, watajuana.

Com. Baraza : Okay sawa. Nicholas Tumu?

Martin Momanyi : Madam Commissioner, Commissioners, Ladies and Gentlemen, my name is Kadil Martin Momanyi. I am a lawyer by profession. I wish to make the following recommendation. One, the Constitution is a supreme document in any State. And it should not be left to just a few individuals to try and amend it. We are saying that first and foremost, let us entrench the Constitutional of Kenya Review Commission in the Constitution. Because what happens today if the President decides to break this Commission, that is the end of it. We need it to be entrenched in the Constitution.

The second aspect of it is that Kenyans are very lucky, in fact we are very lucky to have two Presidents who are very humane, very kind, because if they follow this document called the Constitution of Kenya, Kenyans will run away. This Constitution is defective from the word go. Why am I saying that? This constitution has bestowed the power on one individual and that is an individual, it is not a creature of God, He is not God, he is an individual, you and I and we are subject to making mistakes. This Constitution which has eleven chapters, six of those Chapters, 126 Section, out of that, half of it they are talking about the powers of the President, is it humane that we leave powers to one particular individual to decide the fate of a State? And this is, this Constituion which our President unfortunately is not using it because if he followed it to the letter, Kenyans you know it is not his mistake it because we gave him a document and told him you will rule by that document, and so I wish to make the following recommendations, that the President of the republic shall not be, once he has been elected as a President of the Republic and the Vice President, he shall again not be the MP for a particular Constituency. So that he becomes the head of the State. We have a situation where the President is the Head of State, he is the Head of Government, he is the Commander in Chief, he is the Party Chairman, he is the Vice Chancellor and --- can we therefore, make him humane and make him, the institution of Presidency so that, that can be --- make it easier for him to enjoy the office.

Now it is important, that our National Anthem should appear in the Constitution? I think I think it is important, because if you look at the Constitution today our National Anthem does not appear anywhere. The Kenyan Flag is it important that it appears in the Constitution? Is it a Flag that is important, what happens today if a Christian takes over or a Muslim takes over and becomes the Head of State. He decides to change the flag, is there any provision to deter him from doing that? There is no provision. Where is the City of the Government? Is it important that we indicate that in the Constitution? Nairobi is not the City of the Government of Kenya, where is the city of Parliament, where is Parliament supposed to fit. Is it important that we show it in the Constitution? It is important that we show those ---. How about the official languages of this country? It is important that we show the official languages of this Country English, Swahili and the Other Ethnic languages? I think it is important. I think those things are important that we put them in our Constitution.

The other thing which I wanted to make a recommendation about is that, let us make it clear that the President of this Country should be a naturally born Kenyan. If anything we are saying that any citizen, any Kenyan, so if the Mzungu came here we gave him a paper and he runs for office, we will elect him as the President. The other thing is about citizenship: it is important that we make it that all Kenyan citizens be equal. We don't have a situation for example Section 91 whereby women are discriminated, a Kenyan man who marries a Mzungu is okay, his wife and children can be Kenyan citizens but a Kenyan lady who marries a

foreigner for example, her children even the husband is not treated as a citizen of this country. I think those are a few that we need to put into our Constitution.

The other aspect is the sovereignty of the people. The people are sovereign over the Constitution. Now Parliament, Executive and Judiciary are a creation of the Constitution. So we cannot have Parliament saying it is supreme to the Constitution, but the will of the people is taken away by Parliament. We have not given Parliament those powers. It is import to understand that the people are supreme over the Constitution.

The other thing I want to recommend to the Commission is that the idea of an Executive President, that cannot work a country like ours. Why? This country is not a kingdom. This country people fought for uhuru and it would be very interesting that you want to have an Executive President, I would not go for that.

Now the other thing I wanted to suggest to the Commission to be put in our next Constitution is about the Constitutional Courts. It is important that we have a Constitutional Court as the Supreme Court of the Land. Such that anybody who is aggrieved, a Kenyan, any Kenyan aggrieved can walk in that court for purposes of redress, and also we would like to have this idea of C's, the C's in court because that is a hindrance to even people who have legitimate grievances cannot be addressed because of lack of economic power. So are we going to use the same laws to deny our people (end of tape) in this country.

That we need the freedom of movement. Let people move freely. Let us not hear about the security, provisions in North Eastern, they are Kenyans. There are other machineries upon which the government can be able. A legitimate government can be able to detect or deter. Why are you stopping people from moving around, they are Kenyans, in essence, what is the identity card for. We go back in the history of identity cards, we know the kipande system for purpose of recruiting labour workers, why are Kenyans subject to kipande as if they are dogs? Those are things that we would not like to happen. Look at Section 70 to 84, the sentimental sections they are limit, they are saying that only parts of the Constitution which have been infringed are the only ones that can be addressed, that is wrong. We are saying if any part of this Constitution here is infringed, so somebody has to go and redress it, and let us not give the CJ authority to make rules, so when you decide to make rules is when you can have a redress in the Constitutional Court, or that is when he sets up the Constitutional Court, that is wrong. We are saying it is a Kenyan right and let that right be given to everybody.

Now the other aspect, why do we have Section 19? Why do we have nominated MPs? Why do we have nominated Councillors? Whose interest are they representing? They are not representing the lame, they are not representing women, they are not representing the minority, whose interest are they representing? They are a burden on the tax payer especially in a democratic society. And we have been talking about inequality. Affirmative, the women affirmative action, the manority affirmative action, that should be enshrined in our Constitution.

The protection of our natural environment, the protection for our forests, the protection of the minority, why should be minority be subjected to the whims of the majority. We are saying they should be given some serious protection. I wish to wind up and talk on the issue of land your, honour.

It is that Land : Public land is held in trust, we have not elected these officials, we have not elected the Government, which in turn does its own will. We are saying land which is there is trust land and that no body should sell that trust land without referring back to the people who have given them that trust. Land is a big problem in this country and again the customary law should be enshrined in the Constitution. Let the customary law be equally important just like the Statutory laws because it appears customary law is subordinate to statutory law. And with that note Commissioner, I wish to end my submission.

It is a long thing, you remember it is eleven chapters and I have not even said something like budget for example, just a note, is that there is no need to audit the expenditure of the government after it has been spent. We are saying no, if the government says it want five shillings, it must spent five shillings, you don't go to harambee and say the government has given 10 million, where is that money going to come from? And then you send in the Auditor General, the AG is a Constitutional office, let him be separated. And many others. thank you very much for—

Com. Baraza : I think you have very very useful things, we appreciate, go and just do us a memorandum on the remaining topics, this is very, very useful. And then now we will take it, this is very, very useful. Please do it.

Com. Ahmed Hassan : As you say that we should have equal respect for customary law as well as statutory law. You know that under Section 3 subsection 2 of the Adjudicate Act Chapter 8 of the Laws of Kenya. It says that you respect customary law so long as you are not (inaudible) on justice and morality. I don't know what is your view. Don't you think that is enough respect for that provision?

Martin Momanyi : Commissioner, it is not, that is not enough, because what happens is that we have seen cases where as an elder brother in a family, I go ahead to inherit my father's land, have it registered in my name and we know that the registered land Act the RLA, Cap.300, it clearly says, under Section 27 and 28 that once land has been registered, and put in the register, its title is absolute. Now have my brother, if I inherited my father's land under the customary law I have had it registered, this wazees gave me this land because I was the elder brother, should I therefore rob them? When I go to court the court will hold that since this land was registered in my name, I am the absolute owner, but my brothers knew that actually I registered the land holding it in trust for them. Now, are you seeing the conflict? Whether 3A is there for the inheritance powers of the—whether 3A is there, it doesn't really help, there is that conflict, that the customary law is always subordinate to the statutory law. However, we have had cases, favourable cases ruled by the Hgh Curt Judges whereby they have considered the customary provision for the trust.

Com. Baraza : On follow up to that one, Kenyans around the country are just telling us, look we should recognize the supremacy of our own law, you know. So I want your thoughts on, do you still want us to continue leaving customary law in its place in our country to interpretation by the courts or you would like a deliberate change in the hierarchy

Martin Momanyi: No, I think it is important that we cannot divorce the law from the happenings that is why I have recommended for a Constitutional Court interpretation. The State has a responsibility, when we have those customary laws which are repugnant to justice morality, we think the given sphere within a given development within an era, then those laws must be totally deleted from our statutes.

Com. Baraza : Please give us the memorandum. We have our friends, people with disabilities here Raymond Cheruyot. Do you each want to present or representative, two of them, please Mr. Cheruyot and if you have a memorandum you don't need to read word for word just highlight and give it to us. Even if it is in Braille we shall go to read. Before Mr. Raymond you start, I want just to announce, those of you who have memorandums and just want to give them and not wait you are absolutely at liberty to do that. You just register and leave your memorandum, we shall go and read it and digest it.

Raymond Cheruyot : Majina yangu ni Raymond Kiprotich Cheruyot. Ninaakilisha wasioona hapa Kericho. Nina maoni machache kwa sababu niko na memorandum ambayo tumeandika chini. Nimekuja kwa niaba ya wengi ambao amezalia nyumbani. Katika Katiba ya Kenya ambayo wasioona ama society ya wasioona, ilitambuliwa 1959 lakini haijachukuliwa muhimu. Ningependa kuguzia, sisi wasioona tunahitaji usawa, haki yetu. Walemavu kwa Jumla, mara nyingi tumesikia mwenzetu Josephine Sinyo akiongea kuhusu sisi. Ningependa kusema sisi wasiona tunataka, kwanza kabisa naanzia local government, Sheria ambayo ilipitishwa. Ya kwamba tunaitaji asili mia tano ya walemavu ipitishwe na waakilishwe vizuri. Nitachangia tukisema ya kwamba katika Kenya yetu wasioona hawajatabuliwa, hawajakuwa na, they are being discriminated.

Hawajaoneka mahali, katika shule, katika kila mahali utakuta wanapambana katika --- wamepewa usawa tukienda katika sehemu ya education. Watoto wa wasioona waendelea kudhoofika, ama kuendelea kabisa kutofanya chochote, kwa sababu watoto wasioona hawajapewa nafasi yao kufanya kazi. Utakuta katika elimu hawa wanawepewa usawa kuonekana kama wengine ambao wanaona, hivyo nasema kwamba tunataka grade zao zipunguzwe sababu hakuna braille, hakuna facility za kutosha katika shule za watu ambao hawaoni hivyo tunaona kwamba waakilishwe vizuri.

So tena walemavu wapewe nafasi ya kutosha, kuwakilisha watu wao katika Municipal, County Councils, na kuna sections zingene ambazo zime-runiwa katika Kenya, hawa watambuliwe, kwa sababu hawa macho siyo kitu ambacho tunasema inafanya mtu kukaa nyumbani. Ukiona katika hapa rehema house, mtu anafaa viatu ambazo si zake, katika Kenya, katika ngazi ya chini mpaka juu, tuseme hazina zao mtu ambaye hajui walemavu ni nani anavaa viatu visivyo vyake so tunataka walemavu wote waakilishwe ambao wanajua shida zao, ipitishwe katika Tume, tumeimba imba lakini tunataka ipitishwe. Sina mengi naamini ya kwamba Tume ya marekebisho ya Katiba itarekebisha hizo sheria na yale ambayo haikuweko, yaingizwe ndani na kazi ipata kuendelea.

Com. Baraza : Thank you Mr. Cheruyot. Who is the next presenter, what is your name Sir?

Richard Mutai : Basi Mwenyekiti na wote kwa jumla, hapa tumekuja kuwakilisha wasioona na yangu ni kuchangia ambaye rafiki yangu amewasilisha na kuongezea yale ameyasahau, na ya kwanza aliguzia mambo ya uchaguzi. At least that seat iwe reserved kwa mtu ambaye hajiwezi. Yaani kutoka kwa kila upande, Kwa wasioona kwa walemavu, na kwa wale wengine hata wasiosikia.

Ya pili, at least tuwe included kwa policy, yaani institution ambayo inatengeneza policy kwa sababu nimesikia rafiki yangu akisema tumetengwa kwani disability is not inability so Kenya au kwa marekebisho ya Katiba tunasikia hata nasi tuwakilishwe either kwa private sectors or NGO's au kwa vile vyote hata kwa maungano ya serikali tuwakilishwe mle.

Na nikikuja kwa upande mwingine ni kwa upande wa mashamba. Katika taifa letu tunasikia umasikini, wale wanaochangia ni wale wasiojiweza. Endapo ni hivyo. Na lazima serikali iwasikie inapopatia, kama juzi tunasikia mashamba yanapatianwa, ili kupunguza umasikini, watu wanaoona ndio wanapatiwa mashama lakini sisi tumesahaulika. Na hata kwa marekebisho ya katiba tukumbukwe, kwa maana serikali inapofikiriana kupatia mashama watu, sisi kama wasioona tukumbukwe mle pia.

Na lingine ni katika njia au traffic curbs, haujakuwako na sheria ambaye inaakilisha wasioona kwa kiviipi? Madereva wanapo fundishwa mambo ya barabara, hawajakuwa wakifundishwa kuhusu mambo ya white canes, crutches kwa wale ambao ni walemavu, hakujakuwa na mambo kama hayo.

Lingine, au la mwisho nikichangia ni kwamba katika mambo yanayotokea hasa kama haya mambo ya Constitution Review, watu huwa wanachaguliwa labda wanachagua wale physically handicapped au wale wasioona wawe included au kila upande hawaakilishwi, ni kwa sababu gani. Haya juzi tulikuwa tunaona hawa watu hawa wanapofundisha watu, we are not invited, hatuko kati yao. Sisi hatuambiwi, hatujulishwi na hatujui ni kwa sababu gani. Na sina mengi nashukuru.

Com. Baraza : Asante sana. Did you say those were the two representatives? Okay, just leave us your memorandum, your braille we shall read and digest everything. Nicholas Tumu, Thank you but sit there we register you. Nicholas Tume, if Nicholas is not there Ethra Kerich, if you are not there John Matita..

John Mbatita : Okay I will just be brief mine is to propose that Chiefs and Assistant Chiefs to be elected by the wananchi instead of.

Com. Baraza : What is your name?

John Mbatita : Sorry, I am John Mbatita. Chiefs and the Assistant Chiefs to be elected by the wananchi after every period of 5 years, instead of being nominated. Then there should be no nomination of the Councillors and the MPs. Thirdly the retired civil servant should not be nominated in other offices as we have competent young people who can take those positions. And fourthly, the Constitution Reform document should be released in a very simple way and should be available so that the local wananchi can understand and get it clearly so that it can benefit them. Thank you.

Com. Baraza : Julius Soi? Mr. Soi? Julius? No. Livingstone Bett? Please come over.

Livingstone Bett : Commissioners na wananchi wenzangu jina langu ni Livingstone Bett, ninaongea kuhusu au kwa niaba ya Keongo Group walioko hapa Kericho na kulingana na wakati ambao labda hautaniruhusu nisome yote, pendekezo yako tele, lakini nitasoma tu machache halafu nitapeana.

Kwa ufupi nitaguzia kuhusu citizenship kwa ufupi, those whom their parents were born and they themselves were born in Kenya they are automatic citizens of Kenya. Na those citizens who are citizens by naturalization, we propose that one must have lived, worked or done business in Kenya for at least 8 to 10 years and must satisfy the authorities concerned that they have no criminal record during his stay in the country of origin and of good conduct excetra. They must, and for those who are married, they must first have been married legally and lived as man and wife for at least 3 to 5 years.

When I come to the question of Defense and National Security – The Armed Forces should be disciplined by following the Constitution provisions as laid down as of now. Parliament must be involved and a vote of at least 75% approved before a war is declared.

When I come to Political Parties : Yes, to avoid a lot of confusion, waste of time and resources etc, we should at least allow two parties to cause a meaningful checks and balances. All parties must find their means of financing the party activities, unless may be only when they are on the State activities.

When I touch on the Structures and Systems of Government : We propose that a Federal System will be suitable for Kenya. This System will ensure fair distribution of resources, that will fairly develop all regions at least equally rather than having some regions highly developed while others are completely neglected. Also the so called Marginalized groups will have a say in their affair and of course they will prioritise their development activities. Finally, there will be opportunities for all in trade, employment, and may be land, we shall avoid future ethnic confrontations as it has been seen, that some ethnic groups have been squeezed very hard by others who happen to have been enlightened on many issues.

When I touch something on Legislature : Of course the appointment of Speaker will be the sole responsibility of Parliament and may be the Auditor General, but we propose that let Parliament also participate in the appointment of Managing Directors of

State Corporations.

The question of recalling the MPs : We propose that we must recall our MPs because most of them tend to forget those who elected them only to appear to us for another term. They must be recalled when all the Constituents through the public baraza's if possible, have shown an intention of intention of recalling them. This will help by sourcing them to be active in development activities.

The Salaries and Benefits of the MPs : Must be determined by a Commission, that the Commissioners should be economic professionals and not the MPs themselves. We must avoid such colossal awards as they did recently when they awarded themselves a lot of money, disregarding the ailing economy of our nation.

Com. Baraza : (inaudible)

Livingstone Bett : My last, no almost. I am searching something on the Executive – When we come to Provincial Administration – We propose that their duties must see that the Government policies are understood and implemented according to the set rules, but in the case of Chiefs, we propose that they be elected by the community concerned but not by appointment.

Finally, we propose that village elders should be given an allowance or salary as a token of appreciation, because they are the people who do donkey job because they are being used by the Administration most of the time as they are nearest to the people.

Com. Baraza : Council Omar Nassir? Nassah, Councillor Nassah.

Councillor Nassah : Madam Commissioner, the Commissioners, my names are Omar Nassa Beskala. Just because of time and since my colleague had presented the views as pertains to the Muslims, I would may be include a few and dwell more on the community I come from that is the Nubian community as one of the marginalized communities.

First Judiciary : I propose that the Kadhi be at par as the other magistrates, and they should also enjoy all the benefits as enjoyed by the other magistrates, although now you can find our Kadhis walking on foot while other magistrates drive. Two, apart from the other cases of marriages, divorces and inheritance, the Kadhis Courts should be given other cases like civil whereby they can be able to agitate on civil matters pertaining to the Muslims. That way they will also assist in lessening the workload on the other courts.

Local Authorities : As suggested by the others, I also suggest that the Mayors and Chairmen of Country Councils be elected

directly by the wananchi. As for the Councillors the minimum qualification should be 'O' level so as to enhance the quality of debate.

As for nominated Councillors and MPs, I suggest that the Constitution should be maintained so that the Government continues nominating them so as to represent special interest groups for instance, our cases like a Nubian, and the other marginalized group.

On divolving of powers, if the Mayors can be elected directly by the wananchi they should also be empowered so that things like the local security should directly under the care of the Mayor so that he is in charge of security and what have you in his area of jurisdiction.

On Citizenship which is very important as far as we are concerned, we request that, or we suggest that we be recognized Constitutionally as of now the Nubians are not recognized Constitutionally, we are being classified as others, although we have been in this country for almost 150 years or more.

Land and Proper Rights -

Com. Baraza : That should be your last point.

Councillor Omar Nassah : Second last please. Land and Property Rights, we should also be considered in the next Constitution, as of now, we are landless, our people are landless they don't have any land. For instance in Kericho here, there is a village known as Swahili Village. That one existed since 1928, only 40 plots from 1928 up to now, although the population has really increased. The extra 96, I suggest that they should be considered on Constituency basis rather they should be considered on special instrest group so that people like ourselves can be considered. Since I will giving my memorandum, that is all for now. Thank you very much

Com. Baraza : Geoffrey Chepkwony? Councillor please go there and sign. Geoffery Chepkwony? Julius Kipkemoi Sigei? Go through your memorandum, highlight and give it to us.

Julius Kipkemoi Sigei: Thank you very much Commissioners, I will be very quick indeed. My name is Julius Kipkemoi Sigei from here Kericho. The Constitution should provide for the formation of Federal System of Government. They should provide room for Regions to glorify their development projects according to their specific needs. Number two, secondly the Federal Government will provide for the protection of smaller tribes as other people have said, against domination and exploitation by the bigger tribes.

Suggestion number two, the Chapter 1(A) which states that Kenya shall be a multi-party democratic State be reviewed to provide not for multi-party but for 3 parties by party State, if I may say so. This will foster national unity and minimize the formation of parties along tribal lines.

Number three, the new Constitution should stress on Parliamentary democracy, as opposed to the special authority. This will provide more room for brainstorming for national issues. Parliament should be able to elect the Prime Minister from the party having majority of seats in Parliament. It should be able to vet or veto the appointment of Ministers, proposed by the Prime Minister, should be able to decide on the number of Ministries and should be able to fire Ministers through Parliamentary Commission.

Number four, on Economy and Democracy: ours should be a social democracy rather than liberal democracy, this will seek to protect individual and minimize inequalities of wealth. It will fight against formation of free market so that people are protected from economic hardships, such as those caused by liberalization or globalization.

Number five, which is very crucial to me, the Attorney General should not terminate any case before judgement is delivered. Such termination amounts to miscarriage of justice, and the termination can also breed to the selective application of the law.

Number six, and the last. The new Constitution should protect environment and natural resources, such as forests. The de-gazetement of forests should be done after professional study done by a Parliamentary Committee, passed by 25% vote in Parliament. Thank you.

Com. Baraza : Leave it there with us. Joseph Bii Yegon? Mr. Yegon? Alice Koech? Please come over.

Alice Koech : My name is Alice Koech from Ainamoi and I am going to present some points. A person born in Kenya, a person or man married to a Kenyan citizen should be entitled to automatic citizenship unless they choose otherwise. A child of less than 18 years whose parents are not Kenyan, adapted by citizens of Kenya should be registered as a Kenyan citizen. Rights and obligations of a citizen. The Kenyan Constitution should provide that all citizens are equal entitled to the rights privilege and benefits of citizenship regardless of gender. Equal access to the duties and responsibilities of a citizen irrespective of gender. The following documents should be proof of Kenyan citizenship: birth certificate, Kenyan passport, national identity card. A Kenyan child born of Kenyan parents should be issued with a birth certificate or an ID. upon presentation of either the mother's or father's national ID.

Basic Rights and Basic Needs : The Constitution should guarantee basic rights and which includes free health care, water, food, free education up to secondary school and cost sharing in higher education and public universities, shelter, security and employment for all Kenyan citizens. Gender and equitable representation in decision making at all levels should be a basic right.

The right to own and inherit property for all Kenyans irrespective of Gender or Marital status should be upheld by the contribution.

The Kenyan Women should suffer no form of discrimination, oppression, that reduces her dignity and esteem as a Kenyan. The Matrimonial Property Act that was repealed in 1967 should be entrenched in the new Constitution.

Affirmative Action policy : The current Constitution is silent, on the rights of women and persons with disability. One out of ten Kenyans has some form of disability therefore, it is critical that their needs such as those related to visual impairment, hearing and stage difficulties and physical impairment should be addressed. Right of equality the quantity of all citizens irrespective of gender should be enshrined into the Constitution. The Constitution should make a provision for Affirmative Action policy. It is a legal requirement for those pushed by the society where they are left to dwell in discrimination and exclusion due to gender, age or disability. Affirmative Action is a mother of justice, equity and human right. Education opportunity, it is not enough to set quarters for employment if we do not get enough trained and qualified women to meet those quarters. The girl child education: The youth and the disabled need to be facilitated physically. Bursaries should be provided for girls, the disabled or any other marginalized community like the hunters, gatherers and pastoralists. There should be a provision for their right to basic rights by the marginalized group in the Constitution.

Com. Baraza : Are you through?

Alice Koech : Not yet

Com. Baraza : Okay

Alice Koech : May I read only the last. Land and Property Rights : Women and children have in the past suffered most as victims of calamities and disasters, land conflicts, clashes and other land related insecurities. It is on this basis that we recommend the following; women offsprings, regardless of marital status should be entitled to inherit family property, including land without discrimination.

The last point is that in my cultural, the cultural marriage, we don't have the certificate, and we recommend that the certificate should be given from the Chief's office, the Chief should be given power to give not only the DC in the DC's office.

And President should not be an MP. Thank you very much.

Com. Baraza : You want to present?

William Keptienya :Yes, very briefly

Com. Baraza : Please come over. Say your name in microphone and then proceed

William Keptienya : My name is William Keptienya resident of Kericho Municipality. I would like to very briefly, present the Presidency is a very strong and attractive position. This calls for the best mind to be elected. The first one must be morally upright, charismatic, and a unifying factor. This position is also very powerful and must not be misused, so the Constituion must spell out the functions of the Presidency, in order to eliminate corruption, dictatorship, and misuse of office. A provision should be made in the Constitution for impeachment of any President who misuses his office, through public acclaim, and also processesses being undertaken in the Parliament.

Let me say that in order to balance the leadership of this country, devolution is an essential component of good governance. Therefore, devolution of powers to the Provinces is essential. There has been a lot of talk when you say Region, or Majimbo it offends other people, but the truth of the matter is that every Nation now is devolving the powers to the Region or the Provinces. For this purpose I will use the Province as a basis for National division of labour, which makes it defective. A good example is the South Africa, where Provincial Assemblies have got powers, therefore people there are well represented and there is a balance of natural resources.

Number three, National Honour : I would like to suggest that bestowing national honours to people who have not even done anything serious, some have got some honour which a Regional Panel be set up to recommend awards for each Province which shall be appointed by the President and approved by Parliament, through simple majority vote. The same Panels to name important institutions. Also such panels to be recommended by Regional Assembly, so that every corner of this country is free. There are several people in this country who have contributed so much but they are never seen because it is only done in Nairobi, everything in Nairobi, and I would say those who are doing these appointments are people who do not even know the geographical boundaries of this country. Some have never been to North Eastern, some have never been to Western and there are in Nairobi dishing out honours. This is a very serious omission.

Com. Baraza : Are you about to finish?

William Keptienya : Karibu. Security, I wish to, the Regional Police System be enforced, also Municipal to head their own policies.

Registration of Motor Vehicles – Registration numbers be in each Province.

Land : very quickly, this country has no free land which is marked or set aside for any group. All land is occupied and no

tenure policy. Registered land as Cap 300 should be made applicable throughout the country.

Tourism : Should benefit the people in which the areas, for instance Mombasa, and Mara Game Reserve, should benefit the people.

Agriculture : Tea and Coffee should also benefit the community. Like here this vast Tea Estates, the Kericho District residents must be made to benefit.

Forest : All those communities resident in the area, respective areas to get the benefits

The last one, is ministries, Government Ministries should be streamlined and be spelt out in the Constitution, not more than 18 and these should not be manipulated in any way. And my own personal recommendation is that the President's Office should be in Nairobi, Defense, Finance, Foreign Affairs, Commerce and Industry. Agriculture should be in Rift Valley, the Ministries should be completely wiped out in Nairobi. Those which are rural based, Tourism Mombasa, Livestock North Easter, Rural Development Central, Nyeri, Energy Eastern, High Courts should not be in Nairobi, they should be in Western, Kakamega. Because of time, I will not be able to continue. Thank you.

Com. Baraza: Leave us your memorandum we shall read it. Thank you for your submission. Mayor Keter.

Mayor Keter : Honourable Commissioners, my names are Councillor Eric Arap Keter, Mayor of Kericho Municipal Council.

Before I make my contribution, I would like to have two issues: One, I came here with vigour and eager to see the Chairman of the Commission but I am also told that he is not going around. I would like to put it to you the Commissioners, that the Chairman going around is very important because at the end of it, it is the Chairman who is going to steer this Commission to a reality. So that omission should be looked into and the Chairman, I know that there could be other things which may be holding him there, and not being done here, but I as mwananchi would like the Chairman to go round.

Number two, this Commission should be given enough time, it should not be done in a hurry. The law is life, we are going to deal with the life of a human being and so there should not be any kind of panic for the Commissioners to hurry up. We should make a distinction between election and the collation of use in the Constitutional home. So I am of the opinion that the Commission should be left to work harmoniously in time and until they come out with the document.

My contributions - though the risk of repetition, I wanted and I propose a Federeal Government, a Federal government whereby we shall have the Regional Government, which in this case we can have the Provinces and I say this because of the following reasons, quite often, when you refer to Federal Government, people are up in arms and I think it is upon the Commissioners to really educate the people that there is no harm in the Federal System, because we are all Kenyans, and what

we are asking for is to have the laws to be taken near the people. Take for example, Madam Commissioner, that we have a Regional Government in Nakuru for that matter, there are near the people, now all people will be able to go throughout the country, they are all Kenyans, and everybody has a right to own property everywhere in this country. He has a right to work everywhere in this country. So, I propose that we should have a Federal Government, first and foremost when you look at the country's of Africa there are so many wars and one of the things which bring up these wars is the fact that people are fighting for leadership. Everyone, they want to become the President, they want to become the Prime Minister, so the moment we pass on and we say we have about 7 Governors for example, then these people who are after leadership will bring us peace in the end. So if you want peace let us give more power to many people.

The other point I want to make to the Federal System is that the line should be drawn very clearly between the Legislature, Judiciary and the Executive. There should be a very clear cut. At the moment Madam Commissioner I want to take the example of the MP, I am not against the MP whereby they pass the laws and they execute. I am not for the Ministers becoming Legislators. Ministers should not become Legislators and I propose the Ministers should be professional people. Now appoint me as an MP, I have no qualification of a doctor, then I go and man the whole country as the Minister for Health and I have no qualification whatsoever, where do you expect me to get the knowledge to run this country? Or for that matter I am the Minister for Education, and I have no qualification on that line, how do you expect me to run this country effectively in education, so, I propose that that should be left out completely and the Ministers be appointed by the President and executive the work, but they should be professional people.

As I said, I may repeat, the other issue I want to make is on the Judiciary, and I think they should be given a big role in deciding anything that should be amended, whether it is Constitutional or not. If for example the MPs have given themselves 1000% salary, I think it should go to the Judiciary to make a decision on that one because at the end if we allow that trend then we shall make more people richer and a very big number are becoming poor. So where are you going to stop. You cannot stop them because he will make the law and he will enjoy it. So I think the Judiciary should be given more powers on that line. Other issues,

Com. Baraza : (inaudible)

Mayor Keter : Yes, I am just summarizing, I have about four pages, I want just to summarise the main points. The other thing which I want to touch is on Local Authority which has been mentioned. I think I am of the view that the following people should be electing the Mayor, in the Local Authority, the Treasurer should be elected and other officers but I am of the view that the Local Authority should be autonomous, they should be autonomous in the running of all services. And when I say services here, I am not excluding education. Education, Police, for that matter and all even Health services, should be done locally so that we can avoid misuse of drugs, shortage of drugs and such things like that one. So everything should be decentralized to the local authority.

The other issue which I would I wanted to touch on that line also of the leadership, is that there should be provision in the Consitution whereby a Councillor who does not deliver the goods, an administrator, a Chief, or Assistant Chief, an MP who does not deliver the goods, there should be a referendum where the people will give your views and say so and so has disappeared in our Constituency, he has disappeared for three years, we have not seen him we have been deserted for one year for that matter. So 1000 signatures are enough to remove him. Because at the end of the day why do you want this leader. You want these leaders to provide the service, so there should be a provision for people who will not perform their duties to be removed by the people because this is the government of the people and by the people.

The other point I want to touch is about a Royal Company, a Multi-national Company Company, Factories which are built in certain areas in this country, say you go to Mumias Sugar Factory, you go to this Tea Companies and so on. Those companies should have their interests and profits shared by the people who are there, with the local people. Why am I saying so? It will be very shameful and also very inhuman to see a very rich company with marvelous whatever they have and here across the river you see very poor people, so I think the proceeds from that Company in terms of profit should be shared with the community who are there.

And if you allow me the last point, this is on the National Food Policy. If you go back about 40 years ago, this country used to have a lot of wheat but what is happening now, we are importing the wheat, because the land has been given out haphazardly. I propose that we acquire, the Government acquires the land for purposes of development in agriculture. Otherwise we are going to be faced with famine which is happening in Mozambique, another country in the south. The Government should have reserve for food. Thank you very much.

Com. Baraza : Thank you very much Mr. Mayor that is very useful, please give us --- a question for you.

Com. Ahmed Hassan : May be you can give your own as a Mayor, you are the Mayor of the town?

Mayor Keter : Correct.

Com. Ahmed Hassan : I suppose the Municipality is in the town, this town.

Mayor Keter : Yes and also it extends to some rural farms.

Com. Ahmed Hassen : Is there a County Council for Kericho?

Mayor Keter : Yes.

Com. Ahmed Hassan : Now the County Council for Kericho is for the whole of Kericho District?

Mayor Keter : It is actually, excluding the Municipal Council

Com. Hassan : Excluding Municipal Council?

Mayor Keter : Yes.

Com. Hassan : Now there are more than one Constituencies in Kericho District?

Mayor Keter : Correct.

Com. Hassan : How many are they? Two or three?

Mayor Keter : We have three.

Com. Hassan : Three?

Mayor Keter : Yes.

Com. Hassan : So, I was just wondering that people have been saying that Chairmen and Mayors should be elected by the people directly. I was saying what do you think? A Mayor can campaign within the Municipality but a Chairman of a Country Council don't you think it is a little bit too much to ask a Country Council Chairman to campaign through the entire District which runs across three constituencies.

Mayor Keter : He has to do it and he has no option because unless we sort of divorce the Urban Councils from the County Councils, so where there is the Urban Council, the Chairman will not go there, so if we divorce all the Urban Councils and the Town Councils which are within the County Council I don't think that can be too much but in any case, when it comes to remuneration and whatever, I think the Chairman should be highly paid. More or less like an MP of that area because he has got to wide area so when it comes to remuneration he should be considered even much ahead than the Mayor, because he is performing on a wider scale. Thank you.

Com. Baraza : Thank you Mr. Mayor. Councillor Koros

Councillor Benjamin Koros : Thank you madama Commissioner and the other Commissioners and my colleagues who have come to give their views, my names are Councilor Benjamin Koros from Kericho Municipal Council. I only wanted to give the Commission, may be my own work of condolence for losing their Vice Chairman of whom we had hopes because the Chairman is a foreigner. He could understand us better than the Chairman, because we have seen the Chairman is only.

Com. Ahmed Hassan : I think we should correct that error. The Chairman is a Kenyan.

Councillor Benjamin Koros : He is a Kenyan? But he is not an indigenous Kenyan, that what I may say. The other one is that ---

Com. Baraza : (inaudible)

Councillor Benjamin Koros : May be Madam Commissioner, you will see the way it is he caused confusion in Nairobi which is now we are now seeing from the ground that the Commission has got a problem with the Parliament or the Government. My request is can we have the Chairman going round with you listening to views rather than arguing with the Members of Parliament in Nairobi because we would also want to see him, I am told you have 18 panels and he is not even one of them. Why? And he is getting allowances like you people and he is squandering in Nairobi. So may be with that, that one should be registered.

Mine also, very briefly is that I am also of the opinion that we have a federal System of Government and this one should be noted the way I want it done. We have President with no powers, like the one we have at the moment with enormous powers because if we give to an individual enormous powers, this is a man, and it is very hard to know when a man gets mad. You only see somebody has committed suicide because of mental illness, if our own President wakes up today with a problem in his mind and he tells the Chief of General Staff can you start war, he will go to war, because he will think that the President is sober, so we want a President with no powers of which the Chief of General Staff can question, the Vice President can question, the PS can question, so I mean the powers of the President of this country are so enormous.

So if we have the Federal System with the President with no powers and we have got 8 Regional Governors who should be based in Provinces with 18 Ministries as Mr. Keptienya said, in this 18 Ministries only Ministers and Permanent Secretaries be allowed to be in Nairobi. We should have now their 18 Ministerial Representatives in the Provinces finishing all the matters touching on each particular Ministry, leaving our own Kenyans suffering getting buses from Kitale to Nairobi just to for a single piece of paper to be signed by the Minister. So we should have regionalized services in the Provinces

The other point is that we wish to have the Chiefs, Assistant Chiefs to be elected and given a term of four years not five like the Members of Parliament and Councillors. I think four is adequate and they will never have Kangaroo courts because they will be answerable to the same members of the public and other malpractices will go away from the Provincial Administration.

I am also urging the Government to set aside funds and buy irrigation facilities in those areas like North Eastern collect all the street people, the landless of this country and be made to work in those places and the proceeds go to the Central Government.

And there are already housed and given food and because in the streets they are borrowing food, that they can either be utilized by the same Government in those Arid areas. If the money is set aside and we collect all the landless and idlers, take them there, let them produce for the Government if they are not able to work on their own on their shambas, that one is what I mean because we are now having a lot of thugs and we are allowing them. If you find somebody in Uhuru Gardens sleeping from saa mbili mpaka saa mbili usiku humuulizi, analala kwa nini? So these are the guys to be collected put in a lorry taken to all those areas to be utilized by the Government.

I am also saying that in the Constitution, agricultural products should never be imported not unless on crisis.

Com. Baraza : (inaudible)

Councillor Benjamin Koros : Okay may be if you allow me the last one and the other last one I will be okay madam.

Com. Baraza : Just highlight we will read the rest.

Councillor Benjamin Koros : Okay, yah, the last one I was to say about is agricultural and daily products should never be imported not unless on emergency. I am also asking the government about this revenue they always give to the Local Authority called latis, that we should never be collecting funds, remit to the Central Government and then return it back. It should be put in the Constitution if the Government wants 2% of all the total collections per month, we remit from the Councils because the people who are deciding on what Garissa County Council or Kericho Municipal Council should get are the same people who will always give major share to their own local authorities. So we better remit as we collect, those who don't collect, they remain without getting anything. We collect a lot of revenue in Kericho but it ends up in Kakamega because may be the PS is from there, or it ends up in Coast because the PS is from there, so we collect our revenue, we remit, if it is 2% to the Government it should originate from the Local Authority, not to come back from the main stream or Finance Ministry.

The last one is about the Electoral Commission should be given powers to nullify any elections of a Member of Parliament or a Councillor found transporting voters, immediately after the nullification, all of them are sent to jail even without going to court. So penalty should be set, after nullification the voter and the transporter they both go to jail. Because these are people who have put this country into chaos.

And then last one is that about the Mayors and the Chairmen be elected the by people and the Mayors should have at least an added advantage to have gone to either a college in Accountancy in education or any a Councillor should be a Form Four and

not a Form Four dropout, a Form Four who has got Division Three and above. Thank you.

Com. Baraza : Thank you very much Councillor, please register there. Mary Korir? Mrs. Korir? You want to go to eat? I never eat, I work very hard. Are tired? You can leave me here working and you go. Do you Guys want to break for lunch? Then we work, I keep us we work very hard, even the stories you hear we are lazy. Don't you believe any, we work throughout even in the night, but if you want to go to eat you just tell me I will put your name aside, then you come back but we will be here.

Mary Korir : Thank you very much Commissioner Ahmed and Baraza, my name is Mary Jeroitich Korir, I a KANU Women Leader in Ainamoi Constituency and also I am the Committee member in CCK in Ainamoi. I am going to present my memorandum in a language of Kiswahili because it is written in Kiswahili. Okay

Jambo la kwanza kwa sababu niko na point tatu pekee yake kwa vile umesema nipitiepitie, kwa vile ninajua mtaenda kusoma, ya kwanza tunaongea kuhusu upande ya watoto. Watotoa ambao sana sana ni wasichana because I am a lady and I have to fight for the side of women. Wasichana katika may be in our traditional Kipsigis in mostly or Kalenjin, wasichana sana hawajui manani kwa upande wa masomo. Nikiwa na wasichana wanne na wafulana wanne na bahati mzuri msichana apate kupita kwa mtihani ya darasa la nane akienda darasa la Form One na kijana pia amefaulu vile vile na hata pengine kijana hajafaulu sana, mzee atapigania kabisa aone ameombea kijana aende Secondary School lakini msichana akae nyumbani kusudi apate, pengine aolewe ndio tupate mali ya kusomesha mtoto. Kwa hivyo ningepomba katika Katiba mpya ambayo inakuja tutiliwe maanani sana, tupigania upande huo ili iweze kuwa ni sheria, ndio tuweze kusomesha watoto iwe ni sawa. Kwa sababu msichana pia ni mtu, ni mwanadamu lakini tumefinywa sana ikisemekana mama siyo kitu lakini kwa Mungu ni mtu.

Ya pili ninapenda kuongea kuhusu Katiba, I mean ninaunga mkono Majimbo. Majimbo inahusu mambo mengi sana ambao pengine hatukuwa tunaolewa hapo mbeleni. Kwa vile hata nimesikia Councillor Koros ameguzia, Majimbo itatupatia tuweze kulinda mali yetu katika sehemu ambao zinatoka, tuseme kwa mfano kama tumesema ni Rift Valley kwa mashamba hatuwezi kunyang'anywa kwa sababu tunaona hata sasa mpaka wa Rift Valley umepotea. Na sasa isipokuwa katika Katiba inaendelea kupotea mpaka inaonekana Rift Valley inaweza kumezwa baadaye. Kwa maana upande wa sehemu ya Luo land there is Nyanza Province imesonga imeingia ndani na ile boundary ilikuwa, mzungu aliwacha pahali imepitiwa imekuja mpaka ndani. Ukirudi upande was sehemu ya juu pia imesonga inaendelea ikipotea. Kwa hivyo tungeomba katika Katiba mpya ambayo inakuja kila mpaka uweze kusimamiwa na haki kwa sababu tutaenda mpaka mwisho ukiona kama Talai wanalia wajapata shamba kwa huo muda, ni kwa sababu mambo yanawachwa hayachukuliwi maanani, ionekane kweli haki ya mwanadamu ni pande gani. Kwa hivyo ikienda ---- kuwa mpaka ya Rift Valley ama Majimbo isimamie kwa sababu tukiwa kama hatuko na Chai, tukiwa na Chai tukipata benefit kidogo inaenda mpaka Nairobi kwanza. Ikifika Nairobi sasa ianze kugawagawa kitambo ikifike hapa tena tumerudi maskini, tumeanzia zero.

Ya tatu ni upande wa akina mama katika leadership. Kwa leadership tunaona akina mama bado wako nyuma kabisa wakipigana na wanaume katika uongozi tuseme kwa Parliament, ni ngumu sana mama kushinda mwanaume, ni mmoja kwa mia tu wanawake ambao wako champion kwa sababu mimi ninaenda siasa nikifika saa nane nakumbuka watoto nasema wacha nipigie hawa chakula kwanza. Sasa kitambo nirudi nianze hapo mwanaume ameshaenda hatua kubwa sana kwa hivyo siwezi kufuatana na yeye. Na pia wanawake hatujakuwa united, kweli wanawake ni wengi lakini hawajakuwa pamoja hata wakiwa hapa mia moja saa hii uwaambie wapigie kura mwanamke watapigia mwanaume. Kwa hivyo unaona wanawake hawajapata nafasi ya kuungana pamoja. Kwa hivyo tungeomba pia tuweze kukumbukwa katika election, Parliament, Council and County Council, wanawake waweze kuwa nominated mostly, so that mpaka waanze kushika laini kwa sababu mambo bado ni mbali.

Ya kumalizia pia ningependa kusema kwa upande wa kuchaguliwa kweli kwa U-Mayor na Chairmen wa Country Councils, mwanaume akiwa Chairman, mama aweze kuwa Vice Chairman, katika County Council kwa sababu hapo pia ndio njia ya kuwafundisha mama wapate support na wawezi kulinda wenzao. Na pia kwa upande wa Council mama asikose kupata kiti ambacho anafuata pengine naibu wa Mayor. Nafikiri ni hayo Bwana Commissioner. Thank you very much.

Com. Baraza : Thank you very much. Leave us your memorandum sign there. James Kerich? Mr. Kerich? Stephen Langat? Mr. Langat? Saul Kiragu? Francis Nyamboka? Who are you? Kerich? James Kerich? Okay.

James Kerich : My name is James Kerich from Tentwen Location. I am going to read what I propose in the next Constitution, to be in our country Kenya. Our country Kenya being surrounded by Ethiopia, Sudan, Uganda, Tanzania and Somalia, I would propose as a farmer to have it as follows:

The Government : The government to be democratic, to rule over the country by making provision of basic needs to her people, that is one, securing food sufficient in the country that is controlling prices of farm inputs to local farmers so that the country can be sufficient in food supply. On the side of education for her people, by providing education at initial levels that is free education to initial level that is Primary and sponsor strong academic students in Secondary and and at special level for poor families. To enable our country to exploit the available resources that is equal our development. Education should however, be provided to all classes of people at every aspect of exploiting the country's natural available resources. In securing the provision of medicines for our people, it should be a role of the democratic government to oversee free medical supply of every reach of each wananchi. It should sponsor provision of small health centers at the reach of our people, oversee the health of the people living at a particular given place. This government should not be Majimbo because other Regions of the country are not access to most necessary facing needs that is unskilled (inaudible) people may be living in other places, they are not well educated and they therefore would wish to have somebody from other Region to provide the necessary skills especially basic skills although they can approach their lives in the aspect of food provision, in the aspect of medicines and in the aspect of may be technical approach on every reach of live in the poor areas. This will other regions, is a market to other regions because regions that are not providing maize act as market place for the region providing maize and this will enable farmers to sell their

maize freely in the country because this is our country Kenya. It was named Kenya, it contains many tribes and these tribes all of them form the name Kenya and therefore every need of the Kenyans should be met not only at the particular region but at all regions existing in this country. Other areas are productive and others are not productive and therefore, these will enable other regions which are producing enough to have its supplies to regions which are not providing enough. So ---

Interjection Com. Baraza : We have understood that one please go to the next, I said you should only highlight.

James Kerich : Okay. Land settlement and ownership of land : Land ownership to individuals should be made easy that is those who are inheriting the land from deceased person procedures being followed are so hard such that a common man cannot achieve. I therefore propose that an easy procedure for every person should be formulated to enable young people with few resources to own land easily. Surveyors should know the coast of surveying the land to favour those people informing them of the existing land they would want to inherit.

Com. Baraza : Last point?

James Kerich : Businesses,

Com. Baraza : Tutasoma yote just highlight the last one.

James Kerich : My last point is businesses – Most small scale businesses in rural areas are given by a lot of fee by those licensing them, and yet they are not having enough facilities that is to run for those not reaching those areas, they should also be given active allowenace like teachers by not being licenses too much. Every person is paying at least something, revenue to the government by buying the indigenous goods like sugar, like, and therefore they are providing the government with revenue but the government are using this revenue and they are not reaching this rural areas and they are saying that they want the country to be industrialized in the year 2020. Yet they are not looking at these areas which are very hard and promote small scale businesses.

Com. Baraza : Thank you. Give us that memorandum we shall read it. Are you Andrew Langat?

Discussion in the background : (inaudible)

Andrew Langat : Thank you for giving this chance, I am Andrew Langat, Treasurer to the Kipsigis County Council, and Chairman for the Kenya Society for the Physically handicapped. I will highlight a few points in local authorities and then later on as the Chairman for the Kenya Society for the physically handicapped.

Now in Local Authorities I want to highlight. One, The problem with misuse of power, the power to subdivide local authorities.

This has always been rested with the Minister for Local Government in charge of local authorities and we have seen what is happening in local authorities. Kipsigis County Council for example in 1988, had three local authorities with a total of about 40 Councillors. Today the same area has got about 161 Councillors and nine Local Authorities. The machines that the Local Authority had have been subdivided. You talk about a bulldozer here, a low loader there, a chauffer in the other end, and no useful service has been provided with the same machines. So that is the power to subdivide the Local Authority now being misused by the Minister. So what we are saying is that the power to subdivide a Local Authority should emanate from the Local Authority itself.

So after a visibility study, a carefully study that will put the Council in proper perspective. Now I would recommend as follows; that the Local Authority should be autonomous. There should be a merger of Local Authorities so that those resources can be brought back to where they were. The small Local Authorities could serve as divisions, divisional offices to the bigger Local Authorities. Councillors who serve almost the same purposes as Company Directors should not be over 13, in big companies for example, public limited companies, we have about 13--- Directors. In Local Authorities we have over 30 Councillors, I think the decisions of the Council do not improve with the number of Councillors but with the quality of Councillors, so I am of the view that Councillors should not exceed 13 at any given time.

I said the power to subdivide the Local Authorities should be vested in Local Authority itself and similarly the power to subdivide the wards should be vested in the same Local Authority not in the Minister for Local Government.

Nominations to serve special interest should be made by the already elected Councillors and not the MPs as in the past. We have seen these powers to nominate Councillors having been misused by the MPs who are also elected the same day with the Councillor. The MP is using the powers to reward his chief campaigners or her chief campaigners. So the power to nominate should be on the elected Councillors because they were elected the same day with the MP.

The last point. Projects emanating from, projects that benefits from the resources of a specific area, say the Kipsigis land for example, those projects emanating from using the resources from the Kipsigis land should reward the Kipsigis people, the locals. I am saying this for example, of the Sondu/Miriu Hydro electric power project. The project is using water from the Kipsigis land. The Kipsigis people are concerning the (end of tape) Should benefit the locals and any other projects elsewhere.

For the disabled, we would want disabled elected to participated fully in the election. If they should want to vie for certain election, I don't know, I am not very sure about the present Constituion, but I heard the disabled are not allowed to contest. Now we are saying that the disabled should be allowed to contest any seat should he be competent and be elected.

The other one is – just the last one – The National Fund for the disabled should, the trustee should be appointed by the disabled organizations. The other time we had a bomb blast, and everybody and almost everybody was becoming disabled that same day, a lot of money is lost and that money never went to the disabled fund, for fair distribution because they are already, some people had become disabled for two weeks and everybody was rushing. Other disabled had become disabled for the rest of their lives and nothing else has happened. Thank you.

Com. Ahmed Hassan : (inaudible) Councillor, Members of Parliament whenever it is urgent, so long as they don't have any mental insanity or a physical disability.

Com. Baraza : Just leave the memorandum behind please, Councillor Zakayo Too?

Cllr. Zakayo Too : Thank you Commissioners, I am Councillor Zakayo Too, I am representing Kipsigis County Council on behalf of the Chairman. Councillor Thomas Ng'eno. So the memorandum is this, it is about two issues.

Com. Baraza : Don't read just highlight on the issues.

Cllr. Zakayo Too : Okay, it is in fact very brief. County Council of Kipsigis proposes devolution of powers from the Central Government to autonomous Local Government System with enough resources to put in place a strong economical, viable and vibrant Local Government system.

I thought Land Issues in Kipsigis land. The Council notes with concern that all potential and economical land in Kipsigis land is in the hands of multi-national companies who get millions of shillings in profit which is transferred to foreign bank accounts while the Kipsigis are suffering from abject poverty. It is noted that the soil belongs to the Kipsigis people and tea plantations belong to Multi-nationals, the Kipsigis people now demand that the leases given to the Multi-national be re-negotiated afresh and that future ownership of the Tea plantations should be decided by the local people.

Management of forests within Kipsigis land : The County Council of Kipsigis proposes that the locally managed all forest land within Kipsigis land and that all resources including rivers with sources in the South West and Mau should only be utilized with the sanction of the local people. Most of the rivers draining into lake Victoria had their sources within Kipsigis land, our fore-fathers were prevented from interfering with the forest and the Kipsigis people should be compensated for taking care of the forest and the environment in general so that the rivers continue to flow to lake Victoria and onwards to river Nile.

The International Agreement on the Nile between Egypt and the British should be revoked and renegotiated afresh and the locals given a say in the new agreement. Yes,

Com. Baraza : (inaudible)

Zacharia Mitei : Okay, thank you, I only have a few points to

Com. Baraza : Start with your name

Zacharia Mitei : Zacharia Mitei, memorandum but, just oral submission. Now my first point is on the environment. We all know that the environment, especially our forests have been reducing at a very fast rate. What I propose is that in future we should not be able to degazette the forest easily, I think the Constitution should make it so hard so that we at least conserve the remaining forest. And again, I also, because I think we could have passed the stage, the critical stage in the size of forests we have. I propose that people who own land should be asked to dedicate a portion to the forest something small like 5% so that we kind of come back to where we were before.

Now Land ownership : I think there should be a ceiling of the amount of land one should own, it should not just be a question of whether you can afford. Because there are situations where people own really huge amount of land like 10,000 hectares or acres and they could be individual and they are not putting the land into good use. So I think, there should be a ceiling and there should be two types of land there should be those which are for commercial purposes for example the PSS of necessity are large so that they become viable. Those type of categories of land can be huge but they should be really governed so that not everybody can acquire land and then just leave it idle. And all the land that was acquired through questionable means, I think they should be look at with a few to actually taking them back because some people have land at the moment but the amount of land they have is not propotional to their hard work that they put in. So if they got it questionably so I think these land should be looked at with a few to taking it back to the Government.

Now on the type of country we should be, I think we should be a Federal kind of government or system of government, this will actually alley the fears that most Kenyans have because I know people fear domination from other nationalities or tribes, if I may use the word, but if we had a Federal kind of government then the Regions will have their own stand and no Region can dominate the other. But we should also remain as a country as we are, not divided into many countries.

The last one is about the type of government in terms of political set up. I think we should have a President and a Prime Minister so that the power is sort of balanced. At the moment powers are in one institution like the Presidency and I think if we had a Prime Minister with some of the powers like the formation of the Government, appointment of the Ministers should be the Prime Minister's job, after his party has won the election, but the other things like Commander of the Armed Forces and so forth and so on should be in the hands of the President. I think that way we shall have balance of power. Okay and I actually, I think that was the last one, so thank you very much for your time.

Com. Baraza : Thank you. Please sign there. Please come over? You sign there, give us the memorandum.

John Leteita : My name is John Leteita, I am a resident of this Municipality, around here. Now my first point Madam Commissioner is the right of public servant. I would like to Constitution to really speculate what is the right of the civil servant, because when a civil servant now comments on topical issues, they get victimized. So where is the border line? Does that fact that you become a public servant make you lose your right of citizen of this country? How far can you see? How far can you comment on issues affecting this country as a civil servant? So we would like it stated in the Constitution so that civil servants are not victimized as the case may be now.

Another issue also is Patronage : Can we say something to the Constitution? How can they stop patronage? Because Patronage kills morale among the civil servants. Where somebody is given a job because he has a tall brother. So can we say that in the Constitution so that everybody is equal.

Another thing is about Election : How long does one have to stay in a place before he becomes eligible for election? Can it be stipulated, you know you move today from this Kericho now if you imagine you are here and you move to Kitale. How long must you stay there before you become eligible for election?

Another point may be is, I would like to stress, Madam Commissioner, the sanctity of the Title Deeds, unless you respect this document, the Title Deed must be respected because one must make sure that the Title Deed is respected. I propose to this Commission that Title Deeds can only be changed by a Constitutional Court. I would like to state a Constitutional Court not necessarily in any court must be Constitutional Court before it can be changed. Or else we shall land ourselves in blood shed.

I would also like to propose on the appointment of judges. I am feeling that the Judges should be appointed by the Judicial Commission and vetted by Parliament, that is all.

I would also like to propose on security of citizens of this country. I am saying this, if somebody gives an order to Armed Forces who will in the long run will find that you have given a wrong order and citizens have been killed. Then that officer who gave wrong information should be liable to prosecution in the long run. I don't know whether I am communicating.

Now I will talk about tribalism : I thinking that anybody who incites citizens to fight because of tribal background should be judged with a capital offence, should be a capital offence to incite people or appeal to tribal emotions. Anybody inciting people along tribal ---should be judged with capital offence.

And then of course economic mismanagers, or what we call economic blunders should also be classified as a capital offence and all public resources recovered.

The last but not least, Madam Commissioner, I would like to state that the new Constitution should really empower or may be even strengthen the supremacy of Parliament. Otherwise unless we have this supremacy of Parliament, then we get manipulated by politicians. And thank you very much for that time.

Com. Baraza : Thank you, land, thank the other Kenyans I think you were quite. It is okay I will reach you. Kipkoech Keter, I am now back on my original list, which means you were very far, so you will wait. Kipkoech Keter. Francis Koskei? They were looking at me so tentatively, so I wanted them to go away before, I enjoy my work.(inaudible) Francis Kipkoskei? I will reach you, you are not too many we shall get there. Sipsugut Leley, Eric Keter has given, Benjamin Koros he has given, Kennedy Shivayiro? Kennedy? Ikuta, Anderson Ikuta? Kibet Koech David Chepkwony? Master Reuben Koech? Nani huyo? David? Kipkoech? Okay Kibet Koech.

Kibet Koech : Mimi ni Chairman Vumilia Disabled Group Kericho. Mimi jina langu ni Kibet Koech, Chairman disabled, Vumilia Disabled Group Kericho. Kuwaakilisha group yangu, mimi nataka tu-nominate Councillors na Ministers. Nomination. Na tena iondolewa kazi ya biashara yao. Ya tatu ni tuwakilishe kwa mkutano wa DDV tena tupatiwe shamba bure walemavu. Ya tatu tupewe bure wheelchairs. Wheel chairs, tupewe bure. Sita, tusifungwe kama wafungwa wengine, kama ni kufunga mlemavu, afungiwe nje, probation, kwa maana huko ni mbaya, huwezi changanya wale na walemavu. Ya saba ni free education kwa walemavu. Ya nane, tuwe na security, wakienda safari tuchungwe kabisa. Wawe na security. Hapo ni mwisho sasa.

Com. Baraza : Thank you very much. Elizabeth Biegon? Daniel Mutai? Robert no, no, not Robert. Samuel Mosonik? Joseph Mbatasi? that is your father, anakufuata? What is your name? Please let us give him a minute, then you come okay.

Joseph Mbatasi : My names are Joseph Mbatasi from Catholic Justice and Peace Commission, Mutawa Parish and these are our views: On the Preamble we have proposed that we should have a preamble in the Constitution highlighting involvement of the Christians in deserving our vision and national poverty illiteracy and diseases, we want, governance free of corruption. Administration of individual fundamental rights. Sustaining our nationalism through our National Anthem. The enjoyment of fruits fought for independence.

On the Directive Principles of State Policies – We are proposing that there should be supremacy of the people, supremacy of the Constitution, supremacy of the Organs of State such as people want --- for governance and national issues.

On Citizenship : People holding dual citizenship should not be entrusted with national responsibility.

Government must protect private and public property at all times. The sale of attached property by the auctioneers should be supervised by the Court of (inaudible) and review auctioneering of powers.

On the Executive : The Presidential candidate should have proven high academic and professional qualification. All the Presidential appointments be ratified or confirmed by the relevant Parliamentary Committee and need for sufficient provision setting out precisely when and how the government should hand over power. The current process is cumbersome in respect of incapacitation and indefinite after election.

Parliament should be empowered to impeach the President when breaches of the Constitution or commits a serious crime. There should be devolution of power at all levels of government to enhance national unity.

Provincial Administration should not be more powerful than the elected leaders, like MPs and Councillors.

There should be executive separation of powers and independence of the Organs of Government, the powers conferred on the President should be checked.

Constitutional officers - - -

Interjection Com. Ahmed Hassan : Why don't you try and highlight some points instead of reading word for word. You can even say something which you think you have forgotten, but if you read it word for word, simply reflecting yourself on the memorandum. In terms of that analysis you took it direct to yourself. Maybe you could try to highlight the points and even ask something which you think you have forgotten from that, that is more useful than reading word for word.

Joseph Mbatasi : There should be for example on the accountability of the Government expenditure there should be, Ministry should be able to give out their accounts or publish what they have spent during the year, like the companies do so that there can be transparency and accountability in the Ministries.

On the Parliament – we propose that the Parliament should have their own calendar, conduct their own sittings in the year, and then they should also have a Committee to discipline MPs who don't attend Parliament sessions so that the lack of quorum cannot arise.

People, the electorate should have power to recall MP who don't do their duties. And also MPs should have Constituency offices where they can meet the people and get their views on national matters.

MPs salaries should be approved by the Public Service Commission not by the MPs themselves.

Now on the Judiciary we are saying that we should have a Supreme Court which can interpret and resolve Constitutional

matters. Those appointed to the Judiciary should be approved by the Parliament, and lastly the Attorney General should not sit in Parliament because he is a civil servant, instead we should have a Minister of Constitutional and Justice affairs. Thank you very much.

Com. Baraza : Okay sign there and leave your memorandum, David endelea.

David Chepkwony : Jina langu ni David Chepkwony, mimi ni Treasurer katika Okilet Disabled Group Kericho. Naenda kuchangia maneno machache hapa kuhusu NHIF card wakati disabled ameenda kwa hospitali, iwe ilipwe 100%. Isipelekwe kidogo.

Ingingine inayofuata ni wakati, tuseme institution ya disabled, kama rehabilitation iwe na disabled disable managers ama walimu.

Kwa mambo ya magari itengenezwe seat sawa sawa vile disabled anaenda kukaa kwa kiti ya gari akae asikuwe squeezed. Kwa vile magari mengi katika barabara hayafai kwa watu walemavu.

Kwa upande wa Prison, ninachangia tena iwekwe kama vile ule Chairman wangu alisema, iwekwe sawa sawa kama prison kama amefungwa mtu disabled, asiwekwe na wengine afungiwe nyumbani ama asimamie na Title Deed ama logbook ama yeyote ile inaweza kusimamiwa.

Ya --- halafu tena naenda kuchangia ni free education kwa walemavu, kutoka Standard One mpaka University iwe free education.

Kwa upande ingine tena ningetaka kwa sisi wote Ma-chief na manaibu wawe elected na wananchi.

Na kwa mambo ya Mashamba mimi naangalia pande nyingi sana, tuseme disabled apati ama wengine wenye wamefaa hawapati mashamba vile inatakikana wengine wanapata mara moja na wengine hawapati kwa sababu nguvu hawana. Kwa hayo machache naweza sema asante.

Com. Ahmed Hassan : Sasa wewe na Chairman wako mnasema walemavu wafungwe kifungo cha nje, probation? Sasa sheria inasema mtu akipewa probation akifanya tena makosa ingine ama ile ile makosa alipewa probation, sheria inasema yule mtu afungwe. Sasa Mlemavu akivungwa nje jela nje je akifanya tena ile makosa ama ingine utafanya nini?

David Chepkwony : Akifanya tena makosa, ninasema sasa iwe separate prison. Asienda kufungwa na wale wengine.

Pastor Reuben Koech : Kwa jina ni Pastor Reuben Koech nawakilisha kanisa ya A.I.C. na kikao cha wazee kinaitwa Miot.

In the side of Government I propose that we should have Federal Government with about 10 Regions and each Region to have a Governor and to have a Regional Assembly. And each district to sent about two representatives to Regional Assembly and that Regional Assembly should last 4 years. And then this Federal Government is headed by the President, who should be a qualified Kenyan citizen and he should go in for two terms if he qualifies or if he is elected, should not exceed 5 year 2 terms. The President should be between 40 years and 70 years. Above 70 years should not contest for that seat. And below 40 years should not contest for that seat. In Education one should be above diploma in a recognized university or college. He should be an exemplary in society, in the side of development and of good moral conduct. If one get that seat he should be vested with powers that means he should have powers over Parliament, Internal Security, External Affairs and Regional Affairs. He must be elected by people and he should get at least 25% of the total votes in at least 2/3s of the existing Constituencies, not Province but Constituencies. 25% of the 2/3 of existing Constituencies. If one does not qualify or those contesting will not qualify, then a repeat should be made.

And Parliament we should have two Houses which is Senate running 5 years and Lower House 5 years.

And then we come to local authorities where we have Chairman of the County Council to be elected by the people and Mayor to be elected by people within that jurisdiction of Municipality. Also Local Authority should be 4 years and then new Councillors should be elected. Each Ward must have more than 5,000 registered voters for an area to be created as a Ward in the Municipality and then in the County Council should have more than 10,000 voters to be registered as a ward. And then our Constitution also should reflect marriage. You get customary marriage, an elder should be appointed by the council of elders within that tribal area to issue such certificate as per each tribe. And then one should be 21 years before he marries or gets married. And then for those who come from foreign countries to be married or go out to marry and come with a wife, then vetting should be done and at least one year for one to be given citizenship.

Rights : Childred to get all the basic rights. Orphans to be assisted by Government to get Bursaries and necessary basic needs.

Gender : The gender equality should be left to the respective Religion or tribal custom to apply such rights according to where they belong.

Religion rights : One should decide where to practice or follow after 21 years, otherwise under parents can guide them and be under the parents.

Land : should be left to County Council and to issue Title Deeds, that is to have their own Registrar of Land and for issuing Title Deeds

Trust Land should be given to County Councils to run. Lease should not be there in modern Kenya. All the land allocated to people wrongly from 1992 should be revoked and re-allocated.

Com. Ahmed Hassan: Kiplangat Ngige? Kiplangat Ngige, ameenda? Okay Matthew Kirui? Generand Koskei, Mary Koresh has given, Josephata Machoke, Godfrey Koech?

Godfrey Koech : Asante sana Commissioner, thank you very much. I want to comment something on the Local Authorities, I suggest or propose that there should be no nominated Councillors.

Com. Ahmed Hassan : Don't put your mouth on the microphone.

Godfrey Koech : I suggest that there should be no nominated Councillors, the reason being that this is duplication of duties and yet they receive the same allowance. Second, there is rivalry in the case of political parties. I suggest as per the second point that if an elected Councillor is from the ruling party, the nominated one should be from the opposition in order to check the powers. There should be no misuse of power. The third point is that there is no adequate revenue to meet their allowances.

B, the Chairmen of County Councils should head the District affairs and the DC should be or should remain to be a government representative, the reason is that the Chairmen of the County Council know the resources and the residents as well. DC may not know about them thus operate in the periphery remain as Government legal administrator and adviser.

If I may also comment about Multi-nationals in our District, the white islands are owned by the Multi-nationals who are reaping huge profits and yet indigenous people are suffering. I suggest or propose that 90% of the sales should be given to the people. And 10% should remain for Administration and Management.

On Education : I propose that it should be made practical as per job market. Build more vocation training Institutions. In the Curriculum include Jua Kali artistry, teaching of Computer from Primary to University. The subject examined should be reduced and Sciences emphasized. The Principle and logic behind is self reliance, enjoyment of fruits of independence and be proud of oneself. Thus in the course of all these we should respect each other in order to be responsible citizens. As for teachers they should be well remunerated especially those working in hardship areas. University Chancellor should be holders of degrees, not honorary. So the President should not be the Chancellor of the University in the next Constitution.

In Health : I propose that we build more health centres to subsidise drugs for the less fortunate. Transparency and accountability in the distribution from the Government Stores. Pay doctors well and promote them by merit.

Finally on land ownership I suggest as it should be. It should be owned individually. Those owning land which is above 50

acres or hectares they should donate to the landless to avoid people who are looking for employment and yet there are some people who have large tracts of land. In semi- arid areas the Government should look for donors to help to utilize those areas for the benefits of those people in that area. Thank you very much.

Com. Ahmed Hassan : Ernest Mutai, who is Ernest? Are you Ernest Mutai? Okay. Stanley Chirchir? He is gone. Okello Jones Agar?

Okello Jones Agar : My name is Okello Jones Agar, I am a student at Kericho Teachers' College. So these are some of the, what I would like to channel to the Commission so that they may be included in the new Constitution.

One, the Constitution should provide for the per capita income for all the citizens, you find that in Kenya we have got two categories of people. We have the working class and the non-working class. The working class they do get their daily bread what about the non-working class?

Number two, we have got people who are aged 55 to 100 years, some were working class and had retired and some had not worked anywhere, so in the new Constitution these people should be given something at least by the end of the month because their presence in any country is for the economic development of that country. Because they also provide for wisdom as we associate them with.

The Constitution should provide for free and fair Elections, by that I mean, you will find that during elections the aspiring MPs are able to visit people even into their hut and they even go as far as eating with them in their stone bowl but after elections is through they go to Nairobi and stay there forgetting those people who elected them.

Com. Ahmed Hassan : What is your recommendation

Okello Jones Ogar : My recommendation is if such people are found they should be sentenced.

The Government should educate the orphans pupils, students from poor families up to the highest level of education they can reach, because the destiny of this country is their responsibility. By that I mean if you have found that in the current Constitution, you will find that the Government is applying funds to different schools. You will find that 20,000/= has been distributed to a school and in that school we have got 20 orphans which means each pupil or student is going to be given some little amount of money which will not help him or her. So the Government should take the whole responsibility of educating such people.

Number five, we have found that the MPs, they have got their residential places in Nairobi and these people are not President

appointees, they are appointed by the electorate. So these offices in Nairobi should be decentralized at the District or Constituency level, so that these people who elected them can see them and channel their problems to them so that they can help the electorate. Asante sana.

Com Ahamed Hassan : John Kipkemoi Rotich?

John Kipkemoi Rotich : Commissioner, I wish to give my views on the Kenya new Constitution. My name is John Kipkemoi Arap Rotich. I will only mention very few words. On Preamble, I wish to state that the history of this country, the struggle of independence or history of this country should be displayed very clearly. Disclose not only towards our attainment of independence where the struggle was mad. The struggle had been going on from since Europeans came to Kenya, like in 1890 and two 1906 there was a struggle between the indigenous people of this district who fought for 16 years and this should be included in the history of this country and all other areas which fought for independence.

Cultural and Ethnic Rights : I note from our Constitution that the Institution of Elders is not included but it is very important because without elders a tribe cannot function. We see an example of Somalia, if elders were not there that country would have finished itself. So an Institution of elders and traditional customs of every tribe should be included in the new Constitution.

The Structure of Government I would recommend a Federal System of Government for this country. On the inception of independence, we had gone Regional but something went wrong somewhere, some ethnic groups, who had queer interest may be land they wanted to grab, land from the Rift Valley changed the Constitution to suite their own interest. And then they got away with it because may be other ethnic groups were not enlightened about it. Now we would like to go into Regional Government, and I recommend three regions only ; Coast Region, Central Region and Western Region to be very economic. Coast Region includes North Eastern Province, Central Region include Eastern Province, Western Region includes Nyanza and Western Province. Now in these three Regions, we have a Regional Governor, who should be answerable to the Prime Minister – of course when we have Regional Government, we should have Prime Minister, a Prime Minister and a President. A President who should be non- Executive but a Commander in Chief of the Armed Forces, but not above the law but remain a Head of State. The Prime Minister who should be Executive, head the Government but consults the Head of State in all State affairs.

Com. Hassan : (inaudible)

John Kipkemoi Rotich : Oh, please. Local Authorities : The PCs or the DCs should be made speakers of each Local Authority – I have written all the details actually here I am just outlining only.

Recruitment of the Army, Police, Prisons and NYS, should be done this way. To remove the present corrupt system. In each

district a Committee should be formed in each district where a DC chairs it the Chiefs, the Religious leaders and Social Workers should be in the Committee and then select some young men who should be handed over to the recruiting officers when they come the crew can examine them and then either register or release them.

Com. Hassan : Your last point?

John Kipkemoi Rotich : My last point Sir is about Land. Land is a very sensitive affair, matter and we demand that the Njonjo Report should be released to the public immediately, if possible.

Com. Hassan : Thank you very much.

John Kipkemoi Rotich : Well the most last one.

Com. Hassan : No, please try and finish yours, we have other people to give views.

John Kipkemoi Rotich: Okay, the most last one was Members of Parliament. A Committee headed by a Chief Justice should be formed to look into their terms of service, salaries etc. And then all Heads of Religious organizations like the Catholics, A.I.C, all these should be members of that Committee. Thank you.

Com. Hassan: Thank you. You should not feel that because you have not read your memorandum that you have not given views, because, if you give it there right away and you it is in that file, it is also going to be part of our records. Because when we go back to Nairobi. we shall read that one, those files and also what goes on the tape recorder. It will be transcribed. So if you read your memorandum word for word on the tape, it is as if you are doing the same thing, by giving us a transcribed tape of your own, really I think we should be fair and try and summarise your points and if it is possible – as I say – try and even develop other arguments which are not in that documents because that document is going to be separately read.

Councillor Zakayo Too has given. William Ketheinya, you have given? Peter Koech? Miot Elders.

Peter Koech : My name is Peter Koech, I am the secretary of Miot Welfare Association. Many people have talked about the Federal type of government, but what I am going to say is that when we mentioned the Regions, the Regions which it should have, should include the following; this is Coast Region, the Akamba Region, The Central Region, Rift Valley Region, Nyanza and Western, the North Eastern Region, as many as two Regions may be added, to include Kisii Region and the Meru Region. This is to cater for those small ethnic groups.

We should have a Parliamentary System of government : The qualification of the President should be one above 40 years, of

integrity, long experience in government affairs. He should be honest and of moral defense. The appointment which Parliament should vet are those enjoying security of tenure. We should introduce moral and ethical qualifications for Parliamentary candidates.

There should be a Coalition Government. We should demand for a multi-party representation at both levels of government. We should have two Chambers, the composition of which is the Senate from each district and Lower House from all Constituencies.

Parliamentary Judicial Committee – should discipline Judicial officers. There should be ethical qualification for Local Authorities seat. We should adopt a Parliamentary System of Government in which the Prime Minister is appointed by the majority party in Parliament and a President remains ceremonial with separation of powers, with the Prime Minister forming the Government.

The Land issue : The ultimate ownership of land should be community of the ethnic group in which the area and those whose land was taken by Colonialists from their ancestors. The transfer of land be done at a locational level and communities as a division should actually do the job. There should be ceiling of land owned by individuals depending on ethnic communities. No non-citizens to own land anywhere in this country. Kenyans should not own land anywhere in Kenya, each ethnic group should see that if it can guarantee access land to its members. All former White Highlands, white highland farms should be transferred to the communities whose ancestors lost them. Anyone occupying it be made to have a lease of 10 years, this is subject to renewal.

On right of the Regions : Regional Government should be respected. A treaty to be made between the Luos of Mohoroni area and Kipsigis to provide a safe corridor to connect with their ethnic Nandi community that was cut off by European Settlers and now being occupied by Luos, another alternative is to have the whole area, taken to Kericho District with its inhabitants. We already have two national languages and the Constitution should actually recognize and promote indigenous languages. These indigenous languages should even be taught up to the university level.

The communities adjacent should own natural resources. They should play a big role in management and protection of the environment.

I want to mention something about destinies of pertaining to big issues of the community should be handled by the Committee of Elders in every district. These elders should be recognized in the Constitution. Other duties assigned to the elders is to control the allocation of plots in town and planning of the towns.

I want to mention something about the sponsorship of schools. Non-Religious organizations have virtually come forward and claimed that they have sponsored the schools, yet they are not giving out any materials support in form of money or materials.

So the school should actually be managed by the community but not the sponsors. That is all Bwana Commissioner.

Com. Hassan : Thank you very much. D.K. Cheruiyot? D.K kama hayuko, Tito A Mitei?

Tito Mitei : Mimi nazungumza Kiswahili.

Com. Hassan : Taja jina lako.

Tito Mitei : Tito Mitei – Nasema shauri ya mashamba, siku hizi mashamba watu wengine wanasongeza kwa wale watu walio wale watu matajiri ndio wanasukuma wale maskini. Na hata kama nikienda kwa land nataka kuzungumza hawa wanasema niende nyumbani. Nikifika nyumbani, yule tajiri ndio anatoa pesa na yule maskini anabaki bure, sasa anasukumwa. Sasa sisi tunataka iwe sheria kama mtu ako na shamba lake, awe, kama anataka kusongesha iwe inazungumziwa na wazee, sio kusukumwa bure. Sababu wako watu wengi, wamekuwa maskini kwa sababu ya kusukumwa na wale matajiri, na kufika kwa DC, anarudishwa nyumbani.

Com. Hassan : Point ingine?

Tito Mitei : Point ingine, ni tunataka hapa kila hecter, kwa sababu tuwe tunajua iko Kericho, iko Nyanza, iko upande ya Mombasa huko Coast. Tuwe na Majimbo, tena hiyo majimbo sikusumbua mtu, tunataka kama imekuwa majimbo mtu yule yuko ndani akae hapo, isipokuwa maneno ya hapo anafuatilia. Sina maneno mengi. Asante.

Com. Hassan : Kuja ujiandikishe hapa, mzee? Sammy Rotich

Sammy Rotich : Thank you very much the Commissioners, I am going to highlight my views. I am a teacher by profession and my name is Sammy Rotich.

Now, concerning the Executive Authority of the government, I feel or it is my opinion that this should continue to be vested in the President. Why? Because the President in Kenya is as symbol of authority. So I feel that he should continue to have the power of the office.

Nomination of the Members of Parliament – As a certain colleague of mine has talked about it, is a duplication of duties. And I feel that the nomination of the Members of Parliament should be abolished forthwith. This again we are going to get the benefits, what is it? We are going to save in fact some money in the Exchequer because the members that have been nominated are paid just like any other Members of Parliament.

And for a Person to qualify to be elected as a Member of Parliament, he should, I feel in my own point of view that he should be a Form Four person, he should have a Form Four certificate with a credit in English and Kiswahili. A credit in English and Kiswahili.

Another thing is that the Head of State or the President of this country should somebody who is going to be elected should be married and he should be a devoted member of the family. He should be having his family, the wife and the children. In fact we should have first lady in Kenya, just like, to match other countries in the world.

Another thing is that there should be civil proceedings

Com. Hassan : And a first husband?

Sammy Rotich : Of course we shall have the husband, the husband should be there if it is a lady, there should be the husband. At the end we should have a family.

Another thing is that, there should be civil proceedings in which relief is claimed in respect of anything done shall be instituted against the President while he holds office. I understand at the moment there is no civil wrongs and criminal wrongs. The President is above the law. So in my opinion, there should be no criminal wrongs but there should be civil wrongs. There should be what is called the impeachment. We should be able to impeach the President if he acts in a manner or such a way that he is contravening what has been installed or proposed in the Constitution. And very fast my commend here. The President should continue to be the Head of State and the Commander in Chief of the Armed Forces of the Republic of Kenya. In fact that one should never be separated.

And another thing is that to curb this problems which we have been hearing in the quorum in Parliament, at the moment as per the current Constitution the quorum is just at least 30 members of Parliament, if 30 Members of Parliament are there in the Parliament, the quorum is just enough and the affairs of the Parliament continues, to curb that particular problem, there should be at 40% of the total number of MPs, that is of course 222, 40% of that will come around 90, we should have the quorum of at least 90 members. I think 30% was based on 188, at the moment, we have 222 MPs and we still have the quorum being 30 members, I think that is quite unfair.

Protection of freedom of Conscience and expression should be made in a manner that there should be a provision reasonably required in the interest of public morality. There should be that and the benefit that we are going to get is that this should eliminate the exposure of the ponographic literature that are lying on the streets. So we should control, I feel that there should be a strict measure that the government should have in the case of the protection of the freedom of conscience and expression.

We should have the public morality controlled by the Constitution. If we don't have these ponographic literature that has just

been messing around in the street.

Measure should be made in such a way that the Controller and the Auditor General do not approve any proposed withdrawals, that is of money from the consolidated fund if he feels that withdrawals are not worthy. So in fact penalty should be laid down such that the Auditor General and the Controller approve the money to the Government and the money that is being approved is not to the best interest of the Auditor General. I think there should be penalty that the Auditor General or the Controller does not simply play around with our consolidated fund.

The members of Public Service Commission should be appointed by the President but should be scrutinized by the Parliament, just like the CKRC you because you were appointed by the President but you were criticized by the Parliament. So the Public Service should be the same.

Okay, about Land : There should be restriction of land ownership or acreage by an individual in terms of the farming, I don't refer to the plots but farming. Somebody should own at most 100 acres or if you may not agree with me, there should be a ceiling, say that we don't have somebody to own 1000 acres, 3000 acres like the former trust funds. And Kenyanization should be encouraged any organization encouraging tribalism or tribal sentiments should be prosecuted.

Com. Hassan : Thank you that is your last point.

Sammy Rotich : Why don't I mention this, I think this is the last one. Land dispute should be heard at village level. Please let us just have that, otherwise, I wish you success as you go on.

Com. Hassan : Richard Langat? Kama hayuko, Julius Tum?

Julius Tum : My names are Julius Tum. I would like to propose the following:

That is on Political Parties: Officials or members of political parties should sponsor their parties, the money should not come from the State. All candidates vying for various seats Councillorship, Members of Parliament should be people with good track records. Those implicated with corruption should not contest for the posts.

And on the Legislature : I propose that the salaries of Parliament be approved by a Commission, this Commission should be made up of Religious leaders, trade unions and such like.

On Culture : I propose that traditional marriages be enshrined in the Constitution and they should be given certificates like any other marriages. Also we realize that culture is very important, some communities initiate their girls and I would like to propose

that those communities who would like to initiate their girls should do so. They should not be told that they are not supposed to do, they are supposed to if they feel they should do, but I propose that this one should be done by a qualified doctor or a qualified clinical officer and such like people.

On the Judiciary : I propose the office of the Ombudsman so that cases of public outcry can be channeled through that office.

Now on, I would like to propose that before Policemen arrest somebody, they should do a thorough investigation and that anybody arrested should be taken to court within 48 hours, if that person is not take to court with 48 hours then, he should be released unconditionally.

I also propose a unitary Government and the Presidential candidate should garner at least 51% of the votes cast.

On Local Authorities, I propose that the Chairmen, Mayors are supposed to be elected directly by the people and they should serve for a 5 year term.

On Education, I propose that Form Six Class should be re-introduced so that we have 8-4-2 System of education. On the employment of teachers, I propose that the TSC should not abdicate its role it should be the sole authority of appointing, disciplining and employing teachers.

Now on Land, I would like to say that we should have people owning up to a maximum of 20 acres and anybody owning excess of that, that land is supposed to be subjected to tax.

I also propose that nomination in Councils, Parliament should be done away with. And Presidential powers should be trimmed.

On the Legislature still I would like to propose that the quorum should be dealt with such that if you miss a sitting without a good reason then you should forfeit part of your salary to the State.

And Kenyans should be entitled to free medical services and there should be free education from Primary to Secondary level.

And another thing is that, the last thing is that – and on civil service, there is a clause which is mostly used by those in charge to discipline workers which is called gross misconduct. So that one only applies to the work but when the boss abuses you, you are supposed to say Sir, yes, but if you abuse the boss then you are sacked. So I would like to say that such discriminatory clause should be removed from the Constitution so that an employee has a right to –

Com. Hassan : Okay, I understand that. Isaack -----

Isaack Kibiegon : My names are Isaack Kibiegon Bausuben. First of all I would like to thank the Constitution Commission Review of Kenya for their good work they are performing. Let me start to give my suggestions. First of all is that I am supporting the Federal System of Government whereby we shall be having two Houses, the Upper House which is the Senate and the Lower house which is the House of Representatives. We should be having Regional Government whereby I suggest that 8 Provinces we are having now in Kenya should be changed in to 8 Federal Governments. This will ensure equal distribution of resource, this will ensure also the minority tribes or ethnic groups will not be dominated by the majority communities.

And also the Central Government will be having three major roles, National Security and Defense, International Relations and Foreign Affairs, Trading Activities and other Economical Activities.

But Regional Government should be dealing with other important sectors like healthcare, education, agriculture and social services among others. I suggest also that Revenue distribution, 70% revenue should be used to develop the Regional places, but 30% in every Region should give out 30% to the Central Government.

I support also the establishment of the post of Prime Minister and Executive President whereby, the President will be Head of State and the Commander in Chief of Armed Forces, but the Prime Minister will be the Head of the Government and all Permanent Secretaries should be appointed by the Prime Minister but must be approved by the Parliament.

On the side of the Youth, I suggest that there should be more representation of the youth in every Parliament, be either Senate or House of Representatives we should be having at least two representatives for Youth should be a gentleman and a lady.

MPs should be having a minimum of 2 terms. I should not be nowadays whereby MPs are vying for the seat even for more than 20 years.

Also in Education, Caining of students or pupils should be re-introduced to all Primary Schools but the higher education caining should be abolished.

Lastly, I suggest that retired government civil servants should not be appointed to perform their duties after they have retired from the civil service.

Lastly, let me give a suggestion to this Commission Review that although we are giving out our suggestions 80% of the people who are living upcountry, they don't know even what is going on, they are innocent, so I am suggesting that you seek for some

more methods so that you can make sure that all citizens are aware of what is going on about our Constitution in Kenya. Thank you.

Com. Hassan : Caleb Bosiben?

Caleb Bosiben : Okay I am Caleb Bosiben. First of all I would like to start with the domestic resources particularly land. The issue of land should be share equally among the children of an individual both sons and daughters. Also in the side of administration, I suggest that the Chiefs and Assistant Chiefs should be transferable.

Again administration : Fr somebody to qualify as a Chief or Assistant Chief he or she must be 30 years and above, should have gone through Kenya Institute of Administration, also should have gone through paramilitary training ad at least legal studies inuch institutions.

On the side of education, basic education should be compulsory for eight years that is to reduce the rate of illiteracy in our country. Also all subjects are important. Teachers salary also should be increased up to reasonable standard. This is due to boost their morale and actually their work is hard. Okay thank you.

Com. Hassan : Erick K. Kiel? Richard Kiru? Richard Kirui kama hayuko, Franchs Bett.

Francis Bett : The Commissioners, I, Francis Kiprono Bett, I am representing the Kipsigis Bursary Fund, our proposals are as follows : Agriculture and Land, Education, Health, Religion and Security, three Arms of the Government.

So I would like to start with the proposal in Agriculture :Kenya as we are all aware is an Agricultural Country so the Government should intensify the production by encouraging the farmers to produce more. That is the government should encourage agriculture which is the backborne of the country's economy by directly buying agricultural products from the farmers and selling it in foreign markets, this will improve the living standards of our people.

When we come to land and property it is that each child has a right to inherit land and property in that land regardless of sex.

Now we come to education, I am moving very fast. When it come to education, we are in total agreement with the Government's current policy of universal basis education for all school going children. Local authorities to meet the education, educational materials and equipment in their areas of jurisdiction so that education is improved.

Another point is that those who benefited, or those who have benefited from the Government Higher Education Loan should be made to pay the same to benefit other needy students.

The other part is health. Each and every Kenyan has a right to health facilities at affordable rates if not free. We are proposing that the Government should ensure that officers in charge of the Government health institutions are disciplined, transparent, and accountable that is not corrupt. And more so should adhere to the medical ethics especially this era of HIV AIDS scotch.

Religion : We are supporting the current system of freedom of worship and adoration, but we are proposing that those who are encouraging conflict that is religious conflict should be banned or prosecuted by the Government.

Last part is about the President and his Vice President : We are proposing that the President and Vice President should be elected directly by the electorate and a provision of Vote of no Confidence in any of the two portfolios be provided for.

Finally we are proposing a Federal government to be continued come the next Government or come the next general elections in which the resources of a Region are used to develop that Region and repatriation of resources should end forthwith. Thank you.

Com. Hassan : Andrew Kiprono Chepkwony?

Andrew Chepkwony: I would like just to ask whether the KNA are around. The Kenya News Agency, I don't know if they are around, they are not. Okay, thank you Commissioners

Com. Hassan : Why do you want them to be ground?

Andrew Chepkwony : No, I just wanted to see, I don't know whether my whatever can be written down. I wanted them to write my points down.

Com. Hassan : (inaudible)

Andrew Chepkwony : What I am saying, I was asking.

Com. Hassan : Okay

Andrew Chepkwony : Yah, it is, thank you Commissioners, I am just having two points to recommend. The first point is I would like if the Ministry of Education could introduce Braille as a subject in all the public schools, that is my first request. Second point is, there are so many NGOs in Kenya. NGO's Councils in Kenya and you still find some blind and disabled begging on the street. I don't know if the government could probably research the work of these NGO Councils, because they

are saying that they are helping the disabled but they are not doing so. For instance if you go to Nairobi, there is a place known as City Square Post Office, that place if you go, you will get a lot of disabled begging and there are so many NGOs trying to help them. Sasa if the Government could do something about these NGOs, because they are being used for business. Thank you.

Com. Hassan : That was Andrew Chepkwony. David Soi?

David Soi : Thank you Commissioners, mine is about the Electoral System. My names are David Soi. I wish to suggest some few things about Electoral System. Vote registration should be something that is continuous. Well, this is because every other time that election comes around, there seems to be a rush for registration. Well this is because age 18, that is the mandatory time for one to have an ID always comes around.

Election : This is now about the election, there should be veto and educational level for the contestants. At least Form Four leavers and people of good conduct should be allowed to contest.

Now about citizenship : Citizenship should be for all Kenyans by birth. IDs also should be given to Kenyans irrespective of where they come from. Well of late we have been saying that Indians of doubted origin have been getting the IDs at their mid 30's, this could be showing that they have never been around for long. Passport, also should be given to those who attain age 18 every other time.

Elected leaders : The electorate should be allowed to impeach leaders. And every time there is anything or any corrupt deal concerning our sitting members: One he should resign mandatorily really to allow for investigation. Thank you very much.

Com. Hassan : Elton Otiende? Kama hayuko, Joseah Leting? Huko, Joseah Leting?

Josiah Leting: Bwana Commissioner, I would like to say thank you and it seems much of what I have has been said by the people, would I repeat the same?

Com. Hassan : You can emphasize briefly

Josiah Leting : Yes, it has been repeated because, I would like to say that the present government has served Kenya well, but it is not the best. So I would prefer the Federal Government and I would say it is very necessary in this country as well as the Central Government. I would like to suggest also that Local Authority should be autonomous, should be given the power to perform on its own. It should provide education, it should provide everything that can be provided by the institution.

I would like to talk now about the Government : There should be the Legislature, the Executive and Judiciary. I have, if you allow me now to make one or two comments. On each. There should be a Parliament composed of the Senate, and House of Commons, may I say, I don't know whichever is the case. I would like to say that their functions should be controlled by the Constitution.

Com. Hassan : House what?

Josiah Leting : I said the Parliament should be composed of the two Houses and should be controlled by the Constitution. There should be the Head of State, and in this case, I have decided to say that there should be a ceremonial Head and Executive Prime Minister. The President also should be in Charge of the Armed Forces. The Parliament I suggest should be supreme in powers. To lead the State and can impeach the President and the Prime Minister by having 65% quorum. I have also proposed that the Parliament should run the affairs of the country and start by advising the Government.

The Executive : I have said the Executive arm of the government should be decided by the Parliament and appointed by the Prime Minister.

Judiciary : This arm of the government should be very independent in totality, so justice and fairness may prevail. There should be a body to appoint the Judges, there should be a body to decide on their salaries and their conduct and I suggest the Judicial Commission should be there in place.

Now Local Government, I had said should have autonomy, should run its own affairs. Education, Health and Infrastructure.

Land use : The Colonial Government had leased some farms. Some we can see across. And an Agreement was written in 1934 and it was supposed to go for 99 years. I propose immediately those years elapse, the same should be handed over to the Local Authority. So that these could be managed on behalf of the residents.

Title Deeds : The issue of Title Deeds should be shouldered by the Local Authority to avoid land grabbing which has been experienced of late. Land trustees and Land issues should be decentralized so that each district should deal with its own affairs.

I would like finally to say that the President retired, and the Prime Minister retired under the terms should not be held responsible for the wrongs they did while in the office. Thank you very much.

Com. Hassan : Martin Nyamamu?

Martin Nyamamu: Thank you. The Review of the Constitution will be handed over

Com. Hassan: Exceuse me,

Martin Nyamamu : I said, yah.

Com. Hassan : Excuse me start by saying your names.

Martin Nyamamu : My name is Martin Nyamamu. The reviewed Constitution should be availed to people immediately after completion.

Number two, Education transition: There should be a transition from college offering certificate to the degree level.

Number three, citizens should be empowered to declare a vote of no confidence to the Member of Parliament who is incompetent.

Number four, issuing of Passports, every Kenyan citizen should be liable to receive a Passport once he attains the age of 18 years.

The last one, the Government should put in place or consider those people who have finished a Masters Degree and are unemployed to be put on the payslip. Thank you.

Com. Hassan : Betty Koech?

Betty Koech : Thank you very much. My name are Mrs. Betty Koech. I would like to thank the Commissioner and I have the following proposals:

On the side of Structures and Systems of Government : My proposals are; we should have a Parliamentary system whereby we are going to have a Prime Minister being appointed from the majority party and then the number two should be a President from the second parties, the party with the largest number. Also we should adapt a Federal System of Government whereby the authority should be split between the Central Government and the Regional. The reason is that this one will assist to solve problems, that is problems are going to be reduced because the Government is nearer to the people and also there are going to be more job opportunities so they is going to be eradication of poverty.

Another thing is that the Chiefs and the DOs, and the PCs and the DCs should be elected live Councillors and MPs may be every after 2 or 3 years. And to assess whether they are productive, there should be some questionnaires which are to be filled

annually by the concerned people.

In the side of Legislative, the MPs should be full time, this one should be a full time occupation. The reason is that for better productivity, there are problems which are piling up in Parliament and they cannot be solved, so if the MPs are there full time there is going to be nothing left. Also to avoid (inaudible) and absenteeism by some MPs.

Also language test is not enough for Parliamentarians. For somebody to be an MP one should be having at least one or more degrees, a degree that is to enable somebody to qualify to be an MP and a different body should be approving the salaries of the MPs may be we could have church representatives, the Treasury and others, because if the MPs are to decide on their salaries, they can team up and agree on anything.

The Concept of nominated MPs and Councillrs should be abolished. The reason is that most of the MPs who are normally nominated are losers. They are normally losers and the thing is where are such MPs representing? Because they are losers they are not representing anybody,so actually they raise the number of MPs thus consuming money for nothing.

There should be special measure put in place to increase women participation in Parliament in the following areas, that is there should be a law, a law should be enacted to allow may be up to 40% of the number of MPs to be women and also during, you know the reason is that or why most of the women are not showing up is that even women themselves, they have been a stereotyped, that is they are brain-washed to belittle themselves, they feel that they cannot do anything. So men should come up and team up and back the ladies even to campaign for them. So that more women should come up.

The Presidential tenure should not be fixed. It should be open so long as the people are still ready to vote him or her in. The usual 5 years that is for the, the duration should be the usual 5 years. People should vote in so long as they still want him, so long as people want him, the President should continue.

The Constitution should set limits on the Presidential powers that is the powers to be taken away, like the appointing and firing of Ministers or rather civil servants without any explanation. So an executive body should be there to assist the President on such issues. The President should not be a Member of Parliament, otherwise the area he or she is representing will benefit more than any other area.

We don't need Provincial Administration, since they are not solving any much problems if anything, they are being bribed. These people cannot walk on their own without their askaris.

Land dispute should be dealt with by the village elders and who should be answerable to the DO and they should sit may be once or twice a week at a central place and these village elders should be paid even up to 1,000/= per month.

Local Government : There should be minimum educational standard for Councillors from Form Four and above, otherwise the people they are leading, if they are not educated are more educated than them, so they have got more reasoning power than them. And also people should have right to recall their Councillors by signing a vote of no confidence and this one should be done by up to 55% of the registered voters. The presiding officer should turn in the remuneration of Councillors through counting of votes straightaway at the polling station.

The Rights of Vulnerable Group : The interests of women are not fully guaranteed in the Constitution. The women rights should be addressed in the following way; the Constitution should protect the women, for example who are divorced by her husband, they are thrown out with the children. So if a man decides to divorce a wife today, the woman is the one to be left to stay in the farm and to possess all the properties because she has got the children, and it should be the man who should walk away from the home. Any man who decides to divorce his wife and then, should be made to meet the expenses of the children. The Children's Department are not very serious. So a law should be enforced. Also a woman who is being divorced is being left to pay, you know she will suffer mental torture. So what I am saying in brief is that, this man who decide to marry also, any man who has divorced his wife, a law should be there to bar him from marrying another wife otherwise, if a man wants to marry this man should be having the first wife. But a divorcee, a man who has divorced a wife should never be allowed to marry because many men will be divorcing and marrying.

And then lastly, Street Children : Should be a forgotten thing. The mother should identify the father and report, after that the two parents should be disciplined otherwise the father or any man who fathers a child and abandons the child should not be left to enjoy while the innocent child is suffering. Also prostitution and commercial sex should be banned completely. Culprits should be prosecuted.

And lastly on Land and Property Rights : The ultimate ownership of the land should be for parents, both mother and father once the man is married. The Title Deed should be under the two names, that is the Mr/Mrs.

Storage of the Title Deed by the Government : Once children are born their names should be listed and so they straightaway become co-heirs of that parcel of land and any other property. Should a man marry the second wife, they should start afresh. A rule should be put in place to protect the first property acquired by this man with the first wife. Thank you very much.

Com. Baraza : Thank you very much Betty, Geoffrey Munyu?

Geoffrey Munyu : Thank you. My name is Geoffrey Munyu

Com. Baraza : (inaudible)

Geoffrey Munyu : A student. Yes. I have the following suggestion to make on the Constitution. As pertains now to the powers of the Presidents, I think they should be reduced, so that, to ensure that there is no dictatorship going on in the country.

Second, concerning education the TSC should be the sole body that employs and recruits teachers. As for their proposal saying that the AEOs and the DEO should be the one to employ teachers, this one should be scrapped as it will encourage corruption.

Third, the government should also employ all people who have qualified from various institutions before admitting new trainees.

The fourth point, concerning the freedom of expression, I think one should not be sacked because of making any form of comment as long as he is a Kenyan.

Fifth, I think Kenya is a sovereign country whereby one can live and stay wherever he wants. Provided he is a Kenyan citizen.

There should be no people living in a certain area as this will not entail their Constitutional right. Thank you.

Com. Baraza : Margaret Onsando?

Margaret Onsando : Thank you. I want to look at a few issues concerning our education in Kenya and one of them is support of Governance in schools and various institutions. Now we find for example in a Primary School and Secondary School, there are members of the B.O.G who don't have good education and therefore, they are not able to tackle the issues concerning policies in the education system. So if we have people who understand at least we shall improve our education from time to time. Now also when we look at the Teachers training colleges, we find that we have too many of them in our country and therefore, facilities are not of good quality if we had a few colleges and the education, I mean the facilities are concentrated according to the subjects that is grouping of the subjects to Sciences, Social Sciences and Creative art so that when the students come at they will be taken in to the various categories of subjects and when they are trained we have a student who can tackle the subjects properly out there. But now we have students that we train and we train them in all the subjects and indeed they are not able to man all the subjects properly.

Now when we come to the area of free education, we need all children to go to school and we need to look at the girl child here, if free education is going to be given then we have to ask the government to make sure that all children go to school so that we can avoid child labour.

Now when it comes to the teachers, we the teachers have suffered, we are doing a noble job but we keep on asking for salaries. Now if we can be considered as a group that does a good job. We are there, we don't finish at four and go to sleep but we do the job throughout the year, so that our salaries can be put somewhere where we are satisfied and we don't keep on being equated with the civil servants all over the country.

Now when it comes to some of things we are seeing especially now the Councillors and Chiefs, we also need people who are learned in this area who understand the Constitution, who understand how to go about issues in the local authority and also in the various sectors that will help us otherwise when they are people who are not well educated then we shall never move, it means we are representing them and theirs is to take the salaries and that is it.

Now when it comes to job, we still talk about the many jobs that there are for example people are members of boards, directors in various institutions. You find that one man has even up to five jobs. He is a director in various may be parastatals, it is our wish that we have one man one job, that will help others also to get something and be able to give what they have to the Government and to the various institutions.

Now also when somebody has been put in a position where he has to man finances, if he has misappropriated the finances, this person has to be accountable even if he has to be taken to court that should happen. But what happens in Kenya is that such a person misappropriates and then he is transferred to another institution. That means the problem keeps going on and it also get worse and therefore the country becomes poorer, so we want to look at that and if the government can do something about it according to the Constitution which will come, it will be our joy.

Also wealth distribution, especially the land and other property which should be looked into so that we have people getting, I mean there should be fair distribution of property and land. I think that is all I had. Thank you.

Com. Baraza : Thank you, please give that there. Alfred Koros? Kemei Joseph? Joseph Kemei?

Alfred Koros : Thank you our Commissioners for coming to Kericho. So my names are Alfred Koros and my proposals are; Starting with citizenship, a child born of Kenyan citizens should be automatically their citizen. Foreigners, should attain citizenship through application, another thing is that our Constitution should provide for, if a Kenyan is married regardless of gender the spouse should be regarded as automatic citizen provided that they are legally married here in Kenya. Another thing for citizenship, our Constitution should provide for a dual citizenship.

Political Parties : Our Constitution should provide also for limited number of parties that we have in our country so it has to be limited to three, from my proposal. And this one should be now that there will be limited to three, they have to be funded by the Government.

The Structure of the Government is that, the Constitution now that we are longing for should provide for a Parliamentary one. And occupation of MPs should be a full time, it should be a full time and in not as we here some case normally whereby we here of the Parliament was not quorum because of one, two, three. So this one should be a full time job. Our MPs also should be having offices in our Constituencies, so that we can be having a chance to recall them.

Nomination of MPs :this one should be removed.

Our Constitution also is supposed to provide for a Coalition Government, whereby all the executives should come from the political parties that I have mentioned. If at all they have been limited to three.

Local Government : The Chairman and the Mayor should be elected directly by the people so that, if we talk about a ward, the number of wards that are there are his or her wards. I think those are the much I had.

Com. Baraza : You sign there. Kimei Joseph? Kimei?

Joseph Kimei: I propose my proposals as follows and my names are Joseph Kimei and my proposals are as follows:

I will start with citizenship : A child born in Kenya should have a right to citizenship by birth. Two, foreigners should attain citizenship through application.

On the side education, there should be free education, free Primary education for all children of school going age.

Political parties should be reduced to at least 4 and be financed with public funds.

On the side of Government systems, I suggest that we should adopt the Parliamentary system of Government in which the powers of the President are reduced.

The Electorate should have powers any time to announce vote of no confidence for their Member of Parliament in case he or she is inefficient in service.

Six, Local Government : The presence of nominated Councilors should be banned since it seems as if they are exploiting the government funds for no particular reason.

Seven, there should be more women contestants for any post in the government so that women grievances are well represented.

Eight, the Councilors should be having qualifications at least Form Four and above.

Nine, Land disputes and other simple social problems should be handled by the elders while criminal cases be handled by the court of law.

Ten, the salaries for the Members of Parliament should be fixed and allowances should be appropriate.

Eleven, the Provincial Administration should be scrapped off and its part taken over by the elders.

Twelve, Employment : Any leader in this country should be granted a chance for one job. So as to give room to other people to lead in other areas.

Com. Baraza : Thank you Mr. Kimei, sign there and give us the memorandum. Joash Okello? Mr. Okello?

Joash Okello : Thank you very much I am Joash Okello, student here. My suggestions are as follows: This goes mainly to the labour force, that is the employees in Kenya, some of them are not protected, for example we have the maids in the bars. You can find that due to the low salary and poor working conditions, these makes them indulge in immorality and this may end up spreading the AIDS that is now with us. So in order to prevent or to control AIDS, we should ensure that most of our workers are protected that is giving them good salary and good working conditions so that they may not indulge in immorality to earn a living.

Secondly to the Electoral Commission : for anyone who is vying for the post of Presidency in the country, he should have a number of votes, that is 50% of the voters. For example, if in case we have around 5 candidates for the Presidency, the 1st person should have 50% of the votes, if that is not possible, the first two people should go back for election so that one of them may have 50% vote of the number of voters who are in place. Thank you.

Com. Baraza : Thank you very much, please register there. Do we have any other list of people who want to speak? Who wants to speak? Just come, come.

Joakim Chelegat : I am a Lecturer, Kericho Teachers College. My name is Mr. Joakim Chelegat and I am a Lecturer at Kericho Teachers College. Now my suggestions on Constitutional arrangements are as follows : That Organs or Arms of Government must be given clear and separate jurisdiction or areas of operation so that there is reduced room for dispute as to who should do what and who should not do what. In the present arrangement there are certain conflicts that always the

Executive overrules and takes all.

Secondly each of the Arms of Government must have a definite check on the other organs so that the room for conflict again is reduced. Now in this kind of arrangement the courts in particular should be given power to arbitrate and make judgement in case of dispute between the Legislative Arm and the Executive Arm. An Organ of Government must also be created whose role will be to watch out on the other Arms of Government so that those Arms or Organs of Government that overstep their mark can be pointed out early enough and be made to either stop or the case be taken up as a dispute between Organs of Government.

Next, there is need also to separate the Executive from the Legislature. The present arrangement in Kenya where the Executive is a Parliamentarian creates room for conflict of interest within Government itself. I want to site examples, for example where I have heard wananchi castigating an MP for having not grabbed some development opportunities for their Constituency, when they were in office and yet they were Ministers of these and Ministers of that. I have a case in point where I come from where someone has been told you are not worth to go back to Parliament because as Minister for Roads you have never given us a road, so if there was separation, we would not give room for such kind of conflict,.

On Education : I am proposing that the first ten or twelve years of education be made Constitutional right for every child. If this proposal is taken seriously will strengthen the present Children's Law and it will curtail so many of the evils we see such as the employment of minors, or that kind of misuse of the young ones because there is nothing that keeps them in school.

Now on Religion : Whereas I subscribe to freedom of worship, and whereas I believe that every human being has a right to worship God in the way he wants, I think educational institutions should be protected as such from certain clause in Religion. People are beginning to teach children Satanism in the guise of new look religion and that kind of stuff. Therefore schools that are sponsored by certain Religious organizations should be the ones allowed to teach doctrine up to a given limit. But in open public schools religion should just remain a subject and then the general religious practice should remain a personal matter and we should not indoctrinate unnecessarily. Because we have indoctrinated to the extend of saying we are worshipping Christ when we are actually worshipping satan, and that should really be curtailed by those by those particular institutions. So if a Kenyan wants the child to be a Catholic you must not go and force a Protestant or a Muslim School to teach Catholicism, take your child to a Catholic institution or that kind of stuff. So that ends my presentation. Thank you.

Com. Baraza : Please register there, you register there. Moses Rono.

Moses Rono : My names are Moses Rono and I am a teacher. I have views for the Commission. One, the President's term and the Parliament should be reduced to 4 years of 2 terms only.

Number two, if the father was a President, sons and daughters of the former should not be allowed to contest the same post.

Three, Federal Government at Provincial level and Local Government at District level should be created to involve others in the government.

Four, removal of District office up to Provincial office level as they do very little to us.

Five, panel of district security team be drawn from district APs as opposed to DCs and OCPD as per now.

A body to operate issuing of Government tenders should also be created, not the PC and his panel -----.

Number seven, Kenya citizen should be allowed to own up to a maximum of 100 acres of land so as to encourage, or so that others may also have land and we may also end up having enough food in the country. And you also save unnecessary purchase of food from other countries yet we have potential plan that can produce food.

Number eight, contestants of Parliament and Councils should declare their wealth before they vie for the seats.

Nine, Judiciary should be streamlined to reduce corruption and judgment should originate from the grassroots level, that is from the village level.

Ten, indigenous people like Laibons, Okiek and the Dorobo should be settled by the Government as they continue suffering, just like they were suffering during the Colonial Government

Number eleven, creation of a Prime Minister post and I also the creation of two Vice President posts and also we propose for a ceremonial President to be created.

Number twelve, we want one man one job so as to create job opportunities for others.

Thirteen, any corrupt leader should resign immediately and be judged in the courts of law and any given time, he should not hold any post in the land and he should pay back all what he stole from the Government or from the Parastatals\.

Fourteen, the system of education in Kenya should left to the professionals or to the appointed Commission of Professionals and not to the politicians to decide on the Systems of education we would like to have. Thank you very much that is all I had.

Com. Baraza: Leave us the memorandum. Elisha Kalia? Kalia? He has left? So who do we have? Emily Sigor?

Emily Sigor : Mine concerns the welfare of the physically challenged persons. I go on?

Com. Baraza : Yes.

Emily Sigor : I see the university entry and to other institutions should be lowered and the bursary scheme to also be extended to them and also it should be extended to the Primary Teacher Colleges. Also let us have a 1/3 of the women in Parliament. I had only those points.

Com. Baraza : Okay thank you, John Langat?

John Langat : I would like to say sorry because of the death of the Vice Chairman. Can I request all of you to observe a minute's silence. We can sit down that is all. Thank you very much for the opportunity, I have been given to read what I had written down.

Com. Baraza : Start by giving your name sir.

John Langat : I have registered my name on the other side. I am John Langat. John Langat.

Com. Baraza : (inaudible)

John Langat : Yes please.

Com. Baraza : Don't read just highlight

John Langat : Sorry? Okay, I said we need introduction in the new Kenyan Constitution which may include the clause: We the people of Kenya, this is a unique kind of Constitution where virtually all Kenyans have been involved in the new Constitution making.

Two, I have something on Parliamentary that Kenya's Parliament ought to be given supreme powers which the Head of State cannot tamper with. (B) The National Assembly should have Upper and Lower Houses that is Senate and House of Representatives. (C) Every Member of Parliament ought to have an office and next to and within Parliament buildings, there should also be Constituency office for consultation purposes at Constituency level. (D) Parliament ought to be given a mandate to elect a State President from amongst the MPs. A Parliamentary Select Committee should be appointed and given powers to vet hire or fire such high ranking officers as Permanent Secretaries, High Court Judges, Ambassadors and or High

Commissioners, Chairmen of Parastatals and Statutory Boards.

Presidency : The office of the President has so much supreme powers like hiring and firing of previously mentioned executives and the President is said to be above the law hence they to strip this office of such powers. A Presidential candidate ought to have an outright and exemplary character of good moral standards which should be known to the majority of Kenyans. The Presidential candidate should be slightly over 40 years and that he should not exceed two terms of five years each. Any President whether he has been elected in office for two terms or not; should not hold office after age of 70. A State President should be elected from amongst MPs and should relinquish his or her Constituency seat for State Presidency so as to give fair treatment to all Kenyans.

Judiciary : Revive and strengthen village tribunals to assist the Chiefs. Judges should not be political appointees. Judges should retire at age 60. No one should be above the law. At least two thirds of fine imposed on any person who has been found to be guilty should go to the assaulted person if ever such is the case and only one third of the total fine to go to State.

Affiliation Act of 1966 should be revived, and properly administered to effectively serve all the affected parties.

Health : Incorporate AIDS, AIDS bite as a health hazard because no one knows whether the biter or the bitten has the dreaded AIDS disease. Protect House Keepers of Guest Houses and Lodges in towns against AIDS by law instructing the Accommodation Premises owners to provide the House Keepers with hand gloves to be worn while washing bed sheets, bed covers, towels and pillow cases, and please involve the public health officers in this exercise. The Government to refund at least 80% National Hospital Insurance Fund contributions, if ever the contributor does not utilize it. To enable good health for all the Government should provide free medical treatment to its own citizens by letting them pay a countrywide minimum fee of 50 shillings in all Government clinics. The quoted fee is affordable by most of Kenyans. The Government through its own medical personnel to supervise and control exorbitant charges on patients by private clinics. Hospital in-patient fees to be waived completely in all hospitals including private clinics if a patient dies even if it is in tens of thousands of shillings.

Political Parties : The countries political parties should not exit ten and any tribal party should be de-registered whereas well groomed parties are free to have their offices anywhere in the Republic of Kenya and the Government should be able to provide security and equal freedom to all parties in the Country. All political parties should be seen to be full supportive of the Government of the day.

Individual Rights and Freedoms, no one should be oppressed vis-à-vis freedom of worship so long as the person is seen to be worshipping the true God. Unlike in the old Constitution the new Constitution should include God because no where in the old Constitution is stating anything to do with God.

Marriage, there should be medical examination of both bride and bridegroom to be to clear them of HIV and AIDS. Republic of Kenya marriage certificate should be given to those couples that have undergone through customary marriage as a couple will be given the certificate by the local chief and witnessed by four people composed of two women and two elders. And if a girl does not get married, then she should be given a chance to inherit land, the same privilege the boy child is given.

Salaries and allowances. All civil servants should be given high salaries to enable them to invest before going for retirement at the age of 45 years. The lowest salary to the civil service should be 20,000/= and this will help them give quality service. The same should apply to those in private sector. A village elder should be given a monthly allowance of 5,000/=.

Employment : There should be one man one job system to enable majority of Kenyans get employed. Employment should be given to deserving persons depending on the respective person's qualifications. In as far as employment is concerned again nepotism and tribalistic way of employment should be brushed aside.

Educational : The system of education Kenya needs is 7-4-2-3. To lessen trikes and improve discipline our school children should be caned along side guidance and counselling.

Corruption and mismanagement of public fund : Corrupt officers in any government and public offices should be dealt with ruthlessly in accordance with the law. Every implementing officer who is given to undertake a project should be seen to be accountable and transparent. Any officer in public office found to have misused any Government money should be seen to repay every cent back to the government. The Head of State shouldn't be seen to be protecting any officer who has mismanaged public funds. Any Police officer seen taking bribes should be dealt with in accordance with the law. The briber should also be put in and made to explain why the bribery. Un-road worth vehicles should be removed from public roads. The road worth public service vehicle should only be full to capacity and no standing passengers should be seen.

Infrastructure : The government to improve its own roads network by gravelling every feeder road in the rural areas. The government should not intimidate anybody who volunteers to fill potholes even on a graded road.

Public land and land utility : There should be strong land control boards both nationally and at local level, this should monitor land allocation to the needy and issuance of land titles. Public land like in the markets should not be allocated to individuals by other well placed dignitaries but this should be done in a way of advertisement and minutes on the same procedure recorded. If applicants of public plots are too many. Balloting as a system of plot allocation should be used.

Com. Baraza : You have got your last minute.

John Langat : Okay, let me go to my last point. Constitutional : Constitutional offices Nationally and at District level should be

fully fledged and should be seen to be fully working continuously even after the new Constitution making. Every Kenyan to be educated on the Country's Constitution hence the need to distribute the copy of the Constitution to legible Kenyans the way they have the Bibles.

The type of Government finally : The Country needs a Federal kind of Government. This should be positive Federal Government. In conclusion since Kenya's destiny should be our joined responsibility, let us make a God given Constitution to let our country have peace always. God Bless our Commissioners so that they continue guiding us on Constitution making. Thank you very much.

Com. Baraza : Thank you Mr. Langat, go and sign there, give us your memorandum. Isabella Itambo?

Isabella Itambo : I am Isabella Itambo. I said I am Isabella Itambo. So I am saying after retirement people should not be appointed as Chairpersons of other organizations, there should be one job for one person. So that the young people can have a chance.

Point two, after one has failed in one organization, he should not be allowed to be the Head of another organization because he is going to make it fail.

Three, the Ministers and the MPs should not be allowed to decide on their own salaries, there should be another Board to decide on that.

As the BOG members in schools should have a minimum qualification of Form Four certificate and they should be those who have the interest of the school at heart.

Five, the Head teachers should not come from the local areas to avoid corruption.

Six, those people who have failed election should not be nominated to become MPs or nominated MPs in other areas, because they are going to fail.

Seven : All Ministers should be university graduate because we have enough graduates in the country and they should be appointed to a Ministry of their specialization that is relevant to the area of study.

Finally, those Head teachers who have been demoted should not be demoted in Teachers Training Colleges because this one is stagnating the upward movement of the other teachers. Thank you.

Com. Baraza : Sign there. Emily Sugut? She has gone? Stanley Cheruiyot? Erick Siele?

Eric Siele : My names are Eric Siele from National (inaudible). I would like to present my views as follows: Land is a burning issue in Kenya. The ownership of land should be at State level and local government and individual level that is for ownership. And for Local Government administration they should be given exclusive power to manage their local resources and affairs.

On Provincial Administration : From my view, Provincial Administration should be scrapped because how can we be having two forms of leadership? Provincial Administration is elected and we have an elected form of leadership, so for my point of view Provincial Administration should not be existing and Police Post to be established in various wards to maintain law and order.

Appointment to the high offices should be vetted by Parliament.

Political parties should have minimum registered members to be registered up to 100,000 and they should be geographically represented within the republic of Kenya. For minimum votes for a ward to exist my suggestion is 10,000 and for the Constituency it should be 20,000 people.

As concerning languages : All indigenous Kenyan languages should be taken as National languages.

The President should not be a Member of Parliament and also the Vice President. The Presidential powers should not be final, they should be subject to Parliament approval.

Mayors and Deputy Mayors should be elected directly within the jurisdiction of ---. For nominated Councillors, we should retain the position of nominated Councillors because may be there are some special interest groups or technical positions to be filled.

And there should be Constituency offices for each MP.

As for my suggestion the village elders should be Constitutionally recognized and they should be five members two women and three men who are entitled to pay.

For form of Government as my proposal is that we should retain unitary Presidential form of Government.

Then for Administrative boundaries : As for my suggestion Administrative boundaries should remain as per the Constituency boundaries. Thank you for giving me this chance to air my views.

Com. Baraza: Mr. Siele please register there. Anybody else who wants to speak? Please come over.

Zakayo Ng'eno : My name is Zakayo Ng'eno a teacher, Kericho day Secondary School.

Com. Baraza : Name?

Zakayo Ng'eno : Zakayo Ng'eno, Kericho Day Secondary School. I will present two items one will be on Multi-national companies. Now in Multi-national companies, especially the companies surrounding Kericho District were once land which belonged to the indigenous Kipsigis people and when the Colonialists came they set up their Tea Companies. These tea companies were on lease and since they were on lease, we want to know whether the lease has elapsed and if the lease has elapsed what will the Government do to insert in the Constitution that if the lease is finished, now the communities surrounding Kericho District which is the Kipsigis communities whose land were taken away should benefit. One, by having to buy those tea companies in form of shares. Number two the people who were displaced from those lands have up to this time not been compensated. So I am of the opinion that if in the Constitution it should appear that the people who lost their land by being taken by the colonialists should be compensated.

Another Item is that I was of the opinion as a teacher to reconsider the bring in of the old system of education which was a bit prosperous and which produced more qualified students as compared to the 8-4-4 system and again the government should allow more examining bodies like the GCE and the rest to be studied in Kenya so that people instead of going to other countries to have A level certificate should have to sit for this A level certificate, which will be accepted in other International Universities.

Thank you.

Com. Hassan : If you were to introduce GCE and 8-4-4 and even A level, don't you think they will be hard to have uniformity of education standard in the country, we would rather set the standard that we want to have as a nationa.

Zakayo Ng'eno: According to my own observation, as a teacher, this 8-4-4 system is actually not producing competent, I don't think it is going to bring any inconsistency, I think there will be some schools offering GCE and some schools can offer to continue with the 8-4-4 system.

Com Hassan: (inaudible)

Zakayo Ng'eno : It will depend on the Ministry of Education to see how to structure the both systems so that the two systems can run along together. Because if you go to other countries like if you go to Uganda now, you find A level is being done and if you go to other countries internationally, they don't recognize the 8-4-4 system they would rather give you what is called

bridging course to the proposed degree that you have to take. So it is a bit, it has failed some of scholars from advancing and getting to some of these Internationally recognized institutions.

Com.Baraza : Thank you, just register there. Is there anybody else who wants to speak?

Joseph Mung'are : Well, thank you for the chance. My name is Joseph Mung'are Nyatuka from Kericho Teachers College. Let me give my views to the Constitution about the Presidency, the President to go for maximum 2 terms. Two the President should have at least 50% of the votes cast for him to be declared the winner. Three, he should not be a Member of Parliament, that is if he wants to vie for Presidency he should not go to Constituency level to vie for Parliamentary seat. Four, the minimum age of the President should be 35 years while the maximum should be 80 years old.

Com. Baraza : (inaudible)

Joseph Mung'are : The lowest should be 35 years to 80 years. On the Presidency a at least for one to vie for Presidency should have a degree level of education.

Parliamentary : A Member of Parliament should go or should have a limited 3 terms, that is if you have been a Member of Parliament for 3 terms, you are not allowed to vie for the post. Then should have a minimum of education of at least O Level and should have a pass.

Education : I propose to the Commission that the old system of the 7-4-2-3 to be reinstated. Another one is that the Government to train teachers whom it is sure to employ after graduation to avoid what we have now that we train teachers and at the end of the day, we get that they are just roaming at home doing nothing, which may make them to resort to other things which can make them to break the law. So the teachers should be employed immediately they have graduated. And caning in school should be allowed to instill discipline and the same to be witnessed by three teachers. That is if a pupil has made a mistake, or is supposed to be punished and three teachers are supposed to witness the same so that we cannot say that there was favouritism or something like that. I think those are the few points I had. Thank you

Com. Baraza : Thank you very much. Anyone else?

Joseph Laboso : Asante sana kwa kunipa nafasi hii. Mimi naitwa Joseph Laboso. Mimi ni provider wa Kericho Disabled Groups. I was just a bit, nilikuwa na kazi nyingi kwa ofisi. Naomba msamaha. Na nilikuwa nimetuma mtu ku-present views za disabled, nafikiri mtazipokea. Naitwa Joseph Laboso. Yes, Okay.

Kwa upande wangu kuhusu upande wa disabled ninaongea hivi kuhusu Parliament ni vizuri iwe considerable disabled person

a-contest kiti ya MP kama wengine, Councilors, ipitishwe kama law, Assistant Chief apewe kwa sababu akichaguliwa haendi huko kupigana ni kuongea.

Ya pili, kwa upande wa President, tunaonelea kama disabled apewe mtu ambaye ako na miaka 45, ambaye mtu niamekomaa kimawazo na ako na elimu ya kutosha. Ni kama kuanzia Four Four na kuenda mpaka University.

Com. Baraza : (inaudible)

Joseph Laboso : Pardon? 45 years mpaka 75 years akuche retire. Na awe mtu ambaye anakaa na familia yake vizuri, ako na boma yake, ako na watoto wake, saa yote kuonyesha hata kwa TV huyu ni mtoto ya President.

Ya pili kwa upande wa akina mama kwa sababu walizaa watu kama sisi ni vizuri tena apewe jukumu kama mtu amekuwa DO, kama ni mama aendelee vizuri mpaka mwisho, iwe kama law. Kwa hayo machache nashukuru. Hayo ndio nilikuwa nayo.

Com. Baraza : Thank you very much. Go and register yourself there. Do we have anyone else? Yah, please come. You will be the last person?

Ann Ruto : My name is Ann Ruto. From Kericho (inaudible) I am talking on behalf of children and women. Now Children's Rights. The childre's rights and faith should be respected. If a child has may be become a Christian he should not be forced to be initiated traditionally. So that child should have his right and faith respected unless the the child's believes are contrary to the established norms. The Government should also set up machinery to educate girls about their rights, for example that they are heirs to their father's property. We know that they are but they don't know, so they should educated so that they know their rights.

Women rights : Women should be safeguarded against wife inheritance, where the community decides when one is married she belongs to the whole community and on the occasion when husband dies, the woman is not even allowed to re-marry. So this should be safeguarded so that women will have freedom of choice in what they want to do. The community members sometimes see these women who are widows as evil, in the sense that if they decide to remarry they are seen as a bad omen to the clan where she is going to be married and it can even go to death in that community, so I think these things should be discarded so that women will have to make choices in their lives.

Wife inheritance is what has been so much in the culture of the communities of Kenya, whereby when somebody dies or husband the woman is inherited and it has caused many problems like some may die even out of AIDS, some may have children who will not be cared for.

Com. Baraza : I think we need to the close of this session. You want to present? Please come and take a few minutes but you will be the last one.

Jonathan Kosgei : My names are Jonathan Kosgei from Matogo. From my view I can say that we need a democratic Constitution which will represent the will and the wishes of its people. And I can propose the following on the part of the economic justice, I should say that it should be enhanced in such a way that there is a fair distribution and allocation of social wealth to all citizens, for example land and this will bridge the gap between the rich and the poor. There should also be an inclusion of some attributes or value to what kind of a leader is wanted in a Consitution. We need a leader of high personal integrity.

Judicial : Judiciary should be made in way such that there is no interference from Government or any person holding high position. On the security of tenure, it should also be defined in such a way that any holder of the public office should be person of high personal integrity and one who misuses it should be dealt according to the law.

We also need an elected and accountable Parliament. A responsible executive an independent Judiciary and also an independent anti-corruption unit which will curb the high rate of corruption.

We also need a kind of Government which I can call it Federal Government whereby there is a central Government at the National level. And also the Regional level be given an autonomy.

There also should be a gender equality and assignment of duties and responsibilities to all people irrespective of their gender.

Com. Baraza : Go and register there. I think with that we come to the close of our proceedings today at the Kericho Teachers College and on behalf of the entire Commission, my name is Commissioner Nancy Baraza with my colleague here Commissioner Ahmed Isaac Hassan, we are grateful to the people of Kericho for their turning up to participate in this historical process of the making of our new Constitution.

We have finalized collection of views in the Rift Valley Province today and we are going next to Western Province which will be our last Province. Meaning that we have covered the entire 210 Constituencies in the country. We have gathered very very valuable views that are going to inform us on the formulation of our new Constitution.

Now we shall take the views of all Kenyans together and then, as the law requires us to do, we shall write Constituency report, we shall write a National report and then we shall do a draft a bill of draft Constitution which we shall bring back to the people themselves to debate, to look at and debate and make sure that their issues have been taken on Board.

