

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

VERBATIM REPORT OF

CONSTITUENCY PUBLIC HEARINGS,

LAIKIPIA EAST CONSTITUENCY

HELD AT DOL DOL SOCIAL HALL



4TH JULY 2002

**CONSTITUENCY PUBLIC HEARINGS, LAIKIPIA EAST CONSTITUENCY, PUBLIC HEARINGS HELD AT
DOL DOL SOCIAL HALL ON 4TH JULY 2002**

Present

1. Com. Mutakha Kangu
2. Com. Kavesta Adagala

Secretariat in Attendance:

- | | | |
|---------------------|---|-----------------------------|
| 1. Solomon Mukenion | - | Programme officer |
| 2. Ouma Ochieng' | - | Assistant Programme Officer |
| 3. Regina Obara | - | Verbatim Recorder |
| 4. Kaituko | - | District Coordinator |

The meeting was called to start at 10.30 a.m with Commissioner Mutakha Kangu in the chair.

Margaret Lusunda: Wale ambao wamefika hapa kutoa maoni yao, mabibi na mabwana nachukua nafasi hii kwanza kuwakaribisha Commissioners wetu katika Dol Dol. Hapa ni sehemu moja ya Laikipia-nafikiri mumeshangaa kuona vile iko mbali lakini hata kama ni mbali tuko Laikipia. Majina yangu ni Margaret Lusunda mimi ndio chairlady wa Laikipia East Constituency kwa kamati ya constitutional review na nitauliza mzee mmoja-Joseph Shueli tafadhali tuombe ili tuanze.

Joseph Shueli: Tusimame, tuombe. Kwa jina la Baba na la Mwana na Roho Mtakatifu, amina. Mungu tunakushukuru kwa nafasi hii ambayo umetupa na wakati huu mzuri ambao umetupa ili kuungana pamoja hapa na kuweza kutoa maoni mazuri tunapoendesha taifa letu la Kenya. utupe nguvu na utupe mawazo mazuri na ya kukupendeza wewe ili tupate kujenga nyumba hii yetu ya Kenya kwa njia nzuri na kwa upenda na kwa kushugulikia kila mmoja wetu hasa kwa Wakenya wote. Tunaomba

haya kwa jina la yesu Kristo Mwokozi wetu amina. Kwa jina la Baba la Mwana la Roho Mtakatifu, amina.

Margaret Lusunda: Asante sana Joseph. Commissioners wetu hatutapoteza wakati kwa sababu tunajua tumechelewa yale tu nitasema mimi mwenyewe ni kuomba msamaha kuwa mumeona pengine hall yetu iko hata quarter haijajaa lakini ningependa kuwaakikishia kuwa watu bado wanaendelea kuja, we have done enough mobilization katika area zote hapa, ma chifu wengine wako hapa na wanajua kuwa tumezunguka kabisa. Ile kidogo ambayo pengine hatujazunguka kufanya zaidi pande hiii ni mambo ya civic education. we have actually doen little that we would have expected kwa sababu ya transport to some areas. Kuna mahali ambayo tumepakana hata na Isiolo na Samburu ni pagumu sana hata inakuwa ni shida kufika na saa ingine pia hawa watu ambao unaona hapa wengi wao wana hama hama kwa sababu ya jilali. Kama ungepitia hii njia na barabara leo ungeshangaa. Ungeona watu wengi sana wanahama kwa sababu jilali imeanza hapa. Kwa hivyo, hatujaweza kufikia watu wengi na wale wachache tumefikia nafikiri wako na memorandums hapa. Wako wachache lakini memorandums ni mingi.

Kwa wanakamati ambao wameambatana na mimi siku ya leo niko tu na watu wa ofisi ambao ni wafanyi wa constitutional Review pale Nyanyuki, wanakamati wengine wako sehemu ya Nyanyuki wanawaongojea kesho. Lakini nitauliza wale wako wasimame. Tuko na Catherine, Catherine ndio Deputy Coordinator ndio alikuja pande hii Coordinator akaenda Kinamba, wengine wawili wako pale pia wanasaidia kwa registration. Kwa hivyo nitachukua nafasi hii kuwauliza wazee wale wako hapa na kina mama kuwa maoni yale nitatoa ama vile mnajua inaendelea katika Kenya yetu ni ya kusaidia kujenga taifa letu, ni ya kusaidia tuwe na kitu ambacho tutarajia iwe Katiba mpya.

Kwa hivyo nitarudisha kwa coordinator ambaye amekuja na timu ya Commissioners, ili tuendelee na programme.

Solomon Mukenion: Basi asante sana watu wa Dol Dol, hamjamboni. Basi sisi bila kuchukua nafasi mingi ningetaka tu kujulisha wale tumetoka nao secretariat ya Constitutional Review Commission, kisha nitapatia programme ma-commissioner waendeshe kazi. basi mkiona pale mbele yenu kuna hao vijana wawili, hawa ndio wanafanya kazi ya kuandika mambo yenu yote, ndio wenye ujuzi wa kuandika kila kitu. Ule yuko pande ile anaitwa Dancun Mutai na ule ana-record ni Ochieng na nyuma ni mwezangu programme officer, Jane Mbao, tunasaidiana na yeye kazi. anayefuata ni Regina Obara, yeye anafanya kazi ya ku-record na machine hizi, mambo yenu yote itawekwa na itasikizwa vile mtakavyosema. Na mimi kwa majina naitwa Solomon Mukenion ndio programme officer ambaye anaongoza kikundi hiki kutoka secretariat. Sasa nafasi nataka nirudishe kwa mwenyekiti Commissioner, aendelee. Asante sana.

Com Mutakha Kangu: Watu wa Laikipia East, Dol Dol nawasalimu Hamjambo? Mbele yenu kuna ma commissioner wawili wenye watahugulika na kazi ya kuchukua maoni yenu. Mimi naitwa Mutakha Kangu na mwezangu ni Commissioner Kavesta Adagala. Siku ya leo ni siku yenu ya kuzungumza si yetu ya kuzungumza. Mradi wa kurekebisha Katiba nilisema utakuwa mradi wa kuhusisha watu wenyewe na kusema vile wangependelea na kwa hivyo leo ni siku yenu ya kupeana maoni yenu. Na tunataka mtoe maoni mkijisikia uhuru, mkijisikia free. Hakuna kuogopa lolote, najua chairperson amesema ati kati yenu kuna

ma-chifu na nataka kusema usikuje kutoa maoni ukiwa na wasi wasi ati chifu atasikia vile umesema, ama namna gani.

Wakati huu mbele ya Commission, sisi sote tunatoshana na kila mtu anachangia huu mradi kama Mkenya so usiogope ati mtasumbuliwa ukitoka hapa. Hata chifu nao wako na ruhusa ya kutoa maoni yao, wasiogope pengine mtu ataenda kuambia DO ama DC “nimesema hivi nimesema hivi”. Iko wazi-tunataka tuangalie ni nini iko mbaya katika nchi yetu, inatusumbua inaharibu maneno na ikiwa tunaweza rekebisha mambo ya uongozi, mambo ya kutiza mali yetu tutafanya namna gani. Kwa hivyo hatutaki watu kuzungumza na uoga, mzungumze mambo uko nayo.

Na tukianza kazi ya leo kuna mambo kadhaa tunataka mjue. Jambo la kwanza ni kwamba, maoni tunachukua kwa njia tatu. Unaweza kuwa na maandishi-written memorandum na uwe hutaki kuzungumzia hiyo memorandum unataka tu ku-hand over. Hivyo ikiwa uko na mahali unataka kukimbia hakuna haja ungoje, unaweza peana kwa yule pale anaingiza jina lako kwa register unaweza sahihi na pole pole unaenda. Njia ya pili unaweza kuwa na maandishi written memorandum na uwe unataka kuzungumzia hiyo memorandum. Tutakupatia nafasi lakini tunataka usikuje mbele kuisoma yote kwa sababu utafika huko tutasoma hizi zote tuko na process ya analysis na data analysis people wako hizo vitu zote zitasomwa. So ukikuja na hiyo unafanya tu kumulika tu yale mambo ya muhimu muhimu, you highlight the main issue lakini ingine tutasoma sisi wenyewe.

Njia ya tatu ni kwamba kuna wale hawana maandishi yoyote. Wanataka kuzungumza kupeana maoni orally, tutakuruhusu, unakuja hapa unazungumza yale uko nayo kwa roho yako kwa kichwa yako na itaandikishwa chini na pia tunanasa sauti yako kwa hii machine kwa sababu baadaye, tukitaka kurudia tusikie fulani alisema nini tutakuwa na records tunasikiza, so huo ndio utaratibu tunafuata.

Na hayo maoni yanaweza toka kwa wewe mtu kibinasfi, uzungumze kwa niaba yako, ama inaweza toka kwako kwa niaba yako na kwa niaba ya kikundi fulani representing a group. Unakuja unasema mimi nazungumza kwa niaba yangu na kwa niaba ya group fulani halafu unaweza eleza kwa hiyo group uko na cheo ama hakuna ama umechaguliwa tu na kama yule atakuwa spokes person wa hiyo group na umetumwa uzungumze. Hiyo tunakubali.

Kwa wale wako na written memorandum wanataka kumulika sana sana tunataka kupeana mtu dakika tano. Kwa wale wanazungumza orally tunapeana dakika kumi na hii inategemea mambo kadhaa. Saa ingine wingi wa watu tunataka tusikize kila mtu. Saa ingine tukiona you are like an opinion leader na maoni yako ni ya kubeba watu tunaweza patia wewe muda kidogo. Watu kama watu ni wachache tunaweza patia wewe muda kidogo. Saa ile masaa inaanza kuenda na watu bado wengi tunaweza anza kupunguza hata huo muda sasa utoke dakika tano ifike hata dakika tatu namna hiyo kwa sababu tunataka tusikize kila mtu na saa ingine huwa kwamba mambo mengi imezungumzwa na wale wamebaki wengi ni wa kutaka kurudia tu ama kuongeza jambo mpya. So huo utaratibu uko na tukifanya hivyo muelewe sababu tunafanya.

Now tunafuata list yenye tuko nayo hapa. Ukiingia jina unaandikisha kule ile list inakuja hapa. na jina huko inaandikisha iwe

unataka kuzungumza iwe hutaki kuzungumza unaandikisha jina kwa sababu tunataka kwanza tujue wale walihudhuria mkutano walikuwa wangapi na wale walizungumza walikuwa wangapi. Wale walitoa written memorandum walikuwa wangapi. Unaandika jina kule na tukimaliza, ukimaliza kuzungumza, unaandika tena jina kwa register pale na kuweka sahihi ndio tujue wale wamezungumza na wale hawakuzungumza.

Lugha ya kutumia; tunasema mbele ya commission uko uhuru kutumia lugha yoyote unaona itakuwezesha kujieleza mambo yako bila wasiwasi. Ukitaka kuzungumza Kiingereza, ukitaka kuzungumza Kiswahili, ukitaka kuzungumza lugha yako ya nyumbani utaruhusiwa lakini ikiwa kuna haja na translation tunajua-na nafikiria chairperson utatusaidia kupata ni nani ana translate. Na saa ingine hata saa ile tunazungumza mtu anazungumza Kiingereza, tungependelea ikiwa wengi wa watu hapa wanazungumza lugha fulani na kuna wazee hawafuatilii tungependelea wafuate yale yanazungumzwa tukuwe na mtu wa kuwafanyia translation nao waelewe watu wetu wanasema nini. So tunatumika hivyo na tuweze kuendelea vile nimesema.

Ukimaliza kuzungumza sisi tunaweza kukuuliza swali moja ama mbili ya kufafanua mambo umesema ikiwa hatujaelewa jambo fulani sawa sawa. Saa ile tunaulizaikiwa uko na majibu, utupatie. Kama ni jambo haujafikiria, unasema hujafikiria. Sababu tunasema hivyo ni kwamba huu si mwisho. Wakati tunazungumza hapa kuna wale watakuwa wanajifunza mambo kutoka hapa na pengine mnaweza kutoka hapa msemi jambo fulani lilitokea tuende tufikirie tuandike memorandum ingine tutume huko kama hawajamaliza. Mtakuwa na ruhusa ya kufanya hivyo lakini ifike ofisi kabla tarehe kumi na tano ndio iingie kwa system ya analysis na zingine. So huo ndio utaratibu.

Sasa tuanze na bwana John Ole Kitingoi, unaenda kukaa pale.

Simon Ole Kaparo: Mimi ninaitwa Simon Ole Kaparo.

Com. Mutakha: Simon ama John?

John Ole Kitonya: Tumebadilishana na kwa sababu(Inaudible).

Com Mutakha Kangu: John yuko wapi? Hutaki kuzungumza? Wewe anza tu kwa sababu you are the first person. Na wewe hata kama una haraka tunafuata orodha.

John Ole Kitingoi: Mimi naitwa John Ole Kitingoi. Niko hapa nikiakilisha Laikipia Paralegal Network, I am the coordinator of the network.

Introduction; in Kenya currently, the Constitution Review Process going on signifies a recognition by the Kenyan citizens that the present Constitution is imperfect by not protecting the rights of various Kenyan communities and individuals.

Com Mutakha Kangu: Focus more on the proposals.

John Ole Kitingoi: We the Laikipia Maasai feels that the constitutional process gives us an appropriate moment to present our grievances against us that originates in the process of constitutional making in the past. It is our sincere hope that this Constitution Review Process allows for the renewal of the Kenyan nation state in a manner that makes it possible for all communities to feel protected by the recognition of our culture identity as rights enshrined in the constitution.

Historical injustices against the Maasai people; of all the Kenyan communities, we the Maasai speaking have suffered the most from constitutional manipulation that displaced us from our ancestral land disbursed us into inhospitable arid land, fragmented, a process of community disintegration that continues up to date.

The Maasai agreement of 1904 and 1911; the historical injustices began with the colonial treaties with the Maasai which disposed the best of our land by the British in 1904 and 1911. Using the constitutional mechanism the British allegedly obtained the consent of the Maasai to settle British settlers in the Rift Valley. Of the 16,000 sq miles highlighted for European settlement, 11,500 sq mile which is 70% of what became the white highlands was previously the Maasai land.

When the Maasai challenged the abrogation of the 1904 treaty in court in 1913, the case was thrown out on technicality that the Maasai were a sovereign nation but under the British Protection.

At the Lancaster Constitutional Conference in which the future of independent Kenya was decided the Maasai presented their case for ratification of the historical injustice. The British refused the fact that this land belonged to the Maasai. The Maasai however did not agree that the land vacated through the treaties did not belong to them and this led to the non-signing of the conference document by the three Maasai representatives.

When we come to post independent period, the independence period brought no recipe for dispossession. Although it was agreed in Lancaster House Conference that United Nations alienated Maasai land will remain exclusively theirs and that that fact had to be entrenched in the Constitution it was not adhered to. Later a land tenure reform was promulgated without the participation of the Maasai, which dismantled the institutional framework of pastoralism inherently undermining its viability by destroying the basis of its survival—the communal land ownership.

The policy which came to be enacted into law, though pretending to merely to bring the communal areas or small areas for effective management, instead created an answerable tenure units called group ranches.

Aggrieved by the rate at which we are losing our land and nationhood and further aggrieved by the kind of political system and practices furthered by dominant Kenyan communities on land, our first recommendation is that Land Control Boards be replaced with Community Land Control Boards consisting of respectable elders elected by the community. Also all land matters

should be localized, administration of all Maasai land should be to the interest of the Maasai as a community and as Kenyans.

Indigenous land use system of the Maasai within their custom and their way of live should be formally recognized by law and as such, should be enshrined in the constitution. All the Maasai should not be alienated and as such be protected and in cases of public use, the community itself to decide what land to allocate and for what purposes. The natural resources within the Maasai land should be owned by the community as part of land and enjoy it's benefit. Any economic opportunity arising from such resources, the indigenous should be given priority in all forms of benefit. All forests and forest reserves within the indigenous people's land should be owned by the community who should protect and manage it in accordance with their culture and their tradition. All Maasai land should be owned communally.

Any lands of the Maasai previously allocated to outsiders and foreigners should be returned back to the Maasai. Past registration should be challenged in court especially if it was fraudulent.

In governance we propose majimbo in our proposals that is in Rift Valley; Rift Valley to be divided into three regions. The North Rift taking the Turkana, Pokot, Tranzoia and other areas. Central Rift, we have the Kalenjin district of Nandi, Kericho, Keiyo, Koibatek, and Baringo. We have the South Rift Jimbo, this includes all the Ma speaking groups of Narok, Kajiado, Transmara, Laikipia, Samburu and Marigat division of Baringo district. That is the Rift Valley.

We come to the executive arm of the government. There shall be two levels of executive power, national and regional. This leads to the abolition of the provincial administration and replacing it with elected leaders.

Our proposals in the executive that is in the national powers:

- (1) The executive shall comprise of the president, vice president and cabinet ministers whom shall be non-parliamentarians.
- (2) All Cabinet Ministers shall be professionals in their respective fields.
- (3) The President shall be Head of State and government and shall be entitled to hold office for a maximum of two four year term.
- (4) The Vice President shall be a running mate of the President and shall be the deputy executive of all the public.
- (5) The President and the running mate shall be holder of bachelor degree from a recognized university.

- (6) There shall be ten ministries headed by a Minister. These ministries shall be those scheduled by the Constitution. The President shall appoint the minister but both chambers of parliament must ratify the appointment.
- (7) No person who has ever been elected President or otherwise been President of Kenya, shall be eligible as a President under the new Constitution.
- (8) Any Kenyan of sound mind and good health with 35 years and above shall be eligible to vie for all those offices.
- (9) In the regional executive, the region shall be the basic unit for law making.

The country shall be divided into several semi autonomous regions the boundaries of which will be merely defined by the Constitution. Our national institutions and cultures should be entrenched in the Constitution and granted protection as dictated by the dominant culture of that specific region. This region shall be headed by a regional governor elected by the members of a given district on a common role.

The parties in each region shall support all elections and campaign expenses. All immigrants are not liable to vie for elective posts forever in the region.

Recommendations in education; education language be taught vernacular and Kiswahili and English as usual.

Regional departmental heads will be in line with a national ministry. The president of the republic shall not exercise any control over any resources, issues, projects, and program of a region such that such control has received the sanction of the specific regional assembly.

There must be code of ethics to the elected posts in every region. All elected posts, councillors and chiefs must be O levels and above. That is the much we have produced as the Laikipia Paralegal Network.

Com Kavesta Adagala: Thank you for your extensive proposals. I have several questions, which you might need to jot down. One, concern, the use of the word vernacular, it is purgatory, everybody uses it but it means the tongue of the play, the language of the play. So you are better of using just one of the mother tongues-the British are the ones who said we have vernacular. So it is better even in mother tongue or whatever that is on education. Otherwise, you will be making us slaves. You want us to be slaves and we are so bitter against the British here where we are.

You said all immigrants shall not be eligible for elective post forever. When an immigrant comes and gives birth to a child in this area, is that child still an immigrant?

You have given us qualifications for presidency and vice presidency sound mind, good health-but I think in our circumstances this probably is the least qualifications we worry about because, I would have thought you would have added ethical or moral something and I don't know what, but I thought you would have added more.

At the very beginning anyway, answer those ones as I look for the last one-there is a last one I wanted to ask.

John Ole Kitingoi: On these vernaculars what we mean is the mother tongue that is, mother tongue must be taught in the nursery up to the primary level.

About this issue of immigrants, what we meant here is that even if that person comes here and lives for 50 years the child still will be an immigrant because one he has the right to inherit from his or her parents so there is no difference from that parent. If their parent doesn't have a right to own land or to vie for any post the same case applies to the off springs.

Com Kavesta: Citizenship of Kenya(Inaudible).

John Ole Kitingoi: What we are saying is that on the minority rights, this is where they are marginalized; you have the imposed to the minority groups.

Com Mutakha Kangu: You told us how we should divide the Rift Valley into three regions. You haven't told us how many regions should we have in the entire country and if we are going to divide some other provinces, or we are going to leave them that way, we need to put some thoughts on that.

On that issue of immigrants, we would like to know your definition of an immigrant. Are we talking in terms of tribes or what do you mean and if that is the case, are you therefore saying we are going to create regions based on tribes or what are we going to do?

We need a little more thought and views on the sharing of the functions between the central government and the regional government. You told us the executive will operate at two levels; we will have an executive at the central level and an executive at the regional level. You mentioned that legislative matters at the regional level will be done at that level but you didn't tell us

what kind of legislative body, we will have at the regional level. We are going to have a parliament up, and a parliament in the regions. We want to know the composition of those parliaments. You mentioned at one point on appointments that the president will appoint ministers but both houses, both chambers of parliament will approve and yet you have not told us about how to create two chambers of parliament, what are we going to call them, how many members in one house and how many in the other and what are going to be the functions of one as compared to the other. Thank you.

John Ole Kitingoi: On the regions we also propose that North Eastern should be also divided into regions proposed by residents of that region. The same case applies to Central and Coast Province.

Com Mutakha Kangu: What about the Eastern Province it is one of large provinces also. You know, we are making a Constitution for the whole of Kenya and when you give us your proposals, you must keep yourself within a wider Kenya and see that what you are proposing fits in with what other people may want so that we have harmony in the country.

Anyway if that is the case my suggestion is, you have proposed a federal arrangement, you still need to do a lot and bring us a more detailed memorandum touching on some of this issue you have raised because they are important.

For instance in America the Senate they have two senators from each State regardless of the differences in size and richness and poverty of the States you should do that and give us more details. Thank you very much.

Let us hear Simon Ole Kaparo. He has gone? oh! He has given the memo there. Okay so we record written memo. Then let us have James Kaipoi Olelegai.

James Kaipoi: My name is James Olelegei, I am the program manager Osiligi, a community based organization here in Mkogotho division. I am presenting a written memorandum to this Constitution Review Commission on behalf of the members of(Inaudible) and the Laikipia Maasai. My presentation will focus on four main issues namely:-

(a) Land and national

(b) The governance

Com Mutakha: Just go to land and give us your proposals.

Com Kavesta: Because representation means they have elected you. If you are in this particular organization, present the views of that organization you are a member of. If you say now the larger Maasai, it is very difficult. Just present on that community. It is within this region. Isn't? It is justified. But if you say the "arger" someone will come and say "this man doesn't represent me", then.....(Inaudible).

James Kaipoi: So I will then go straight to those issues and if you allow me I just maybe give a brief a basis on my presentation. My presentation is based on some of the problems which more primary are historical that our people the Maasai of Laikipia have suffered. One of them is the 1904-1911 agreements with the colonial government which disposed the Maasai of their land. Again after the post independent period we continued to loose land through other communities that encroaches to their land areas and again the failure of the constitution that forms the government, the first government of this country to protect the land of the Maasai.

I will go to land and natural resources; I propose that Land Control Board be replaced with Community Land Control Boards constituting of elders elected by the community. Also all land matters should be localize that is all land matters should be dealt with by the elders of the community.

All the Maasai land should not be alienated and as such be protected by the constitution. In cases of public use, the community itself to decide what land and what size to allocate for what purpose.

Natural resources within the Maasai land should be owned by the community as part of land and enjoy it's benefits.

Indigenous land use systems of the Maasai within their customs and way of life should be formally recognized by law and therefore enshrined in the constitution of Kenya.

The first registration should be challengeable in a court of law.

Any land of the Maasai previously allocated to outsider or foreigners should be returned back to the Maasai.

The constitution should also put safe guards to ensure that the land the Maasai lost through treaties should go back to the

Maasai ones the lease period expires. All forests reserves within the Maasai people should be owned by the community who should protect and manage it in accordance to their cultures and traditions.

In governance I propose majimbo and this is how the regions should be divided. Rift valley be divided into three regions. The South Rift Jimbo to include all Ma speaking big groups of Narok, Kajiado, Transmara, Laikipia, Samburu and Marigat division of Baringo district.

The central Rift to take the Kalenjin districts of Nandi, Kericho, Keiyo, Koibatek and Baringo. The Northern Rift taking the current Turkana, Pokot, Sengwer, Transzoia among others in the area.

For the purpose of homogeneity and proper participation of all communities, district boundaries should be redrawn to recognize the ethnics of tribal homogeneity that means that where communities are interspersed into different districts these boundaries should be redrawn to put them back into one administration room. For instance the Sengwer who are today found in three different districts should be regrouped together. Marigat should be curved out of Baringo and put in Samburu administrative zone.

The executive arm of governance; there shall be two levels of executive powers, national and regional leading to the abolition of the provincial administration replacing it with elected leadership.

- (1) The executive national powers; the executive shall comprise of the president, vice president and cabinet ministers who shall be none parliamentarians. All cabinet ministers shall be professional in their respective fields with at least a bachelor's degree level of education or equivalent.
- (2) The president shall be the head of state and government and shall be entitled to hold office for a maximum of two four year term. All Kenyans in a presidential election shall elect him on a common role basis. The vice president shall be a running mate of the president and shall be the deputy chief executive of the republic.

Com Mutakha: It seems that what you are giving us is the same as Mr Ole Kitingoi did. Why can't you give us those differences?

James Kaipoi: Then I will go to the region executive. The regions shall be the basic unit for law making. The jimbo shall be divided into several semiautonomous regions and boundaries of which be clearly defined by the constitution. Each region shall have an elected deputy governor who shall be in office for a similar period as the president and shall be deputy chief executive of the region. I think the only difference is the legislature. There shall be a bicameral legislature; this will provide two Houses of parliament namely the Upper House and the Lower House. Responsibility shall be divided between the two houses such that each house shall have a specific function. One of the houses could be set aside for ethnic representation. This would require that the Upper House be made of equal representative from the 42 Kenyan tribes. The members of the House will be selected or appointed based on an agreed upon criteria.

Culture and identity; in principle we would like the Constitution to go and protect the identity of the Maasai and the enshrined condition for the promotion of this identity so as to enable us participate effectively in cultural, religious and economic and public life.

Safeguard our culture and cultural practices against commercial agents copying of our cultural materials, place and any advert or whatsoever through patent laws.

Ensure the promotion of Maasai culture and education in schools, the teaching and development of Maasai language and protection of religious believes and practices. Recognize Maasai customary law which does not allow any form, of land trade that all Maasai land bought or acquired illegally should be returned to the Maasai for we believe that land shall not be sold forever for the land is gold.

Recognized particular sites or areas of land, those within our land are in areas/land already taken away from our community are of great religious cultural significance to the Maasai community. The Constitution should provide laws that make these areas accessible to the Maasai, allowed to perform our cultural and religious practices previously done by our ancestors within these areas without interference.

Cease recognized cultural system of treatments feeding to nourishments and exercise exposure and be documented through state funds for future reference and use by other generations.

Enshrine customary law into law, which is cultural based.

Education; education curriculum does not reflect pastoral live-hood and therefore we would make the following propositions. The local language of the region shall be used for educational instructions for preschool and primary education. Mother tongue be taught for nursery up to standard four.

Affirmative action provided to the Maasai to bridge the gap in inequalities to education and the rest of Kenya as a matter of priority.

Pastoralism should be taught in schools as a legitimate economic activity and a means of live hood. Primary and secondary school education should be free and compulsory for all. Language of specific regions should be taught and examined in the regions. Each region shall have regional and national schools for both boys and girls, maintained by the central government. Thank you.

Com Kavesta: Thank you for your presentation, though it was almost word for word like the other one. We are not really

looking for similarities of ideas even if the circumstances are the same, we are looking even for diversity of ideas so that we can make the Constitution as full as possible.

You said there are 42 Kenyan ethnic groups-you call them tribes for me I don't use tribes because it is derogatory. There are people who are saying they don't want to be called "other" and only the large groups are the ones we are each accounted. So when we are speaking of 42 you know there are some people who have been left out by the constitution by being called "other". We met the Malakot in Tana River up there near North Eastern and they said they don't want to be called "other". The Ogiek don't want to be called other, the Orumo, the Olmolo don't want to be called other. So, I think we should realize that any proposing Constitutional thing, should not be unconstitutional on other people. That is why even we are saying, when we are speaking of the Maasai, think also what will it look like as a whole. Because it will not come back to you exactly the way you want it. Once we put everything together it will mix and change, it is chemistry so it will change and you have to think of the whole country.

I am worried of people who are thinking of their own only because when we will put it together it will be a mix. Anyway that will be solved at the National Constitutional conference. Then the other one is say land, which has been taken from the Maasai. It will be good if you did maps I think there are maps if you look for maps. I recall reading them in one of the newspapers on a picture on 1904 and 1911 which is and you need to submit them with your.....(Inaudible). Look for them I am sure you have them, either you or your other colleagues have them, please submit them.

Now supposing that land includes Nairobi-and I think it does because someone once said the place where Kenyatta Conference Center is was his grandfather's manyatta. So I think we need to think we are think of different status of land or whatever or if you want compensation even the American Indians wants compensation from Manhattan and Manhattan which is New York city cost 24 dollars. So which compensation do you want, of that time of now of when?

I agree with you if land is not sellable then what would you want compensation in. so it is kind of those things you have to think about. Then who are outsiders, who are foreigners because you have to be able to identify them?

Lastly, when you say this board, do these elders also include women, are women included in this boards because also you talked of the president and you talked of he. In Maasai leadership, are there women?

James Kaipoi: I think on the issue of maps and the lands, that one we will make them ready and then submit.

On the issue of the land taken away and maybe now it is a city or something, this one we want compensation as at the current rate, or given a land of equal size elsewhere. So our issue is land, be given land elsewhere even(Inaudible)

The foreigners in this case are non-those who do not come from that region which, in this case we try to define on some tribal homogeneity. So if it does not fall under that, people from that region then that one is taken as a foreigner in that region.

The issue of elders, elders in this case should be defined on the cultural context of that particular people living there. If women are part of the elders, in Maasai culture elders are taken to be men. Our basis is culture because the culture is a form of management and a form of governance also. So in this case the definition of culture should be based of elders. Would be based on the culture.

Com Kavesta: You know to be a Maasai, to be a Luyia, to be a Luo, to be a Kikuyu, to be a Mkamba-in this country we have large identities and the small people feel it. So if we are making this Constitution again, making the small people, the people with smaller groups feel like less Kenyans it will come back, it will never go away.

This is what the US did, they said that women were not part of the voting, blacks were four fits of a person and it came back. For two hundred years they have had to deal with that. So let us be conscience of this that we don't in looking for our constitutional rights, we don't deny other people their constitutional right.

Lastly, it seems your vision of Kenya is a tribal vision, isn't? There is nothing wrong with it but if it is because you are saying on ethnic boundaries and ethnic, so if it is like that, it is okay, but make sure that it stands out what you feel of the identity and vision of Kenya for the next 60-100 years, is based on tribes and culture. There is nothing wrong with that, there are other bases.

Com Mutakha Kangu: Those were comments, you don't have to answer. I would also like to comment. When we were in Pokot last week, they told us Tranzoia was thier land, they were removed from there, they want to be taken back. And we put the question and where we live, whose land was it? Also, go and think about that. Where you live today, was it Maasai land or does it belong to other people because we want to get all these things together.

Now nimesikia kuna wale hawaelewi Kiingereza na hawaelewi Kimaasai, sijui tutafanya namna gani. Wazee, mtaelewa Kiswahili wale wanapatiwa translation ya kimaasai, ndio tupate translation kwa Kiswahili ikitoka kwa Kiingereza badala ya kuwa na translation mara tatu? Sasa tupate Godfrey Lalipei.

Godfrey Lalipei: Okay thank you so much. I am called Geoffrey Lalipei. On behalf of the Lindili community and the nomadic pastoralists along that area, I do hereby advise the constitution Review to address the following:-

I would like to comment on the issue of land and the group range of the pastoralists.

Com Kavesta: Give us your proposals on land, concerning land.

Godfrey Lalipei: My proposal is that our movements are highly affected by holding grounds, which have been taken away, it does not exist now.

That we would like the holding ground to be retained or to be restored back because it seems now that during the dry season our place is landlocked and all this white multinational farms do not allow us access to graze in pastures whenever we want to move.

I would also like to comment on the issue of the judicial laws that supercedes the traditional laws. That the judicial laws should reflect also the traditional laws such that when the elders comment or decide on something then they should be taken seriously.

The division of land issue, management; that we would like the local management be based on the local institutions.

On the issue of affirmative action to women, I would like also to propose that the women should be considered for credit facilities because they do not access any to improve their projects.

The multinational farms; we propose that this has affected us in serious economic drawback and we feel that we do not like the extension of the lease which has been signed by the Maasai. We would want to see that the lease is not 99 years are about to expire.

The redrawing of boundaries; we the Laikipia Maasai, feel that the boundaries of Nyeri have been extended to Nyanyuki which was not actually the way it used to be and the borders of Meru have also have been extended to Nyanyuki to reduce the land for Laikipia East and what was left for Laikipia East is only the multinational farm. No land for the pastoralist's communities. So those are my comments for the commission today.

Com Kavesta: That is why I said things need to be said clearly. You know people are hedging I don't know why. Even yesterday in Laikipia West they were hedging I don't know, you should speak openly, freely. There would not be another day like this one for another 100 years. So who are the residents of Laikipia East? You are saying that the boundaries were moved so that now it is the multinational.....(Inaudible).

Godfrey Lalipei: I just want to receive that point that the boundaries are moved, the very boundaries are moved to...

Com Kavesta: That I understand, I am asking you who are the residents of Laikipia East? I want to understand more.

Godfrey Lalipei: There are different ethnic communities living in Laikipia, it is a cosmopolitan area but the land itself belong to the Laikipia Maasai originally.

Com Kavesta: I understand that, I want to know in terms of land, most of the land is multinational now.

Godfrey Lalipei: Yeah, most of the lands-62% of the lands.

Com Kavesta: These are white people, and the Africans who live here what do they do?

Godfrey Lalipei: They are cattle keepers and farmers.

Com Kavesta: And farmers, and workers on the farms.

Godfrey Lalipei: Yes.

Com Mutakha Kangu:(Inaudible)

Moses Ole Sakiya: Kwa majina naitwa Moses Ole Sakiya na nitaongea kwa lugha ya Kiswahili ndio wengi wanaelewa.

Mimi maoni yangu ni haya; kuhusu aridhi kunazo areas ambazo serikali imetenga kutumia kama mahali pa wanajeshi kufanyia exercise na sisemi tu ni hapa Mkogodo, kuna mahali pengine. Ningependa kupendekeza hivi, katika constitution ijayo iwekwe kwamba serikali iweze kuwanunulia hawa wananchi wenye ardhi hiyo, mahali pengine pa kuweza kulishia mifugo yao. Jambo lingine ni kuhusu masomo, kunazo area ambazo zimekuwa considered kama highly educated areas ama potential areas. Na hawa watu huwa wanakuwa considered kama, yaani kuna jamii ndogo ndogo wako katika potential areas lakini geographical they live in arid ares.

Ningependa kupendekeza hivi, kama mfano job opportunities, hawa wananchi the minorities wapewe chances kulingana na level of education yao na pia wapewe elimu ya bure kutoka primary mpaka secondary levels na hasa kwa wasichana. Maoni yangu ni hayo.

Com Mutakha Kangu: Ni kiasi gani cha wanajeshi na wanafanyia mazoezi upande gani?

Moses Ole Sakiya: Siwezi nikajua kiasi lakini naweza kujua mahali huwa wanafanyia. Kama hapa Mkogodo wanafanyia area inaitzwa Soitoudo, Mkuse Group Ranch.

Com Mutakha Kangu: Na hamuwezi kuruhusiwa kulisha huko?

Moses Ole Sakiya: Tunaruhusiwa kulisha lakini hiyo aridhi yenyewe imekanyagwa, imefanyiwa a lot of destruction hata imeharibiwa.

Com Mutakha Kangu: Sasa mnataka government compensation ama an alternative land?

Moses Ole Sakiya: An alternative land.

Com Kavesta: Nataka kujua-kuna environmental degradation imeendelea, mazingara imeharibika huko?

Moses Ole Sakiya: Kusema ukweli mazingara imeharibika kwa sababu kule nyasi iwezi ikakuwa na imekuwa na a lot of erosion kwa hiyo sehemu ambayo wanafanyia exercise.

Com Kavesta: Unajua ni vizuri kuweka.... Kitu kinaweza kuwa kinakusumbua kama mimi nakohoa, lakini koo hiyo ni symptom na ugonjwa wenyewe uko ndani. Sasa hapa- unaweza kuwacha lakini inaonekana kuna kitu kinaharibika kwa mazingara, sio mpewe tu land ingine lakini kuna kitu pia kinaharibika.

Com Mutakha Kangu: Tupate Joseph N. Shueli.

Joseph Shueli: My names are Joseph N Shueli. These are my proposals for a new constitution of Kenya. First our constitution should have a preamble. What we mean here it should have something to introduce and say who we are, where we come from.

Our Constitution should also recognize the indigenous people and ratify the various Conventions that have been other dimensions that have ratified torchy on indigenous people.....(Inaudible).

The issue of gender should be addressed in the Constitution.

Equal development; at the moment we have imbalanced development so the constitution should address that to bring to this person (inaudible) equitable development.

I am proposing that we scrap the provincial administration and replace it with village council of elders.

Regarding constitution, any overhaul any change of a Constitution or complete overhaul should be done by involving all

Kenyans. Any amendments should be done through referendum. This will help Kenyans to keep abreast to the spirit of carrying the constitution.

Touching on the legislature; I am proposing that our MPs should all be university graduates not to its equivalent. I am also proposing that that group of MPs in the name of parliament will be able to elect a Prime Minister. The party that will have the majority MPs will elect the Prime Minister who will lead the government. The same will also be able to impeach even the president and any other person of higher authority. I am proposing that we entrench in the constitution a provision that gives us a chance to be able to recall back our MPs if they don't deliver by signing a petition of closer to 1000 people from any given constituency so that we have a chance to recall these people and tell them you have no more job if they don't deliver.

At the same time, I am also proposing a coalition government where, after election, we forget which party we came from and we begin building our country together.

I am also proposing that we retain the nomination of MPs that is currently there and try to look at some groups that have not been presented like the Youth, the indigenous people and any other minority groups that have been sidelined or marginalized to be brought on

Board and be able to have a representation.

On the executive-I think I had already said the provincial administration will be out and I would only go to the local government and say that, we have a more strengthened local government with the Mayors not being for two years but five years and that the Mayors be elected by people not the Councillors and the chair of the County Council. We should also have a provision or a chance to recall our councillors if they don't deliver to us by signing a petition of 500 people from a given ward.

On the electoral system and process I am proposing that we have a Head of State, a ceremonial Head of State, a President who must garner 51% of the total votes cast so that in Kenya if we have 10 million voters, that person should have more than 5 million people and he will be the one to head the state.

Touching on basic rights, I propose here again that we remember the indigenous people and other minority group rights. Their rights to economic, their cultural rights and also the rights that go with the economic activities.

Almost on finalization, I am going to the donor funding. External ones that will be given to this country must be subjected through half of the parliament people, that is the MPs two thirds of the MPs. Whatever number if we would have 300 of them that means about 200 of them should ratify and pass and accept and give consent to the government to go ahead and borrow loan from IMF or from any other place. For instance if it involves a bigger amount then it will be subjected to a national referendum where Kenyan can say we don't want that loan, we can go and dig our shambas or do other things or our live

hood.

On the language; I am proposing to the commissioners please, the language to be used in re-writing the Constitution should not be a jargon language as you have in-law; it must be a very simple and clear language and understandable to all of us written in all languages. If it is possible, try to translate them to Kiswahili the minimum, and even if it is possible to all mother tongues of Kenya, that is the 42 tribes so that all of them can be able to read and understand what the constitution says.

On civil society; the civil society has been a very great force in this country but has not been having an alternative.....(Inaudible). I am proposing that the new constitution should give a chance for the civil society to be able to lobby and organize groups and even organize people against the given issue without necessarily the government bothering them or doing other things as you have seen in this country actually. Those are my suggestions.

Com Kavesta: Because you said against I wanted to ask you, foreign aids we have very many(Inaudible) part of the reason why we are the way we are now is because of loans which are signed, which people didn't have any say over or even in the case of even relief food, people are saying if that was given for irrigation we would not need foreign aid or foreign food relief. So what happens to the loans which have been done up to now.

The other one is who are indigenous people. If you tell me who are indigenous people and this coalition government I want to know what it would be like because we have a Prime Minister, isn't from the major parties. Where will be the coalition be? At what level will coalition be?

Joseph Shueli: For the loans that we have been given I am proposing that we pressure, we join forces with other countries for that loan to be discontinued because we cannot keep servicing those loans when it means we will not be able to move any step in economic living. So the loans that have been given on to us have advanced to us up to now we should join forces with other countries.

For indigenous people; the indigenous people according to my understanding are people that have retained their culture for quite sometime for a long time and against all the external pressures, the western pressure, in other words their cultures have been intact and at the same time they have been marginalized by all the colonial and the post colonial government in the sense that they have not been given a chance to be able to access to the resource, the so called a national cake. That is my understanding on my definition. Coalition government, here what I mean is after the Prime Minister has been elected, there will be other ministers to head various departments. What I mean here is maybe an MP is from SAFINA and is known to be the best person who can head the financial department then he can be appointed. It doesn't necessarily mean that the majority will go with the whole thing. But also it means a mix of both the minorities so that there are no losers and winners. We have something like cost sharing, all of us are winners.

Coalition is vital in the sense that it will help us to maximize the utilization of our human resources that we have around because we have seen a scenario where those in major parties or in the parties that have not yet popular may not be able to deliver. But we have seen others who have are able to deliver and we are(Inaudible) so we are saying this one will help us to maximize the utilization of our resources which are very important resources that we command as Kenyans.

Com Mutakha Kangu: But you need to think about that in relationship with the role of political parties. Political parties operate on the basis of different policies and each party will want to implement it's own policies when it is in the government. In fact some of the politicians have told us the role of a business of political parties is to capture power from the other parties. So when you bring a minister from another party into government, don't you envisage a conflict of policies if these parties have completely different policies? Then of course that is just a comment you need to think about. My question is you said the president should be ceremonial, the prime minister is the one who has executive powers but you are saying the Prime Minister this very person who has all the powers should not be elected by us but he should be elected by the MPs. We have heard what Kenyans tell us about the MPs, they are not very happy with them, when it comes to their welfare, they can do anything. Then this president who has no powers, he is ceremonial is the one we should elect in fact you are insisting by 51 %. Why should we bother, waste our time electing by 51 % a person who has no powers. Why not concentrate on this one who will be running the government.

Joseph Shueli: My idea of a ceremonial president is like this, that that president should not be there to fight for any political party. He is there for the interest of the whole nation and we are electing him not on any party ticket. He is going there as a president as a head of this state and there to safe guard the interest of us all and that is why I am saying he should be somebody who should garner 51% of the votes.

The Prime Minister it is us through our elected MP and we give them the chance to elect the person whom they can even sack because we have elected them as our representatives, they go their and be together, they elect a good person, if this person is not delivering to them they sack him.

Com Mutakha Kangu: (inaudible)

Com Kavesta: Here in Tanzania there is a Prime Minister and the first time I have about the Prime Minister of Tanzania is when there was a train crash because the real power is with president. So you need to think about it because I think we are mixing old wine into new wine skins and some of it remains in the and to be a ceremonial president you do not need to stand up, go all over the country and mount a presidential campaign like the one we have now in this constitution, to go and sit there and deal with foreign affairs and defense and welcoming people at the airport. The power and the method of getting, they are just like that, completely opposite.

Joseph Shueli: My view is the Prime Minister is the one who will run the government in a dairy day-to-day basis and the head of state will only be handling issues that as you have already you have appointed some of them, may be catching on the entire, the interest of us all. But the day-to-day running of the government in terms of what the government, the policies of the government, the direction of the government belongs to the Prime Minister. It is like a check and balance, why I am proposing this is you have seen now in the current constitution a merger of the two things, the head of state and the head of government and what it has brought to us. Why I am proposing this is that we should be somebody else who will handle state issue alone and then there is somebody handling the government alone.

Com Kavesta: You need to reality, we are not objecting, we will not change your views. But you know one of the countries which has coalition government every year is Italy and they have 53 governments in 53 years. Because you bring different parties together no body wins a majority so you bring different parties and then in three weeks time wamekosana and then you put them together again. I think the longest one they had was two years. So you have to think also what means for this country, we are not changing your views but you have to think what does it mean for our country. It is not going to be.....(Inaudible).

Com Mutakha Kangu: Thank you(Inaudible). Can we have David Kiwaka.

David Kiwaka: Mimi naitwa David Kiwaka. Mimi nilikuwa na maoni yangu ya memorandum. Ya kwanza nilikuwa nataka kuelezeamambo kuhusu mashamba ama ardhi.

Com Kavesta: Kama unazungumza zungumza na sauti.

David Kiwaka: Vile tunajua kutoka zamani wa Maasai walikuwa na shida sana, sijui kama wakoloni walikuwa wanaogopa hao mpaka wakasukumwa chini sana. Na wakati tulisukumwa chini tukawa na barriers. Hii ma barriers ilikuwa imewekwa wazungu kugawanywa sisi na wananchi wengine wa pande ile mwingine.

What I mean by barriers, unaona kuna mashamba ya Wazungu kutoka Mkokolo mwisho huko, mpaka mwisho wa Mkololo pande ilitunaganywa na Wazungu, na hawa wazungu ndio wako na mashamba makubwa kubwa sana. Sasa ile kitu nilikuwa nauliza, sababu hii nchi ambayo wazungu walikuwa wamepewa ni nchi ya Mkokolo ama watu wa kale wa asilia ya Mkokodo. Kwa nini serikali iwezi kufikiria wakati leave imeisha ya hiyo Mzungu ama wapewe nafasi ya kwanza kuchukua hiyo mashamba watu wa sehemu ya mkokodo. Unapata mashamba hizo wakati Mzungu fulani ameondoka zinauziwa kila mtu wowote. Na mara mingi kwa sababu sisi ni iwatu wa ufugaji wa ngombe, tuko nyuma sana, hatupati kufikia habari kama hiyo shamba imeuzwa na unakuta shamba hiyo imeenda kwa watu wengine na ndio unaona inazidia watu wetu kuwa na msigo kubwa sana tunakosa mahali ya kuishi.

Jambo lingine ukitaka kuona

Com Kavesta: Kuna tofauti kidogo serikali na Katiba, katiba ni kitu kikubwa, serikali ni ya saa hii. Sasa tuambie kwa Katiba pendekezo lako ni nini?

David Kiwaka: Pendekezo langu katika Katiba mpya ni kuwa vile tulikuwa tunafahamu late mashamba ilikuwa ni ya(Inaudible).

Com Kavesta: Nataka pendekezo

David Kiwaka: Pendekezo langu hii mashamba ambayo tunapakana nayo tupewe nafasi ya kwanza kununua kama ni kuuzwa. Nataka mashamba hizi tununue na isihuziwe watu wengine wa nje. Iko barriers ambayo tunajua ni adui sana ya Maendeleo, hapa Mkokodo unakuta kuna barabara moja tu ambaye inakuja kuingia ndani ;akini mabara bara ya kutoka inakosekana na unajua barabara ni communication. Katika Katiba mpya tungependa kuona barabara zimetokea ambazo unaweza kutoka kwa ukaribu kufika Isiolo kufikia upande wa Mkokodo hapo, inaweza kufika kwa uraisi Wamba, ikiwa kuna barabara ambaye itakuja kupitia kati yetu hapa. Barabara ile tuko naye inatoka Nyanyuki inafika Dol Dol na hatuna barabara ingine ambaye inatoka nje.

Ningependa kupendekeza kuwa katika kimila ya kimasaa kunakuwa na shida sana kwa akina mama kwa sababu uhuru wao ni chache sana. Vile unaona, katika maisha kina mama wengi sana wanateseka, upande ya uongozini, wamebaguliwa sana.

Sisi ni watu ambao tunategemea mifugo-ngombe. Hakuna soko uhuru ya ngombe kwa sababu unakuta wakati unakuja auction na ndio soko yetu ambayo tunafikiria hatuna uwezo ya kupandisha bei ya mifugo. Sisi huwa tunapandishiwa , tungetaka kuwa kuwe na cooperative ambayo itakuwa inahusishwa na mambo ya ng,ombe sababu hiyo ndio marketing corporation cooperative yetu ambayo inaweza kutusaidia sisi tupate kuinua mifugo yetu kwa sababu naona tuko na shida sana katika uzaaji ya mifugo yetu.

Tuko na wanyama wa msitu ambao tunaishi nao hapa. Kuna ndovu, kuna chui, simba, na wengine wengi sana. Ningependekeza katika maoni yangu leo kuwa hawa wanyama wanachukuliwa kama kitu kubwa sana hata kushida binadamu. Mnyama ako na maana kubwa kushida binadamu kwa serikali. Kwa sababu unakuta kuna watu wetu wengi sana wameuliwa na wanyama ama wanyama wao, mifugo yetu kuuliwa na hawa wanyama lakini haina malipo yoyote. Na ukiuwa mnyama unakuta serikali inakabiliana na wewe zaidi sana.

Katika hii Katiba mpya ningependekeza kuwa uongozi ni kitu bora sana.....(Inaudible).

Com Kavesta: Mzee unawacha mambo yako bila proposal. Lakini wewe uko kwa kufafanua.

David Kiwaka: Mimi ningependekeza kuwa maisha ya binadamu ni kubwa sana kuuliwa na wanyama na hawa wanyama tunaishi nao, kama mnyama atauwa mtu binadamu alipwe na serikali.

Katika nafasi ya uongozi, unajua tunakuwa na councillors, MPs ambaye anakuwa elected na wananchi. ningependekeza kuwa viongozi ambao wanakuja kusimamia watu katika Katiba mypia kuwe na kiwango ya masomo ama interview fulani ifanyike ili mtu atimu kuongea Kiswahili na kuongea Kingereza. At Iwaest huwa mtu anaweza kuandika Kiswahili na kuandika Kiingereza, kuzungumza zote.

La mwisho ningependa kupendekeza kuwa wakati huu tunasikia ma MP wetu wanapat mshahara kubwa sana na hawa watu tunafahamu ile pesa ambayo wanatekeleza kwa wananchi. ukiona mtu kama Daktari, mwalimu, ama mfanyi kazi mwingine wowotwe ama sehemu zingine unakuta mshahara yao ni kidogo sana kulinganisha na million ambaye inapatikana na wajumbe wetu. Mimi ningependekeza katika Katiba mypia watu wawe wakiangaliwa mshahara kwa kiwango fulani lakini isiwe kwa sababu MP ako na nafasi aketi huko na ajigawanyie mshara kubwa kubwa. Iwe kuna Sheria fulani amabyo inatumika lakini isiwe na ma MP wanaende kujigawia mshahara wenyewe.

Com Kavesta: Wacha nikuulize kitu kidogo, ulizungumzia wanawake na wana uhuru dogo sana, ukasema leadership lakini hukutoa pendekezo. Unajua tulikuwa bado tunasikiza lakini hukutoa pendekezo kwa hiyo, ungependa vipi upande wea wanawake.

David Kiwaka: Ningependa kina mama wawe wakiteuliwa kwa seheu fulani fulani kama sasa kwa mfano mama awe chifu,(Inaudible).

Com Mutakha Kangu: I want to make this very clear, mtu akikuja hapa azungumze mambo kukubaliani nayo, usipige kelele. Wakati nafasi yako unafika utakuja hapa na utakuwa na ruhusa kusema yale mwezangu alisema kuhusu hili na lile sikubaliani na yeye na mimi ninasema hivi. Hivyo ndivyo tutaenda kwa haraka na tena tutakuwa tunaonyesha heshima ya dimokirasia kwa sababu hii Katiba inatajikana tukimaliza kuandika tuwe tumeanza kugeuka kuwa watu wenye wako na uvumilivu. Wale wa kuvumilia maoni ya wenzao ingawaje hukubaliani na hayo. Si ni kweli? Endelea.

David Kiwaka: Kina mama wapewe nafasi ya uongozi kwa sababu ukiangalia kina mama ndio wako na kazi mingi sana ndani ya nyumba hata ndani ya boma. Na kimila inabagua kina mama zaidi sana, imekuwa matatizo kwa msichana wa kimaasai kupelekwa shule sababu hata wakati wa kuolewa unakuta mzee anaona hakuna haja ya kusomesha huyu msichana kwa sababu malipo ni moja tu na yule bado hajaenda shule.

Com Mutakha Kangu: Asante. Tupate Tiampati Olerana.

Tiampati Olerana: Mimi naitwa Tiampati Olerana na maependekezo yangu ni haya.

Kwanza ningependa Katiba iwe na preamble iseme sisi ni akina nani na tumetoka wapi.

Pendekezo lingine, Katiba iwe na objectives ikuchukulia maanabi culture, tradition na custom yetu kama wana Kenya.

Katiba hiyo ichukulie maanani ama iangalie human rights ama hata basic human rights. That is the human rights be included in the constitution.

Napendekeza serikali ya majimbo, kwani Kenya itakuwa na majimbo kumi kulingana na idadi ya watu katika kila jimbo that is the number of people or the population in a given region. Kwa mfano ningependekeza mkoa wa bonde wa ufa ugawe mara mbili kuwe na kasikasini na kusini kulingana na idadi ya watu walioko. Mkoa wa mashariki, Eastern Province iwe mara mbili tena. Na ulijumilisha na ma mikoa zingine ziko Kenya zitakuwa kumi.

Boundaries za hizo mikoa zote kama hizo regions zote kumi ziwe katika constitution, they should be enshrined in the constitution, they should not have any dispute of the boundaries of the ten regions.

I propose a regional government in those ten regions, each region will be governed by an elected government that is (inaudible) of which that region that is one single region will have semi regions in form of constituencies.

We will have a national government, which should have the three arms of the government, the legislature, the executive and the parliament. The executive will be headed by a president not a Prime Minister. In the national government we will have representative from the regional government that is the semi regions, that is the MPs and they will be in the parliament, which should be the Supreme body, the Supreme law making body. The government will be, the national government that is will have three arms the legislature, the executive and the parliament. The parliament will be constituted by MPs elected from the regions.

In the regions we will have the basic that is education, health, social amenities to be managed on the regional level and further than that the education system must be provided at the regional level where we should not have a uniform examination. The examination should be set in a given region taking into consideration the diverse culture of the people's in that given region.

The mother tongue to be used at the lower level that is in nursery to standard four in each region. Also at the regional level the resources should be fairly distributed where they will be monitored by the regional government.

Qualification of a president, for one to be a president he should be:-

- (1) 35 years of age
- (2) A bachelors degree holder
- (3) Morally upright, the morally upright include the health and those other things, we find there, sound mind.

Checks and balances should be included in the constitution where we will actually punish those who(Inaudible) mismanage public affairs. That is for example setting of an ombudsman's office.

Land sealing should be entrenched in the constitution. Ownership probably a maximum of hundred acres per an individual.

Presidential; candidate should get at least 51% of the cast votes that is in five regions he must 51 in each area for the five regions 51%.

Vote of no confidence to no performing MPs.

The minority groups in Kenya, they should also be respected, their rights should also be in the constitution. For the Wanjikos like us the constitution should be translated to Kiswahili and the local language. Thank you.

The constitution should also be taught in primary and secondary schools.

Com Kavesta: Ten federal state by population. You know some area are very densely populated and some are not so densely populate and what you have divided I don't know if you have looked at demography, the population because very easily Western could say they want to have two regions.

Com Mutakha Kangu: A very good example is that we have just come from Turkana which is the largest district in this country and it has a population of about 500,000. It is 77.000 sq Km.

Com Kavesta: Just think about it, look at the figures and see because this is a quarter of Kenya. We went by helicopter we flew mpaka we thought we are in a different country again. So think about it when you say that, what will that mean? Do we combine some densely populated areas because if you say remain as they are probably you might have to combine in the population way, Western with probably Turkana kind of. Actually that was the original map for the 1963 independence. It was actually the Western part up to Turkana from Western and we might have to combine something, but just look at the figures because it is a good idea, try to do the practical of it. Kama ile wanaambiwa wachore.....(Inaudible).

Com Mutakha Kangu: Someone else in Kiambu did arithmetic's and worked out the population and said we will cut part of this portion to add this way and he was working out at a level where each region should have 3 million and he came up with something. So we agree with you but the regions you are giving us you haven't reflected them against your population suggestion. Try and find out if we work out the population what will the statistics show. Which regions have how much population and so on so that we can find out how to go about it.

Com Kavesta: You can submit us a map.

Com Mutakha Kangu: Thank you. Can we have Furei Githeiga.

Furei Githeiga: I am Furei Githeiga from Dol Dol, I intend to forward or give my recommendations to the Constitutional Review of Kenya. The Kenyan public life is so broad that living has become a mere survival. In my view the genesis of a national plight is to be traced to political mismanagement of the nation. In this regard the national political management must be rationalized viz-viz empowering the ordinary person through a people regulated parliamentary democracy in which all government organs must be made answerable to the people of Kenya. This are therefore my recommendations to the Constitution Review Commission on how to turn round our own nation:-

- (1) The president should be elected by at least 51% of the votes cast and should also garner at least 30% of the votes from a minimum of 4 provinces.
- (2) Presidential candidates should not vie for parliamentary seats but the first and second runners up should have reserved seats in parliament.
- (3) The president should not have power to dissolve parliament instead those powers should be vested with the parliament itself.
- (4) The president or Prime Minister should there be one, should appear before a press panel at least once a month to account for the day to day's running of the government.
- (5) Amending the constitution should not be a prerogative of parliament alone instead an extra legislative forum should be constituted to come between the parliamentary debate and the presidential consent.
- (6) A parliamentary committee should always vet the presidential and entourage in respect to his local and international trips.
- (7) Parliament should sanction the appointments of top civil servants, including the AG, the chief Justice, PS, Parastatal heads, Vice Chancellors of universities and the executive should only propose or give consent.
- (8) Parliament should have the exclusive power to determine and define government ministries.
- (9) Each viable constituency should have at 25,000 registered voters and 50,000 registered voters at most with the current determining factors intact.
- (10) Mayors and the council head should be elected directly by the voters and their tenure should be two and half years

subject to renewal to a maximum of ten years. That is four mini terms.

- (11) Commission report should be made public and tabled in public within three months of the commission's completion of its task.
- (12) A fund should be reserved from the exchequer to fund the first three parliamentary parties at a ratio determined by the collective presidential votes.
- (13) An education tax or levy should be instituted to help fund the Ministry of Education's Development.
- (14) The role of the AG should be reviewed to make it his/her responsibility to ensure that government ministries departments do not overlap or conflict.
- (15) An Ombudsman post should be created for the citizens to have a forum through which they can forward their day to day's grievances and recommendations.
- (16) The role of the Armed Forces should be redefined and broadened.
- (17) In the pursuance of the freedom of expression the print and electronic media should be allowed to reach all corners of the nation without unnecessary hurdles.
- (18) A parliamentary system of government should be adopted in which, a Prime Minister and Deputy Prime Minister are elected by all elected MPs and a VP appointed by the President. The Prime Minister shall be answerable in parliament on his or her government's behalf.
- (19) To preserve our depleted environment, a forest or a section of a forest shall only be gazetted through a 75 % parliamentary vote after the Minister concerned tables his or her recommendation in Parliament. Thank you.

Com Mutakha Kangu: The Constitution should not be left to parliament alone but should be subjected to an extra legislative forum; you didn't tell us what this forum will be.

Furei Githeiga: The forum I envisage is one constituted by religious groups, the civil society and any other interested group that should be constituted before and any constitution.

Com Kavesta: Mine is on the commission, you did not say who should be the appointing authority or who should constitute the commission because at the present we have parliamentary commissions like this one and we have presidential commission.

Furei Githeiga: The commissions I had in mind are both parliamentary commissions that is appointed by the parliament and presidential commissions.

Com Mutakha Kangu: Going back to the earlier question you are saying religious groups and the civil society, this are institutions in our country that are quite amorphous. In fact if you were to leave them to decide amongst themselves you will be shocked at the fights you will here coming from amongst the religious leaders in fact if you were to leave them to decide amongst themselves you will be shocked at the fights you will here coming from amongst the religious leaders and so on. We

would like if we are putting as an institution in the constitution to participate in constitution amendments, to define them thoroughly and properly, what do we mean by religious groups, whom do we include, who do we exclude and what do we mean by civil society, whom do we include and who do we exclude?

Furei Githeiga: It is true that such groups are very amorphous it is also possible that they can be defined. For instance religious groups could include the Catholic Church, the umbrella group called NNCK, the umbrella group called Evangelicals, the Muslims, traditional groups which must be defined in this case, I will leave that to experts and the civil society should include the groups that should be registered or debated before hand.

Com Mutakha Kangu: You have seen religion seems to be one of the fastest growing sector in our country, people breaking away, starting all sorts of churches and so on and if we leave it that way we will still be in problems. In many places we have been told don't allow devil worship and some of them will come and tell us this is our way of worship we are also a religious group. Go and think about it, I think we need a little more thought on the issued. Thank you very much. Can we have Subeda Hassan?

Sebeda Hassan: My name is Subeda Hassan. I am presenting the Muslim Sisters Laikipia.

The preamble; having looked at the objectives and purpose for the Review propose, having in mind the objectives as dependency more specifically at Lancaster Conference in 1962 we are of the view that the preamble should make reference to our diversity, our struggle for independence, sequence, struggle our vision for a truly democratic state. We propose preamble as follows:-

“We the people of Kenya, united in a diversity recalling the struggle, how committed we are, the determination that we have and also having fully participated in a people driven Constitution process hereby, solemnly, adopts, enacts and give to our self and our prosperity to this Review Constitution”. So we should have direct.....(Inaudible).

Com Mutakha Kangu: Go on.

Sebeda Hassan: Direct Principles of state policy; we are of the view that we should have the directive principles of state policy clearly stated. So we propose the following principles. Principles of democracy be set out e.g. government if based on democratic values that we shall devolve power, that we shall work towards establishing unity, peace and stability. That we shall set institutions of conflict resolution and a chain to achieve consensus in matters of state importance. The two shall depend and up hold the dignity and insignity of our state. We shall uphold shared values this is religious or cultural.

Constitution Supremacy; we need to strengthen the existing mechanism to avoid abuse and misuse of constitution like it has happened in the past. We propose that we should cater a parliamentary constitution committee which shall consider any proposal for constitutional amendments. The committee will in turn recommend to parliaiemnt and parliaiemnt will propopse

amendments through referendum. On the issues of minorities and marginalisation, we propose that this groups be consulted and involved to avoid further marginalisation. For example the Muslim community we are view so sometime we are marginalized. So the constitution commission together with an already set up independent electoral commission will organize and conduct the referendum.

In the case of citizenship, we propose that any of the following be automatic citizens, either a child born in Kenya, even if the child is just born by a parent of Kenya my be the father is from a broad but the mother is from Kenya should be considered as a citizen ff a child is adopted by a Kenyan that is.....(Inaudible).

So we propose that visitors with valid entrance visa, any investors residing in Kenya for atleast five years be awarded citizenship upon application. That all Kenyans regardless of their agenda kpbe accorded similar citizenship rights. both genders should have the rights to pass citizenship to enter their spouses and children.

We propose an amendment that will allow dual citizenship; the rights and obligation of citizens be stipulated and all citizens regardless of how they acquired their citizenship should enjoy equal status. After the amendments of the above are through of citizenship, they should be issue with national ID cards, Passports or Birth Certificate unlike the others like the Somalis should have two IDs. The yellow and the Kenyan one, because we are catering for the Muslims also. If maybe he has been here for a long time he can also be a citizen.

Com Kavesta:(Inaudible)

Sebeda Hassan: The idea is this, because most of the Muslim people, most of them when they go to get their ID they get a lot of problems because the names are maybe Mohammed Hassan so you get a problem because maybe there is no other vernacular name but you just use Mohammed Hassan and that is all. So this brings also a problem because...

Com Kavesta:(Inaudible)

Sebeda Hassan: I said that the other Somalis here unlike the ones who are coming in, they have to have maybe two ID cards. I understand that some Somalis have two ID cards. I gave an example whereby if a person has stayed for five years.....(Inaudible).

Com Mutakha Kangu: Should the Somalis be treated equally or should we continue asking them to have an extra identification card.

Sebeda Hassan: For the ones who are coming in, but the others who have been here for a very long time.

Com Mutakha Kangu: So how do we distinguish between those who are coming and those who have been here?

Sebeda Hassan: But there are birth certificate where by maybe the child was born here in Kenya.

Com Kavesta: A person who is coming in, is not a Kenyan citizen, why should they have a card or should all people who are coming in have a card.

Sebeda Hassan: I said that if the child is born in Kenya.....(Inaudible).

Com Kavesta: Why should there be a pink card.

Sebeda Hassan: Not a pink card, I said that they usually have two cards sometimes, they are given two cards.

Com Kavesta: You are talking about something which is very explosive in a very nice way, you are talking of second class citizenship.

Sebeda Hassan: That is what I was saying about the discrimination and maybe this person has been staying here in Kenya for a very long time. May be even the mother, the grand fathers are here so that is what I was talking about.

Com Mutakha Kangu: So it is in your position that they should not be discriminated?

Sebeda Hassan: Yeah.

Com Mutakha Kangu: So the requirement of that other card should be done away with.

Sebeda Hassan: Yeah.

Com Kavesta: But the way you are saying it.....(Inaudible).

Com Mutakha Kangu: You know you didn't come out clearly.

Sebeda Hassan: That is why I said if the person has stayed here maybe for five years let him or her have the citizenship.

Com Mutakha Kangu: Fine, continue.

Sebeda Hassan: So the other part is on the political parties; we are of the view that political parties are important in any democracy and that they ought to play a much bigger as they do now. They should work towards realization of their manifestos; they should practice democracies within their structures and operations. They should assist in poverty eradication; creation of jobs, opportunities, education, economy improvement, strategies, empowerment of people etc. so we are also of the view that constitution should regulate the formation, management and conduct of political parties. Political parties should be limited, as this will interfere with other constitutional rights.

Three major parliamentary parties should be funded from government revenue. These major parties.....(Inaudible).

Com Mutakha Kangu: Wanafunzi when you move out, nenda pole pole na wale students wenye wako na memorandum msonge hapa karibu.

Com Kavesta: (inaudible)

Sebeda Hassan: So three major parliamentary parties should be funded from the government revenue. These major parties should only qualify if they have a national out look, and also have the interest of the country in their operation.

Structures and system of the government; we propose a unitary system of government where strict devolution of power to the local authority will be observed and implemented to enable governance to be closer to the people.

We further propose that we should retain the presidential system of government although we recommend reduction of presidential powers as we shall state in legislature. The vice president to be given specific pension by the constitution so we don't have to have the Prime Minister since we have the president.

The other part, we say that the MP, we propose that the Mp since they are getting a lot of money, they should be full time. They should be there always because they are getting a lot money. The qualifications that we propose that this person should, the Mp should be:-

- (1) An A level graduate or its equivalent where not possible to be a university graduate.
- (2) Maximum age of MP to be around 65
- (3) Should not be bankrupt
- (4) Should not have criminal records
- (5) Should have moral standing in society

So we propose that the constituency should have the power to recall an MP through constitutional commission to be set up which in turn request the Electoral Commission to investigate the allegations and report back within a period of 60 days. if the allegations are approved the commission will recommend the speaker of the national assemble to declare the allegation valid and declare the seat vacant.

The other part is the succession and transfer of power. We are of the view that for us to have a good and effective Constitution this issue must be addressed. We propose the following, the speaker of the national assembly should be in charge of executing powers during presidential election. The result of the presidential election be announced by the chairman of the Electoral Commission upon counting the total votes from all over the register. So the incoming President should assume office immediately upon being sworn in as a head of state. This should be within 24 hours of the announcement. So the Chief Justice to swear in the incoming president as it is in the office of the Chief Justice.

The instruments of power be transferred immediately the new president assumes office. The transfer of instruments be done through the Speaker of the national assembly.

Com Kavesta: What are the advantages of a unitary government?

Sebeda Hassan: We get to work together and also solve problems together and very easy.

Com Kavetsa: You know part of the reason why we are where we are is because of the unitary government. So I am just wondering, because you said also devolve because a unitary government doesn't necessarily devolve-it decentralizes-this is to create districts, to bring the government closer to you. It is a one-way thing so(Inaudible) still-and that has been tried. I don't know how you account for our situation since we have had a unitary government for nearly 40 years. I don't know how you will account for it, but devolution doesn't really go with a unitary government, it is decentralization.

In your preamble you do not have anything about prosperity and yet our biggest problem now, the common problem for every Kenyan is poverty and you don't have your peace stability but you don't have anything. At least what is the part you would like to add?

Com Mutakha Kangu: You said anybody born in Kenya should be a citizen, I don't know whether I got you very correctly-is that the position? You know, on the aspect of a person born in Kenya and I am imagining some Tanzanian on an Akamba bus headed for Kampala through Kenya and she develops labour pains in Nakuru and she gets her baby, are we going to make this baby a Kenyan simply because he was born in Kenya? We must limit it some how to parentage. I don't know what you have to think about that. Then you also said that spouses should be able to pass citizenship to their partners, husband to wife and wife to husband. This is an issue I have met in border areas, it is a big issue. I would like you to talk about the procedures of making

this spouses citizens because currently the Kenyan men are allowed to pass citizenship to their wives. But if you go to the border areas, many of them are complaining that they live with wives for 20 years 30 years before they are even recognized and given IDSI. So when voting comes their wives cannot vote. How do we hasten this process?

In thinking about that, think about the marriage system. In Kenya we have very many different types of marriages. Those who go to the Christian Churches and the Registrar, they are declared husband and wife the same day and you know this is the wife of so and so because the pastor has declared. But many of our people marry under customary laws, which involves processes. Sometimes we don't know at what point one becomes the wife. It takes a long time, have they paid all the dowry and what and so on. So at what point do you say now she is a wife of he is a husband and now we can confer citizenship in that kind of marriages.

Then along the border areas there is the problem of politics, when elections are around the corner if you make it so easy, politicians will just go and ferry men and women from across the border and give them ID s claiming to be husbands and wives of Kenya and when in fact they are not. How do we deal with that?

Com Kavesta: Let me give you something else to think about because your description of unitary government is unable to make decisions together. What about resources and taxation. The people in Gachoka complain that on the Kiambere River, they have electricity but all the lives pass over their houses taking electricity to Nairobi as far as they are concerned, we take electricity to Uganda, to everywhere but they don't have. The people of Turkwel, the Turkana, the Pokot, the Marakwet also said this thing is here, "they took our land and that is unitary government by the way it comes and takes land, it doesn't ask local people, they is no decision making in local that this land can be given away and probably you suffer from that here also. Then whatever comes from their passes over. The people in Coast said unitary government has taken all the taxes from Kenya Ports Authority, from the hotels levy and it goes to Nairobi. So you have to think also because the system that has helped create the poverty in the periphery and wealth other centers so that 50% of the Kenyan resources are in Nairobi.

Com Mutakha Kangu: We want to manage our own land because the previous position has been they wake up and someone is here with papers saying I have been allocated a land title. They don't know where he was allocated and it happens in Nairobi.

Com Kavesta: So you really have to think beyond the cabinet will work together and make decision together; you have to think of participation, decision making at the local level and what the local people are getting out of their resources.

I noticed you didn't have any suggestions on gender maybe you left it out or natural resources. Those are two crucial areas. But we shall read that.

Com Mutakha Kangu: A student by the name Carolyne Murungi?

Carolyne Murungi: I am Carolyne Murungu from Dol Dol High School. The first thing is concerning the sponsorship of the students. The students who have performed well in their final examinations in form four should be sponsored by the government if their parents are not financially stable.

There should be free medical services countrywide.

Com Kavesta: What do you mean the students who have done well?

Carolyne Murungi: For example you have gotten A or B and you have a vacancy in university but your parents are not capable of taking you there so the government should consider and sponsor you.

Com Kavesta: Already the people who are taken with a cut off point have government sponsorship, so I want you to know because if you have got a C+ you can go to university the only thing is that the government doesn't have enough resources so they say we can only sponsor so many people and the university says we can only take so many people who come to a B+ you know 10,000 B+ these are the people who... and then they live out the others. But everybody from C+ has qualified for university. Government gives sponsorship, it is not full sponsorship and we have not said full sponsorship, you have said sponsorship. What do we do with the people with C+ and above and what kind of sponsorship do you want.

Carolyne Murungi: The people for example if you have C+ and you don't have the fees to go, maybe you have been called even to a college, the government should find a way of helping them because if they will not be helped and they are not financially stable, their schooling will be of no use because they have no work.

Com Mutakha Kangu: Can we now have Daniel Thoronera?

Com Kavesta: Carolyne, you are from Dol Dol High School, is it a girl's high school? It is mixed; do you have anything on the girl child? Did you discuss with other people? Are you presenting as an individual?

Carolyne Murungi: We were as a team and then each person will have his/her own presentation.

Daniel Thoronera: My name is Daniel Thoronera from Dol Dol High School. My first proposal is that the government should come up with an organization that deals with corrupt cases in Kenya, which should be independent. This organization should be independent to act and to prosecute Kenyan citizens in all levels of jurisdictions may it be it is a president, is just a normal citizen.

The government, the cabinet members and the member of the parliament should be elected by the public and that the president's decision should not be final. It should be regulated by the court of law in that the president should be below the court of law.

All Member of Parliament and anybody who holds a public office be it a chief should be educated maybe a graduate at least.

Agricultural products related cooperatives should all be functioning so as to serve farmers positively. This should include the reestablishment of the KCC and the KMC.

The government should sponsor all needy students who need education to the fullest, that is fully, at all levels and this should be unconditional and the bursaries that are awarded to schools should be fat enough to assist all student or most students.

The police who torture Kenyan citizens should be prosecuted appropriately. In no incidence should a Kenyan be tortured before his case is brought to court.

The death penalty should be replaced by a life sentence. The subjects that are offered in schools or that a student should take in school should be proportional to his carrier choice but he or she shouldn't take those subjects that don't dwell with his carrier.

Students should have access to international universities unlike national university easily.

Suspensions in secondary schools should be curbed. Students should have free of movement making sure that they attend all their classes. Each academic term should last for two months so that it helps even reduce the rate of school strikes.

Kenyans should come up with a common culture comprising of all aspects of different ethnic groups found in Kenya.

Rape cases should be prosecuted and homosexuals and lesbians should also be prosecuted.

The court of all should be above all in the government or in Kenya. That is the end of my presentation.

Com Kavesta: Is there any reason for anybody to be a student?

Daniel Thoronera: The reason for a person to be a student is basically to study and be educated so that we curb illiteracy.

Com Kavesta: But you don't seem to want to anybody to have any discipline on you or any institutional boundaries in this case.

Daniel Thoronera: That is according to what I said about freedom of movement. The freedom of a student, I say a student should be free not confined to do some specific kind of things that are set up. He should be free so that he can concentrate mostly on his studies.

Com Kavesta: So there is no need for anybody to be a student because what you have is a place without restriction, without boundaries, without regulations, without you know.

Daniel Thoronera: Basically what a student should be is a person who is in a school institution to get education. Issues about indiscipline or other issues that affect the schools should be reduced so that the students can concentrate basically. Being a student should basically mean education.

Com Kavesta: You are forced to be a student?

Daniel Thoronera: You force yourself to be a student.

Com Mutakha Kangu: Thank you very much. Can we have the next person Lorewa Lochuku.

Lorewa Lochuku: I am Lorewa Lochuku and this are my proposals.

Educational fund to be established countrywide and this fund should come from the deduction of every one who is working. It should be deducted keeping inconsideration the amount of your income.

Freedom of worship should be there in both private and public schools.

Exams should not be meant for elimination but to asses.

In high school a student should start specializing in the subject that is pertaining his career not taking the whole 12 subjects, which are helpless as long as your career is concerned.

The age of voting should be reduced to 16 years because we sometimes, we are included in the population of Kenya but we are not included in voting. So the population of Kenya is not contrarily or the people who are voting are not the ones, they are not representing the whole country because the best population is the one, or a good population is the one that is still school but they are not given that chance of voting.

The government should establish or to balance the distribution of resources. They may do the following to balance the economic resource, e.g. establishing some developments that are not under climate in arid areas. For example airports; arid areas like

Turkana it is known very well that crops or agriculture is not doing well there so instead of having an airport there is a fertile and good climate that can be used maybe in agriculture such kinds of projects could be transferred to arid areas where agriculture is not doing well and the fertile and the parts which are well supplied or which have good climate to be left for agriculture. Those are my proposals.

Com Kavesta: When you are young you want everything to be on your side. If the voting age is 15, it means in Kenya at 15 you are an adult, you can also stand for elective post, you can also be elected. So you can elect and you can be elected. But it also means at 15 you can support yourself that is really what it means, that at 15 your parents can say *huyu mtu sasa* is an adult. The age of voting is not just a matter of maneuvering, it is actually a time when you say you are old enough to make decisions even at national levels. So you have to think the youth if at 15 you are old enough to be on your own. I know some parents will be happy but you need to think about it, it is called age of maturity. It means you can also buy your own things, you can drink pombe but it also means you can now live on your own and you can marry, it is called the age of maturity.

Com Mutakha kangu: To add on that, your reason for reducing the age is that those who vote do not represent the people below 18 who don't vote. I agree with you on that cause. But then even if we come to 15 we are still leaving out a larger number, people who are 15 and below up to one day, they are more than the rest of us. From 18 today I say hao are the ones we call *watoto wa nyanyo*. But even at 15 we are still leaving very many people out. We need to think for a better solution because what that means is that those who vote actually are representatives of those who don't vote. So how do we make sure that they vote in a manner that is not selfish that serves their own interest and does not serve the interest of those who cannot vote. Those who go to vote for 10 or 20 shillings, do we punish them or how do we deal with them. That is the question we should start think about.

The other question will be, if when you get to 18, you become a representative, you are supposed to vote on behalf of other people and you choose not to vote, shouldn't we make voting compulsory ones you have become 18 because you have been given responsibility to make decisions on behalf of others and you are failing to exercise that responsibility. What do we do? Those are the line you will think about.

Another student, Francis Simati.

Francis Simati: My names are Francis Simati. I am proposing for the new constitution and say that there should be no ground for military armies. There should be no places for training for the foreign armies. My reason is these, this foreigners they came and there has been destruction of life due to their practice. Because they do their practice any how that they leave their weapons or they leave whatever they are using for training and they leave anyhow and people just get them and their lives are harmed due to such weapons they are using and also their property. Tuseme the grazing cows or the children who are looking

after those cows, they get those weapons or those bombs lying anyhow and they do not know about them then they risking to be destroyed by such bombs.

The foreigner armies, they usually have a very bad habit; actually when they find children or they find anybody on the way to their work especially women or even they don't care who you are, they usually get them and rape them which is very bad offence. So maoni yangu or my vision to the new constitution is that if they must be given a room or if they must be given a place for their practice or for there training then there must be rules, which are set to guide them. Or they should compensate on the damages of the properties. The compensation should be determined by the action or the reaction of the affected people in this case. Yaani the amount of compensation must be determined by the reaction by the affected people.

Com Kavesta: You have a very good point and it is concentrated focus, that is good. What has happened to the rape cases? Has there been any action taken at all? Where would you want the Kenya army, leave alone the foreign one, the Kenya army to train because they have to train. I know what you mean, you don't want them here, they have had a bad reputation, but where would you propose?

Francis Simati: I didn't say that there should be no land for the foreigners to train but there should.....(Inaudible). The Kenyan army should also be training in Kenya or if they are go to a foreign land then there must be set rules which are to govern them whenever they are outside there countries.

The people who have been raped there has be not set down rules to govern or to take action, or to take action on that offense being done.

Paul Leshweni: Kwa majina ni Paul Leshweni. Proposals zangu ni kama yale nitayasoma. Ya kwanza ni hali ya ardhi. Settlers ama ranches wale wananishi area ya Laikipia ikifika wakati ya agreement kupita waachilie ardhi kwa wenyewe wala sio wabadilishe maandiko kulingana na vile ilikuwapo.

Forests yote ile iko katika ardhi ya Laikipia, ipewe mamalaka ya community, local community wafanye conservation.

Kuna kitu inaitwa trust ambaye hatutaki katika land ya wamaasai. Tukiwa tunataka beneficiaries ama faida kwa kitu kingine ni heri kutumia organization ingine lakini sio trust.

Education; ningependelea education iwe free kutoka chini mpaka juu. Ningependa masomo iwekwe siku kama hali ya uchungaji sana kulingana na vile areas tunaishi hapa hatuna ukulima kwa hivyo ile kitu tunafuga ndio inapasa kuwa hata hiyo kwa curriculum ya shule. Ni lazima shule yote katika Kenya iwe sawa kwa facilities ama ile kitu inaitajika kwa sababu mtihani ni moja kwa hivyo ukienda kwa local schools unakuta hawana vitu zingine na mtihani ikifika wanafanya mtihani moja.

Ni lazima watoto wasomeshe kutoka darasa la nursery mpaka standard four lugha ya Kimaasai na waalimu tulelewe, tuwe tumepewa waalimu kutoka area hiyo ndio waweze kuendesha na watoto wale ambao hawasikii Kiswahili kutoka nursery ama standard one.

Shule ziendelee kujengwa katika area hii na colleges kwa sababu kuna shida ya watoto kwanda kilomita mingi bila shule.

Culture ama mila; ningependa kwa Sheria hii mpya, culture ya wa Maasai igundulike kabisa kulingana na vile hawa wana culture yao kama watu wengine, sio tu ile kuharibu culture ya watu wengine, iwe kwa Sheria kabisa kwa swababu kuna wale wanaona mzee akivaa shuka wanaona kama ako tofauti kado na watu wengine, kwa hivyo lazima culture iheshimiwe kulingana na vile tunaheshimu culture ya watu wengine.

Vile vile kuna kitamaduni ambayo inafanyiwa katika culture ya wa Maasai kama ile tunaita manyatta na ni lazima watoto wawe pale siku ya sherehe kubwa katika hiyo manyatta ili waweze kuelewa kabisa kitamaduni yao kuliko waende wakipotea kwa kitamaduni. Ikubalike kabisa wale wenye kitamaduni, watupe ile kitamaduni yao mbaya na waweke ile mzuri.

Ikifika wakati ya kabila fulani ama kazi haitaji watu fulani kwa sababu y amila yao basi wapewe haki yao kuliko ifike kiwango ya mtu mwingine kuvvalishwa shuka ili awe Maasai kwenda kufanya kazi kama wenye shuka hawataweza kufanya hiyo kazi. ni lazima wa Maasai watenge pahali yao kidogo hao wenyewe wa discuss ya kufanyia hiyo kitamaduni yao siku ikifika ya kufanya.

Wildlife conservation; kwa upande wa wanyama wa pori, ningependelea at least 40% ya ile pesa inaingia katika wanayama wa pori iende kwa wenye ardhi hiyo, wanyama wa pori wanaishi kwa sababu kulingana na area ya wa Maasai kuna wanyama wa pori mingi area hiyo. Faida ile inaingiza katika Kenya hatupati chochote kulingana na hao wanyama. Basi kama sio hivyo mtu alipwe akinyongwa na mnyama na vile vile wanayamawa nyumbani ikikuliwa basi nao walipiwe kama hawatapata 40% ya income. Nimemaliza.

Tashara Gitonga: Kwa majina ni Tashara Gitonga na niko na proposals za the new constitution Review.

Masomo; ningependekeza masomo iwe ya bure kwa levels zote.

Ugawaji sawa wa vifaa kwa mashule yote.

Hii curriculum ya masomo ionyeshe habari ya pastoralists kwa sababu inaonekana haya mengine mengi yako lakini hiyo hatuyapati kutoka mashule.

Watoto wafunzwe na lugha ya mama mpaka kiwango cha daraza la nne.

Hizi local areas kujengwe mashule na colleges ili watu waweze kufikia wananchi waweze kufikia kwa karibu.

Upande ya culture; Sheria ama hii Katiba itambue mila na ilinde wa Kenya wale ambao bado wanashikilia mila zao vizuri.

Katiba hiyo hiyo ama Sheria ilinde mazoezi ya mila, iwache kuingiliwa na wafanyi biashara wasio wenye hiyo mila.

Sheria itambue sehemu zile muhimu za kufanyia mazoezi ya mila kwa wale watu wako nazo kwa mfano sasa wa maasai kuna zile vitu wanaita manyatta na kuna sehemu zile wako nazo wanaendelea nazo na kuna zingine zimenyakuliwa kama vile *entutotaika* ni sehe mu moja ambaye inafanyikia mila na imenyakuliwa tayari na kuna zingine nyingi.

Nikiingia upande wa mapendekezo ya lands; ardhi ya wale wananchi ambao hawajarudishiwa aridhi zao kama vile wa Maasai, warudishiwe ardhi zao vile zimemilikiwa na wazungu. Vile vile wapewe zile forests ziko na forests reserve, wazishikilie na wapate faida kutokana na hiyo misitu kwani hawa ndio wanazilinda.

Trust lands mpaka sasa shida ile kubwa iko ni ya lands kwa hivyo hatupzendekezi trust land kuendelea tena. kama kutakuwa na Maendeleo fulani ya ardhi, wananchi wenyewe wataenga na watajua vile wataifanyia aridhi hiyo yao na isiwe ni trust lands ambazo kuna watu kama councils wanakuja kuzishikilia na kupata faida kutokana na hizo trust lands halafu wananchi wenyewe wanakosa.

Wanyama wa pori; iangaliwe vizuri wananaichi wale wako karibu nazo, wapate faida. 50% ya ile pesa inaingia iwe direct inaenda kwa wale wananchi kwa sababu hawa ndio wasnapata mashinda yale yanaletwa na hawa wanayama.

Upande ya uongozi ninapendekeza majimbo na washiriki wa kila jimbo wawe na mila yaani kulingana na vile jimbo litakatwa. Jimbo lizwe linahusisha wale watu wako na mila zao ama mila zao zinakaribiana.

Viongozi wa kila jimbo watoke kwa hilo jimbo ambalo wameteuliwa na wawe wameteuliwa na wananchi.

Pendekezo lingine napendekeza ni national government. Hawa watu ambao watakuwa katika hiyo serikali kuu wasijihusishe na siasa za majimbo hata kama mtu ametoka kwa jimbo fulani mbali wawe ni wasaidishi wa wale mambo yatatokea katika majimbo. Hiyo ndio ya mwisho.

Com Kavesta: Ukifanya hiyo federal, nani watafaidika kutokana na kodi itakaorudishwa au kubaki kwa jimbo. Kama hiyo 50% kina nani watafaidika.

Tashara Gitonga: Nimesema wale ambao wako karibu na hao wanyama.

Com Mutakha Kangu: Okay. Tupate Abdi Mohammed.

Abdi Mohammed: Mimi naitwa Abdi Mohammed na mimi ni Chairman wa Msikiti na mimi ni mzee ambao wa kamati wa secretary wa Youth wa KANU. Mimi nitazungumza machache. Nilikuwa mimi mzee hapa na watoto wangu wote wamezaliwa hapa na kusoma. Tuko na matatizo sisi, mimi watoto wangu sita wamepata kipande na watoto wa tatu sasa hawajapata kipande na wote wamezaliwa hapa. kwanza shida moja kubwa ni hii. Mimi nafikiri kwa serikali sasa hii inakuja, hii Katiba hii hiyo matatizo iondolewe kwa sababu sisi tumezaliwa Kenya na sisi ni wananchi wa Kenya hatujui ni kiti gani. Watoto wengine wanapata kipande na wengine hawapati.

Sasa kama mtoto hapati kipande, akijaza anaambiwa kama anaenda mbele anarudishwa alete karatasi.

Mimi kipande yangu iko hapa, nilichukua hata kabla Kenya haijapata uhuru, nilichukulia Nyanyuki na watoto wangu sita wamepata hapa sasa na sasa watatu nyuma ya hiyo kukatazwa anasema hawapati ndio hata maana yake nashindwa. Tuseme tuko na serikali mbili.

Com Mutakha Kangu: Sasa unasema tutatue hiyo kwa njia gani.

Abdi Mohammed: Kwanza ile nitaweza kutatua ni kuwa ihakikishqwe kwamba sisi hatupo kabila mbili, sore ni wananchi wa Kenya.

Mimi ile kitu nafuatisha mimi suing mkono hata dakika moja majimbo, kwani mimi ni mzee napinga. Ninajua kitu ya majimbo na ni kitu ya haki. Heri tujenge serikali yetu moja tu, ya chama moja hatutaki hata chama mingi. Hizi chama nyingo zote zinaleta magendo na hizi vitu mbili ndio zinamaliza serikali ya Kenya, inauwa kwa kila njia.

Kwanza mumesema hakuna kuandika mtu, heri waandike mtu ambaye hajasoma. Watu wachanganye kama uingereza, wale wamesoma na wale hawajasoma. Kama watu wanachanganywa ni vizuri lakini mkasema mtu awe amemaliza form four anaambiwa aende na kalamu ndio anamaliza serikali. Kwa sababu yeye anakula na hata ofisi ile ninaenda anakula na kalamu anasema hata hiyo karatasi haiandikwi bure. Kwa hivyo upande wa administration ibadilishwe kabisa watu wachanganywe hata kama wanaandika polisi wachanganye wale wajinga na waerevu. Hata kama wanaandika jeshi wanaandika mjinga na muerevu. Huyu muerevu akuwe inspector na huyu mjinaga wacha akuwe askari. Hata wakati wa ukoloni ilikuwa inaenda hivyo.

Com Mutakha Kangu: Huo ni ukwelui mzee. Unajua watu walijenga America ni wale watu ambao walitolewa hapa.

Abdi Mohammed: Sasa kama mnasema tu mtu anamaliza form, four wanaenda , mimi nina vijana ambao wamemaliza form four na yeye ni mwalimu, mimi sipingi. Kama mtu anafikisha elimu yake, lakini hata yule mjinga tusimweke kando, tuwaweke pamoja kwa sababu ingene, sisi tutakuwa na umoja-sisi hatukuwa na umoja. Kama sisi tulikuwa na umoja ni wakati wa Kenyatta. Sisi tukuwe na sauti moja, tujenge serikali yetu, tujenge nchi yetu, tuchunge nchi yetu, tuingize Katiba yetu na sisi raha yetu yote ni moja na serikali hii isigawe kila idara. Mimi napinga kila idara, napinga ile idara pesa inatoka kwa agriculture-hawa wote ndio wanamaliza serikali. Wacha kila kitu kindu kama ukoloni chini ya amri ya DC. Idara ya prison, idara ya agriculture, minister of works irudi chini ya DC ndio serikali itanyoroka. Mimi namalizia hapo, afadhali tuwe na umoja na hiyo tu ndio itanyorosha serikali yetu. Hakuna kitu kingine. Hata mwizi atanyoroka na hiyo.

Margaret Lesuda: My names are Margaret Lesuda and I am going to read a memorandum for John Letai. I will only go straight to the recommendations because we are going to hand in the whole document.

One of the issues that we want to recommend is, the abuse of existing land laws should stop and this one includes the allocation of forests to politically correct individual as cited in examples of forests in Laikipia like Marmanet forest. Still on the issue of abuse of land, the government should reposses all holding ground and stock route that were allocated to individuals after the LMB failed.

On land allocation, the government an example's of Mokogodo Forest. In 1999 the government agreed to allocate certain acreage to neighbouring group ranches and they were made to pay an amount of Kenya shillings 175,000 to the government treasury. The exercise failed it was said to be futile later and the money was never reimbursed to the community. On land distribution the size of land that should be owned by an individual should be pegged down to certain number of acreage. An example of Makuriani Group ranch, it has 8,500 people and they are settled under 6,000 acre while an individual one ranch an example of a farm called *Olelenashio* has got 23 219 acres owned by one individual.

Absentee land lords a case of *Kimogandora, ireri, Edana* and *Rimuruti*. The government should repossess this land and distribute to the pastoralists who settled there since 1980.

Another issue raised here was on representation, the constitution must take into consideration and protect the rights of minority and marginalized groups, example creation of constituencies to protect their rights and identity.

On representation at government levels that is the district provincial national levels, people should be given fair representation be it in job allocation, whether is in parastatals or other civil service jobs.

Another issue which raised on community resources which we mentioned the forests and the group ranches, the trust land, we are saying the constitution must address the issue of equitable distribution of resources involvement of wider members of the

community must be enshrined in the constitution. Creation of initiative such as conservancy, trust and a tourism ventures must involve a wider consultation rather than one or two individuals with sin city motives and self-interest.

The constitution must outline compensation when foreigners utilize ones land that is a communities land. For instance the military exercises or the trust or the so-called working in partnership with the neighbours. There must also be provision for claims of damages caused by the period of utilization of such land.

In the year 2000 January in week one or two there was an advert from the Land Commission office advising all Kenyans who lease has reached 99 years to apply and the question we have here is who in Kenya has reached the 99 years yet Kenya started acquiring land after independence. As such the recommendation and the request that should be shown in the constitution is that once Kenya land, any person holding Kenyan land reaches a lease of 99 years it should be evaluated and seen whether he is a foreigner. Actually he was a grabber and then that land be given back to the community that was originally there.

Holding grounds grabbed by individuals after the fall of KLMB needs and examples we have cited here Loibosoi. It is only Loboiso and criminal holding grounds which are still existing, all the others have been given to politically correct people or have been grabbed by people living outside the community, they should be reposed.

Com Kavesta: There was a young man here who was trying very hard to articulate something to do with the foreigners here. You have answered some of the question. But he brought up rape and he was very angry so it has affected him or that it has been so much. Can you tell us about this? You have talked about the destruction of the environment that one we have, but what about the impacts of the society.

Margaret Lesuda: I just want to support his sentiments on the issue of damages to individuals and this one has been very much highlighted even in the press, vandalism has been actually been taken so seriously, instead the government was try to block the community from taking their case forward. But as far as I know we don't want to tarnish the names of the foreign military forces, there has never been as far as I know a case of rape at any given time. About the damages that the individuals have covered here we have hard people who have become permanently crippled because of those bombs and they are still even in the community. Time and again we call in the Kenya army to come explode some of this very big bombs some were dropped as far as 1945.

Com Kavesta: It is very difficult, this young man I wish he was still here he could tell us I was thinking I should have asked maybe he was affected because he said they just find you on the road some where. Any way what I was going to tell the more enlightened people like you, the women, get in touch with FIDA and find out. Get your facts, because the anger with which he talked shows that it is something that has happened he is not making it up.

Margaret Lesuda: Okay, it may have happened. The Kenya army also practice here and in fact I should not be seen that I am supporting the British Army but if it was somewhere maybe in Nyanyuki if they said about the Nyanyuki town maybe I would agree. But as they come here to practice, we do not have that interaction even on the road, I don't think even they stop to pick anybody but with the Kenyan army we have had cases in the past.

Com Kavesta: We are fighting to protect the vulnerable in society. I have seen in Nakuru the behaviour of the foreigners there, it is amazing.

Com Mutakha Kangu: Thank you very much. Can we have Councillor Legei.

Michael Legei: My name is Michael Legei na niko na maneno mawili ya kuhusu land na pengine kuhusu education.

Kwa land pengine ni kitu ambayo ni serious sana Laikipia na ukiangalia hawa watu hawa ndio origins of all the land ini Laikipia because the first settlement that came in Laikipia ilikuja 1964 na ndio wakati *Mutukani* ilikuwa subdivide. So ukiangalia ndio the first immigrant alianza kuingia aridhi hii na ukiangalia katika statistics the land that disaoppered from the laikipians to the other tribes is 1.2 million acres. That is land thatz went through other tribes. You see it was under the whites; ikakuwa subdivided 1.2 million that is only in Laikipia. Ukiangalia the land that is stilled by the whites right now it is about 800,000 acres na sisi tunauliza, it is a question. I don't know how to put whether a proposal or a question lakini ni hii, kama hii mashamba hii wazungu ishirini na nne, kwa sababu katika Laikipia there are 24 white settler farms ranging between 10,000- 100,000 acres. Ikiwa sisi tunaweza patiwa hiyo aridhi, kwa nini tuende tuulize wale wenzetu wa Africa tena warudishe hii.

Land hii yote ukiangali ilikuwa under arrangement ya ile agreement, 1904-1911 na ukiangalia pia a lot of things have happened there is also the Government Land Act na serikali pia iko na aridhi katika Laikipia. We have Mutara, which is 63,300 acres; we have *marmar*, which is 61,000 acres, now we have Muji which is 45,000 acres. All this land belong to the Laikipia but sababu ya arrangement ya ile land laws vile zilikuwepo, today we don't have them. It is more less like a question, is more less like a proposal which we are requesting the commissioners, here what could be done. Saa hizi sisi Mogodo was not created this way, this is an artificial box. Ukiangalia on this side we have the complex holding ground which is 125, 000 sq kilometers. It starts from Isiolo and ends at the Crocodile Jaws.

Haya ukiangalia pande hii, tuko na a very straight perimeter fence, in run kutoka Isiolo and it is heading in Kirimwa so we are land locked na tayari tumejaa ile sandaku. We already filled in the box so we must go out. Where we are going out is land that was already given out, it is the 1.2 million, which is being owned by our fellow Africa. So the issue ile sisi tunauliza where are we, we don't have land, we are on the rocks. The government own Mutara, marmar, muji, mimi nina-recommend why don't we find a land commission.

But maybe one thing I am recommending here is that we have a Land commission, a Land commission which should look all to

this issues because they are the historical injustice which we have suffered over years. The Land commission which we have now is now is under the ministry of land. If that of Njonjo could build to form a land commission where the representative comes from the grassroots,(Inaudible).

Com Kavesta: (inaudible)

Michael Legei: From the grassroots of different communities so that this people articulate, they can look at this historical injustice. The 1904-1911 agreement today of we say we want all that land it can from here up to Kitale, definitely we cant get it, it will be you know. But hawa wazungu wako hapa ishirini na nne, what is and we are covering thousands of us while a Mzungu is having 100,000 acres. What can our Land commission address to us. The issue here it boils everything else to land because land is life and land is wealth and with us we have filled the box, we are going out and we are going to individual parcels of land where the owners are in Nyeri, Muranga, Karatina. So where are we? Today our biggest worry is, if tomorrow the system of the government changes with the same (inaudible), which is being portrayed in Kenya, I don't think we shall survive.

Com Kavesta: (inaudible)

Michael Legei: From here up to Kitale there was a Laikipia Maasai land.

Com Kavesta: I want to know what made this land take land as if it was idle land.

Michael Legei: You see what happened, the Laikipia pastoralists were very many but they were disseminated because of wars. They were fought by different pressure groups and the few who were left by 1934 they were only 900 and today we number over 30,000 and we still remember where our boundaries were but then these are many years back. From the 17th centaury, 18th centaury up to today, we cant really go back all that far but then in Laikipia, particularly in Laikipia where 800,000 are being owned under that agreement is there no agreement that can be done.

Com Kavesta:(Inaudible)

Michael Legei: What is going to happen, we have some of the wazees old one who were in those negotiations when this land agreement was going on and because there is a written agreement, it clearly stipulates, after 99 years they should give back the Maasai their land. Now I don't know what is going to happen because many things may happen, they may take different direction.

Com Mutakha Kangu: The 99 years you are referring to is based on one of our Laws. We have different statues and different

Acts of Parliament dealing with land matters. There are some statutes under which you only get a lease for 99 years. The lady asked who are these whose leases are about to expire and yet Africans only started having land after independence. The position is that, some of the pieces of land people were buying from other owners were such leases and when you buy such land, you are only buying the remainder of the lease. So that if say 50 years have gone, you are only buying 49 years and I think that issue could be the best way to address the land problem in this country. Because when that lease expires the holder is entitled to apply for renewal but the government has the discretion whether to renew or not and I think maybe that would be one way the government can use to sort out some of this land problems. But the agreements you are taking about, you need to get it and look at it and see whether it is the one that provides for the 99 years or the 99 years you are referring to are under this particular lease. But of course I get it from you that the land issue is a big problem in this country. We may have thought that Mugabe delayed in starting to sort it out in Zimbabwe but now it is coming out that we have even over delayed in sorting it out and if we don't sort it out today, now in this constitution making process, you can be sure that we are headed for big trouble in this country.

Talking about sorting out such land problems, I would want to think that the Kenyans should think more about what that land is than merely owning because we have developed a very crazy idea about owning land that is why some people go to Nairobi and they are allocated titles of land they don't even know where it is. After they have been given titles, that is when they start coming here to find out where it is and they find that it is land occupied by people. What is ironical, is that some even sell that title before they have come to look at the land. We need to think about how do we change the attitude towards land, we need to think about, are we going to allow people to continue subdividing important agricultural land into small units that can not be sustainable or what kind of management are we going to have. We need to start thinking about that. Continue with your submission.

Michael Legei: Mr. Commissioner thank you very much for recognizing that problem and that is as far as land is concerned.

On education; at least the government should give if not all the Maasai but the Laikipia Maasai an affirmative action. You see this was a closed district, there was no education and those people who came they came through Christianity, they were only coming to train people how to read the Bible that is all and they didn't have the interest whether to advance school or what, so at least this is an area where we are really behind in terms of those people who are you can count. Graduates are four, diplomats are eight, when you come to secondary it is just recently when we had this secondary school. So we are not represented in terms of public jobs. So may be, on affirmative action I think that is all what I have. But the crazy issue is land. Thank you.

Com Kavesta: Who are these graduates?

Michael Legei: One is Kaparo, the other one is Letai, Shueli and Luke Ndaia.

Com Kavesta: Why haven't leaders worked for education?

Michael Legei: One of the biggest thing is education awareness. When we got independence even those who took the Nyanyuki a administration still looked pastoralism with a very big suspicion there are people who are impossible. So we started even getting education awareness when Kaparo went to Parliament in 1988, this is when people now started learning, and we could see certain kind of problems. Even we are worried when he moves out of that Parliament what will be our next thing.

Com Kavesta: Education, for your community what kind of things, you cannot just say affirmative action other people have said it especially pastoralists. Even other Kenyans have said but even if it is affirmative action tell us some of the ideas you have.

Michael Legei: Free education, opening up for scholarships, we have never had a scholarship sponsored by the government to the US or anywhere else so if they are there at least we should get.

Com Kavesta: What type of school?

Michael Legei: These are public schools, secondary, university. Here in primary level at least we need arid boarding schools. We are migratory community which moves and the few which we have about five and it is congested and even running it is really a headache because over the years we have been having severe successive drought because of this Closure of this box, we cant move and livestock, like last year's drought 1999, 2001 we almost lost about 95% of the stock.

Com Kavesta:(Inaudible)

Michael Legei: Even here mobile schools, you go to *Ereri* there is no nursery school, there is no primary school and people move, *Mondomere*, all those areas so at least in areas where they can access education, mobile schools will be useful.

Com Kavesta:(Inaudible)

Com Mutakha Kangu:(Inaudible)

Michael Legei: Maybe here another thing is adult education. at least 98% of all the adults are illiterate. We have an informal where the organization called *osiliju* is training those children who have overgrown, there cannot go to school because they are over age and sometimes they just train them to read and write and be able to count cows in Kiswahili or English.

Com Kavesta:(Inaudible)

Michael Legei: I think they have talked that is why I have not repeated it here.

Com Mutakha Kanga: Can we have Joseph Ole Kiloku.

Joeseph Ole Kiloku: I am Joseph Ole Kiloku, a farmer. Ninatoa proposals na nimeandika kwa lugha ya Kiingereza. The government should promote the pastoralists and agriculturalist by opening more marketing venues both local and internationally with minimum condition e.g. pastoralists, the revival of the Kenya Meat Commission. Establishment of industries such as tea factories, leather factories including tea factories for the self-sufficiency and sustainability of communities in Kenya.

Security measure and evolvement; the government should establish seminaries and tighten security measures and enforcement along such concerned community borders in the republic of Kenya.

Human rights; the government should implement a cordial excitement among all communities to know their rights for the future focus of a good Kenya to be.

Specialization of business, the government should recognize and support financially despite of any sort or funny opportunities enrolled by an effective sectors through loaning system towards such institutes and establishment. During this exercise, ignorance even to the so-called green growers, poultry, jua kali investment, life stock marketing and sand sells sectors must be adhered to.

In avoidance of abolition by the middlemen towards such sectors which are unable.

Com Kavesta: Is KMC easily accessible for the people in Laikipia?

Com Mutakha Kangu:(Inaudible)

Joeseph Ole Kiloku: Yes there is because those who are able through business sector they transport there animals to the organization and now they will come and buy at better price from the groundless community.

Com Kavesta:(Inaudible)

Joeseph Ole Kiloku: At least it will be better because you see that ... well nafikiri sasa ile kitu benefit itakuwa mzuri ni vile sasa haitachukuliwa kwa ile bei ambaye unaenda through away price kwa sababu unakuta wanakuja wanatupa tu ile mifugo kwa sababu ya shida.

Com Kavesta: You need to tell us what used to happen in KMC.

Joeseph Ole Kiloku: KMC, ni kwa vile tu hiimambo ya ufugaji sas tuseme kwa mfano ngo itanunuliwa kwa bei nafuu kwa sababu labda ile nyama ikenda kwa KMC itauzwa kwa hizi za ngambo. Labda sasa kwa wale ambao watakua na hiyo business ya kupeleka hiyo nyama.....(Inaudible).

Com Kavesta:(Inaudible)

Joeseph Ole Kiloku: it should be a creation of jobs.

Stella Kuraru: My names are Stella Kuraru, I am a facilitator of Kenya League of Women voter. I will talk about gender equity; women should not be discriminated. Despite being more in numbers and working harder nowhere in the world do women enjoy the fruits of their labour completely.

Society denies them the same opportunity and the benefits as men. Kenya is no exception, women in Kenya (inaudible) continued and often deliberate discriminations and we know that at least half of the world's people are women. Women work longer hours than men in nearly every country and do more of the total work than men.

Women form the power of the family and household. Women contribute more to the development of their society. There is also constitutional discrimination; the constitution does not protect women from discrimination. Instead of making gender discriminatory, believes and practices based illegal should be the case in a democratic society; the constitution encourages discrimination against women. The constitution allows a Kenyan man to pass on his nationality to his children unconditionally; further the children are born in or outside regardless of the nationality of the mother.

On the other hand if a woman is married to a none Kenyan and her children are born outside Kenya they don't become Kenyans automatically. The law supported by the constitution will not allow them to inherit their mother's nationality.

A married woman needs to have her husband's permission to have her children included in her passport.

Com Kavesta: Do you have proposals in that memorandum? Because you see that part you are reading is what we are going to read.

Stella Kuraru: It is vital therefore, that we increase the number of women in the executive, legislature and judiciary by increasing women's participation in education especially high education so that they can qualify for top positions in civic, service and judiciary.

Putting pressure on the government to take deliberate action to include more women in the cabinet, civic servants and judiciary. Electing more women to parliament and local authority so that women's interest and rights are taken into consideration when they are forming laws and policies.

Electing more men who support women's empowerment. That is all.

Com Kavesta:(Inaudible)

Stella Kuraru: In this area girl's education is not taken seriously, they only educate boys.

Com Kavesta:(Inaudible)

Stella Kuraru: They should not force us to be married at an early age. They also should educate girls because sometimes girls are left at home to do the household work. they also should stop such cultural practices which are harmful to the girl child like FGM.

Com Kavesta: Does dowry affect the girl child?

Stella Kuraru: Yes. Because the parents take the dowry without the girl knowing so the girl is forced to follow the man and he does not know him.

F.M Kunora: Katika maoni ya Katiba sana sana kile nazungumzia ni usalama. Sisi tuko na Katiba inayoendelea wakati huu lakini mateso yamekuwa mengi sana. Tungetaka serikali iongeze bidii iwache kulala kwa ajili tumekuwa tukisumbuliwa na majambazi na mali yetu inabebwa hata watu wanapoteza uhai. Majambazi sio malaika ni watu tu wanatembea duniani. Tunataka jambo hilo liangaliwe kabisa, majambazi wasitutawale, tunataka kutawaliwa na serikali peke yake. Kuhusu uchaguzi, usipitishwe wakati wake.

Mawaziri wasio na hekima waende nyumbani na tayari wamepoteza kazi. wakubwa wanaoweka sahihi ma barua, tunataka afikishe watu watano tu. Akikosa kuwekea watu watano sahihi anaenda nyumbani maana ameshindwa na kazi yake. Mimi naweza kutoka hapa naende Nyanyuki niwekewe barua fulani sahihi kwa ajili ya jambo fulani halafu ninaambiwa kuja kesho.

Com Mutakha Kangu: (inaudible)

F.M Kunora: Inaweza kuwa hata ni voucher, pengine nimepeana chakula shule, nikipeleka voucher nataka kulipwa pesa

inakuwa yule wa kuniwekea sahihi hayupo.

Mtu akienda retire apatiwe pesa zake zote asiende bila pesa. Rais aki-retire alindwe sana asisumbuliwe hata kidogo. Askari polisi akikosea asifutwe, anarudishwa Kiganjo kupigwa tena hata askari tawala pia, anarudishwa Embakasi kupigwa tena. walinzi waongezwe mishahara either ni walinzi wa nyumbani ama ni wa mashamba.

Siku hizi maajambazi wameongeza ukimwi sana sana . wanaonana kimwili na wanawake kwa nguvu na hiyo hatutaki. Katiba mypia haina maana kama haitatumiwa vizuri. Nimemaliza.

Com Kavesta: Unajua mimi nimeshangaa hapa kidogo kwa sababu watu wanazungumza mambo ya usalama bila kusema ni nini. Na wewe umesema majambazi ni watu wanatembea tu. Sasa majambazi ni watu wanajulikana, sivyo?

F.M Kunora: Hawajuliokani wanaonekana. Mahali wanaenda kuvamia si watu wanawaona na wale wanafamiwa si wanaona hawa ni watu tu wanatuvamia. Na hiyo sio propaganda, ni vile mambo iko.

Com Kavesta: Ungependekeza nini. Unajua North Eastern kama kuna jambo fulani, Assistant Chief, Chief DO watashugulikia kwa sababu wanaangalia na wanajua na hata Kiambu, wanatuambia mtuletee watu watulinde. Wanawalinda kutokana na nini, na wote ni watoto wenu.

F.M Kunora: Kama wanajulikana hakuna lingine, ni wao washikwe la si hivyo kama serikali imeshindwa itangaze tumeshindwa.

Com Kavesta:(Inaudible) Si wanatoka tu kwa jamii?

F.M Kunora: Ndio wanatoka kwa jamii.

Com Mutakha Kangu: Asante sana. Tupate David Muchiri.

David Muchiri: I am David Muchiri. Mine is just three points to contribute on the Review process. I am going to tackle on the issue of the system of the government how it should be. The system of the government should be having two systems or two house that is the Upper house and the Lower house. The Upper House should have the mandate to check or to control the responsibility of the example and the Lower House should have the responsibility of dealing with other common issues.

We have to deal on how to dismantle the current provincial administration to pave way for the Upper House. I suggest the Upper House should be represented from the district level. The districts should be electing the Governors or the people who

will be governing or representing them in the Upper House. This Upper House should be Supreme. I am proposing, we be governed by a Prime Minister who should be answerable to the legislature that is be should be monitored by the Upper House.

All the proposals that he do have to be presented to the Upper House to be approved. In future, in any constitution Review or any burning issue in the upcountry a referendum should be done to cooperate everybody. We should not have a minister or portfolio of ministers where one ministry has so many ministers.

Not verbatim. Tape Recording not Clear: Tape 6.

Ndegwa Njuguna:

- Kiongozi awe na Usalama
- Ikiwa kiongozi amekataa kutoka kwa kiti cha uongozi, jeshi limuchukue na kumpeleka kwenye shamba la Eden.

Magaret Lesuda:

- Free education to be provided to disabled children.
- By the year 2050 cultural practices which are harmful to the women should be completely eradicated.
- Street children to be given homes and be taken to school and problem leading to street children be solved.

Augustine Karofa:

- There is need for a preamble in the new Constitution.
- All those people born in Kenya qualify for automatic citizenship.
- Dual citizenship be allowed.
- Bank cards to be used as prove of citizenship also among many other things.
- Mps should be working full time.
- Age of contesting for an MP be from 18- 55 years.
- Nominated MPs be selected by a National Conference.
- The current 25% presentation should be retained
- Local community to be involved in the management of the in natural resources.

Lekilotoo Lekimande:

- Politicians to be educated.
- The Constitution should be unchallengeable.

Ann Lesiano:

- Education should be free and compulsory.
- More lady teacher to be employed in hardship areas to act as role models for the young girls.
- Early marriage should be banned.
- Chiefs should be elected.

Simon Ole Kinyaga: Kwa national cake, kuna kweli watu wamewachwa wakati wa ukoloni na bado mpaka sasa, wako nyuma, tunaweza sema, wale wamewachwa kama watu wa Mkododora, North Eastern, nikipendekeza kuwa wale ambao waliochwa sana kwa wakati wa ukoloni kwa sababu ya kuhama hama ama kwa sababu yoyote ile, Sheria iangaliswe zaidi iwe more focused, kama ni mambo ya Maendeleo kidogo pesa itengewe kidogo, kama ni mambo ya maji kuna watu wa area hii hawajawai kuona piped water. Iwe focused, more focused au watusaidie zaidi.

Upande ya education mimi naunga tu mkono vile wale wanasema kwa upande ambao ni nchi kavu au Kenya mzima ipewe free education especially primary school.

Upande mwingine wa education, hii mambo ya committees in primary school. Saa zingine naona watu wanakuja wanasema mchague wale watasimamia hiyo shule. Wale sasa wanachukuliwa kwa sababu Sheria ya sasa inasema lazima awe na mtoto kwa hiyo shule na labda kwa hiyo shule n labda ni mmoja amesoma ama wawili. Ukichagua wale ambao watakuwa kwa kamati ya hiyo shule, they don't know what is education. Hata itakuwa kama tu unaendesha gari bila lenseni ndio utajua maana ya shisda ni nini Maendeleo ya shule. Lakini kama ujasoma utajua Maendeleo ya shule ni nini, isiwe tu una focus ati lazima uwe na mtoto huko.

Ya mwisho, mambo ya wafugaji, unajua Kenya hii kuna wafugaji, kuna watu wa agriculture. Watu wafugaji tungeuliza kwa hii constitution tuangaliwe kama wale wananchi wengine ambao wana grow kahawa, majani. Kuna kuwa kuna pesa fulani wanatengewa ili waongoze ma biashara yao. Lakini tukiona kwa budget au kwa donor wakati serikali inaomba pesa, hawaangalii wale wafugaji. Ningependa pia wao waangaliwe na budget itakuwa standard labda kupewa pesa ya ku-improve their grade au kuongeza. Nafikiri yangu ya mwisho ilikuwa hiyo.

Com Mutakha Kangu: Ningetaka kuwashukuru watu wa Laikipia East, Dol Dol, Mkokodo kwa kupata nafasi kuja kupeana maoni yenu na tena kwa kupeana maoni ya manufaa. Mambo mumetwamble kadhaa ya muhimu tutayaka weka pamoja na

maoni ambayo imetoka kwa wa Kenya wengine kwa sababu tunatengeneza Katiba ya Kenya yote. Sheria inataka tukimaliza kutengeneza hiyo report tutatuma kwa nyinyi muweze kuwa na nafasi ya kuisoma kwa sababu Sheria haisemi tu-report kwa mwingine tuta-report to the people, mtapatiwa nafasi ya miezi miwili ya kusoma hiyo report na ile draft ya Katiba tutakuwa tumetengeneza muweze kuhakikiksha tumetilia maanani maneno mulituambia. Muweze kuhakikisha ile recommendation tumepeana ni ile inafaa ama mungependelea zigeuzwe na mwishoe Sheria inasema baada ya hizo miezi miwili tutatakikana kurudi kwa watu lakini wakati huu at the provincial level watupatie comments zao kuhusu zile recommendation na Katiba tutakuwa tumetengeneza. Kama wanaona kuna lile wanataka libadilishwe waseme kwa hivyo pengine kama district Laikipia mtatengeneza comments zenu na mchague wale mutatuma kama tutakuwa tunakaa Nakuru ama wapi, mtapeleka comments zenu.

Ikitoka hapo ndio itaenda kwa ile inaitwa National Constitutional Conference yenye itakuwa na watu karibu mia sita. Kila district itatuma watu wa tatu kuambatana na Wabunge na ma commissioners na wengine kutoka kwa makanisa na mashirika zingine kujadiliana hiyo report wafikishe ama wasipitishwe na kama maneno inabaki inarudi kwa watu wanapiga kura kuamua ndio mwishoe mambo iende Bunge. Kwa hivyo maneno mumetuambia mutakuwa na nafasi. Lakini hiyo ninasema ikiwa tu Bunge haitaenda kubadilisha Sheria vile inasema saa hii kwa sasa kuna wale wanasema tubadilishwe, kwa nini tunarudisha maneno kwa watu, malizeni report mlite Bunge.

Ikiwa hawatabadilisha tutafuata hizo stages, tutapata nafasi ya kuangalia, muhakikishe yale tumeweka kweli ndio inafaa ama kama haifai, tupeane comments na tena hata mwishoe wale mtatuma kwenda kwa conference muwapatie mawaidha, hili jambo hatufurahii, ukifika huko upingane hivi, upingane hivi. Kwa hivyo tunawarudishia asante na ningepomba mtuwachilie twende. Ninarudisha mkutano kwa chairlady aweze kutumaliza halafu tuondoke na maombi. Kesho mtakuwa na mkutano ingine huko Nyanyuki, sio sisi tutakuwa huko, sisi tutakuwa huko Nyahururu kwa hivyo mtakutana na wengine wale watakuwa Nyanyuki.

Margaret Lesuda: Asante sana Commissioner Kangu. Ingawaje tumefika mwisho, yale tu nitaomba ni kuwa wale mumesikia wametajwa majina yao hapa na hawako, mkiteremka huko town ama ukienda nyumbani ikiwa kuna mmoja unajua, umueleze kesho kuna presentation inaendelea upande wa Nyanyuki kwa hivyo akipata nafasi kama ni jamabo muhimu san anaona ambalo hatujataja hapa, tafadhali aje Nyanyuki ama hata atume presentations zake huko ziende. Nafikiri watakubali.

Asante sana nafikiri mumesikia hayo. Na bila kupoteza wakati tutaomba na tunashukuru pia bwana OCS wetu, ameshinda hapa, kwa hivyo tunajua hata kama watu wameongea juu ya security hakuna, leo tumekuwa nayo hapa kwa hivo tunashukuru. Tuko pia na Snr. Chief ametoka mbali sana, anapakana huko Isiolo ameshinda hapa na sisi kutoka wakati ule. Nashukuru pia Michael kwa kuweza kuwa mkalimani mwema na kwa hayo nitauliza mzee Konoro aje hapa atuongee na kisha tumalize.

Mr. Konora: Baba wa Binguni tunakushukuru wakati huu wa saa hizi za alasiri kwa vile ulitukutanisha katika kikao hiki na ukakubali kila mtu ataoe maoni yake nao wale wageni ulio tutumia hapa nao Mwenyezi Mungu watakapokuwa wakirudi makwao uwapeleke kwa mkono wako wa uhuruma. Tumekutana nao na tumeona ni wageni wa heshina na tumeendelea vizuri na wao kwa mapenzi yako mwenyezi Mungu. Sasa uwabariki hata watoto wao kule nyumbani kwao na hata kila mmoja tunajua ako na ndugu na ako na watoto wake na kina mama nao uwabariki kila mtu na sehemu yake. Tunakuomba kwa hayo machache tukijua utatufanyia hivyo na utatutimizia katika jina lake Yesu Kristo, Bwana awe nanyi.

The meeting ended at 4.30 P.M.

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