

**CONSTITUTION OF KENYA REVIEW COMMISSION  
(CKRC)**

**VERBATIM REPORT OF**

**CONSTITUENCY PUBLIC HEARINGS  
SABATIA CONSTITUENCY  
HELD AT VOKOLI MOI GIRLS HIGH SCHOOL**

**ON**

**31<sup>ST</sup> JULY 2002**

**CONSTITUENCY PUBLIC HEARINGS, SABATIA CONSTITUENCY HELD AT VOKOLI MOI GIRLS HIGH  
SCHOOL ON 31<sup>ST</sup> JULY, 2002**

## Present

Com. Prof. Ahmed Ida Salim  
Com. Kavetsa Adagala  
Com. Hon. Phoebe Asiyo - Chairing

## Secretariat in Attendance

Maimuna Mwindau - Programme Officer  
Caroline Kihara - Assistant Programme Officer  
Josephine Ndung'u - Verbatim Recorder

The meeting started at 10.05 a.m., with a word of prayer.

**Com. Phoebe Aiyo:** Good Morning. I would like us to start off and as usual we will start with a word of prayer. Can someone volunteer to pray for us. Oh! There is a person – major – there.

**Prayer:** Shall we pray. Our loving heavenly father, we bow before thee this morning. We want to praise, we want to thank you. You have been a great help during the night. Thank you for waking us safely this day. Now Lord, your servants have gathered here to deliberate on matters concerning the law of this land. Lord give us knowledge, wisdom and understanding. Give your servants good health for they travel a lot here and there. May your hand guide each one of them. Bless us as we deliberate on these matters this day, may your spirit guide us who are taking part. I also pray for this school that has provided this facility, that you bless the school as well. Bless our government, bless this ministry for we want to see this land ruled under your guidance and under your hand. And so Lord, bless all these things that we may say you have been with us and you are our God. We pray believing in the name of Jesus our Lord, Amen.

**Speaker:** Thank you very much. I would like to thank you for coming here. I know – as most of you are aware – we have been reviewing the (inaudible), we have been trying to inform you, to teach you some civic education to you in order to enable to be able to contribute towards the reviewing of our Constitution of Kenya. So, this is the third venue, we were at Chemakanga on 29<sup>th</sup>, yesterday we were at Chevakali High School and we have been working so well and we have been very impressed by your efforts of contributing. So, you should know that if you do not contribute well, somebody else will contribute somewhere and they will make a Constitution that may not suite our needs and then we will start complaining, isn't it? So, you are welcome to make your contributions, but before that, Chairman please come and .....He is going to introduce this committee which he has been working with in order to make sure that we are well versed with what we are supposed to do.

**Chairman:** Wageni wetu mashuhuri, wananchi wenzangu ambao mmfika hapa leo, hamjambo?

**Audience:** Hatujambo.

**Chairman:** Ningependa kuwajulisha wanakamati wa Sabatia Constituency Constitutional Committee ambao wengi wao mtawajua mkiwaona. Can you stand up? Huyu aliye karibu nami ni Margaret Sakwa ambaye ni karani mkatibu wa kamati hii. Huyu mama mwingine ni Mama Mirembe Barseryly ambaye ametoka sehemu za Busali West. Next ni Bwana Adagalo ambaye ametoka Nia Ndhiwa Location na Karibu na yeye ni Bwana Wilson Sabatia ambaye anatoka Busali East and huyo jamaa mwingine ni Joseph Bulehi ambaye anatoka Keveye. Wengine wangali wanakuja – hawajafika – tutawajulisha wakifika. Asanteni.

**Interjection:** (inaudible)

**Maimuna Mwindau:** Habari zenu? Jina langu ni Maimuma – Programme Officer. Pamoja nami tuna Josephine Ndung’u ambaye ni Verbatim Recorder, Caroline Kihara ni Rap Tour na sisi sote tunatoka kwa secretariat. Asante. Josephine Ndung’u yuko in-charge wa kufanya recording ya hearing yote ya leo na kwa hivyo maoni yenu yote yatakuwa kwenye records zetu na tungependelea mkiongea mtumie mic vizuri. Asante.

**Com. Phoebe Asiyu:** Asante sana Maimuna kwa kuwajulisha waliofika kwa mazungumzo ya leo, wale watu ambao wamekuwa wakichukua habari ya wale ambao wamefika kuongea na commissioners juu ya katiba mpya. Hapa mbele tuko na Commissioners watatu – kwa upande huu wetu yeye hana haja ya kujulishwa, huyu ni msichana wenu wa hapa – M/s Adagala Kavetsa mnamjua vizuri sana na yeye ni mwalimu katika Chuo kikuu cha Nairobi hata sasa lakini amekuwa appointed na parliament kuwa mmoja wa wale commissioners ambao watakuwa wakichukua maoni ya wananchi wa Kenya na kuingalia na kutengeneza katiba mpya ya Kenya.

Upande wangu wa kushoto ni mwenyekiti wetu wa pili na ambaye pia ni mwenyekiti wetu wa kikao hiko ambacho kitakuwa hapa nanyi – yeye ni Prof. Salim ambaye anajulikana sana. Alikuwa mpaka (inaudible) hapo awali alipotaka kwa University, lakini, yeye bado ni mwalimu - unajua ukiwa mwalimu ni mwalimu na tumefurahi kwa maana yuko hapa, atatufundisha na pia atasikiliza maoni ya watu wa hapa Vokoli. Mimi ni Mama Phoebe Asiyu, Commissioner pia pamoja na wenzangu hawa wawili ambao tumefika kusikiliza maoni ya watu wa Vokoli kwa ajili ya kutengeneza katiba mpya ya Kenya. Kwa hivyo, sasa I declare this gathering an official sitting of the Commission that is reviewing the Constitution of Kenya as an official sitting of this commission.

Mnafahamu kwamba kila kitu ambacho mtatwambia leo kitanaswa na machine pale na pia kitaandikwa na wale wasichana ambao mmejulishwa hapo mbele na sisi pia – tutakuwa tukiandika maoni yenu ambayo tukimaliza tutatengeneza report ambayo ninyi watu wa hapa Sabatia Constituency mtaletewa ili muangalie kama kwa kweli maoni yenu yameandikwa kisawa.

Mkishayaona na mkatosheka, tutaendelea kuleta report ya Kenya nzima ambayo ikishawekwa pamoja itajadiliwa na watu karibu mia saba kutoka pande zote za Kenya na ninyi mlio hapa mtasaidia kuchagua watu watatu kutoka kwa hii district ambao watakuja mahala pale tutakuwa na mkutano huo mkubwa ambao sisi kama ma-commissioners tutakuweko.

Pia wajumbe wenu watakuwa pale na wale wengine ambao watachaguliwa kutoka kwa makanisa, kwa civil societies, kwa akina mama, kwa youth wote wa Kenya ili tudaliane maoni ya watu wa Kenya na kukubaliana kwamba report hiyo itafaa na itaweza kutumika kutengeneza Bill ambayo itakuwa enacted by parliament ili iwe katiba mpya ya nchi hii. Kwa hivyo, nasema hivi kwa maana ni kitu cha maana sana na cha muhimu na kwa hivyo mtu akija kuongea nasi ajue kwamba yale mambo anatwambia yatabaki kwa historia ya nchi hii kwa miaka mingi. Na kama kuna mjukuu wake mmoja atakuwa akifanya research, ataweza kuenda hata baada ya miaka ishirini au thelathini kwa archives za Kenya na atapata kuona vile babu yake au nyanyake aliongea kwa mambo ya kubadilisha katiba hapa Vokoli.

Tayari tumepata watu ishirini ambao wako tayari kuongea na kabla hatujaanza na Janet Mwenesi, nataka kuchukua fursa hii na kuwapongeza sana wale 3C's – members wa kamati yetu ya district hii kwa ile kazi gumu ambayo wamefanya tangu tuanze kazi ya fikira ya Kubadilisha Katiba yetu pamoja na wale ambao wamekuwa wakizunguka wakiwapa civic education juu ya katiba mpya. Kwa hivyo, ninashukuru sana wale ambao wamefanya kazi nasi.

Wakati mtakapofika hapa mbele kupeana fikira zenu, wale ambao wameandika memorandum watatueleza – watachukua mambo muhimu – tuta-highlight the memorandum na wataongea kwa muda wa dakika tano halafu ile memorandum ambayo wameandika, will become our property. Itawekwa pale, itachukuliwa Nairobi na itaingizwa kwa computer yetu ili tukifanya analysis tunaona kwa computer yale mambo ambayo wewe mwenyewe uliongea. Kama unakuja kuongea tu bila maandishi yoyote, tutakupa pengine muda mrefu zaidi kama dakika saba hivi kutueleza lakini kwa kinaganaga sana – be very clear so that everything you say can be captured and recorded. And before you leave, you go to that table and sign our register and also the process of your memorandum. That will be the method our doing things.

At one time, if there is a disabled person or a very old man or woman, a pregnant mother who comes, we might have to jump the queue and give them a chance to speak first. So, that will be the way we shall conduct our hearings this morning. Now, I would like to call upon Janet Mwenesi.

Mnaweza lugha kutumia yoyote – mnaweza kutumia kizungu, Kiswahili au Kimaragoli. Itategemea ile ambayo mtu anataka kuongea nayo na ambayo anaona kama atasikizwa vizuri zaidi – Kimaragoli, Kizungu au Kiswahili. Janet Mwenesi, unaweza fika hapa mbele ukae na uongee na sisi na ninaona kama una maandishi na kwa hivyo hautaongea kwa muda mrefu. You just give us highlights of your memorandum which will then become our property immediately you finish your presentation. Thank you.

**Interjection:** (Inaudible)

**Janet Mwenesi:** This memorandum was prepared by women representatives. My name is Janet Mwenesi. Anything more than that? Just that? This memorandum was prepared by women representatives of the women of North Maragoli Location and was compiled on 10<sup>th</sup> of June 2002. The memorandum is divided into two main parts: the first one is on governance, although they wanted to do women issues only, they thought there were some sensitive issues on governance which they thought they could have something to say. There are 16 points on women issues and then four additional ones if time allows.

The first one is support of the public reviewing of the Constitution. We hope it can become either a chapter, a (inaudible) or a section of the new Constitution and be given a time frame. Eeh? The public reviewing of the Constitution to become part of the new Constitution.

- Support of unitary system of government.
- Support of provincial administration with the following modifications: After Chiefs and assistant chiefs have been short listed, they should be elected by the members of the location or the sub location by mlolongo votes  
No post harambee and those who administrators who drink or take alcohol should be dismissed or sacked because they encourage being bribed with chang'aa.
- Women should become proper village elders instead of just being assistants of village elders.
- On local government, either reduce the number of councilors or just use staff without councilors because according to our observation, we do not really see the job of councilors in our areas.
- On presidency and prime minister, the women feel that they would like that trend. If it does not succeed, we revert to the current system except they wouldn't want them to be elected by the market, instead, the Members of parliament should do the choosing of the President and the prime minister from amongst themselves. In other words, even the opposition to participate in choosing a President or a prime minister from the party that has garnered majority in the election.
- As for parliament, it should remain the same except once these two have been elected, they should serve for a period of five years only and no more.
- Under Judiciary, they would like the choosing of the senior officers in the judiciary to be done only by the Judicial Commission and the President not to participate in choosing the Chief Justice and other senior judicial officers. Once they have been chosen, they should remain in office until they are 55 years old and not as long as they do currently.
- Under civil service, they would prefer civil servants to be employed according to the workload. We should have a mechanism of knowing how much a person can do in a day or in a given time and therefore the workload should be the dictation of how many should be employed. The pay of such servants should be reviewed yearly to avoid problems to do with salaries.
- Pensions of such servants should be paid within one month of retirement and these pensions should also be reviewed when the salaries are being reviewed. It is hoped that even wages, allowances, funding and remuneration that such

servants enjoy can also be reviewed yearly.

- Under the private sector, we feel that it was wrong for parastatals to have been privatized because most of them are being bought by foreigners and this is hurting most of our children for either being laid off or not getting an opportunity to get employment.
- We would like to the government to re-introduce minimum wage guidance because the labour market is too large and this leads to exploitation of the labour.
- The government should also re-introduce the idea of increase of jobs opportunities following from what has been said above.
- The government should regulate prices of commodities that are produced by companies and factories that are few and not to regulate those of things like maize and sukuma wiki and so on.
- On women issues, women prefer joint ownership, one man; one wife but if a man must have more than one wives, then the senior wife should be the only one to have a certificate and the other one not to have any certificate at all.
- The chief should participate in monitoring whether people are married or not before they enter into official marriages or weddings because this is very (inaudible) in value with the first wife.
- Citizenship: Women should try to remain (inaudible) to whenever they get married abroad from this country and those who come to Kenya should get certificates (inaudible)
- Things like rape, incest and adultery should be punishable by death.
- If there is a divorce, the husband should be the one to move out of the house but both should not enter into any other marriage and have other children after that.
- Marriages patterns should remain patrilocal in the rural areas but we are ready to accept matrilineal marriages if they are in settlement schemes or in cities and other urban centers.
- Marriage age should be 18 years.
- Inheritance age should be 18 years.
- FGM should be illegal.
- Education: There should be a national policy for heads and the principles to accept payment by instalments.

**Com. Phoebe Asiyo:** Time is running out, just mention the highlights of the remainder of your paper which you are going to deposit with us.

**Janet Mwenesi:** Infact I have finished. The last one is on women and jobs.

**Com. Phoebe Asiyo:** (inaudible)

**Janet Mwenesi:** On education?

**Com. Phoebe Asiyo:** (inaudible)

**Janet Mwenesi:** What I said on education is that there should be a national policy for principles and the headmasters to accept payment of fees by instalments or in kind so that both girls and boys get an opportunity. I think I will make this the last one since time is up; we do not believe in affirmative action for women, we would like women to be more aggressive in looking for opportunities in jobs and leadership and if they are more aggressive we do not see any problem in that. Thank you.

**Com. Phoebe Asiyo:** Thank you. Do you have any question?

**Com. Phoebe Asiyo:** Thank you very much Janet for starting off very well and with lots of substance. On village elders, you said women should also be village elders. Should village elders be paid?

**Janet Mwenesi:** Yeah, I left that out. It is in the memorandum.

**Com. Phoebe Asiyo:** Then, the issue of privatization, you said they should not have been privatized but you have not told us whether you want them revived and got back.

**Janet Mwenesi:** Yeah, the details are like that. We would want them to be revived; particularly the key parastatals to be revived in the run of parastatals.

**Com. Phoebe Asiyo:** Okay. You said the senior wife gets the certificate and the other wives don't. What are you aiming at?

**Janet Mwenesi:** We are aiming at encouraging one man – one wife.

**Com. Phoebe Asiyo:** Okay, because other wives.....

**Janet Mwenesi:** Because it brings a lot of conflicts in homes.

**Com. Phoebe Asiyo:** Therefore you want first marriages to be registered?

**Janet Mwenesi:** First marriages only.

**Com. Phoebe Asiyo:** You know that's part of what encourages the other?

**Janet Mwenesi:** Yeah.

**Com. Phoebe Asiyo:** So, there should be a period that you set for registration because people marry differently; in church, traditionally, before the sheikh, I don't know what you people do. I don't know what the sheikh say one man; one wife.

**Janet Mwenesi:** Well.....

**Com. Phoebe Asiyo:** We leave it like that but.....

**Janet Mwenesi:** Yeah, we leave it like that.

**Com. Phoebe Asiyo:** But we know that the Muslims have that .....

**Janet Mwenesi:** We would also like the Muslims to be here so that if possible.

**Com. Phoebe Asiyo:** Talk to your professor here about that. Then, that is what I wanted. But, on education, you accept that school fees to be paid.

**Janet Mwenesi:** Well, now that it is being paid anyway.

**Com. Phoebe Asiyo:** But we are making a new Kenya!

**Janet Mwenesi:** Yeah, if it's possible because you remember when free education was allowed in primary it stands out that now we have other payments that even though they are not called fees, they are payments anyway and it leads to students dropping out like building funds and so on.

**Com. Phoebe Asiyo:** You see, this is a time to think freely; not be – infact even your recommendation of councilors is kind of tied up to a distorted situation which we have now because you are saying that councilor do not do anything- they do not do anything because they have been denied powers by amendment. Isn't that one reason why we are reviewing the Constitution? Amendments have distorted the Constitution – many amendments which have been done and not necessarily all of them. So, we probably need more thought. Poor parents are saying that even building funds, they are thinking anew.

**Janet Mwenesi:** Well, on local government, we are suggesting that the work that is done in the local authorities can be done by (inaudible) without funding. Well, local authority is local authority. There are jobs that can be done.

**Com. Phoebe Asiyo:** You know, it is kind of what was done with the provincial administration. Part of the work of parliament was given to the provincial administration. There is a re-think – there is a time to re-think. Councilors are given



powers, they are elected by the people and the chiefs are also there. But, you know there is whole kinds of things you can think about that but you need to re-think a new because that is precisely one of the reasons why we are reviewing the Constitution because of how the councilors were disempowered – one of the amendments, okay.

**Com. Ida Salim:** Thank you very much Madam Chairperson. Janet, I just wanted to ask you a view on one or two issues arising from your presentations. One is the issue of women becoming village elders. What would be the degree you think of acceptability in the country? It is not the first opinion but I just wondered would woman village elder be acceptable country-wide, do you think?

**Janet Mwenesi:** Well, the degree of acceptability may be questionable but with time I think it would be accepted. Like here.....

**Com. Ida Salim:** So, you feel where accepted will be a good beginning?

**Janet Mwenesi:** Yeah, it will be a good beginning because right now like in the area where I was doing the work, we have women elders but they are not having their own area of administration. They are just helpers of the main elders. We were feeling that now they have been helping for quite a long time. Now they can just have a proper area but I remember when we were talking like that one of the men wondered, ‘would they be allowed to put Livinge?’ Livinge is the boundaries for the farms and we thought yeah, we are changing and if they can accept, who are .....(inaudible).

**Com. Ida Salim:** Then, on the issue of the President and the Vice President, did I hear you right that they should be elected by the MPs, parliament sitting as an electoral college? Did you say that?

**Janet Mwenesi:** Yes, that is what I said that instead of going to the fields to seek elections, once the parliament has been elected, then we have a winning party. That party .....(inaudible)

**Com. Ida Salim:** Are you happy with that democratic system of choosing a national leader or elder?

**Janet Mwenesi:** It will be democratic because democracy can be by two or many because we have representative democracy in this country. When we have parliamentary democracy, that is representative democracy.

**Com. Ida Salim:** Wouldn't direct elections be better for the President and the Vice President? The masses deciding?

**Janet Mwenesi:** We prefer it that way.

**Com. Ida Salim:** Alright. Then lastly – I am sorry to take so much time – on the issue of marriages, you talked in terms of the

second wife having no certificate. Doesn't that go against the grain of equality in the country? One wife is acceptable while the other one is inferior unacceptable wife so that the two wives have different status. Isn't that undemocratic or affecting the rights of the other wife?

**Janet Mwenesi:** Before we arrived at that conclusion, we were wondering whether it will be better to have several certificates – a man with many wives to have such certificates if he has (inaudible). But the majority of the women who came to this conclusion felt it is better to have one certificate only and it should be just with the first wife because we have the practice of men who leave their wife and have a certificate with one of ..... because currently, the law does not allow two certificates. So, he gets a certificate with one of the others and it can even the last wife and the others have nothing. After discussion, that is why they came to that conclusion that if there must be a certificate then it should be with the first wife and not with all of them because that .....

**Com. Ida Salim:** Alright, let's just save you. Then on adultery you said punishment should be the death penalty. Would that be for both people involved or just one?

**Janet Mwenesi:** Yeah, for both unless it was by rape. If it was adultery by rape, then the rapist gets the punishment but if it is by agreement, then both of them should be punished.

**Com. Phoebe Asiyo:** I have just one more question for your Janet. I am very uncomfortable about your denying the people of Kenya the right to vote for their own President but those are your views and we will accept them at large. But, I am rather concerned about your views on affirmative action because the rest of the world is doing affirmative action especially in Africa where women did not have the same rights with men and you are telling us here that Kenya does not need affirmative action, yet Kenya did need affirmative action when we got independence and (inaudible). If that had not been done, may be Kenyans would have never owned business. Can you briefly give us your reasons for not accepting the issue of affirmative action for the disabled, for women and even for youth to participate in governance and representation?

**Janet Mwenesi:** Well, we limited ourselves to affirmative action for women in jobs and leadership because if women can get all the available opportunities, all the available jobs in any particular organization, then that would even be better.

**Com. Phoebe Asiyo:** How about the disabled and the youth?

**Janet Mwenesi:** They too can; we only concentrate on the ability. If we concentrate on ability because – you know – there is a danger that if we say affirmative action, people may take advantage and take any woman and that woman proves unable and gives a wrong picture or signals about women whereas if we concentrate on ability, then we will choose the able women and we have many around who only need to be more aggressive and sure that they are capable. And then even the parliament can have quarters of women instead of just 50%.

**Com. Phoebe Asiyo:** Thank you very much Janet. We appreciate your coming and giving those views on behalf of the North Maragoli Women; if you can please, now deposit your memorandum with us and also sign our register.

**Janet Mwenesi:** Thank you.

**Com. Phoebe Asiyo:** The next person is Margaret Ombajo. Margaret, you talked yesterday, I don't know why you want to talk again.

**Margaret Ombajo:** (Inaudible)

**Com. Phoebe Asiyo:** Yes, but since you have had your time, I would rather we gave time to those who have not talked and then when you have time later you can make another presentation.

**Margaret Ombajo:** (Inaudible)

**Com. Phoebe Asiyo:** Okay, then we will give you a shorter time because you had a lot of time yesterday. Come over and make your presentation but please make it brief because you have already appeared and that would not be fine on the others who have not appeared before.

**Margaret Ombajo:** The Commissioners,

**Com. Phoebe Asiyo:** You will have two minutes because you had talked a lot yesterday.

**Margaret Ombajo:** I am presenting the youth and I will only talk on the vulnerable group and the judiciary.

**Com. Phoebe Asiyo:** (inaudible).

**Margaret Ombajo:** Okay. I will talk about the vulnerable groups. We, the youth would want 50% presentation of this group in parliament and in every sector. Then we need homes to be created for the elderly, the orphans, the HIV/Aids Orphans and street children. All people who above 55 years be given pension whether he was working or not .....*(End of Side A tape I)*

.....Prices of the goods at the shops be reduced so that they can easily get them.

Then, we have the veterans of the first 2<sup>nd</sup> world war and those who fought for our independence. They should be given pensions and a day be set for them to be recognized nationwide. In Vihiga, we are having 2,500 veterans and we ask the

Constitution to at least appreciate them and their profiles be made in media. And the classes of the rich within our government be taxed to support these helpless people.

Under Judiciary, our judicial system is inadequate. So, prisons should be places to rehabilitate those that are sent there and we suggest that a Body be set aside to access and improve the situation of prisoners and the government to review the salaries of prison warders and the prisoners talents to be exploited fully. Also, the families of the prisoners be allowed to visit them at least once in every month. Also, legal aid should be given to those that are unable to make use of lawyers. The government to train paralegals and continue with the process of civic education so that people can at least know their rights. Thank you very much.

**Com. Adagala:** Thank you very much and there is a question for you to answer. The veterans – why would the Constitution of Kenya recognize veterans who fought for the British colonialist? Because I don't think that's the issue, even these people don't want recognition. They want to be paid the money from the British government. We can recognize freedom fighters who fought here and we have freedom fighters in Vihiga District and unfortunately you people are not mentioning them. We have people who fought for independence. But, seriously veterans want to be paid the money from the British government because they fought for the British Government. That is the issue.

**Margaret Ombajo:** If it is so, then we.....okay fine.

**Com. Phoebe Asiyo:** Thank you very much Margaret, please leave your memorandum and sign our register. Can we now have Vokoli YM Affairs – is it Moses Kawai? Please, Bwana Moses come over and make your presentation and I see it is a written memorandum and so we would like you to leave it with us. Highlight only the important areas Bwana Moses.

**Moses Kawai:** Commissioners, my name is Moses Kawai from Laiyan meeting of Vokoli Friends Church. We tried to answer all questions in your booklet. They were almost 200 questions,

**Com. Phoebe Asiyo:** No, don't answer those questions. They were only meant into thinking and we do not expect you to answer in any one of them. Just make a presentation regarding some of those issues – they were not exhaustive, there were others that may be yourselves had priority over and therefore you don't (inaudible)

**Moses Kawai:** Okay. We tried to answer all of them but, because of time limit, I will emphasize on about four topics. This Constitution was said to be people driven and we added the fact that it should also be economy driven. I have two points in the economy side. In the Constitution or in the questionnaire booklet, there was a question on omissions. Others specified and so I have picked up two other omissions. The first one is the water supply and irrigation commission. We found this to be every important because we do not see the reason why.....

**Com. Phoebe Asiyu:** You know, the bell will go before you tell us what you want to say. Don't give us the reasons, those reasons are not to be known by the Kenyans. Just make your recommendations.

**Moses Kavai:** We have recommended to have a water supply and irrigation commission so that this commission will take care of there is enough water as they nepotoserve wananchi all other the country. Kenya has a lot of water and .....

**Com. Phoebe Asiyu:** Mzee.... You are going to finish your time explaining all old viewers views. We want you to give us your thought on new things..

**Moses Kavai:** That is the first one and the second one we also recommended that we should have Industrial Development Commission which will include the services of Kenya. The next proposal is on parliamentary process. We have set it that one chamber – Legislature - and we have suggested that those who do not qualify to become members of parliament who have been undergoing language tests should also be subjected to aptitude tests including knowledge of applied economics because parliamentarians appear to be .....okay.

The fourth one is about freedom of worship. We have the freedom of worship but it appears as if some religious denominations are abusing that freedom which is.....

**Com. Phoebe Asiyu:** (inaudible)

**Moses Kavai:** Yeah, it takes long to register new churches

**Com. Phoebe Asiyu:** (inaudible)

**Moses Kavai:** It should be shorter especially for long established societies. I will end there and if you have questions you can ask so that I can elaborate on that.

**Com. Phoebe Asiyu:** Thank you very much Mr. Kavai. I know that in that document you have made many more recommendations that you are not able to tell us but they will go into the computer and we will look at them and analyze them I do not have a question for you but I believe Kavetsa has.

**Com. Adagala:** On freedom of worship which is probably the highest freedom here, the people are saying that there are too many churches, they are confused just like they are confused by the political parties which are too many. What is your comment on that? Also, people are saying the churches make a lot of money and they should be paying taxes. Other people are saying that the government should pay a tithe to the churches. Let us hear your view on that.

**Moses Kavai:** On the first question of having too many churches, it is true but then there should be a limit on the number of churches we should authorize to operate in this country because of late there is mushrooming of churches which we do not know their aims. They keep on running on the streets and I think those who preach on the streets are common although they move about with bibles in their hands – they should be licensed before they do that.

I would recommend that the churches responsible for outreach preachings, should present the names of those preachers to the DC who should give a copy to the police who should patrol and make sure that those preaching on the streets are licensed to do so. Old churches like Catholic, Muslim, Friends Church, PAG, and Salvation Army are the ones I say they are registration for extension should be almost automatic because the activities are well known by the government.

About paying taxes, these are known profit making organizations and the little money they make is used to run their activities. I do not see why they should pay tax. They should be tax exempted.

**Com. Adagala:** They are tax exempted because the Constitution says so. In the new Constitution we have to think that there can be a change – I am just alerting you that there can be change because people are saying that you make a lot of money and you should account for that money because it is not accountable even if you are tax exempted.

**Moses Kavai:** They should continue to exempt them because some churches do not realize much money. May be you would classify them and those which make profits can pay some tax while those which do not make profits should continue to be exempted. (Inaudible). Fungu la kumi liendeleo kwa sababu.....

**Com. Adagala:** (Inaudible). It is okay.

**Com. Phoebe Asiyo:** Thank you very much Bwana Moses Kavai,

**Moses Kavai:** Thank you very much.

**Com. Phoebe Asiyo:** But then uache hiyo karatsi nasi na uweke sahihi kwa register yetu na tutafurahi sana kwa kuwa tungetaka kutoa hayo maoni muhimu. Sasa tunamtaka Major Lusani na atafuatwa na Maleya Robert – Bwana Robert anaitwaje kwa jina lingine? Maleya Robert. Haya, Major Lusani, sema majinayako kamili halafu uendeleo na tafadhali usisome hiyo memorandum, ongea tu juu yake halafu upeane kwa maana una na nafasi fupi sana ya kuongea.

**Major John Lusani:** My name is Major John Lusani. I am presenting my views on central government.

- We want one Head of State and a Vice President and we should not have constituencies.
- The central government has a lot of workers; some which should be deleted.

- We should have Provincial Commissioner, District Commissioners, DO's or constituency representatives and chiefs for local areas those that are effective.
- The powers should be decentralized for quick attention and action and for easy administration.
- Government servants should be transferable after a period of two years or so.
- Police; we feel the traffic police should be withdrawn from the roads because they are encouraging corruption and instead we introduce highway patrol police who have a vehicle to run the highways. The national police, many of them oppress the small people. They encourage bribery and they free the culprits instead of keeping them.
- In agriculture, land ownership – mostly the only asset of the common man is land. it provides for the entire family and provides stability to the country. The fear is, most Kenyans fear grabbers who grab individual property and even State property as well as parastatals.

**Com. Phoebe Asiyo:** What is your recommendation?

**Major John Lusanji:** My recommendation is that the fee placed on title deeds should be lowered so that everybody gets his title deed quickly and easily.

Succession: Economically, most Kenyan owners commoners have not taken their title deeds because of going to court to accuse the dead so that that process is slow and cumbersome.

Sale and buying of land:

**Com. Phoebe Asiyo:** What do you think we should do about this suing the dead? What is your recommendation?

**Major John Lusanji:** My recommendation is the local people should be given the opportunity to finish that (inaudible)

**Com. Phoebe Asiyo:** But you are again suggesting that local (inaudible)?

**Major John Lusanji:** Yes. Sale and buying of land: To encourage Kenyans to have homes, people must be encouraged to buy and sell land and plots. The fee should be made attractive and easy.

Farming: The nation is well fed when there is good farming. Could the government encourage large production of food, the law should look into: Ploughing, price of seeds, price of fertilizers, price of fuels and price of farm implements. This will encourage farmers to produce more food in the country.

Transport: Roads are very important in a country and it should be the responsibility of the central government to build roads and bridges and repair them as well. Vehicles should only pay two charges: insurance and road licence. The other stickers and TLBs on matatus and other pick-ups, I suggest should be deleted – they are unnecessary.

Communication: Vehicles of communication, radios, telephones.....sorry?

**Com. Phoebe Asiyu:** (inaudible)

**Major John Lesanji:** On communication, I wanted Kenyans to acquire vehicles of communication easily.

**Com. Phoebe Asiyu:** Which vehicles are referring?

**Major John Lesanji:** Vehicles of communication, the radio, the TV, the car.

**Com. Phoebe Asiyu:** So, what are you saying about them?

**Major John Lesanji:** The levy that is – the tax .....

**Com. Phoebe Asiyu:** You want taxes.....

**Major John Lesanji:** It is too high.

**Com. Phoebe Asiyu:** Okay. Thank you.

**Major John Lusanji:** Because I come from the church, can I finish with the church items?

**Com. Phoebe Asiyu:** (inaudible)

**Major John Lusanji:** The church should not be separated from the central government and for this reason, we want the government to appoint a minister in charge of the religious affairs in the country to coordinate the work of the churches and the work of the government.

**Com. Phoebe Asiyu:** Thank you very much Mr. Lusanji for that presentation. Please do leave your documents with us and sign the register. While Mr. Lusanji signs the register, we will now have Malenya Robert, is it Malenya? Maleya, okay you can repeat that name when you start making your statements and please be brief otherwise we will not cover all that we want together because we do not have a written document.

**Robert Maleaya:** I am Maleya Robert and I want to present my views. The first area I want to talk about is tribalism. I am proposing the we should do away with tribal names like Luhyas, Kikuyus, Luos and people be referred to by the names of their



regions like people from the Western Province, people from Western area, people from Central area, Nairobi area and so on.

Secondly, I want to talk about political parties which in this country have become property of the individuals and I am proposing that the Constitution should regulate political parties. They should hold their elections on time and any party that cannot hold elections should be deregistered. The State should also fund political parties as per the number of MPs the party has in parliament. For example, we can say that every MP in parliament to be given 5 million. So if a party has 100 MPs it will have a cool billion shillings every year.

**Com. Phoebe Asiyo:** What are you saying? You are recommending that MPs should be given 5 million shillings?

**Robert Maleya:** No, I am saying that the State should fund political parties as per the number of MPs.

**Com. Phoebe Asiyo:** The political parties?

**Robert Maleya:** Yes, as per the number of MPs the party has in parliament.

**Com. Adagala:** But I am saying that if a party has 2 MPs in parliament, then the party can be given may be 10 million per year.

**Com. Phoebe Asiyo:** To do what with the money?

**Robert Maleya:** To fund its activities. Then we have.....

**Com. Phoebe Asiyo:** That one is called Pro rata.

**Robert Maleya:** Okay.

**Com. Phoebe Asiyo:** Yeah, in the language so that it can be easier for pro rata say their rates.

**Robert Maleya:** I am also saying that the number of political parties should not be regulated. Let people form parties, let them die while others come up so that we can have democracy in the country. On parliament, I am saying that parliament should be able to vet executive appointments so that we should have competent people holding ministries and also holding senior positions in the government. Therefore, MPs should be qualified people, an MP should have a post secondary school certificate. He should be a form leaver and then he should have gone for training in an area.

I am also proposing that we should reduce the number of years for parliamentary elections. We should have elections after

every 3 years instead of 5 years so that we can be able to do away with MPs who are ineffective. I am also proposing a two-chambered House of parliament where we should have House of Representatives from constituencies in the country, then the Senate which should have one MP from every district in this country.

The President should not have powers to dissolve parliament. Parliament should its own calendar and people should know when we are going to have elections, which month, which year so that we should not have a case whereby elections are being used as a weapon of surprise to people. Ministers should not be MPs. If an MP becomes a Minister, he should resign and let us have a bi-election so that people can have their representatives. Ministers should work for the government and therefore MPs should be peoples' representatives in parliament.

Also, when it comes to Electoral process, we should have transparent boxes, counting should be done in the polling stations so that we should not have this case whereby boxes are thrown in the bushes. People should be allowed to switch parties any time they want; it is like voting. You vote for this people this year, next time you vote for a different one. So, you should also be able to switch to the party you want to use to go to parliament.

Lastly, I must say that we should also have what I want to call a 'war council'. When the country is at war, it should not in the power of the President to declare war. We should have people who are supposed to discuss. These are people the President, the prime minister, the Speaker, the Commander-in-Chief of the General Service who can discuss when a war is declared against any other country. Thank you very much.

**Com. Phoebe Asiyo:** I have just one question for you. You have suggested that members of parliament should be elected after every 3 years in order to defeat those who do not perform well. Could you first it the other way round by may be suggesting that members who so not perform be recalled by the people and them a procedure can be worked out because elections after every three years would keep people on their toes all the time campaigning and they might not settle long enough before they are see their work. Would a law of recall – the rule for recalling non performing members or councilors be a better way of solving this problem?

**Robert Maleya:** I would like to believe that in Kenya currently, the law of recalling MPs, most of the Kenyan electorates are somehow not informed and thus it is going to be very cumbersome to get people seeking chairs to recall their MPs – it can even two years. So, I believe that if they want to take it for three years, these MPs who go to parliament to get wealth, they go there for years to acquire and then come back to bribe us with umbrellas and T-shirts. We are going to be very effective because it is not that every time they are supposed to be coming back to take care of their people

**Com. Ida Salim:** I just wondered how would you decide that this or that MP is not to (inaudible) performing well? Is it on the number of the motions you are giving before parliament; is it on the basis of the number of times interviews take part in debate?

Do you feel that we can get a practical mechanism to decide a yard stick of so to decide that this MP is reported performing well or is not performing well? Have you have any thoughts on that.

**Robert Maleya:** Yeah, there are number of ways in which the people can tell whether an MP effective or not. For example, there are MPs who are elected and they vanish to Nairobi for 5 years – they never appear in their constituencies and so it is very hard in touch with them.

**Com Ida Salim:** But they may be in Nairobi but working hard in parliament. They may be visiting the constituency they present.

**Robert Maleya:** Yeah, what I am saying is that one way or .....

**Com. Ida Salim:** But they may be in Nairobi and working in parliament. Would that be an ineffective MP just because he does not visit his constituency?

**Robert Maleya:** Now, what I am saying is that there are several ways; that's one way. Then another way you can look at the participation in the National debate in parliament and if an MP stays in Nairobi and you can read about him in the newspaper, listen to him over the radio and o so on. You can be very effective but an MP who is not heard in his home area or anywhere over the radio and so on, you will know that such like MP is not effective.

**Com. Adagala:** On your first submission that we should do away with tribal names – first of all the word doesn't apply because we are not tribes. Tribes are a bunch of savages led by a savagee. So, the word tribe doesn't really apply to Kenyan people. This is a nation and nationalities which were there before. But, my question is, people are asking for entrenchment of their cultures in the Constitution, entrenchment of their languages in the Constitution, entrenchment of their customary law in the Constitution. How do we do that and you know one of our mandates is to devolve i.e. to come down to the grassroots where before we are all trying to elate and be part of but now it is devolved and recognized the grassroots and the people who live there. I wonder how you would handle this.

**Robert Maleya:** You know, doing away with tribal names or our community names does not mean we are Kenyan communities. We can use other ways to refer to communities and as I have said you can talk about the people of Western region which is the same thing as a community but you are less doing away with Luhya as a term defining the same people. But we are going to come to culture and language. Language remains and the way they do their own things remains.

**Com. Adagala:** Are we also do away with the word English because it is English people? These are identities and they are very complex. We may have negative connotations and negative political activity going on but people have now come down to

their basic identity, their cultural identity. So, if we do away with the names, then we also do away with the English – I don't know what we will call it – we will call it the people of England and the language of England and England is 'Eng' – the land of the 'Eng'. So, what do we do? You see, you are dealing with a perverted situation and you want to throw out the baby with the bath water.

**Robert Maleya:** What I am saying is.....

**Com. Adagala:** Let's get rid of the dirt but find a way of retaining the baby.

**Robert Maleya:** I can give an example, take a case of a Kamba woman who is married in Maragoli land and she can speak Kimaragoli, she can take a part in the culture of the Maragoli kind. Can you say that such a woman is a Maragoli?

**Com. Adagala:** Well, we appreciate your views but we know that tradition sits very close to people's heart because that is how they are labeled to distinguish themselves and it will take many more years before you can convince a Maragoli that they are no longer Maragoli but they are people from Western Province. Thank you for those views. Can we now have Mr. Kenneth Gulavi. Kenneth, hebu fika hapa mbele uongee, naona tayari umeandika maoni yako ambayo utatuachia na kwa hivyo utaongea kwa muda mfupi na tutakupigia kengele ukiendelea zaidi na tafadhali kengele ikilia, tuache kuongea kwa maana kuna watu wengi wanejaza hall hii na wanataka kuongea pia. Endelea Bwana Kenneth na uanze kwa jina lako.

**Kenneth Gulavi:** My names are Kenneth Gulavi. My proposals are as follows:

- The new Constitution should be written in simple English and Kiswahili
- On work, we should have one man-one job. Also, those who have retired should not be appointed to do other work.

NB: Incase of professional that should be accepted.

**Com. Phoebe Asiyo:** One man- one job; women should not get any jobs?

**Kenneth Gulavi:** What I mean by one man-one job in Kenya for instance.....

**Com. Phoebe Asiyo:** No, I want to know, should women get any jobs?

**Kenneth Gulavi:** I mean, by this point I mean that in Kenya now the.....

**Com. Phoebe Asiyo:** (inaudible)

**Kenneth Gulavi:** Yeah. On the Attorney General and the judges, they should be appointed by one man, instead they should

be appointed by the parliament so that they can deliver their services fairly. Some cases in Kenya are in a marathon style. So, we should have a limit period and after that the government should intervene to make the judgment. This is to say that people with money can keep on holding cases to buy time.

In the new Constitution, nobody should be above the law. On Police, police harassment is still going on. So, we should have offices in the regions whereby people should report the cases of police harassment.

On political parties, any member who wants to cross to the other party should be made to resign first instead of just closing and betraying the people who voted him or her in. The Head of State should not misuse government funds on his or her private visits. In Kenya, something should be done in security because we are having insecurity in Kenya. So, Armed Forces should be deployed in hostile zones for security purposes.

On broadcasting, other agents of broadcasting should be given mandate to enjoy air space so that Kenya should decide on which station to listen to. In Kenya now, there is no justice for the poor. So, we should have lawyers who should cater for the poor people. In each region, we should have a team of indigenous people who should keep an eye on natural resources so that they cannot be exploited by grabbers e.g. Maragoli forest. The government should give tender to the agencies on road construction and maintenance and the government should just act as watchdogs to see that all is well.

Land cases should not be taken to court but should be given to the local Land Boards since they are the ones who know the cases well. The government should just act or implement or act as a Watchdog.

The freedom of worship law should be reviewed because it has been misused. So, we should have a team of clans men who should monitor that movements or the activities so that we should avoid the cases of false churches and devil worshipping.

We should have free medical care at clinical levels because of the poverty level in Kenya. The government should decentralize all services to the district level instead of people traveling to the central area for example in Nairobi for the same service.

The majimbo system should not be encouraged in Kenya since at the moment not all provinces have developed equally; they still depend on others. So, when this is put it will bring a lot of problems. I will just end – the government should make good environment to attract investors in the country to improve the economy of Kenya. An MP should have two terms only if he or she has been elected consequently, then he should be put on pension to avoid those MPs who make the seat as a (inaudible). Prisons should be termed as rehabilitation centre so that the victims can get skills according to the education.

**Com. Phoebe Asiyo:** Kenneth, you have already had your bell-ring so you cannot go on. Fortunately I have written all those views very well in the document. Please just them over and sign our register. In the mean time, let's see if there are questions that you (inaudible)

**Kenneth Gulavi:** Will you allow me to finish just one? One point?

**Com. Phoebe Asiyu:** You need to organize yourself and decide what is important in your written memorandum. And everybody else, ujitarishe ili ukija hapa unachagua yale mambo muhimu ili tuwe na nafasi. Ona hawa watu wote? You said the Constitution should be in English and Kiswahili, you do not want the Constitution in Kimaragoli?

**Kenneth Gulavi:** No.

**Com. Adagala:** Why?

**Kenneth Gulavi:** People are now getting civilized although I do not rule that out. What I mean is that we should have a Constitution in simple national language but I do not rule out the ethnic language.

**Com. Adagala:** I am telling you with the Constitution you have to say clearly.

**Kenneth Gulavi:** What I mean is that .....

**Com. Adagala:** Before the commission you have to say clear things. If you start calling Maragoli uncivilized you are in problems.

**Kenneth Gulavi:** I am saying that I do not mean that they are important. What I mean is that people nowadays have got some education and so if the new Constitution could be in simple English or Kiswahili, it would be simply understood than when it is written in those jargons.

**Com. Adagala:** Now you are insulting the Maragoli people before the commission. You are really insulting the Maragoli people and I don't know if you are aware of it. Secondly, the issue of unequal development. The reason why we have unequal development is because of the unitary system because money is allocated for a role and then even the money is taken by somebody because he is so far away or that road is moved somewhere else. Don't we have roads here which have moved?

**Interjection:** Yes

**Com. Adagala:** And they are supposed to have been .....because of the unitary system. The system is too far away and there is a way in which (inaudible) – so some areas are more developed than others, then they say they should go on like that but if we clearly now have money that has been allocated or people have their money from their own resources, they develop their own infrastructure and their own development and then they give a percentage to the central government so that

they participate, they make decisions and they benefit. That is what we really don't get now and even you will agree the government is too far, okay.

**Kenneth Gulavi:** What I mean is that people may misuse this majimbo system.

**Com. Adagala:** What is they don't misuse it?

**Com. Phoebe Asiyo:** Thank you very much Mr. Kenneth Gulavi for those presentations. Please, register them with us – deposit them with us and also sign our register before you move out. Allow me to call upon Bwana Moses Mutila (inaudible) to come over and make his presentation. I believe you have a written presentation so that you should be able to make them in time and also give us some time to ask you some questions. Hebu kaa chini halafu utueleze, kwanza anza na jina lako na utupatie nafasi ya kukuuliza maswali pia.

**Moses Mutila:** Asante kwa wale wenye katiba wote walio hapa na wote ambao wamekuja hapa kusikiza yote. Kwa jina naitwa Moses Mutila na nitazungumza kwa Kiswahili. Nitaongea mambo kama haya kwa vile ma-assistant chiefs ama pengine ma-chiefs wawe wakichaguliwa kwa njia ya mlolongo ili kwamba waweze kujulikana na wale ambao wanaakilisha katika mitaa yao.

La pili, ningependa katiba yetu ichukue hatua ya kwamba wale ambao wanaaga dunia, wasiwe wakiwekwa katika paa zao za nyumba mbali tuwe na hifadhi nzuri ambapo wanaweza kuwekwa na baadaye wanaweza kutolewa huko wakienda kuwekwa mahali ambapo wanatakiwa kuwekwa.

La tatu, ningependa katiba yetu ichukue hatua ili wale watoto wetu ambao wako primary school wafanye jitihada ili wawe wakiingia kwa shule .....

**Com. Phoebe Asiyo:** Pendekeza tu juu ya shule tafadhali.

**Moses Mutila:** Wawe wakienda shuleni na wapunguziwe malipo ili watoto waweze kuendelea na masomo yao. La nne, ningependa mambo ya mashamba yetu yaweze kutatuliwa na wazee wa hapa mitaani wala sio kuenda kila wakati kortini mtu anapoaga dunia. La mwisho, ningependa katiba yetu iweze kutuchukulia ili wale ambao wanatafuta kazi ambao wanalipwa kwa viwango vya chini waweze kuwafikiria ili waweze kusema malipo yao kikamilifu kwa maana wakienda mahali, unaweza kuta mtu analipwa shilingi ishirini na anafanya kazi mchana kutwa. Hayo yote yanatuhusu. Ni hayo tu na nimemaliza.

**Com. Phoebe Asiyo:** Asante sana Bwana Moses Mutila, nafikiri ni hayo tu ulikuwa unataka kutueleza.

**Moses Mutila:** Ni hayo tu.

**Com. Phoebe Asiyo:** Asante sana. Kitu ambacho nataka utueleze vizuri zaidi ni juu ya mambo ya land – udongo. Umesema kwamba mambo ya udongo.....

**Moses Mutila:** Iwekwe karibu na.....

**Com. Phoebe Asiyo:** Itazamiwe na watu ambao wanajua mambo .....

**Moses Mutila:** Ya nyumbani.

**Com. Phoebe Asiyo:** Hao watu, ungependa wawe watu kama nani?

**Moses Mutila:** Ningependa wawe kama wale wazee pamoja na wawe mchanganyiko na wazee wa kanisa ama wazee wa mitaa ambao (inaudible)

**Com. Phoebe Asiyo:** Wazee wa mitaa ambao wanafahamu mambo ya udongo na wawe ni wazee wanaume na wanawake, si ni hivyo?

**Moses Mutila:** Ndio hivyo.

**Com. Phoebe Asiyo:** Tumeshukuru sana na kama hakuna swala lingine tafadhali fika pale mbele uandike jina lako kwa register yetu Bwana Mutila. Sasa ningependa kumuita Bwana Hamisi Suba kama yuko karibu kwa maana hasikii vizuri atupatie maoni yake ndio tumpe nafasi ya kuenda kuona daktari au kurudi nyumbani. Bwana Hamisi, tafadhali chukua mahali pale ili utuleze maoni kwa dadika tano tu na kama umeandika, just give us the highlights of your presentation. Thank you.

**Alfred Suba Hamisi:** My name is Alfred Suba Hamisi. Thank you very much Madam Chairperson. I will not go into details because I have prepared a memo. The first thing which I want to emphasize is the preamble. We must have a Constitution which has a preamble. I do not want to go into details because you are the experts and you can work out, analyze, look at countries like the Nordic countries and you will come up with a very good preamble. The reason why I am saying so Madam Chairperson is because we have been made to believe that this new Constitution is going to be people offending – it will belong to the people. But, I am personally afraid that the people may be abandoned the way they have been abandoned before. And therefore, to ensure that the Constitution (inaudible) belongs to the people, the preamble should start by the word, ‘We the people of Kenya bla bla bla’. It should be seen to belong to the people.



The second point which I wish to emphasize and it has got a relationship with the Constitution belonging to the people is separation of power. Currently, the emphasize seems to feel that the legislature, the judiciary and the Executive are the three arms of the government. I want to record my soul objection to that sort of (inaudible). The arrangement should be the separation of power should consist of the people, the Legislature, the Judiciary and the Executive and the people should always be seen to be supreme. That is why I said this has got a relationship with the preamble. Sometimes, people may think that the preamble is just simple; no, it has got a connection and a segregation of power in this new Constitution where we should be seeing the people are in action and all the Constitutions and their acting also protecting the Constitution. so, separation of power is a very important thing if you need to do that by marginalizing the people, then we shall not accept your Constitution.

**Com. Phoebe Asiyo:** Hamisi, I don't intend to interrupt you but my fear is that you might miss out on some important issue you may want raise. So, if you (inaudible) of explaining why we would curb a lot of (inaudible). Just go ahead.

**Alfred Suba Hamisi:** Thank you Madam. Infact I am just to finish because everything is here. the only thing which I would request is an assurance that those of us who are submitting written memos, they are going to be read and everything considered.

If that is the case, then there is no need for me to waste a lot of time, except Madam Chair, I heard earlier on (inaudible) that the chair has very strong opinions about affirmative action as regards women. I seem to differ and I seem to support the view that has been expressed that women are equal to men. They should be given the opportunity. The mechanism should be such that women are allowed full participation in the affairs of this country. Affirmative action per se is discriminatory to discriminate against men. Can you.....

**Com. Phoebe Asiyo:** .....(inaudible) views of my own. I asked the lady who gave that presentation whether she felt that affirmative action should apply to the disabled and to the youth. I did not refer to the women.

**Alfred Suba Hamisi:** The other point I want to make quickly is that in Kenya, we fear the President and it is that fear which has ruined our country. And thus, the new Constitution should ensure that the powers of the President are pruned completely. I am still emphasizing that the powers of this country should return where they belong; they belong to the people. We do not want demigods in this country and this Constitution should demulsify the presidency. If you excuse to make one point on natural resources. Sometimes, I feel very sad when we have River Nile – I used to live in Cairo and I used to enjoy the waters of the River Nile going on a boat and I used to wonder, 'why is a desert so beautiful and in my country where the water is coming from, nobody is enjoying it'. I think we should look at our natural resources carefully and perhaps in the Constitution we should provide that the East African countries; Tanzania, Uganda and Kenya should renegotiate the use of the waters of the Nile instead of living a colonial sort of agreement signed between the British and the Egyptian government to manage our resources. This is a very serious matter and I hope the Constitution will do justice to that.

Otherwise, I have a lot of things to say here and I will leave it to you to say.

**Com. Phoebe Asiyo:** Thank you very much Mr. Hamisi for very vivid and useful presentation that you have made to this commission. I know there are a few questions we would like to ask you. So, please if you can continue sitting, Mr. Hamisi, we have a few questions for you and Kavetsa will start us off.

**Com. Adagala:** Thank you. On the River waters treaty of 1928, that is the one you are referring to and I am glad you have mentioned it because one of the reasons why we do not have dams on our rivers is because we cannot do it without permission from Egypt. Sondu Mirie had to get permission from Egypt. So, the people of Nyanza said we are actually living under Egyptian colonialism. But, ours is even more important. The rain like the one which fell the other day is what makes the Nile but our environment – I don't know if you have any suggestions on the environment and the rivers which have dried because of population pressure. Really, there should be something that Egypt should be about – if we negotiate, I wonder if you could think through on pressure on land and also perhaps they should be funding the environment here – I do not know.

Then the other one – but thank you very much for bringing that up – it is a very important point. The other one is, if we ensure in our (inaudible) that we prune the powers of the President completely, which means the President will not have any powers, is there a reason to have a President? Why should someone campaign? Why should we have – because you said completely which means?

Let me finish – affirmative action needn't be between men and women if boys and girls are brought up the same and probably I think your people are speaking to our society here where actually boys and girls are more or less brought up the same. But, we must ensure that boys and girls have the same rights, have the same opportunities. You don't send your daughter to get married so that you can get school fees – so you can get cows to sell to pay school fees for your son. That is really double jeopardy and it is why we end up with affirmative action in adulthood. But, the same with the people with special abilities – what we call disabled – they need to be treated the same way, the youth need to be empowered from youth because they suffer a lot from being oppressed by the older people. So, they must have their rights on the beginning and affirmative action in adulthood will disappear.

Then, thank you very much for putting the four arms of the government with the people although we all say it but your emphasis has really highlighted and we have a task force on the preamble on the constitutive powers – perhaps you could even help us draft some things on that. Thank you very much. Do you want to respond?

**Alfred Suba Hamisi:** Can I make a comment on the pruning? I think the word 'pruning completely' was a point of emphasis.

We should look at it from the point of view of balancing the separation of powers – to balance those powers. And I think I balancing we should not forget the people. I have talked about the issue of when you give job descriptions for each power; Judiciary, Legislature, Executive, what will be the duty of the people? And I have said that one of the duties of the people is to

do elections and referendums and I have suggested that a member of parliament who is incompetent – who is not seen in his constituency – who is not working should be recalled and the people should exercise their powers there.

**Com. Phoebe Asiyo:** Thank you very much. I think that is now very well understood I was just wondering whether you will spare sometime to give some thought – may be not now – on the preamble. If you put it in that document, that is good and I want to assure you that we will use every word in that document. We will put it in the computer, analyze it and combine it with other presentations. But if you have not done so, please give us some idea about what should go into the preamble – not now, but when you have time and you can submit it to us.

**Alfred Suba Hamisi:** Thank you.

**Com. Phoebe Asiyo:** Thank you so much Mzee Hamisi, we really appreciate your concern and your coming over to give us those very enlightened presentations. I believe Professor has a question.

**Com. Ida Salim:** There is no so much a question as also repeating our appreciation for your coming as we understand that you are not feeling well but despite that you have come. We appreciate that and wish you a very quick recovery.

**Com. Phoebe Asiyo:** Thank you. If you could kindly now sign our register and also deposit your presentation with our office. Thank you. Sasa ningependa kumwalika Bwana Francis Mugebe, tafadhali fika hapa mbele na ufanye presentation yako kwa dadika tano au chini ya tano na uweke sahihi kwa kitabu chetu. Jaribu kutembea kwama mwanaume haraka haraka na kukaa chini halafu utoe maoni yako. Chukua microphone, useme jina lako na unataka kuongea kwa Kimaragoli au kwa Kiswahili au Kizungu.

**Francis Mugebe:** Nitazungumza Kimaragoli.

**Com. Phoebe Asiyo:** Na unasema Kiswahili vizuri. Kwa nini unataka kupoteza wakati wako kwa maana bado una dakika tano tu. Yule ambaye anatafsiri atatumia 2 ½ minutes na wewe utatumia 2 ½ minutes.

**Francis Mugebe:** Okay, wacha nizungumze Kiswahili.

**Com. Phoebe Asiyo:** Haya, asante.

**Francis Mugebe:** Kwa jina naitwa Francis Mugebe. Kwa maoni yangu, ningependa hii katiba ichukue ya kwamba kwa upande wa serikali ningependa kwanza administration iwe ni wazee wa mtaa wanafanya kazi ili wapate mshahara kwa sababu hao ndio wako na kazi nyingi sana.

**Com. Phoebe Asiyo:** Kwa hivyo hautaki chiefs and assistants, unataka wazee peke yao.

**Francis Mugebe:** Madaraka ya chief yanaweza kupunguzwa kwa sababu inaoneka assistant chief na wazee wa mtaa ndio wana kazi nyingi sana. Kwa hivyo, ningependa wazee wa mtaa waajiriwe na wawe kwa pay roll ama kwa list ya serikali ya kupata mshahara.

Jambo lingine, ningependa kusema ya kwamba serikali ama hasa administration police huwa wanasumbua watu wetu sana kama wamesahau kazi yao ama wamesahau kazi ingine.....

**Com. Phoebe Asiyo:** Usitueleze hiyo kwani tunajua kwamba wengine wamesahau, tuambie ungetaka tufanye namna gani nao.

**Francis Mugebe:** Ningependa katiba ichukulie ya kwamba mtu wa kufuata pombe kwa vichaka – pombe irudishwe kwa market ama vilabu virudishwe ama chang'aa itengenezewe factory na busaa irudishwe.

**Com. Phoebe Asiyo:** Tafadhali, hayo ni maoni ya Bwana Francis Mugebe, mwachieni nafasi kwa maana mkiongea au kucheka hii machine haiwezi kupokea hayo maoni yake kwa njia ya usafi. Kwa hivyo, tumpe nafasi.

**Francis Mugebe:** Kwa upande wa hospitali, ningependa iwe ya bure kwa vile wengine wetu ambao hatujiwezi hatuwezi kugharamia gharama za hospitali. Malipo ya hospitali yapunguzwe ama kama lazima yalipwe, madawa yanunuliwe lakini gharama ipunguzwe kwa sababu wengine wetu hatuwezi kulipa gharama inayotakikana kama shilingi elfu moja, mia moja au mia mbili hivi. Afadhali ipunguzwe iwe kama shilingi tano au kumi hivi.

Kwa upande wa shule, tafadhali, ningependa hii katiba ichukulie ya kwamba shule zirudishwe school fees ama wengine wetu tunaweza ku-buy na kuuza kuku shilingi mia mbili na tulipe shilingi mia nne kwa shule na serikali iwe ikipatia watoto free exercise books.

Kwa upande wa siasa ningependa katiba ichukulie ya kwamba siku ya kupiga kura eti unapigia councilor, MP na President kwa siku moja, naona kwamba ni kitu ambacho kinaweza kumaliza – kama sisi wakati wetu.....

**Com. Phoebe Asiyo:** Kwa hivyo unapendekeza namna gani?

**Francis Megebe:** Napendekeza ya kwamba kura zipigwe kwa councilor kwanza halafu baada ya siku mbili, ya MP ifuate halafu President awe wa mwisho.

**Com. Phoebe Asiyo:** Na wale wanatoka kwa ma-town kuja kupiga kura nyumbani watakaa huko nyumbani siku hizo zote wakingojea kupiga kura?

**Francis Megebe:** Wanaweza kupewa likizo yao ya kupiga kura (inaudible) ama town. Kwa upande wa mashamba, ningependekeza ya kwamba tuko kwa wakati ambao, kwa mfano mzee wangu akifa na hajanipatia number ama title deed ya shamba, inaoneka kwamba nichukue ID yake na death certificate niende nazo nikamshtaki na nichukue barua kwa chief au kwa sub chief. Ningependekeza ya kwamba hicho kitu kiwe kikichukuliwa kwa DO badala ya kuenda kortini, unaenda kwa chief na wengine wetu hatujiwezi kwa sababu ya gharama kubwa na wengine wetu hawana mapato.

**Com. Phoebe Asiyu:** Kwa hivyo unataka namna gani?

**Francis Mugebe:** Nataka kwa upande wa shamba, mtu akitaka kupewa title deed aje karibu kwa DO kama ana death certificate na ID ya yule aliyeaga.

**Com. Phoebe Asiyu:** Na wazee wa nyumbani watengeneze hayo mambo?

**Francis Mugebe:** Wazee wa nyumbani huwa wanakaa pamoja na DO, kitu kama Board.

**Com. Phoebe Asiyu:** Okay. Tupe ya mwisho kabisa sasa.

**Francis Mugebe:** Kwa upande wa kazi, tuna watu wengine ambao wanajisikia sana kwa upande huu. Afadhali mtu akienda retire asirudishwe kazini. Unaweza sikia kwamba mtu alikuwa major na tena achaguliwe kuwa Managing Director. Kwa hivyo, ningependekeza kwamba ikiwa mtu ameenda retire aende straight nyumbani ili watoto ambao tumesomesha waende kwa hiyo kazi ambayo wanachaguliwa kama Managing Director kwa sababu tuna watoto ambao tumefikisha university na hawana kazi ila wanakaa tu na serikali inatwambia kwamba waende wafanye jua kali ile hali yule mtu ambaye alidai kazi ndiye Managing Director. Sina mengi ni hayo tu ambayo ningependa kusema.

**Com. Phoebe Asiyu:** Hiyo ndio ilikuwa ya mwisho na tumeshukuru sana kwa maoni yako. tafadhali, mimi sina maswali yoyote kwako. Pengine unaweza kuenda pale na kuweka sahihi kwa register yetu.

**Francis Mugebe:** Okay.

**Com. Phoebe Asiyu:** Tumeshukuru sana. Bwana Jackson Muhini, una memorandum na kwa hivyo tunakupa dakika tano tu kwani tuko na watu wengi na sasa itabidi tuanze kupeana dakika chache kwa kila mtu kwa maana kuna watu wengi sana ambao wanataka kuongea. Na useme kwa uchache lakini utaje mambo muhimu hapa na pale kwa hayo maoni yako.

**Jackson Muhindi:** Constitution, I am Jackson Muhindi. My first point is that we need a preamble with a vision of God-fearing, peace, love and unity to be implemented in the Constitution.

- Being an MP should be a full-time job. If he doesn't conceive what he or she promises her people, a vote of no confidence should be made after two years leading to the mission of the job.
- Conditions in the prisons should be improved and prison warders given a high wage.
- Also, police officers wages should be improved to reduce corruption.
- We should have HIV pass being given when one is 15 years old and reviewed after every five years. This pass will enable one to retain his or her state. If he or she is negative or positive, he must present the card when joining school, church or a co-operative. All HIV/Aids victims should be given free medication and expensive drugs should be made cheaper for all Kenyans.
- Our system of government is poor, corrupt and unreliable. For instance, in recruiting personnel in all sectors such as GSI, Police Forces and Administration Forces, the recruiting forces should come from outside Kenya e.g. from South Africa or Uganda because there is a lot of bribery and nepotism.
- We should have an anticorruption body fighting corruption from another country but not Kenya.
- We should have two parties in Kenya which should be easily finance and this is to avoid parties based on tribalism. All parties should have an access to mass media.

That is all.

**Com. Phoebe Asiyo:** Thank you very much Jackson for those very good ideas. What makes you feel that we should open up our security forces to the outside world to recruit forces?

**Jackson Muhindi:** You know, when someone qualifies to join - let us say the Armed Forces – his or her chances may be terminated because one has placed somebody else in his chance.

**Com. Phoebe Asiyo:** (inaudible)

**Jackson Muhindi:** Yes, there is no fairness in recruitment.

**Com. Phoebe Asiyo:** But would you not suggest the use of our local people?

**Jackson Muhindi:** No, they should not because they .....

**Com. Phoebe Asiyo:** They are all for us.

**Jackson Muhindi:** Yes.

**Com. Phoebe Asiyo:** Okay.

**Com. Adagala:** You know there are people of high integrity in this society and like even among the judges, we say the judges are corrupt but there are judges who are not corrupt. So, to open up your security to foreigners is worse than being corrupt, we become like a colony of those people – security forces. It is true there is corruption the employment but then they know your system and they are foreigners. So, let's probably also say if we don't – alternatively, people of high integrity. We know the corruption, we have seen it and we know that you are saying this out of desperation that so much goes wrong. But, let's look for those people who could do some good equipment.

**Com. Phoebe Asiyo:** Okay, thank you very much. Now you can go and sign our register, we appreciate very much those views that you have given to us. I will skip Mr. Isaack Simar for a while and ask the school for the disabled, they only have one person giving us a presentation I believe and they have done this before in other areas. So, we just want one person from the school for the deaf in sign language which will be interpreted for us by our interpreter, just one person and possibly the person who has not talked before. After that, we will give the floor to the school children who want to get back to class. There will be Pheloes Ayidi, Roseline Kandari, Hillary Omari, Noel Musanga and Branwel Kirwa and then we will go back to Mr. Isaack Simar, in that order. Please, school for the deaf, can one of you get up and the interpreter will interpret for us? Give us the name and then make the presentation. May be you should be near here; please come over so that we can see the presenter. Did you want one or two to make a presentation? Just one, okay. Please bring them over. Let him stand there and then you can present yours. But we want to see him. Why can't he turn this way (inaudible). Let him stand on that side so he can look at you and you can actually use that chair to interpret for us. Bwana interpreter, why don't you sit there and interpret what he is saying? You will be looking at him and then you interpret for us.

**Interjection:** (inaudible)

**Com. Phoebe Asiyo:** Yes, so you will need a microphone. Just sit there next to him and talk into the microphone and talk like the person talking to us. Don't repeat what you did yesterday. You can go ahead now. I think you should indicate that these are the views of a deaf school boy whom you are now recording for and then you go ahead.

**Simon Munoko:** I want to say – continue. I want to say that my parents are poor and some of them are sick and they do not have money to assist me in school. My home is also very far from school where I am learning and there are no vehicles to the school in which I am. The school is far and I am tired of walking everyday to school so, after learning and coming from school very late in the evening, it is very hard to go back home because my home is quite far. I would like to be in school, to sleep in school. There are no school exercise books in school and I am also poor and so I do not have books to write on. I have finished.

**Com. Phoebe Asiyo:** Thank you very much Simon Munoko. We would like to ask you some questions. Simon, you have

said that your parents are poor and that your school is far from where your home is and that you have no books. Can you now tell us what you would like to have. You have only told us what you do not have. Now, tell us what you think would be good for you because what would be good for you would be good for many other children that have the same condition like yours. What provision should be made for them?

**Simon Munoko:** I am trying to say that it would be good if I was in a boarding school or if a vehicle would be provided for the school it would be good to collect us. I would like the government to assist by giving us books.

**Com. Phoebe Asiyo:** Thank you very much and we appreciate your coming over to talk to us about your condition which also applies to very many other children and we will make a recommendation according to what you have told us about your condition. Thank you. Please sign our register Simon. Can we now have Philois Ayidi, from this school? Tell us your name, your class and the school from where you are coming this morning. Do we have any students from Vokoli Moi Girls High School who want to talk to us today? The names I have are from Vokoli Primary School and no names from this school which is hosting our meeting. They are registering, okay. Thank you.

**Philois Ayidi:** My names are Ayidi Philois from Vokoli Primary School My recommendations are

- The post of chiefs and assistant chiefs should be elective i.e. the people should be given the time to elect the chiefs or assistant chief who is popular and effective to the service. By election they will work efficiently knowing that they can be elected out.
- Voting age should be increased from 18 to 20 because at 18 people are still immature to elect a proper person and also many are still in school and have not yet acquired IDs. Thank you.

**Com. Phoebe Asiyo:** Thank you very much. Please sit there. Ayidi, very many people in this country are 18 and under. If you are recommending that 18 year olds should not vote, you will greatly reduce the number of those who are going to vote in our leaders. Don't you want the young people to also have a say in who will lead them in to the future.

**Philois Ayidi:** They should just let the older ones to elect for them because they go alone, they might up electing a person who is not popular.

**Com. Phoebe Asiyo:** How old are you?

**Philois Ayidi:** Thirteen.

**Com. Phoebe Asiyo:** You are thirteen, in what class?



**Philois Ayidi:** Eight.

**Com. Phoebe Asiyo:** Ayidi, what you have told us is about adults, we would like to know about children – the primary school children. Is anybody else from your school going to present?

**Philois Ayidi:** Yes.

**Com. Phoebe Asiyo:** Okay. But, are there any thoughts you have on school children or the life of children, the life at home or the life in school. Anything you think.

**Philois Ayidi:** The adults should elect the people whom they know are going to help.....

**Com. Phoebe Asiyo:** No, not election. Leave everything you have told us. We want you to tell us about your life and if there are anythings which need improvement or any problems you think we can solve but leave the .....

**Speaker:** She can't speak of anything else now.

**Com. Phoebe Asiyo:** Okay. Let me ask you a question. Do your parents have difficulty have difficulties in paying school fees?

**Philois Ayidi:** Yes.

**Com. Phoebe Asiyo:** Yeah, what would you like?

**Philois Ayidi:** Free education should be introduced in secondary schools.

**Com. Phoebe Asiyo:** In secondary where you are going?

**Philois Ayidi:** Yes.

**Com. Phoebe Asiyo:** Not in primary. That is okay. We have also seen that university students don't think about primary and secondary. They think about university. That is a good idea – wait. What about caning in schools; it's called corporal punishment.

**Philois Ayidi:** It should be stopped.

**Com. Phoebe Asiyu:** In schools.

**Com. Adagali:** You don't think students should be caned?

**Philois Ayidi:** They should be caned when they have done something that is wrong.

**Com. Phoebe Asiyu:** They should be caned?

**Philois Ayidi:** Yes.

**Com. Phoebe Asiyu:** It should be stopped or they should be caned? At first you said it should be stopped and then you said they should be caned. Make up – it is you, what do you think? It is just you.

**Philois Ayidi:** Teachers should look for another way of stopping indiscipline in schools.

**Com. Phoebe Asiyu:** Okay. Anything else about education and what you are learning? It is okay if someone else will present, may be they will present on some of these. Anything about home - in the home where you live? – young people in homes?

**Philois Ayidia:** All the school dropouts in villages should be taken back to schools because of the increase in crime rate.

**Com. Adagala:** Okay, thank you very much. You see you have your own thoughts. Thank you. We appreciate your coming and we want to tell you and all the young people here and there is a Children's Act 2001. You should get it to be in your schools so that you can read it and also this Constitution, we are making it really like you because you are the ones who will longest and when you will be 55 like me you will that you were there when the Constitution was being made here. By that time, I will be old and senile if I am alive, okay. Thank you.

**Com. Phoebe Asiyu:** Thank you very much Ayidi. Can we now have Maureen Shikachi from Vokoli Girls High school? If Maureen is not there we will go back to the primary school and that will be Roseline Kangari. Is Roslyne there? Irene is there? Why are you not coming over?

**Com. Adagala:** Maurene up up, they said not affirmative action and so you really have to be a blessing. Come here.

**Com. Phoebe Asiyu:** If it you who walks.....(inaudible).

**Com. Adagala:** Come here quickly, come come here.

**Com. Phoebe Asiyu:** Okay, Maureen now please make your presentation within five minutes and be clear in your thoughts as you make the presentation.

**Maureen Shivachi:** First and foremost, we would like the Ministry of Education to offer scholarships to students,.....

**Com. Phoebe Asiyu:** You have not told us your name so you have not made it (inaudible)

**Maureen Shivachi:** I am Maureen Shivachi.

**Com. Asiyu:** Endelea, from which school?

**Maureen Shivachi:** Moi Girls High School Vokoli.

**Com. Phoebe Asiyu:** Give us your class also.

**Maureen Shivachi:** I am in form four,

**Com. Asiyu:** How old?

**Maureen Shivachi:** I am 18 years old.

**Com. Asiyu:** Okay, endelea.

**Maureen Shivachi:** First and foremost, we would like the Ministry of Education to offer scholarships to students with high (inaudible) of education in agreement of returning to invest back in the country instead of importing expatriates which is expensive. Then, the government should build on contract when it comes to job opportunities to increase contracts when it comes to employment.

**Com. Asiyu:** You are saying the government should be at a contract?

**Maureen Shivachi:** Yeah.

**Com. Asiyu:** To do what?

**Maureen Shivachi:** If you are employing someone, you employ under contract at least to give.....

**Com. Asiyu:** Okay, the employees of the government should be under contract?

**Maureen Shivachi:** Yeah to increase.....

**Com. Asiyu:** Not permanent and pensionable?

**Maureen Shivachi:** Pardon?

**Com. Asiyu:** You want all government officers to be under contract?

**Maureen Shivachi:** Not all government officers. Even when you want to get a job somewhere (inaudible)

**Com. Asiyu:** Private?

**Maureen Shivachi:** Yeah, even if it is private.

**Com. Asiyu:** They should be under contract?

**Maureen Shivachi:** Yes, to increase high chances of (inaudible).

**Com. Asiyu:** Can I ask you why you are advocating for contracts instead of being permanent?

**Maureen Shivachi:** To increase high chances of job opportunities.

**Com. Asiyu:** To increase?

**Maureen Shivachi:** To increase high chances of job opportunities.

**Com. Asiyu:** So that when the contract ends the man goes home? His contract is not renewed?

**Maureen Shivachi:** May be apart from that you discourage someone having at least three jobs and others are yearning for that job.

**Com. Asiyu:** Okay, go ahead and give us all the views.

**Maureen Shivachi:** There should be free education for the unfortunate. We would like to know how the Constitution Review process be effective now that corruption has become part and parcel of our rampant culture.

**Com. Asiyo:** Please don't ask us, you tell us what you want us to put down in the Constitution.

**Maureen Shivachi:** In the alliances to quest for one Presidential candidate, after his term is over, he should not be offered so much. The alliance should consider the financial stability of the country and the present Kenya is poor and it is it doing that it is making more poorer. The government should establish more school especially in areas that do not have and the ratio of schools i.e. boys to girls should be considerable and not having boys schools being more or girls schools being more; we should have an average so that we do not have cases whereby some students are not included or have not been selected in secondary schools. They are first but they have no space. So, we should have that ratio.

Then, almost similar to a point I have said earlier that the government should try and develop the undeveloped areas of this country and not develop the already developed. Thank you.

**Com. Asiyo:** Thank you. I have a question for you. You said something about political alliances but I did not get you quite clearly. Can you expound?

**Maureen Shivachi:** In the alliances we are requesting for one Presidential candidate.

**Com. Asiyo:** Which alliances are you talking about?

**Maureen Shivachi:** It has been agreed that in the years we have one President in the country. Now that his term is over, when he has (inaudible) there are more elections and he is stepping down, the money that he is meant to be given after that should not be so much and they are not considering the financial stability of this country. We are poor and if they consider that, it is making the country poorer than it is right now.

**Com. Asiyo:** Ooh, you are talking about the retirement benefits of the President?

**Maureen Shivachi:** Exactly.

**Com. Asiyo:** Okay. You want us to recommend that what has been recommended should not be implemented?

**Maureen Shivachi:** No, it should not be. When they are doing that they should consider the financial stability of this country.

**Com. Asiyó:** And pay less than what they have recommended?

**Maureen Shivachi:** No, when they are doing that, I am not saying they should eradicate it or they should  
.....

**Com. Asiyó:** Or whenever they recommend such emoluments,

**Maureen Shivachi:** They should think of other things.

**Com. Asiyó:** They should consider about the economic status of the country.

**Maureen Shivachi:** Yes, exactly.

**Com. Asiyó:** Okay. Thank you very much.

**Com. Adagala:** I want to know, there are people who are making proposals about one President for the country. There is always one President for the country. Is there a problem?

**Maureen Shivachi:** There is no problem.

**Com. Adagala:** You are saying one President for the country?

**Maureen Shivachi:** Yeah, I mean there is one President for the country, si ndio?

**Com. Adagala:** Yes!

**Maureen Shivachi:** So, when he retires, I am saying the benefits should not be so much.

**Com. Adagala:** Only that you recommended that there should be one President for the country. Leave that alone, I will ask someone else. You wanted free education for whom?

**Maureen Shivachi:** In this case, if it should not.....

**Com. Adagala:** For whom?

**Maureen Shivachi:** For whom?

**Com. Adagala:** Yeah,

**Maureen Shivachi:** For all.

**Com. Adagala:** At which levels.

**Maureen Shivachi:** Especially primary levels because – and also secondary- but I would advocate for primary level where at least when someone has reached class 8, he will have something at least documents that are (inaudible)

**Com. Adagala:** It is okay, what you have said is clear, secondary?

**Maureen Shivachi:** Also secondary.

**Com. Adagala:** University?

**Maureen Shivachi:** No.

**Com. Adagala:** What should be at university? As it is?

**Maureen Shivachi:** As it is.

**Com. Asiyu:** What about the very poor children who go to the university? Should we .....(inaudible)

**Maureen Shivachi:** Offer sponsorship.

**Com. Adagala:** You haven't said anything on girls except that there should be an equal number of schools.

**Maureen Shivachi:** Also, the subjects that boys are taking in secondary schools should also be imposed in girls secondary schools.

**Com. Adagala:** In primary they are the same. What about in life as a girls child. You are a girl child. Are there things you feel are not right or could be improved?

**Maureen Shivachi:** At least the girl child should have a voice in this country and should not be discriminated or degraded.

**Com. Asiyu:** Will the girl child be able to inherit from the her father like the boys do?

**Maureen Shivachi:** Yes, and when it comes to giving birth, the child should not be born as the child of the man. For instance, a Kenyan and a Tanzanian, if a Kenyan marries a Tanzanian woman, the child should be called a Kenyan child. Why is it there and they were both (inaudible)

**Com. Adagala:** You are on a very serious issue there of citizenship? What would you like, say in your own words what you would like.

**Maureen Shivachi:** I would like that if that happens, the issue of the girl being whose or whose I think they should put their heads together and work on how the child should survive on this world.

**Com. Adagala:** You have skipped to something else. Just on the Tanzanian and the Kenyan, what would you like? You said why should the child be the child of the father, what would you like on that issue if a Tanzanian and a Kenyan are married?

**Maureen Shivachi:** In that case, the woman should also have a right to say that kid that is hers.

**Com. Adagala:** To see?

**Maureen Shivachi:** To say that kid is hers.

**Com. Adagala:** What citizenship should that child be? Okay, think about it and see (inaudible)

**Com. Asiyu:** Would you recommend that there is dual citizenship where a girl bears a child with a foreigner that that child can be both Tanzanian and Kenyan, is that something you would recommend on that.? I think you need to think about it (inaudible). Thank you very much Shivachi. Can we now have Roselyn Kahandari and be very quick – rush to that seat there like girls do and talk clearly so that we can hear you and you only have very few minutes so, Roselyn be very brief.

**Roselyn Kahandari:** Commissioners, ladies and gentlemen, my names are Roselyn Kahandari.

**Com. Asiyu:** How old are you?



**Roselyn Kahandari:** I am twelve years old.

**Com. Asiyu:** (inaudible)

**Roselyn Kahandari:** Standard seven.

**Com. Asiyu:** And your school?

**Roselyn Kahandari:** Vokoli Primary school. My recommendation is the re-introduction of Kenya School Equipment Skill instead of school milk. This is to reduce the burden on the side of the parents. This will ensure free supply of books, chalks, and geometrical sets. The subordinate staff e.g. watchmen in schools should be paid by the government rather than the parents. Free medical services should be given to school cases.

**Com. Asiyu:** What was the last recommendation?

**Roselyn Kahandari:** Free medical services to school pupil.

**Com. Asiyu:** Was that your only presentation?

**Roselyn Kahandari:** Yes.

**Com. Asiyu:** Thank you very much Roselyn. We will have the last student from Vokoli and that is Hillary Omari. Hilary is from primary? No, no, then Hillary please go back we might call you later. Sarah Ogara from Vokoli High. If Sarah is not there and I see she is not getting up, let us have Musimbi Maureen. If she is not there, can we have Mwenesi Ruth.

**Com. Adagala:** You have to walk quickly.

**Com. Asiyu:** What is your name? Walk quickly. You are Musimbi Morris.

**Audience:** Maureen.

**Com. Asiyu:** Maureen, okay. Give us your name and make your presentation, Maureen.

**Maureen Musimbi:** My names are Maureen Musimbi, 17 years old and in form three. My recommendations are:

- The rural schools or schools with low standard should be attended to just like to National school.

- The President's term of service should not be more than two terms of service.
- In Kenya, there are poor people as well as people who are rich. So, why can't those people who are rich to at least assist the people who are disabled.

**Com. Asiyu:** Just make a recommendation, don't ask a question. You want the rich people to assist the poor people?

**Maureen Musimbi:** Yes.

**Com. Asiyu:** Or to pay taxes in order for the poor people to live better.

**Maureen Musimbi:** Yes.

**Com. Asiyu:** Okay, carry one.

**Maureen Musimbi:** That's all that I had.

**Com. Asiyu:** Thank you very much Maureen. Since I had called Hilary Omar let him come now.

**Com. Adagala:** Maureen, you want provincial schools to be treated like national schools?

**Maureen Musimbi:** Yes.

**Com. Adagala:** This is because you are in a provincial school.

**Maureen Musimbi:** No. For example, when national schools are making selections, they should also select those students who have high marks to the districts and those who have low marks to go to the national schools.

**Com. Adagala:** Wait, she has an idea. There is a very important idea that you have. What is it? What is the problem?

**Maureen Musimbi:** I am saying that .....

**Com. Adagala:** Say the problem, maybe we can understand you better.

**Maureen Musimbi:** The problem is that it seems that the government is concentrating on national schools rather than rural schools or schools with low standards.

**Com. Adagala:** Okay. What you want is equitable treatment in terms of?

**Maureen Musimbi:** Education.

**Com. Adagala:** Education is the same for everybody. In terms of? What is missing here and in the districts which (inaudible).

**Maureen Musimbi:** Facilities,

**Com. Adagala:** Facilities and?

**Maureen Musimbi:** Teachers.

**Com. Adagala:** Okay. Anything else?

**Maureen Musimbi:** No.

**Com. Adagala:** Okay. Because you cannot say, well unless you are going to say they should be free intake so that there is no point of someone to score an A or a C or a D+, so long as you have passed you can go to any school. So you want a free intake so that there is no point of one to score an A or z C or a D+, so long as you pass he can go to any school. That is what you want?

**Maureen Musimbi:** Yes.

**Com Asiyu:** Okay. Thank you Maureen and Is Omari already here then we will go ahead. Omari, quick tembea kama kijana ukae pale na utoe maoni kwa commission. Angalia hiyo wire siikushike mguu, zunguka ma upande ule mwingine. Go ahead Omari now and give us your presentation. Sema kwa lugha ambayo unayotoka kusema.

**Hillary Omari:** My name if Hillary Omari from Vokoli Primary school. I am 14 years old in class eight. These are my recommendations. I feel that strict punishment should be imposed on traffic law breakers including traffic police to reduce law.....

**Audience:** Laughter.

**Hillary Omari:** To reduce road accidents that are claiming people's lives.

**Com. Adagala:** Another one.

**Hillary Omari:** The punishment is that they should be jailed for 10 years and above with no fines.

**Com. Adagala:** Endelea.

**Hillary Omari:** No, nothing else.

**Com. Adagala:** You don't want their driving licenses to be withdrawn from them –those who cause accidents - for a while?

**Hillary Omari:** No.

**Com. Adagala:** They should just continue having their licences? Or be jailed for ten years so they will not make use of the licences. Carry on.

**Com. Adagala:** You said that's all?

**Com. Asiyu:** That's all. Okay Hillary, thank you very much. Let us now have Mr. Isaack Simara, please come over. Next time Omari talk to us more about your life in school.

**Isaack Simara:** Commissioners and all members who are present, my name is Isaack Simara.

**Com. Asiyu:** May I remind everyone that you are only addressing commissioners. It is very important because some people and say I am the aspiring councilor for this area. We do not want that – you are just addressing the commission and these people – we don't even see them until one of them comes here. Okay?

**Isaack Simara:** Yes.

**Com. Asiyu:** Please, again kila mtu ajue you are only talking to the commissioners. Nobody is presenting in Kimaragoli? It is a dead language, is it a dead language? (*vernacular*).

**Interjection:** (inaudible)

**Com. Asiyu:** My friend, I am asking a question not discussing.

**Isaack Simara:** I would like to thank today's sitting for the transformation of the new Constitution which can be written in any understandable language. Also, another point that I have, I think it would be possible for one for vote once and once only because we are following democracy.

The other point, I think a lot of members who have gone to school are unemployed and incase the current government goes on to manouver easy plans, we shall need them to employ some of us who are unable to be employed. My recommendation is that we should offer school books and other materials to young ones who we have brought up.

**Com. Asiyu:** (inaudible).

**Isaack Simara:** In employment, the youth do not have places to work in like factories and industries.

**Com. Asiyu:** (inaudible).

**Isaack Simara:** I want them to be offered some anywhere.

**Com. Asiyu:** (inaudible).

**Isaack Simara:** Job opportunities. Another recommendation is that most of our mothers and fathers, some of them are sick and we have a lot of hospitals. So, my recommendation is that we can help them to be is we are given low charges of payments.

**Com. Asiyu:** So you are actually asking for free medical care?

**Isaack Simara:** Yes.

**Com. Asiyu:** No charges?

**Isaack Simara:** No Charges.

**Com. Asiyu:** Okay, subsidized then.

**Isaack Simara:** I think that is the much I had before the commission.

**Com. Asiyu:** Thank you very much Mr. Isaack Simara, I think there is a question for you.

**Com. Adagala:** Why are you saying that someone should vote once? What does that mean?

**Isaack Simara:** The reason why I am saying somebody should vote once is because we only one vote for one person.

**Com. Asiyu:** Is there corruption in voting?

**Isaack Simara:** No.

**Com. Asiyu:** So why are you saying it?

**Isaack Simara:** The reason is that we emphasize democracy so that we don't choose.....

**Com. Asiyu:** Just a minute. Can I have (inaudible) everybody who is in this room? We are recording every single word that is spoken by those making the Constitution. The recorders cannot record because of the noise in the background. Please, if you must talk with your neighbour, just walk out quietly and when you finish you come back. There is no way we can time what people are saying here because we will not be able to hear what they are saying if you continue joking or making noise. You had finished Bwana Simara, right?

**Isaack Simara:** Yes.

**Com. Asiyu:** Okay, you can sign the book and leave. Gladys Olindo, is she here? That's too bad because I think she has been covered by those covering Chemakanga. Harun Digagisa, please come over. (inaudible). Okay, we shall councilor Sebo after hearing from Harun.

**Harun Digagisa:** Asante. Mimi nitazungumza kwa Kiswahili. Jina langu ni Harun Digagisa.nitazungumza kuhusu uhalifu na uufisadi katika nchi yetu. For example, ukishika mwizi na umpeleke kwa police station na (inaudible) kitu kile ambacho.....

**Com. Asiyu:** Pendekeza.

**Harun Digagisa:** Napenda watu hao wafikishwe kortini mara moja kwa maana ameshikwa na kile alichoiiba, kesi ifanywe na huyu mtu afungwe ama kama hakuna ushahidi aachiliwe. Nasema hivyo kwa maana mimi mwenyewe nilishika wezi ambao waliniibia ng'ombe last year tarehe ishirini na saba mwezi wa tatu.....

**Com. Asiyu:** Tafadhali endelea.

**Harun Digagisa:** Na mpaka saa hii, hiyo kesi bado haijamalizwa. Nikienda kila wakati huwa ni mention na huyu mtu ameshikwa na exhibit. Ni nini kinafanya asifungwe ama asiwe sentenced?

**Com. Asiyu:** Ungependekeza namna gani?

**Harun Digagisa:** Ningependekeza, kuna ufidadi ambao umeingia hapa.

**Com. Asiyu:** Ungependekeza namna gani?

**Harun Digagisa:** Ningependekeza hiyo sheria irekebishwe ili mtu akishikwa aende kortini.

**Com. Asiyu:** Aadhibiwe mara moja.

**Harun Digagisa:** Aadhibiwe mara moja.

**Com. Asiyu:** Okay, your next point?

**Harun Digagisa:** Ni hayo tu.

**Com. Asiyu:** Hi hiyo peke yake?

**Harun Digagisa:** Ni hiyo tu.

**Com. Asiyu:** Tafadhali weka sahihi hapo halafu saa hivi tutamsikiliza the headmistress wa Moi Vokoli Girls High School – Mrs. Mbelase. Thank you.

**Mrs. Teresia Mbelase:** My name is Mrs. Teresia Mbelesa, the Principal Moi Vokoli Girls High School. One, I would like to recommend that a man may freely marry the first wife lawfully and if he wants to marry a second wife, he makes an application and there must be a group that will investigate and certify that he is able to take care of a second family and then he may be allowed to marry the second wife. On the same line, I would like to say that the idea of parties coming up after a man's death that they were staying with the man and children were born out there should not arise. So, if a man has to marry, it should be very official whether it is one wife or two wives. So, we shall not – personally I do not encourage the idea of concubines who want to claim ownership of property after the man's death.

Secondly, this one may be a repetition – women should rightfully own property in their homes where they were born; they

should get a share of the parents property and when they are together with their husbands, they should be co-owners of the property and when a divorce arises, the woman should be clearly catered for out of this marriage. We should not have cases where a woman is divorced and has nowhere to go.

Coming to education, I strongly recommend that primary education should be free and it should be compulsory so that parents who fail to take their children to school should be sent to jail – may be civil jail. Is it civil jails where they work for the community? I would also want to recommend that members who form the Board of Governors of schools must have secondary education level. So, they should be people who have at least secondary education and the chairman of such Boards must have a university education level. I would also want to recommend that the Parents Teachers Association be strengthened and be included in the education Act.

I would also want to recommend that the sponsors of schools, their role should be made clear because as of now, their roles are not very clear. The roles of the sponsors in the schools system should be clarified. And finally I would like to recommend that any man or woman who is appointed Minister of a Ministry should have vast education in that area. Like if we talk of the Minister of Education, this should be somebody who is versed in the matters of education. Thank you very much.

**Com. Asiyu:** Thank you Teresia, I have a question for you. Quite a few marriages in this country are performed under the traditional system of marriage and since you have talked about registration of marriages, would you recommend that all marriages whether in the DC's office, in the Church or under customary law should all be registered?

**Mrs. Teresia Mbelase:** I would want to recommend that they all be registered. They be recognized in whatever way – you know you can't marry in any way – but they should be recognized and be registered.

**Com. Asiyu:** You have also suggested that when a man wants to marry a second wife, that the matter should be discussed by some institutions and a decision made whether or not is capable of taking care of another wife. Would it perhaps be better if we were to say that a time of marriage, that a man should be clear to the girl that he is marrying under a potentially polygamous system of marriage or other monogamous system of marriage so that a girl knows right from the word go that she is marrying under potentially polygamous system or under monogamous?

**Mrs. Teresia Mbelase:** That is quite clear. First, it would be legal for a man to marry a woman as a second wife having hidden the fact that he has a first wife. So, I do not know if that is the question.

**Com. Asiyu:** No, no, what I am saying is this; when a man and a woman perform their first marriage knowing that the man has never married before and the woman has never married before. That this man should tell the woman that I am marrying you under a potentially polygamous system, that I might marry another wife in some future?



**Mrs. Teresia Mbelase:** I think that would be very important and very necessary because there are some women who stay with a man with another wife find it really abhorrent. So, if you knew it from the beginning, may be you would not have married this man. So, it is important that right from the beginning.....

**Com. Asiyo:** They make their intentions known,

**Mrs. Teresia Mbelase:** Yes.

**Com. Asiyo:** To get another wife?

**Mrs. Teresia Mbelase:** Exactly.

**Com. Asiyo:** Okay, thank you. You have another question from (inaudible)

**Com. Ida Salim:** It's really a (inaudible) Madam Chair. You said something about if one wanted to marry a second wife, first there should be some kind of investigation. The question then is, who should do the investigation and secondly, for what purpose?

**Mrs. Teresia Mbelase:** The first one I am recommending that we set up some Body may be at the district or divisional level which will deal particularly with marriages. May be the office of registrations where we have marriages so that a man who wants to marry a second wife makes an application and must indicate and make it clear that he can marry a second wife and this is how he is going to manage the two families. Then, we shall have a committee at that level that can look into it so that we avoid cases where people are just running wild, marrying so many wives and leaving women and children to suffer.

**Com. Asiyo:** We have not heard anything about the Affiliation Act in marriage - in a situation. The Affiliation Act which like the African or at least Maragoli Luhya tradition that a man should support the children he bears.

**Mrs. Teresia Mbelase:** I think that is where I talked about a man who wants to get children, must get them within the marriage bracket whereby we want to discourage a case where a man just goes getting children and eventually wants to bring them home.

**Com. Asiyo:** That will work out or may work out later, but now we have very many single mothers with children and they are not getting any support. For the immediate, may be you can think about that. Then, you said that the girls and the boys should inherit from parents.

**Mrs. Teresia Mbelase:** Mmh.

**Com. Asiyu:** Okay. Then you say that the ownership of property should be joined. Which property?

**Mrs. Teresia Mbelase:** That is right from land.....

**Com. Asiyu:** Which property? The woman is coming with her property and the man has his property. So, the joint ownership is also of the woman's property?

**Mrs. Teresia Mbelase:** I think so if the woman will have rights to ownership of the man's land, the man can have rights ownership of the woman's land.

**Com. Asiyu:** So it is joined both ways?

**Mrs. Teresia Mbelase:** Yes.

**Com. Asiyu:** Now, in that case divorce becomes different, isn't it?

**Mrs. Teresia Mbelase:** Yes.

**Com. Asiyu:** You said, then they should share but the woman already has property. You said 'cater for the woman'.

**Mrs. Teresia Mbelase:** You know, what I am fearing is that under the present law like land especially belongs to men. So, you will find that when you want to talk of sharing of property, like the land, the woman cannot talk about the land. I want the women to have some right ownership to land.

**Com. Ida Salim:** Madam, I just wondered whether you would like the rules and regulations of laws regarding shared or joined property to be universal, affecting each and every Kenyan or could you allow for diversity of cultures and religion?

**Mrs. Teresia Mbelase:** I would want it to be universal. It is this diversity of culture and religion that create a lot of discrimination whereby you have a religion where the male have an upper hand but they tend to use the religious teaching just to be mean.

**Com. Ida Salim:** On the other hand, I am speaking here as a Muslim. Laws regarding property and more so inheritance are not man-made to Muslims; they are divine laws. And therefore, if you break them and adopt what you call universal ones, Muslims get into trouble. In other words, property within a family remains within the family and even relatives do not get any

part of it. But, it remains that of the wife and the children. But then, that it is subdivided if you like so that the wife in the death of the husband gets a certain share, the son gets a certain share, the daughter gets a certain share and Islam has an explanation for all that and why it is done. It is all a rationalize in other words. So, would you make them an exception?

**Mrs. Teresia Mbelase:** I think the way you have explained that law is already universal because if the property belongs to the family and every child is catered for and the woman is catered for, then that is what I am saying that we should have property where all members in that family are catered for.

**Com. Adagala:** This is on education. It is good to speak about universal things and also specific and people are speaking very specific and that is why we have come down to the ground. Free education to be compulsory but compelling who like in our situation now?

**Mrs. Teresia Mbelase:** In our situation it is the parents who are being compelled. We have had situations where even able parents just don't want to take or adapt serious responsibilities of taking their children to school.

**Com. Adagala:** Okay, I just wanted to hear you say it because like in Maasai land, the child has to be compelled as well as the parent because they are not so much exposed to education like we are.

**Com. Asiyu:** Mwalimu, just before you leave I had one remark to make. You know, this law that we are operating under intentionally decided that we should come to the ground and speak to the people on the ground. In your position, you must be having some information that concerns this community that you let neglected in the higher law of this land of the Constitution. What is known (inaudible) university. Is there anything you need in this community that you would like us to think about or for the Luhya community?

**Mrs. Teresia Mbelase:** I think what I have talked about on land ownership really targets the Luhya because that is the – no Luhya would think of giving the daughter a piece of land.

**Com. Asiyu:** Oh, okay, thank you very much. But very many of them have actually told us that now they have changed in many areas within and that girls are actually helping their fathers more than the boys – the boy is seen to help their in-laws more now and so now fathers are thinking twice. Thank you very much Madam. We really appreciate your beautiful school and the way that you have taken care of this commission and also that you are running the school; it is a beautiful school. Thank you very much.

**Mrs. Teresia Mbelase:** Thank you.

**Com. Asiyu:** Now we will have councilor Saba and immediately after you finish, there was an old man who was brought in and I am sure he is not feeling well. I am wondering whether he wants to speak so that we can give him an early opportunity with the top ones. Just go on.

**Cllr. Ezekiel Amuyunzi:** The areas of my interest in the Constitution review is mostly concerning the democratic.....

**Com. Asiyu:** (inaudible)

**Cllr. Ezekiel Amuyunzi:** My name is Councillor Ezekiel Amuyunzi Saba from Nairobi Kibera Ward but I am a local citizen here. So, I have a memorandum although it is wide but I will be a bit brief. My proposal is to do with the expansion of democratic space. My first proposal is:

For the expansion of democracy in this country, and the State to avoid where there is turmoil by the youth generation whereby they go into the forest to fight an elective government is because they have not been incorporated in the democratic institution of this nation. So, I want amendments to be done whereby voting will be from 16 and above so that we do not become victims of ‘mungikis’ or what we call the ‘Talibans’. People have been denied the right to vote and participate in the democratic institution of this nation.

My proposal number two is about the President and the Vice President who should be elective because these are public offices. Whoever wants to occupy these offices should be subjected to the popular vote of the residents of this country and he should gain 25% of the five provinces but with 51% of the total votes casted of the total registered voters.

We have talked about prime ministers and deputy prime ministers; in my view, the resources this country has, if we keep on splitting political offices, I propose that the way poverty is, we are still fighting poverty – I would recommend that we should not have the position of a prime minister and a deputy prime minister. We are comfortable with the President and his deputy working as long as they are accountable to Kenyans.

About the Education Act especially to do with the Board of Governors. Somebody here has suggested that Board of Governors should be appointed. I feel, in the current situation that most of the Board of Governors have no role to play, they are imposed in schools.....

**Com. Asiyu:** Propose.

**Cllr. Ezekiah Amuyunzi:** I propose that the law be reviewed to strengthen the PTA committees so that they can manage

because they run the school through fees paid and other levies. Another area is about the so many parties we have formed in our country – multiparty democracy. I feel that because we are not a cohesive society at this moment, we should be a two-party state. If you cannot fit in the two parties, then you should have position for independent candidates.

**The Chief's Act:** We are facing insecurity because powers were transferred elsewhere. I feel the Chief's Act should be amended and they be legalized again to issue public permits. This is also separation of powers. Police cannot issue a permit and at the same time they maintain law and order in the same venue. So, the provincial administration be authorized again to issue permits and the police to provide security. Also, another area that needs these administrative laws is the Police Force in Kenya where we are having conflict of interests whereby you will never know who is your CID because they are no longer performing their duties. Police normally arrest people at random, they have declared a state of emergency to its all citizens. So, I would say that we should form Kenya Security Commission and in the new Constitution we should scrap the GSU and the APs. They should all be incorporated into one police unit with one chief executive coordinating all of them so that we have proper coordination of security in this country.

Another area that I need to be reviewed in the Constitution is the Evidence and Prosecution Act. Police have randomly arrested so many people and detained them in police cells using the 14 days as an excuse.

**Com. Asiyu:** (Inaudible)

**Clr. Ezekiel Amuyunzi:** It is okay. I want those areas to be reviewed in that people are arrested and be taken to court and charged on the same day with evidence. Also, an area that needs to be incorporated in the Constitution is that Kenyans we have compulsory basic human rights that are not negotiable with anybody. Education should be made compulsory and as a Human right and also medical care to all citizens because we have a country where people are sick – you have a sick nation which is not productive.

**Com. Asiyu:** (inaudible)

**Clr. Ezekiel Amuyunzi:** We should have a basic primary to form two free education for all and also medical care should be funded if possibly from these mobiles we are having. I have finished. May be another area that is remaining is these Land Boards. We should have Land Boards in our country to avoid a situation whereby we are now importing food and we used to export. The government should have forward planners who should plan and we should have areas that deal with commercialization of farming. The country should be divided into commercial areas for farming subsistent areas for farming so that it should not reach a situation whereby we all become beggars.

**Com. Asiyu:** Thank you very much Councillor. You have spoken well and you are well understood. Fortunately for us you

have your document which now stands out well, please, surrender it to use, it becomes our property and they you sign our register. Before you do so, there are perhaps one or two questions.

**Com. Adagala:** Councillor, let me that I am a bit perturbed because in the (inaudible) we have gone to in Sabatia councillors are talking but they do not talk about local authorities or they say very little about local authority which is at the centre of the Constitutional review because the ammendment that weakened the local authority is one of the reasons why we are - so I don't know – should we just forget the local authority (inaudible) someone has just said that Counillors should not be there – our first presenter. He said councilors have nothing they are doing, they should not be there and officers can do the job. There are very many things about local authority. If you have not thought about them, please write a memorandum and submit it to us.

**Cllr. Ezekiel Amuyunzi:** Okay, thank you.

**Com. Asiyu:** Thank you very much, there is just one question I want to put to you. You know you said yester that any President who qualifies should have 51% votes from all parts of the country and also 25% from at least five regions. Tell me of late, what President has achieved 51%? Think of this region, think of sub region may be or the entire continent, what President has achieved 51%?

**Cllr. Ezekiel Amuyunzi:** I know there a few and that is why you see we are having problems in this country because of insecurity and so forth.

**Com. Asiyu:** No, but just incase a person does not receive 51% because it is not easy for anybody to receive 51%, what then should happen? You know, if we put this provision in the Constitution, that is what it will be. I just think of the problems that this country would take place if the President will not get 51%. Can you tell us what your plans are for when this man does not get the 51% - man or woman?

**Cllr. Ezekiel Amuyunzi:** I was feeling that in case of that kind of a situation, we should have probably a run off.

**Com. Asiyu:** If we have run-offs, it is very hard for people to stick with (inaudible). There will only be two but (inaudible) Think about, I think you have heard (inaudible) so that they are not talking impossibles but thank you very much for your presentation.

**Cllr. Ezekiel Amuyunzi:** We should have an optional; the one who has turned the popular – I mean the majority – if the 51% wouldn't have the gain at least there should be room for whoever has gained the highest votes from the voters then he should be declared.

**Com. Asiyu:** Okay, that is how we solve the problem?

**Cllr. Ezekiel Amuyunzi:** Yeah, but the Constitution be as light as cotton because I was feeling that I have a right as a Kenyan citizen place academic qualifications not in the are of Kenyans for contesting any seat or voting and being voted for.

**Com. Asiyu:** (inaudible) like Commissioner commented and said that you as a councilor should have told us a little more about the role and function of local authorities and we should be able to suggest that the empowerment and even – you know – they are giving a whole of bigger roles for the local authority to play.

**Com. Adagala:** (inaudible)

**Com. Asiyoi:** (inaudible)

**Cllr. Ezekiel Amuyunzi:** That is okay. With the Local Authorities Chairlady, the problem is that they are not managed properly.

**Com. Adagala:** (inaudible)

**Com. Asiyu:** The are going to be managed very well after this and people have given us very good recognitions on the ways that local authorities can be improved and run properly. But then for your views. We now have a definite chance to Gladys Olindo, she is a teacher, very good. Teacher Gladys Olindo will give us a presentation. Please come forward Mwalimu and be quite brief because we have already heard a lot from this particular group of speacial people.

**Interjection:** (inaudible)

**Com. Asiyu:** She can talk, very good please go ahead. You are teacher so you should be able to talk to us. Give us your name, your position and then go ahead.

**Gladys Olindo:** I am Gladys Olindo from Selondoro School for the deaf and I will speak specifically on their behalf. One, I would wish this tobe made as a suggestion that the government should make a law which should enable the parents of the handicapped children to know that it is their responsibility to have children in school because most of them are hidden ar work, they times when they are place in stations where they are kept even in a store or hidden very far from the public so that they are not known.

Two, the community around us takes them to be people who are youthless there and most of the times they do not even free to even talk to use teachers and we need to interact with them as normal human beings. They are just human beings like we are and they have no problem except for their being handicapped. Most of them come from homes which are broken. Once a man discovers that his child is deaf, the next thing the wife has to be sent off and there is a divorce that follows. So, the child is either taken to the grandmother who might be very poor and too old to look after this child and even bringing him to school is going to be a hard time for us teachers to make a follow up because we won't know who the parents are. So, they should be made to know that it is their responsibility to have this child in school.

Thirdly, we have a problem of people who molest them sexually. There are cases where the girls are made pregnant by people who have no handicap and then the man is set free and goes away leaving the girl pregnant and she gives birth and now we are too (inaudible); there is a mother who is not able and there is this child who cannot be catered for. Can the government help us to know what to do with such a child incase we come across any.

Also, we should have some sponsorship for them because they really having trouble, most of them since they come from poor families or may be their grandfathers are too old to give them the basic needs in life. There are times when they are not able to have proper uniform, they could be able to talk or just to know what they are doing in schools if they had hearing aids. Those who are also lame could benefit from wheel chairs which are very expensive for them to manage. So, if the government could help us, then we could have a society of handicapped people who are educated.

Lastly, we would wish the exam to be adaptive so that if the child is deaf, the examp period given to him because he is doing KCPE like any other person and we need to have a lot time and sobody to intereprete what the question is all about. So, time for them should at least be more so that he will have to answer even if he will answer questions out of sixty, he will have known what answer he is giving because he will have had enough time. But, when it is the time unless (inaudible) then is a problem; they will not do better. The marker should be people who know what this education is all about because if you give it to any person from regular school, he will not mark what the deaf child has done.

We need a sign language to be considered because as number three because they can communicate well if they follow what people are saying. Sign language is limited to them. What do we do? Can the government help us have it taught in all schools or institutions of higher learning so that once the personnel is out they will be able to communicate with them and then we will not have problems even if they come to an office may be they have had a problem in court, then they should have somebody who should help them intepret what the person is saying or what is going on around them. And then, may be the teacher who are handling them should also be sort of people who are really out to help them. They have hard times with the children and may be the government could give them something a bit higher than what they are getting and it will be better. Thank you.

**Com. Asiyu:** Thank you very much Gladys for those recommendations which we will take seriously. I do not believe there



are question; yes.

**Com. Adagala:** Gladys, thank you very. You are only saying that the government should help us. The government has sent us to you to tell us you who wears the shoe. So, tell us for instance when there is molestation and pregnancy, what should happen? Once they (inaudible) molestation.

**Gladys Olindo:** What I think should happen is if a girl should be brought or taken to a court, then the person handling her should not be a man because she will have developed a negative attitude towards a man. So, she should be handled by a woman who should run from work when it happens that (inaudible) because if you ask them with a lot of caution they will not give you the answer.

**Com. Adagala:** Okay, just like other children actually. What about pregnancy?

**Gladys Olindo:** The same should happen.

**Com. Adagala:** But there is going to be a child born, what should happen?

**Gladys Olindo:** I think the government should also help us as the grand parents would wish to have (inaudible) the girl is raped and may be the man is not known. So, some parents would wish to have child being kept at home and wish he would be taken to a home for children so that it can also have a place to manage.

**Com. Adagala:** As teachers again, the government has sent us to you to tell us what is that something that you want. So, you think about it because the government wants to know from you. Lastly, you have not talked about employment for these people.

**Gladys Olindo:** Employment for these people is a problem because most of them just reach class 8 and that is all.

**Com. Adagala:** What do you want then?

**Gladys Olindo:** So, I would recommend that they be given more chances to continue with school so that they get a better certificate to be employed anywhere because if they go through the 8-4-4, they will be able to learn and be employed.

**Com. Adagala:** The people with special abilities are 10% of the society. Would you like employment to be 10%? Think about it.

**Com. Ida Salim:** Yes, (inaudible) Gladys, I am a layman and I am speaking as one. I have this impression that their degrees of justice, have these young fellows been examined to find out whether hearing can help at least some of them to really lead a normal lives to be able to work, to hear what is being said and (inaudible) themselves that.

**Gladys Olindo:** Yes we have these tests being done on termly basis and we know which child can benefit from which hearing aid but the problem is that we do not have money to purchase them.

**Com. Asiyu:** There are those who could actually benefit from hearing aids. So, why have you not made recommendations about hearing aids?

**Gladys Olindo:** I did.

**Com. Asiyu:** Did you?

**Gladys Olindo:** I did.

**Com. Asiyu:** Thank you very much, please sign our register. Can we have Mr. George Akelola, is he here. Please come over and give us your presentation.

**George Akelola:** Asante Commissioners to have given me this opportunity but I am very unfortunate because most of the points that are haf on papter have already been discussed.

**Com. Asiyu:** You area actually very fortunate because your ideas are the famous if the people of this area. Let us here some of those ideas.

**Major George Akelola-Rtd:** But not a Managing Director. Thank you. First, I would like to bring out this point on parliamentarians – Members of Parliament. Many ofa few of them definitely do not put in good performances.

**Com. Asiyu:** What do you recommend about them?

**Major George Akelola-Rtd:** I recommend that an MP who does not appear in his own constituency, an MP who stays in the town and goes only when we have a chance for the next election should be made to resign his seat. And this could be done suitably if the electorates could be given a chance to carry out a vote of no confidence and if this is done, then the MP should quit.

The next point on MPs still, I feel if there is any dedication that Head of State should serve for two years; two terms of five years, this should also apply to all MPs including Cabinet ministers. I think I propose that they serve three terms and thereafter they should leave politics to other people. On the same issue of the MPs, it would appear to me that many are serving their own interest. Two hundred people sit somewhere without having consulted the electorate and discuss to improve their own terms.

**Com. Asiyu:** (inaudible)

**Major George Akelola-Rtd:** I suggest that when we have a major issue like salary improvement, this matter should be sent back to the Kenyan electorate in the whole country and possibly through a referendum so that when a country says yes or throw it away; it should not be done the way it was done a few months ago. Similarly, the MPs are now allowed to serve possibly even five years and they get a pension. Perhaps they are going to propose some more. I propose that MPs can only qualify for pension after serving two terms in parliament – ten years. This is parallel and equal to what is happening elsewhere to civilservants and the private sector.

The next point is the Judiciary. Judiciary and all judicial officers have been allocated a salary or they have been awarded enormous rise in salaries but the country cannot afford.....

**Com. Asiyu:** What are you suggesting?

**Major George Akelola-Rtd:** I am suggesting that the salaries of these Judicial Officers and the Parliamentarians should be paid on prevailing economy in the country.

**Com. Asiyu:** May you can make one more point that you want to raise because your time is up.

**Major George Akelola-Rtd:** There is the question of decentralization. This has been touched but I feel that the country should decentralize services from the main country's capital to rural or provincial areas and this will help to create employment, it will help to improve the economy of these areas and also it will help growth in the economy and create some industries at the country side.

I would have to touch militarily. The Military services.....

**Com. Asiyu:** You have the option to submit here or submit in camera on the military. Military officers have preferred to give us their views in camera.

**Major George Akelola-Rtd:** I think I will have to give my views in camera. And with that I think – no, no- short term sentences; the prisoners. It has been disturbing the award of sentences by various courts are not standardized. I wish they

were standardized and the sentences be common to all and there are some jail birds or people who have in and out of jail.....

**Com. Asiyu:** (inaudible)

**Major George Akelola-Rtd:** I propose that any prisoner who is a high criminal should be not allowed if is even 18 months or 3 years he should serve the whole sentence. These people become very dangerous to their relatives and the community as a whole. Thank you.

**Com. Adagala:** Thank you very much for those presentations, if you could please now sign our register and leave your document with us because it is very useful. Just a comment for clarity not now but you can think about it. There is a very good point on decentralization but as a concept there is decentralization, there is deconcentration and the devolution. Perhaps you could look at those three concepts and find out from your committee or your colleagues or from us and then you can see which one applies more to your proposals on employment, economy and it seems it is more than decentralization. It is going much more towards devolution. So, if we need to know the concept well make two already that need to come under a concept that helps you there.

**Com. Asiyu:** Thank you. Can we now have Stanely Chabaga, please come? Have a sit and give us your views in five minutes. Mr. Chebaga, please go ahead and give us your views.

**Stanley Chebaga:** My names are Stanley Chebaga and I am going to give information to four headings: land issue, local government, civil service and the present Constitution. On the land issue, I propose every Kenyan should be registered to own the land and the security in our republic of Kenya. Two, under the land issue, fees for succession must be reduced and regulated. An example, due to out poverty, it is very difficult for somebody to raise about 15,000- 40,000 shillings for succession. I propose the elders who the know the people of the area or the inheritants should be available to forward recommendations of the succession to avoid this amount of money which is being asked by the lands registrar.

Trade; taxation of the title deed must be based on poverty and for instance it is very difficult for a poor man to get his title deed.

It would be better for the elders to sit and recommend he gets a title deed by offering about Kshs. 100 compare to about Kshs. 2,675 which is required by the registrar of lands , they charge about Kshs. 250, registration fees the same, preparation Kshs, 250...(inaudible) they charge about Kshs. 40,000.....

**Com. Asiyu:** Use your time where those details.....

**Stanley Chebanga:** Yeah, that's why I am in a hurry.

**Com. Aisyo:** Okya, just give us the proposals, we know the details.

**Stanley Chebanga:** On the side of commissions, I would put that is there is any commission which has been established  
.....(*End of Side A of Tape 3*)

.....First minute or it is not being raised up and therefore I recommend the findings and whatever has been discussed should be made public by the commission concerned. For instance, the commission for education which was established has never been made public.....

**Com. Aisyo:** We actually have a list of all the commissions that have been established but that have not given their reports or written work. So, you do not need to dwell on that.

**Stanley Chebanga:** Okay. Lastly on the side of rent, the gap between the poor and the rich as far as rent is concerned should be avoided. We would like if there is any justification that the length would be given nearly equally for all people. On the side of Constitution for local government, I propose:

- Councillors to be elected to the post of a councilor should be at the age of 25 and above and should be a man with a mission.
- Nomination of councilors; there should be a panel of personnel to recommend the election of the councilors.
- Chairmen and Mayors of the county council and the city should be of form four

















education people with integrity and vision. And on the side of the local government, they must have a permanent staff as a clerk on the side of finance, medical officer and those who are experts as far as the race and other staff matters are concerned because councilors usually go in and out.

On the side of civil service,.....

**Com. Asiyu:** That's the last one. Choose your last one.

**Stanley Chebanga:** The last one is about the President Constitution please make use of the language the Constitution to be written in languages that people should understand like in Kimaragoli, Kiswahili and in English. And we need good (inaudible) and I would prefer and propose we must have Federal government. Lastly, on the side of recruitment as far as Armed Forces is concerned, I would prefer the Chief in command must have a team which does recruitment without any bias.

**Com. Asiyu:** Thank you very much, you have put it all down there and so there is no problem, we will read your document and we will make full use of it and analyze it (inaudible). So, thank you very much. You can now sign our register and the positive will be done.

**Stanley Chebanga:** Thank you very much. Any questions?

**Com. Asiyu:** Thank you very much. Can I have Mr. Peter Ludava? After him we will have Mr. Kepha Adagala and then Mr. Jamii Ingaraba in that order.

**Peter Ludava:** Honourable Commissioners, my name is Peter Adams Ludava. I now realize I should have made a written

submission but if there is time I can do that later because there is really very little time. I want to make a few recommendations and one of them is the creation of the supreme courts. The creation of the supreme court.....

**Com. Asiyu:** Please go ahead.

**Peter Ludava:** I think it should be created with powers retrospective powers to be able to deal with inconsistent judgements that have been handed down by the court of appeal so far. My second recommendations is that the creation of district, divisions and locations and all the sublocations that are being created, there must be some kind of a yard stick upon which these things are created because I don't believe that people should be given the burden of raising funds to build district headquarters.

There should be stipulations in the next Constitution on how the Constitution can be changed – clear stipulations. It should not be at the whims of the individuals to come with an idea that they want to change the Constitution and do it in parliament. Then, I also have a recommendation of citizenship. Our citizenship here has been for sale; if you have a certain amount of money you can buy citizenship and I think the Constitution should be very specific on how one can acquire citizenship and in other countries in states very clearly that you have to have lived in that specific country for at least five years and you should have been working there or being useful in the country and you should have at least owned a house or have a house where you live. At the present moment, infact I am sorry to say but the Asian community does come into this country, they take a shop at a small place like Kiritu and they spend Kshs. 300,00 all whatever, we know the figure already and becomes Kenyan citizens which I think is really absurd.

On the question of parental citizenship, it is important that a state relation should also be made but if a person is born on the soil of this country, whether out of a woman or a man Kenyan, that person should have the option of becoming a citizen on discrimination whether it was a man or a woman who had that child. That can get rid of those discriminations. I also believe and want to make a recommendation that the issuance of a birth certificate should be mandatory already at birth there should be a birth certificate issued to an individual within a week or so or the month so that that becomes proof of that person being born in this country or beid born or kenynan parents,

There has been a lot of talk about devolution of power and I think in this we also want the private sector and also take a little bit of a prominent role in managing their shares of the country because we also have ideas. I just had to pick up a few but may be you might allow me to make a written presentation because there are number of things which are remaining.

**Com. Asiyu:** One more minute, just touch on the highlights.

**Peter Ludava:** I can talld something about the creation of an ombudsman not just at the central government but it should permiate through the whole society. There should be ombudsman and the institution so that they are able to deal unfairness at all

levels. I would also like to mention my last point on strategic reserve. It should be made mandatory in the Constitution that the government buys sufficient strategic food and be kept in a strategic reserve in the times of difficult it should not be a strategic device at government level. It should also be given in homes like they do in Switzerland. The chiefs' elders should be given power to inspect what strategic reserve a family has in their own homes. People should not just depend on the strategic reserve that is being kept by the government. I think I will stop there and I beg may be I can put these points on a piece of paper and if you let me know where I can bring it I can send it to you.

**Com. Asiyu:** We would really appreciate those ideas because you have come up with ideas that very few people have come up with and they are every important ideas for us and like the the issue of the ombudsman, yet many have talked about it but you have given the little angle by suggesting that it believed in God the institutions like universities (inaudible). The ideas of strategic reserve is a new one and you are referring to food as a domestic and at the national level and I really hope that you can write up something for us to put in our recommendations.

But I wanted to ask you something about citizenship. Yes, I agree with your that children should be given their citizenship at birth or in the hospitals or at homes where they are born like they do in the American countries but there are at other chances of citizenship that worry Kenyans. Like a Maragoli boy goes to America and marries a white American women and brings her here, should he be given automatic citizenship or should he be allowed to maintain both her home citizenship and become Kenyan citizens at the same time so that she has dual citizenship?

**Peter Ludava:** Actually the (inaudible) would be that a place where you are born, if a Kenyan woman has married an American and they come to Kenya and have a baby here in Kenya and the child is born in Kenya.....

**Com. Asiyu:** Before they have had babies in America and they are not coming back here.

**Peter Ludava:** If they have had babies in America, then the .....

**Com. Asiyu:** And the American will give citizenship in the hospital, what happens when they come here?

**Peter Ludava:** That child is an American as far as I am concerned.

**Com. Asiyu:** You are telling me that a Maragoli boy who has had four beautiful boys with an American woman and comes back home and you do not give those children the Kenyan citizen?

**Peter Ludava:** You see, they are given citizenship of the country where they are born

**Com. Asiyu:** (inaudible)

**Peter Ludava:** But at the age of 18 – let me explain – at the age of 18 in America they will be given an option at the age of majority now to now choose which citizenship he becomes.

**Com. Asiyu:** You do not think we should allow them dual citizenship even at that age?

**Peter Ludava:** You can allow dual citizenship upto the age of majority, but then because you are talking of a minor, he does not choose when he is a minor but at the age of 18, given the choice to now say.....

**Com. Asiyu:** I appreciate that but now our school system for example, we will charge these American children much higher fees than they charge Kenyan especially at the university. Would you have these Maragoli children who acquired citizenship by virtue of their birth to be charged all these money in schools as foreigners are charged or would you rather give them dual citizenship until they reach the age of majority where they can decide whether to remain American or become Kenyans?

**Peter Ludava:** But I think we are saying the same thing. I do not mind if they are given dual citizenship until the age majority,

**Com. Asiyu:** Then they can decide.

**Peter Ludava:** Then they can decide which citizenship they take.

**Com. Asiyu:** Thank you.

**Com. Adagala:** Thank you Peter Ludava. You are in the tourism industry. Tell us a little bit about what can be in tourism not very much, just a little.

**Peter Ludava:** I think to put it very mildly, tourism used to be a leading foreign exchange earner in this country and now it has in fact slipped down to third or fourth position. It is only mainly to do with insecurity that has come up in this country. And one of the most important things or if anybody is visiting a country would want to find a secure place where they know they will come out alive and I think the most important thing we have to do is to create a secure environment. All the other marketings and all that are seconded but marketing tourism where there are tribes where Mrs. Ngilu says anybody who doesn't go with the National Alliance will be leached and this is all taken into newspapers outside, this is not going to help.

I am saying there are always threats all over. Mrs. Ngilu said that anybody who goes against the decisions of the National Alliance will be leached. I mean, she said it in the newspapers.



**Com. Asiyu:** No, but those are very irresponsible statements (inaudible)

**Peter Ludava:** But they are irresponsible and they are taken up by – and so tourism is saying that this is an election year so avoid Kenya in this election year and this is just confirming it.

**Com. Asiyu:** Okay, what about the Western region – this side in tourism?

**Peter Ludava:** I think the Western region has not done enough to promote tourism like for example, the Wakikuyu used to be a dam but they have let it disintegrate such that there is no more dam and you cannot have boat rides, the dam in Kaimosi is gone, the Maragoli forest is by name. There is the crying stone – everybody would have made millions out of the crying stones. We have the equator passing through this area and we could have made millions out of the equator.

**Com. Asiyu:** What can we do?

**Peter Ludava:** What we need to do is to exploit all these natural resources and this is why I was saying we should not just leave it to the government. The private sector has a role – we in the private sector can give ideas to the government on what can be done but at the moment it seems to be an exclusive right of government officials to run government; they never really get ideas from the private sector.

**Com. Asiyu:** Thank you very much for those views. Please do put something down for us as requested. In the meantime if you can kindly sign.

**Peter Ludava:** (inaudible)

**Com. Asiyu:** You can give it to the District Coordinator to pass it on to us. Kindly sign our register. Now it is time for Kepha Adagala, followed by Jamin Ingaraba, then Chief Musembi.

**Kepha Adagala:** Commissioner, jina langu ni Kepha Adagala. Nitazungumzia kuhusu matatizo madogo madogo ya nyumbani kuwa lazima yawe yakitatuliwa na wazee wa nyumbani wakishirikiana na assistant chief na chief pamoja na wazee wa mitaa. Ikiwa watashindwa ndipo jambo hilo linaweza kupelekwa mbele kwa korti.

Jambo lingine ni kuhusu ukulima ambao unatututiza sana. Sisi wakulima ingawa tuna mashamba madogo madogo, serikali inatakiwa ituangalie watu walio na mashamba makubwa yanayokaa bure bila kutumiwa, ni lazima wapewe watu walio na nguvu ya kutumia hilo shamba hata ikiwa title deed in yake lakini isikae bila kutumiwa.

Jambo lingine ni kuhusu kuheshimu ndoa. Ndoa ni lazima iheshimiwe na jamii. Ikiwa unaweza kuwa na wanawake watatu au wanne, ni lazima uwajulishe jamii ili wajue una wake wako watatu au mmoja. Kwa nini? Wakati ugawaji wa nyumbani ukifika, ni lazima jamii pamoja na wenyeji wajue jinsi watakavyotatua ugawaji wa mali ya watoto wako au mali ya bibi zako.

Jambo lingine ni kuhusu polisi ambao wameingilia kazi za assistant chiefs na chiefs pamoja na mabudu. Unaweza kuona polisi wakiingilia mambo ya nyumbani ile hali kuna utawala kule kama administration kama chief na assistant chief, lakini wanaingilia jambo hilo na hao wako. Kwa hivyo, kama kuna jambo limefanyika nyumbani, ni lazima assistant chief achukue hatua ya kufanya hiyo kazi. Kama ni maneno anaweza kumaliza, amalize lakini akishindwa ajaribu kuleta polisi wanasaidie. Lakini, polisi wanategemea kusaidia mtu ambaye ni kama guide lakini hawana ruhusa ya kuingilia mambo madogo.

Jambo lingine ni kuhusu watoto ambao ni mayatima. Ni lazima wachukue hatua ya kuwasaidia kwa njia inayofaa ili wapate njia ya kuendelea.

**Com. Asiyu:** Kwa njia gani?

**Kepha Adagala:** Ya msaada kwa kupewa pesa ya kuwasaidia kuenda shuleni.

**Com. Asiyu:** Pesa ipewe nani?

**Kepha Adagala:** Ipewe yule mtoto ili aendelee na masomo.

**Com. Asiyu:** Mtoto hawezi pewa pesa. Tuseme pengine apewe elimu ya bure? (inaudible)

**Kepha Adagala:** Apewe elimu ya bure.

**Com. Asiyu:** Na uniform?

**Kepha Adagala:** Uniform ingetegemea. Jamii yake wanaweza kusaidia.

**Com. Asiyu:** Kama jamii hawawezi? Na habari ya health ya huyu mtoto?

**Kepha Adagala:** Kama hana namna, saa zile .....

**Com. Asiyu:** Wewe umesema hana namna tayari kwa maana ni orphan. Tuseme namna gani kwake kwa mambo ya health?

**Kepha Adagala:** Asaidiwe.

**Com. Asiyu:** Kwa njia gani?

**Kepha Adagala:** Kama kusaidiwa kwa njia yoyote.

**Com. Asiyu:** Anaweza kupewa free medical care?

**Kepha Adagala:** Eeh!

**Com. Asiyu:** Si wewe mwenyewe useme kwa mdomo wako?

**Kepha Adagala:** Si ndio?

**Interjection:** Useme!

**Com. Asiyu:** Mimi sitaki kusukuma hayo; mimi sina maoni – wewe ndiwe una maoni.

**Kepha Adagala:** Hapana, wewe husukumi, ni mimi ninapendekeza.

**Com. Adagala:** Kwa upole apewe.....

**Kepha Adagala:** Apewe uangalizi.

**Com. Asiyu:** Endelea. Kitu kingine.

**Kepha Adagala:** Jambo lingine ni kuhusu ndoa. Ni lazima mtu akiwa na bibi.....

**Com. Asiyu:** Nafikiri hiyo umesema tayari.

**Kepha Adagala:** Sasa nataka kusema sababu.

**Com. Adagala:** Sio sababu, endelea (inaudible) na una nafasi kidogo kwani naona kengele yako ilie. Sema lalo la mwisho la maana.

**Kepha Adagala:** Jambo la mwisho la maana ni kuona kwaamba watu nyumbani wawe na uwezo wa kuwachagua machief

wao hasa na ma-assistant chiefs. Na upande wa ukilima nilikuwa naguzia kwamba serikali inaweza kupatia wakulima loans kwa mfano kama mbegu kwa maana kuna watu wana mashamba na hawatumi. Raia wanaweza kufanya kazi ili chakula kipatikane katika nchi yetu, (inaudible) yanakaa bure.

**Com. Asiyu:** Asante sana kwa kueleza habari ya loans, tumeshukuru kwa habari ya assistant chief na chiefs na sasa unaweza kuweka sahihi pale halafu tupate nafasi ya kuongea na Bwana Jamin Ingalaba. Bwana Jamin ukumbuke kuna watu wengi sana wanaotaka kuongea na kwa hivyo usitumie muda mrefu kutueleza vile mambo yalivyo. Wewe pendekeza tu unataka katiba mpya ifanye nini au iandikwe namna gani.

**Jamin Ingalaba:** Mimi nimefurahi kwa kuingia katika mambo ya katiba mpya. Jina langu ni Jamin Ingalaba na mambo yangu nimeandika katika karatasi hii. Ningependa kijana mmoja aje anisomee ili nimalize mara moja. Naweza soma lakini nimesahau.....

**Com. Asiyu:** (inaudible) tuambie na mdomo. Kwa maana ni fupi, pengine unaweza kuangalia na kuongea – si vibaya. Angalia hapo. Hebu msaidie, haya angalia basi. Lakini si ni ile mambo umeandika mzee, let him read it for himself. He doesn't know how.....

**Com. Adagala:** (inaudible)

**Com. Asiyu:** No, I think he can read it. Hauna glasses zako za kusoma Mzee?

**Jamin Ingalaba:** Nimesahau.

**Com. Asiyu:** Lakini glasses zako pengine hawezi tumia. Jaribu hizi glasses.

**Interjection:** (inaudible).

**Com. Asiyu:** Endelea Bwana Ingalaba.

**Jamin Ingalaba:** Sisi ni watu wa Kanu na kwa kupendekeza.....

**Com. Adagala:** What's your name? Jina?

**Jamin Ingalaba:** Jina langu ni Jamin Ingalaba.

**Audience:** (Laughter)

**Com. Asiyu:** Endelea Mzee.

**Jamin Ingalaba:** Sisi ni watu wa Kanu.....

**Com. Asiyu:** Please, don't talk or laugh because we are recording his statements. Just keep quiet and give him time to talk to us (inaudible) tafadhali.

**Jamin Ingalaba:** Tungependekeza serikali yetu itufikirie kwa kupata mshahara. La pili, mimi naonelea ya kwamba tungetaka kuondoa umaskini na kwa hivyo ningependa serikali yetu itupatie leseni ya miaka mitatu.

**Com. Asiyu:** Lakini kumbuka Bwana Ingalaba, hii katiba yenye unaongea juu yake sasa itakaa hata miaka mia moja. Hiyo miaka mitatu usiseme, ongea juu ya mambo yatakayodumu miaka mingi itakayokuja; sio miaka mitatu. Na hata habari ya hiyo mishahara utwambie ni nani anataka kupewa mshahara na kwa nini apewe kama hajafanya kazi. Hebu endelea vizuri.

**Jamin Ingalaba:** Kuhusu kahawa, wakulima wetu wana shida sana hapa Kenya. Afadhali serikali itupatie shillingi kumi au tano kwa kilo ikiwa ni ndogo ama ishirini kwa maana hivyo ndivyo tunavyopata pesa ya ukulima.

Lingine, napendekeza walimu wafunze watoto na mambo ya ujenzi wa shule waachie wazazi na serikali yetu – chiefs, waendeshe mijengo ya shule. Wakulima wa chai katika Kenya tuna shida sana na tungetaka serikali itupe shillingi hamsini kwa kilo.

**Com. Asiyu:** Endelea Mzee, wakati wako unakwisha. Wale ambao wanaongea, you are making it very difficult for this gentleman to be heard. Please don't, if you must talk with your neighbour, just go out slowly, talk and come back but let him be recorded properly.

**Jamin Ingalaba:** Kuhusu katiba,.....

**Com. Asiyu:** Inaonekana hizo glasses sio zako mzee. Hebu, uliandika nini? Sema tu na mdomo.

**Jamin Ingalaba:** Kuhusu katiba, ningependekeza katiba iendelee kwa sababu hatujaelewa maana yake zaidi ya hapo. Kwa mambo ya uchaguzi hapa Kenya, sisi tuliponyakua uhuru, mwanzo tulinyakua pamoja na Mzee Kenyatta na akapatia Mzee Moi. Kwa hivyo, tukitaka kuhifani nchi yetu Kenya kwa njia iliyo nzuri lazima tuheshimu mamlaka yaloyoko na tungojee uamuzi.

**Com. Asiyu:** Asante sana Bwana Ingalaba kwa maoni yako. tafahali weka sahihi hapo halafu umwachie nafasi Chief Justus Amuzembi. Kama hayuko tutamwita Bwana Enoch Lumasia, Bwana Manoah, Indusa Andaba, fika mbele uongee. Halafu tutamwita Shadrack Havi baada ya Bwana Manoah. Sema jina lako mzee.

**Shadrack Havi:** Mimi ni Shadrack Havi.

**Com. Asiyu:** Halafu ukimaliza, yule atakufuata atakua Manoah Inasia, sawa sawa?

**Shadrack Havi:** Sawa.

**Com. Asiyu:** Okay, thank you.

**Shadrack Havi:** Mimi napendekeza hivi kwa upande wa biashara. Kama baba ni mzalishaji – ako na factory ta uzalishaji – mtoto wake asipewe cheti cha ku-operate kitu kama wholesale- duka la kuuza kwa jumla, asipewe. Kitu cha pili ni kuhusu land policy. Tangu land ipite mwaka wa sabini na moja kuna mambo mengi ambayo hayapendezi katika mashamba yetu. Sasa, ningependela wachague tume ambayo inaweza kuwa ikitembelea sehemu hizi kwa muda ya miaka fulani kama vile wamefanya kwa mambo ya census kwa sababu census inafwa kwa miaka kumi na hapo tena wawe wanaagiza tena hizi boundaries ziwe reviewed after such a period.

La tatu ni kwa upande wa mabarabara. Kama consultant amesikizana na contractor na amekula kitu halafu atengeneze barabara duni, inatakikana muda fulani uwekwe ambapo ile barabara ikionekana inadumu, consultant alipwe – awe ametoka kwa serikali ama kwa company yake.

Kwa upande wa industries; kwa sababu kuna sehemu ambazo ni industrialized na zingine ziko chini, for example, Kakamega is a provincial headquarter na hatuna industry hata moja. Na kuna mahali pengine ambapo ni division headquarters na unakuta ni industrialized.

Kitu kingine ni kuhusu mambo ya jamii. Unaweza kuta ndugu amekufa na amekuwa akipambana kupata mali yake ili atengeneze mali yake na jamii yake lakini akifa na kuacha bibi yake, hao ndugu wengine wanakuja na kupiga huyo bibi na kumfukuza na hiyo mali inakuwa yao na huyo mtu alikuwa akitoka asubuhi kukiwa na baridi kwa sababu ya jamii yake. Mimi naona serikali inafaa kutilia hapo mkazo kabisa.

**Com. Asiyu:** (inaudible).

**Shadrack Havi:** Iweke sheria ya kulinda hizi vitu za huyu mjane na familia yake.

**Com. Asiyu:** (inaudible) Ungependaje. Just pendekeza vile ambavyo ungependa serikali au katiba ifanye.

**Shadrack Havi:** Kile ninachopendekeza ni kuwa ile mali ya yule mwanamke na watoto wake lakini mtu wa jamii hastahili kuingilia na kuitengeneza kuwa yake.

**Com. Asiyu:** Endelea.

**Shadrack Havi:** Halafu, mambo ya polisi kupiga mtu kama ameshikwa na kupelekwa cell na anatakikana aende kortini, haistahili kuwa hivyo.

**Com. Asiyu:** Tunajua lakini unataka namna gani?

**Shadrack Havi:** Huyu mtu akishikwa apelekwe kortini ili sheria iaumue. Kwa nini apigwe? Na huyo aliyemshika ana ushahidi?

**Com. Asiyu:** Wewe umesema mtu akishikwa asipigwe na polisi lakini apelekwe kortini, si ndio?

**Shadrack Havi:** Haya, next one. Mambo ya industries nimesema wagawe sawa sawa katika kila province au district.

**Com. Asiyu:** Ndio, umesema hivyo. Fair distribution ya industries.

**Shadrack Havi:** Nafikiri ni hayo tu.

**Com. Asiyu:** Asante sana Bwana Shadrack Havi. Sasa tunamtaka yule – chief amemaliza? If chief isn't here, Bwana Manoah Inase? Philemona Lugaya tafadhali fika mbele uongee.

**Philemona Lugaya:** (inaudible) Wakenya. Mimi ni Mzee Philemona Mayoya. Nitazungumza hasa juu ya Mwafrika katika Kenya kwa sababu mimi ni Mwafrika na mambo yale nitakayozungumza ni ya Kiafrika. Wakati tulipopokea uhuru, tulisema tunataka Waafrika wenyewe wajitawale bila mtu mwingine. Katika bunge, tunataka tuwe na Bunge mbili; kubwa na ndogo. Bunge iongeze muda ambao (inaudible) haya mambo ni makubwa sana lakini inachukua kidogo kidogo kwa maana sitaki kupoteza wakati. Kuwe na miaka mitano ambayo Mbunge ataweza kupigiwa kura ili aingie katika bunge. Kukiwa na Mbunge, arudi nyumbani ili ajulishe watu mambo ambayo anapata huko. Mbunge wa kutoka miaka kumi na tisa kuenda juu anaweza kuchaguliwa.

Rais wa Kenya achaguliwe akiwa na miaka arubaine na awe anajua lugha ya mama, Kiingereza, Kiswahili na awe mtu wa Mungu ambaye anajua raia ya tabia za raia. Pia, awe na uwezo wa kupandishwa akiwa kwa bunge kuwa mtu mwingine hawezi kutoa sheria bila ile iliyopitishwa na wabunge ambao walichaguliwa kwa kura za raia kwa mlolongo ndio ajulikane anatetea raia.

Kwa maana nina mengi, na wewe unajua sasa nina miaka sabini na mitatu nikikaa hapa, damu itachanganyika na maji. Na kwa hivyo (inaudible) nitoe kanuni kabisa hapa maji ikija na ndio unaona nasoma pole pople.

Mbunge yeyote asiwe na upendeleo kwa vile alichaguliwa na wawe wakichaguliwa kwa siku moja na kura zihesabiwe hapo bila kuwekwa kwa masanduku na kupelekwa mahali pengine. Committee ichunguze na itoe mahitaji ya mtu kuwa rais awe na sheria aliyozaliwa nayo na awe na kipawa, awe mtu wa Mungu, awe na maoni mazuri na atoe mambo yale raia wanagombea kwa raia. Kuwa rais, ni lazima awe mbunge aliyechaguliwa na watu wote wa Kenya, kwa mikoa yote bila kuacha kijiji hata kimoja ili akizungumza, azungumze kwa kila Mwafrika katika Kenya.

**Com. Asiyu:** Haya Mzee, naona umeongea vizuri na umeongea juu ya mambo yote uliotaka kutueleza. Pengine kwa sasa unaweza kutuachia hiyo karatasi yako kwa vile umeandika vizuri na sisi tutaangalia zile zingine hukuweza kusema.

**Philemona Mayoya:** Asante. Hapa nimeweka majina na shamba langu na hata simu ambayo mnaweza kunipigia.

**Com. Asiyu:** Umefanya vizuri Mzee, *abandu ba vokoli abandu lidukhi lino ni lidukhi linene --- nekekhenyekhenye dawa kekhenyekhenye dawa nowenya akosi --- nowenyca sochaba wirana* Schoolgirls, this is a very seriousn thing; it is not a drama festival. Control yourselves – we are recording this and we want people to present everything that everyone saying is dead serious to us. You will control yourselves. Asante sana Mzee kwa presentation yako. Sasa tutamuuliza Bwana Everest Adagala aje afanye presentation na atafuatwa na Haman (inaudible). Kama Manoah hayuko, yule ambaye (inaudible) Kamisi, Alfred yuko?

**Interjection:** Inaudible

**Com. Asiyu:** Then there will be Councillor Silipa Mugita ambaye ataongea baaya ya huyo. Please go ahead now. Give us all your names and then make your presentation in five minutes.

**Everet Adagala:** The Commissioners, my names are Everest Kivailo Adagala. Commissioners, I think what we need to do..... Earlier we had Mrs. Suba who said that there should be a preamble in the Constitution and I agree with this totally and I recommend her accordingly. She had asked me to say how it should be done and I have a simple thing for it. We have looked at the Uganda Constitution, we have looked at the Swiss Constitution, the American Constitution and several others and we have a simple thing which should say, “We the people of Kenya, do hereby solemnly adopt, enact and give to ourselves and our prosperity the Constitution of the Republic of Kenya; that is the Preamble. If we look at the Swiss Constitution, we will find that it has several preambular statements. The Constitution says for what it stands, its purpose, its distribution, sovereignty within the confederation and the principle of the rule of law and individual and social responsibilities. I think we can adopt that for the Kenyan situation and I recommend accordinglt.



The Uganda Constitution goes a little further and I think we can also adopt whatever they have. The statement that follows the Preamble and before you come to the Constitution itself deal with the national objectives and directives and principles of State policy and is a guide to all organs of the agencies of State and all organizations on the interpretation of the Constitution. I think we should not live in our doubts, you the (inaudible) of the Constitution should not leave any doubts in our minds or the minds of the Judiciary or the Legislature at the purpose of what you intended to say. Therefore, the Ugandan Constitution says this, 'that matters meeting to political objectives, protection or promotion, fundamental and other human rights and freedom, social and economic objectives, cultural objectives, accountability and the environment policy objectives and duties of a citizen. This comes before the Constitution itself and I recommend that the commissioners have a serious look at it and see if we can adapt some of this to our own liking.

The Constitution of Uganda says that the President will report to parliament and to the nation from time to time. The American version is the state of the union. Our version is the State opening of parliament but these are not the same things. I think we should do away with the state opening of parliament and have a state of the country of the Union if we are going to have the federal kind of arrangement.

The Ugandan's say this, 'that the President shall report to parliament and the nation at least once a year all steps taken to ensure the realization of these policies of policy objectives and principles. This ties the President down; he cannot jump here and there and say all sorts of things but he will have to convince them that whatever they have stated in the Constitution is being applied or is being looked at. May be if we did that and we do hereby recommend that the commission takes longer range or propose Constitution – the one you are going to write – and include objectives and directive principles of state policy similar to those of the Ugandan constitution.

In the Constitution itself – not very many people in Kenya have read the Constitution. our Constitution is not owned by anyone; it is owned by may be the State law office – the Attorney General's Office because it is a law in their statutes. We need to have – as in the case of the Uganda Constitution, South Africa and also Tanzania – a statement that all powers belong to the people. I think Mr. Suba also said that – all powers to belong to the people. And people have delegated these powers to the state and the State cannot do anything which cannot be delegated to them. The government is a servant of the people and the people are the state. And therefore any President who thinks that he can jump all over the place and do all sorts of things and make announcements that discriminate or hurt the (inaudible) will be doing so ultra virus.

So, we recommend that the Constitution of Kenya be written in a simple language in which everybody will be able to understand; would it be Kiswahili, would it be the local language, Dholuo, Luhya, Maasai and so forth. These are irrelevant but the language in which it is going to be applied is the one which is most important. We need to define – I see she is telling me that my time is up and I don't know if it has. We need to define what our republic is because we have had controversy over

formation of small districts that have become a problem. In our Constitution, we need to define what this country is. Is it the 8 provinces? Is it the 63 districts or is it the 45 districts? And amend the Constitution the fact that Vihiga is a district and for it to be sub divided, there must be a Constitutional amendment to it. Otherwise, short of that will be opening a Pandora's box all over the place.

Regarding citizenship – and you will pardon me to go one because (inaudible). Regarding.....

**Com. Asiyo:** (inaudible)

**Everet Adagala:** Regarding citizenship, you raise the question of people being born in other countries. I think all Constitutions have a fact that where you are born is where you are a citizen of until you achieve that age when you can make a decision and if you look at the Ugandan Constitution presently it says that children would have even wives who are married outside and wives who have married into Uganda from outside would have dual citizenship and that a Ugandan person who marries outside and stays outside would not as much lose his citizenship but would be reinstated to that person. I think we need to apply this and see how it goes about. I recommend that every citizen undergoes national service for training in citizenship similar to the National Youth Service but again similar to what we had in England sometimes back and I think they still have it in Uganda up to now.

The Legislature, I am proposing that it should have two chambers; one the Upper Chamber which should be the Senate and the Lower Chamber which should be the House of Representatives. The House of the Representatives will be responsible for certain – will compose of members elected every third year – after every three years. I am saying this because somebody has raised it and I have raised also. Because four years is too long while five years is much longer for someone to stay out there doing nothing. They should be on their feet. Everytime they should be out there with the people to hear what the people say, to learn what they say and to be able to be in contact with them at all times. So, the House of the Representatives requires two chambers for three years and the Senate which should be the Upper Chamber should be for six years.

The President should serve for six years – in my view – he should be given two terms of six years so that the elections of the President, the elections of the House and the elections of the Senate coincide – they come (inaudible). If we did that, we will cut down on cost because a bi-election now costs about 60 million shillings and just if a party was to fall vacant, we would Kshs, 60 million shillings on a bi-election. Can this country afford that? I do not think so. I think we should be very clever and put in the Constitution now that we have staggered directions. The House – the way I have said it, the Senate and the President again the way I have said it. But, bearing in mind that all these people serve the people.

The number of representatives in the House would be determined - in my view – by population. If we take a single place say 60,000 population, based on the recent census - 60,000 population to be the base on which we take our representation, then

you can see what will happen. There are parts of Kenya which will not have 60,000 people, which will have no representation but you can make in the Constitution provision for it. But, for us here who are heavily populated with more than 60,000 - about 250,000 – perhaps we will require public representatives but I am not very sure that that would be the case but we should actually go by whatever the commission is. You have heard.....

**Com. Asiyu:** I see you still have quite a lot of .....

**Everet Adagala:** One thing Mr. Chairman – one thing

**Com. Asiyu:** Just one very important issue. The last one and the most important.

**Everet Adagala:** Members of Parliament have voted themselves very heavy salaries which are obscene (inaudible). What we propose is that during the life of that member in parliament – to the life of parliament of a session of parliament – during that election, there should be no review of salaries whatsoever but if they reviewing of salaries, it should be for the next parliament and not for themselves. The same thing applies to the President. The Presidential salary should be set and should not be reviewed until he has ceased to be the President because he can influence salaries as members of parliament and (inaudible) influence their own salaries. At one time or the other, these people will have to account to this money.

As regards local government, I suggest that we look at Omamo report which is everything that we need to have on local government. But, I suggest that local authorities be re-enforced and provincial administration be abolished. I have put this in writing as you have requested so that you have it. I had these remarks at Kakamega and I feel that it should be that way. Thank you.

**Com. Asiyu:** Thank you very much Everet for those very useful remarks. We would be ready to hear more in writing from some of the recommendations that you have made. I really do not have any questions to ask you unless Kavetsa you want to ask some questions. Thank you very much. I do not think Kavetsa wants to ask you anything. Is Councillor Silipher here? How about Haman Asava?

**Haman:** I am here.

**Com. Asiyu:** Please come over Haman and talk to us very briefly. Haman, we shall have (inaudible).

**Haman Asava:** My name is Haman Mulinya Asava and this is my fourth or fifth memorandum to the commission since 1961 and I think I will just mix both languages – Kiswahili and English. Kitu cha kwanza ambacho ningesema kama vile Suba Alfred alikuwa hapa. Katiba yetu ya Kenya.....

**Com. Asiyu:** Excuse me, unajua hii si debate. Hata wengine walikuwa wana-refer, just make your presentation individually, okay?

**Haman Asava:** Local Authority: Ningetaka Local authority ipewe mamlaka na tutakuwa na sehemu kama hizi nne; local council, county councils, municipal council na city council. Hii local council and county council ndio zitakuwa zikitafuta njia ya kupata pesa na kutengeneza njia na mambo ya shule na hospitali kama vile tulivyokuwa navyo zamani. Hawa watu pia, ndio watakuwa wakiendesha hospitali ndogo, nursery schools na primary schools and zile kubwa zinaenda kwa serikali kubwa. Hawa watu watatafuta njia ya kupatikana kama water springs, market forests and national parks kama kwa national resources na electricity na kuangalia vile mashamba yanaendelea na mambo mengine ya maendeleo katika sehemu yao.

Hapo tumemaliza mambo ya local authority na wale watu ambao ni watu wa maendeleo. Kuajiriwa kwa watumishi wa serikali, ningetaka Public Service Commission iwe na uwezo kamili wa kuajiri hawa watu badala ya member of parliament ku-appoint assistant ministers iwe ni ku-appoint assistant chiefs and chiefs iwe ni kazi ya public service commission.

Boundaries: tungetaka commission ambayo inaweza kuangalia mambo ya mipaka na iwe na Act ya parliament kuangalia mipaka inatakikana mahali fulani wala sio mtu mmoja kuenda kutangaa na kusema sehemu fulani (inaudible) na hakuna boundary commission ambayo imependekeza hiyo.

**Com. Asiyu:** (inaudible)

**Haman Asava:** Ningetaka boundary commission iwe na Parliament Act ya kuendesha hizo boundaries wala sio mtu mmoja kutangaza district au division. Parliamentary service commission ndio itakuwa na uwezo ya kuangalia mambo ya parliament na hii inatokana na pengine mtu anataka kuwa nominated member of parliament. Hawa ndio wanaweza kuangalia kama mtu amesimama kupigania kura, imekataza huyo mtu asiwe nominated.

Nitarudi upande wa mahakama na ofisi ya Attorney General na ofisi ya President. Ninapendekeza ya kwamba ofisi ya Attorney General iangaliwe sana kwani ina makosa mengi sana. Kuna uufisadi, kuna maonevu, kuna kitu ambacho kuwezi kufuata sheria na mahakama zimeharibika kwa sababu afisi ya attorney General haifuati njia nzuri. Ningetaka Kenya Anticorruption Authority ziwekwe karibu na korti ili ziangalie mambo ya rushwa ambayo inaendelea sana na kuharibu korti. Ma-judge wanafanyia mambo yao nyumbani na kuja kortini kama wameshamalizia nyumbani na kwa hivyo there is no justice in this country.

State policy: Tungetaka Prime minister awe ndiye anaweza kuwa spokesman wa nchi.

Land policy:.....

**Com. Asiyu:** Mzee, tafadhali tueleze yale mambo muhimu ambayo (inaudible) kwa maana tayari umeandika na tutasoma.

**Haman Asava:** Mtaenda kusoma lakini kitu kimoja cha kumaliza ni kwamba ningetaka nyinyi commission, hasa Prof. Ghai abakie katika nchi hii kwa muda wa miaka mitano akiangalia kama ile katiba tumeandika inafanya kazi kwa sababu ile katiba ambayo tulikoka nayo Lancaster House iko mahali fulani, inafanya kazi lakini mtu ameificha ndani ya mfuko wake na haifanyi kazi. Ndio maana unaona mtu mmoja anatawala nchi na kuiharibu na Wabunge ambao wanapelekwa parliament.....Kwa hivyo, ningependekeza Prof. Ghai achukue nafasi fulani na hao wengine wapelekwe katika ofisi ya Attorney General na wengine kwa office ya Chief Justice ili waone kwamba nchi hii ina justice.

Mambo ya mashamba – niguze kidogo tu – tunge.....

**Com. Asiyu:** (inaudible)

**Haman Asava:** Pendekezo ni kwamba ningetaka kama kuna title deed, mtu mmoja asiende kuweka caution kwa hiyo title deed. Lazima iwe ni korti ndio inaweza kutoa caution kwa hiyo title deed. Tribunal courts zirudi nyumbani katika ma-division na ziwe kama kule Vihiga kwa districts ndio ziangalie mambo ya watu.

**Com. Asiyu:** Asante sana Mzee, naona umeongea vizuri. Bado tuna watu hamsini ambao wanataka kuongea na imebaki dakika kumi na tano ili saa kumi na moja ifike. Sasa itanibidi kupatia watu muda mfupi zaidi ili kila mtu ambaye anataka kuongea nasi leo apate nafasi ya kuongea na asirudi bila kuongea. Sasa namuita Azinam Azinwa.

**Azinam:** (inaudible)

**Com. Asiyu:** You will not present? Okay. George Akelola, alikuwa ameongea. Chesi Hezekiah, kuja uongee nasi na utafuatwa na Kivuya Joshua – no, huyo ameongea. Utafuatwa na Patrick Madoya. Endelea Bwana Chesi. I should think (inaudible) ako hapa?

**Hezekiah Chesi:** Asante sana Commissioners wetu. Jina langu ni Chesi Hezekiah na ningependelea kutoa maoni ya ofisi ingine ambayo ningependa iwe created hapa nchini mwetu.

**Com. Asiyu:** Pendekeza tu (inaudible)

**Hezekiah Chesi:** Na hiyo afisi ni ya ombudsman.

**Com. Asiyu:** Ni sawa.

**Hezekiah Chesi:** Two, ningependelea appointments za President ziwe approved na parliament. Three, ningependelea title deeds ziwe free kama Identity Cards kwa sababu kuipata ni vigumu zaidi kwa mtu.

Nne, ningependelea watu ambao wanapata kiburudisho kwa maana baada ya kazi Tusker inafuata, sio wote ambao wanaweza kupata tusker. Basi, kuwe na kitu kama club cha pombe ya busaa – ile traditional liquor – ili irudishwe kwa watu kwa sababu Constitution yetu tu ni blanketi ili sisi sote tujifunikie. Kwa hivyo tukipewa kitu kama club, tukipewa ni sawa sawa. Hilo ndilo pendekezo langu.

**Com. Asiyu:** Lakini tuna kitu cha maana hapa huyu mzee anaongea mambo muhimu sana na tunaandika habari yake na wengine wanacheka. Akisema busaa iwe licensed, hakuna kicheko ni kweli. Sasa hivi mnkunywa ile pombe ya shillingi kumi na tano inayouwa watu na kuwamaliza halafu mnasema eti hizi pombe ziwekwe license. Anasema mambo ya ukweli kwani anataka kulinda maisha yenu. Tafadhali msikilize.

**Com. Adagala:** Unajua kikao cha Tume ni kama kikao cha port; tusifanye mchezo mbele yake. Watu wa mobiles please put them off ndizo zinafanya.....

**Com. Asiyu:** Dakika zako ziko karibu kuisha.

**Hezekiah Chesi:** Tano, ningependelea tuwe tukipata education freely na tuanzie kwa hawa watu ambao tunasikia wako Nairobi ambao wako kwa mapipa – tuanze kwao na isitoshe tuende tena kwa wale ambao wamaketi kule na kuongea hata mimi siwezi kujua wanasema nini lakini wanaongea. These disabled people naona kuwa ni watu wana taabu sana. Basi, ingekuwa vizuri sana kama serikali yetu inaweza to consider hawa disabled including wale ambao nasikia wako kwa ma-town kwa mapipa.

**Com. Asiyu:** Tuwafanyie nini?

**Hezekiah Chesi:** Wapatiwe njia fulani za kujifanya wawe independent ama wanajiweza yaani free education, chakula na basic needs zote mpaka watakapo fikia mahali fulani wanapoonekana wanaweza kuwa independent

**Com. Asiyu:** Asante.

**Hezekiah Chesi:** Nafikiri ni hayo tu, mengi (inaudible).

**Com. Asiyu:** Asante sana na tumeshukuru sana hayo maoni yako Bwana (inaudible). Wewe ulikuwa Bwana?

**Hezekiah Chesi:** Chesi.

**Com. Asiyu:** Chesi ndio nina Hezekiah; niko na jina lako hapa. Sasa tuna Madoya Patrick. Hebu kuja hapa mbele uongee kwa dakika tatu tu ili kila mtu apate nafasi ya kuongea. Patrick Madoya.

**Patrick Madoya:** Nitaanza kwa kusema I am Patrick Madoya. In the first place, the constitution should read that.....

**Com. Asiyu:** It's only three o'clock.

**Patrick Madoya:** In the first place, the Constitution should read that the people of Kenya are a Republic but not that Kenya is a Republic.

Sovereignty: People should be above the Constitution and not the Constitution about people.

Parliament and legislature: The Constitution should be changed to allow or provide a senate. This shall deliberate on the matters passed in the parliament before the Head of State gives it consent. The Senate House shall constitute of old-age politicians such as Ochieng Oneko, Martin Shikuku, Mwai Kibaki and Mr. Moi or people above 70 years of age.

The presidency and the executive: Be above 40 years of age and below 75 years of age. The President should serve two terms in office of five years each term. Executive powers should be removed from the presidency. This role should be played by the Minister of State in the office of the President or the creation of the Prime Minister's office which shall take over these duties.

Removal of the President: Kenyans should be allowed by the Constitution to remove the sitting President who fails to perform as to their expectations. This should be through soliciting votes and signatories from at least a hundred people from every constituency or 60% of the total number of constituencies. This shall be served to the office of the Attorney General who will in turn move the motion to the parliament.

The Vice President: After naming his cabinet, the President, the cabinet shall vote for one of them as the Vice President and not the President to name his vice and shall be an elected MP.

The cabinet shall be appointed by the Head of State after general elections. The cabinet should comprise of qualified people e.g. the Minister for Finance should be an economist while road and public works, he should be an engineer.

**Com. Asiyu:** (inaudible) Endelea.

**Patrick Madoya:** On Judiciary, the Constitution should give the judiciary independence from the executive and the presidency.

- Appointment of judges should be done on merit and done by the office of the Attorney General.
- The Constitutional offices: The Attorney General to be appointed by the executive office and he should not associate himself with political parties.
- Public Service Commission to be elected by the civil servants.
- Electoral Commission of Kenya must be neutral and its officers elected by all political parties.
- Elections should be held after five years and aspirants must declare their wealth.

#### Members of Parliament:

- Votes should be counted on the spot at the polling station. They should serve for only two terms of five years each as the President does.
- Any MP who defects should lose his parliamentary seat and the people be allowed to nominate another person to fill that vacancy instead of taking people back or Kenyan back to another bi-election which is costly. The party that loses the defector must nominate another MP.

#### Local administration

- We should remove the office of the District Officers and the chiefs. DC and the assistant chiefs be elected by the people.
- Creation of new districts be approved by parliament.

#### Education:

- Primary education should be compulsory and free and the government to pay for this.
- The 8-4-4 system should be done away with in its place the old system of 7-4-2-3 be reinstated. Books and other necessary facilities required at primary school be the responsibility of the government.
- Health: The government should give free medical care.
- Structures of the government: Parliamentary system and the Presidential system of government is necessary for Kenyans.
- Land trustee: Land title deeds be issued at the office of the assistant chief.
- Natural resources: All forests must be protected by the Constitution. All mineral sites must be .....

**Com. Asiyu:** Abandu balomaloma muchikolikeli choba People who are speaking go outside or go to Mudete market please.

**Patrick Madoya:** All mineral sites must be Constitutionally protected and should belong to the government. Wildlife should be distributed in all 8 provinces and settled.

Business: foreigners running small businesses be limited within town centers to protect local businessmen.

**Com. Asiyu:** Mr. Patrick,



**Patrick Madoya:** Hallo,

**Com. Asiyu:** Your time is long up. Can you now please wind up but sight only the most important aspect that you have not yet mentioned.

**Patrick Madoya:** I am winding up. I just have three points to make.

- Gender: This should Constitutionally be left to each Kenyan community as per their culture and elders conform
- Disabilities: The government should set schools, training institutions and hospitals special for the disabled Kenyans and sponsored by the government.
- Freedom of worship has to be controlled because some churches are there for business. Thank you.

**Com. Asiyu:** Thank you very much Mr. Patrick Madoyo. There is a question here for you.

**Com. Adagala:** People want the old system and I do not know why nobody wants something new. We are making of fifty years and we all want to go back to the old system or the colonial one. Not only that, this (inaudible) structure, what about the context? Are we building for the year 2050, are we building for the year 3000, year 2100, what are we doing? I would really like to have a vision on education. In Chavakali, someone gave us something but everybody just wants this old thing and we do not know whether it is adequate for the future. It may have been adequate for the past. Please, do think beyond a structure.

**Patrick Madoya:** What I may say – I know you are referring to education and this 8-4-4 system has really spoilt most of us and I being a victim.....

**Com. Adagala:** It has and we want a system for the future tafadhali. Think about it. Thank you.

**Patrick Madoya:** So, we want the old system.

**Com. Adagala:** We want a system for the future.

**Patrick Madoya:** Yes.

**Com. Asiyu:** You actually recommended that we go back to the old system of education. Many people have done that and I see a lot of sense in your recommendation that we go back to the old system because children come out a lot more mature after class eight and then they will of course go for higher education – you know – form four and then (inaudible). Is that what you are referring?

**Patrick Madoya:** Yes.

**Com. Asiyu:** So, it is 8-4-2 before university?

**Patrick Madoya:** Yes.

**Com. Asiyu:** Thank you very much. We can work on the content and the method afterward on our own. Thank you Patrick, please sign our book and leave your document with us and we still have plenty of time. So, please Mr. Peter Masaya, please come over. If Peter is not here, we will not wait but we will call somebody else and when he comes let me know. Is Mr. Omari here? Give us your name.

**Omari Licmus:** Thank you commissioners. I am Omari Licmus, a teacher by profession. I will be very specific and I will dwell more on education. I would like to propose that the education department should as much as possible be left to educationists to decide even about the system of education and so on so that politicians cease from confusing Kenyans from time to time about the kind of system of education that they want that may be favouring their regions.

Number two, I would like to propose that the BOG's be abolished in schools because most of the BOG members are not down on the school level and I would like to propose that the Parents Teachers Association be given all the mandate to run the schools. I would also like to propose that the TSC Act - The Teachers Service Commission Act - be amended so that the following things can be corrected: one, about discipline matters, we should have well versed lawyers handling discipline matters so than pinning teachers into a room somewhere privately and pressurize them to accept certain things.

I would also like to propose that a teacher who on discipline case should also be allowed to have a lawyer to represent him or argue for him his case. Also, such a teacher in such a case should be handled not in camera – it should be made public because after all there are no mistakes that should be kept in a small room to be handled there. I would also like to propose that the TSC Act on employment be amended so that instead of the TSC trying to decentralize employment to the school level where BOG's seem to be abusing that role of employing teacher. They should just employ teachers at the TSC head quarters and post them to schools that have vacancies.

I would also like to propose that Heads of institutions should not be agents of TSC because some of them have had grudges with the teachers and end up interdicting some innocent teachers. So, I would like to propose that if the TSC has to delegate some duties, it should leave it up to the education officers and not heads of institutions.

About the authors of various books that we use in schools, I would like to propose that there should be an Act to control some of these commercial printers that seem to print books that are either outdated or not having the material in the syllabus so that the authors have their qualifications vetted.

About promotions of teachers and education officers, I would like to propose that they should only be promoted on passing proficiency tests or exams that are professional and not this issue of looking at somebody and saying he or she qualifies for promotion. I would also like to propose that in the coming Constitution the issue of overtime is also looked into especially for teachers who seem to work stipulate hours so that if a teacher goes beyond the time allocated for him, then he should be due for overtime.

Finally, I would like to propose that since educationist is a continuous process, the HELB – the Higher Education Loans Board should ensure that even the adult learners are also legible for loans from the Higher Education Loans so that they can further their education. Thank you very much.

**Com. Asiyu:** Thank you very much and I have one question for you. This is in respect of various books for schools. You are only recommending that the qualification of these authors should be vetted but that will after the damage is done. Is there a better recommendation you can make? Because after vetting then what?

**Patrick Madoya:** Yeah, I would like to suggest that some measures are put in place in law so that specific qualifications are set for specific orders of various books. They should be qualified people for the level of the books they are writing for.

**Com. Asiyu:** But there is also the issue of the books being used (inaudible) where new books come every year so that in a family, the younger child cannot benefit from the older child's books? Can you give us your views?

**Patrick Madoya:** That confusion is coming because of my point number one when we keep changing systems from time to time; we say today we are offering such subjects, tomorrow we say no we are not offering and the next we want to remove this and this topics and the next we want to add this and this topic and that is why there is that confusion of some outdated material being put in place. Otherwise, if we had a clear system that we want to use and can take a longer time, then the same books should be used. Long time ago we used to use books of our elder sisters and brothers but these days it is difficult. Thank you.

**Com. Asiyu:** Thank you very much for those observations (inaudible) in our register and leave your document with us (inaudible). Once that is going on, I would like to call upon (inaudible) Mr. Kihim Eboso, you are there, aren't you? Did you make a presentation yesterday in Saibosi? No, this is the first time, so Bwana Eboso feel welcomee, have a seat and give us your presentation.

**Eboso Kihima:** Commissioners, ladies and gentlemen, my name is Eboso Kihima.

**Com. Asiyu:** Eboso, make your presentation to the Commission and not to ladies and gentlemen

**Eboso Kihima:** Okay. I am a teacher by profession and I want to make the following recommendations; because I am a teacher I will start with the one that affects teaching. Those teachers who are working in school with poor physical facilities must be considered to work in hardship areas and therefore qualify for hardship allowances.

Two, teachers on interdiction should be allowed to continue earning full salary until the case is heard and determined because they assume to be innocent until proved guilty. Paying them half pay is already punishing them before the verdict.

Three, the Kenya National Examination Council should have its own staff to supervise and regulate exams. Where cheating occurs, the candidate should be given supplementary papers instead of cancelling the results and making them repeat for another whole year. Still on education I want to join my friend recommending that we have a system of education which is 8-4-2-3 and the content displayed systematically across. We allow specialization from form one to secondary school. On fees, I would want primary education to be made compulsory and free and in secondary education but because I am sure the state cannot manage to offer free education to all secondary going students, the ones who are able must be charged more to pay for the needy who are in those schools.

University education should be made free. The post graduate degree members be given some loans by the government to allow them start some activity that can generate some income as they wait for employment of they look for employment.

On religion I would like to say that we should lay down strict rules and conditions to be met by religions or denominations before they are registered. This will help us to guard against sectism and things like devil worshipping. When I talk about strict rules and conditions, I am talking even the way of dressing, dancing styles – some of the dancing styles of some religions amount to immorality. Quality of leadership in churches must also be fixed. Quality of leadership in churches must also be fixed. The way of praying and what is the following before registration. You find that one person or ten people or a family registers a denomination or a church. Maybe we should determine by a church must have these number of followers before it was registered. Let us also limit the number of churches because they contribute to disunity in this country.

On the presidency, I would say that a President like any other human being gets tired with age and apart from fixing the minimum age, we should also fix the maximum age.....

**Com. Asiyo:** Proposal.

**Ebodo Kihima:** The terms notwithstanding, 65 years. On gender .....*(End of side A of Tape 4)*

.....FGM: People who practice FGM must face severe punishment – say 10 years and above without an option of a

fine.

Conceptions: We are having a lot of children on the streets and we are having a lot of irresponsible parenthood because as a country, we have just allowed people to give birth (inaudible). We must control and the Constitution must help us. Let us not allow minors to give birth. Let us criminalize it such that someone should not give birth when she is at the age of 20 years and let us fix the last (inaudible) because with age someone loosed energy and your may be able to look after the child. So, let us say that people should not give birth after 50 years and that will help us to build responsible parenthoo.

On maternity, I would propose that those people who are employed, when the women go home for maternity, the husband should also be given leave to go and take care of their spouses – maternity leave for both men and women.

On land, I would propose that land processing be made free and title deeds be prepared and be issued to the land owners automatically because if the land is in my name, there is no need for me to apply for a title deeds. (inaudible) must be empowered to recall the non performing members of parliament. We must have perquisite in this country to determine important national matters instead of leaving them to the parliament, to the President or some kind of individual. Let's all be involved.

Retirement: Politicians should also retire. I am proposing that politicians retire at 60 years I think their production will have gone down.

Judiciary; cases before the court must be dispensed off within 6 months so that justice is seen to be done because if it is delayed then it is denied. In cases where the AG's consent is required, the provincial state councils should give consent to capital offences.

Every district should have a court so that we can speed up this. Let us give the accused to choose where they want to be trired because you may find that you may not get fairness in a certain court. Then you can choose and say let me try it at this place.

Under devolution, I would say that the local authorities be allowed to collect taxes and 50% of it must be used in the development of the area or the source of the tax then the other 50% can be remitted at Central government to help it meets its budgetary requirements.

The post of a prime minister – I have said.

**Com. Asiyu:** Your time is up now.

**Eboso Kihima:** Okay. Thank you very much

**Com. Asiyu:** Can I ask you (inaudible)

**Eboso Kihima:** Yes.

**Com. Asiyu:** (inaudible)

**Eboso Kihima:** I am a head teacher.

**Com. Asiyu:** (inaudible)

**Eboso Kihima:** Yes.

**Com. Asiyu:** It is important for us to know if you are a head teacher because we tabulate when we are (inaudible) headteacher. You have done very well in this list. I just wanted to remind you that it will be very difficult to criminalize birth of people under 20 years because that's when they are at their best in the reproduction.

**Com. Adagala:** How do you criminalize?

**Com. Asiyu:** Yeah, he said so. And men who go to school leaving women, people go to school until they are 40 and you are telling them that age 50 there is no more giving birth. It is crazy for this country to criminalize (inaudible)

**Eboso Kihima:** What I .....

**Com. Asiyu:** But those are your views.

**Eboso Kihima:** What I was saying is this, I was emphasizing that.

**Com. Adagala:** Did he say criminalize?

**Com. Asiyu:** Yes, he did.

**Eboso Kihima:** I was discouraging that.

**Com. Asiyu:** But you used the word criminalize (inaudible) Thank you very much. Can we now have Bwana Jackson Kidiga please come over and make your presentation. After Bwana Kidiga we will have Patrick Guduma, so Patrick get ready (inaudible).

**Jackson Kidiga:** Kwa jina mimi ni Jackson Deda Kidiga na nimekuja kutoa maoni kuhusu sheria. Uteuzi wa wadhifa wa mkuu wa sheria, jaji mkuu wa Kenya, mahakama ya rufani unafaa ufanywe na chama cha wanasheria wa Kenya. Hii ni kwa sababu uteuzi ambao unafanywa kwa sasa unaegemea upande mmoja na kumnyima mwananchi wa kawaida usawa wa sheria kijinsia.

Pili, wateuliwa wanapendelea upande wa waajiri wao walitoa uamuzi wao kisheria. Uteuzi huo unamnyima hata wakili usawa wa kumtetea mteja wake kisheria ndio sababu nikasema kwamba kwa maoni uteuzi wa mkuu wa sheria unafaa ufanywe na chama cha wanasheria wa Kenya.

Oni langu la tatu ni kuhusu hundi ambazo tunapewa katika michango yetu ya harambee na watu mashuhuri. Mtu anajua hana pesa katika benki na anatuandikia (inaudible)

**Com. Asiyu:** (inaudible) weka chini kidogo.

**Jackson Kidiga:** Mtu anajua hana pesa katika benki na anaandika hundi kwa wenye kutaka mchango wake. ukipeleka hiyo hundi katika benki unaambiwa kwamba.....

**Com. Asiyu:** (inaudible)

**Jackson Kidiga:** Unataka kuimbia benki pesa. Kwa hivyo natoa maoni kwamba hao wanaotoa hundi na hawana pesa katika benki wawe wakishtakiwa kwa wizi kwa kudanganya waliokuwa wakihitaji msaada wao. Nafikiri ni hayo tu nitaweza kutoa kwa Tume.

**Com. Asiyu:** Asante sana Bwana Jackson Kidiga. Naona unataka Bwana Chief Justice achaguliwe na wanasheria wa Kenya wakiwa pamoja.

**Jackson Kidiga:** Ndio.

**Com. Asiyu:** Na hicho chama ni cha kisiasa itakuwa namna gani? Lakini, hayo ni maoni yako na ninasema asante sana. Bwana Patrick Guduma na utafuatwa na (inaudible). Chesi yuko? Na mbona unatoroka? Kimbia hapa na uketi. Chesi Lumasia, yeah? Endelea kijana.

**Chesi Lumasia:** I am Chesi Lumasia and my proposals are as follows:

- Kenyans should own the Constitution – that is – we should have a preamble which shall comprise of how Kenyans will find unity and strength in their ethnic diversity.

- People should use their ethnicity as an identity and not a commodity for sale.
- The establishment of the Republic should be in such a way that we shall have a multiparty government of national unity for every party in the House and every grouping in the society shall be incorporated in the government. That will be in accordance with the incorporation of proportional representation and even the so called the semi-proportional representation such that all parties and groups are represented and that will ensure that equitable distribution of whatever recourses are available can be done.
- We should have the opposition well defined. We have an opposition right now which seems not to have a role to play and when we shall have it well defined, then we shall have a role and may be the number of political parties should be limited to two mainstream political parties. And we shall ensure that the ruling party shall not have access to the public coffers because we have seen this wreck havoc to our nation.
- The President should be elected directly by the electorates as it is done now but shall be in two rounds. The first one shall be on the first past the post version so that after we have had the two who look like promising to get over, then one of them can become the President then we shall have the second round which shall beat one against the other. I think from that we can have a very competent President who shall have the blessings of the majority.
- I propose that we delink the Presidential from the parliamentary elections so that they be conducted in two separate occasions. Our President should be ceremonial and our minister need not necessarily be MPs. We shall have people of integrity and competence got from the public and the private sectors so that we can have people who are ready to run the government as competently as it can be not this idea of having crooks running our ministries.
- Next, I propose we revoke Presidential powers to create and do away with public offices and the appointment and dismissal of officers thereto. We shall also have to revoke the Presidential powers to pardon election offenders and also to appoint and dismiss ministers without consultation. We shall have parliamentary committee which shall look into the appointment and dismissal or consultation.
- On the rights and freedom, we should have the right to life which must never be taken away even by a court verdict; better consider the life imprisonment case and not death sentences.
- The right to free basic or the so called universal education shall be guaranteed to every child in this country and we shall ensure that this illiteracy disease gets away from us.
- Just to finish I would say, the right to legal aid should be guaranteed for those who unable to hire lawyers and advocates shall be helped out by the state.
- I would also say that the registration of voters should be continuous and the electoral commission should be empowered so that when we have elections we shall the contenders or the candidates standing on the same pulpit and then airing their views and giving us whatever they have and this idea of the distribution of money, Tshirts, Lesos and so on should be banned. Thank you very much.

**Com. Asiyu:** Thank you very much Mr. Chesi Lumasia, there is a question.



**Com. Adagala:** You are saying political parties should be two mainstreamed. Do you intend to limit power of freedom of association, freedom of speech, freedom of choice?

**Chesi Lumasia:** It is said that when you want to clean a house, it is better may be to urinate from within the house other than urinate without the house. In this particular case, if we are not satisfied with whatever policies that party stands for, then we can fight it from within and not this ideas of breaking away and then forming some other partisan or ethnic based political parties. That is all I mean, I am not out for the idea of limiting the freedoms that you talked about.

**Com. Adagala:** Okay, so politicians have something in common with church people?

**Chesi Lumasia:** Infact thank you very much for reminding me.

**Com. Adagala:** Hey, hey, just hold on.

**Chesi Lumasia:** Let me just say it.....

**Com. Adagala:** On education, you said universal. Does that imply free and compulsory?

**Chesi Lumasia:** Yeah, free and compulsory.

**Com. Adagala:** It implies that?

**Chesi Lumasia:** Yes it does.

**Com. Adagala:** Okay.

**Chesi Lumasia:** Thank you.

**Com. Asiyu:** Please don't move yet. You were saying earlier on that the opposition is not well defined but the opposition is well defined – I just want to give you that information. There is a leader in the Constitution (inaudible) and they act as watchdogs for the people and so they have a role and it is defined. I don't think we could give them a better definition than what they already have.

**Chesi Lumasia:** According to my understanding of what is going on, I only know that Section 2A was reviewed and the opposition - even if it has a leader of the official opposition, the ideas has been that we want to get Kanu out of power. We

stand for this in parliament and we kind of want to bring these particular changes and it is not well defined according to my understanding.

**Com. Asiyu:** All opposition parties in the world always want to remove the government in power. So, really that is their work.

**Chesi Lumasia:** Okay then, we should do something about that. It should not be the main preoccupation. There should be something that shall help this country.

**Com. Asiyu:** If that was not their preoccupation, then they have no business in (inaudible). Okay, thank you. Bwana Absalom Kisangi.

**Chesi Lumasia:** Okay, we shall not agree but thank you for that.

**Com. Asiyu:** Bwana Absalom Kisangi, are you there? If Mr. Kisangi is not there (inaudible), then we have Chesi Mudati. Berenda Kinyai, are you there? Wacha yule mama aje kwanza ndio wewe uje ukae (inaudible) tutachukua muda mdogo kwa maana wanawake ni wachache na kwa hivyo.....

**Bereta Kanyai:** Jina langu ni Beretta Kanyai. Ubaguzi wa kazi, wanawake wengi hunyimwa nafasi za kazi kama uongozi, ufundi na pia kilimo kwa sababu hao ni kiumbe dhaifu ile hali wengine wamesome kazi ile lakini hawawezi pewa hiyo kazi.

Elimu ya wanawake, wanawake hunyimwa nafasi za kujiunga na vyuo vikuu. Asili mia hamsini na moja ndio wanajiunga na vyuo vikuu. Kwa hivyo, serikali yetu iwe ikitoa nafasi sawa na wanaume.

Haki za watoto: Wanaume huwalazimu wake zao wasiende kutafuta kazi ili wapate pesa za matumizi yao lakini huwalazimu kukaa nyumbani na jamii.

Ndoa ya lazima:

**Com. Asiyu:** (inaudible) wanakataza mabibi wao kufanya kazi, hiyo haitajutosha. Unataka tufanye nini na haki ya watoto hata hujasema chochote juu yake?

**Beretta Kinyai:** Kwa haki za watoto, tunataka kulea pamoja na wanaume kwa maana wanaume wanaachia wanawake watoto.

**Com. Asiyu:** Sawa sawa.

**Beretta Kinyai:** Kwa hivyo wanawake wanataka tuele pamoja.

**Com. Asiy:** Yaani baba na mama walee watoto wao wale wameleta duniani?

**Beretta Kinyai:** Eeh.

**Com. Asiy:** Sawa sawa. Sasa ongea habari ya hawa wanaume wanaokataza mabibi wao kuenda nje kufanya kazi.

**Beretta Kinyai:** Vile tunaolewa na wanaume, tunakaa nyumbani tu kwani wanatukataza kuenda kutafuta kazi. Sasa ningependa wanaume waruhusu wanawake kuenda kutafuta kazi ili wajisaidie kwa maisha ya nyumbani.

**Com. Asiy:** (inaudible)

**Beretta Kinyai:** Ndoa ya lazima: Wasichana hulazimishwa kuolewa wakiwa na umri mdogo na ndipo shida za malezi, afya ni mbaya na kwa hivyo wanawake wote hawataki ndoa ya lazima.

Wakunga wanaozalisha wanawake nyumbani na hata wakubwa wengi wamezaliwa nyumbani. Lakini, kuna watoto wa kuzaliwa nyumbani na watoto wa kuzaliwa kwa hospitali na hiyo kazi ni sawa kwa maana yote ni kazi gumu na sisi wakunga hatupati chochote.

**Com. Asiy:** Sasa unapendekeza namna gani?

**Beretta Kinyai:** Napendekeza wakunga wapate mshahara wao kutoka na kazi yao. Inginge ni kuwa wanawake waliokuwa wa kwanza kupigania uhuru palikuwa na mwanamke mmoja aliyekuwa Nakitili na mwingine Moraa Ngiti. Hawa wanawake hawasikiki kwa historia ya Kenya. Kwa hivyo, wanawake tunapendekeza hata sisi tuwe mbele kwa maana tunapigania uhuru tena. Asanteni.

**Com. Asiy:** Ungependa hawa akina Nakitili na Moraa wafanyiwe nini?

**Beretta Kinyai:** Wawekwe kwa historia yetu ya Kenya kuwa walikuwa wapiganiaji uhuru kwa maana waliongoza wengine.

**Com. Asiy:** Kuna swali moja linanisumbua. Unasema wanaume hawaruhusu mabibi wao kufanya kazi. Lakini wanawake wanafanya kazi nyingi sana kutoka asubuhi, anaamka mbele ya mwanaume na kulala akishaweka kila mtu kitandani. Unataka kusema kwamba unataka ile kazi ya mshahara.

**Beretta Kinyai:** Tunasema wapate kazi ya mshahara kwa sababu kazi ya nyumbani ni kawaida.

**Com. Adagala:** Naulizaje, unasema asili mia hamsini na moja ya – najua pengine si sawa, utarekebisha hapo pengine – lakini wanawake au wasichana wakienda university wanapunguziwa pointi moja ili wawe wengine. Halafu ingine, hii early forced marriages, twambie vile inatendeka hapa Sabatia.

**Beretta Kinyai:** Hiyo ambao ni ya lazima, msichana.....

**Com. Adagala:** Hapa Sabatia.

**Beretta Kinyai:** Hapa Sabatia kama sisi Waluhya, msichana anaweza kuolewa bila ndoa takatifu. Sasa hiyo.....

**Com. Adagala:** Ah ah, early forced marriage hapa Sabatia, nani ana-force msichana kuolewa akiwa na miaka kumi na miwili au kumi?

**Beretta Kinyai:** Hiyo ndoa ya lazima, nilizungumza kuhusu Kenya yote, sio hapa Sabatia.

**Com. Adagala:** Yes, lakini useme hapa Sabatia hakuna kwa sababu tulikuja japa Sabatia. Unaweza kusema inatendeka mahali pengine lakini hapa Sabatia haiko?

**Beretta Kinyai:** Sasa, mtoto akimaliza standard 8 anaolewa kuwa mke wa nyumbani na kukaa jikoni.

**Com. Adagala:** Anakuwa forced?

**Beretta Kinyai:** Si ndio!

**Com. Adagala:** Watu wa Sabatia wanakuwa forced?

**Beretta Kinyai:** Mwanaume ndiye ata-cause yeye.

**Com. Adagala:** No, no, you know, hii early forced marriage ni wazazi wana-force msichana kuenda na hapa hakuna.

**Com. Asiyu:** Asante sana mama. Nenda pale unandike na Mzee (inaudible) Hebu mzee kaa chini tuendeleo na maoni. Jina lako kwanza.

**Festo Mudasia:** Jina langu ni Festo Mudasia Chanzu.

**Com. Asiyu:** Etu nani?

**Festo Mudasia:** Festo Mudasia Chanzu.

**Com. Asiyu:** Bwana Mudasia Festo?

**Festo Mudasia:** Ndio.

**Com. Asiyu:** Okay, asante.

**Festo Mudasia:** Mambo yangu yangekuwa mengi lakini ni machache tu. Jambo la kwanza ni mambo ya mamlaka katika serikali na kazi ya mamlaka. Kitu cha kwanza ni kuwa hapa Kenya, watu wanachaguliwa kwa kazi.....

**Com. Asiyu:** Pendekezo.

**Festo Mudasia:** Pendekezo langu ni.....

**Com. Asiyu:** Tunajua hapa Kenya. pendekeza.

**Festo Mudasia:** Naomba ikiwa kazi ya polisi ya watu wanne au sita imetokea, wawe wakichagua watu kulingana na watu walioko Kenya sio kuchagua sehemu moja wengi na sehemu zingine wachache.

**Com. Asiyu:** Sawa sawa. Lingine?

**Festo Mudasia:** Jambo lingine ni upande wa rais. Rais aki-serve na amemaliza vipindi viwili, apewe wafanyi kazi na ikiwa amemaliza zaidi ya vipindi vinne, waangalie kama hana mali ndio apewe wafanyi kazi kwa maana uchumi wetu wa Kenya umeharibika shauri ya hawa Presidents. Mtu akiwa President ana mandege na kwa hivyo ategemeo ile mali alipata alipokuwa President.

Jambo lingine, kama President amechaguliwa hapa upande wa Maragoli, President mwingine akija inatakiwa achaguliwe kama Coast wala sio upande mmoja kwa maana ukiangalia kabisa, mimi naona kwamba katika Kenya makabila mengine – napendekeza President akichaguliwa sehemu fulani wasirudie kuchagua huko.

Jambo lingine ni utamaduni.

**Com. Asiyu:** Ongea tu Mzee.

**Festo Mudasia:** Wazee wetu walikuwa na utamaduni lakini sisi tumenyimwa na serikali. Jambo ninalotaka ni kwamba ile pombe ya busaa ambayo watu wameimba – ingawa mimi sikunywi – lakini naomba, watu walikuwa wanaongea maneno fulani ya kusaidia nchi yao. Hiyo pombe irudi na vile vile utamaduni wetu utarudi vile ulikuwa. Nataka utamaduni wa zamani ambao wazee walikuwa wanakaa mahali na milicha wakiongea urudi.

**Chiefs Act:** Wakati ambao mac-chief walikuwa na uwezo wa kutoa act, nataka hiyo Act irudishwe kwa maana siku hizi watu wamejamulia sheria hata assistant chief au chief akitaka kushika mtu siku hizi, wamekuwa waoga kwa maana chiefs Act imetoka. Kwa hivyo ninaomba irudi.....

**Com. Asiyu:** Unataka ile chief authority irudishwe?

**Festo Mudasia:** Irudishwe kwani ndio ilikuwa inatusaidia.

**Com. Asiyu:** Sawa sawa. Endelea.

**Festo Mudasia:** Jambo lingine ni mambo ya ugawaji wa mamlaka. Mimi mwenyewe nataka kwa upande wa polisi serikali ichunguze ijue ni kabila gani ambalo limeajiriwa polisi au army kwa maana saa zingine vile mimi naona, upande huu hatuna polisi wengi ambao wameandikwa.

**Com. Asiyu:** Kwa hivyo Mzee unapendekeza ya kwamba (inaudible) ya nchi hii ipate kuandika watu kisawa?

**Festo Mudasia:** Eeh, kisawa.

**Com. Asiyu:** Kwa ulinzi, kwa army na kwa kila kitu?

**Festo Mudasia:** Kwa kila kitu.

**Com. Asiyu:** Sawa.

**Festo Mudasia:** Nafikiri yangu ni hayo. Asante sana.

**Com. Adagala:** Nina kitu nataka unieleze zaidi. Hapa nimeandika kwamba busaa iruhusiwe. Hiyo ni kusema ipate license?

**Festo Mudasia:** Ipewe license na iwe ikipitia kwa wazee wa vijiji na assistant chiefs.

**Com. Adagala:** Na iuzwe wapi?

**Festo Mudasia:** Inaweza rudishwa kwa vilabu au kama mtu ana wageni wake anaweza endea barua kwa assistant chief au chief.

**Com. Adagala:** Umesema busaa kwa wazee, hiyo tofauti kubwa kwa sababu kw utamaduni busaa ni ya wazee.

**Festo Mudasia:** Nitaongezea kitu kimoja. Tena naomba ile pombe inayotoka nje kama Uganda, ile busaa imetoka South Africa kwa maoni yangu isiuzwe hapa. Wananchi wa Kenya wawe wakiiuza kwa maana uchumi wa Kenya umeharibika shauri ya kuleta vitu vingine ambayo (inaudible).

**Com. Asiyu:** Umeeleza vizuri; busaa ya Kenya ndio inywe Kenya na busaa ya South Africa ikae huko. Sasa tutaendelea na Japheth Kawai, kuja mbele uongee. Japheth akimaliza tutamuulia Bwana Robert Chemogere, uwe tayari Robert akiongea. Sema jina lako.

**Japheth Kawai:** Honourable Commissioners, I will speak in English and I might mix a bit with Kiswahili and I will make some recommendations.

NSSF and/or NHIF, I feel they should be converted into the old age benefits whereby the government should take the responsibility of providing some form of pension who have already retired and are old enough to work; they should be able to earn something and also dish out some little money especially to the old babas maanake the moment old men have produced children and the children become big, you will give all of them but a little more for the father because.....

**Audience:** (laughter)

**Japheth Kawai:** I am giving you a reason Honourable Commissioners. After we have reached a certain age, the mothers tend not to care for the father and they tell the children not to look after the father and give him some money. So, you find that the father finds it very difficult to cope with the situation.

**Com. Asiyu:** Sasa Mzee apewe pesa aingie (inaudible)?

**Japheth Kawai:** Apewe zaidi kidogo kwa hizo pesa.

**Com. Asiyu:** Zaidi kidogo?

**Japheth Kavai:** Kwa maisha yake ili aishi another more year. There should be .....

**Com. Asiyu:** *(Vernacular)*

**Japheth Kavai:** There should be no two jobs to those people in employment.

**Com. Asiyu:** One man - one job?

**Japheth Kavai:** The maximum, one. One job; one person – one job; one person. And if you are to give more than that, let it not be more than two. We have a lot of people who are unemployed.

**Com. Asiyu:** That we understand. Just carry on.

**Japheth Kavai:** Councillors should be literate to some extent. The question of councillors being elected because they can speak Kiswahili.....

**Com. Asiyu:** Tell us what you want.

**Japheth Kavai:** I have been a councilor and I know it is very difficult that they can't read the figures that you make estimate and they cannot read and it becomes very difficult.

**Com. Asiyu:** *(inaudible)*

**Japheth Kavai:** So, my recommendation is that they should be of at least secondary school education. If they could go up to form two, I think that would be .....

**Com. Asiyu:** *(inaudible)* okay.

**Japheth Kavai:** The farmers; I think they need some protection especially for land inputs because we are finding that the government reduces taxes on certain inputs but then when you come to the shops the prices start souring up again. So, I am suggesting.....

**Com. Asiyu:** Can you suggest now.

**Japheth Kavai:** I am suggesting that the price control people should be brought back especially for these fertilizers of land



inputs to see that ..... The area allowances for the MPs should be distributed to sitting councilors to help them develop their areas because when the MPs get them.....

**Com. Asiyó:** That one is ended.

**Japheth Kawai:** It is ended. The budget, I think the development budget should face a devolution. We are seeing the country is not uniformly developed and certain areas are lagging behind. So, if there is devolution of development budget, then these other areas can come up.

**Com. Asiyó:** Thank you very much. I think you are (inaudible).

**Japheth Kawai:** A defective aspirant must not be allowed to stand. If I defect from Kanu and I want to go and stand somewhere else.....

**Com. Asiyó:** Okay, we have heard.

**Japheth Kawai:** Thank you very much the Commissioners.

**Com. Asiyó:** You are saying that the development budget should be devolved to who?

**Japheth Kawai:** Yes, it should be devolved.

**Com. Asiyó:** To who? To which organization? To which institution?

**Japheth Kawai:** I think we have got the set up of the DC, the money comes to the DC and then you have got the .....

**Com. Asiyó:** But the money is coming to the DC's now. Why don't you recommend the money goes to the councils?

**Japheth Kawai:** It is not coming there proportionately.

**Com. Asiyó:** Development of schools or roads and small things that councils used to do, will you recommend that they go back to the .....

**Japheth Kawai:** What I am saying is that the money does not come on a proportional basis whereby the less developed areas

receive more.....

**Com. Asiyu:** We know you are saying that. We want the unit which will receive this money. Where do you want this money to go to?

**Japheth Kawai:** This money.....

**Com. Asiyu:** To the province, to the district, to the county council, to who or where?

**Japheth Kawai:** I think to the province.

**Com. Asiyu:** Okay. Once you say devolved, it means it is coming down and when things come down they change in nature. One of the things that will happen within the councilors – one of the ways is for the money to come down but you know that money is made at the local level. Please understand this but the government doesn't make money. It comes from the grassroots. Would you like the grassroots to get that money, take it to central government, then the central government sends some back? Or would you like units at the grassroot level to collect the taxes, make the money, retain a percentage and take to central government their percentage? Which system, they are two.

**Japheth Kawai:** Before the council makes the budget, it is difficult to know how much will be raised from one area to .....

**Com. Asiyu:** It is system now. We are looking for the system.

**Com. Ida Salim:** Bwana Kawai, you said something like NSSF and NHIF should be converted to old age benefits. I can see how NSSF can be – infact it is already for people to put in some money when they grow older and reach a certain age, they are given the benefits. But I do not see how NHIF can be converted for old age people because if I am contributing to it, I expect that at the age of 20 or 25 to be helped to pay my medical bills. So, how do you see it being converted and totally assume to old age benefits?

**Japheth Kawai:** I looked at the NSSF and I saw it is the right one but then because the NHIF is taking care of the medical bills, so, if NSSF can meet the requirements of the people, I think it should be enough because even these people who have retired had at one time contributed that money and had been earning interest from the time they had been working.

**Com. Ida Salim:** So, you don't mind NHIF to stay just the way it is?

Japheth Kavai: I don't mind.

Com. Ida Salim: Just for medical, thank you.

Japheth Kavai: Thank you very much Commissioners.

Com. Asiyu: Thank you very much. Please sign our register. Can we now have Robert (inaudible). We have Mr. Japheth Kihima. Arch. Bishop Manoah Kiverenge, kuja uongee.

Archbishop. Mwana wa Kiverenge: Jina langu ni Archbishop Mwana wa Kiverenge na nimetengeneza memorandum kama mwenyekiti wa makanisa ya hapa Sabatia. Mimi ni mwenyekiti wa interdenomination – makanisa ya muungano ya Sabatia. Kwa hivyo, tumeweza kuguza mambo madogo madogo na hasa zaidi ningetangulia kusema kwamba mwenendo wa makanisa wa sasa tuonaona ya kwamba wamezidi kuwa na shida hasa zaidi katika ofisi ya mkuu wa sheria kwa maana makanisa mengi yamejitokeza na yanakubaliwa bila idhini au bila kuuliza hayo.....

Com. Asiyu: Toa pendekezo lako.

Archbishop. Mwana wa Kiverenge: Pendekezo letu ni kwamba kabla kanisa lolote kuandikishwa au fellowship yoyote ni heri makanisa majirani yaulizwe na yatoe recommendation. Pia, tungependa kwamba katika ofisi ya mkuu wa sheria tuwe na mtu ambaye anaweza kuelewa vizuri na ahusike na mambo ya makanisa kwa maana ni mengi katika Kenya. Isiwe makarani tu hapa na pale kwani tumepata shida kwa sababu ya makarani ambao saa zingine ufisadi umezidi zaidi.

Pia, kuna Act ambayo makanisa huandikishwa kwamba Societies Act. Tungependa makanisa yaandikishwe kana church organizations wala sio chini ya societies kwani society imetusumbua na hatuelewi sana mambo ya Society's Act. Kwa hivyo, makanisa yachukuliwe kama church organizations kuliko church societies.

Pia, ningeweza kuguza kuhusu mambo ya mahakama. Sisi wananchi wa chini tumekuwa na shida katika mahakama na tungependeka kwamba mahakama yagawanye kulingana na cases ambazo zinahusika. Kama ni mashamba kuwe na korti ya mashamba, kama ni criminal kuwe na korti ya criminal katika sehemu hiyo – zigawanywe ili kazi ya ma-judge iwe rahisi. Pia, tungependa kwamba sisi kama makanisa tunaolea ya kwamba hawa ma-lawyers na ma-advocates, wananchi wanashida na ma-advocates. Ingekuwa vizuri serikali ingekuwa na lawyer ambaye ni kiwango sawa cha pesa ambaye mwananchi wa kawaida anaweza kumwendea na amsaidie kuliko ma-advocate ambao wakati mwingine hata mtu akipata shida.....

Com. Asiyu: Nafahamu unataka legal aid. Unaona wakati wako umekwisha na bado una mambo muhimu. Ungesema

pendekezo lako bila kueleza.

Archbishop. Mwana wa Kiverenge: Pendekezo langu ni kwamba tuwe na lawyer ambaye anaweza kusaidia mwananchi wa kawaida.

Com. Asiyu: (inaudible)

Archbishop. Mwana wa Kiverenge: Yes. Tena, vipindi ambavyo rais huchukua visizidi vitatu kwa uongozi. Na vyama vya kisiasa visizidi zaidi ya vitatu kwa maana mwananchi wa kawaida humia kiuchumi.

Com. Asiyu: (inaudible)

Archbishop. Mwana wa Kiverenge: Vyama vya kisiasa visizidi vitatu.

Com. Asiyu: Kwa sababu?

Archbishop. Mwana wa Kiverenge: Sisi Wanakenya hatujakomaa zaidi kifedha ili kugharamia vyama karibu hamsini vikizidi kuendelea na uchumi unazorota.

Com. Asiyu: Naona wakati wako umekwisha.....

Archbishop. Mwana wa Kiverenge: Ingawa wakati wangu umekwisha nitapeana hii; tungeweza kusema kwamba ma-councillor wateule na Wabunge wateule wasiwepo lakini hiyo nafasi iwe kwa special groups kama makanisa.....

Com. Asiyu: Sawa sawa tumefahamu kabisa.

Archbishop. Mwana wa Kiverenge: Kama disabled people na akina mama. Tusiwe na Wabunge wateule na ma-councillor wateule.

Com. Asiyu: Oka, tumefahamu kabisa.

Archbishop. Mwana wa Kiverenge: Ma-chief nao waende transfer kama wale wa town na sio kwamba anaka mahali na ma-chief wa town wanaenda transfer. Mayor naye achaguliwe na wananchi na isiwe tu kipindi cha mayor miaka miwili inaisha.

Com. Asiyu: Lakini wakati wako Bwana Manoh umekwisha. Umeandika na tutasoma.

Archbishop. Mwana wa Kiverenge:Kwa hivyo, nitapeana memorandum yangu na zaidi ninajua kwamba yale nimeweka chini yanaweza kuangaliwa. Asante.

Com. Adagala: Archbishop, hiyo sababu umepeana kuhusu political parties, ndio hio sababu ya kupunguza na ndio watu wanasema pia makanisa yanafanya vivyo hivyo kwa wananchi ili yaounguzwe. Unajua, (inaudible) umepeana iwe sababu na ndio pia sababu ya makanisa yapunguzwe kwa sababu yanachanganyisha wananchi.

Archbishop. Mwana wa Kiverenge: Sehemu ambazo tunataka zipunguzwe ni hizi fellowships ambazo zimezidi zaidi na hatujui ziliandikishwa wapi.

Com. Asiyu: Mzee asante sana. Bwana Japheth Kihim, tafadhali fika hapa mbele na uongee nasi. Kama Bwana Japheth Kihima hayuko, ningependa Maureen (inaudible). Then here we have Rose Lumbasio. Hebu kuja hapa mbele na utafuatwa na Darfold Luvanze (inaudible). Endelea sasa.

Rose Lumbasio: Asanteni. Kwa majina naitwa Rose Lumbasio. Hapa nina maoni ambayo napendekeza wakati hii katiba itatengenezwa pia wayafikirie. Oni langu la kwanza ni kwamba wakati president atachaguliwa, makamu wake awe mama. Tunataka tuwe na vice president mwanamke kwa sababu akina mama tumesoma, tumezaa watoto ambao wamesoma na sioni kwa nini tubaguliwe tubaki nyuma.

La pili linahusu mashamba. Naonelea kama sisi akina mama tumefinywa sana. Wakati title deed inachukuliwa, naona iandikishwe majina ya watu wawili; liwe jina la mzee yaani mume na jina la mama ili wakati mwingine mzee anapoaga, mama asipate kunyanyaswa na hata kufukuzwa kwa boma. Awe na haki ya kuishi kwa shamba lake.

La tatu ni juu ya uridhi ya mali ya wazazi. Naonelea uwe sawa kwa watoto vijana na watoto wasichana. Kama ni kugawa mashamba wale watoto wote uliowazaa , gawa kwa wasichana na pia kwa vijana. Hata kama una wasichana peke yao uwagawie na mali ya nyumbani pia, ukigawa, gawa kwa wasichana na ugawe kwa vijana. Msichana mwenyewe atajua vile atatunza mali yake.

Jambo langu la nne, naenda kwa upande wa ubagaji. Naona hili kama ni jambo ambalo limetufinya sana na kutuumiza sisi kama akina mama. Kosa kama hili likipatikana kwa mwanaume, sioni kama kuna msamaha hata kidogo – hata naonelea kusiwekwe hata faini. Afungwe hata miaka kumi bila faini yoyote kwa sababu kama wakati huu kuna magonjwa, watoto wanaumia, wasichana wanaumia na huyo mtu akipelekwa kortini halafu baada ya miezi mitatu anatoka nje.

Pendekezo langu la tano na la mwisho linahusu familia zetu kama akina mama wa hapa Sabatia. Tuna shida kwani tunazaa

watoto, tunawasomesha halafu wakishamaliza wanakosa kazi hasa watoto wasichana na ndipo wanarudi kuzaa watoto. Hao watoto tunabaki nao na yule mtoto uliyesomesha hakupata kazi na tena ameleta mjukuu na wewe wakati huo hauna uwezo. Tunabaki na watoto kwa nyumba zetu ambapo naonelea hapo mbeleni.....

Com. Asiyu: Hebu pendekeza mama.

Rose Lumbasio: Hawa watoto inatakikana serikali igawe na itusaidie jinsi maisha ya hao watoto itakavyokuwa hapo mbeleni.

Com. Asiyu: Hebu twambie, ni lazima utuambie unataka serikali ifanye namna gani?

Rose Lumbasio: Naonelea kama hizi pesa zilitolewa kama za bursary, hao watoto pia wakumbukwe kwa hizi pesa ili wapate kusoma. Wakishasoma watapata tegemeo lao maishani mwao kwa sababu hakuna namna nyingine vile tutawalinda. Nafikiria yangu ni hayo na nimesema asante.

Com. Adagala: Asante sana. Hao watoto wajukuu – mama?

Rose Lumbasio: Ndio.

Com. Adagala: Ni wajukuu?

Rose Lumbasio: Ni wakujuu.

Com. Adagala: Wana baba na mama. Ni mayatima?

Rose Lumbasio: Hao watoto wajukuu ninaosema kuna wakati.....

Com. Adagala: Wana baba na mama?

Rose Lumbasio: Mtu ambaye anajulikana ni mamake tu lakini baba – kwa sababu kama angekuwa na baba angeenda. So, unabaki na yule mtoto na babake hajulikani.

Com. Adagala: Mama hawezi kusema baba ya mtoto ni nani?

Rose Lumbasio: Hasemi!

Com. Adagala: Kwa nini?

Rose Lumbasio: Hata saa zingine babake akijulikana, kama msichana anasema ni huyu halafu yeye anakataa. Pia, hapo ningependekeza sheria ichukuliwe kuwa kijana akizaa mtoto na msichana fulani sheria ichukuliwe ili huyu kijana achukue mtoto wake kwa sababu hata huyu nyanya akifariki hao watoto watakuwa chokora.

Com. Adagala: Hiyo ndio nilikuwa nataka ufikie kwa sababu huwezi sema mambo ya bursary kwa watu ambao wana mama na baba. Kama ni mayatima, kama vile HIV/Aids imekuja na mama afe, hiyo ni ya huruma sasa. Lakini, zingine, I am sorry ni fupi fupi. Msichana na mvulana wataridhi kwa wazazi.

Rose Lumbasio: Ndio.

Com. Adagala: Halafu msichana aolewe na kijana aoe. Halafu joint registration ya uridhi gani?

Rose Lumbasio: Ule uridhi niliosema wa watoto.....

Com. Adagala: Ah ah, nataka useme ni gani kwa sababu unaolewa na kupata uridhi hapo,

Rose Lumbasio: Pale umeolewa?

Com. Adagala: Yes, ya wale wameolewa na pia umeridhi nyumbani. Joint ownership kwa hiyo yako ulioridhi nyumbani na joint ownership kwa hii mme wako amerishi?

Rose Lumbasio: Sasa ile yako umeridhi nyumbani kami ni shamba hivi na washakupatia halafu wewe uuze, mnaweza nunua na mzee wako kwa sababu sasa mmekuwa.....

Com. Adagala: Kwa nini uuze?

Rose Lumbasio: Halafu muwe na mme wako.

Com. Adagala: Ah, ah, kuna shamba umeridhi – ngoja kidogo kwa sababu inafaa ieleweke – kuna shamba umeridhi na mme ameridhi na umesema kuwe na joint ownership. Ni kwa shamba gani?

Rose Lumbasio: Sasa joint ownership.....

Com. Adagala: Sema kwa shamba gani. Just gani!

Rose Lumbasio: Kwa shamba la mume.

Com. Adagala: Na yako?

Rose Lumbasio: Na yangu – sasa hii yangu nikishapewa – ngoja.....

Com. Adagala: Sasa pia unajua siku hizi mama anaweza kufa mwaka huu na baba afe mwaka ujao. Shida kubwa inayokuja siku hizi sio ya akina mama – kwanza huo ni mchezo – ni ya mayatima. Sasa watu wengine wamesema joint ownership na tena majina ya watoto yawe hapo ili wasisumbiliwe na wale wamebaki – watu wakubwa kama uncles, baba wakubwa, na babu na nyanya – kwa sababu watu wananyakua mashamba ya watoto. Watoto wawekwe hapo pia?

Rose Lumbasio: Sasa wakati mnapofanya joint – yaani mkiweka majina yenu kwa title deed si yenu yatatangulia na watoto wako nyuma yenu. Hata mkifariki.....

Com. Adagala: Usiseme ‘si watoto wako’ – watu wanataka majina ya watoto yawe hapo pia. kwa sababu ukimwi ukija na baba na mama wafe hata kama kitu hakijatendeka, sasa watoto wanabaki bila.

Com. Asiyu: Asante sana Mama Rose. Tafadhali uandikishe kwa register yetu na uache hiyo karatasi kama ulikuwa umetuandikia. Bwana Livanze yuko? Livanze, I called you and you were not here. I should have cancelled your name because when you come disappearing and appearing, you (inaudible). So, I will give you two minutes to talk, followed by (inaudible) Mr. Jamin (inaudible)

Dofold Livanze: My names are Dofold Livanze. My views are that the government which has been in power should vice ways of creating employment opportunities for undergraduates. So, there is no need for us adding the number of public universities hence knowing that there are no job opportunities. By this I mean the government should vice ways of creating loans to undergraduates. Therefore, it is uneconomical for a country to have many tarmacking graduates.

Com. Asiyu: (inaudible)

Dofold Livanze: Graduates, it’s okay. Secondly, our regional and international relationship should be the priority of parliament and not an individual’s decisions. It is the parliament to decide whether Kenya as a country should have some trade relations with another country but not an individual to decide.

Churches must be under all costs subject to taxation to a business-like nature. You can see that nowadays churches have



become money mongers. Don't create churches with a view to getting some money from people. So these people should be stopped by taxing them.

Chiefs and their assistants should not be given powers to choose their helpers. Recognized members from the clan should be given powers to choose helpers for the chiefs and assistants. Also, the wealth of individuals should be checked in this country. You can see that in the current Kenya, some few powerful barons can own half of the country's resources. There are some Members of Parliament or prominent members in the country owning 100 acres while a poor man from Maragoli does not even have a single acre.

Com. Asiyu: We know that. Just tell us what we should do.

Dofold Livanze: Also,

Com. Asiyu: What do we do to those people who own the whole country? Tell us what you want us to do – recommend.

Dofold Livanze: About?

Com. Asiyu: About the prominent people (inaudible).

Dofold Livanze: I tend to believe that these people, if found owning a lot of land, may be – my proposal on this people is that they should be told to give us some portion of land to the poor.

Com. Asiyu: Fine, thank you.

Dofold Livanze: Last but not the least, the role of harambee should be rejected in the constitution. It should not be seen as a means of buying votes from individuals. Thank you.

Com. Asiyu: Thank you very much Dofald Livanze. Now, Jamin Abasi Agasi to come. Please come forward followed by Ndege Rose.

Jamin Abasi: Jina langu ni Jamin Abasi na yangu yatakuwa ta haraka kwani ni mapendekezo tu. Kwanza kwa upande wa mashamba, mtu awe ananunua shamba la kiwango cha chini sana kikiwa eka tano na cha juu kama inawezekana eka thelathini kwa maana maelezo yako mbele mengi kwa sababu ya mashamba mengi yanayolala bure.

La pili, tukija kwa upande wa kuridhi mali ya mtu ambaye amefariki, tumezungumzia juu ya mzee kufa peke yake na mali inabaki kwa mama na watoto. Hata mama anaweza kufa na alinunua shamba. Kwa hivyo, anaweza kuwa alinunua shamba na

mzee hakumsaidia. Mimi nafikiria shamba hili la hao watu lilidhiwe na watoto ambao wamezaliwa na hawa watu wawili. Kuridhi mali ingine, hiyo ni matokeo katika maisha ya mtu. Mtu anaweza nunua vitu vyake fulani na mali hiyo itagawa kwa watoto kama wazazi wote wawili wameenda.

Upande wa kuweka ma-chiefs na ma-assistant chiefs urudi kwa watu wa nyumbani ili wawachague. Kama inawezekana watumie kura ya mlolongo. Kwa upande wa masomo, primary schools ziwe zinawepewa masomo ya bure kuliko kulipa ile inayoendelea siku hizi kwa kulipa hiki na kile. Tukienda kwa secondary schools, tuna national schools, provincial schools na district schools. Ukiangalia mambo ya malipo ya fees imekuwa na maneno mengi sana kati yake.

Com. Asiyu: Pendekeza.

Jamin Abasi: Kwa hivyo napendekeza school fees iwe kiwango sawa na ikiwezekana iwe kiwango cha juu sana iwe ni elfu kumi na tano.

Com. Asiyu: Haya, asante.

Jamin Abasi: Nadhani hayo yanatosha na Mungu awabariki sana.

Com. Asiyu: Asante sana Bwana Jamin kwa maoni hayo. Sasa tunauliza Bwana Ndege Rose – pengine ni mama (inaudible). Wycliffe Mudoka tafadhali kuja hapa mbele uongee na sisi (inaudible) tunaitwa Bwana Seth Arunga (inaudible). Kwanza utupatie majina yako yote halafu uanze kutoa mapendekezo.

Seth Alunga: I am Seth Alunga by name. Due to unavoidable circumstances I did not carry my memorandum but I will briefly summarize and then I will hand it over. I am here to make presentations first of all on Section 14 of the Kenya Constitution and Section 61. I propose that Section 14 with the president immunity over criminal and civil matters be scrapped because once in life, you give somebody immunity over such, you uplift him as human gods. The president should be tried and convicted for any other criminal or civil matters during the office.

Two, I am proposing that amendments be made to Section 61 that talks about the High Court and the Judiciary and the (inaudible) as a whole where we find that there are secret political appointments and promotions that go on in the Judiciary. Quacks have been made.....

Com. Asiyu: Give us your proposal please.

Seth Alunga: The quacks are in the Judiciary; judges are quacks. So, I am proposing that anybody like a magistrate, starting

from a third class magistrate must be a law graduate or a (inaudible) council and not a quack because we may have in future a paramount chief becoming a Chief Justice of Kenya if this is not taken into consideration.

The other issue I am talking about is political saga in Kenya. We can imagine an incident where now all the existing political parties.....

Com. Asiyu: Pendekezo. All that you are saying will be in the pendekezo.

Seth Alunga: Okay. The marrying of political parties in Kenya should stop because it is illegal. So, I am proposing that marriage of political parties if the existing ones are once re-married again, then Kenya will be back to one political system and the supremacy of the constitution will not have protected us. The other issue on land where I am proposing that anybody who wants to own land in Kenya must own a maximum of 10 acres. Those who are owning over 45,000 in Kenya, the government should set aside funds to buy this land and ensure that only 10 acres are sold and those who may not, a higher tax be put on to this land so that other people who do not have land can acquire.

Com. Asiyu: Minimum?

Seth Alunga: Pardon?

Com. Asiyu: Land minimum?

Seth Alunga: There should be no minimum. I am only talking of a maximum of 10 acres.

Com. Asiyu: You know, the issue here is landlessness. So, do you want people to still remain landless?

Seth Alunga: No.

Com. Asiyu: Yeah, so give us a minimum.

Seth Alunga: Minimum let it be 1 acre and a maximum of 10 acres. The other other thing is the CCK, the Communication Commission of Kenya. I am proposing that this commission be scrapped because what it has only done to Kenya is retrogressive. It is a communication commission that has stopped and hampered developed of (inaudible).

Com. Asiyu: Can you make a recommendation?

Seth Alunga: It has actually.....

Com. Asiyu: You said it be scrapped. That is your recommendation?

Seth Alunga: Yes.

Com. Asiyu: Be scrapped off?

Seth Alunga: Be scrapped off.

Com. Asiyu: Time is up. I want to ask you a question. In which way is merger of political parties illegal? One, I want you to tell us in which ways is it illegal and two, we have 48 parties and people are saying they should be two. How will this happen?

Seth Alunga: First, let me comment that I am proposing three parties in Kenya and that is in my memorandum because even the constitution of America in any case has put a place for three parties where they allow.....

Com. Asiyu: That is not an amendment. You are very ignorant about America.

Seth Alunga: We are borrowing our democracy from Western countries.

Com. Asiyu: Yes, but America has many parties.

Seth Alunga: Yes.

Com. Asiyu: About three are major but there are very many parties – freedom of expression.

Seth Alunga: (inaudible)

Com. Asiyu: Do not quote America. Do your own things but don't quote America.

Seth Alunga: Well, that is like freedom to give any case study on the world. So I am recommending three because there is ill intention in the 48 and a hidden agenda. The other thing on political thuggery is that the merger is illegal. You cannot just match here and declare a party when its representatives of that so claim that the party might have the other are not told to go and seek new mandate. A party must be de-registered by the registrar of societies and then those members seek a new mandate from the voters because that is breaching the right of the electors.

Com. Asiyu: What is this provision that is being breached? Can you enlight us?

Seth Alunga: Once you vote somebody.....

Com. Asiyu: That provision is what we want. Don't talk about the voters. Give us the provision that is being breached. You have already quoted Section 14 and (inaudible)

Seth Alunga: When I cast a vote.....

Com. Asiyu: Can I finish?

Seth Alunga: Yes, it is what I want to explain.

Com. Asiyu: Can I finish please? You have already quoted Section 14 and Section 61 and you have explained. Now, can you give us the sections that you are now talking about that made the merger of political parties illegal. That is all we want from you.

Seth Alunga: I want an enactment because you have not given me time to explain its illegality.

Com. Adagala: It is not illegal but we want (inaudible)

Seth Alunga: So, what I am saying is that the merger that took place recently was based on 1966 precedent. Nowhere on the world have we seen such mergers take place. A precedent cannot....

Com. Asiyu: (inaudible)

Com. Adagala: (inaudible)

Seth Alunga: I have already said that.

Com. Adagala: (inaudible)

Seth Alunga: I want an.....

Com. Adagala: It is not illegal (inaudible) do you want us to recommend that the merger of political parties should be illegal?

Seth Alunga: Be declared illegal but to my believe it is illegal and I am ready to support.

Com. Asiyu: Okay, that was Mr. Alunga. Can we now get Mr. Caleb Aginga, please. Mr. Caleb Aginga was in Chemakanga. Mama Jane Nekesa – Jane talked this morning and Maureen shimenga from the school also talked. Now can we have Francis Kibisu, please come forward and talk to us. Unatembea pole pole na mvua inakuja. Francis Kibisu, we now have the flow.

Francis Kibisu: Commissioners, city commissioners, niko hapa kueleza maoni kuhusiana na katiba.

Com. Asiyu: (inaudible)

Francis Kibisu: Maoni yangu ya kwanza ni juu ya utawala kwa upande wa mamlaka ya rais. Mimi napendekeza isiwe zaidi kupita mamlaka matatu au manne kwa sababu utakuta wizara nyingi ziko katika.....

Com. Asiyu: Usitueleze kwa sababu, tunajua sababu. Fanya pendekezo.

Com. Adagala: (inaudible)

Francis Kibisu: Okay. Hiyo nimepita na ninaingilia upande wa utawala. Ningependekeza utawala wa mikoa kama assistant chiefs and chiefs wachaguliwe na wananchi kwa mlolongo.

Com. Asiyu: Endelea. Jambo lingine?

Francis Kibisu: Jambo lingine ni kuhusiana na masomo ya msingi ambayo napendekeza yawe ya bure.

Com. Asiyu: Next?

Francis Kibisu: Madawa kwa health centers. Tunalipa.....

Com. Asiyu: Hapana, sema tu vile unataka. Masaa yako karibu kuisha. Sema vile unataka juu ya madawa.

Francis Kibisu: Tunataka mtu akiwa mgonjwa apate dawa ya bure kwa health centre.

Com. Asiyu: Asante, next? Au imekwisha?

Francis Kibisu: Hapana, haijakwisha bado. Tunakuja kwa upande wa ulinzi. Kutoka zamani tulikuwa na vijana na wasichana. Msichana alipata uridhi kutoka kwa bwanake na kijana alipata uridhi kutoka kwa baba yake. Kwa mambo ya mashamba,

ningependelea mashamba yatengenezwe kulingana na vile mambo yalivyo siku hizi kwa sababu unyanyasaji umezidi sana kwa upande wa mashamba. Tunataka upande wa title deed watu wapewe bure.

Com. Asiyu: Please, tafadhali, muda wako umekwisha.

Com. Adagala: Muda wako umekwisha (inaudible)

Com. Asiyu: Unaongea tu na hufanyi mapendekezo.

Francis Kibisu: Sasa.....

Com. Asiyu: Masaa yamekwisha.

Francis Kibisu: Sasa hayo nimemaliza hapo na nina karatasi hapa ambayo nitawaachia halafu mtafanya mapendekezo yenu baadaye.

Com. Asiyu: Hiyo ni nzuri kama una karatasi. There is no problem because you have but it all down Bwana Francis Kibisu, tutasoma yale ambayo umeandika. Mr. William, kuja haraka sana na utafuatwa na Bwana Baraza Gabriel halafu Joseph Gavala, halafu Samuel Keya, then Elijah Musasia.

William Sanya: Asante. Yangu ni maneno machache. Jina langu ni William Sanya Mliambo. Yangu ni kuhusu mashamba. Ninapendekeza – mimi nina watoto na nimewagawia mashamba na .....

Com. Asiyu: (inaudible)

William Sanya: Pendekezo ni mambo ya mashamba yarekebishwe kwa sababu the case imezidi. Mambo yarudi kwa tribunal. Pendekezo langu ni hilo tu. Sio mengi sana. La pili,

Com. Asiyu: Mzee, unataka tupange juu ya watoto na mashamba?

William Sanya: Ndio.

Com. Asiyu: Tufanye nini?

William Sanya: maneno kamirimi kirane khubandu bene khubandu ifamily

Translator: Land cases should go back to the family members.

Willian Sanya: Babe wanyala khuba imbereni biria

Translator: They should be the ones to partition land and not advocates.

Com. Asiyu: Endelea.

Willian Sanya: Ya pili ni mambo ya busaa na ninapendekeza busaa irudishwe na chang'aa isirudishwe kwani inamaliza watu – kumi kumi inamaliwa watu. Yangu yamekwisha.

Com. Asiyu: (inaudible)

Willian Sanya: Busaa irudishwe na chang'aa ikimeshwe.

Com. Asiyu: Hiyo ni kweli Mzee. Hata sisi tumeona chang'aa inaua watu.

Willian Sanya: Inamaliza watu.

Com. Asiyu: Lakini busaa ni nzuri. Asante sana.

Willian Sanya: Asante.

Com. Asiyu: Asante sana Mzee. Sasa tunamuita Bwana Baraza Gabriel. Baada ya Baraza tutakuwa na Bwana Joseph Gavana halafu, Samuel Keya kwa hiyo line. Endelea sasa.

Sinani chilima nikhumale bwangu – ni ndinyu sana.

Baraza Gabriel: I am Mr. Baraza Gabriel, a teacher at this school – Moi Girls Vokoli. I have a number of issues here – a teacher at Moi Girls Vokoli. I have a number of issues to talk about here and you will forgive me if I end up repeating some that have already been said, but.....

Com. Asiyu: (inaudible)

Baraza Gabriel: It is okay. Number one, this is what I have to say; I would like a situation in Kenya whereby we have a president and his running mate so that the vice.....

Com. Asiyu: Just that.



Baraza Gabriel: Just that? Thank you very much. Number two; land ownership in Kenya. We should not have a situation whereby some people have got.....

Com. Asiyu: Pendekezo? Propose (inaudible) wasichana kama mmechoka endeni kwa darasa. We are doing very serious work, and we have to cover very many people na kwa hivyo sitaki madharao.

Baraza Gabriel: Tafadhali wasichana tuelewane ili tuende pamoja, asante. So, I was saying that we should reduce the number of acreage so that we do not have some people having a lot of land whereas others have nothing. Number three,.....

Com. Asiyu: (inaudible)

Baraza Gabriel: I would maximum to be the tune of 200 acres.

Com. Asiyu: Minimum?

Baraza Gabriel: A Minimum of about 1 acre or thereabout and not thousands and thousands for an individual which are idle. Number three, all major appointments right from PCs, DCs, Permanent Secretaries, Ministers, the Office of the Attorney General, Judges, Police Bosses and Chiefs should be approved by at least 2/3 majority – that is member of parliament and not the wills of an individual.

Number four, I want to say that the harambee spirit has been abused and has encouraged corruption. So the proposal is that let funds be allocated to areas that require the same.

Number five, I would propose that we go back to the Kenya School Equipment Scheme so that civil servants can be levied towards that. I think I can leave out number six since I heard someone talk about it though it was to do with the president and the total number of votes so that we leave out this situation whereby a president is elected and he only has 20% of the total number of the total number of votes cast.

Com. Asiyu: (inaudible)

Baraza Gabriel: My proposal is that at least we go to 50% so that if at all no one is reaching there, we have a run off and whoever will garner 60 and above should be the president of Kenya. Thank you very much.

Com. Ida Salim: Next will be Gavala, yuko? Karibu. Is Samuel Keya here? Hayuko? Fine.

Joseph Gavala: I am Joseph Gavala, a teacher at Moi Girls Vokoli. My first proposal is that I propose for:

A federal system of government in this particular country.

The three arms of government i.e. the Executive, the Legislature and the Judiciary be independent of each other totally whereby no arm should interfere with the running of ....

Com. Ida Salim: I think we got the point. Just move to the next one. We don't have much time.

Joseph Gavala: Thirdly, all the ministries should be run by professionals.

The president should serve and retire at a maximum age of 65, he should not be above the law neither should be influence the national politics of the country after retirement.

The presidency should be rotational and always clear.

When it comes to education, there should be free education from class one upto class eight.

Board of Governors be abolished and be replaced by the Parents Board who are owners of the schools.

The Teacher Service Commission should directly employ the teachers and not any other group of people.

Disciplinary cases of the teachers at TSC be handled by professional lawyers and not commissioners.

The Kenya National Examination Council should employ its workers and in case of a problem should handle it without transferring to the Teachers Service Commission.

When we look at the promotions or appointments in this country, they should be made public and be discussed in parliament.

The provincial administration; I recommend that assistant chiefs must be people who have minimum of O level education and should have passed in mathematics and languages

When we come to the PCs, DCs and DOs, they must be graduates and must have post graduate diploma in any relevant course like human resource management and the like.

Voters; we should have a voting age ranging from 18 years to 65 years because this time people are senile.

Land ownership must be.....(inaudible)

Com. Adagala: Respect the elderly.

Joseph Gavala: Thank you then.

Com. Adagala: Respect the senior citizens.

Joseph Gavala: I withdraw the remarks. I have said that land ownership must be limited to where we should have a minimum of 1 acre up to 20 acres.

Com. Ida Salim: Thank you very much, I think that is your last point.

Joseph Gavala: Yes, thank you.

Com. Ida Salim: Just a moment, there is a question for you.

Com. Adagala: Teacher,

Joseph Gavala: Yes,

Com. Adagala: Everybody here has been saying – thank you for the way you presented – everybody here has been saying about free primary education. You and I know that education does not start at standard one and in fact what comes before standard one is far much more expensive than standard one. Why is it we are saying that there is early child education and no one is talking it, no one in this hall is talking about nursery school teachers in this hall.

Joseph Gavala: What I would want to say is that .....

Com. Adagala: First of all, is it important?

Joseph Gavala: It is very important.

Com. Adagala: I want you to tell me why it is not being addressed but not what you want to say.

Joseph Gavala: Being from Sabatia, I was actually developing this (inaudible) for pre-primary education, they majorly go to class one.

Com. Adagala: You know, that is precisely the problem because you know the formative years; age 0-5 and is precisely the problem because they cannot afford it. So, is this something you would like to propose, I don't know why everybody is for standard one.

Joseph Gavala: I would propose that we first have trained personel to handle these kids because we do not have them. Two, once trained we should have institutions set for them and them after that it should be therefore be fully physical – physical institutions set for them - and those handling them to be paid fairly well compared to secondary school teachers. The children will learn free of charge. Thank you.

Com. Asiyu: Thank you very much. Can we now have Elijah Musasia. Tafadhali kuja hapa mbele, useme jina lako halafu utoe maoni yako, tafadhali. Na utoe mapendekezo tu.

Elijah Musasia: Jina langu ni Elijah Musasia na ningependa kutoa mapendekezo yangu siku ya leo kwamba tukija kwa upande wa president, ningependa kiti cha president .....(End of Side A of Tape 5).

.....na Prime Minister anaweza kuwa pamoja na wabunge.

Com. Adagala: Unataka prime minister awepo?

Elijah Musasia: Awepo.

Com. Adagala: Unataka au la kwa sababu sema kama.....

Elijah Musasia: Nikija kwa mambo ya ulevi hapa kwetu, naona polisi wanatengeneza pesa nyingi sana kutoka kwa wananchi.

Com. Adagala: Why don't you make a proposal?

Elijah Musasia: Ni heri tuwe na sehemu za kuwekewa licence ili watu wasiwe wanapata tu fine za bure ambazo zinaenda na polisi peke yao.

Com. Asiyu: Ni licence ya nini ya pombe?

Elijah Musasia: Ndio, sababu.....

Com. Asiyu: Ah, ah, sio sababu (inaudible)

Elijah Musasia: Mwenye anataka kuuza awe akijenga mahali pa kuuzia.

Com. Asiyu: Anajenga sehemu yake na anauzia hapo?

Elijah Musasia: Ndio na apewe licence.

Com. Asiyu: Haya endelea Mzee na maoni.

Elijah Musasia: Tukija kwa mambo ya mashamba, tunaona ufidia ni mwingi sana kwa maofisi.

Com. Asiyu: Sasa tufanye namna gani?

Elijah Musasia: Napenda hizi land title deeds zipeanwe freely kwa wananchi.

Com. Asiyu: Na nani?

Elijah Musasia: Ofisi ya DC iko, ofisi ya DO iko.....

Com. Asiyu: Sema ile ofisi unataka itoe title deeds.

Elijah Musasia: Ya DO iko karibu na wananchi kushinda mahali pengine.

Com. Asiyu: Okay. Ingine?

Elijah Musasia: Tukija kwa mambo ya matibabu, sasa unaenda hospitali.....

Com. Asiyu: Hapana, hiyo siwezi kukubali. Sema unataka nini?

Elijah Musasia: Nataka dawa ziwe karibu na hospitali.

Com. Asiyu: Ndio, hiyo nzuri.

Elijah Musasia: Kuliko kutoka nje ya hospitali na kuenda kununua mahali pengine. Makanisa yachunguzwe kwani yale yako yametosha na yale yanaingia mapya tunaona kama hayana faida.

Com. Asiyu: Naona wakati wako umekwisha Bwana Elijah, kwa hivyo hiyo karatasi ndio sasa utatuachia.

Elijah Musasia: Asante.

Com. Asiyu: Asante sana. Sasa tuko na Mama Teresia Mideva, yuko? Kama hayuko, tuko na Bwana Harun Keleda, si usimame Mzee au umechoka. Kaa hapo.

Interjection: Sikula lunch, (inaudible)

Com. Asiyu: Hata sisi hatujakula lunch mzee. Wee kaa hapo uongee halafu uende ule lunch saa hii na uongee kwa kutoa tu

mapendekezo Bwana Harun.

Harun Keleda: Majina yangu ni Harun Keleda na pendekezo langu ni kwa constitution yetu ambayo tuko nayo nafikiri ni Chapter 2, part I number 15.

Com. Adagala: Pendekezo?

Harun Keleda: Ningetaka ibadilishwe.

Com. Asiyu: Lakini Mzee, hiyo ni constitution ya Kenya unasoma, si ndio?

Harun Keleda: Yeah.

Com. Asiyu: Na sisi tunataka kubadilisha mambo yote yaliyo hapa.

Harun Keleda: Okay.

Com. Asiyu: Sasa unatufanyia section gani?

Harun Keleda: Kwa hivyo niache?

Com. Asiyu: Chapter gani ya constitution?

Harun Keleda: Hiyo ni Chapter two.

Com. Asiyu: Haya, sema.

Harun Keleda: Section 1 number 15 juu ya vice president awe akichaguliwa na wananchi wala sio president.

Com. Asiyu: Unataka Vice President achaguliwe na wananchi?

Harun Keleda: Wananchi.

Com. Asiyu: Asante, ingine?

Harun Keleda: Ingingine ni Part II, Section 17 4 a, b and c should removed ili president asiwe aki-nominate watu.

Com. Asiyu: Lakini Mzee tuna-nominate watu sasa. Watu wanakuwa nominated na political parties citizens.

Harun Keleda: No, he has powers to appoint and remove.

Com. Asiyu: Sema appointment not nomination.

Harun Keleda: Yeah.

Com. Asiyu: Sasa wataka nani afanye hizo appointments?

Harun Keleda: Hizo appointments zinatakikana zifanywe na parliament. Pili ni mambo ya female.

Com. Asiyu: Hiyo sasa ni ya tatu.

Harun Keleda: Eeh, sasa hii ni yangu naongeza ikiwezekana female wawe wanakubaliwa kuo a wanaume shauri wako na equal rights.

Com. Asiyu: Unasema wanawake wakubaliwe kuo a wanaume kwa pesa?

Harun Keleda: Eeh, shauri katiba inaleta equal rights – I am proposing.

Com. Asiyu: Na walipe mahari?

Harun Keleda: Eeh.

Com. Asiyu: Halafu aende kwa mwanamke kuishi huko?

Harun Keleda: Yeah.

Com. Asiyu: Kuna ingine inafanya namna hiyo lakini kama hawasikizani mwanamke anaambia mwanaume afunge mzigo yake ile alikuja nayo na arudi kwao.

Harun Keleda: Correct lakini wana (inaudible) hivi sasa, hakuna linalomzuia mwanamke kumwambia mwanamume I want to marry you. The law does not say they are not allowed.

Com. Asiyu: Eeh, kwa sasa hakuna sheria. Mtu anakubaliwa tu mwanamke kumwambia mwanamke kumwambia mwanaume,

eeh hakuna. Sasa kama msichana anakupenda babake atakuja akwambie Bwana Harun naona ningependa mimi na wewe tuoane.

Harun Keleda: Lakini huwa unique and we want to be allowed – to be in existence.

Com. Asiyu: No, it is allowed now. Iko kwa (inaudible)

Harun Keleda: Umeandika? Unajua sasa yule ni kama – Wahindi ndio wanajua.

Com. Asiyu: Sawa, endelea na ingine.

Harun Keleda: Okay. Religion; mambo ya makanisa yasiwe registered in the societies Act – iwe non governmental.

Com. Asiyu: Nini hiyo.

Harun Keleda: Makanisa.

Com. Asiyu: Oh, iwe non governmental?

Harun Keleda: Yeah.

Com. Asiyu: Fine, ingine?

Harun Keleda: Wajumbe wapewe mahali pao pa kununua vitu ili wasije kununua kwa maduka yetu sisi maskini. They should set up – wakitaka kununua nyama, wanunue mboga, wawe na maduka yao special shauri wana mshahara.....

Com. Asiyu: Asante sana. Wewe amua ubaguzi lakini tumeandikana tumemaliza mambo yako. Sasa nataka kumuita.....

Harun Keleda: Asante.

Com. Asiyu: Saa zako zimekwisha mzee. Sasa nataka yule Bwana Denmark Luvate yuko? Mtu wa Luvate hayuko? Sasa tunataka Bwana Patrick Selaba, yuko? Kama Patrick hayuko tutamuuliza – hebu tunyamaze tusikilize. Patrick anaonekana hayuko. Sasa tunataka Dorcas Anubi, karibu uongee machache na ya maana.



Dorcas Anupi: My names are Dorcas Anupi from Moi Girls Vokoli and I am 18 and I am in form four. My first point is on change of education system. It seems to be taking place but we get that some students in primary schools are not allowed to take some subjects but when then get to secondary school they are told to take that subject. So, that should be stopped and we should be told which system to take if there is a change that should take place.

Second point, the students should be assured of job opportunities after schools. Some students are lacking jobs and yet they have gone upto university levels. Importation of expatriates should not be allowed in our country. We should use those Kenyans who are lacking jobs to persue high education in the subjects and improve on the education.

Homes for the children is only set up in town and I think this should not be allowed. The homes for the children should also be set up in the rural areas where we get orphans who are lacking where to live and roam from village to village.

Canceling of exams for the students should be stopped and in case cheating is realized, the students should be given an emergency exam. That is all I have.

Com. Asiyu: Thank you very much Dorcas for what you have told us. Now, (inaudible) Dina Aseyu, is not here. Bwana Hudson Kisaka tafadhali kuja mbele haraka na uongee.

Hudson Kisaka: Kwa majina ni Hudson Kisaka. Pendekezo langu la kwanza ni juu ya wazee wa mtaa hawa wanaoitwa *magutu* inatakiwa walipwe pesa kwa maana wanafanya kazi nyingi.

Ya pili, assistant chiefs na chief wawe wanachaguliwa na raia wenyewe.

Schools: Kama mwalimu amepatikana akifanya urafiki na mwanafunzi aadhibiwe ama afungwe kifungo kisichozidi miaka saba.

Com. Asiyu: Endelea.

Hudson Kisaka: Pendekezo lingine ni kuwa tunataka rais ashukishwe madaraka na tuwe na Prime Minister.

Ofisi ya rais isiwe na kazi nyingi kama vile ilivyo sasa kwa maana inabeba .....

Com. Asiyu: (inaudible)

Harun Keleda: Okay. Mtu akipatikana kama ame-rape afungwe miaka kumi bila fine.

Com. Asiyu: Miaka kumi haitoshi ya raping.

Harun Keleda: Sheria ya zamani; tunataka sheria iwe namna hii. Watu kama walemavu ama vipofu, serikali ifikirie maneno yao

kwa maana kuna wengine ambao wanaweza fanya kazi kwa serikali vizuri.

Com. Asiyu: Kufikiria ni nini? Pendekeza. Kuwapatia kazi?

Harun Keleda: Wapatiwe kazi na wale hawana masomo wapate masomo. Nursery schools ndio msingi wa taifa letu la Kenya. Waalimu walipwe pesa.

Com. Asiyu: Next?

Harun Keleda: Na watoto wapate chakula.

Com. Ida Salim: Nursery school teachers wapewe pesa na nani?

Harun Keleda: Na serikali.

Com. Asiyu: Carry on.

Harun Keleda: Sheria ya kahawa na majani chai; mtu akiwa na chai ama kahawa asiende kugombea kiti cha kuwa director wa banda. Kama ni member achaguliwe bila kuwekewa vikwazo – yaani awe na (inaudible) fulani.

Pendekezo lingine ni kuwa Wakristo hawana uhuru katika nchi yetu ya Kenya. Kuna wengine wanatengeneza tu makanisa na hatujui wanatengeneza kwa Act gani. Ziwe registered. Asatne sana.

Com. Asiyu: Asante sana. Sasa ninamuuliza Bwana Safani Mbilu.

Safani Mbilu: Mimi ndio labda wa mwisho. Mengi yamesemwa na sitarudia mengine kwa sababu nimeyaandika na mtajisome wenyewe. Mimi naitwa Safani Kali Mbilu, mwalimu wa Kisangura Primary School na ninamapendekezo machache ingawa ni mengi kidogo. Kwanza.....

Com. Asiyu: (inaudible)

Safani Mbilu: Nasema hivi, president, mayors, councilors, assistant chief and chiefs be elected directly by mwananchi wa kawaida.

Dictatorship ama our policies should be abolished or stopped so that the presidential powers be limited or trimmed whereby we have about .....

Com. Asiyu: Hebu tafadhali kidogo. Wewe umeongea sasa hivi na unapiga kelele, wengine sasa huyu hatuwezi kumsikiliza.

Safani Mbilu:Wacha wapige kelele.

Com. Asiyu: (inaudible)

Safani Mbilu:Hawajui tumekuja hapa kwa nini. Nimesema presidential powers ziwe trimmed whereby we should have at least one minister in the Office of the President; why have many of them there.

Another is that we should use government machinery when passing out policies. Let us use government machinery or public opinion na hiyo ni during campaigns.

Another one is that nominated members MPs should not be given position like a Minister. They should remain a mere MP because after that, tomorrow he asks for equality and (inaudible)

Com. Asiyu: Pendekezo lingine.

Safani Mbilu: Lingine; naendelea kusonga mbele. Keep a character where he fits because somebody a musician passes from here to Nairobi, tomorrow you hear he is (inaudible)

Com. Asiyu: Hata kengele yako imelia na bado hujapendekeza.

Safani Mbilu: Kwa ufupi, watoto ambao..... wacha nimalize hii tu.

Com. Asiyu: Hapana, huwezi kumaliza kwani saa imekwisha.

Safani Mbilu: Kuna case moja hapa ambayo ningependa iangaliwe.

Com. Asiyu: Haya, sema basi na (inaudible).

Safani Mbilu: Kuna watoto ambao waliacha shule 1994 kama huyu niliye naye. Alipata B- and he missed only two points to go to university na ametrain kwa college na ana certificates zake ambazo niko nazo hapa na bado huyu mtoto hajaajiriwa hata kwa shule yoyote na ana qualifications nzuri. Hii inaonyesha ya kwamba the brains are being eroded. Please, wakati wanachukua waalimu wachukue wale ambao wameanza ku-train ndio wachukue wengine kwa sababu wamechukua na kusema sisi ama shule ama school committees wa-employ. They are going to employ somebody who left yesterday and this is a case of 1994 and it is still there. Huyu mtoto ahana mbele wala nyuma na wengine wazazi wamekufa na yeye ndiye anasimamia hiyo nyumba. Sasa inakuwa gumu kwake kuangalia watoto wao kwani wazazi wao wamefariki.

Com. Asiyu: Haya tumesikia mzee. Nafikiri kitu ambacho ungefanya ni kuona District Education Officer na umweleze mambo hayo. Pengine ataweza kukusaidia lakini mambo yako mengine mapendekezo tumeyachukua na tumeshukuru sana. Sasa.....

Safari Mbilu: Mwisho nikienda, Orogeko, should be honoured. Kuna wakati mtu anapewa powers yaani orogeko na korti zinafaa ziwe ziki-honour – courts should honour the common man or elders dues. Mengine nimeandika hapa na mtajisomea wenyewe.

Com. Asiyu: Asante sana (inaudible)

Safari Mbilu: Orogeko is salvation after somebody has died; we have to make a commemoration so that we finish up his work after he has died. We have to divide the property - that is the time they divide the property of the person and it should be looked into very carefully because sometimes the court does not honour those people who are there. It should honour the common man there – the elders, please.

Com. Asiyu: Haya, tumeshukuru sana Mzee kwa hayo uliyasema. Ningependa kama Bwana Nephaz Mwenesi yuko hapa.

Safari Mbilu: Asante.

Com. Asiyu: Hebu kuja wewe ni mtu wa mwisho Bwana Nephaz. Tena msifungue madirishe ya upande huu na upande huu ili mvua isituingilie. Haya Bwana Nephaz endelea tafadhali.

Nephaz Mwenesi: My names are Nephaz Mwenesi Libang’a. Ningependekeza ya kwamba rais achaguliwe kwa vipindi viwili peke yake. Ningependekeza kwamba.....

Com. Asiyu: Bwana Nephaz, weka mic chini kidogo.

Nephaz Mwenesi: Chini namna hiyo?

Com. Asiyu: Hapana hiyo ni chini sana.

Nephaz Mwenesi: Ningependekeza ya kwamba rais achaguliwe kwa vipindi viwili na pia tuwe na rais na vice president pamoja na prime minister.

Interjection: (inaudible)

Nephas Mwenesi: Nisimame hapa eeh?

Com. Asiyu: (inaudible)

Nephas Mwenesi: Ningependekeza ya kwamba hii nomination ambayo inafanywa kwa councilors pamoja na wabunge kwa sababu (inaudible). Pia, ningependekeza ya kwamba university students wapewe loans kwa sababu imekuwa expensive na mtoto akishamaliza university, apewe loan ya shamba ya eka ishirini ili aendelee na kutekeleza kilimo.

Com. Asiyu: That's for students or university graduates?

Nephas Mwenesi: University graduate. Apewe eka ishirini badala ya kuranda randa kwa mitaa awe (inaudible). Bado. Ningependekeza kwamba Chief's Act iwe scrapped off kabisa. Pia ningependekeza ikiwezekana mtu akijitokeza na sio wa party apewe ruhusa ya kusimama – independent candidate.

Com. Asiyu: Unataka independent candidate?

Nephas Mwenesi: Eeh, apewe candidature hata akikosa party, apewe candidature ya kusimama. Ningependekeza ya kwamba shamba minimum ambayo mtu anaweza ku-own Kenya ni eka tano na maximum eka mia moja peke yake. Asante, nimemaliza mapendekezo yangu.

Com. Asiyu: Tumeshukuru maoni yako sana. Ngojea tutakuuliza maswali.

Com. Adagala: Unajua Chief's Act iko hivyo kwa sababu chiefs are appointed. What is they were elected?

Nephas Mwenesi: If they were elected by the people, wanaweza kuwa na powers lakini kama wanakuwa appointed powers zao zichukuliwa na polisi.

Com. Adagala: Okay. Independent parties are there only because this constitution says so – the one we have. What would you like in the future?

Nephas Mwenesi: Constitution iallow mtu akisimama independently apewe ruhusa na iwekwe kwa constitution.

Com. Adagala: Okay.

Nephas Mwenesi: Badala ya kusimama kwa chama.

Com. Asiyu: Asante sana Bwana Mwenesi kwa maoni hayo. Sasa ningependa kuuliza Mzee Harum Mbeleda afike hapa mbele na achukue microphone na atufanyie maombi ya mwisho tafadhali.

Com. Adagala: Sikilizeni. *Policy kandi wikale hawo khuleni* After this, tumemaliza kazi ya Sabatia. Tulikuwa Chemakanga, Chevakali na hapa na tumemaliza na hayo mambo yote yamesemekana na kwa hivyo vituo vitatu vitachapishwa vile yamenaswa kwa tape recorder. Itachapishwa halafu constituency report itafika hapa na muangalie vile mlikuwa mnaangalia registry ya kupiga kura – voters register. Mtaangalia muone kama iko sawa au mnataka kubadilisha au nini. Halafu, tutatengeneza report ya nchi nzima ya 210 constituencies na hiyo report itakuwa analytical – tutakuwa tukilinganisha hii na ile, hii na ile halafu hiyo report tutaipeleka kwa National Constitutional Conference ambayo itakuwa na watu karibu mia saba. Tulikuwa tumewaeleza asubuni lakini wengi hamukuwa hapa.

Basi tukimaliza hivyo, tutaenda kwa hiyo conference na watu watajadiliana; MPs, NGOs, Kanisa, Msikiti, Commission yenyewe na wengine na tutazungumza na tuendeleo na mazungumzo mpaka tusikizane na tukikosa kusikilizana tutarudisha kile kinaitwa referendum ambayo ni kura ya maoni. Yaani unapigia maoni kura; yes au no - sio kura ya mtu kwa wananchi. Halafu, ikirudishwa tutamaliza hiyo report na tupeleke kwa bunge ili waangalie na wakipitisha hiyo report, tutakuwa na deal, tutakuwa na report na draft bill. Halafu bill ikienda lazima kitu kikienda mbele ya bunge kiwe bill. Bill ikizungumziwa na ipitishwe, katiba mpya itazaliwa na ile nzee inatakufa – ni kama chameleon *kulenyanga mbunyambuniko* ----

Sasa mjitayarisha kwani huu sio mwisho. Tutaendelea hata na 3C's na Coordinator pia. Sasa unaweza fikiria jambo na kama unaona unataka kuongeza unaweza kutuandikia tume au ukikutana na mtu mwingine ambaye hakufika hapa, tafadhali mwambie atutumie memorandum, okay.

Kwa district coordinator, Agnes au Chairu wa kamati- member wa kamati yeyote wataleta. Nafikiri tumemaliza na tunawashukuru sana nyote mliokuja kwa wengi na wananfunzi pia, pole mwishowe tulikuwa na short temper lakini kazi ni gumu sana. Asanteni na tumefurahi sote.

Com. Asiyu: Sasa ningewauliza tusimame kwa heshima ya Mungu na tupate maombi kutoka kwa Mzee Harun.

Mzee Harun (prayers): Asante. Tunakushukuru mwenyezi Mungu kwa siku ya leo ikiwa tarehe thelathini na moja mwezi wa saba kwa ma-commissioners wetu kuja hapa kutusaidia na kungea nasi ili turekebishe katiba ya nchi yetu kwa kizazi kijacho. Mungu baba, uwape uzima, uwape maarifa wanapoendelea katika nchi yetu kupata maoni na wale ambao tumetoa maoni, Mungu baba uwe pamoja nasi tena. Kwa wakati huu tunakuomba Mungu baba wanapoenda utembe nao, uwalinde katika magari yao ili Mungu baba wasije wakapata ajali au kitu kibaya. Na haya machache naomba kwa jina laYesu Kristo mwokozi wetu, Amen.



































