

CONSTITUTION OF KENYA REVIEW COMMISSION

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CONSTITUENCY PUBLIC HEARINGS,

KHWISERO CONSTITUENCY,

AT ESHINUTSA PRI. SCHOOL.

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AUGUST 7th, 2002

**CONSTITUENCY PUBLIC HEARINGS, KHWISERO CONSTITUENCY, AT ESHINUTSA
PRIMARY SCHOOL.**

PRESENT.

Com: Domiziano Ratanya.

Com: Abida Ali Aroni.

Com: Keriako Tobiko.

Secretariat staff.

Ismail Aden

Mercy Mayabi

Suzane Mutile

The Meeting starts at 10.20 am.

Ann Nambiro: Administration, CCC Chairman na Members of 3Cs, *mulembe mews, mulembe khandi*. Tuko karibu kufungua kikao chetu cha leo cha kuchukua maoni ya kurekebisha Katiba, lakini kabla ya kufanya hivyo ni lazima tukifungue kwa maombi. Nitamwomba madam Martha aeleze moja atuongoze kwa maombi.

Pastor. Joseph Okusi: Asante sana na ningeomba sisi sote tusimame ndivo tupate maombi. Ee Mungu Baba, Mungu mwana Mungu roho mtakatifu, kwa saa hizi tumekutana hapa katika uwezo wako, tumekuja ili tujadiliane kuzungumza yatakayo linda nchi yetu. Baba umesema utukufu unatoka kwako, na ni kweli haya yote tumeomba tuanze na wewe na tena tumalize na wewe. Wale wamefika ili kuhudumia hili neno wewe uwapake mafuta yatokayo mbinguni kwako. Watakazungumza wawe mikononi mwako, watakaosikiza wawe mikononi mwako, na yote yatendeke katika uwezo wako. Tunakuomba yawe mazuri kwa jina la Yesu kristo aliye mkombozi wetu. Amen.

Ann Nambiro: Thank you very much, sasa nitachukuwa nafasi hii kumwalika the principal kusema neno moja. Principal to the school tafadhali.

David Musonye: Commissioners wetu wawili, Chairman, Co-ordinator secretariat na wale waliokuja kututembelea siku ya leo ningependa kusema hamjamboni nyote! Hatujambo tena!. Sita kuwa na mengi ya kusema kwa sababu leo ni siku ya maana sana mambo kwa ya Constitution na already tunaona saa imesonga. Sasa yangu tu nikuwakaribisha nyinyi wote, tunakaribisha Commissioners wetu hapa Western na nawaambia feel at Eshinutsa. Mimi mwenyewe ndio principal na kwa majina naitwa David Musonye. Tukona na deputy wangu pale Mr. Ramadhani na tukona na senior master hapa Mr. Angote. Sasa tuko pamoja kwa siku ya leo tusaidiane tuone vile siku itaendelea. Mimi yangu tu nikuwakaribisha nawaambia karibuni tena. Haya asante sana.

Ann Nambiro: Thank you very much. For this Constituency Commissioners wamekuwa hapa mara tatu. Mr. Mutakha was very close to this school in December, tena wakarudi in march, yeye mwenyewe akarudi in the same constituency in Luanda Dudi, and they came as Commissioners with Nancy Baraza for the public lecture. Isitoshe our Chairman to the 3Cs being a legal expert with wide experience has been very supportive, na amekuwa kwa hii shule. Mimi mwenyewe si kumsindikiza labda ilikuwa kwa hii hall. Na pia tukawa kwa Kanisa ambayo ina fund hii shule inathamini hii shule, that is church of God, just neighboring. So I'm very grateful to my Chairman Mr. Claudia Bakhoya, and now ninachukuwa nafasi hii kumpatia the Chairman 3Cs Mr. Claudia Bakhoya to introduce to us the remaining team. Thank you and welcome.

Chairman 3Cs: Claudia: Ma-commissioners, Co-ordinator, Provincial Administration, the Principal, 3Cs Members, waalimu na wageni mashuhuri wote nawakaribisha hapa. Kwa kukaribisha kwangu kwanza ni furaha kwa headmaster na waalimu wote kwa ile mipango ambayo wametufanyia. Kwa hivyo nasema zile siku ambazo tumekua na nao Commissioners, leo ndio tumepata hall ambayo imepangwa vizuri sana, na tunashukuru kwa hiyo kazi yote. Na kabla sijasema maneno mengine, hebu tumwone Chief wa hapa apate katuhakikishia kama tuko salama ama hapana. Nafikiri chief atawakilisha members wengine wote wa Administration. Bwana Chief yuko hapa?

Chief: Wirer M. Luchele: Commissioners wetu, Chairman wa 3Cs, Co-ordinator wetu wa district na wanainchi hamjambo!. Mimi ningependa tu Assistant Chiefs wasimame waonekana pale walipo. Tuko na Assistant Chief hapo wawili na hii location ina assistant Chief watatu mwingine nafikiri ako njia ni anakuja, asanteni na mkae. Nafikiri tuko hapa kwa sababu this is a very important exercise and it is a national exercise, lazima sisi sote tushirikiane. Commissioner's lile jambo ningependa tu kwambia, mnaweza kuwa na tashwishi kwa sababu wakati tunangalia kwa magazeti wanasema it is not a primary school. So wakati tunatoa maoni pahali pengine we might have a legal problem, lakini ningependa kuwahakikishia ya kwamba hii crowd ni moja kutoka kwa primary mpaka huko kwa church, na title deed nafikiri bado ni moja. So hata kama mtu ataenda ku-challenge hataweza, lakini feel at home and the DO is with us he might come, na kama hakuji sisi tuko hapa na nyinyi mpaka mtamaliza, and we are here also as a part of the meeting. Asanteni sana.

Chairman: Claude: Asante sana kwa hii kazi kufanyika namna hii tumekuwa na co-ordinator ambaye ametukaribisha na mmeshamwona, Anne Nambiro ambaye ametufanyia kazi vizuri sana. Naweza kusema wakati tunatoa memorandum zetu, wakati tunafanya equality na equity tumehakikisha kwamba wanaweza kufanya hii kazi kwa maana inafanyika kwa njia nzuri sana.

Pili, ma-committee members wangu ambao nitawakaribisha na kusalimia watu, tafadhali waje tena ndio wamewezesha hii mikutano yote kuwepo. Tafadhali wataje majina yao.

Sela Walimo: Commissioners and secretariats na wale ambawo wamekuja leo nawasalimu kwa jina la yesu bwana asifiwe.

Mleme mwesi kwa majina ni Mrs. Sela Welimo mimi ni secretary wa Kamati.

Mathar Alukwe: Commissioners na wote ambayo wamekuja nawasalimia hamjamboni! Kwa majina mimi naitwa Mathar Alukwe na mimi ndiye mwakilishi wa constituency ya Khwisero sasa muko sehemu yangu mumekaribishwa.

Chairman Claude: Sasa wageni wengine ambao wamefika hapa hatujawajua tuna Bwana Naman Eshuchi ambaye yuko hapa na atatoa maoni yake lakini kwa sasa umuone. Kwa sababu gani namtaja ni mtu ambaye amesimama kwa elections kwa siku nyingi sana pamoja na Shikuku katika hii area hii ndiye amekua, he is one of the best Parliamentarians we ever had. So he is here with us to give his views and also we have Moses Luvanga vile vile ni prospective Parliamentarian, 1988 alisimamia kiti hapa pamoja na Shikuku na Okwara, wale mlikuwa mukisoma na accountant wa Butere. Siku hiyo Butere ilikuwa tu village , ilikuwa kubwa akasimama katika elections, his simplicity inamfanya yeye hapa kuwa kutufurahia sana. Vile vile tukona pale Ex-assistant Chief ambaye yuko hapa. sasa wale ndio nime-recognise isipokua kuna kitu kimoja nitasema. Wote ambao tuko hapa we are all important sisi sote maanake tumekuja kufanya kazi yote ya Serikali.

Na nikiwarudisha nikirusha hii mkutano sasa kwa Ma-commissioners hapo tuna Abida Ali wakili mashuhuri sana ambaye amepigania haya maneno sana. Halafu tuko na Mr. Ratanya ambaye ni kutoka sehemu za Meru mzee ambaye atatutengenezea haya maneno. Sasa wakati tukonao juweni maneno munayatowa ni muhimu. Nitawaachia hapa kwa sasa maanake baadaye katika huu mkutano nitaweza kutoa memorandum inahusiana na hii Constituency. Asanteni sana.

Ann Nambiro: Thank you Chairman. I will now take this opportunity kurudisha programe kwa Commissioners ambao watatusaidia kuendeleza mpaka wakati tutafunga tena kwa maombi. Ukiwa na swala lolote mnaweza mkaniona hapo au hata nje kuliko kuuliza Commissioner direct, sababu watakuwa wanachukua maoni yetu ya kurekebisha Katiba. Asante kwa kunisikiza.

Com Abida Ali: Watu wa sehemu hii hamjambo! Kwa niaba ya Tume ya kurekebisha Katiba ningependa kuwakaribisha katika hichi kikao cha hii sehemu ya Eshinutsa na kuwaambia kwamba tunafurahia mwaliko wenu, na kwa wakati huu ningependa kutoa shukurani kwa Principal wa shule na community ya shule, kwa kutuwezesha kufanya hii shuguli yetu katika hall ya shule. Kabla sijaendelea sana ningependa kuwajulisha kwamba mkutano huu ni mkutano rasmi wa kuchukuwa maoni yenu na tunawaomba watakao fika siku ya leo mtoe maoni yenu bila kuwa na hofu wala wasiwasi.

Kitu ambacho ni muhimu ni kwamba tutumia lugha mbayo ni ya kufaa, na isiwe lugha itakayo kasirisha mwenzako lakini tuna uhuru wa kutoa maoni ili tuweze kurekebisha sheria ambayo ni kuu na muhimu katika utawala wa nchi. Na kabla sijaendelea sana ningependa kumwomba mwenzangu ajijulishe kwa majina yake kamili na kuwasalimia kabla hatujaendelea.

Com Domiziano: Hamjamboni wanainchi wa hapa Eshinutsa! *Mlebe muno muno*. Mimi kwa majina ninaitwa Domiziano Tochokera Ratanya ni Commissioner. Asante sana.

Com: Abida Ali: Pia tuna Commissioner mwingine ambaye alipatikana na malaria tulipoanza safari yetu ya sehemu hii na hakuweza kujiunga na sisi, lakini alitakiwa kuwa hapa na jina lake ni Tobiko Keriako. Imembidi aende Nairobi kwa matibabu. Halafu tuliambatana na watu kadha kutoka kwenye sectreariat ambao ni Ismaili Hassan lakini pia leo ameshikika asubuhi na imebidi aelekea hospitali hakuweza kufika lakini ametuma salamu zake. Halafu tuna Ass. Programme Officer ambaye ni Mercy Mayabi ambaye anashughulika na kuhakikisha kwamba maneno yote mnayozungumza anayaandika ili yaweze kusomwa na kufikiwa wakati ambapo tutapendekeza Katiba mpya ya nchi. Na yule ameketi karibu na yeye ni Suzane Mutile ambaye anaitwa verbatim recoder, maanake ni kwamba mnamwona akona na makaseti pale na ana chombo cha kunasa sauti inaonekana ni kidogo lakini ni mtambo wa kisasa, siku hizi vitu havitengenezwi vikubwa. Mkimwona pale ana nasa sauti zenu kabisa, na ni lazima kwa hivyo mtu akizungumza kutumia microphone kwa sababu tume-connect kila kitu kwa speaker na tungependa kila neno mtakalo nena leo liweze kuchukuliwa katika ofisi kuu na kuweza kutafsiri katika report. ambayo tunatarajia mtaaweza kusoma, na mtahakikisha kwamba mazungumzo yenu yote yamewekwa na yatatiliwa maanani. Nafikiri sasa tumejitambulisha na kama mlivyoenezwa na Chairman mimi naitwa Abida Ali Aroni, naibu wa Mwenyekiti wa Tume ya kurekebisha Katiba. Sasa kabla hatujaanza tungependa kuwapa masharti ambayo tunadhania ni muhimu katika kazi hii ya leo kwa sababu hakuna mkutano ambao hauna mpango sivyo?

Sasa kwanza kabisa tunawaomba nyote mjiandikishe pale nje, ikiwa hauna maoni utatueleza kwamba wewe ni observer kwa sababu tunataka ijulikane ni watu wangapi ambawo walijushughulisha hata ikiwa hawa kuzungumza. Kwa sababu hata kule kusikiza kuna maana sivyo? Kwa hivyo kila mtu ajiandikishe pale nje na ikifika wakati wa kutaja majina tutafuata kulingana na vile mmejiandikisha first come first served. Kwa sababu katika mkutano wetu tunasema hatutaki mapendeleo na hatutaki mambo inayofanywa na mlango wa nyuma lazima kila mtu ajiandikishe. Tafadhali tunawaomba mmtu asitume karatasi yoyote kutuomba kwamba amefika saa nane na kuna mtu amefika saa mbili anatuambia tafadhali mniruke niko na haraka. Nathania sisi sote tunashughuli ambazo tumeziacha lakini tukaona umuhimu wa kufika katika shughuli hii kwa siku ya leo, kwa hivyo first come first served.

Baada ya hapo tutawaomba mfike hapa kuna meza mmewekewa ambayo utafika na kuketi ama ukitaka kusimama itakua ni juu yako kuja kutoa maoni. Na tutawapa watu ambawo wameandika maoni yao dakika tatu peke yake kufanya summary au kujaribu tu kutupatia kwa ufupi mambo ambayo wameandika. Kwa sababu tutapata nafasi tukifika Nairobi kuketi na kusoma kwa uangalifu maneno ambayo mumeandika. Wale watafanya oral presentation hawana makaratasi ambayo yameandikwa, tutawapa dakika nne kuweza kutoa mapendekezo.

Pengine mtasema kwamba dakika tatu nne ni kidogo lakini kama mnavyojua kwa wakati huu tumetembea katika Constituencies zote za nchi na zaidi ya constituency mia mbili na katika panels zote za Commissions leo ndio siku ya mwisho katika kusikiza watu. Na tulivyoona ni kwamba ukimpa mtu zaidi ya dakika nne atakupatia hadithi hatakuambia mapendekezo ya Katiba. Na kwa sababu tunatarajia kupata watu wengi ni afadhali kila mtu apate nafasi kuliko tusikize watu kumi na hadithi zao, na tuwache

watu wengine weshinutsa kabla hawajazungumza. Kwa hivyo tunawaomba mjaribu kuzungumza kwa dakika ambazo mtapatiwa na m-stick to the point give us the recommendations kwa sababu hizo hadithi hata sisi tunazielewa shida ya Kenya ni sawa sehemu zote. Siyoyo?

Jambo lingine ni kwamba baada ya kuzungumza tuna register pale, kuna Member wa 3C ambaye anatusaidia. Mtafika pale kuna register ambayo utasign, na kama una memorandum utaiwacha pale tuna file maalum ya hii center ambayo tutaweka memorandum zote tuhakikishe kwamba zimefika hadi ofisi kuu ya tume.

Jambo lingine ni kwamba, ikiwa una memorandum na hautaki kuzungumza utakwenda kimya kwenye register na kupeana na kujiandikisha sio lazima kuzungumza ikiwa una haraka ama hautaki kuzungumza.

Kitu kingine ni kwamba, mtaona ingawa tumesema hatutaruka ikitokea wanafunzi tutaomba kuwapa nafasi watoe maoni yawo na kurudi shuleni kwa sababu hatutaki kuwaharibia masomo yao. Ikitokea pengine mgonjwa au kuwe na mtu mlemavu ambaye tunaona pengine anatatizika kuketi katika mkutano, tunaweza kuomba kumtaja jina lake ili asiweze kuketi. Kukitokea mtu mzee zaidi itatubidi tufanya hivo, na ikiwa tutakuwa na akina mama ikifika saa za jioni tutaomba pia tuwataje ili waondoke na kuenda kushughulika na kazi za nyumbani ili wazee wakifika nyumbani wasipige makelele wakisema hakuna chakula siyoyo?

Basi lakini ikiwa akina mama hawako, hakuna watu walemavu, wanafunzi tutaomba kufuata orodha ya majina.

Na wakati ambapo unaanza kuzungumza tafadhali anza kwa kujitambulisha jina ili tape recorder iende ikiwa na jina lako unapozungumza isije ikatututiza baadaye.

Jambo lingine tunaomba mtu akizungumza wengine wawe kimya tuheshimiane. Kwa sababu demokrasia maanake ni kwamba sisi wote hata ikiwa tuna maoni tofauti tutapeana nafasi ya kila mtu kuzungumza. Lugha tutakayo tumia ni Kiswahili na Kiingereza, lakini kama kuna ikiwa kuna mtu ambaye anatatizika tutamruhusu kwa kuzungumza kwa lugha ambayo inamfaa. Lakini ukiweza kuzungumza Kiingereza, Kiswahili, tunaomba utumie lugha hizi ili tuelewane kwa njia ilio safi bila matazizo yoyote yatakayo kuja wakati wa translation. Nafikiria ni hayo tu kutoka upande wetu na tungependa kuanza kulingana na vile ambavyo tumepata hii orodha ya majina. Mtu wa kwanza ni Douglas Akumali.

Douglas Akumali: Commissioners present, ladies and gentlemen my names are Douglas Akumali I have a memo on universal group of Maendeleo ya wanawake Khisa East. In my memo I going to talk about four articles first article is: Legislature, Executive, education and Provincial Administration. Ladies and gentlemen I want to go straight away to the Legislature.

1) Legislature: under the Constitution of Kenya Review Commission I propose that Parliament should appoint:

a) Chief Justice. b) Attorney General c) Permanent Secretary d) Ambassadors e) The Ministers.

On the Ministers I want to say something small, each province should have an equal number of Ministers so that national cake can be shared. This should take place on proportional equality because we understand what democracy is.

- 2) Under the Legislature: the age requirement for voters should be 18 years. Parliamentary seats 21 years, while the President should be between 35 and 45 years. And on top of this the contestant should be of a degree or a professor to avoid the language test. Ladies and gentlemen in Kenya our roads or towns are packed with academicians from various universities. So this is why I'm proposing that these guys should actually be a degree holders or a professor.

It is ideal for constituents to have a right to recall their MP whose political services are dormant. The question of MPs being nominated should cease and salaries for elected MPs should be prepared by the Public Service Commission, Labour and COTU in amalgamation basing on job groups like any other working class in Kenya here. Ladies and gentlemen no any other allowances apart from medical and house should be allocated to MPs in order to revive the economy of the country. Because you remember the Parliamentarians have so many allowances such as sitting allowances, and yet other people in other parastatal bodies, Government officials have also buttocks to sit but they are never given sitting allowance.

We should have one chamber of Parliament in which the President shouldn't have powers to veto Legislation passed by the Parliament, and Parliamentarians should be deprived the power to drop an Executive through a vote of no confidence. Consequently we shouldn't stagger elections for Parliament, and above all the Legislature should be empowered to squash the President's veto democratically.

- 3) Executive: the Constitutional Presidential qualifications for candidature should be:

He or she be a citizen aged 35 to 45.

A Kenyan degree holder

Should be ready to be in office 2 terms of 5 years each that is 10 years, and then he leaves the office.

He/ she shouldn't be above law but a commander in Chief of all Armed Forces in Kenya.

The Constitution should authorize to remove the President for mis-conducts such as corruption of any kind by taking him to High Court and his property be auctioned to pay back the state's loss.

- 4) Provincial Administration: since the PC, DO and Assistant Chiefs have minimal role to play Administratively, it is high time they rest. To create the following order: from the President we come to DC, Chief and village elders. These village elders I propose that they should be actually on payroll or paid salaries. Every district should appoint its own DC and every location its own Chief, and both of them should be transferable with no question at all.

- 5) Education: there should be a free compulsory education with a system of 7 years 7423. That is to say 7 years primary education, 4 secondary, 2 form 5/6 and 3 university. And the PTA to monitor the bursary funds offered to clever child from poor families who proceed to form 1 up to university. Local Government and the DEB to continue sponsoring schools. There should be establishment of education training in colleges on district focus with 75% of entrees coming host district to

balance the staffing issue in Kenya.

Teachers: teachers should observe the board of regulations soberly and keenly too. Their salaries and terms of service be revived every 5 years, to stop squabbling and tapping of shoulders within the ministry for education, TSC and so on. Ladies and gentlemen this is what I had for today thank you very much.

Com: Abida Ali: Thank you and please register and leave us with your memorandum. And next is Nathanel Abieka.

Nathanel Abieka: Mr. Commissioner Sir, secretariat, ladies and gentlemen, I Nathanel Abieka I would like to present my views to the Commissions as follows:

Provincial Administration: this was an old system of governance which allowed the colonialist to use and hire wanainchi, it should be scrapped off, and we do away with it retaining only elected members of Parliament, Civic and leaders of our projects to run our affairs. For the office of Administration has been a hindrance to development by embezzeling funds and encouraging corruption under a divide and rule model, since it was adopted on ethnicity.

We should introduce the office of Ombudsman and recognize the local elders “liguni” in our system of governance. The senate should be there in our legislation.

Political parties: Kenya as a democratic country should have only three political parties to serve the mwanainchi. Political parties when they register they should take a period of 2 years to mature and take part in any political campaign and formation of Government. All political parties to arrange from their own financial acquirement and management. They should acquire their finance from membership registration, funds raising and start their own income generating project. Political parties should not be allowed to solicit money from foreign donor agencies or notable individual persons to avoid corruption and inverted activities. Political parties should not dish money to voters in any way during campaign. Both Parliamentary and civic candidate should be restricted from over spending, a given amount should be used according to area and position. All political parties should be given same autonomy since they are policy making organs regardless of whether they are in power or not. They should receive equal treatment in mass media and communication.

Succession or transfer of power: the speaker of the National Assembly should hold the Executive power for 90 days when the Head of State dies, resigns or ceases to function. The election results for a President should be declared through the mass media by the Chairman of the Electoral Commission immediately after the count.

The in-coming President should assume office with immediate effect announced after being the winner by the Electoral committee.

Citizenship: the automatic citizens of Kenya should be those born of the parents of 42 tribes in Kenya by native tribe. Kenyan citizenship can also be acquired if a person in question is of a third generation like the grand parents lived and died in the country, likewise parents during their lives spent their livelihood and died in the country. Spouses of Kenyan citizens regardless of gender can be regarded as citizens if they prove their marriage is legal. The rights of a citizen include choosing of Government, employment in any sector, freedom of worship and speech and so on. The rights and obligation of our citizen should be the same. The Constitution should not allow dual citizenship. Kenyans should carry passport for identity and not ID cards.

Agriculture: since agriculture is a backbone of our economy, Kenya should give the agricultural industry priority one. Identifying agricultural useable lands all over the country arid and semi arid land, to make proper land management. The Government should not allow agricultural land to be wasted while the country is lacking food. Individuals should not be allowed to own more than 100 acres of agricultural land or less than 1 acre since it is insufficient to sustain a family properly agriculturally. Companies and state operation should not own more than 100 acres of land. Public land should benefit the community living around not other people from outside. Public land allocation to individuals should be stopped. Agricultural banks of Kenya to be established to fund both small scale and large scale farmers.

Interjection: Com: Abida: Your time is up, give us your last proposal.

Nathanel Abieka: My last proposal is, I think I m through.

Com: Abida: Thank you, we may have some questions for you. Okay, one clarification: you would like Kenyans to carry passports and not ID cards why is that?

Nathanel Abieka: ID card was an old system, which kept Kenyans from traveling all over the world, was complicating the rest of the world but due to globalization now there's need for Kenyans to have passports to have access to world globalization and development.

Com: Abida: And what is wrong with having an ID and a passport as it is now, because not every Kenyan wishes to travel so that we only acquire a passport if you wish to travel?

Nathanel Abieka: An ID looks quite colonialist.

Com: Abida: Isn't the passport colonialist also, because who brought the passports to us as Kenyans we didn't have them. Did we have them before the Europeans came?

Nathanel Abieka: A passport are worldwide even in Western side they use it but in the colonial side it limits people. The ID card limits people to have access to world affairs, so we need every mwanainchi to have access to world affairs.

Com: Abida: Than k you. Please register, next is Mosses Akhoyo.

Mosses Akhoyo: Commissioners, secretariat ladies and gentlemen, I Mosses Akhoyo I m going to address 3 major topics. Local Government, Basic rights, land and property rights.

Local Government: since this is a Government that is very close to common mwanainchi. Lets give mwanainchi the right of electing this governor that is the Mayor and the Chairman. The current term of 2 years in office of the mayor and Council Chairman is quite sufficient if they want to curb corruption and misappropriation of public funds. I think Councilors should continue serving in the central Government for also their is a Government the local Government and an arm of central Government. Here there is no power sharing for a Councilor cannot be with a Chief whip, at the same time an MP cannot be the Chairman of the County Council. In electing a Councilor we should not look on the side of education: provided one can read and write and be of sound and sober mind, not corrupt he is eligible to be votted in as a Councilor. Because first of all we should revert the word local Government, it deals with local common mwanainchi. When we talk of language tests for Councilors, now look on the habitat. For instance a council to represent my ward where we are, should know Luo, Kiswahili and Kiluhya.

We should check on the moral character of the aspirant. If he is a man it is very important we could not pick someone who runs away with people's wives, at the same time we should know his personal records. If he was working in a company what made him to be relieved of his duties? Is it because he stole the companies' money? But if she is woman she should be married, because we can elect her, and when she reaches, there might get a man and she runs away with him. The employer of a Councilor: if for instance after electing they reach a place and get satisfaction from him, the people should manage to write a letter to the Council disapproving their Councilor.

Basic human rights: the Government should ensure that every Kenyan has access to food, water, clothing and shelter. When a man kills he should also be killed, an eye for an eye as Ambrose said. The Constitution should protect the basic rights stated above. The security of one's life and property is very essential. Every Kenyan has the right of being informed of the current news. The trade union is the only advocate for all workers in Kenya. The Constitution should legalize traditional brew that is: changaa and busaa to be taken freely.

Land and property rights: when one occupies land the Government should not interfere. The Government has a lot of lands that is in arid and semi arid areas and the whole of game parks. Let the Government deal with those lands where there is only ethnic clashes. The transfer of lands should go only to the children not wives, male and female children. If the land is mine let it be

mine, the people who acquire land wrongly they should surrender it. The transfer of land should be simplified in this manner: father to son-normal, husband to wife-normal with no children, uncle to nephew-traditional, brother to brother no children and wife. All the children should have access to land, the men automatic, the females only when:

- 1) Disabled.
- 2) Mentally Incapacitated.
- 3) She has avoided men because of HIV.
- 4) She got married but the husband died.

Parents should give land to adopted children. As a basic right every Kenyan has a right to own a land whether poor, rich, mad, widow or widowed. Thank you.

Com: Abida: Thank you. Please register and leave your papers there. Joseph Okusi.

Joseph Okusi: Commissioners, mabibi na mabwana yangu ninataka kuchaingia katika utekelezaji wa Katiba yetu.

Nataka kuzungumza neno kufuatana na mundo wa uchaguzi: tufuate mundo wa kura za siri. Rais apate asili mia ishirini na tano kwa kila mkoa ndio aonyeshe ana unywa mkono pia anaweza kuunda serikali. Rais, Bunge, Diwani wachaguliwe moja kwa moja na wanainchi. Na kura zikipigwa zihesabiwe pale pale.

Ma-commissioners wawe na kiwango cha shahada. Wachaguliwe na Bunge na wapewe ulinzi Wagharamiwe na serikali ya Kenya na nchi za kigeni. Wahudumu kwa mika kumi, akiwa na hamsini na tano asitawale. Chamber iwachunguze kwa kazi yao na wakiwa na kosa iwaadhibu. Ma-Commissioners ishirini na wawili wahudumu kulinngana na sheria kwa Kenya nzima.

Mnatosheka na mipaka ilioko ya ki-geografia na ugawaji wa Bunge na mabaraza.

Rais, Bunge, Madiwani wachaguliwe moja kwa moja na mwanainchi.

Mahakama: Katiba ilinde mwanainchi kwa kuwa kesi ikiwa kwa mahakama hukaa kwa siku nyingi, mwanainchi akiteseka akiwa rumande hanaa naiuli ya kulipa kila siku ya akienda kortoni. Na tajiri akikosa yeye hukimbia na kwenda kushika bondi. Je pesa za tajiri ndio huwa zimekosa? Ikiwa si hivyo tajiri naye akae rumande na afikishwe kortoni. Ma-advocate wananyanya wanainchi kuchukuwa pesa nyingi, Katiba iwachunguze wafanye kazi kulingana na Katiba.

Madhehebu: tuna madhehebu mengine yamejitokeza, mengine ni ya kupoteza wanainchi, mengine ni ya kutowa watu kafara na mengine ya unajisi, wengine ni wezi. Katiba iwachunguze na ipinge kwa kusanyiliwa kwa madhehebu mengine.

Polisi: polisi wetu wanaumiza raia kuwa kuwatesa na kuwapiga wakiwa kwa cell tena wamesha tengeneza koti yao kwa polisi station na viboko mkononi. Tunataka Katiba isimamie mtu anaye thaniwa amekosa korti imwidhibu sio polisi. Mtu akiaga dunia akiwa rumande au ndani ya jela jamii wajulishwe haraka sio wajulishwe wakienda mwili umeoza ndio wakienda hawezi

kutambuliwa. Tena wakijuwa mtu amekufa kwa maji, kwa ajali, au kupigwa inafaa wakipeleka kufanya uchunguzi warudishe. Kisa na maana mtu akiwa masikini wa mwisho na hana lolote hana njia yoyote sasa itakuwaje arudi ashikwe. Ni hayo tu asante.

Com: Abida: Asante jilandikishe na utuwachie hicho kitabu. Josphine Muka.

Josphine Muka:(Verneclar)

Com: Abida: Mama tafadhali ongea lugha tunaelewa kwa sababu unaelewa kiswahili.

Josphine Muka: Mimi nimeandika kwa Kiluhya.

Com: Abida: Kama unaelewa Kiswahili tafadhali utueleze kwa sababu tukiita translator inawezekana kwamba asitueleze vile tunataka. Kama unaelewa Kiswahili si lazima usome wewe ndio umeandika hiyo?

Josphine Muka: Hee ndio.

Com: Abida: Kwa vile unajua vile umeandika tueleze na hiyo itakuwa translated kwa head office kuna Waluhya wengi tafadhali sio lazima usome. Tueleze tu.

Josphine Muka: Mimi nilichangia kwa mahospitali, Serikali ya Kenya ipunguze madawa zao. Kwa kuwa ni hivyo wanaiba madawa na kupeleka huko.

Matibabui: watu wanakufia kwa malaini kwa kuwa madaktari hawashughuliki na hao wanajitenda wenyewe. Kuna SHW, SDT, DHC Serikali imewafunza vile wananaweza kutiba watu, lakini hata hawajulikani wamewawacha.

Clinic: Serikali ianzishe maclinic kwa malocation ili wagonjwa wengine waweze kufikia.

Colleges: Serikali ipeane nafasi kwa madistrict ili tuwe na madaktari wengi wkuhudumia wagonjwa.

Mashamba: wanawake wasipewe ruhusa ya kusimamia shamba, kwa kuwa hawo ndio wajuaji, akipewa ruhusa atauza hiyo shamba na atawacha watoto kwa taabu.

Raping: mwanamume akimrape mtoto wake ashitakiwe na afungwe maisha na viboko. Mtoto kijana akimrape msichana wao asikae mahali hapo aondolewe aende mbali, vile vile msichana akiona ndugu yake ndio bwana tena yeye aondolewe mahali hapo na hao watu wapitie kwa jela.

Shule: waalimu wakipeana mimba kwa watoto ni vizuri tu awachishwe kazi.

Chokora: Serikali ndio inachangia chokora katika tauni kwa kuwa hao wamewapatia nafasi ya kukula vizuri na kuvaa tena wanawasomesha.

Waalimu wa nursery: waalimu wa nursery wamewachwa tu hawoooooana kitu cha kukula hata hawoooooapatiwi mshahara, bali tu kusumbuwa wazazi.

Matibabu: watu ni hayo tu nimeandika na nimemaliza hapo.

Com: Abida: Haya Josphine umeandikisha hapa kwamba uko katika Khisa East Maendeleo ya Wanawake organization sawa. Hayo maoni yako ni rasmi kutoka kwa Maendeleo ya wanawake ama ni maoni yako binafsi?

Josphine Muka: Ni ya Maendeleo ya wanawake.

Com: Abida: Ndio mumesomea hayo mambo umetueleza.

Josphine Muka: Ndio.

Com: Abida: Haya asante. Moses Aswani did you speak yesterday? Okay

Moses Aswani: Commissioners wetu mabibi na mabwana hamjambo! Nimeamua niko na maoni kwa mambo yafuatayo: Tunataka shirika la reli lipanuliwe kwa njia ambayo reli itamfikia kila mkenya nchini na iwe bei nafuu ndio kila mkenya aweze kusafiri popote nchini bila shida.

Tunataka barabara zetu ziwe zikitengenezwa vizuri kwa maana hazidumu kumaanisha zinatengenezwa vibaya.

Napendekeza pia, hukumu kali na kuwachishwa kazi kwa maengineer wenye kusimamia kazi mahali.

Tofauti kwa raia wa Kenya: kuna tofauti kubwa sana kwa raia wa Kenya kwa mfano: utakuta mtu mmoja ako na shamba kubwa, mfanyi biashara na ni manager wa kampuni ni mfanyi kazi wa Serikali pia. Hali hii imefanya Wakenya wengi kuchukiana, kuwa wezi, wafisadi na wanyanganyi. Kwa hivyo tunataka sheria iundwe ya kuwa Linda, mtu mmoja asiwe na mali nyingi sana ya kupita kiasi.

Katiba kwa raia: inafaa Katiba itengenezwe na kuchapishwa kwa lugha rahisi na kupewa kila Mkenya ndio tujue ni yetu zote. Tena kufanya hivi kutazuia watu ama mtu binafsi kuibadilisha bila kuhusisha wakenya wote.

Utamaduni: utamaduni wetu za maana zimevunjwa nyingi bila sababu na kutuongezea matatizo mengi. Kwa mfano: tulikuwa na kuoa ya zamani ya kawaida ambaye mtu alikuwa anapeleka ngombe kwa msichana halafu anakubaliana na wazee huko ya kwamba ameo, sasa siku hizi imebadilika kwa kuwa bila kufunga ndoa kanisani na kupewa cheti rasmi hautumbuliwi umeoa. Hali hii imeleta shida nyingi, mtu amefunga ndoa na mke bandia halafu anampa kila kitu na kuwacha bibi wako wa kamili ama wakaida akhiangaika na watoto bila chochote. Kwa hivyo tunataka utamaduni wetu za maana uitambuliwe kisheria.

Madhehebu: Kenya ina madhehebu mengi sana, yanafaa yapunguzwe kwa sababu mengine yanaabudu shetani na mengine yanapotesha watu kwa kutoa unabiwa wa uongo. Wenye kuabudu shetani wanaua watoto wetu kwa kuwatoa kama kafara nao manabiwa wa uwongo wamevunja ndoa nyingi na kukosanisha watu.

Mavaazi: inafaa Wakenya wote wawe na mavaazi maalum kwa maana tabia ya mtu kuvalia vile anataka ni ya kizungu, ina dunisha utamaduni wetu na kuongeza usherati. Kwa mfano: ukitembea kwa miji zetu mikubwa mikubwa, utakuta wanaume wamevalia ajabu na hao wamama wanatembea uchi. Inatakiwa mavazi ambayo yatatengenezwa kwa njia nzuri ya heshima kwa Wakenya wote.

Interjection:Com: Abida: Malizia tafadhali.

Moses Aswani: Ya mwisho.

Ugomvi nyumbani na unajisi: inatakikana tuwe na mahakama maalum kushugulikia ugonvi wa nyumbani na unajisi, kwa sababu mahakama tunazo saa hizi hazitekelezi vyema shughuli hizo. Kwa mfano: wanawake kupigana na wanaume na hao wanaume pia wapigwe na wanawake. Wanawake wanajisi wanaume wao nao pia wanajisiwe na wanawake. Sasa kesi hizi nyingi hazifiki kwa mahakama kwa sababu mlalamishi anaogopa koti itoa hukumu kali kwa mpendwa wake halafu ndoa yao ivunjike. Kama ni kunajisiwa mnajisi anaogopa kutoa siri zake mbele ya mahakama. Nilikuwa sijawaambia jina, jina ni Moses Aswani na ni hayo tu.

Com: Abida: Asante tafadhali jandikishe. Pastor Edward Atuoma okay umetuambia ukona na written that's okay. P. Ndeti. Ongea karibu na microphone tafadhali.

Patrick Ndeti: Nawasalimu ma-commissioners wetu na wananchi wote ambawo wako hapa hamjambo! Mine I will(Inaudible) mine I will go straight

Interjection: Com: Abida: Mr. Ndeti if you were here when we started we said that it is very important you use the microphone. We are recording your voice other than here we are going to transcribe what you have told us.

Patrick Ndeti: Okay, firstly I'm thanking all those Kenyans who contributed in the setting of the present Constitution, and I propose that the new Constitution should be adhered to by all Kenyans if we mean to work with meaningful development in this beloved country Kenya.

Interjection: Com: Abida: Mr. Ndeti since you have only 3 minutes please give us your recommendations we shall look at your document and look at everything else that you've written.

Patrick Ndeti: Okay. My issues.

Citizenship: the recommendation that Kenyans should carry as evidence of citizenship are: ID cards, birth certificates, passports and driving licenses.

Defence and National security: the President should not be the Commander in Chief of Armed Forces. This is because the organ in the Government and anybody with good qualifications, experienced in the (inaudible) should be appointed by the Parliament to Head the Armed Forces.

Political Parties: the Constitution should regulate the formation management and conduct of all political parties. I propose we should have at least 4 political parties in this country. The parties should be financed through raising funds from their followers and supporters and not from public funds.

The Legislature: the new Constitution should strictly specify the qualification for Presidential candidates. Moral and ethical qualifications for Parliamentary Candidate should be fully introduced in the Constitution. The law should be amended to prevent MPs and Councilors to be nominated. They should strictly be elected directly. The new Constitution should allow multi-party representation at both levels of Government that is the Legislature and Executive.

The Executive: the Constitution should set limits on Presidential power, that he should not be above the law. The President should not be a Member of Parliament in order to serve all Kenyans fully. He/she should not have powers of appointing heads or Chairmen of different Parastatals or institutions.

Basic rights:

The new Constitution should protect the interest and fully guarantee the rights of all Kenyan citizens.

The Constitution should fully guarantee free and compulsory education to all Kenyan citizens. thus from nursery school to standard 8 level.

It should also guarantee employment to all Kenyan citizens.

The Constitution should also guarantee every Kenyan free land and from the Government.

The Constitution should legalise improving and consumption of brews and those who are trading in this should be taxed something small annually to boost our economy.

Freedom of worship in Kenya has been very much abused, so the law should be amended to safeguard this important privilege.

The new Constitution should seriously guarantee the rights and interests of all women and children.

It should safeguard the interests of all people with disabilities.

The Constitution should protect small-scale business people from being driven out of business by manufacturers, distributors and wholesalers just to mention a few.

In the new Constitution women should not be given higher privileges than men, obviously women are weak. With this few remarks I have come to an end. Thank you.

Com: Abida: I need to ask you few questions, now you would like us to amend the clause on freedom of worship, you were saying it has been abused. What would you like us to do with it?

Patrick Ndeti: To check about it, the Government should check about it.

Com: Abida: Check what? Because you've been given freedom of worship, what is the problem and what would you like to see? To say to check does not say much, we cannot read in between, we would like to understand it clearly.

Patrick Ndeti: What I think is this; they should look into ways because in some denominations we have some coming denominations, which are just

Interjection: Speaker:(inaudible)

Com: Abida: Please let somebody express himself,(inaudible) have opportunity to speak others will have. Please we are talking to Mr. Ndeti now.

Patrick Ndeti: The upcoming denominations nowadays they are mistreating our children, so I propose the law should be put in

place to check on that.

Com: Abida: And the last question, women not be given positions they are obviously weak. Can you elaborate on that? Where are they weak and what positions don't you want women to be given?

Patrick Ndeti: Like higher positions like to be a President and

Com: Abida: And why not? What is the weakness? What does a man President do that a woman cannot do? We want to have proposals and recommendations that carry rational behind them, what does a man President do, a man Minister, that a woman President and a woman Minister cannot do? Mr. Ndeti.

Patrick Ndeti: Women can be swayed easily.

Com: Abida: By who? Who sways them and do we have any evidence of that? Because Mr. Ndeti right know we are talking about having laws that do not discriminate. So when you say a woman is weak, a woman is swayed, who has swayed this woman? Do we have any living example that probably you would like to give us so that when we are using your recommendation we know that it's a good recommendation? But if you have no answer you don't have to answer.

Patrick Ndeti: Okay I don't have.

Com: Abida: Thank you. Next one is, jilandikishe tafadhali Mr. Ndeti na utuwachie kitabu. Boniface Ashiona.

Boniface Ashiona: Ladies and gentlemen I hope you are fine, for me I representing Eshinutsa Secondary

Com: Abida:.....(inaudible)

Boniface Ashiona: Yes.

Com: Abida:.....(inaudible)

Boniface Ashiona: Form 3, our issues of cause means lay upon education. So the first issue is about our education system, the 8-4-4 systems. The 8-4-4 system of course should be retained and the only thing frustrating about it is that: you find that in the secondary education, a student is picking may be 6 to 7 subjects, and then you see all these subjects are not based on his or her career. So we are suggesting that may be in the secondary school a student should be allowed the subjects based on his or her career.

The second issue is about the corporal punishment in schools: the habit that the Government had abolished the corporal punishment, but you find that since it has abolished that punishment it has not come up with something that can replace the corporal punishment. So we are saying as the Government is at least trying to abolish the corporal punishment, and it should be coming up with something to replace it: like may be they should come up with specialized people on guiding and counseling so that they can guide and counsel the students, and not the teachers but someone specialists.

The other issue is about financing of education: this I mean that the Government, you find that the Government is only financing the more developed schools. By this I mean you find that even the President at least goes in a certain school 3 or 4 times in a year, and you find out that the in the rural school the President cannot even have an audience there to see even that the developed schools are continue growing but what about the rural schools? They are not going anywhere. So they should at least check on that.

The other issue is about equality in distribution of education resources: by this I mean that in the Government you find that some there are some facilities may be coming from abroad like books or laboratory equipment. Then you find that the same thing is happening, that they are concentrating on one area or particular province and in another province there is that lack of it. So you find that the students are sharing or even they don't know what, like for example you can find a student who doesn't even know what a microscope is. And yet the Government is just there continue to develop the more developed schools and the rural schools are suffering.

The next issue is about: political intereferance with education. Currently you see that the President or rather the Government said that primary education should be free, but you find that of couse the President only says this in terms of getting votes from the people or rather because the elections are near. But what do we see from students? Its just suffering because, the parents are arguing that the Government said they don't pay school fees, and yet the headmasters and the staff as a whole still stress on that. So you find that the students are chased away and why is that? They are lacking and they are the ones loosing. Also you find out that the school cannot run without money, so as the Government is saying that primary education should be free, they should also be checking on it, that they find another way of seeing how the staff should continue, other things like buying chalk, school stuffs, and paying the surbodinate staff as a whole. we find that it is really.....(inaudible) the students.

The other issue is about the universities: you find in the university, he is termed as a Chancellor, and this arguing that every university should have its own Chancellor. The issue of the President being the Chancellor of university should stop, so with this issue I think I have come to the end. Thanks.

Com: Abida: Please register and leave your paper. Mukabwana Bilia.

Mukabwana Bilia: Okay as you have heard my names are Mukabwana Bilia and I m talking on behalf of the school.

Com: Abida: Class.

Mukabwana Bilia: Im talking on behalf of Eshinusta secondary school I'm in form 4. My issues will be on the Parliament or rather on the Legislature.

I would like to say that the citizens should parcipate in Government as they are.

MPs should have their offices in their Constituencies so as the citizens should present their views. This is because you will find that the MPs sits and dicusses the views which the citizens are not aware, and if they pass the views in Parliament you will find some of them are not fulfilled. So we have to discuss the views of the Parliament or of the country as a whole or with citizens.

Another thing is that a Commission should be set up to control MPs' salary. The MPs should not be given powers to state their salaries because you will find they will give themselves large and huge amounts of pay and since what they are doing is not worth it. You will find that many of them are saying they want to be given a lot of money, hence accumulating help for themselves and yet other citizens are suffering.

Another thing is that, there should be a separation of powers: by this I mean that we should have: an MP should remain an MP or if she or he is a President he/she should remain a President, so that we may have equall distributions of powers in the country. Minister's appointments should be done by the Parliament and not the President. This is because you will that if the President is a Kikuyu he will always appoint Ministers from his area and leaving others to suffer.

Another I would like to say that: multi-party system should be retained, and the party that is not represented in the Parliaments should not be deregistered. This is because is multi party system can help represent other people that are unable, or if we have only one party the mono- party system will be biased. So we should have multi- party system so that every Kenyan should be represented. Thank you.

Com: Abida: Thank you please register. Issa Ramadhan.

Issa Ramadhan: Okay thank you. I have few issues on the Executive.

- 1) The President should be at least a degree holder and be at least aged 35 years of the age, must not have any criminal record of any kind and anybody vying for the post should declare his or her own wealth. We should also have a unitary Government and let us forget about Majimbo issue, and let us not include the issue of having a Prime Minister because this is going to alienate Kenyans further, because right now there is a problem of tribalism.
- 2) The President should only be in power for only 2 terms of 5 years each. For one to be declared a President they should have 50% of the votes cast, and if none gets the 50% then the first 2 candidates should go for a re-run at the elections. Also

I propose that the Presidential candidate must have a running mate who will become a Vice President, if he or she wins.

- 3) The functions of the President should be defined in the Constitution: for example he can still retain-defending the Constitution, ensuring the rule of law, ensuring the protection of citizens, forming a Government, chairing cabinet meetings, receiving foreign Aid, and opening of the Parliament. But on the other hand the appointments of senior civil servants like: Permanent Secretaries, Ambassadors, High Commissioners, Police Commissioner and Prisons, Chief Justice and Judges the President can only nominate but the nominees should be vetted by the Parliament, so that they can get Parliamentary approval. That one we can also have technocrats so that the illiterate Ministers cannot have a free hand in running of the ministries.
- 4) If they need a license for a formation of a Commission of inquiry or any other then that should be the work of the Parliament, so that the Commissions can report back directly to the Parliament. Because we have had so many Commissions, the public funds have been used and report has not been given back to them. So with the Parliament, at least the public can know why the public was formed and the report it gave.
- 5) The President had the power of dissolving the Parliament but I propose the Parliament should set its own timetable, and they should work or be in session for 4 days in a week. Because right now in reality our MPs are in the House for only 2 days and yet they are being paid handsomely. For those MPs who continually absent themselves from the sessions of the House at least their salaries should be deducted. So I m proposing that a limit should be set for those Members who absent themselves, following the President wherever he goes.
- 6) Okay the numbers of departments in the office of the President like the AIDs control, poverty eradications, disaster control and Kenya Wildlife services, I propose that the number of those departments should be taken back to their relevant Ministries.

If the President misbehaves in the office he or she should be removed and face the law. For example when it comes to misuse of his or her powers, if he or she fails to protect the Constitution or fails to protect the lives of the citizens for example what happened during the clashes, if implicated in corrupt deals or if he fails to ensure the rule of the law: then such a President can be voted out through a vote of no confidence by the Parliament, and the Parliamentarians should have a support of 65% of the sitting MPs. I propose that a President should be a Member of Parliament. Then a retired President's package should not exceed Kshs.2 million as per annum. What we are made to believe is the state of our economy, because we are not supposed to bribe Presidents who retire of leaves the office. He or she is supposed to leave voluntarily because he has taken an oath to uphold the Constitution, and the package can be reviewed from time to time by Parliament depending on the state of the economy.

Lastly, the retiring President should at least hand back or should not go away with the gifts he received while in the office.

Thank you.

Com: Abida: Thank you please register and leave your memorandum. Francis Okale.

Francis Okale: Kwa majina ni Francis Okale vile mumeambiwa and I m going to talk about 5 issues in brief.

1) Structure and the system of the government: we don't want Presidential system of Government, let us adopt Parliamentary political system

Interjection: Speaker: Mr. Okale when you say we, I thought you are talking in your individual capacity?

Francis Okale: I'm representing retired officers.

Speaker: Do you have an organization?

Francis Okale: Yes.

Speaker: What is the name and we don't have it here?

Francis Okale: East Khisa Retired Officers.

Speaker: Okay all right.

Francis Okale: So we want a Parliamentary political system whereby MPs, the Cabinet should actually be responsible of it. In other words one who wants to stand in this system should not resign. Mtu akitaka kusimama asiresign aendelea tu kwa kazi mpaka election ikwishe ndio aanguke arudi kwa kazi yake. Commissioners, MPs should not be given full time occupation it must remain part time.

Upande wa President: the President should be elected by everybody and his functions should be defined in this Constitution, so that he has only three rights: the right to be consulted incase of anything, and the right to encourage the civil servants, and the rights of warning whether internal or external.

We should have a Prime Minister in this Government. Under the ministries we see or I see no point why we should have Assistant Ministers, instead a strong Permanent Secretary will do a lot of work other than putting some funds to the Assistant Ministers. Ministries should also be marched: there is no need to have a public health Minister and Minister for health or Minister for land and another Minister for semi arid. So this ministries should be merged.

Terms of service: if I was a President and I served for 5 years and then I failed, I finished my first term and the next election I

failed, I can have another term also in future, it doesn't mean that nimalizie tu hapo. I can serve this time then this election I m dropped as a President but I still have another chance in my lifetime because I did not serve 10 years term so that I'm given another term also to lead.

Within this the President should be the Head of the party and state but not be an MP.

Provincial Administration to continue but Chiefs actually to be on the rotational bases.

When it comes to political parties unless a common general election we should actually have general election fund, which should cater for all these other parties so that all parties are financed equally.

And when we have the campaign, the corruption unit of Kenya lets put it in the Constitution so that it deals with those contestants who are actually going to spend and or who are going to encourage corruption by undue influences. In the Constitution as far as political parties are concerned he should also have the(inaudible) fights amongst the parties should actually be serevely be punished. We do not want to have oppositions for the sake of opposition, but for the sake of education be in the social and economic interest, and not just I'm opposition.

Lastly, I would like to talk about finances: all revenues within Kenya-we have provincial funds but you will the consolidated fund which is actually distributed to whether retired or some beneficiaries of consolidated fund are forced to travel to Nairobi, and we have the provincial part where this funds should actually be distributed. We would also like when we look at the working communities you find citizens of about 75 years, actually the government should do something to them at least assistance funds to be allocated for them to be assisted.

Bank rates to assist the farmers to make good agricultural facilities, bank rates should actually be reduced to 2% so that all these people are well served.

On the individual freedom and basic rights: our Constituon of today, the provisions we have right now are fundamental and adequate only that as my friends have said churches should be minimized. And then freedom of enjoyment and recreation, some have money they go to the bars others have no money, let us legalize busaa as other East and Central African countries have done it. Thank you.

Com: Abida: Thank you please register. There is a question for you, 1 question.

Com: Domiziano: Mr. Okale this is just a clarification you've talked about 2 terms of the President and that should be 10 years recommended and that is okay. But then you continue saying that somebody may come back again and still contest again, you have not given them break. How many years break and then he comes back again maybe to rule for another 2 terms? And

then the other final thing is what is the limit age? Because we know a President should be 35 years if he wants to contest and the maximum age, you have not clarified this thing?

Francis Okale: I will begin with the minimum age to be a President let it be 35 years onwards to 75. Now this question of talking about a President must serve 10 years continuously ndio inafanya hata corruption inaingia, wacha President a serve first we have the campaign he says anaenda nyumbani na pumzika, when the campaign will be there in after hii term ambao imeanguka akitaka kusimama he is welcome, si lazima aendelea.

Com: Domiziano: I don't think its clear because we don't have any provision for Presidents to continue consecutively for 10 years. There is 5 years if he is still liked by the people he elected but after 5 years if people don't like him I think he can go.

Francis Okale: Which is correct, that's what I m saying. But I mean when we talk of a continues, first it means that the ruling party will make sure, go up and down that huyu President aendelela lakini si anguke kidigo ndio atarudi. (laughter)

Com: Abida: Tumesikia Asante. Mr.Bakhoya.

Claude Bakhoya: The Commissioners I think you will give me a bit of time because I represent various views collected during my tenure of office, I being the Chairman of the 3Cs. However I deal with mainly two things those, which have not been touched. My name is Claude Bakhoya, as I have said before I have been the Chairman of 3Cs, in doing the course we are just about to finish our(inaudible) in fact we are finishing today.

Now the first issue is Preamble: we recommend that the Preamble should be included in the Constitution. It has been stated that the present Constitution does not have one, but we have looked at the situation and this is the proposal. "Kenya being an indivisible, secular, democratic, sovereign republic governed under the rule of the law, doth here by established in this Constitution by the people, and of the people, and for the people, to promote the general welfare and secure prosperity, unity of people, liberty to systems and prosperity for the good of all her people and good governance of the country with the presence of Almighty God. We had to include that one because the element of God in our secular Government must be entrenched in the Constitution.

Also there were issues of goals and aspirations of this Nations. I cannot state all these in full because I've got a memorandum which we will go through. It is fact to say that we are very much emphasizing on the issue of the economy of this country. Commissioners, ladies and gentlemen why we are doing so, is this much has been spoken about how the Government should conduct spheres, but little has been said about the economy of this country and we said that our independence shall be diluted in the event that the economy of this country is not well entrenched in the Constitution, point number one.

2) From the way things are now, the colonialists from whom we took over, I feel did very little to entrench anything in the Constitution with regard to our economy. Why? Because that was not their interest. For those who are in Parliament know as it has been said before, their main interest is to remain in power. But what is the future of this country? The children, the students, the working people, is to extend such goals and aspirations in the Constitution which shall ensure that as we have already attained political independence, in the course of our transactions and since we have got the opportunity we entrench in this Constitution economic independence, so that we don't forever still become dependent on other countries and to make sure that it is already in the Constitution we say this:

First of all, all citizens irrespective of gender have the right to adequate means of livelihood.

Secondly: the equal facilities for the control of material resources of the country and community to serve the common good. The operation of the economic system does not result in the concentration of wealth and means of production to the detriment of others.

The state shall at all times encourage and protect local products in exploitation, production, consumption, to ensure National economic stability and shall always be cautious in adopting liberalization and/or globalization, policies not consistent with national economic and for political well being of Kenya, and where there is conflict, the National interest shall be paramount. Now we emphasize that more often than not IMF, World Bank had talked about globalization as a condition. I think they equate that to democracy but in effect what has happened is that they want to adopt their goal in this country. And as a result what is happening is that we have adopted certain systems within the concept for globalization, liberalization which are very harmful economically to this country. And as we are we can say this: Commissioners, ladies and gentlemen, economically we are worse off than we were before and after independence. In fact it is stated we might progress a little bit within the 15 years but there after we are going under and we can say our economy right now is under Intensive Care Unit (ISC).

So we can take this aspect in the Constitution so that when any political party makes any law, they should go back to the economy and know that it is our right to have our economy elevated.

5) We said that in the event of allowing imported goods in the country, official approval of such imports be obtained: avoiding dumping, unfair competition, and irregular balance of trade and competition,(inaudible) the effect of adversely affecting the general economy of this Nation. What do we want in the general goals and policies? Because when Government are campaigning, of course they say all these things but when they find that they have already attained what they want, they didn't care about the common man. But still they presently want to protect the Constitution, and Parliamentarians have also sworn to protect the economy. So when we have such views already in the Constitution by virtue of their oath of office it is ha.....(inaudible) been followed because it is entrenched in the Constitution. And we say further to that one that there must be a recommendation of the economic development in this country, which must be sort

locally opposed to foreign funding why do we say that? Much emphasis is being put that we do this so that we invite foreign investors. Now we know very well that our fathers and some of us fought for independence so that we become political independent meaning that we want to drive away the white people, the foreign people.

- 6) At the same time when we talked about development of our industry what do we say? We must do a, b, c; to please foreign investors meaning that we recognize that foreign investment is part and parcel of our economic development. But hence after this Constitution this is our recommendation, that capital creation should be sourced from this country by Kenyans themselves, and to do so effectively we must ensure that proper Constitution entrenchment is in place. Anybody going against certain eventuality should not come up and say that its but its going patriotic but against the route of the Constitution.
- 7) Now, when we come to the poverty reduction we safely recommended that the poverty reduction should be the on going exercise. Because unless we do so it is stated, and this one we even quoted from the leader of Malawi, where he said that Africa is doomed to perpetual poverty. I'm mean this is the statement he made but he did not said like we are saying now: that unless we Africans, us which include Kenyans always and without any exception ensure that we develop our own economy. By the way as I have said this is the whole book about the memorandum that we have but we have made it easy for the Commissioners so that on each copies we are giving there is a cover which shall make easier for you to read but, as I read this particular one I m getting the master piece. Now the next is;
- 8) Cultural ethnic communal rights, this one and I m grateful to the Commission because when they was a commencement of this exercise there was invitation to Prof. Mazrui. In one of his speeches he said: if African Politics is ethnic prone can the Constitution be ethnic proof? This is the question he asked and maybe we may not understand that meaning. You see always it is dumped as a disease to be tribal or ethnicity has been regarded as reprogresive. I think we people who look far and all of us look far and say that: first of all one is individual, he/she belong to a particular family, also belongs to a particular tribe, and this is what we call an ethnic group. So there is no way it is stated clearly that in Kenya's development we can do away with ethnicity, it is there to safeguard and it is must be a positive type of ethnicity. Now this recomendation have been made which in effect we say, that I think it has been said here before, I'm just emphasizing: all our ethnic or customary cultures which are not repugnant to the present laws should be regained. Yesterday those who listen to the radio there was an issue of an Indian 65 year old lady who fall on the parlour and the husband was being burnt, and 100 years before we were told that there was a law that when there is cremation of a husband, a wife has also got to be burnt along the fire. But Parliament says that it was burnt why? Because it was a cultural practice which was inconsistent with human rights.
- 9) Recently also we are going over the question of female geniral mutilation, I think every body has agreed that, that aspect of doing things its not quite right, it is inconsistent with human rights. So it is being taken away but, those customs which are

consistent with human rights we are recommending and it is already in the recommendation that, when we need them in our Constitution. We attached much importance to our culture just because our political policy though is against ethnicity in general, but where ethnicity of customs are existent with more than development please let us improve it and let us entrench it. It is not easy in such a presentation to tabulate what is to be put in and what is not to be put in. All that we are doing is make a general provision in the Constitution so that whenever law is made, we must not forget our culture.

10) The next issue is land. On this particular one I don't think I will speak much, because many of our members have already spoken it. Our main recommendation is that we are having quite a number of land at India and I think it is controllable what is happening elsewhere. For example we have got land act, trust land act, land group representation act, registration of(inaudible), registration of document act and so on. One can't deal with various land acts and as a matter of fact personally I have stayed for quite a bit of time in Mombasa and I know where the system(inaudible) you can build a house somewhere but the land is not yours. As a result when the landlord come and maybe does not like what you are doing and so far then you are out. And here in Western Kenya I think we are very lucky, because most of the land has already been allocated and.....(inaudible) but it is not happening everywhere, we say constitutions, we shall provide that land should be registered under one act and the RLA is the best course, it emanates from what we call the torrens act, the torrens system which is in Australia and I think the developing country that we have now, is very much a key to the position what they found in Australia, in which case our recommendation is that the torrens which is RLA and which is very much applicable in Kenya right now, should be the one to be recommended in the Constitution.

11) Legislative and Executive; this one quite a number of issues have been said, I have already attached to the Commission, and I don't think I will dwell on it right now, other than just state that the principle of separation of powers, should be entrenched in the Constitution, meaning that the President is head of the Executive. We are talking of separation of powers, there should be no mix up because here is the President, head of Executive, he is also a Member of Parliament, he is also the one who is appointing judges. In my memorandum it will be seen that it is being recommended and I think it is recommended already elsewhere;

a. That though the presidential elections should take place(inaudible) just like the speaker resigns when he is appointed a speaker of national assembly, the President should also resign after he is elected the President, we cannot.....(inaudible) in a situation whereby; one; a President is representing a constituency which he maybe(inaudible) private sector centre but not like a President. Secondly; that he only visits Parliament on particular days. Parliamentarians record their own rules as to how and when they should attend. But when it comes to the President he goes there on particular days. So it is being recommended that the next situation should not recur.

b. The next issue is the Provincial Administration. On it I don't think I will speak much because the issue maybe

controversial but our recommendation are contained contained in the memorandum which I am a representative Commission, an example has been given and this is disappearing on a ward in a restaurant in Mumius, it is showing the hierarchy of how rulers rule that community from 1450 to 1497 thereabouts up to now, right from Mkasa to Mumia. It means this that when we look at our system we had our rulers who were appointed in one way or another, that is one thing that can be entrenched in the Constitution and the recommendation being made here is that there is too much governance in this country, it is government everywhere. Chiefs are almost(inaudible) they are just scape goats of the administration. An example was given whereby a university graduate when they rebel within the university, they are sent home with the instruction that go and report to your chief. It is being recognized that that chief is now superior within the community. This same undergraduate becomes a graduate, B.A. something economics, he is made a D.O. he comes back to the same chief, and the chief has got to salute that particular student who has dictated him.

Here is a conflict of interest which is very unfortunate. But lets not dwell on what is happening right now. The situation is like this, we don't want a unitary governance, right from the top of the President to the chief, so the chief is very much seen when say the President comes around he goes to marshal people to go and meet him, and what is even worse, his terms of office are very uncertain. This person here although a civil servant is not a transfferable person.

Secondly, he can be sacked by anybody. Today there maybe a Member of Parliament, who goes to the chiefs, nipe watu wanipigie kura, but when the MP is there and the chief disagrees with him, what happens the MP can sack a chief. The D.O. can sack a chief. The D.C.

I want to talk about the President post because that is desgatory, so what we are saying is that to ensure the people(inaudible) a say in their own Government, in the concept of separation of powers and in(inaudible) that people are participants in their Government, it is recommended that the position of a chief should go back to what was there before, whereby a chief was appointed by elders and when he is appointed by elders, the elders can decide what to do to that particular chief and in right in this memorandum I don't want to put it here right now.

I think reference should be made of what Prof. Mazurui said also on this topic, here is what is said, I have just arrived last week from Ghana, while I was there I was gracially received the Asantaheni the King of the Ashanti. He is the newly stored Asanteheni chosen by elders always in consultation with personal.....(inaudible) it is an official title which is with an official role, in other words in Ashanti high female person is always involved in choosing who is the next king. The female role in King making is indispensable, carries immense inputs, what is important here I am not talking about gender rights, I am talking about the people in Ashanti they have chosen them. There must be a Queen mother who is appointed in a particular way and the Queen mother also there is an Asantahenia and Ghana is our first independent African country. They still retain the old traditional way of governance. It is asked why not Kenya? And if you want to know how and where it was done, it was stated that lets go to any African traditional way of living, they had a way of governing themselves.

Let nobody say that hawa walikuwa washenzi, walikuwa hawawezi kujitawala, it is not people, we had a system of course. The one eye personaly I have come across is that one in Lwanga and I have drawn here a sketch man, put the information to go and have a look, so that if there is any reference to be gone through to; one go to the history of how chiefs were appointed. That history they will give it with the memorandum how chiefs were appointed, the chiefs in this country, are older. Then the colonial government, it found chiefs here and if the colonial government dealt away with the chiefs, it was for their own good, not for our own good because he wanted to help the court and indirect rulership using the old African way of bulling but over the years lessened their powers. Even the chief's act by our own Parliament, is being eroded every day, and if we leave this as they are, it will be the most unglorified then we shall be behaving in this country. In our Constitution lets look at position of the chiefs, and when we look at the position of the chiefs we say, the President should end with the D.O. after the D.O, we have the chiefs, his assistants and his Ligurus all who should form their won way system of governance, receiving proper enumeration, not as it is today, we have a person like called Liguru who is a head man.

I think people who don't leave in Luyha may not know about it, but Liguru is I think a tree which supports a house. When a house is built there is a tree supporting it, this post is called Liguru, it is the king tree it is the master support of the house, which means that this Government, or any Government is being supported by the Ligurus, alas these Ligurus are unrecognized, even unpaid. What is happening is this, that when one has got a dispute before a Liguru, he has got to pay some money to the Liguru, and the person being accused also has got to pay some money and we say we don't like corruption, when corruption is being encouraged on a daily basis in this aspect. The reason why they have got to do it is because they don't receive any money.

Now education, this one we had talked about very much, but the point of view being made here is that;

- 1) Our education system should be such that it is nationally and internationally recognized. As it is it is very unfortunate that when a student leaves here in form four, where in this country he will join the university. If he was to join the university elsewhere they will to an induction course meaning that our education is not recognized internationally. Formally we used to have an O-level and A-level. The students who are in this system might say that the 8-4-4 sytem is good but lets look at it this way; one; are the students who leave this 8-4-4 system, employable, can they be accepted internationally and in any case lets look at the fees profit, how was the 8-4-4 system introduced? It will be right to say the Commissioner, that this was only to take care of certain tribes which did not have enough education system. So that they can join the university. It was an unnecessary thing, it was a political move and what we say is that it will not be right for the politicians of the day to be the ones who decide what education system should have. Just to satisfy their own egoes, or to satisfy their own constituencies.
- 2) This must be given a special consideration in the Constitution, so that when entrenched, two things must be paramount; one; is the student marketable in labour courses nationally and internationally? Two can he be accepted in any other learning institution in the country? I think once we have that entrance in the Constitution, those standards put in with the help of education experts we should be on a road forward. As it is education is going to be just a(inaudible)

amongst the politicians to please themselves.

Ombudsman is recommended. We don't have an example with us. All we have said is, look at a country which is(inaudible) system, let us copy it, taking into account our own interests. I think this is going to work of the taskmen to make sure that it is properly entrenched. Now lastly, this topic I will end with it and I will be very short, because otherwise as we don't want but it will take the community sometime.

The national economy of the country. Lets look at this issue, let us not speak this issue the European came here, they came and(inaudible) let nobody cheat us, they did not come to this country because they loved Africa or because they loved Africans. This people were poor, they came here to make money, and they stake to farms and you can say this that most of the Europeans who left this country, left here as millionaires very rich, when they went and gave the a dark as how the Constitution, what happened, they left a situation that the industries, governments and everything was where you will get one. What is the result, the result is that if anybody from this poor side of the world western Kenya which was once the most advantaged part of Kenya, wants to be anybody at all, he is going to turn to Nairobi or Mombasa and begin working there, why? Anaenda kutafuta kibarua, anaenda kutafuta kazi, what is that, the industry, why is an industry placed in Nairobi, Nakuru, Mombasa and elsewhere, when we have got the same climate the same land, this is where we are saying the national economy of Kenya, has got to be looked at in the context of who we are now. What is happening that to serve the interest of the Europeans who understate that the white man has said, who had already established industries in Nairobi and elsewhere, they left those industries intact and what(inaudible). We have only one industry or two for that matter. Mumias and Webuye. Maybe we are having one small one at Obares which can employ about 200 people. But wananchi wote hapa lazima huenda Elugulu. They go there they work they finish their money, they come back here in this country as corpses just to be buried.

But our recommendation is this, that this state of affairs has got to end and for that reason, there are various recommendations, which when I finish it will be fair to read just a few of them because otherwise Commissioners you will go through my memorandum now. To make sure that what we have written has got a lot of relevance. We have taken press cuttings of various issues which have been taking place, like textile workers hold demo against imports. What is happening is this that the textile industry is now almost dead in this country. Everybody has got to wear, from the youngest baby to the older.....(inaudible). This I think is necessary now, please don't tire with me. Look at India, India had a leader, Mahatma Gandhi, he is the one who led India to independence. One thing that Mahatma Gandhi came, he was a(inaudible) and he told the Indians do not go into all this fighting, all this demonstrations, do something about your self and what is it;

- 1) Make sure that what you wear is what you produce and he himself a lawyer from South Africa. If you look at the photograph of Mahatma Gandhi he wearing a short. Why? Because these clothes could be made on looms in India and anybody could afford. How does an Indian woman get Sare at the simplest of cost, all she has got to cover is down here and up here and in any case after all(inaudible) but it is the simplest. This is important one because the Sare can be made everything now in every household most of them they had clothes, they create their own clothes and

what is important here is that they were self sufficient in their own economies, unfortunately, that is not happening up to today. What is happening today is even in our Parliament it is stated, here I am feeling hot because because I am in a waist coat. In Parliament, you go to every Parliament, in Mombasa I remember when we were graduating Njonjo could not accept it because we were wearing kitenge. You see it is a situation that one of the commenters who just made that we just made that let us wear our clothes now. Relevantly, textiles workers(inaudible) is that our clothes(inaudible) we only buy clothes from outside, if you go to the market place, you will find that clothes even what(inaudible) they are sold in the market place, you see and what is happening is this clothes they have been given by the Indians,(inaudible) to go and save their markets. When infact the market should be a place we should be saving our food stuffs not clothes. We don't have any textile industry, cotton is gone, textile industries are gone and the workers are gone.

This is part of our recommendation I am just giving it as an example, we are having all this things in the memorandum but I think to go over as the basic recommendation is that; we as a country must be able to ensure that we have our own industries stating, this is where we say this. Local industries, Kenya must be self sufficient local industry. Technical education, it should be carried forward, because when this students finish their education, they should be able to go straight away and work. To work they must be taught technically.

Agricultural products: Europeans who came here enriched themselves out of our agricultural products. We are not using our agricultural products properly. So we learn a situation whereby like now cotton is gone to the doors, coffee is on the way out, pyrethrum and many others. The only thing that is going is right mainly is horticultural why, because it has been undertaken by the politicians. Nobody is going to horticulture at all. We are proposing that we entrench in our Constitution all industries should be aggrovest with products which are forced from our agriculture and the public be encouraged to use, why, because unless the public can encourage to use those there is a profit. We may be having industries and somebody says he wants a shirt from deacons from England, arrowroot, arrow shirt, people have got the Indians agreement, the Chinese are doing it, the Japanese are doing it, the Koreans are doing it.

This is the economy which we are now calling specific word when they come to the first world and what are we doing ourselves, we are also looking forward not becoming a vote of this physical case where, let me say this that we are looking forward to a situation whereby we become the first one, why? Because we have been the first always.

Culture; I am finishing now, I can see you are taking this now. Since all this aspects are in my memorandum, Commissioners, rather than going over this will take time because go over them and see that they are entrenched in the Constitution with emphasis that we want separation powers, we have got to safe the government, we want it left, but when we are not properly, economically set efficient, this country shall not be made on move and this Constitution will ensure that this country continues lease, look at the economic situation recommendations that the Khisero constituency is entrenched in their memorandum. Commissioner, Ladies and gentlemen, thank you very much I am very sorry to have taken much of your time.

Com. Abida: We need to clarify one or two things here, you have taken a lot of time and we want to be sure that we get everything from you, maybe in return.

Com. Ratanya: Mr. Bakhoya, your presentation is lengthy and I think we are going to have time to read and that is very good. Now we have about two clarifications, one is about the provincial administration. You seem to recommend that we retain the provincial administration, but then try to deal with the customary chiefs, from the chief level maybe downwards to Liguru, the wananchi to deal with that one, maybe in terms of appointments or in terms of service. What about the others from P.C. to the D.O. do you want that structure to be retained as it is?

Claude Bakhoya: Yes.

Com. Ratanya: What is the recommendation in terms of appointment and also in terms of service, and you also try to harmonize that one with lower level, that is chiefs and assistant chiefs to Liguru.

Claude Bakhoya: We have what we call a unitary government at the moment, but we are saying that it should be diluted somehow to give people at the bottom level, opportunity to elect not representatives, but their rulers and this is from the chief, assistant chief downwards to Liguru. But any provincial administration will serve this country very much. Because after all we notice the provincial administration are the representatives of the(inaudible) and maybe many chiefs and others are proud of being accused because they belong to the President's office, but what we say now, the President's office should begin from the President to the D.O. and then thereafter the chief. Ofcourse the chief is going to rise from the D.O. D.C. and others, but he should be a people's representative just like the holidays he is behaving he is contrabunal, he has got his own askaris, his own revenue so that people have got a say on how they are covered. Elders will be the ones to appoint a chief, not the way it is being done, somebody who has been doing some work somewhere, he makes an application, he has got some Godfathers here, he is saying.....(inaudible)assistant chief. This is what I am saying.

Com. Ratanya: So in that case a chief cannot be sacked by the P.C. as it is at the moment, but he would be answerable to wananchi, through the electoral system?

Claude Bakhoya: No, to wananchi through the electoral system.

Com. Ratanya: I think that is clear. The other one, is you have mentioned something about dress. Where you went on to talk about Mahatma Gandhi's very simple dress. Now in other places we have been getting recommendations on national dress, could you like to recommend something like that. National dress for Kenya.

Claude Bakhoya: I did not want to go that far, I was rather afraid but I would recommend a national dress with textile materials, locally composed.

Com. Abida: Now Mr. Bakhoya, I don't know whether I was hoping that you talk about the Judiciary because you have spent a lot of your life in the Judiciary. I don't know whether you have covered it there but if you want to say something about the Judiciary, I would really appreciate because a lot of people have said some of the problems we have emanate from a weak Judiciary. So if you haven't said it in your memorandum, I would request you to address us on what reforms you would wish to see in the Judiciary as a person who has served not in the Judiciary, but has attended the Judiciary for a couple of years.

Then my second question, when you were addressing us on ethnic and cultural rights, you quoted a section of the Constitution that allows customary laws that are repugnant to justice and morality and what you said is that that should remain, although you went ahead in another sentence to say that customs that are consistent with human rights. Now this clause repugnant to justice and morality, normally the justice and morality that we apply in the application of customary law is elian. It is what is acceptable and what is moral and just in the English common law, are you happy with that because right as it is now, if a judge or a magistrate felt that a particular custom is repugnant to justice and morality, they would be looking towards the common law. Do you think that we need to retain that, and when we talk about justice and morality, should we look at justice and morality in the Western sense? I would like to have your view on that because I personally find that very problematic when we have to look to the west to see what is just and mora. If you could address those two issues please.

Claude Bakhoya: Most obliged. On the Judiciary, although I have been within the system for a long time, I felt not competent to talk about the post, I will mainly only be on the representative as an advocate side, I have never been a judge or a magistrate, I have not been to the administration, as a result I went to my friend, Cheluda and Ombonya. Fortunately Cheluda was here and what he presented about the Judiciary was actually a common approach which we had adapted. Since I do not want to have any repetition of any time, I decided that I don't go into it at all. (laughter)

Com. Abida: Okey that is fine, but Muchelule spoke to us and being your colleague, I can say he spoke as one would expect a person in the Judiciary. Do you have anything as a person outside the Judiciary who practiced law for many years I tend to think probably more than 30 years. Is there any reform that you would like to see from the outside and I don't think you will gain any bad reputation, I think we will gain a lot from you, really so but you don't have to if you have any reservations, but I think if you have anything that you would like to see as a person who practiced in the law courts for several years. As a person outside the bench, that was my concern, I know we got very good views yesterday, extremely good and we are grateful for the efforts but if there is anything else you can add.

Claude Bakhoya: Commissioners I think I don't have anything else to add, why I looked at the Constitution as a peoples' document, not to let a particular scheme or a particular profession. Though I might have had few issues, those I can address through the law society of Kenya, rather than have then entrenched in the Constitution, this is why we omitted it to give room for all aspects of human beings in Kenya. I omitted it and I would rather not have any comment about it at the moment. Although I should have done so but please.(laughter)

Com. Abida: There is one more on the issue of repugnance to justice and imorality.

Claude Bakhoya: Yeah, when it comes to repugnance to justice and imorality, that aspect on it should remain as it is in the Constitution, but the repugnance should be, justice and imorality should be within the context of Kenya as a country, not the Western countries. So when I say that we should not look at a particular custom of say the Maasai, the Kikuyu, the Kisii, and say this is what we adapt. We could adapt this which is consistent with the laws of Kenya as a country, if we have to, but that one that is repugnant.....(inaudible). So if the question of whether Western or where, I say Kenyan laws but not necessarily Western. As a matter of fact when we talk about Western and other countries, that is an issuing of the memorandum, give me just one minute and I amplify it.

Today you listen to the radio, you look at the television. There is a lot of Western way of doing things, the pictures, all those are Western. There has been a tendency that what is Western? The way they make their way they wear and so fourth. What we were recommending here amongst what we should follow, let us follow Kenya, even on the radios and television. Why do we have to play Congo music, Ndombolo, whatever, infact I remember in 1940s, Kenya had the best music in the whole of East Africa. I personally when I came to this issue I owned a hotel and still own it, called sportsview hotel. We were bringing this musicians from Portugal I refused, I went to Jamhuri Jazzband in Tanga I got a band formed simba nyika and I told them, cheza musik wa kiafrica.

You see from there on simply I heard them play music, African music, where Rose and Brown and all this people who are the ones who were playing the other.....(inaudible) what are getting at? When we introduce the Kenya(inaudible), we are not properly Kenyans, if we don't have our culture as you have said that Mukosa, ni mtumwa, we don't follow neither, we don't follow our I recommend here that all foreign cultures including music, why is it that our school children, go and play very good music, they even go to state house, and when they play that music that is the end you never see this girl or boy playing that music anywhere. You see this is the thing that heavily recommended that and you can ask me to amplify it, we are emphasizing on Kenyan culture and it includes all aspects of customs and music and we.....

Interjection (Com. Abida): Thank you Mr. Bakhoya and may be to the others, we gave him a lot of time because I think he is among the very fast Kenyan lawyers that were admitted to practice law. So I felt that we need to give him this opportunity and I think he has said a lot of things that are important and let us look at it as time well spent. Thank you very much and I am sure we learn a lot from the memorandum.

Claude Bakhoya: Thank you very much, Commissioners, ladies and gentlemen. Thank you.

Com. Abida: Moses Lubanga.

Moses Lubanga: Vile yameshazungumzwa kwa hivyo sitayarudia, ijapokuwa nitaguza tu kwa ufupi jambo moja ambalo huenda wengi hawajatilia mkazo. Hilo jambo Commissioners wetu ni chakula, food. Katika Katiba mpya inayobuniwa napenda kupendekeza ya kwamba hili swala la chakula litiliwe mkazo. Maswala yote yanayohusu Katiba, huishia kwa hili jambo muhimu ambalo ni chakula kwa kila mkenya mwisho wa kila siku.

Kama vile swala la usalama na elimu nchini ina umuhimu sana na pia nintakumbuka ya kwamba swala la chakula nalo pia ni la muhimu. Ningependa kupendekeza ya kwamba rasimali nyingi na idhara maalum ya kuhudumia swala la chakula nchini, haswa usalishaji, lifikiriwe au litiliwe mkazo katika Katiba mpya ambayo itabuniw. Katika ulimwengu mzima, haswa mimi mwenye nimeshawahi kutembea katika sehemu nyingi za ulimwengu, mtakumbuka ya kwamba katika ulimwengu tuko na a World Food Organisation, lakini katika Kenya hata idara ya chakula peke yake hakuna sijui wakenya wako namna gani.

Ningeendelea kupendekeza ya kwamba, bei na ugawaji wa chakula, hilo swala pia katika Katiba inayokuja, litiliwe maanani. Mwisho, ningependa kupendekeza ya kwamba, swala la kazi na mishahara mikubwa kwa wafanyikazi, wa kanda zote lichunguzwe na ikiwezekana ipunguzwe. Wengi mtaona ya kwamba hata vile tulivyo hapa Ishunuzu, hatuna hata magari makubwa yale sijui hata pajero, sijui four wheel something, magari kama hiyo hapa Kenya hatuitaji, mahitaji labda pikipiki au skuda au baiskeli, na pesa mingi ambazo huend azinaharibiwa kuleta magari kama hayo hapa, ingekuwa vizuri kama hiyo pesa ingepelekwa kwa hiyo maneno ya kuangalia habari za chakula ziko namna gani.

Wale wakubwa ambao hupata mishahara mingi, pia ikikatwa halafu ile extra inunue chakula ili wakenya wote wapate chakula, haswa wale ambao hawajiwezi itakuwa jambo la maana sana. Na kwa hayo machache, na vile nimesema mimi ni Moses Lubanga, MP in the waiting Khwisero constituency, ningependa kupendekeza. Asante.

Com. Abida: Asante. Jiandikishe tafadhali. David Olichiri.

David Olichiri: Kwa Macommissioner wetu na wananchi wote kwa jumla, mabibi na mabwana, mimi ni David Olichiri kutoka Emasatsi youths, kikundi cha Emasatsi youths, sublocation Kisa East.

Com. Abida: Ongea kwa hii microphone.

David Olichiri: Okey, jambo langu la kwanza ambalo ningependa kuwasilisha kwa hii Commission ya leo ni upande wa kazi za makampuni zetu katika Kenya. Ningependa watu binafsi, kampuni na matajiri wapewe amri na kiwango cha mishahara ya kuajiri wafanyikazi, sio vile ilivyo kwamba wewe uelewane na tajiri, jambo hilo linafanya matajiri kunyanyasa waajiriwa. Mtu yeyote katika Kenya asiwe na ruhusa kuwa na kazi ya madaraka zaidi ya tatu. Awe manager pahali, anaweza kuwa chairman katika society fulani, lakini ya tatu asiruhusiwe kushikilia vyeo karibu vinne na zaidi kuendelea. La tatu, ni mtu akishikwa kwa

kosa lolote, asiwekwe rumande kwa muda mrefu bila kesi kumaliza na ikiwa tajiri atashikwa, pia apelekwe rumande, sio kuachiliwa kwa pesa, hiyo rumande ifupishwe na kesi iamuliwe kwa mtu yeyote kwa haraka iwezekanavyo.

Urithi wa mali yote ya bwana akifa uwachiwe watoto wake na sio bibi. Kwa sababu bibi anaweza kuondoka au kuolewa na bwana mwingine.

Haki itendwe kwa wote sio kwa wanawake pekee, pia tuwe na haki ya wanaume na pia watoto.

Utawala; utawala na kazi yote inanzia kwa Liguru na wana youth, na wa assistant chief, na pia wazee wa chief, wako ambao hutusaidia sana kutatua kesi ndogo ndogo katika ofisi ya chief, na pia wapate mshahara. Liguru ndio mtawala wa kwanza. Macho ya kwanza ya Serikali. Ni vizuri apate mshahara kupunguza ufisadi, maanake usalama ni kitu cha maana sana. Pia hata wana youth wa assistant chief, maanake unaweza kuona katika Kenya, mshahara katika utawala unafika kwa assistant chief na utakuta na youths wake ambapo akiwa na kazi yoyote pahali huwa anaenda msafara ule wake, na utakuta wao hufanya kazi bure bila payslip yoyote. Nimewahi kwa Liguru wala na wana youth, asikari wa assistant chief. Utawala huo huendelea namna hiyo mpaka kwa D.O., D.C., P.C., hadi kwa President. Kwa hivyo wafanyikazi wote wapate mishahara katika hiyo idara ya hiyo utawala. Rigoro apate mshahara na wanayouth wake wote, Liguru asiwe na mzee zaidi, awe na limit ya miaka. Maanake tukiwa na marigoro wazee zaidi hakika kuna wengine hata hawajui kusoma wala kuandika kukiwa na shida Fulani, kazi inakorofika pale. Sasa kuwe na limit ya kiwango cha miaka, kwa sababu hao ndio macho ya serikali.

Kumalizia Serikali na msajili wa makanisa katika Kenya, wazuie usajili wa makanisa mengi yasiyo na maana, wachunguze kwa makini kabla ya kusajili makanisa. Maanake imeingilia mengi hata na ya ufisadi pia. Katika Kenya tuwe na sheria ya mavazi kwa wanawake, ukawa mama sio kuvaa vile anavyopenda. Asante.

Com. Abida: Nataka utueleze mambo mawili, kwa mara ya kwanza nimesikia kwamba kuna youth wa assistant chief, huwa wanafanya kazi gani hawa youth na wameandikwa na nani?

David Olichiri: Huwa wanachaguliwa na ofisi ya chief na ofisi ya assistant chief.

Com. Abida: Kazi yao ni nini?

David Olichiri: Kazi yao huwa ni kulinda kukiwa na pahali kama matanga, sherehe za arusi, sherehe fulani fulani, kulinda usalama wa pale pahali. Hata kukiwa na pahali kama hapa tulivyo hivi sasa, kwa vile hakuna polisi, utakuta kwamba assistant chiefs wako hapa na mayouths wake labda wako hapa wanaangalia usalama kama wenu kwa sherehe kama ya leo. Sasa utakuta watafanya kazi wataangalia usalama kwa ile huduma ambayo itakuwa pale, na wataondoka pale hivyo hivyo, hawatapata mshahara.

Com. Abida: Na sehemu hiyo kwa sababu ninaona umejiandikisha hapa kama youth, so you seem you are a youth from the subchief, hakuna maaskari wa chief kwa sababu tunaelezwa kwamba kuna administration police ambao wako attached kwa chief, huwa hawako au wako lakini mko tu?

David Olichiri: Hawako kama sehemu hii yetu, sioni hatuna administration police wa assistant chief sijawaona.

Com. Abida: Swali la mwisho, ni hili kuhusu mavazi kwa sababu unatatizika wanavyovaa wakina mama, unataka wavae kivi, kwa sababu ukiongea hivyo hatuelewi unashida gani na mavazi yao?

David Olichiri: Mavazi ya akina mama yasiwe mafupi kuruka magoti kuja juu, na nguo ya mwanamke, mwanamke sio vizuri kuonekana kutoka magotini kuenda juu.

Com. Abida: Sasa hiyo sijui ni sheria ya wapi ambayo unatueleza, ingekua vizuri kwa sababu hapa kuna watu wengi wametuambia tufuate sheria za kiafrica, sasa wewe unatuambia tena maneno mengine, sijui unataka tutunge sheria mpya kulingana na maoni yako ama ni sheria ya kiafrika, ama ni ya dini, sasa ingekuwa vizuri ndio tuweze kufafanua zaidi? We need to have some backing, hiyo ni sheria gani ya wamama wakivaa nguo isikue juu ya makoti, na wavae hivi na vile, ni sheria gani ya nchi gani hiyo?

David Olichiri: Ni ya nchi hii ya Kenya mara nyingi naona mavazi hatuna mipaka ya mavazi hapa Kenya, utakuta mtu atavaa nguo inashika mwili zaidi au ni fupi zaidi, sasa tungependa nguo za wakina mama ziwe ndefu katika Kenya.

Com. Abida: Asante kwa maoni yako nilidhania pengine utasema tufuate mila za Kiafrica, ama za Kizungu.

David Olichiri: Ya Kiafrica.

Com. Abida: Lakini mila ya Kiafrica hatukuvaa nguo mpaka wazungu wakaja sio? Sasa ni mila ya Kiafrika hiyo ama nisheria unataka tuweke?

David Olichiri: Ningetaka tuweke hiyo sheria ya Kiafrica.

Com. Abida: Asante. Jiandikishe tafadhali. Donald Waku, you presented, Hillary Lipesa, I thought you spoke yesterday? No no I am sorry you spoke yesterday we cannot allow you to speak today those are our regulations, you can only speak once in a constituency. Tafadhali, thank you. But we are happy you are here giving us moral support. Andrew Ambale.

Andrew Ambale: Commissioners, my name is Andrew Ambale. I have some few points here to make as far as the constitutional review is concerned.

- 1) For better country governing and economic running, Kenya should have only two political parties, this is for good financing of the parties, and better understanding.
- 2) Kenya should have a Prime Minister in its Government system who should be elected or chosen by the people of the country.
- 3) The chiefs as any other civil servant, should be transferable within their district while assistant chiefs should be transferable within their division.
- 4) Village elders those are Maguru, do a lot of administration work, as such they should be considered for permanent employment and entitled to salaries. They should also be elected by the community members.
- 5) For commercial promotion, we should have some factories for the local brew that is Waragi, so that the local brewers can take their brews to the depots and be paid, to enable them earn their living as it is done in some countrys like Uganda.
- 6) The President as any other top Government leader, should not be above the law, since he is elected by the people of the country.
- 7) According to donors problems, I suggest the Members of Parliament's salaries should be slashed for the funds to improve other sectors.
- 8) Financially we should have financial rationing or easy and good planning.
- 9) To enable poor people educate their children, I feel the university fees are too high, we should resume the old system of free university education in Kenya.
- 10) At the time of general election, the counting of votes should be done within the polling stations and announced there and then.
- 11) Retirees in Kenya should be considred for yearly pension increments.
- 12) During general election, there should be only one system of election and this is by secret ballot and not queing or nomination.
- 13) Lastly, the constituency people should be allowed to pass a vote of no confidence in their Member of Parliament, even before the period of five years elapses incase he does not do any development within his area. Thank you.

Com. Abida: Thank you please register. Dickson Kepha Omietsi.

Dickson Kepha: The Commissioners, ladies and gentlemen, I greet you all. My name is Dickson Kepha Omietsi. I am talking on behalf of the maendeleo ya wanawake Kisa east.

- 1) The first article is about the disabled people. Schooling; there should be at least one special school in every division for

the disabled people. The education in these schools should be managed by the bursary scheme efficiently.

- 2) Equipment; equipment like wheel chairs and others used by the people with disability should be cheap and easy to use. This can be done by looking for suppliers with low prices and reducing taxation of the goods.
- 3) Industry, workshops and working centers, should be set in order to have collective production of goods like shoe making, these places can also be structured for others to learn. Their products should have special market, locally and internationally promoted by the Government.
- 4) Health and insurance; health services in Kenya are too expensive that a poor disabled person cannot acquire. The disabled people should be given guarantee for free medical services in public hospitals. Some insurance companies do not value disabled people to give them insurance. This should not be so and at times of payment, they should be paid well.
- 5) Advocates; it should be a crime with high penalty if an advocate does corruption on cases such as lead people to disability. The advocate should lose his right of being an advocate.
- 6) Legislature; there is to be a committee in Parliament to look into matters concerning the people with disability, and at least one of the members is to be a disabled person.
- 7) Public service; in the ministry of culture and social services, there should be a department dealing with people of disability. This department should have a representative up to locational offices.
- 8) Nomination for MP; there should be at least a person of a disability in Parliament, if there is no one disabled elected then one should be nominated.
- 9) All people disabled should be occupied by income generating activities. Those that can do nothing to generate income, then there should be a disabled people's fund to sustain them earn their living.

I shall talk on education.

Com. Abida: Summarise now I give you're a minute.

Dickson Kepha: Okey, there is to be a free primary education scheme to be introduced. Polytechniques be strengthened to offer alternative secondary education. Jua kali sector be formalized and be used for practical demonstration for schools. Specialization should be encouraged in schools and working areas.

Employment should be guaranteed upon successful completion of schooling. Thank you.

Com. Abida: Thank you. Please register and leave your document. Naaman Osuchi. Sema jina lako kwanza.

Naaman Osuchi: Mimi ni Naaman Osuchi. Nina furaha kusema mbele yenu ya kwamba nina memorandum yangu hapa ambayo nimeandika kwa summary, lakini nimekuwa moved na memorandum ambayo ilikuwa presented na Bwana Bakhoya,

kwa hivyo nina move ya kwamba hii memorandum ambayo imesomwa hapa na Bwana Bakhoya, ichukuliwe kama memorandum ya constituency. Kwa hivyo yangu kwa sababu iko kwa laini hizo na ni fupi, mimi ningesema tu point ya kwanza ambayo pengine sijui kama iko kwake. Nayo ni kwamba first and foremost, Kenya as an independent state must have clear boundaries on land seas and air to avoid what is happening between Nigeria and Cameroon today. This is the only point I would like to add.

Com. Abida: Asante sana. You can give us your memorandum it can add weight to what we have heard. Asante mzee. John S. Muka. Amesemaje? He is an observer. The person registering did not indicate that. Joseph Injobeli, is he there? Churchil Ambais. Councillor Kenneth Obuchere.

Cllr. Kenneth Obuchere: Lady Commissioner, Commissioner Sir, ladies and gentlemen, good afternoon. On Government, I support a unitary Government and not a federal Government, as it has been approved that it is not suitable for Africa. A good example is Nigeria where we have been having tribal and religious wars from time to time.

The presidency; the President should be appointed through popular election, first to be nominated by his or her party, and must ganner at least 25% of the total votes cast in five provinces. Age; he must be over 35 years old and not above 65 years. Duration of office; a maximum of two terms of five years each to hold the Executive powers, to appoint the cabinet and also nominate permanent secretaries, ambassadors and parastatal chiefs, subject to vetting and approval by Parliament.

Impeachment; if the President fails to perform his duties satisfactory, Parliament to pass a vote of no confidence and remove him from the office. If he has committed some crime then the immunity should be removed and he/she be taken to court for trial.

Retirement; if the President completes his term successfully and retires completely from active politics, then he should be paid his pension commuted at 50% of his last pay. Provincial administration; since chiefs are appointed by the Government just like other civil servants who are required to serve the elders, the public, the republic. We make the following recommendations; that chiefs be transferable within the district and assistant chiefs be transferable within the division, and should not stay in a station for more than three years. Reasons for the transfers; One, chiefs are appointed at the age of 25 years and are expected to serve for at least 30 years. You will agree with us that to stay in one station for 30 years, it creates boredom and hierachy. Two, a chief serving his area of birth cannot be impatial obviously he will tend to favour his clan at the expense of others.

Village elders, the people are very important and from the Government yet they provide free services without pay. We recommend that they be appointed and employed by the Government for effectiveness and accountability and also to curb corruption.

Land disputes; the Government should start up a separate court to handle land disputes just like the way commercial courts are set. This will put a stop on the chiefs' handling these cases yet they are not competent enough. Councillor remunerations, to curb the grabbing of public plots and other corruption practices in district local authorities, the Government must start paying Councillors' salaries from the consolidated fund. Unlike today when Councillors are being paid peanut allowances, while they are expected by the electoral to participate much in development. MPs have always increased their salaries while forgetting Councillors who work in the Government.

Parliamentary service Commission: the commission must constitute a district board whereby the serving MP if he fails to perform his duties properly, the electorate can forward their complaints, and if two thirds of the electoral petition to the board and if it he guilty, then his services should be terminated, unlike today when they have to wait for the expiry of their five years.

Native drinks; the Government should start labs and control the drinking hours, because the common man has been denied recreation and entertainment since the price of bottle here is very expensive. Changaa; in order to avoid the calamities wananchi are facing by taking poisoned drinks, the Government should licence investors who are many, who have proper distilleries, who will buy the brew from the local brewers and purify it before it is distributed to the market for consumption.

Occupation of political office, parliamentary and civic apart from academic achievement, the aspirants must have served either the public or private sector for a minimum of five years with a clear record, to prove that he has some experience to handle political and public affairs.

Age; they must have a minimum of 25 years and should serve a maximum of four terms for five years. Also in the Constitution we need to put up a law which will have to safeguard the Government on donors. This country we have been forced by donors to accept certain programmes which have really affected our economy. Lets say like the structural adjustments, the Government was forced to retire youngmen at the age of 25 years, and it is really sad, because if you retire somebody at 25 years, what do you expect him to do? We have also been forced to free our market. The end result is that, now our factories have lost income. So we need to put a check on this, at a certain stage we should not be forced by donors or world powers to accept such a programme which is just in the contrary. When it come to the question of refugees, we should accept the refugees but they should stay for a maximum of about two years, but not permanently like today, because it is another big burden. This has caused a lot of insecurity in this country, and also it has affected our economy. You find that when it is possible to take in this refugees, when the World Food Programme are sourcing for their food, they leave our maize, they go and buy maize from South Africa yet we have maize here. If you have a host, then one of the conditions should be that, the food this people will eat should be so sourced within the country. I think that is the much I had.

Com. Abida: There is a clarification please, you would like the President to serve for two terms, but you are recommending that Councillors and MPs, serve for four terms, why is there the difference, why can't we have the President for four terms, or

have the MPs and Councillors for two terms as you are recommending for the President?

Cllr. Kenneth Obuchere: MPs to serve for four terms, that is when they will attain experience to become Presidents.

Com. Abida: But that is 20 years but an MP should be there serving people for 20 years and the Councillor. Don't you think that if that is the reason why you are removing a President for life, or for 20 years is because we are saying you give a chance to other people to lead, we need to apply the same thing to Councillors and MPs? Don't you think that will be a fair way of looking at things?

Cllr. Kenneth Obuchere: That is what is said that you see an MP he becomes an MP at the age of 25 isn't it, he needs time.....

Com. Abida: My question is not gaining experience, because experience is not a qualification, you haven't even said that one to be a President he needs the experience of having been an MP for 20 years. You haven't also told us that a Councillor needs experience, it is not a qualification, all you said is that to be an MP one should be 25, years to be a Councillor you need to be 25 years. You didn't talk about experience. But I am asking and you keep telling us that a President should only serve for ten years and no more and there must be a reason behind it, isn't it? What is the reason why a President should serve for ten years?

Cllr. Kenneth Obuchere: Ten years, he would have earlier on have served as an MP.

Com. Abida: Not necessarily it is not a qualification, any Kenyan today can stand to be elected to be a President, but if that is your rational we shall take it.

Cllr. Kenneth Obuchere: This is general explanation that one has got to be an elder before you become a President.

Com. Abida: But it is not the law. Unless you are telling us now that we should make it mandatory that before you become a President then you should have served four terms as an MP. And even if that is the position, answer me this question, why should a Councillor serve for 20years, what is the rationale? Because it is also not a qualification for being an MP. Why can't we say, Councillors should also serve for two terms. I keep feeling that maybe we are being unfair to presidential candidates that is why I am asking you. Tell me about a Councillor leave alone the MP and the President. Why should a Councillor serve for 20 years. What is the rational, why can't we say ten years and no more?

Cllr. Kenneth Obuchere: Well, we are just finishing that but it will depend on his good performance, if he doesn't perform well, he will serve only one term and he goes away. But if delivering to the people, he must be given a maximum of 20 years.

Com. Abida: You know, supposing we have a good President who becomes a President if I am to take your recommendation, what did you say, a President should be 35. So why don't we say the same for a President. If a Kenyan becomes a President at 35, surely at 45 that is just the beginning of life and you are telling him go home, enough is enough, why can't we say that of a Councillor, that is my question so that I can understand your thinking?

Cllr. Kenneth Obuchere: I said once you become a President, you should have a minimum age of 35 to 65 years.

Com. Abida: Two terms of serving, so that at 45 you are telling this young Kenyan go home you served enough, why can't we say the same of a Councillor at 35, if you served for ten years, go home we have enough of you, whether you are good or bad.

Cllr. Kenneth Obuchere: I think the responsibility of that office would not allow somebody to serve for too long.

Com. Abida: Thank you. Reverend Mark Opiyo.

Rev. Mark Opiyo: Thank you Commissioners, ladies and gentlemen. Here I represent the view of Kawere multipurpose, culture and development group. Now I will read.

- 1) The police should not arrest anybody in the area, without being with the assistant chief of the area, or without his knowledge.
- 2) Culprits should not take too long without their cases being cleared in the law court.
- 3) Land subdivision and succession fees are quite expensive, this makes most people to take too long to do the land subdivision and success to their family members. The Government should look at that.
- 4) Some of the African traditional characters which are supported by the majority, should be accepted so long as they are done in modified methods such as circumcision, Obukoko, risabo and so on.

Com. Abida: Please explain to us those terms you are using, we don't understand them other than cirmcision.

Rev. Mark Opiyo: Circumcision....

Com. Abida: That one we understand.

Rev. Mark Opiyo: Na obukoko, it is a ceremony that is done in the family where someone died and the married female people from that home will come back to that home for remembrance of what happened by the passing away of the person. They come there, to say the word of pole to the bereaved people there, and also if they have something to support, they can also have that chance. The same to risabo, also this with the remembrance of the person who died to have the people left in the home, feel at peace, feel free and then also get advice from the people coming there. So long as these things are done in a

modified method they should be accepted.

Number five and it is the last. When the yearly budget is being prepared, the common man should be considered so that the price a rise should not hit him or her so hard. Because you will find that during the budget, a person earning more than five hundred thousand shillings, is put in the same list of prices with the person who does not earn anything a month, so the common man suffers very much during the budget meeting. The Government should have a way to see that the common man is relieved during the budget making. This is what I had for the group and I say thank you very much. I had two if you can read there, this was for the group and this is personal. If you allow me....

Com. Abida: Just one minute to summarize.

Rev. Mark Opiyo: Now this is personal. Now here when we talk about Constitution, we should not forget one thing, I am only saying as we are here orderly, we should all know that we all came from God and everything we get comes from God. All that we do we should be directed by God and that at last we shall go back to God for judgement according to our work. Which means we should do things depending on God. Now here the memorandum starts, I start with the head of state, the head of state;

- a) Should be well versed in the religious life, referring to Romans 13:1-5 and second Corinthians Chapter 4:1-2, because God can only bless the country, if the leader is with good connection with God, because blessings must come through the leader to the people to the country.
- b) The head of state should be well versed in politics because he is dealing with the minds of people, so he should be well versed in politics.
- c) Should not be biased.
- d) Should be of the age of wisdom but not only of the book knowledge. Because you cannot just pick up someone to be the head of state just because of his knowledge. We should look at his age of wisdom.

Com. Abida: Which is the age of wisdom?

Rev. Mark Opiyo: Age of wisdom varies from 35 to 80, that is the age of wisdom.

Two; the vice head of state should also have the same qualities of the head of state, because this has been(inaudible) and God cannot bless the country, unless these people have connection with God. It can't happen.

Three; the head of state only should be above the law because of number one a (b), so that the Government becomes stable and prosperous, until after his reign. Because if the head of state cannot be above the law, there will be a lot of farakani kila mtu anampinga, halafu vitu vinakuwa katika farakani and there cannot be stable Government.

Four; the Parliament speakers, they should also have the qualities of the state but not above the law, should not be above the law.

Five; the Attorney General should be versed in religious life as in 1 a) and 1 b) c) d), because he is the person dealing with the law of the country and therefore he should also be pleasing to God.

Two, he should have his offices, the offices of the Attorney General should start from the state house to the provincial offices, so as to be accessed to people from the far end of the country because most of the cases which need the attention of the office of the Attorney General, you find it very hard to travel to Nairobi only, and when you don't have finance you are unable. If you go it will be a burden spending a lot of money but this should come up the Provincial level.

Com. Abida: Mr. Opiyo I think your time is up but if you didn't give us examples you would have finished that thing. Thank you very much. But I think we have a few clarifications.

Rev. Mark Opiyo: Thank you very much.

Com. Ratanya: There is a clarification Fr. Mark. One clarification is about land, you have said that the process of transfer and other transactions in that they are too expensive, now you have not given us your recommendations, you only said that they are expensive but you didn't recommend what you like to happen.

Rev. Mark Opiyo: Right now if someone has his land, he wants to divide this land to his children,.....

Interjection (Com. Ratanya): But what do you recommend, we know that land is so expensive but specifically what do you recommend?

Rev. Mark Opiyo: I recommend that land succession should automatically move from the person to church at low cost, because right now it is too high, it should be modified.

Com. Ratanya: Okey that is a recommendation. The other one is about the customary rights on funerals and others. These are the ones you call Lisabo, obukoko, you will try to explain, but currently I don't think whether there is any law stopping you from performing this funeral issues. Do we have any law? Or you want to have a law to protect, it is not very clear can you clarify. You are free anyway to perform your funerals.

Rev. Mark Opiyo: Right now when obukoko is there, some people say it is bad but rightly it is not bad. Only it should be

protected, it should not be run in a way where you will find that the people who are there fought, cut one another, did other things which are out of law, it should be peaceful.

Com. Abida: Two clarifications one you didn't tell us your church, if you could please tell us, you were telling us your Rev. Fr. Which is your church?

Rev. Mark Opiyo: I am the Reverend Father Mark Michael Opiyo of the denomination called God is Love Church.

Com. Abida: God is Love Church.

Rev. Mark Opiyo: God is Love Church, Mungu ni Upendo. Bila upendo na Mungu huwezi kufaulu kwa kila kitu.

Com. Abida: Okey, now another issue is infact now that you have told us the name of your church, I think I have another question for you, people have a problem with the law regarding freedom of worship. Si umesikia tukiambiwa hapa, watu wanasema uhuru wa kuabudu ni mwingi sana, wanataka tupunguze na tuchunguze sana jinsi ambavyo makanisa yanasajiliwa. Nataka utueleze what is your opinion on that? Halafu ngoja sijamaliza, swali lingine ndio ujibu pamoja, unasema kwamba Rais awe juu ya sheria kwa sababu akikosa kutakuwa na mfarakano, infact I thought if I write in English it will not sound as good as mfarakano. Now the other argument that we are getting is that, if the President was under the law like everybody else we would not have a lot of problems as we have now. We need him to be under the law so that everyone feels protected and things are done in accordance with the law. So where does that mfarakano comes, if we tell you obey the law, make sure that everything you do is within the law na usipitishie mpaka fulani, why would there be mfarakano? I would like to understand your argument.

Rev. Mark Opiyo: Yes it is true for the head of state to be above the law. In that not all people have the same reasoning capacity. You will find that someone will just have a thick headed head, and just face the President and do anything ashaming to the President just feeling that the President is not above the law.

Com. Abida: Such as what? Give us an example, what do you foresee if the President was within the law. What do you foresee an ordinary person doing to the President. Kwa sababu sheria haiko mkononi kwa mwananchi, ukitaka kumshitaki tunasema tu if he does something wrong, he should face the law. We should be able to take him to court for instance if he is a corrupt man, if he has committed a criminal offence akikukosea unampeleka kwa korti, what do you foresee happening?

Rev. Mark Opiyo: What I foresee there is that, to avoid these people who can just face the President with malicious remarks, should be stopped by the law. Two.....

Com. Abida: That is not being above the law, you are saying everybody is protected even you, one cannot attack you with

malice, the law protects you, it is not right. But people were saying, President asiwe na uwezo wa kufanya vitu bila kujali sheria. That is why people were saying he should be within the law, na wewe unasema President awe huru kufanya chochote.

Rev. Mark Opiyo: No, no, the President should follow the law and he should be above the law.

Audience: (laughter)

Com. Abida: It is not possible, nafikiri lugha ndio imegongana, but we understand now the President should respect the law.

Rev. Mark Opiyo: Should respect the law.

Com. Abida: That is what people were saying. Thank you. Asante na hiyo ingine ya freedom of worship unasema nini?

Rev. Mark Opiyo: Freedom of worship here, nilikuwa nimeweka hapa, I will read as I had written about churches. The work of churches is to teach people to know God who is our creator and to worship him, respect him and to serve him by following his teachings in the Holy Bible and the holy Koran. The Government has given freedom of worship which is very good for the respect to God. But some churches have used this freedom of worship, to worship what is now know as the ‘devil worship’, so this I mean we have some churches now being talked of as ‘devil worship’. This should be scrutinized and be put out openly and if they are found, they should not be registered by should be deregistered.

Com. Abida: Our law does not say you cannot worship the devil, you are free to worship whatever you want.

Rev. Mark Opiyo: We should worship God.

Com. Abida: We are saying we(inaudible)

Rev. Mark Opiyo: We should worship God, but these churches that worship the devil, should be found out.

Com. Abida: Asante sana.

Rev. Mark Opiyo: Secondly, I add Madam, most of the churches we have in Kenya, most of them are from foreign countries, but it is surprising that the Kenyans who are here are not given chance to start their denominations, started by the Kenyans themselves to ensure that they have heard the word of God, they have known God, they can do the work of God. It is really restricted.

Com. Abida: Lakini Father is there any religion other than the traditional one if we have foreign ones in Kenya? Ni gani hiyo hata yako, is not African religion it is foreign. Which one, what are you talking about?

Rev. Mark Opiyo: When we talk about foreign, it is a religion that has just come from abroad, but we should have someone, a Kenyan, starting the denomination just here.

Com. Abida: Okey asante sana.

Rev. Mark Opiyo: Yes, thank you very much.

Com. Abida: Please register and leave us with a notice that you will bring us the memorandum. Julius Odinga. Anza na majina yako.

Julius Odinga: Commissioners and ladies and gentlemen who have come to listen, hamjambo. Mine is just a few points, more has been said. I am from Emalindi 86 Alliance youths.

- 1) The first point, we need a democracy government whereby all human rights are promoted, these are basic rights.
- 2) Second point, no person is above the law, all people fall under the law and all are equal before the law.
- 3) The powers of the President should be reduced. Any one whether a President, minister or Member of Parliament if proved guilty, he should not take part in election again.
- 4) Government should ban all worship of devils.
- 5) President, minister or Member of Parliament should not serve more than 10 years. Elections to be done within five years.
- 6) One person-one job. One person should not have more than one job.

Basic rights; citizens should be given rights for peace, proper security, right for development, right to control natural resources, right of economy, social cultural freedom, movement and protection, right to move and be given fair payment/salary plus allowance. Asians should not undermine Kenyans.

Right to give medical and free education. Should stop poverty by giving citizens of Kenya employment and fair salary.

Citizens who are jobless should earn a quarter salary of working people of high salary.

Children under five years should be given child food free from Government and medical care also.

Medical care should be free for every citizen, also education.

All retirees should not be employed again.

A person given a job in the Government should be investigated from his previous job or work.

Agriculture input should be low or cheap priced, so that farmers should be able to buy.

Imported products should be given high taxation, because importation kills the local products.

Local brew like busaa should be free, should be legalized and taken after work.

Customary law should apply in certain tribes.

Land; all men have the power on land and they know the boundaries of the land, though they should be legal.

Natural resource; it should develop the area which is being(inaudible). Sugarcane should also develop especially Western and Nyanza, not to take the produce to Nairobi or anywhere else.

Com. Abida: Asante sana. Lakini kuna swali.

Com. Ratanya: Okey Julius I think there is one clarification. You have said Asians should not undermine Kenyans, can you clarify and maybe give examples, how do they undermine Kenyans?

Julius Odinga: I mean we have these Asians who are foreigners, you will find that in most of the towns, they employ people but they pay them lowly. And the fruits of the country they are the ones who are benefiting not the citizens of Kenya.

Com. Ratanya: Payment of salaries?

Julius Odinga: Payment of salaries is quite low.

Com. Abida: Thank you. Jiandikishe kwenye kitabu. Joseph Murembo.

Joseph Murembo: Macommissioners, mabibi na mabwana, hamjambo. Mimi labda nina jambo moja tu au mambo mawili nitazungumzia. Jina langu ni Joseph Murembo Otinya. Mimi ninataka kuzungumzia juu ya ukosefu wa kazi. Hapa nchini Kenya kuna ukosefu wa kazi sana sana na vijana wamesoma hawana kazi. Mimi ningependekeza mtu yeyote Mkenya asiwe na kazi

mbili, awe tu na kazi moja, mtu asiwe na kazi zaidi ya mbili. Kwa sababu unakuta kuna watu, ni managing director hapa, ni chairman pale na kadhalika, hilo ni la kwanza.

La pili ni juu ya utawala hasa kile kiti kikubwa, kile kinapeleka mtu state house. Kenya tuko wengi, ninamaanisha makabila ni mengi Kenya. Ningependekeza labda kila kabila liweze kuongoza. Pasipokuwa labda utawala unatoka hapa unarudi hapa katika kabila moja zile kubwa mbili ama tatu. Hayo ndio maoni yangu mawili. Asante.

Com. Abida: Asante tafadhali jiandikishe. Newton Okindo.

Newton Okindo: Honorable Commissioners, gentlemen and ladies. I have about four observations to make in today's meeting about the Constitution review. One, I am going to talk about the bill of rights. Now all Kenyans to be proud of ourselves, we need the following to be made accessible to all Kenyans.

- 1) Food
- 2) Health
- 3) Education
- 4) Security and water.

I will suggest that where possible those rights should be made minimal or if possible should be made free.

I will make a suggestion on the side of Commissions, in most cases you will find that from time to time we have this and that Commission, my recommendation is that, there should only be a Commission set up where there is need for no political interference. Where we know that there is political interference which might interfere with a particular section of the Government or anything in the country, then a Commission should be set up. For example there is need for Electoral Commission, where there is need for independence. I will suggest that where a Commission has to be set up, there should be that understanding that we are trying to safeguard against the influence of the Government.

On the side of the Government ministries, I will suggest that the Government should try to reduce its ministries, where possible to twelve. The reason is that we have got meager resources in this country, and multiplication of functions is not very good. Within the ministries I will suggest there should be a ministry of the Ombudsman, where evaluation and effective implementation of national policy and delivery in public services can be monitored.

Those are some of my suggestions and maybe if I may add one point on the side of next of kin. The person owning property should be the one to determine the next of kin because we are living in a society which is so diversified. If I am the owner of my property, I should be made to decide who the next of kin shall be. Thank you.

Com. Abida: Supposing you are not fair, do we leave it at that because right now the way the law is you may decide that, the law can interfere with you if you are not fair. Because a lot of people are not fair, you might pick a second wife and leave the first wife and her children.

Newton Okindo: I believe the owner of the property has to be fair when he is distributing his property, he knows better what is happening about himself, the Government may not be in a position or the other party may not be in a better position than the owner of the property.

Com. Abida: In a situation you as a polygamous or the(inaudible) of what you are talking about, and for instance,(inaudible) to the first house, will you say that that person is really being fair, because it happens.

Newton Okindo: It may happen but from my experience and from my own way of looking at things, the owner of the property should be in a position to know how best his property will be used when he may even say that when somebody is having two or three wives, maybe he may not be fair, but you may find that even if the two wives are given that property it may not be fair again. I may decide I give to my son who maybe in a better position to distribute that property. Thank you.

Com. Abida: Freda Otunga are you there?

Freda Otunga: Commissioners my names are Florence Freda Otunga. I have some few points here to read to you. I am starting with cultural diversity, ethnic, regional and communal rights. It is granted that our society is still very culture based and I report between conflicting culture on above. And there are positive as well as negative aspects of culture, notwithstanding the Constitution should draw a balance whereby the negative do not harm and act as obstacle to people especially women's and girl's development. Traditional practices that are harmful to health and well being of a person, especially those that have perpetuated the oppression of women such as inheritance of widows, the human rights and sexuality of women and girls, such as female circumcision, genital mutilation among others should be outlawed. Widows and widowers, should remarry out of choice and preference. In this period of sexually transmitted disease and especially HIV/AIDs, there should be a mandatory testing requirement over a period of so many months before a marriage can be solemnised. There should be a mandatory health insurance policy or scheme subsidized by the state to ensure good health and to cater for covering the whole population, especially the elderly and the low income families.

In situation of ethnic differences, clashes and direct and peaceful conflict resolution through a arbitration should be immediately effected and encouraged. Good governance, including the rights of vulnerable groups and citizenship. Democratic system of good governance, transparency and accountability through rule of law should be upliftable in public governance. According to the last census in Kenya, women are the majority especially in the rural areas, yet it is at this level in particular that there are unrepresented in all leadership positions, whether elective, assigned, nominated or administrative power structures. Population

census should be used to guide the formation of governing policies. The Constitution should ensure that the principle of gender equality and the equity is applied in appointment of sub-chief, chiefs, councillors etc.

There should be a set criteria to ensure that a certain percentage of elective posts goes to women. The ratio of men to women in this location, local authority work should be looked at in order to come up with appropriate criteria. As it is the political playing field in Kenya is heard enough for men, to fairly participate, how about women? It is necessary that the Constitution streamline the election process in order to prescribe and fix election date and amount of money that can be spent on such election.

Statistics indicate that women are the majority voters in such election, yet despite this critical mass, the number of women in elected position do not reflect their factor, neither in local authority or parliamentary national positions. Why? Because and notwithstanding all other very pertinent reasons, it is also a factor that only very few of them can stand or manage to deal with cut throat harassment and undignified accusation and unfoundable embarrassment that are metted against those of their sisters who try to compete. There must be clear prescribed and easily enforced rule, to make this election free and fair, to dignify our country.

Child education; despite non discriminatory law against girls in formal education, girls still lag behind in their education, why? Because there are unequal practices that are allowed to thrive and subject girls to inferior status. This fact later leads to being relegated to lower social, economic, and political status in the country. The Constitution need to outlaw, criminalize such factors that are usually based on cultural, traditional practice and perpetuate discrimination against girl child in education, support and lead to early pregnancies, forced or child marriages to the girl. Intention of the Constitution should be to ensure the existence of universal compulsory and mandatory primary education for all children, girls and boys alike. Funding should be provided and set aside in order to achieve this goal.

Land and property ownership, succession and inheritance rights: in most communities in Kenya land and communal family and land properties are usually inherited by male heirs, although women are also the labourers and producers in peasant farming. Furthermore, household responsibilities and contributions are not recognized and appreciated or factored in accounting for economic well being of the family, community or nation as a whole. The above are particularly though not exclusively, problems faced by women, especially women peasant farmers. The Constitution must clearly address the concept of ownership and custody in matters of property control, access and management as well as the element of joint ownership, where this is applicable as in marriage or habitation. Equity not needs only needs to be seen to be done but should be ensured to occur. The rights of a women as individuals should be recognized. The rights of women should neither be left on the hands of the father, brother, or husband and son. The women's right under this subheading should relate to her as an individual human right. Should the state happen to have a first lady in the state house, her contribution must be spelt out and duly recognized.

Citizenship, whereas children born of a Kenyan father can automatically acquire Kenyan citizenship, those born of a Kenyan

mother cannot do so. Whereas spouses of Kenyan men are entitled to Kenya citizenship, those of Kenyan women are not. And whereas a married man need not to get his wife's permission in order to get a passport to get a child out of Kenya or to obtain a traveling document for the child, for the child to be endorsed in the passport, a wife cannot do the same without the father's permission. It is the 21st century, the momentum created by international committees through the world conference on women which has adapted several declaration, the convection and declaration on woman and human right issues should be domesticated, and the progress women themselves have worked for and gained during the past centuries should not be lost in unprogressive laws. The Constitution should ensure that the spouses of Kenya citizens regardless of gender should be entitled to Kenyan citizenship should they wish to get it.

Com. Abida:(inaudible)

Freda Otunga: The Constitution should ensure that the spouses of Kenyan citizens regardless of gender should be entitled to Kenyan citizenship, should they wish to get it. Women like men should be able to accord(inaudible) for their foreign husbands and opportunity to become Kenyan citizens. In the same thing, a child born of a Kenyan parent woman or man should be entitled to be a Kenyan citizen regardless of the parental gender. In a marriage, both parents should have equal rights over the children or of spring of the set marriage and parentage. Women activism, has also produced a lot of gain that needs to be sustained and maintained by well and innovative structures mechanism and supportive laws and policy supported by the Constitution.

Executive; qualification of a presidential candidate should be as follows;

- 1) He or she must be a Kenyan citizen.
- 2) Must have atleast an o-level certificate.
- 3) Must be of sound mind.
- 4) He or she must be economically stable.
- 5) He or she must be 35 and not more than 70.
- 6) He or she must be above party politics.
- 7) He or she must declare his/her wealth.
- 8) He or she must be a married.
- 9) He or she must have no criminal records.
- 10) He or she must be a person of integrity and of good character.

Com. Abida: I think you are through, isn't it? We have given you a lot of time because we have very few women who have spoken today, but we have some clarifications on the issue of land and property rights. You are throwing the ball to the Constitution yet you have come to make that Constitution, you are telling us the Constitution should address issues of access, management and element of joint ownership. Can you tell us exactly what you want to see because you are the one who is

making the Constitution. The men are not going to make it for you, they have told us women should not own property, so tell us what your expectations are, if you can, if you can't then we will assume that you are expecting other people to address the issue and we hope they will.

Freda Otunga: On the side of land and property ownership, I suggest that a man and a woman should have their names on the title deeds on the land that they own.

Com. Abida:(inaudible) that you don't, thank you very much. Hand in your memorandum but there is one more question sorry.

Com. Ratanya: Freda there is this point of elective posts or seats for women. You recommend that women should also be given a chance of getting these seats in Parliament or maybe in the councils. Then you continue to say there should be a kind of fair play or free elections, free and fair elections. If the men and the women are given equal opportunities to fight for these seats, in that case there is free and fair elections, will you still complain that women are not given seats? Because they will go to the field and fight, but we will make sure or the electoral Commission will make sure that the elections are free and fair.

Freda Otunga: We wouldn't complain we will be considerate.

Com. Abida: Thank you. Selina Sikunda.

Selina Sikunda: Commissioners, ladies and gentlemen, habari zenu. Kwa majina ni Selina Sikunda kutoka Ramogi multipurpose women group. Naongea kwa niaba ya group. Nimeanza. Ada ya land survey: ada inayolipishwa wakati mtu anataka kugawanya shamba lake, amenunua ama lake, iko juu sana, hata imefanya mtu kukaa bila land title deeds. Imefanya unakaa hata bila land title deed ya kumiliki hilo shamba lako.

Utoaji ushahidi kwa polisi: kila mara wananchi tunaarifiwa na Serikali ya kwamba, tukishirikiana na polisi wakati mambo mabaya yametokea mahali hapo. Jambo hili limekua nzito kwetu kwa vile ukitoa ushahidi utapelekwa ndani, mara unateswa, mara uko korokoroni kwa muda mrefu, hali ilikuwa unatakikana utoe ushahidi. Mbinu hizi mpaka sasa zimefanya wengi kunyamaza hata kama ulishuhudia jambo lilipotendeka.

Dhuluma kwa wafanyikazi haswa watu wa kibarua: ni jambo la kuzingatia watu kudhulumiwa kazini, wafanyikazi ambao hufanya kazi kwa mafactory kama za sukari, cereal board na factory zingine za aina mbali mbali hufanyishwa kazi zaidi ya kipimo. Kwa kweli binaadam ana kipimo cha uzito ambao anastahili abebe kwa wakati fulani. Ni jambo la kawaida kupata mtu anabeba gunia lililozaidi kipimo cha 100kg, kuanzia asubuhi hadi anapoondoka kazini jioni. Hali sheria inamruhusu binadam kubeba uzito usiozidi 50kg. Tungependekeza hili jambo la uzito wa 50 kg lizingatiwe. Asanteni.

Com. Abida: Asante. Jiandikishe tafadhali. Christopher Andenga, ni wewe okey.

Christopher Andenga: Mimi kwa majina ni Christopher Andenga. Ningependa kusema.

Christopher Andenga: Christopher Andenga

Com. Abida:(inaudible) Kwa hivyo unaitwa nani?

Christopher Andenga: Christopher Andenga. Kwa hivyo ningesema hamjamboni wote. Nilikuwa nimechukua maandishi kwa Kiswahili na kwa vile nilikuwa ninataka kila mtu anisikie na anielewe. Mengine yamezungumzwa ambayo siwezi kurudia ingawaje yako kwa karatasi zangu hizi, lakini nitazungumzia kwa yale ambayo sikusikia wakizungumzia. Ya kwanza, nitasema usawa wa wanawake na wanaume. Kwa upande wa usawa wa wanawake na wanaume ningesema kitu kimoja, ya kwamba, hiyo sasa ni kati ya mwanamke na mwanaume mwenyewe, ambao wanaweza kujua wanakaa mamna gani, na wanaishi kivi, kwa kuwa hatuwezi tukasema ni lazima wawe sawa hayo yatakuwa ni mambo mengine ama ni kitu ambacho kinaweza kuharibu ndoa yao. Kwa hivyo wenyewe wanaweza kujua wanaweza kuishi namna gani kwa upendo wao.

Ya pili, ni Rais kuwa juu ya sheria: hiyo ninaonelea ya kwamba, si vizuri Rais kuwa juu ya sheria, ingawaje ilikuwa imezungumzwa mbeleni, lakini nitairudia. Rais kuwa juu ya sheria ni makosa kwa kuwa anaweza kukosa na hawezi akapelekwa kortini, na ataendelea kukosea wananchi. Kwa hivyo lazima awe chini ya sheria kwa kuwa hata Mungu pia anatengeneza sheria na yeye mwenyewe atakubali kuwa chini ya sheria, kwa hivyo sioni kwa nini kiumbe cha Mungu ama binadam kuwa juu ya sheria.

Ya tatu, msichana wa shule, mara mingi sana wasichana wetu wa shule wameharibiwa na wavulana hasa wale wa secondary, wakiwa kwa kidato cha kwanza, cha pili, cha tatu mpaka cha nne. Kwa hivyo ningetaka sheria hii ipitishwe kinaganaga ya kwamba, mtu akipatikana kama amempa msichana wa shule mimba, ni lazima ashitakiwe na atoe faini. Hiyo itafanya wasichana wetu wawe safe kwa kupata mimba wakiwa wangali shuleni.

Wajumbe: Wajumbe wasikubaliwe kuwa na biashara. Kwa kuwa wakiwa na biashara hii hueneza magendo na ufisadi mwingi. Kwa hivyo akiwa ni mjumbe awe tu mjumbe lakini biashara asiguze.

Kiti cha urais: hakifai kuwa na mtu ambaye yuko chini ya miaka arobaini na nne kwa kuwa ni kiti cha maana. Ni kiti kubwa ambacho ni lazima mtu ambaye anaweza kukalia kwa hicho kiti, awe ni mtu ambaye amekomaa kisiasa na ambaye ana umri wa kutosha na ambaye ana family ama ameo.

Com. Abida: Mwisho.

Christopher Andenga: Mwisho ni wajumbe: wajumbe ambao tunawachagua, wao hutuambia ya kwamba watatufanyia vile tumewatuma huko, lakini unafikia wakati hawafanyi chochote wala maendeleo hakuna. Kwa hivyo ninaonelea hawa wajumbe wapewe muda ama probation wa miaka miwili. Na akikosa kufanya vile alikuwa ameahidi constituency yake ama raia, kuwafanyia maendeleo, apigiwe kura ya kumtoa kabla muda ya miaka mitano haujakamilika.

Com. Abida: Asante. Hapa kuna swali.

Com. Ratanya: Hapa Bwana Christopher kuhusu pregnancy katika shule msichana kupewa mimba na mvulana, hukutuambia kama kuna sheria inakataza mtu asipatiwe, ama ni sheria gani unataka iwekwe? Hapo hukufafanua vizuri, hiyo ni ya kwanza. Nikuulize lingine ujibu pamoja? Pengine kama huyu ameshitakiwa kama vile unasema, utatueleza hiyo unataka afanywe namna gani. Huyu mtoto unataka awe namna gani, maisha yake yawe namna gani?

Christopher Andenga: Ingawaje wakati huu hiyo sheria haina nguvu, kwa kuwa wanasema mara kwa mara pengine walisikizana na hiyo sheria ya kusikizana na mwana shule, nimeonelea si mzuri ni lazima iwekwe nguvu. Iwe ni lazima mvulana yeyote akipatikana amempa msichana mimba ambaye ni wa shule, ashitakiwe na maisha yake ya gharamiwe ambayo si chini ya shilingi elfu mia mbili.

Com. Ratanya: Na mtoto?

Christopher Andenga: Na mtoto yule pia amugharamie. Mtoto ambaye yule msichana atazaa.

Com. Abida: Swali lingine kuhusu usawa. Umesema bibi na bwana wakubaliane hiyo ni sawa, lakini usawa nathania ambao tunasikia wamama wakisema, wanataka usawa upande wa huduma na kazi. Kwa mfano si umesomesha watoto wa kike na wa kiume, sasa wanasema ikiwa umesomesha wote wawili kusiwe na ubaguzi upande wa kuandika isemekane, “wewe ni mwanamke kwa hivyo, huwezi kufanya kazi” waandike mvulana. Una shida na usawa wa aina hiyo?

Christopher Andenga: Hapana hapa hakuna shida, hiyo ni haki.

Com. Abida: Okey asante mzee. Jiandikishe utuwachie hiyo karatasi. Peter Ombogo, Christopher Ogago, umesahau jina lako tena, kuja uongee basi ama una maneno.

Christopher Ogago: Nina neno moja. Habari zenu. Mimi nitaongea kuhusu urithi. Urithi ni kitu kikubwa sana ambacho Serikali inatakikana itilie maanani. Kwa sababu kuna mama ambao wanawachwa na wanaume wao, na hawa watu

walikubaliana wawili wakakaa pamoja. Kwa hivyo unaweza kuta pengine mume ameaga, sasa watu wanasumbua yule mama na walipokuwa wanaishi kwa nyumba, walikuwa wanaishi wawili. Sasa unakuta wanasema pengine mama ataenda na mali ama atauza shamba lakini ana watoto pale. Sasa hapo ukweli, hapo ningesema Serikali iangalie hilo neno sana.

Com. Abida: Unapendekeza nini? Serikali si ni wewe? Christopher unapendekeza nini?

Christopher Ogago: Ninapendekeza ya kwamba, zaidi sana mama ndio mwenye family si mume, kwa hivyo mama apewe ule urithi wa ile mali. Kwa sababu yeye atalinda watoto vizuri kuliko hata mume.

Com. Abida: Jiandikishe pale tafadhali. Councillor Joseph Katete.

Clr. Joseph Katete: Mine are very few Commissioners. One I will start with the underdeveloped land. Especially in Kenya here we have so much undeveloped land whereby I propose this;

This underdeveloped land to be repossessed and be given to the people without land. E.g. we have people who have bought land in Kitale schemes and they are lying there for years, they have never been developed.

The second point is on the donors: every province should have its own budget, and this money should be drawn and budgeted from this funds especially from IMF, World Bank, because, once the government gets this money it is not redistributed in the right way.

On politicians; politicians should be given full opportunity and panel to address and educate wananchi without interference of administration, because these politicians are the people who are very close to the locals especially at the grassroots. So they have to be given that opportunity without interference.

You have talked about churches, but I will recommend a bit. We should have limits. We should limit the number of churches, because people have decided to make business as they form so many churches, collecting funds from wananchi. When once a pastor has been kicked out of the church, he goes out and forms his own church. He becomes a bishop immediately he gets huge amounts of money from wananchi.

My fourth point is the transfer of the civil servants, e.g. chiefs and their assistant chiefs. These traditional leaders have to be transferred due to tribal conflicts and proper administration so that they may serve people accordingly. E.g. they deal with land cases and also they serve their tribes. Finally my request is, they have to be transferred as any other civil servant and also finally, they should be protected once they are on duty, whereby in a case e.g like last year, we had somebody known as Dr. Leakey, this man, would just sack you without any notice. So they should form a union to protect them.

In the local Government, councillors especially chairmen and mayors, they should be signatories in the council so that we may have proper accountability of the council funds.

Elections; elections especially in the local authority, mayors and chairmen should be elected by wananchi, not Councillor. These people should have also clean records, and also they should have knowledge in accounts. Any mayor or a chairman, should be a wealthy man who can be able to assist and not to seek council money. That is what I had for you. Thank you.

Com. Abida: One clarification. Your last point, I find that a bit discriminatory, because I think the fact that one is wealthy does not stop him or her from wanting more. So why do you want to shut those you are calling poor from leadership?

Clr. Joseph Katete: Especially any poor person to lead is also a problem. Somebody should be in a good position financially, because if he will be attracted to these council funds and is tempted to steal.

Com. Abida: Anyway those are your views, thank you. Jiandikishe Councillor tafadhali. John Ashibabi. Ndio wewe mzee?

John Ashibabi: Nimefurahi kuona Commissioner wetu pamoja na wananchi. Mimi maoni yangu, wafanyikazi wa serikali wafikiriwe. Wafikirie kulipa makuru mishahara. Serikali ifikirie kutengeneza factory mashambani. Tatu, assistant chief wajenge rumande kwa wale wa makosa kidogo wafungwe.

Interjection (Com. Abida): At least those who are talking behind, sasa nyinyi mmemaliza kuongea and there are ladies who are talking behind. Hamtaki kuongea hapa mbele na mnaongea huko nyuma, mnaandika observer. Mzee ngoja, please kama uko na maoni mama huko nyuma msiandike observer mkuje hapa. Na tumewapatia nafasi muongee na ndio maana hamtaendelea, mko huko nyuma mnanungunika, mkuje hapa, kwani Ashibabi anaongea na sasa mmpatie nafasi azungumze tafadhali and the students as well.

Com. Abida: Endelea mzee.

John Ashibabi: Namba nne, hali ya kazi kwa wale wenye kusoma: wako kwa taabu kwa maana kazi kupatikana ni ngumu. Namba tano, wazee wenye miaka hamsini wafikiriwe. Ni hayo tu.

Com. Abida: Wafikiriwe aje?

John Ashibabi: Na Serikali wenye wamkongo.

Com. Abida: Ndio nini hiyo mzee hatuelewi, sema vile unataka sisi usituambie kwa mafumbo.

John Ashibabi: Serikali watawaingilia kidogo.

Com. Ratanya: Namna gani.....(inaudible)?

John Ashibabi: Hali ya kupigiwa asante sana kama walifanya kazi mzuri au.....

Com. Abida: Wapewe certificate ama? Si useme ile unataka.

Com. Ratanya: Wapewe mshahara kila mwezi.

John Ashibabi: Ndio.

Com. Abida: Okey asante. Jiandikishe uache hiyo karatasi hapa. Stephen hilo jina ni ngumu, Stephen ni nani huyo ako na jina gumu? Anza na majina.

Stephen Otieno: I am Stephen Otieno Barnsavre. I have very few opinions actually entitled on the structure and the system of the Government.

- 1) I would like the Constitution to allow the system of using parliamentary houses that are more than one. The first one to be lower house and second to be upper house.
- 2) The Constitution I would like it to allow the federal system with the two supreme Government and share powers of the President. Whereby the Prime Minister should have his power in the same same government and the President also have the same power, by sharing.
- 3) The Constitution would amend and repeal the section that empowers the President to be above all laws to read ‘the President be within the laws and in default of any law, be dealt with as any other law offender’ as is in America.
- 4) The Constitution needs to join the two leaders by power, by leaving the Judiciary head, eg the Attorney General, Chief Justice independent without being the appointees of the President but to be selected by the two houses, lower house and upper house.
- 5) The Constitution by sharing of powers of President and Prime Minister, should enumerate the other new positions in the military of chief secretary: whereby, whether the President is the commander in chief of the military, the Prime Minister

should be chief secretary of the military, and the minister for defense be the deputy secretary of the military.

- 6) The Constitution should agree that the three: minister for defense, Prime Minister and President to be given pensionable allowance of 50% of all they would be earning after retirement and an additional of 20% per year after they have completed their period of term in serving.

Com. Abida: Asante jiandikishe. Jacob Okalo. Si ulizungumza jana?

Jacob Okalo: No I have never attended this.

Com. Abida: Are you sure? Okey.

Jacob Okalo: Good afternoon everybody.

Com. Abida:(inaudible)

Jacob Okalo: Much has been spoken. Thank you very much Commissioners. I don't have much except it has been calculated. My name is Jacob Okalo Ombandi. Much has been spoken and I just wanted to have only one point direct to me, and this is the point. The Government, should supply electricity all over the nation, not only in town but also in rural areas. Mostly it be supplied in schools, markets, interior clinics and along bridges. This will enable business in interior areas run properly because where there is light, fear is found and you cannot find a lot of thuggery, thank you very much.

Com. Abida: Asante jiandikishe tafadhali. Na uwache hiyo karatasi. Wilfred Odega, Paul Mokungu, Alex Peter Kaboni.

Alex Peter: Commissioners, ladies and gentlemen, my names are Alex Peter Kaboli. I am the chairman Kenya Red Cross but my views are going to be on individual basis. My proposal is that presently we don't have a ministry in the republic responsible disaster management. I would like to propose that a ministry to be set aside so that in case of any disaster everywhere in the republic, then this ministry shall be in full mandate to respond to it. Presently what we are having may be a cuve out of the office of the President which does not have enough capacity to respond to the numerous disasters that we have in the country.

Then I will go to my individual proposals. I would propose that the presidential power, should be reduced to a level where we don't find a President appointing ministers, D.C.s and everybody still I propose that the President shall not be a Chancellor of all the universities, a headmaster of all the schools, mother of all the mothers in the republic. He should also not be above the law. The President should not be a sitting MP at any one time, for this will have to create a situation where we have one person having many jobs. When a President becomes an MP, a President, he/she should relinquish that position of an MP for

somebody else in that constituency.

We should have nominated Councillors faced out of the country. Many of them, at many times we are seeing them being nominated by(inaudible) grounds and what have you. Let me go to the Provincial Administration, I want to propose that the Provincial Administration face out what we call AP administration police and rather integrate this section of the forces, with the general policemen. I don't know what I will call them as at now, the police officers, the regular policemen, and also create a section of what we call the police reserves everywhere, not going to certain areas.

The chiefs, we have a law that we talked about the chiefs act. I want this law to be done away with because they make the chief unleash terror to the common man, of whom they are supposed to protect. I want also to propose that the chiefs should not wear military uniform. When they put on such regalia, the public fears them and then they don't serve that person, he dies of inferiority instead of coming to the chief of assistance. The chiefs should be professionals. I want to propose that chiefs before their appointment, they be taken for a two year training, and then from then we have a professional chief, not just somebody being picked from anywhere else and then he becomes a chief. Chiefs should not preside over harambees, and other public days. Their promotion should be carried out on merit, whereby I want to propose one time to see a chief who is becoming a D.C. and going on to be a P.C. Presently I don't envisage a situation where a chief can be at one time be a P.C. A lot has been said on brewing chang'aa and I propose that to finish up with that, chang'aa to be legalized for it is a local poor man's brew, and the poor men are at now by the present constitution they don't have a brew of their own for them to refresh.

Lastly Commissioners, we should have federal laws to regulate the sitting MPs and this sitting MPs should have offices at the constituency level where the persons of whom they represent can reach them. At least the MPs should have their(inaudible) there, for this will create employment, and the money that the grassroots gets maybe would come from a slice from their huge salaries. Thank you.

Com. Abida: Thank you. Please register and leave your memorandum. Hezekiah Wamunyole, Charles Osuka.

Charles Osuka: Niko na machache ya kusema sababu mengi yameshasemwa. Kwanza nitazungumza mambo ya mashamba. Jambo la kwanza, gharama ya kuchukua title deeds, kufanya succession na survey iko juu sana. Kwa upande wetu tungeonelea ipunguzwe yote kwa jumla iwe kama shilingi elfu mbili, ndio mwananchi wa kawaida aweze kuimudu. Nikiwa hapo pia nitasema kulingana na gharama ya usafiri, tungependekeza iwe inafanywa kwa makao kwa divisional headquarters. Na urithi wa shamba pia ubakie kwa watoto wavulana. Na iwapo kwa familia hakuna mvulana, basi kukiwa na msichana anaweza chukua. Wale wazee wanaokaa kwa land board, tungependekeza wasipatiwe muda mrefu yaani kuzidi miaka mitatu, kwa sababu hawa pia ndio huingiza ufisadi. Mtu akikaa mahali sana, ufisadi unakuwa mwingi na hiyo ni njia moja ya kunyanyasa wasiojiweza.

Upande wa Provincial Administration wameongea. Nitarudi chini, kwa yule mwananchi wa kawaida yaani baba ambaye ana

mke na watoto zaidi ya wawili, apatiwe family allowance na Serikali, kitu kidogo cha kumsaidia kulea watoto.

Nikirudi upande wa elimu na vifaa vya elimu vya masomo katika shule zote za msingi, vigharamiwe au vipeanwe na Serikali, na hiyo elimu iwe lazima. Tukifika upande wa msaada wa masomo ule serikali unatoa upande wa karo, uamuzi ufanywe na mahali huyu mtoto amefanyia mtihani wake wa darasa la nane, kwa sababu hawa wazazi na walimu wa hiyo shule ndio wanajua uwezo wa familia ya huyu mtoto na vile huwa inaachiwa administration kama chiefs na kadhalika, hawa hupendekeza marafiki zao wale wana uwezo. Halafu huyu mtoto yatima, mtoto masikini amefanya vizuri katika masomo ya msingi, hawezi pata masomo ya secondari.

Tukurudi upande wa wabunge. Ningeonelea Bunge lipewe mamlaka ya kurekebisha Katiba. Lakini tunapofikia kwa haki ya mwananchi wa kawaida, lazima mawazo ya mwananchi yachukuliwe. Hapa nitasoma kwa Kingereza kidogo. An automatic citizen should have both parents as Kenyans by birth and a child born of only a male Kenyan citizen should be considered an automatic citizen. Registered citizens should not be left in control of the economy. Emergency powers should only be invoked by the Parliament. Political parties should be limited to atleast three in total to avoid tribalism and ethnic clashes in Kenya. And each of them should be financed by the Government during campaign. The presidential system of governance, should be retained under the unitary government, however the President should not be above the law. The appointment of Commissions i.e. Electoral, Commissions of enquiries, should be effected by the Parliament and not by the President. For proper representation all Members of Parliament should all open up offices in their respective areas.

Com. Abida: Thank you. We will read the rest of your memorandum. Thank you very much your time is up, so hand in your memorandum and we are going to read whatever you left out. Thank you. Elepasi Amakanji, Abusaki Obuchere, John Shikunyi.

John Shikunyi: Commissioners jina ni John Shikunyi. Ningependa kupendekeza yafuatayo na kabla sijapendekeza, napenda kusema ya kwamba katika area hii ambayo ni ya Khwisero constituency, naonelea kwamba civic education haikufanyika kwa njia ambayo inafaa kwa sababu mnaeza ona chumba kiko wazi, hamna watu ambao wamekuja kusikiza, hatuwezi kuwa hatuna watu wa kutoa maoni lazima tuwe na wa kusikiza pia. Kwa hivyo civic education ikuwe ikifanyika katika Khwisero.....

Com. Abida: Tafadhali tueleze mambo ya urekebishaji wa Katiba kama unashida nyingine, elekeza wakati mwingine kwa sababu pengine hatuwezi kukusaidia hapa. Asante.

John Shikunyi: Napendekeza yafuatayo: napenda Rais wa nchi hii ya Kenya, awe na uwezo wa kutosha, ili aweze kuendesha Serikali, na muda wake wa kuhudumu uwe muda wa miaka mitano mara mbili, na umri wake uwe zaidi ya miaka thelatini na tano kuendelea hadi sabini. Awe na record nzuri bila uhalifu wowote na asiwe Member wa Parliament. Awe na masomo mazuri na pia katika Serikali hiyo tuwe na Prime Minister ambaye kazi yake itakuwa ni kuendesha Serikali.

Upande wa vyama vya siasa, tuwe na vyama vitatu na Serikali iwe inawapatia uwezo kama wa kifedha. Na tuwe pia na nafasi ya candidates kama independent, wakiwa hawawezi kupata nafasi ya kugombania uchaguzi kwa vyama hivyo vitatu waweze kugombania uchaguzi.

Provincial administration wawe mbali na siasa wasishughulike na siasa hata kidogo. Kazi yao iwe ya kudumisha sheria za Serikali. Machiefs wawe na uwezo wa kutosha kwa sababu kila raia analia hatuna usalama, kwa hivyo nafikiria chief akitoa uwezo wa kutosha, hasa upande wa security, tutakuwa na usalama. Upande wa promotion, pia waweze kuwa promoted kwenda hadi kwa D.O. ama D.C. Kwa Macouncillors, na mamea napendekeza kwamba, mayor na chairman wa local authority wachaguliwe na wananchi sio na macouncillors wenzao. Kiwango chao cha masomo kiwe cha O-level. Kwa sababu shida ambazo mnaona katika town zingine, Councillors ambao wanachaguliwa hafanyi kazi zao kwa njia inayofaa. Pia wawe na cheti cha good conduct, maanake wengine wako na record mbaya. Hatungependelea kuwa na viongozi wa aina hiyo.

Ningependekeza pia, tuwe na Serikali ya majimbo, ikiwezekana tuwe na majimbo kwa sababu area zingine zimesahaulika hazipati usaidizi kutoka kwa Serikali. Ikiwa kiti cha Rais kitakuwa wazi kwa wakati wowote, speaker aweze kushikilia kiti hicho kwa muda huo ambao unasemekana wa siku tisaini, kwa sababu speaker hawezi kugombea urais kwa muda huo ambao uchaguzi mkubwa utaitwa. Tukiweka mtu ambaye atakuwa na interest katika urais huo, basi anaweza kubadilisha Katiba, na tukawa na Rais ambaye watu hawampendeleie yeye mwenyewe amejitengenezea njia.

La mwisho, wale ambao wamefanya makosa kama ya uchumi, walazimishwe na sheria kurudisha mali ambayo wameiba na hakuna mambo ya kuwapatia msamaha kwa jumla. Upande wa kazi, tukifikiria vijana ambao wamemaliza shule ambao wanaendelea kumaliza shule kila mwaka. Tuwe na nafasi moja ya kazi kwa kila mtu. Kusiwe na mtu ambaye ana kazi kadhaa wa kadhaa ili wengine wakose kazi. Ni hayo tu Commissioners sina mengi.

Com. Abida: Asante jiandikishe tafadhali. Aseka Omusio.

Aseka Omusio: Mimi nina machache tu. Mnaendelea tu na maneno mingi.....(inaudible) sisi sawasawa mimi nilikuwa ninataka Katiba hii ya Kenya, iwe kwa

Com. Abida: Wacha tukupatie muda ufikirie halafu utarudi.

Aseka Omusio: Mimi nitaendelea na nitamaliza. Mimi ninataka namna hii, Katiba ya Kenya iwe yetu, chiefs wapitie kwa kura, subchief wapitie kwa kura. Upande wetu tupewe utamaduni wa kutosha, huo umefanya sisi tumeshituka sana, tumerudi nyuma sana, kwa maana ukifanya kitu chako cha utamaduni namna hii unakuja kushikwa..

Com. Abida: Kwa mfano?

Aseka Omusio: Sawasawa mfano ukitengeneza busaa kidogo.

Com. Abida: Mbona leo hujashikwa?

Aseka Omusio: Hawa hawakukuja kwangu lakini walikuja jana nimewaona.

Audience: (laughter)

Aseka Omusio: Tupewe uwezo wa kukaa kitamaduni, mambo yote tuwe tunapewe uhuru, tumefinywa zaidi. Sasa hiki chama cha KANU kimetawala miaka arobaini, na hakuna kitu tunapata, shauri utamaduni wetu tumefinywa kabisa tumechukuliwa tumeletewa pombe ya nje ya ngambo ndio inauzwa, wanasema iko na afya, na yetu kwani haina afya? Nimemaliza lakini tupewe utamaduni wa kutosha, tuwe tunajidumu kwa njia mzuri.

Com. Abida: Asante. Jiandikishe pale. Lakini mzee kisababu ni kama kwamba watu watakuwa kama wewe sasa. Amos Chicheyo, Wilson Okanga, umejiandikisha? Okey asante. Zablon Lukalia, Kenneth Tamala, Elija Naambina.

Elija Naambina: Kwa majina ninaitwa Elija Naambina. Mimi ni KANU Vice chairman kutoka(inaudible) sublocation na nina machache nitasoma haraka haraka, niweze kufanya summary kidogo. Local Government, kura ya maoni iweko baada ya miaka miwili to ensure good work. Councils to pay salaries to Councillors. Council to stop funding individuals cheques to Councillors e.g. lative funds, bursary fund.

Chiefs and assistant chiefs, haya yamesemwa but age limit the entry is currently is 30 years but I feel it should be 35 years to ensure a mature leader. Transfers should be there for them. Meaning atleast in every sublocation, there should be a village leader who will be working with the assistant chief. Because of corruption, from the youth first we should remove chief's act because it is sometimes misused. Watu wanaweka maneno ya ndani halafu no good work is done. It should be abolished.

When you come to criminology, murder case if somebody is proved guilty of a mans laughter or murder he deserves life imprisonment. Courts assessers should be revived in every court in all areas. Complaints Commission should be set in every court to curb corruption, that is the case file cases which are mishandled by prosecutors and court clerks who know a lot about law and do a lot of corruption.

Rape cases should take longer time. I mean when a girl is raped, proper investigation should be done because there will danger of AIDs. Kama huyu mtu ana AIDs, hiyo awe anashitakiwa mara mbili or else anasambaza AIDs.

AIDs funds which is existing haionekani kwa areas kama hizi. We feel that AIDs funds be available up to locational levels to be manned by the locational development committees and sublocation. Another point, AIDs test to be compulsory, if possible. When we come to illicit drinks I feel sugar licencing board should stop issuing licences for molasses which is now used for men instead of being given to animals. Wazungu walikuwa wanalinda hii mollases sana kwa wanyama wao, siku hizi sisi tunafuga ng'ombe na hatulishi mollases, kwa hivyo, it is a killer, This thing is a killer and it is retarding development and then equipments for changaa should be there. Busaa should be allowed licences given or permits from the chief to be allowed. Commissioners you can allow me to have my points without hurry. When I come to kura ya maoni, you find that mtu anapelekwa kwa council, anakaa huko miaka tano kama hafanyi kitu, hiyo miaka tano that area will remain undeveloped. Kwa vile watu wanalalamika lakini hawana uwezo wa ku.....

Com. Abida:(inaudible) are you through?

Elija Naambina: Can I say something about why I said that the country should stop burning.

Com. Abida:(inaudible) problem Sir, tumekuelewa kabisa.

Elija Naambina: Because this fund if not used properly, should be left to the locational development committee to run.

Com. Abida: Jiandikishe pale. Sammy Omuka, Walter Obuchehe.

Walter Obuchehe: Our two Commissioners, and general public, good evening. I have very few verbal remarks, my names I am Walter Obuchehe. It is important that in our Constitution we we should have a Preamble as earlier said. This Preamble should include our God, the universal God, it should also include our local Gods, for example in Luhya land we used to have our own God or in Khisa land we used to have our own God from those early days, and it is believed that that God still exists. We should be able to recognize the..... I think even before this other denominations, protestants the catholics came around, we used to worship in our own ways.

To cut down expenditures, I think the best thing we should approach this issue by trimming down the number of ministries to 13, if there will be a need to form another ministry, then the public should be consulted with at least the vote or such a kind of approach so that we can form another ministry. Among the ministries we should have a disaster management ministry. The ministry will have to manage the disasters like the one we had, the bomb blast and others. This ministry should be decentralized upto the local areas.

I will speak about land. Land is a very burning issue in the Kenyan community and we had the land tribunal dispute act of 1991.

I think this land tribunal dispute act should be retained, but these old men should be given salaries, and they should be chosen through a committee. There should be a committee possibly from the lands office, which should choose people to serve in this committee. And the chairman and secretaries of this committee should be rotational. And people to hear a given case should be picked by the representatives of the land registrar to effectively have this committee serve the purpose.

On the acquirement or procurement of land documents, this should be eased. It should be done through the land control board. The land control board should be mandated to issue title deeds. This will ease the traveling expenses and the other things. The land control board can forward this to the registrar of lands, accompanied by the minutes of the board.

Com. Abida: Thank you. Leave with us the memorandum to read the rest.

Walter Obuchehe: I am giving out all I don't have a memorandum madam.

Com. Abida: It is okay your three minutes are over we need to call the next person, it is raining and some people may miss an opportunity, thank you very much. Asante. Shadrack Amoko, Jiandikishe pale, Fredrick Moi, Jerenimus Obillo.

Jerenimus Obillo: Majina ni Jerenimus Obillo na nitaongea machache. Mengine pengine yamesemwa na mengine hayajasemwa. Mimi ninapendekeza namna hii, kulingana na makesi ya shamba, kuenda kortini na ma-advocate kunyanyasa wananchi na kutumia pesa nyingi, ningependelea kila sublocation iwe na uwezo wa kuchagua wananchi waaminifu wawili, halafu akifika kwa location, waform a committee, na hiyo committee ndio itakuwa ikishughulika na makesi yote ya shamba, kufanya succession na kila kitu. Kwa ajili hao watu waaminifu ambao wamechaguliwa, ndio watu waaminifu na wanajua kila kitu. Hizi makesi ziwe zikifanyiwa kwa location halafu ziwekwe hapo, halafu wananchi wote wawe wakitazama ama wawe na uwezo wa kuchangia hayo mambo kama kesi inaendelea, halafu yawe yakimaliziwa kwa location, kupelekwa kule juu ni kuenda tu kwa registrar of lands, kama yamemalizwa hapa chini na hiyo kamati ya sublocation.

Namba mbili, tuko na makesi, mtu ataweza pengine kununua shamba na huko kwetu vile mmoja alisema hapa gharama za kutafuta title deed na mambo mengine, iko juu sana. Sasa mtu mwingine anaweza ishi kwa shamba na hajapata hiyo title deed, sasa mwenye ile title deed anaanza kumvuruga anataka amtoe kwa ile shamba, kwa ajili hana kibali anatolewa. Sasa mimi ninapendekeza tu sheria ikuweko, mtu kama ameishi kwa shamba zaidi ya miaka kumi, hiyo shamba imekuwa yake Serikali impatie kibali cha kumiliki hapo.

Namba tatu, ninapendelea hivi, kwa ofisi ya assistant chief, itolewe na mahali pao yaani kazi yao, iwe ikifanywa na maguru, kutoka kwa maguru, halafu kuwe na chief na kuendelea mbele.

Com. Abida: Asante sana jiandikishe na utuwachie hiyo karatasi. Jiandikishe. Jonathan Alukwe. Eshikumo Toen

Jonathan Alukwe: Kwa majina ninaitwa Jonathan Alukwe. Mimi kwa maoni yangu, ningependelea mtu akifikia umri wa kuchukua kitambulisho, achukue kitambulisho na kupewa hati yake ya shamba, kwa sababu mzee anaweza kufariki anawachia ndugu yangu mkubwa uwezo wa kutupatia shamba na tunasumbuana. Ni hayo to.

Com. Abida: Asante sana. Eshituma Doreen, George Amonga, Joseph Oruko.

Joseph Oruko: Mimi yangu ningesema namna hivi, naitwa Joseph Oruko. Mimi yangu ni kwamba upande wa elimu, university ingeondolewa sababu kuna wazazi wale ambao hawajiwezi katika jamii, ama kama itakuweco, Serikali iwe inaweza kuwasaidia wasiojiweza katika jamii, kwa kuwa promote kifedha. Wawe wanaweza kusomesha watoto wao kwa njia mzuri. Halafu unaweza kupata mtoto ni wa masikini, kwa shule anafanya vizuri na hataendelea na masomo yake kwa sababu ya pesa kukosekana. Na unapata yule mtoto ambaye ni wa tajiri, hafanyi vizuri katika mitihani ya serikali lakini atazidi kuendelea na masomo kwa njia zingine ambapo anaweza kusaidiwa labda na baba yake maanake ako na pesa nyingi.

Kitu kingine, kuhusu Rais wa nchi, kitu kama ukiwa President lazima uwe na makamu wako wa Rais. Sasa jambo linalonishangaza ni kwamba kama Rais anaweza kufariki kwa bahati mbaya, nafikiri vice wake ndiye anaweza kuchukua utawala huo. Na kwa sasa Kenya yetu imetangaza kwamba yule atakayechukua urais atakuwa Uhuru Kenyatta, ambapo kama mimi hapo sijafurahia katika Serikali yetu maanake, nimeshangaa maana ya kuwa vice President ni kitu gani maanake kuna jamii nyingi katika Kenya, ambapo hiyo tiketi inaonekana kwamba imerudishwa pale penye ilitoka. Sasa katika Parliament, nafikiri hata Serikali yenyewe haijatuonyesha sisi umoja wao. Kwa sababu kama ingekuwa ni umoja, kuna jamii nyingine yoyote ile ambayo ingeshikilia hiyo tiketi. Nafikiri ni hayo tu.

Com. Abida:(inaudible) vile mambo yanaenda ungependa namna gani?

Joseph Oruko: Sasa ningependelea kwangu mimi mwenyewe kibinafsi ningependelea upande huwo huwo tu wa Urais wangepa Msalia Mdavadi ingekuwa vizuri.

Com. Abida: Okey jilandikishe. Joseck, Hellen Habosa, Aggrey Etenye.

Aggrey Etenye: Commissioners and the rest good evening. Mine is to

Com. Abida: Your name?

Aggrey Etenye: Aggrey Etenye. First of all I will urge those adapting the law to make sure that there is education to all atleast somebody should know about law, starting from primary level. Two, we should have a devolution of powers. We should not

have all the powers heaped on one person that is the President, we should have the separation of power. Also we should have an independent Judiciary. The Government or those in the government should not be interfering with the Judiciary. The harambee spirit should be abolished, because this has enhanced a lot of corruption especially those politicians are using this harambee for example to deprive the citizens and all that. Taxes collected all over the country should be distributed equally. The Executive should not be above the law.

Development countrywide should not be based on political line. The development calendar should be drawn and this development should go on not considering the political situation of that particular place. People should be given powers to recall a sitting MP. If the MP derails from whatever you were expecting from him, we should have those powers to recall him through our own referendum or such like thing. The report of the auditor general should be taken seriously, and anybody if implicated should be taken to court and charged, for we have seen in the past cases the report of the auditor general goes without anybody being taken to court.

The law should be put in place to protect farmers. Farmers have been so much exploited. We find that production cost is exceedingly so high. For example now production of maize is just too expensive and when you come to sell the product, you find you get nothing out of it. Another example is that eggs from South Africa cost so cheaply than eggs we produce here in Kenya. Even tomatoes we produce here are so expensive than those imported from S. Africa. So you see production cost should be checked.

Constitution amendment, any amendment of the Constitution, should have the mandate or the blessing of the majority or the people, this should be done through a referendum. This referendum also those people who will be doing this, we should have so many groups represented. The disadvantage the churches, the Muslims and all this should come together so that any amendment of any fees should go back to the people to endorse.

This issue of nomination, nominated MPs and nominated Councillors should be abolished. Because in so many cases, you find that these are the same people who have been rejected by the masses and they again to be nominated. Last but not least, we should have professionals who are serious, there should be a law to check the professionals. The lawyers, the doctors, the teachers, for that case, anybody found not doing his work professionally will be charged. Any lawyer who will be found corrupt, I recommend that his documents or testimonials should be cancelled. A doctor working for the Government should not go into private practice. Thank you very much.

Com. Abida: Thank you. James Abuchere.

James Abuchere: I thank you all the Commissioners, for giving me this opportunity. First of all I would like to say something on the number of political parties that a country should have. I suggest that the number of political parties should be almost

three, because if we are having so many parties we can it prevent chaos and division in the country. Secondly, the state and all the political parties should learn to work together in harmony, irrespective of the party in power. Concerning the Legislature, we should introduce moral and ethical qualifications for parliamentary candidates. Also the concept of nominated MPs to be retained but they will have to be paid by the party that nominated them. Also the Constitution should permit for a coalition kind of Government. Parliament should have a fixed calendar and the power to dissolve it for any reason should be by consent of all MPs.

On the Executive, anyone aspiring to be the President should have atleast passed O-level examination. The Constitution should set limits on the presidential powers. For instance the President should cease to be the chancellor of all public universities. The President should be an MP, but this ministers should be picked from any quarters provided they are conversant with the ministry in which they are appointed to head.

The provincial administration is a necessity. All administrators should be attending refresher courses based at different times. Mayors and council chairman should be elected directly by the people. A councillor should be at least an O-level certificate holder. There should be moral and ethical qualification for local authorities. Nominated Councillors should be paid by their respective party.

Also on land, the Government may have power to control the use of land by the owners especially where it feels that the soil is being misused or washed away. The Government should not compulsorily acquire private land for any purpose whatsoever. Transfer and inheritance of land should be simplified whereby there is no prosecution of the dead or former owners of the land. All Kenyans should own land anywhere in the country.

Cultural and ethical diversity should be protected and promoted in the Constitution. Cultural trainings that enhance moral uprightness to be established. Schools to introduce the same in the sylubus. The Constitution should recognize and promote indeginous languages. Management of natural resources; local people who are conversant with the protection of natural resources to be appointed to enforce laws. And local communities should learn to manage well their natural resources. Thank you for giving me this chance.

Com. Abida: Please register asante. Is there anyone who needs to talk and has not been called out. Ako mtu yeyote ambaye anataka kuongea na hajaitwa jina lake? Okey ikiwa hakuna nadhania tumefika mwisho wa hichi kikao katika hili eneo, na kwa vile mvua inanyesha, nadhania sitaki kusema mengi ila kumshukuru mwalimu mkuu kwa kuweza kutusaidia na kikao hiki. Asanteni

The meeting ended at 5.00 P.M.

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