

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

VERBATIM REPORT SPECIAL

CONSTITUENCY PUBLIC HEARINGS,

HELD AT MUMIAS SUGAR

MAWAGERS CLUB

ON

5TH AUGUST 2002

**SPECIAL HEARING OF MUMIAS EMPLOYEES HELD AT MUMIAS MANAGER'S CLUB ON 05TH
AUGUST, 2002**

Present:

Com: Riunga Raiji - Chair

Com. Salome Muigai

Secretariat Present:

Mr. John Watibini - Programme Officer

Ms. Gladys Gichuki - Asst. Programme Officer

Asha Boru - Verbatim Recorder

All having assembled, the meeting was opened by a word of prayer at 7.40 pm.

Com. Riunga Raiji: Ladies and gentlemen, we would like to welcome you officially to this evening's sitting of the Constitution of Kenya Review Commission here at Mumias Sugar Company. We want to inform you that it is an official sitting of the Commission. I will start by introducing you the Commissioners who are here. With me is my colleague Commissioner Salome Muigai, and my name is Riunga Raiji, I am chairing this evening session. With us we have some officers from the Commission, Mr. John Watibini, who is the Programme Officer, we have Gladys Gichuki who is the Assistant Programme Officer, and we have Asha Boru, who is the Verbatim Recorder.

You are welcome to this session; the rules for presentation are straightforward. If you have a memorandum, you are free to just hand in the memorandum to us, we shall record your particulars, and we shall use the memorandum in the course of reviewing the Constitution. You are free to hand in the memorandum, and probably highlight the summary one or two the number of issues that you will feel are important, but you don't expect to read the whole memorandum, because we are going to read the whole memo and we shall have them analyzed and then we shall use your points in the process of compiling the report, and the Draft Constitution.

You are also free to come forward and give your views verbally. In either case we shall allocate five minutes for everybody. Our working languages are English and Kiswahili, but you are free to use your mother tongue if you have difficulty in those languages, and one of us will interpret.

After your presentation, we shall require you to register with our office here the secretariat, so that we can have a proper record of the submissions that we received. After you have made your submissions the Commissioners are free to ask you to clarify one or two, if anything is not clear. The rules of the Commission dictate, that when you make your submissions you are protected by law, no action will be taken against you by any authority or by any person on account of the views that you have presented to the Commission. You are therefore free to make your submissions without fear or favour. We would now like to invite the first speaker to come forward and make his submissions to the Commission. Normally we follow a list and I see we already have it here, and so we start with Mr. Paul P. M. Mutanda. We are also recording the proceedings, verbatim, so you start by saying your name so that we can have it in the machine.

Mr. P. Musanda: My name is Paul Malova Musanda; I don't know whether I can emphasize certain areas verbally. My first area is this issue of Insurance Claim Court cases. I am saying here that the law requires that a vehicle on the road has to be insured against anything, and this is normally covered by way of premiums paid to the insurance company.

Also, most of us when we are stopped by Traffic Police one of the many things they look at the windscreen if surely you have your sticker for insurance license. So when we have any accident, our insurers tell us not to accept fault or liability, and they

say if we are contacted we should not communicate with anybody apart from themselves.

Quite often it happens when you have had an accident, you have made a claim report to the insurance and done what is required but the first thing you get is that you are arraigned in court by the insurance claimer. The Insurance firm might be involved by getting a lawyer, but actually, it is the insured by the owner of the vehicle who is accused in court.

I am just wondering why does not make it if is required that you insure your vehicle and you are covered the risk; why then in the event of an accident the authorities go for the insured, and yet he has had the covered, of the risk by paying premiums to the Insurance Company?

Quite often, you have cases continuing, the owner of the vehicle, has got to pay, and then later on you have to take the insurance to court. Why does the law provide that we have to pay premium and have the cover when again you are the one to go and make the claims?

Interjection: Com. Salome Muigai: What would you like to propose?

Mr. Musanda: My proposal is that they should go to the insurance Company who provided the risk. Now the second one is Administration of crop theft fund.

Under our legal notice number 120 of 98, under the Local Government Act, farmers are deducted one percent of their gross proceeds to be used for the maintenance roads to access of their farms. This money is supposed to be managed or administered by a Agro based Monitoring Committee, which consist of seven councillors and five farmer representatives. I think many of you know that it is in the papers all the time. Local Authority funds are mismanaged including LATF which is granted by the government, and particularly the Pest Committee. Because the Councillors are more than the farmers, they always vote things, which really do not help the farmer. Because councilors are politically elected people who would like to get votes, they will propose projects which have nothing to do with maintaining the roads, access roads, to the crop farms where cess has been deducted. In our instance they would propose roads in places where there are no farms, and yet cess is deducted from the farmers who are producing the cess.

In many cases, like we have a big problem here in Mumias and Kakamega. A lot of these funds are embezzled by the councilors and the officers of the Local Authority, so that they are not doing what they are supposed to do, and that is to maintain access, roads to cane farms.

So this Legal notice under the Local Government Act, I propose that it should go into the Agriculture Act and cess funds be collected and administered by the Kenya Sugar Board, we are the ones who are concerned with the sugar industry.

The third one is the income of a married woman. We have women here, I think they will bear me witness. The Income Tax Act interprets, the Bible very liberally, and regards income of a married woman as that of her husband. The Bible says if the two join together they become one thing. However, the same Acts further discriminates between the income of an ordinary married woman and that of a married professional woman. For example, a teacher, a doctor, a lawyer, if the woman of a professional woman is taxed separately, But the income of woman is selling fish is lumped together with her husbands.

Man and wife, I believe, are two individuals and therefore they should be taxed separately all the time. Income of a child in a family is taxed separately; it is not lumped with that of the parents. But that one of a married woman who is not a professional, who is not professional out of whatever she is by, she is selling fish, she is not a professional, it is lumped with her husband.

My recommendation is that they should be taxed separately.

Finally I have a problem with police arrests in Kenya. I think in this country a person is considered to be innocent until proven guilty. Now being arrested is being exempted from what is says. We find police in Kenya are quite trigger happy in arresting people, even for civil and political crimes. You owe a debt to somebody and somebody reports you to the police station they come and arrest you. It is therefore, no wonder that actually our remands and prisons are congested, because in Kenya we tend to think that arresting people is the thing to do. In many other countries some of us we have seen for the police to arrest you, they must have an arrest warrant signed by a magistrate or a judge. They don't just come in the house and say, "*kujia tuende*". So that area I think it misused by the authorities, may be to intimidate people, and they will have to do something to restrain unnecessary arrests because it infringes on the rights of the citizens. Thank you, that is all my presentation and I think I will leave this here.

Com. Riunga: Before you go I will see if there is any question from the Commissioner>

Com. Salome Muigai: No I don't have any question.

Com. Riunga: Thank you very much Mr. Musanda, you can present your memorandum to our officers and get registered. I would now like to call Mr. Gilbert Omuse Maina to come forward. Those who have come now, if you want to present your views, please register and then we will call you. Please start with your name.

Mr. Omuse: My names are Gilbert Omuse Maina, I come from I come from Teso District. Although I do not know any but of our present Constitution, I would like to believe that when I grew up I found a life-style in my place that is Teso, which I believe was protected by a Constitution, which must have been there by that time. At this time, the time I am talking, the things I used to see in my society are not protected, or they are not there now, because if they are practised, the law is kind of appraising the same thing I am going to talk about.

In particular I want to talk about the life style of my people. One thing that I find that has been eroded is the cultural practices, which to me seemed to improve the welfare of the same people. In mind I have the way our people used to do farming, by making traditional brews and call their relatives, their neighbors and any other interesting persons to come and help in the farm work. The only reward at that time was just may be an evening drink, or they just sit over Ugali with a kuku after very hard work. The end result was granaries full of wimbi, granaries full of maize, sacks full of cotton, granaries full of njugus and so on. Today that is no longer happening, because in my place tsetse flies have killed all the oxen. Individuals cannot afford farm work because there no tractors, no oxen and if you dared make a traditional brew, and invited these people to help you in this social work they will be arrested.

So I want a Constitution that recognizes the way of living of individuals. There are so many tribes in Kenya and they have different practices of coming up together for social work. Besides social work, the traditional brews in my place were also viewed as a means of bringing people together especially the elders, the grown up for social gatherings where communal issues were discussed. This is no longer happening. Drinking has been flawed in to every place at even odd hours, that you will find youngsters drinking whilst in the past they were not allowed. To day people drink secretly because they want to avoid arrest, and today people have resorted to making beer or busaa as a means of livelihood.

Interjection: Com. Raiji. What would you propose?

Mr. Omuse: What I propose is that the traditional brew should be allowed for social purposes and restricted for the work that is intended for and if this is not prohibited there will be no secret drinking and there will be no reckless drinking especially by the youngsters. That is the social life of our people.

The next issue that I have seen in my place that has really been eroded is the land use. I particularly have a quarrel with the sub-divisions. Land has been subdivided to such extent that it is no longer viable. I do not wish to see a situation where land is sub-divided for the purpose of sale, for the purpose of pleasing family members. You find a person with ten children subdividing two acres, it is no longer for individuals but how many wives one has. So this has brought a lot of waste. There should be a way where the head of the family is protected so that all uses land. If the head of family dies, there should be something in place to guarantee that the land remains family land.

On land issues again, if you go to my place today you find most hills are so bare. Trees have been cut, plantations have grown old, I mean farming going on at the top of the hills, on the riverbanks, and therefore, we have completely ruined our environment. So I want a Constitution that guarantees the existence of bushy hills, bushy river banks, and so on.

I also want to talk about the immigration laws in this country. To get a passport in this country is like a favour that one does to

anyone. I want it to be guarantee that whoever is qualified to get a passport is given without a lot of disturbances; someone should not be subjected to screening and all other things. In fact it easier for a foreigner to get a passport than a citizen or somebody who is born in this country. If you do not have a passport, and you are educated enough to go and look for a job, what is the way out? So I want that guarantee, at least the rules should be made easy.

Lastly please if you could give me just a second for that proposal. It is the health laws. The laws in this country are so discriminatory. For example if I look at; public health, if you went to Nairobi today, you will find so many food kiosks without a toilet, without running water without any sanitation, let me say, and it is licensed. If you came here to Western, if you had such a building, even a good building lie this, if it not painted, if it has no toilet, you will not be given a license. If you go to Nairobi and elsewhere, you find a kiosk having electricity. In Western here, and other places you will find electricity board coming to ask for an electric certificate, so many conditions, so you find in one country the laws, governing the same area are so different. Thank, I would have wished to say more.

Com. Salome Muigai: Yes I have one question for you, thank you very much for your submissions. My question is on land views. You have told us very real things that are happening on the ground, now you also want to see after the death of the head of the family a way of keeping this land together for family use. Do you have any strategies that you have seen work, either in your own area or elsewhere where people have managed to keep their land intact,?

Mr. Omuse: Yes I have something in mind. In our family, unlike today where we find this scourge of AIDS wiping out everybody, normally if a family is in existence, if the father dies, there is the first born. If the first born is not there, there is the mother. If the mother is not there, there is the clan. In the absence of all those, there is the administration.

Com. Salome Muigai: That is interesting for me to hear that the first born comes before the mother.

Mr. Omuse: Yes it happens because it is possible in my society the mother can take off with another man to another place.

Com. Muigai: That is why it is the first born, then the mother.

Mr. Omuse: It is possible your mother can leave you and go with another man to Uganda, we are near the border.

Com. Raiji: Thank you very much please register your self. Wyckliffe Kibisu.

Wyckliffe Kibisu: My names are Wyckliffe Kibisu Majengo, I come from Vihiga. Now I have four issues which will be tied on with my proposals. The first one is rights of the Kenyans citizens to sue the state. This is in line with may be the service not delivered, commensurate to the tax paid. Now I am led to realize that most Kenyans have been saying that they are highly

taxed, which according to my research I realize that is not true, but actually they have always been taking that tax but not doing the work that is actually intended to do.

Most of you realize that when we are using our current roads, you realize that most of them are in a bad state. You realize that these roads are actually intended to be made may be out of the tax the citizen pays. If we take a country like Canada, Kenya we pay around thirty percent tax, on income. In Canada they pay around fifty percent. Now this citizen from Canada, you ask him, are you actually being over taxed? He will actually tell you no. I see the services I actually receive from what I pay. Because you realize like if you have a car, may be the standard which most of us own the Dubai models, we realize that it takes only a day for that car to break down, simply because our roads are in so bad situations that you cannot actually trust such a model of a car on our roads.

We have realized that we have actually lost very prominent people on the road, simply because they were trying to swerve to avoid a pothole. You are driving on a smooth road, all of a sudden like even in the most highway, you find a very big, pothole it is as if you are going to a sea-bed. So that is an area that in my view I think it is something very important to give the citizens the right to go and complain and even sue the government if that particular individual does not receive the services is due. Unfortunately, like the current Constitution gives the taxman, or the government gives the taxman very overwhelming powers that he can even come and snatch or may auction your things if you refuse to pay tax. But what power does that particular law give to that citizen when he does not receive that commensurate service, from the same.

One of the things that I have realized is that and I still remember last year, the citizen of Langata, when they failed to receive the services that were required from Nairobi City Council, they actually petitioned the City Council and were allowed by the court to put the money in the funds, and develop and actually bring water in Langata area. Now can the law also give the common man the same power like what our brothers in Langata did, are we also supposed to come up and go to petition the government and actually say that if the government cannot repair our roads down there we can put in a fund and raise the roads. My proposal is that the Constitution that we are looking at should also give the citizens the right and the powers to go and petition the government when they have not received the service that they are paying for.

My next issue is on my advocacy for the role in Constitution Review. Now we realize that from 1963, up to now when we are thinking of reviewing the Constitution it is actually a number of years. Take for example a country like United States; they have always been having a system of holding Constitution review. Now, one of the things that's I have actually seen is that most of the things that are actually mentioned on the current Constitution were meant for 1963, which actually have lost the economic sense. Take for example, the law of bankruptcy. When somebody talks about that somebody is able to take you to court when you owe him less than a hundred bob and declare you to be bankrupt that was the case that was in 1963. You see that the current Constitution is still having the same thing, which was there in 1963. Now look at that economic sense, the hundred shillings of 1963, is not the hundred shillings that we are talking about right now.

Interjection: Com. Raiji: I think you have already exceeded the five minutes i gave you by a wide margin, I give you one more minute to wind up.

Mr. Kibisu: So, my proposal is that the new constitution should actually give out the provision for a role in Constitution review whereby the professionals should be approached and actually make the law have an economic sense.

Com. Raiji: Thank you very much, registers yourself. I will now be giving everybody five minutes as we normally do, somas to encourage many people to come forward, Mr. Fred Masakha. Karibu bwana. Start with your name please.

Mr. Fred Masakha: My names are Fred Masakha. Thank you for allowing me to have this session. I only have about one two issues. The first thing I should mention in our country there are things that I see getting us down the road. There is one thing that I have seen that is very dangerous. Land has become the main resource in our country and you can see the kind of heat it generates. I do not know what the current constitution actually has in place in protection of this. For example let us look at the way allotments are done in our country. I am especially looking at this trust lands. I do not where I can own the municipality, city council plots, we have these government lands like the ADC farms, the SSP farms Settlement schemes or trusty Funds, we have things like in Ukambani like those Masombolenis and the like. When it comes to such thing s you find politically correct individuals will own land all the way from Transoia down to Mombasa. back to Kisumu and everywhere, simply because he is politically correct and can influence issues in every municipality. I do not know if something can be put in place in such a way to control that kind of greed. I know it is human nature everybody wants to make something up his ways, but if that kind of situation can be controlled and put in away, what you can own, and then I think that would really be a way forward. Like in our country you will find people owning tact's even more than ten thousand hectares of land and may be it is not being put to any good utility agriculturally.

Point two I have is this wanton destruction of our natural resources. Look at the state of forest, which we had from 1963. If you moved round now all the way from the mount Kenya region, come to Mount Elgon, go everywhere, even if you go to Turbo, from here to Turbo, all that place was covered under a very good natural forest. We do not have that. We are seeing it we pass there everyday. All our leaders pass there, but you will just see individuals are being shared up all these things. They do not even care, we keep complaining about drought, we have a drought, we think of Elnino, nothing happens. How are we going to enshrine and protect such kind of things? It should be put even in the Constitution, that those who manipulate the system and actually destroy these resources are to receive good penalty. We want to come up with the kind of Kenyans, do I think the way you think, and do we think of others or you just think of yourself driven by your own ego?

There are so many things I would say, but the main thing look at finally would be the institution of the presidency. Currently, if you see the way things are running it looks like in our country now, actually everything is just at the mercy of the institution of

our presidency. Unless controls are put in place in our current Constitution, I think our future president and Kenyans will find themselves at ransom of just one person. What I really mean is this, what should be enshrined in the constitution, is we should have a situation whereby any leader in place should be impeached. I do not know if in the current Constitution you can try to impeach a President or anything, because I saw one time when after an election one person tried to petition and I think he could not manage it. We want a system whereby if anything the truth can be found out and things can come out. If a president cannot be impeached or any other leader put in position in charge of anything, public offices, if wananchi feel that we have seen anything wrong there is a free and fair way in which these people can channel and impeach and get the right results in the shortest possible period. I think I will leave it there because maybe most of what I have been touched here and there.

Com. Muigai: I have one question on idle land, you talked about people having big chunks of land and probably not making good use of it. What are your proposals?

Mr. Masakha: You see, economically if you become agriculturalists we have prime areas. When I talked of these prime lands. I am looking at lands in Trans Zoia, Uasin Gishu, Great Rift Valley, all these areas, which have good prime, the former white settlers,

Interjection. Com. Muigai: ...and you have a dream of what you would like to see, so can we have

Mr. Masakha: My dream is this, why should one person own about ten thousand acres which he is not putting.....

Interjection. Com. Muigai: Do not ask a question, give us proposal.

Mr. Masakha: My proposal is I know very well like in those white settlers highlands, some legal framework should come up whereby somebody can have a hundred acres at maximum that you can use for your productivity.

Com. Muigai: What do we do with the remaining acres?

Mr. Masakha: The remaining pieces can also be allotted to the others. What we are looking at is equitable and not free of course where you simply go and queue in a simple manner, because it will simply just go on and be a merry go round again. Like the way we see in other countries like Britain or wherever, you will find the agricultural land is collectively farmed, whereby if somebody let's say we need so much maize in the country. We just let people who can farm maize, do maize. Those who can farm wheat, let them do it, you see that, for you will find one time like last year we had a bumper harvest of maize, we are almost in the middle of the same year, we are being told we will be importing maize from maybe South Africa or America, it does not give any sense. So you wonder what really our policies are.

Com. Raiji: Thank you very much. Register yourself. Jesinta Aluoch Ogola.

Com Muigai: Start with your name

Jesinta Aluoch Ogola: My names are Jesinta Ogola Mrs. I am here on two issues, one I would like to be in the law that the Constitution of Kenya is simplified to the common mwananchi so that we are to understand probably the current Constitution is so good and yet we are quite ignorant. I have a proposal, one of the proposals could be right from school, there could be a way in which this could be passed to the students right from Primary schools so that the children grow up knowing that they are Kenyans, knowing their rights right from down there.

I have a second proposal, which could be put into law, about children. Currently you find that parent's work so hard may be in the office in business and they acquire so much death. But the rate of deaths is so high either through accidents or through sickness and when a parent dies, you find in most cases that is the end of most of his hard work. So probably through taxation there could be a provision whereby the tax we pay is allocated to children so that when they reach 16 years old, they are given some allowance. That would reduce the poverty; eradicate poverty in the sense that when a child is a Kenyan and he is 16, automatically there is some allowance that would be guaranteed. I think those are the two main issues I had.

Com. Raiji: I have a question. Now this allowance that you are proposing that we give to children over 16 years of age. I assume it is meant to cater for the welfare of their well-being. Should that be given even to children who are from wealthy homes from parents who can manage, or to the orphans and the poor children?

Jesinta Ogola: I believe once a child is born in Kenya he is a Kenyan, so it should be uniform for all Kenya children.

Com. Muigai: Just a follow up to that, you have said that for children who are Kenyans you want them to be treated equally because they are Kenyans.

Jesinta Ogola: Yes.

Com. Muigai: Is treating them the same treating equally according to this situation because as the Chairman said, say if myself I am working for Mumias Factory will my child get the same allowance as the child who has lost both parents? Will we be treating them are the same, are we treating them equally, is that okay with you?

Jesinta Ogola: That is one, then there could be another provision where orphans could be also be given another treatment by improving on their allowance may be increasing it.

Com. Raiji: Thank you very much Jesinta, please register yourself there. Has Erick come back? Then the next person is Joseph George M. Lutta.

Mr. J. G. Lutta: Good evening, my names are Joseph Gorge Luta, I have about ten issues, and others have been touched. I will go straight the most critical ones.

One is that there must be a mechanism or in the Constitution there should be guarantees of accountability and transparency. Now somebody told me the meaning of these words is that in simple terms is doing in light what you do in darkness. What I mean here is that the constitution should guarantee self esteem for Kenyans. When I was growing up, people who were successful were those who worked hard, passed exams, went to good schools, went to university, got good jobs, through hard work and not through stealing. What we see now, our children do not work hard because they see people who did not go to school are the ones driving big cars because they have stolen. I do not know whether it is not in our Constitution or it is in our Constitution, but we should have a Constitution that all people are responsible for their actions. If you steal there should be meted to you a punishment that will deter others from stealing. We should not worship those who steal. Instead we should actually sympathize with them.

Two, land ownership has been touched but I would just add that we should have equitable distribution of land. The land tenure system we have is poor, in the sense that you will find a minister in the government is owning thousand or three thousand hectares which is lying idle, in a prime area, as it has been said. Kenyans are suffering, there is hunger and yet rain is there, and here is fertile land, which is lying idle. That land should be distributed equitably or fairly to those who are actually professionally trained to produce, just like in America. The current system is poor.

We should have a system where our country is not turned into a police state. I know we have guarantees of freedoms from security, freedom of association movement, speech, but these ones have been abused with impunity. I think we should uphold sanctity of human lives. We have had cases where our policemen have been misused to kill even people in cell and nothing is done about it. I thin human life is given by God and nobody should be able to take it. We should be proud of our country, but we cannot be proud of our country if I am not free to associate with somebody from Mombasa or somewhere else. We should have in place something that guarantees this freedom and we insure that it is implemented.

I believe that we should restore the Kingdoms that were there in this country. Uganda has done it and it had gone down very well. I do not see why our life styles should be changed if people of Coast Province has a Kingdom why not restore it? It will not rival the Central Government. Because the Kingdom in Buganda is not rivaling the Museveni government and it is working. Now if people are herdsmen, why do you want to force them to be agriculturalists? So let us restore what each community is better at doing.

Leaders should be impeached if they misuse their offices, and here I would be very particular, particularly the President and his government. If a President is misusing his powers, I think he should be impeached, he should not be above the law because it is the citizens who give him the freedom and the power to lead them.

We should have laws that guarantee smooth transition from one leadership to another. What we are seeing in the country, if Kenyans were not law abiding it can lead to blood shed. So we should have proper laws that guarantee for example we could have the Speaker of the National Assembly taking over in the event that the President is incapacitated, because what we have now is that the President is so entrenched in power that he decides what to do with the Kenyans.

Parliament should vet all presidential appointments. I think this one will be just like we have seen in America. The President does not appoint anybody who is not approved by the Congress, and the Senate. So we should also have laws in place which guarantees that whoever is appointed by the president, will pass the test of the parliamentarians.

Retirement age should be increased to 65 years because this is the time when most people are productive. When you are telling people to retire at 65 years, I think that we should come up with things like councils of elders in villages, because they are the ones who know the people in the villages where they stay. We have a chief who may not know people in his location, we have a D.O. who doesn't know people on the Division, and yet when people make mistakes, they are the elders who will identify such people and they will produce those people.

The second last I am saying is that all our laws should be translated into vernacular. Magistrates judges should make their rulings in the vernacular language, because we have had cases where Kenyans are jailed just because they cannot understand the language the magistrate or the judge is speaking. We do not understand why for example a magistrate in Mumias should be speaking English to people who have not gone to school, I think it is unfair.

The death penalty I am suggesting it should be abolished, because life is given by God and instead people who deserve to die should be jailed for life, they should be kept away from society for life, and I believe that will enable us to have a good country.

Thank you

Com. Salome Muigai: I have a few points of clarification. Do you suppose that age 65 is too old, people should be retiring at age 40 because the youth need to work? I am glad that I heard you say we could create employment so those are two different and seemingly conflicting views. I am just going to ask another one. Then you have talked about Council of Elders. Is Council of Elders made of old men, old women, Old men and women. What is in on the ground; and is that the same thing we want to carry on into the new Constitution?

Mr. Luta: I will explain. Let me start with the age. You know our country the way we go to school the Education Act or whatever it is, you cannot take your child to standard one if he is not six years. So by the time you go through the rigours of the school life, and, may be you go to university, by the time you come out you are may be 25 years. So when you get into the job market, if you are saying forty you will work for 15 years, you will not have done much. In fact the time you are being asked to retire, that is when you are most productive.

Two wisdom comes with age. Like Moi would tell you that he has more experience than all of us here, and we shall agree. If we do not want tap his experience, I do not have as much experience as he has. That is not fair. So let us allow as many Kenyans as possible into the job market and we can create jobs in this country. It is only that people have misused the resources, otherwise we have Korea which is more developed than us and the only resource they have is human resource. We have more resources but we have misused them, or we have misallocated them. Because somebody has 300 million shillings in the bank, and another one has no one shilling, so let us create more jobs and allow more Kenyans to work because at age 40
....

Interjection: Com. Muigai: I think you have made your point.

Mr. Luta: On the case of elders, when we talk of elders it does not mean necessarily old people. We just use it the way the Bible uses man to signify human beings, because the Bible does not necessary mention women but it mentions man. So the same way we are using elders, we can even include the youth because the youth will be part of that council, the women will be part of that council. Just as it is happening in Uganda we have LCCB, Local Council Control Board. They are the ones who should monitor what goes on in the village. Otherwise the D.O. who is staying in Mumias does not know what is happening in the village.

So when you go to report to him, he wants a bribe. But if we have collective responsibilities I think it is going to take us far. Thank you very much.

Com. Raiji: Is there anybody else who wants to make submissions to the Constitution Review Commission? Get the opportunity now. Inaudible: I think what is happening is that we have actually had a very long day working so we have just extended this one over you people, and at least you have heard the main concern. I am looking for somebody else who has not made any points and want to make such points now. If there is nobody, it seems the rest of you are happy with the state of the affair, I would fully concur with what has been submitted, yes, karibu karibu. Please start up with your name.

Jivane Alfayo: My names are Jivane Alfayo. I know most of the points I had have now been raised, there is only one small point I want to add in regard with the way we conduct our education system in this country. In the new constitution I would like to have a provision where we allow the technocrats to handle the technical aspect of a given area. Like if it is education, let us leave it to the education specialists, instead of giving it to people who do not know very much about that area. That also is in

regard appointments of ministers in future, we would like to see ministers appointed to be with some experience in the areas they are going to handle, rather than appointing people who know nothing about what they are going to head. As somebody else has already said, we would like the parliament to vet Presidential appointments.

I want also to echo what a colleague has already said. In this country there seem to be no respect for human life. It has been echoed very well but I think it is a very serious issue, people do not seem to value human lives, we are no longer taken as sacred, because people get away even under committed crimes against humanity. Let us state clearly that life is God given and people who go wrong in that respect must be dealt with without any favour.

There is also another glaring thing that seem to annoy a good number of us, a number of people in this country commit crimes and are never punished. In fact people think there are two sets of laws in this country. One for poor people, and one for the rich people. You can see it in our courts everyday, the punishment meted out to poor people is very severe, and yet we have many people who have committed economic crime against this country, we know them and we do not touch them. I think it is a very bad thing. I hope the new Constitution can have provisions not to have such lapses in its operation. That is the little I had, I know other points have already been made.

Com. Raiji: There is something I wanted clarification. You mentioned something about ministers being appointed in posts of certain areas and so forth. Are you suggesting that ministers be qualified in respect the ministries that they are appointed to head, like say if it is health you get a doctor?

Mr. Jivane Alfayo: I am sure I would like something like that. At least we should have minimum level of education that members of Parliament should be holding. I would go by the last provision in the last Constitution, the Constitution that has been in operation at least he must be of high school education, form four level. Otherwise when you take people who are illiterate and they are trying to handle issues they have no ability to handle then we see the mess that we see in this country in the Local Government and in a number of areas. I would like to see competent people. Once they have been appointed at least there will be somebody in any given area who can handle that area specifically with competence, rather than just appointing any Tom Dick and Harry, to deal with an area they have never handled in the past. Thank you very much.

Com. Raiji: Thank you very much bwana Alfayo, please register yourself there. Any other presenter? I think with that, we have come to the end of this brief session, which was specifically organized for the staff of Mumias Sugar Company. We thank you for having shown interest in the Constitution Review Process and we want to assure you that the views that we have collected here, together with the views that we have collected from the rest of the district will be taken on board when we start drafting the Constitution and reports as required by law. Otherwise thank you very much, it has been a pleasure having you, and we ask you to continue taking keen interest in the Constitution because it will affect all of us. Thank you.

