

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

VERBATIM REPORT OF

CONSTITUENCY PUBLIC HEARINGS,

SIRISIA CONSTITUENCY,

HELD AT MABANGA FTC

ON

JULY 31ST, 2002

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Present

Com. Paul Wambua - In the Chair
Com. Bishop Benard Njoroge
Com. Lethome Ibrahim

Secretariat In Attendance

Triza Apondi - Programme Officer,
James Macharia - Assistant Programme Officer
Lydia Moraa - Verbatim recorder

The meeting started at 9.52 a.m. with Com. Paul Wambua being in chair.

Com. Wambua: Tunaona watu bado wanaingia lakini wale walioko sasa wamefika kama karibu kumi tutaanza na wao. Kwa hivyo kama ilivyo desturi yetu, kina mama huko nyuma, tafadhali huko nyuma tumeanza kikao, kwa hivyo tutamuuliza chief Wilson Khaemba ambaye yuko hapa atuombe nasikia ni mkristo asili atuombe ndio tuanzae kikao, tafadhali chief.

Prayer (Wilson Khaemba): Tafadhali msimame. Tuiname na tuombe. Baba mwenyezi Mungu tazama wakati huu baba tunainama mbele yako tukikulilia ya kwamba, utupe maarifa baba ili tufanye kazi yako. Tazama Macommissioner wako mbele yako baba, wanafanya kazi ya kuunganisha wananchi pamoja na kutafuta maoni ili yawe maoni ya kuweka wananchi pamoja. Hii Katiba baba iwe ya kulinda watu wako wa vizazi vya sasa, na vizazi vijavyo baba. Yule muovu shetani yeyote ambaye anataka kuja katikati yetu na kuaribu yale maneno mazuri ambayo yanaendelea hapa baba apate kushindwa. Tunaomba baba tukiamini kwamba wewe ulisema wote wanaokuja kwangu na kuniomba nitawasaidia. Hatuna mengi ya kusema baba lakini wewe kabla hatujaanza ulijua tutaomba nini. tunaomba tukiamini katika jina la Yesu Kristo aliye mukombozi wetu. Amen.

Com. Wambua: Asante sana Bwana chief kwa maombi. Nitawajulisha Macommissioner na wale wengine waliotoka kwa Tume kuja kupokea maoni yenu. Kwanza hapa tuko na Mwenyekiti wa kikundi hiki Commissioner Bishop Bernard Njoroge naye ako hapo katikati. Tuko na Commissioner Ibrahim Lethome Asman, ambaye yuko pande ile, nami naitwa Commissioner Paul Musili Wambua, nimeulizwa niwe mwenyekiti wa kikao hiki, kwa muda wa masaa sijui mangapi Bishop, matatu hivi. Kwa hivyo nitakalia kiti kwa muda wa masaa matatu mpaka hapo saa saba hivi. Na kwa upande wa wale waliokuja nasi kutoka kwa Tume, tuko na Triza Apondi pale ambaye ni Programme Officer. Tuko na James Macharia ambaye ni Assistant Programme Officer. Na pande hii tuko na Moraa Lydia ambaye ndiye verbatim recorder. Kwa hivyo wale ndio watahusika na

kuandika maneno yote ambayo yamesemwa, na pia kuyanasa. Kwa hivyo hakuna jambo ambalo utasema lipotee. Litanaswa na litasikika, basi kama Commissioners pia tutaandika yale ambayo mnasema. Huko nyuma kuna yule ambaye anatusaidia kuandika, tafadhali utanisaidia utaje jina, Wekesa na kuna Malobi, jina la kwanza mama, Christine. I was thinking it was Catherine Christine, sorry. Kama kuna wenzetu ambao wanazungumza kwa ile lugha nyingine ambayo sio ya kawaida. Atawaeleza waelewe ni jambo gani ambalo linaendelea hapa.

Kwa hivyo taratibu tutakazo fuata ni kama ifuatavyo, utajiandikisha huko ukiingia, tayari nafikiria wale wako ndani tayari wamejiandikisha. Utaitwa hapa mbele, utaketi pale uzungumze, utoe maoni yako, utataja jina lako halafu utoe maoni, nitakupa muda wa dakika tano tu. Ikiwa uko na memorandum umeandika, hiyo memorandum tutaipokea, tutaiandikisha pande ile halafu tataenda kusoma. Lakini tafadhali ukija hapa mbele, usitusomee memorandum maanake tutaenda kusoma memorandum sisi wenyewe. Unatakiwa tu utoe yale ya muhimu, highlights peke yake.

Yale ambayo unafikiria ni ya muhimu ndio utatoa halafu memorandum utuachie maanake tutatumia muda mwingi kusoma yale maandishi yote ya kila mwanakenya ambaye ametupatia. Basi unaeza kuchagua kuleta hiyo memorandum bila kuzungumza mambo yoyote, utaacha jina tu ukuwa pengine umetumwa ulete kama ni yako, unaiandikisha hapa. Unaeza pia kutoa maoni bila maandishi. Unakuja hapa unataja jina lako na kusema yale yote ambayo unataka kusema, lakini ikiwa jambo limetajwa hakuna haja ya kulirudia maanake ikinaswa imenaswa. Unaweza kutaja kwa kifupi tu, halafu uende kwa jambo lingine ambalo halijatajwa ndio tumalize mapema.

Lugha ambayo unatakiwa utumie, unaweza kuzungumza Kingereza ama unaweza kutumia Kiswahili, na ikiwa uko na shida na lugha hizo mbili, pengine uzungumze na Kibukhusu, nafikiria hiyo ndio kinyumbani hapa. Halafu tuko na translator hapa atatuambia yale ambayo wametaja kwa lugha ambayo tunaelewa halafu tutaandika. Lakini kidogo tangu tuje hapa tumejua hiyo lugha sasa hata wakisema pengine tunaweza elewa kidogo tu, sio sana. Basi tutaanza na kulingana na orodha ambayo imetolewa hapa, pengine kabla hatujaanza nitaje ya mwisho. Commissioners wako na haki ikiwa kuna jambo ambalo halikuelewika, tuko na haki ya kuuliza maswali ndio utueleze vizuri, tuelewe unasema kitu gani. Kwa hivyo mwisho pengine ama ikiwa unaendelea kutoa maoni na kuna jambo ambalo halikuelewika, Commissioners wanaweze kuuliza maswali ndio ueleze sawasawa.

Basi kulingana na orodha iliyoko hapa, tutaita watu kulingana na vile walijiandikisha, yule aliyejiandikisha kwanza ndiye atatoa maoni kwanza, first come first heard. Kwa hivyo yule wa kwanza kabisa ni Gabriel Nyongesa, unaeza kuja hapa mbele Gabriel na utarudia jina lako ndio linaswe kwa machine halafu utoe maoni kwa kifupi tu. Na muda ni dakika tano. Nikiona Principle wa shule akifika, ambaye tunamtarajia Lucas Mukamia, niambiwe ndio tumtambue maanake tuko kwake ni nyumbani hapa, kwa hivyo mnieleze akifika tafadhali. Tuendele.

Gabriel C. C. Nyongesa: I am a farmer. Before this panel of Commissioners, I have the following as my views they have been

outlined;

The type of government, I suggest that we form federal system of government and along with that I suggest that this ones to run with the Head of State as the President, then followed by those to build the state, the governors then after the governors coming down, we go to the D.C. and then the chiefs and the village elders.

The Legislature; I suggest that the President should be at least 45 years. That is between 45 years and 75 years, because elderly adults have more life experience than the young adults. Also the President should be a graduate, should be a degree holder to merge the current international developments.

Thirdly, I have something to say on the Local Government. I suggest that the minimum educational qualification for Councillors and mayors, should be successful form four. I think I am through with that one.

Fourth, the basic rights; the Commissioners Sirs, I suggest that the Constitution should provide security, health care, water, education, shelter, food and employment for all Kenyans. This is because all Kenyans pay tax to the government. So that must be done by the government.

The Constitution should also provide compulsory and free education up to university level. I am through with that one.

I come to land and property rights. I suggest to you Sirs, that the Constitution should give a sealing on individual land ownership. I suggest that an individual may on a maximum of one hundred hectares, in order to make every Kenyan accessible to the land we have.

This one here is on cultural, ethnic and regional diversity and communal rights. Here I have a suggestion that our cultural and ethnic diversity, should be protected and be promoted by the Constitution. However, the ethnic groups should modify them to merge the modern way of life. We have to modify them to match the current way. I also suggest that we should have two national languages, and these are English and Kiswahili. Furthermore, honourable Commissioners I suggest that the Constitution should recognize and promote the indigenous languages for ethnic identity.

The next one, this one is on management and use of natural resources. This one honourable Commissioners I have this to say, I suggest that the government should be required to apportion benefits from resources between the central government and the communities where such resources are found. I say that because this one here we have to encourage the community, to produce more and promote the economy of our country.

Interjection (Com. Wambua): Do you have any proposal of the apportionment, regional.....(inaudible).

Gabriel C. C. Nyongesa: I suggest that the communities that produce the commodities, get 75% and the remaining 25% can go to the central government, because that is beneficiary. They should be beneficiary than this. Last but not least is number 8, this one honourable Commissioners is on the Constitutional Commissions, institutions and offices. I suggest that for proper checks and balances, in our government, the Constitution should establish an office of an Ombudsman, and I suggest that this office because it is supposed to be independent, it should be appointed by the Parliament. That is all I have.

Com. Wambua: How do you want the indigenous.....build schools.....(inaudible).

Gabriel C. C. Nyongesa: This is because you know in schools we teach mother tongue, this is for the curriculum it is on the syllabus and mother tongue I think is the vernacular within that ethnic group. So I feel it should continue. For mother tongue I think it is always taught in primary, that is from standard 1 to standard 3. Thank you.

Com. Wambua: Thank you very much. Please register yourself for your good views. Register your memorandum there. Wilson Khaemba. Bwana chief kuja mbele, is it Khaemba naona a imekosekana. Yule alikosea kuandika.

Wilson Khaemba: My names are Wilson Khaemba I am a senior chief of Luhya location. First I would like to make the following suggestions. One is on governance. I propose that we should have a government of national unity so that our winning party doesn't take it all, thus leaving others out, that is on governments.

The second is about the Provincial Administration. I suggest that the Provincial Administration should be included in the Constitution and its structure should allow promotion and professional clause. Their roles should defined clearly. That is why I am saying structures as for example now when somebody ends there as chief grade II, the highest rank of promotion indicates is senior chief like what I am holding now I end there, when it is not supposed a chief is supposed to crawl like when somebody enters as a D.O., he goes up to the P.S.

Interjection (Com. Wambua): Are you suggesting that cases where one can.....(inaudible).

Wilson Khaemba: Yeah. That is what I am suggesting because if somebody has got the qualifications which are set there, he has the qualification, then he should have to crawl, rise up and climb up the ladder.

Com. Wambua: Do we have a situation where chiefs are having been promoted to D.O.s?

Wilson Khaemba: Sometimes back. Currently it is not there. That is all I have.

Com. Wambua: I want to ask one more view. What is your suggestion that we do away with Provincial Administration, because that has been a common proposal everywhere, do you think there is a role to play, and you will want to share your views as part of civic administration what should be done to the Provincial administration?

Wilson Khaemba: My views here, first when I made my presentation I said that the role of the Provincial Administration should be outlined or spelt out clearly. My views on saying that the Provincial Administration should be done away with, I will differ with that because in its senses the Provincial Administration play an important role as far as mobilization of the people is concerned. I will give an example, for example when we have harambees in our areas, the Provincial Administration are the people who mobilize people to contribute and tell them the importance of the projects that the money is going to do, so that this people will have to contribute. They mobilizes people in this case or rather they do a lot, because when it comes sometimes for criminals, the Provincial Administration, highly gives assistant chiefs would know who is really in culprit. We have cases where some people do things which are against the professional ethics, but that one should not be all hardly be blamed on all Provincial Administrators. But they play a very important role.

It is just like some people were suggesting that chiefs should be transferred, I would say no because, the chiefs should be in that area to know those people, if you take somebody for example a Mkamba to come in my location here, he will not know this people, and people will think for example if you are holding an harambee, they will think that if we contribute this money, the chief who is not our tribe will soon be transferred, so they will not contribute towards those projects. Those are my views on that. In the suggestion that we elect chiefs I would say no because, if you elect me and probably I might be aligned to a certain politician, and now if I am elected I will be serving the interests of that politician of whom or that party that I am, I will not be serving the people, but if I am just appointed like the others, I would serve all people without fear, favor or tribes. So that is it.

Com. Wambua: What about if the chiefs should be transferred within the location.(inaudible) you can be taken to another location. Does that affect your performance?

Wilson Khaemba: Though we have prose and codes always, but sometimes the locals, what the views the locals normally have, they want to have their own, so that one has also has had an impact on that.

Com. Wambua: Thank you very much. Chief you can sign there and present your memorandum. Let us call Patrick N. Wanjala.

Patrick N. Wanjala: Kwa majina naitwa Patrick Nyongesa Wanjala. Nimetoka Bungoma Disabled Organization. Niko na memorandum hapa, na pia nina machache ya kuongea. Katika yale ya kuongea.....

Interjection (Com. Wambua): Sasa utanzia ya kuongea, halafu utatuachia memorandum.

Patrick N. Wanjala: Okey sawa. Katika Katiba ambayo tunataka iandikwe, maoni yangu ni haya. Watu walemavu ama vile wengine wanavyowaita wasio jiweza, na ni neno ambalo huwa mimi ninaliona kama ni upumbavu kwa sababu hawa watu sio eti hawajiwezi, wanajiweza lakini ni kwa vile tu wanatengwa. Watu hawa ingekuwa vizuri, kama wangepewa elimu kuanzia shule ya msingi mpaka university free, bila malipo yoyote, baada ya skuli waajiriwe bila kubaguliwa. Yule ambaye hajaajiriwa, apewe ile inaitwa soft loan aanze biashara. Wanaweza pia kupewa plot na wakastawisha ya kuwa na manufaa kwao.

Upande wa siasa, ningependelea Wabunge ama Councillor ambao wanaitwa nominated, wote wawe ni walemavu, na wapewe nyarifa mbali mbali kama Waziri, permanent secretaries, ambassadors, directors, chairmen and women. Na hapo maisha yao itachukua mkongo mzuri, hawatakaa njiani na hawataacha mstuni. Yangu yanaishia hapo.

Com. Wambua: Haya yote yako kwa memorandum yako Bwana Wanjala?

Patrick N. Wanjala: Pardon.

Com. Wambua: Uliotaja yote yako kwa memorandum?

Patrick N. Wanjala: Iko.

Com. Wambua: Haya tafadhali jiandikishe hapo asante sana kwa maoni yako. Jiandikishe hapo na utuwachie hiyo memorandum. Tutamuita Patrick Nandalo. Tafadhali kuja mbele Mzee, taja majina halafu utupatie maoni.

Patrick Nandalo: My name is Patrick Nandalo. Retired court prosecutor. Honourable Commissioners I have just a few topics to present before you, first one is about the Parliament of Kenya, I will take mainly about a quorum. We may shorten of the lack of quorum in Parliament and we don't know what happens so that it becomes land of quorum in Parliament.

Interjection (Com. Wambua): What happens is that you give us proposal.

Patrick Nandalo: So my proposal is that there should be a scheduled work for them for our Members of Parliament to work, they should work full time not as they have been working. By full time I mean if I can go far, they should work five days a week and 8 hours a day, just like other civil servants Mr. Commissioners, as other servants do.

Coming to the point of salaries of the honourable Members of Parliament, the salary is so exorbitant that it always carries a lot of money which they use in employing many people, so it is my view that it should be cut down to KShs. 100,000 a month so that the balance from the present salary can be used to pay for the other people who have no employment at all. Also about

deciding the salaries of the Members of Parliament, this should not be left to them to decide their own salary. I suggest that there should be a select committee to decide and approve the salaries of Members of Parliament.

The transfer of administration chiefs, it is my view that the chiefs work on the transfer kind of basis so that they can also be transferred from one location to another location but within the same district. This is so honourable Commissioners. I have an observation there also that the office of the Assistant Chief be scrapped off simply the work that that office had is very little. Most work is carried by the chiefs and it is very expensive. It is my view also that the village elders whom we refer to as ‘ Bakasainia’ of our are here,

Interjection (Com. Wambua): And when they are many Baka.

Patrick Nandolo: When they are many they become Bakasa. One is Omukasa. The most work in the area or in the location is carried out by the village elders who finish a lot of problems and send the report to the chiefs, so it is the chiefs and the village elders who do most work in the locations, but the assistant chiefs does very little, if not they just go between the chiefs and the village elders. In that respect honorable Commissioners, I suggest that this village elders, they be absorbed into the government system and be paid as civil servants because they do a lot.

Interjection (Com. Wambua): Are you yourself a Omukasa.

Patrick Nandolo: I am too senior to be a Omukasa your honor.

Audience: (laughter)

Patrick Nandolo: I am just a farmer. Coming to the Bukusu culture, this mainly about circumcision, your honourable I would like the following practices to be either modified. That the boy to be circumcised should not make errands just running almost the whole village collecting the relatives to come for the ceremony, instead of sending the boy to run about, we the Bukusu should use the invitation cards that is sending letters to the people whom we want to come.

Interjection (Com. Wambua): I didn’t know why they are running errands, we should try even this errands would be run by our mothers.

Patrick Nandolo: They run that to invite the relatives that are required to attend the circumcision ceremony.

Com. Wambua: They go round collecting them.

Patrick Nandolo: Yes.

Speaker: Do they know where their relatives are? But that makes it even far much far if you just run here and here.

Com. Wambua: There is this view that we should do away with that.

Patrick Nandolo: I say so because this is very tiresome to the boy who is to be circumcised, he runs, he makes all this errands and at the end he ends up when he is very tired, and instead of that if we use invitation cards as we have been using for the wedding ceremonies, it is easier.

Com. Wambua: Who are this other people who run the weddings because I notice that(inaudible).

Audience: (laughter)

Patrick Nandolo: This are only escorts honorable Commissioners

Speaker: Have you asked the boys whether that is what they prepare to do because if you have them running, now you what it to be constitutionalised so that it takes time. Have you enquired from this boys where that is the way they like it.

Patrick Nandolo: I have not inquired but I think the boys only follow the instructions of their parents, so I am appealing to the parents to the Bukusu elders, that they encourage their children not to be running that way, but if they can use sending cards that one would be easier.

Com. Wambua: Can I mention this, I think what should be right you discuss it with the owner so that they can be agree to arrange them, because culture is a very important aspect, address all this we cannot do without.

Patrick Nandolo: It is only that I found it in one of the informed choices, that is as one of the topics to talk about. That is why I picked on it.

Speaker: I think that what the chair of the panel says is that what would appeal to us is a competitive kind of decision to ensure it is a community affair. All he says is you have a right to say through Commissioners by building this. Deciding on culture, lets say we are a little bit sensitive, maybe you can clarify this, out of if the boy required to do that is it a day or to or is it by his own, how long does he take to do that.

Patrick Nandolo: Most of the time the notice time is about a week depending on how many relatives you want to invite. Another practice that I want also to be modified there, is about slaughtering an animal and putting the meat on the shoulders of

the boy.

Interjection (Com. Wambua): Let him talk, tafadhali if you have a different view you will come here and say, but when he is here he has a right to say what he feels, even if he says he wants all the Bukusus to shift to Uganda, he has that right to say. Let him say what he wants, if you have a different view, we will have as our observation that the chair manual has said it is a matter of culture to help us coordinate each sort of agreement. We should not do away with it. But give us your views.

Patrick Nandolo: Yes this is my view which I would like maybe the Bukusu elders to adapt anyway, I don't mean that you remove everything but to of course to clean that kind of exercise that we should not be addressing the meat on the shoulder of the boy to be circumcised. Second one is mudding the boy we don't need to mud the boy.

Interjection (Com. Wambua): Go to the next one. Why do they do that first.

Patrick Nandolo: We don't need to mud the boy. The boy before he is circumcised, he is taken to the river and he is mudded.

Com. Wambua: What is the importance of that part? Somebody was saying to me that in the(inaudible)

Patrick Nandolo: I want it in this manner honorable Commissioner, is that as the Kenya now develops, as civilization goes, it is time we could make changes instead of using that one, we could use the doctors, just take the child to the doctor for circumcision and it is as short as that, and they avoid such expenses of slaughtering this animals, taking the boy to the mud, that is where.....

Com. Wambua: It shows Bwana Patrick that what you are proposing is that you will need the owner to preserve the culture, the old.....(inaudible)

Patrick Nandolo: Yes please. That is the end of my memorandum.

Speaker: If you work with the boys they will know that is what is being done.

Com. Wambua: Asante sana kwa maoni yako. Thank you very much Patrick for your views, I think they are enlightening. Jackline Wamalwa come present your views. Jackline, I hope you have a memorandum, highlight the issues.

Jackline Wamalwa: I also have a memorandum to the Western peace region peace Commission which I will not go through I will just hand it over. But what I was saying all of the Catholic Justice and Peace is about the preamble of which our

Constitution does not have. If you just allow me to read output, we want to have in the preamble Sir. What we wanted at the Justice and Peace Commission, was that we the people of Kenya, having fought for uhuru together, continue to struggle for unity and thanking God for our stability. Recognizing the dynamism in our society, we unite to continue this process of patriotism, through collective dignity that recognizes God given rights determined to enhance good governance where democracy is exercised and sustained through the rule of law and order. Respecting the Kenyan in our ethnic diversity, we take it as a God given gift to sustain, support and cherish our nationalism. It is our promise that through this Constitution we sustain democracy. God bless and protect Kenya. That is what we wanted for a preamble.

I will brush through the defense and national security. Our Commissioner Sir, the disciplined forces, some of them are an extension of the Executive. This people are always where the Executive is. So you wonder whether they are serving the people or they are serving the Executive. On the uniformed forces, Kenya police the NSIS, a Commission should be formed by the Parliament to check out who is recruited and how the appointments are made. And on the political parties, the Constitution should limit the number of parties...

Interjection (Com. Wambua):(inaudible)

Jackline Wamalwa: Yes they should swear a legious to the Constitution not the government in power. On the political parties Commissioner, the Constitution should give our a maximum number of how many parties we should have. A political party should be a mass movement and not a personal property.

Com. Wambua: Are you suggesting that we should have three parties?

Jackline Wamalwa: On conclusion on the Executive, legislature and Judiciary, the Executive has a lot of powers which should be cut down, and the Parliament should be given more powers. Attorney General is one officer who cuts through all this arms of the government. The judiciary, the Parliament and the Executive. We should have a ministry of justice instead of having this all over.

Com. Wambua: This you say the office of(inaudible)

Jackline Wamalwa: Yeah we have him but his powers should be cut.

Com. Wambua: What will be function of the AG.

Jackline Wamalwa: Let me read it as everything chair.

Com. Wambua: We want to understand that.

Jackline Wamalwa: The AG should not be allowed to sit in the Parliament as an Executive. He should go to the Parliament as a law maker or something like that. But when he goes there being supported by the President, but he won't be able to serve the government and the people as such. So when we appoint a minister of justice, it will limit him, because there will be a(inaudible) in charge they will limit his powers, actually they should maintain him back. His roles should be defined. I will talk on the office of the Ombudsman. We should have such an office to receive people's claims and act upon them. Commissioner Sir I would also talk about the local government, I think it is important to have the local government and have the Provincial Administration. Because we have the mayor, the Councillor and all those people. A Councillor is elected he goes round campaigning and the chief is also more also appointed. If they are going to go all appointing, then they should be transferable. But if they are elected, then we should be able to remove them from office when they don't do their work. I prefer to have the local government than to have the Provincial Administration.

When we talk of the Electoral system the(inaudible) should be educated. You realize that in Kenya, when you make a tick, you know like I will have vacancies of voting, and we should have the presidential, the elections, the parliamentary and the civic elder at the same time. They should be separated so that we have ample time to scrutinize whoever we are going to vote for.

On the national land I will wish we have a national land Commission, district board and divisional board should have more women than men. The reason why I am saying that, you find that land is being sold, and you know in Kenya, women don't own title deeds, it is men who own them. So this guys just decide to go and sell off the land itafikishwa kwa divisional land control board without the consent of women. But I am very sure if we had(inaudible) division of the land control board, sincerely they would ask have you consulted your person. It will control some of the cases we have as men sign off the land and leaving the women landless. I have so much to talk about but since I have a memorandum I will give it. Thank you very much.

Com. Wambua: You have said about vulnerable groups.

Jackline Wamalwa: Women it is included here. Women come out as the right vulnerable groups. You know like the Constitution, it has the equity before the law clause, but does not have equal protection clause. Why do I say this, you realize that even in competition, let me say in politics, when women want to compete, you first think of your weaknesses as a woman first as you undress this and this would have been molested, but you see if it is stated in the Constitution that we shall be protected, then we shall be able to come up. Also on self-discrimination. Women at times they are discriminated about so much, like in the recent question of the armed forces, they were taking two girls and I think 8 boys, why? There are strong women who can serve in the women service corps, some are stronger than the men. I think women have been discriminated for

in a long time. Affirmative action should be put in the Constitution and you know affirmative action is not only about women, it is also about persons with disabilities and historical disadvantaged groups in representative institutions such as Parliament and local government. So the affirmative action should be enshrined in the Constitution.

Com. Wambua:(inaudible) you also proposed that men and women have(inaudible)

Jackline Wamalwa: Yes I proposed that if my husband is called Hezy, then it should be said Hezy Wanjala and Jackline Wanjala, not Mr. and Mrs, because Mrs. Can be anybody. You are saying he says Henry Wanjala and Jackline Wanjala, it is actually that is what is ours. Nobody can come in again, and even if you go and sell it, it will not be able to transact Jackline.

Com. Wambua: And the question of that child, we have heard that.....(inaudible)

Jackline Wamalwa: My view on that is that as much that it should be enshrined in the Constitution, we need education, you know culture is long it is stuck in people's mind, you know you are putting the Constitution in close tactics. So what we need is education, educate the man why the girl should inherit something. When you are educating, you don't even have to refer to the Constitution again, you will just remember and you will see the importance. So just as much as it should be enshrined, education is very important.

Com. Wambua: Why are you proposing just continuous civic education?

Jackline Wamalwa: Continuous civic education, that one is just a guarantee.

Speaker:(inaudible)

Jackline Wamalwa: On domestic violence usually when it happens in a family, people don't want to talk about them. So, it is very hard to find out what is happening where, but if such a case happens, I mean like when a father rapes a daughter, domestic violence starts, or a father continually to beat a mother, sincerely that man should go in, because in creation all are equal before God, and I can still feel as much pain as he is feeling. In domestic violence the men should be prosecuted so that when he comes back he does not harass me.

Com. Wambua:(inaudible)

Jackline Wamalwa: Three quarters of the cases of domestic violence is the men, women are very perseverant.

Com. Wambua:(inaudible)

Jackline Wamalwa: Actually should be same on that quarter. One thing I believe somebody arrested, is not fit in the society, if it is a man he should be castrated. Those are my views. Because you know you find that for defilement should go in for good, for rape it should be castration. That is my view actually.

Com. Wambua: And if the rape(inaudible)

Jackline Wamalwa: Same yeah, laws should apply to all of us.

Com. Wambua: Thank you very much. Jackline asante sana. Sign and leave your memorandum there. I am told that we have a lady presenting the principle of this college or institute, who is Lucas Mukamia and it is traditional for us to have to be invited, and therefore we have the principle Madam, you should come and formally invite us to this venue so that we can proceed. I have not been told your name but I think you can it for us properly. Just come forward and if you also have your personal views, we would you an opportunity to proceed to give your views after you formally invite us.

Pamela Mangondu: Thank you very much. I take this opportunity to thank the coordinator of this particular function of the Constitution of Review, I take this opportunity on behalf of the principal to say that you are all welcome in this institution to carry out this noble function. We are all aware that this is an important activity, important function that is going on, it has got to mean a lot to our country, it is going to cause a lot of many changes to our country and to our people, and therefore it is very much welcome. And as a public institution, we are happy to welcome you and to ask you to feel at home as you continue with this particular function.

Com. Wambua: Start with your names first and give out your views.

Pamela Mangondu: My names are Pamea Mangondu. My views, I will give them let me just organize them. I will give them.

Com. Wambua: Lets have Dismus Mayende.

Disumus Mayende: I am Dismus Mayende, the other name is Wafula, I am Pokot by tribe. I am happy that I have got a few points to extend them to the Review Commission. The first one is on the preamble. I have said that in Kenya, we only have a statement which says insovereignty be personal, and therefore, this preamble because it is not there, I think the new review Commissioner should be included, because some other countries in Africa have tried their best and they have put it, like South Africa. I would say that the preamble is a clear in Kibukusu it is called 'Kifunane' nikifikiria old people understands it and it is in short form before the Constitution is carried out.

Com. Wambua:(inaudible)

Dismus Mayende: The second point on preamble, I will talk about the crime and punishment of traditional African society, and in this one, as in the new Constitution Review, that because it also helps, and it has been helping even before the Constitution is carried out, should not be for ordinary to be left out, because in sometimes the fines were like goats, sheep, cattle, and it helps in judging, it was helping the people to be forwarded to this Commission, it was helping us and I feel it is better it should be recruited. For example, if a boy messes up with a lady or a girl, and then the boy denies having given the lady pregnancy, and then we have no prove at all. Normally traditionally say pass between the legs, and once you pass between the legs, you believe you will die soon, and therefore you will say the truth. And if you have never done it you won't die.

Com. Wambua: We have understood the traditional mode of punishment should be included in that.

Dismus Mayende: The next point is on land. I have distributed this question in two points, one is that for all people in Kenya, most of our people in Kenya are landless. Why? Is it few people have got jungle of land.

Com. Wambua: Your proposal.

Dismus Mayende: My proposal is there has to be an estimate of that fertile land, particularly where the lands are, and the fertile land is okay, people have intended to go there, and they have boycotted the other areas where there is the same story. I have decided to say that the government should come out with a policy to establish those same areas, so that we can utilize them economically, rather than lying itself. On land inheritance, it is too costly, for this man if your father is dead, or has died you will find that to get even a title deed name to be transferred in your name as the some is very impossible.

Com. Wambua: What is your proposal that we do away with those cases. What should be done here?

Dismus Mayende: We do away with those things. Because the land is for your father and should be given to you. Another point is I was adding on land inheritance, that the some normally is, in the African way we have sons to get land first, that is the priority we have and we believe in it, because the ladies come they go to get land in a different way from where they have gone.

If you have married you will give that lady land, therefore the lady should not come at home and then claim from the father another land. There would be double dealers.

Interjection (Com. Wambua): What is your proposal?

Dismus Mayende: My proposal is where the lady has been married the land should be given from that family.

Com. Wambua: So married women inherit from the husbands. If they divorce should they have land? I am not talking to you, we are talking to the representatives.

Dismus Mayende: I am saying if they divorce and she comes back, in a sincere way they can declare because they have come back and they have no husbands, then they can get land. But if they remain there, they should do it, but it is the lady and she has children there, normally there is no question of getting land from the father.

Com. Wambua: If she doesn't hurry she remains there she even gets children, she gets no land, if she is unmarried woman.

Dismus Mayende: That one if she is unmarried and she stays with the father, that one I will say she gets land, but if she is married, and she gets children from a different person or husband then that one should get land from the husband. In that family.

Com. Wambua: Move on to the next point.

Dismus Mayende: The next one is the presidency office, it has a lot of power, we need to trim some of the powers and give to other people to help the President, because he has loaded with a lot of material in your head you sometimes mess up.

Com. Wambua: What are these things you are talking about? Where do we take the power.

Dismus Mayende: I would like the power to be if the prime minister is there. We want him to be there, not everything heaped on the President. Somebody has talked about the administration transfer for the chiefs, also I had the same, that chiefs should be transferred because they are appointed by any other civil servant. He shouldn't remain in one place, but if they want to remain let electors or the people of that location elect the chief, and that will remain there because the chief in that area will be elected. But if they have been appointed with letters from Nairobi, they should be transferred because they are called farmers. Another one the government I see the system. I feel federal system could work in Kenya at the moment. Because the federal system is the decision of the government. The government will get regional government with their own assembly, people work they employ their own people where they are, I feel that unitary government forgets other areas, because this people look, every President comes from Rift valley, most people from Rift Valley will be employed will be Commissioners, should be everywhere. And when others in Western Kenya, we have children who are learned and they are just rowdy with the farms.

Com. Wambua:(inaudible) go to the next point.

Dismus Mayende: Education; I feel education should be free, from one up to form four, then the university, because we want to educate everybody in Kenya. If we don't educate everybody in Kenya, only what hinders people not to be educated is fees,

secondly, 'chokora' will not be there because they will go to school. There are some people who are born without fathers, they have single mothers.

Interjection (Com. Wambua): What do we do to those.....(inaudible) we will make it compulsory.

Dismus Mayende: It should be compulsory. I had a different idea also, in any case if the Provincial Commissioners are there, people should vote for them.

Interjection (Com. Wambua): I think your time is up please wind up tell us now the issue.

Dismus Mayende: The last issue is about the joining universities. Each district to be given a certain percentage well known in the Constitution that in Bungoma should be a certain percentage, joining a university, there we are very sure that we are not totally missing. But at the moment, you will find in Bungoma maybe one or two, when others are hundreds. So I feel we are very back there. The government or the review should come out with a certain percentage in every district, to join the public university. That is all.

Com. Wambua: John Wekesa.....(inaudible). Summarize the issues.

John Wekesa: Thank you Mr. Commissioners. I have very few points here to put before the Commission. To start with I will start with the preamble.

We need a preamble in our Constitution because, modern Constitutions have a preamble and that is why we need it, as it sums up the spirit and the philosophy of the document.

It explains who made the Constitution and for whom.

It explains the intention of the drafters.

It stipulates who has the supreme power in the society, is the leader or the people.

It describes the ethnical and political rallies which the society wants to uphold.

It also sums up the values which determine how the rules of the Constitution, are interpreted. The values which unite the society and make all citizens feel bad of one nation, regardless of their ethnical, religious, personal or other differences.

Issue of national revision that should be set out in a preamble, is that I propose our Constitution preamble to contain the following elements of our vision.

- a) To start with the declaration of independence in Kenya, adopted in December 12th , 1963, announced the father of a new nation Kenya. It set off a philosophy of human freedom, which is entire Kenya. It respelt not upon particular grievances, but upon a broad bases of individual liberty which could command a general support throughout Kenya and its philosophy is clear.
- b) We should hold this to be self confident that all men are created equal. That they are entowered by their creator by certain(inaudible) and reliable rights. That among this, life, liberty and the pursuit of happiness.
- c) For us to be sincere to this rights, the government is instituted among men, depriving their child's power from consent by the governor, that whenever any form of the government becomes destructive of this ends, it is the right of the people, to order or to abolish it or to institute a new government. laying its foundation on such principles and organizing its powers, in such a form as to them shall be seen most likely to defect their safety and happiness.
- d) We come to common experiences of Kenyans that should be reflected in the preamble are;
 - a. In all free steps

Interjection (Com. Wambua):(inaudible) give that memorandum. Highlight.

John Wekesa: On that area, I will have just to summarize the direct principles of certain policies. We need catilenges in our Constitution capturing the national philosophy, and guiding principles such as we should have a developed responsibility and implication in the administrative field of our Constitution on principles and values that govern the state power to exercise its power to maintain a spirit of loyalty to the Constitution set in the preamble. To demand the ancient liabilities of every Kenyan person. The last one is the Provincial Administration to remain the way it is, as it would assist the central government to set a proper feedback of what ever happens at the ground. The chief should be the custodian of both customary law and Kenyan Constitution. That is my few comments I would like to air out. Thank you.

Com. Wambua:(inaudible) thank you for your views. Kenneth K. Walimai. Summarize your views.

Kenneth Walimai: Thank you Commissioners who are with us today in Sirisia.

Com. Wambua: Give your name and present your views.

Kenneth Walimai: I am Kenneth Kereke Walimai. I am a secondary school teacher who teaches agriculture and chemistry in

Bungoma. Perhaps before I could go to my views, I would want to ask the Chairman whether the Kenya as a country as a nation, whether it is constitutionalised, is it within the Constitution of Kenya? The Constitution document of Kenya, Kenya as a country. Then Kenya as a nation as it is an identity, I would request that it becomes the first item in the Constitution.

Interjection (Com. Wambua): Give that as your views.

Kenneth Walimai: Yes that is what I am giving, I am already giving the views.

Com. Wambua: You started a question. Give the views. In find in the present Constitution, Kenya is involved you find that there is a practical amenity.....(inaudible)

Kenneth Walimai: That is my view. I would want to add that in the definition of Kenya as a country, we have to get boundaries, we have to come down to the regions if it is a district, districts should be within the Constitution, so that any creation must follow the procedure of constitutional amendment. This will avoid the ideas of someone politicizing the whole story. And partitioning the country therefore leading maybe to some problems.

As a farmer we have got some crops in our country that are produced based on acts of Parliament, like for example we talk about coffee, coffee act, we talk about sugarcane now we have got the sugar act and so on. I would suggest that in this case we have to get down and see the partners involved in this area of production, because it is what translates to our economy, such that a farmer is one partner and then maybe some crops have got to go through maybe like a factories as another party, we call them millers here. And then we may have other interesting partners like the corporate society like what we are talking about the sugar board etc.

These are partners in production. In a situation where the crop fails, the farmer should not go at a complete loss, whereby we have gross income let say somewhere, but when we come to deductions, we end up telling the farmers that we have got zero income. Because maybe you did not leave up to the expectations and then we are saying it should be within the Constitution that whatever circumstances, the farmer as a partner should remain with at least 30% of the gross income. That should be within the Constitution so that when things go wrong we know that the partners might have also messed somewhere.

When it comes to landownership, I want to agree with those who have suggested, my suggestion is that, a woman who is married is entitled to landownership with the husband where the husband is born and that part of land for the husband. So that incase of divorce, this woman will also share up that property. She can live separate from her husband but within the same land. Because she has been given her section.

If a woman is not married, then she has the right to inherit property from her father, if she is not married, land property. Then

perhaps I will also go to say something about the system of government, what I will suggest is that we still have to have the unitary system, except that it should be a coalition government because of the multiparty system. So that all Kenyans belongs to that government. The winning party should not take it all. And we are going to give the percentage of ministers according to the percentage votes taken at presidential voting for those parties. So that if the winning party in this case should of course, the presidential winning party should get over 50%, and therefore the over 50% of the ministers should be given by this parties.

Another thing is the 25% rule should be done away with and instead be replaced by the over 50% rule. I think that will bring Kenyans together.

Then the powers of the President can be effected by Parliament, so that during his presidential appointments or her presidential appointments, they must go through the Parliament and the Parliament has to approve. Qualifications of a President as far as I am concerned, the academic qualifications here, could just be a minimum of form four. But the President should be a known person with a track record of police. Leading a country like Kenya, it is not a place where we can pick anybody from anywhere, or just a person with a degree, we have had people with degrees, but they could not perform. And I want to quote here that heroes that we have had in the past like honorable Oginga Odinga the late, honorable Tom Mboya, did not have those degrees at the beginning but they were known leaders and started leading this country, if they lived today.

Prime Minister's posts should be created with well defined duties to share with the President. Their deputies should also have defined duties to share with the President and the deputy Prime Minister and then, the Prime Minister himself, the Vice President, should be people appointed by the President, but approved by the Parliament. Then I would say something about the nominated MPs, that Parliaments should spare so many seats, perhaps up to hundred seats for nomination. To take care of interest groups like the disabled, to take care of the women groups, to take care of other societies like even the law society of Kenya, religious groups they need someone of their own to represent them in Parliament.

I would summarize again on the issue of culture. The cultural aspect, Kenyans are of diverse cultural aspect. So the Constitution should have held all that is good for the people. But when it reaches on the rights, human basic rights of a person, then that should not be allowed to prevail. This must be perhaps if an individual feels that that goes against should argue out the case at that level. But we cannot have a Constitution that is going to talk about the culture of Kenyans, when Kenyans are of different backgrounds. Then if we talk about the amendment of the Constitution, it should be done by a national referendum. Members of Parliament, would only endorse after the national referendum has been held.

Then we can talk about education. I feel basic education up to standard eight should be free. Then we should also have free higher education. That is colleges and universities for public should be free.

Then we can talk about limitation of corruption in the country. Any suspect in a case of corruption, should not hold public office

until he has been cleared. So that we don't wait until you have been declared guilty, that once you are implicated in cases of corruption, then you are supposed to be relieved off your public function.

We talk about Provincial Administration. I believe they don't have much to play, because they are mainly responsible for security and the police force is responsible for that. So the Councillors in the areas, should act as maybe they take the position of the D.O.s or the chiefs, but the police should be reinforced so that they are in charge of security. The chiefs and the assistant chief, this are people who should not be there in this system as far as I am concerned.

We talk about separation of powers, that is my last point between the Executive, the Legislature and the Judiciary. Whereby the President of course can be the chief Executive officer, but when it comes to ministers, I don't believe ministers should be Members of Parliament. Ministers should be appointed outside Parliament. So that they only would come to Parliament to answer questions. But they are not actually elected Members of Parliament because they form the legislature. We are saying in the event of incapacitation of a sitting President in the country, the Constitution should be very clear about it. So that either the Speaker of the national assembly, can call the elections, but it must be very clear not like what we have today.

Finally, I would want to suggest that Kenya as a nation would require all of us to come together. So we must within the Constitution gear towards bringing Kenyans together as one tribe. So whichever, way you will come up with, that will bring Kenyans to look at each other as a brother and a sister, will actually help us to build out economy very well. Thank you gentle men and ladies who are here representing the Commission. I want to thank you.

Com. Wambua: I have one question. How do you want to define the federal(inaudible) you want Kenya to be defined as per the borders, you want it defined in terms of the number of districts which it must have or provinces or the number of tribes, how do we define the country?

Kenneth Walimai: I thought Kenya should be defined as, you know in politics we need political terms so that the boundaries, Kenya as a nation is located in such a part of Africa, covering this much in terms of hectares in that area. And then it is made up of this number of provinces that are made of this number of districts. And that is constitutional. Any changes on that, well with tribes I don't think it is necessary because tomorrow they have another new tribe, tribes have evolved all over. With time a tribe is like culture in itself. So at the beginning I am told there were only two people, Adam and Eve, but you can see we are how many tribes.

Com. Wambua: Okey thank you Kennedy. Asante sana. Please register yourself there for your good views. Nahashon Wanunda. Please come forward Nahashon. After Nahashon Rev. Lucas Mwaniki. PTA please keep yourself ready, you will be the next person to follow. Mzee taja jina na utupatie maoni yako.

Nahashon Wanunda: Mimi nafikiria nitazungumza maneno mawili matatu tu. I am Nahashon Wanunda. Kufuatana na Constitution vile tunazungumza juu yake, nafikiri mnanisikia, mimi ningefikiria mambo mawili matatu. Kutokea wakati wa wakoloni mimi nilikuwa niko mtu mzima nilivyo sasa, I am now 74 years old. Hatukusikia neno ukabila kabisa. Tulijulikana kama Kenyans. Lakini wakati tulipandisha tu serikali yetu sisi wenyewe kama watoto Wakenya, sisi wenyewe ndio tumeleta ukabila, mtu anafikiria ukifanya hivi nimfanyie hivi yule atanipa hivi. Kwa hivyo mimi ninafikiria ukabila Kenya unaletwa na sisi wenyewe. Tufikirie njia ya kutoa huo ukabila kufuatana na tuwe Kenyans kama tulivyokuwa wakati wa ukoloni.

Kitu kingine ni chiefs, tulikuwa na wakati mwingine tulikuwa tukisimama tukichagua chiefs sisi wenyewe tukisimama tu kwa mlolongo. Nataka hiyo kitu irudishwe tena Kenya tuchague chiefs kwa mlolongo. Watufanyie kazi wanajua ya kwamba tuliwachagua. Na wale wakuwa appointed, yule sasa ana serve government ilio kwa power sasa. Atufanyii sisi, anafanyia government iliyo kwa power maana ilimchagua na inaweza kumfuta. They are not our representatives, kwa hivyo tunataka tuchague chief sisi wenyewe. Hiyo ndiyo ninasema chiefs wakuwe on transfer, maana unavyo ona wamechaguliwa wanakaa hapo, vile pengine baba yake aligombana na mtu kwa shamba akipata uchief atasema basi yule ndiye atanijua sasa. Huyo mtu anapata taabu kwa sababu, yule chief alizaliwa hapo na anajua baba yake aligombana na fulani analipisha kisasi. Kwa hivyo tunataka chiefs to be transferable.

Serikali nafikiria pengine mimi niwe mbele sana au niwe nyuma, ninavyo waona nyinyi nafikiria wakati mwingine sisi tulipoanzisha tulianzisha na serikali ya majimbo. Mimi ninataka tu pengine tutengeneze kitu fulani ilivyokuwa lakini tuwe na serikali ya majimbo.

Kitu cha tatu, I will talk about land owners. Tukizungumza mambo ya land, Commissioners msisahau ya kwamba land, ninavyosikia sasa wakina mama wakizungumza kuhusu mambo ya land wakisema lazima mwanamke awe na usemi kwa land. Nafikiria hawasemi kwa makosa lakini wajue, waliingia kwa shamba la mtu yule pengine baba yake alimpa yeye tu kama kijana wake. Hakupeana ya kwamba amepeana kwa bibi, alipeana kwa kijana. Kwa hivyo shamba should be looked entirely to man not to a woman.

Nyinyi wote mmepitia kwa shule, mimi wakati mwingine ukasirika sana, mtoto wangu akiwa mzuri na siku moja akose mimi nina mpunish sana maana ninaona mtoto wangu amekosa. Sikuwa ninafikiria atakosa. Kwa hivyo nilisikia mtu mwingine pahali pengine akizungumza eti wanaume wana mis-hundle women, we don't mis-hundle them, we give them guidance where necessary. Tukimuona pengine ameenda zaidi, naona huyu hata pengine hata nikichukua kiboko na nimtandike safari moja mbili hivi, nitakuwa ninamnyorosha tu nina mwonyesha amefanya nini.

Com. Wambua: Mzee tupatie maoni ambayo yatatusaidia sasa kuandika Katiba, kwa hivyo tumeelewa ungetaka tuwe na united Kenya, ukabila tutoe, ungelipenda tuchague machief, kama nilikuwa nimepata hapo awali, juu ya shamba, ukasema shamba ni la mwanaume kama nimekuelewa, kama kuna jambo lingine tuambie maanake hiyo nimeelewa na nimeshika.

Nahashon Wanunda: Naingia kwa ya tatu, ningependa serikali yetu itumie economy, kuna jambo hapa linatufanya sisi wengine tufikirie ni kitu gani. Government inatoa pesa nyingi inaenda ku-train teachers, halafu inakuja kuwa dump hapa, tena asubuhi yake inaanza ku-train wengine inakuja kuwa dump hapa, na hukutunafikiria kweli economist wanafanya kazi au wanafanya nini? Serikali yetu inauliza economist ya kwamba hii tukifanya ni vizuri au ni nini. Hii ni njia moja government inatupa pesa hapo, asubuhi unasikia wewe unakuwa retundud. Economy inafikiria retirement, waulize economist na wawaeleze wanafuata njia gani.

Nafikiria mambo ya chief nimekueleza, maana nilisema wawe wakichaguliwa na sisi wenyewe. Kitu cha mwisho kwangu, President. Mimi sijui kama President wetu sisi wa Africa wako na powers kuliko President wa America. Maana President wa America anashitakiwa kwa korti na President wetu ashitakiwi kwa court. Why? Inatakiwa President akikosa awekwe kwa korti na watu wamuone kwa korti ajitete. Mimi yangu yanafika hapo. Kama una neno unaweza kuniuliza.

Com. Wambua: Tumeenda kwa communities, na tumepata maoni hata kutoka kwa wazee kama wewe wakisema siku hizi, wazee wanauza mashamba na kina mama na watoto wanabaki bila mahali pa kukaa, na wengi wamesema kutoka North Eastern province kuja Central kila mahali, wamekuwa wakisema kwamba title deed iwe ikiandikwa jina la mama, na mzee ikiwa wameoana, ili akitaka kuuza mama anaeza kuzuia, hiyo ungesema aje?

Nahashon Wanunda: Kufuatana na shamba title deeds, sijui kama utaweza kukubaliana na mimi kama sisi kama sisi Wabukusu tunaoa more than one wife or even five or ten. Unanieleza nitaandika hayo majina yote ya hao wanawake kumi?

Com. Wambua: Kwa hivyo unapendekeza tu hilo tu liwe jina lako.

Nahashon Wanunda: Litakuwa jina langu na I am a responsible man nitakuwa ninajua nina watoto wangu, sifikiri ninaweza kuuza shamba. Wacha nikueleze hapo, sisi ni watu tumepeana power ni wa ukoo. Siwezi kuuza shamba kama chairman hajaelezwa, yule ataweza kusimama na aseme shamba aliuze na hata hiyo serikali imewapa power wakisema shamba haliuzwi, ikiwa umekataa utakuwa umekataa kabisa.

Com. Wambua: Kwa hivyo mama awezi kurithi hata ukiwa umefariki mama hawezi kurithi.

Nahashon Wanunda: Ni watoto wangu wanarithi.

Com. Wambua: Asante sana Mzee Nahashon Wanunda. Tafadhali jiandikishe hapo kwa maneno yako mazuri. Tutamtambua mheshimiwa wetu Bunge wa Sirisia Bwana Mnyasia ambaye amefika sasa. Karibu mheshimiwa, tulijulishwa kwamba tulikuwa na shughuli Mombasa, ungelifika jana na Ijumaa. Tulianza the last two days tukawa Sirisia, jana tulikuwa Chwele na leo tuko

hapa, lakini tukajulishwa kwamba leo pengine utafika. Tumewasikia watu wako na bado wanaendelea kutoa maoni, walikuwa wengi kule tulikuwa lakini kwa leo ninaona sio wengi sana lakini wale walioko watatupatia maoni. Kwa hivyo utasikiza, wakitoa maoni ukiwa tayari utujulishe ndio tukupatie nafasi pia. Kwa hivyo Reverend, tafadhali kuja mbele hapa, taja jina na utupatie maoni yako tafadhali.

Rev. Lukas Mwaniki: Asante sana Commissioners kwa ajili ya kuja hapa kwetu. Hasa tunaomba Mungu ili ya kwamba muweze kufanikiwa katika kazi hiyo. Kile ningelianza nacho ni habari ya regional government.

Interjection (Com. Wambua): Taja jina lako.

Rev. Lukas Mwaniki: Lucas Mwaniki Pastor PCEA Mugumo Parish. We recommend to have regional government which do not follow under tribal line. Hiyo ni moja. Na hii inaweza kushika district kadhaa. It should have power over town councils, under the adjurisdiction and it should share taxes with central government. Police na kama jails na magistrate courts, hizo zinaweza kuwa chini ya hizo regional councils na wao ambao wanaongoza kama leaders, wawe wamechukuliwa na watu.

Kingine ni habari ya Presidency. Presidency need to be a known Executive President, he should not be a member of any party neither be a Member of Parliament. He should be allowed to appoint chiefs, auditor general, chief of general staff, chairman and members of public service Commission and all this need to be approved by the government. Summoning and prolonging the Parliament, itakuwa chini yake. Na vile vile kuweza kuwapa honours wale ambao wamefanya kazi nzuri ya serikali. Na he should also be impeached asiwe mtu ambaye ako juu ya sheria.

Kile kingine ni Executive; it should be composed of prime ministers, ministers, deputy ministers, permanent secretaries. Prime Minister also aweze kuwa impeached. Our Constitution need to allow coalition government and the prime minister shall be allowed to appoint, ministers, deputy ministers, head of State, secretary to the cabinet and Attorney General. Na wao wote wanaweza kuwa impeached, hata huyu prime minister. Mostly wale ambao wamechaguliwa wote waweze kuwa voted na Parliament.

Judiciary; hii Judiciary inaweza kutengeneza Commission ya kuchagua wale ambao wako chini yake au wale wanafanya kazi, lakini Parliament vile vile iweze ku investigate kama ni wazuri.

Kingine ni Provincial Administration; we need not to use D.C.s and P.C.s because this is cared for by the regional government. Kile kingine parastatal boards, they should be appointed by the minister concerned and approved by Parliament.

Electoral system; the President should be elected by the people, and the Vice President if(inaudible) both of them should be elected by people. Every person to be elected must be given a letter of recommendation from his region and society.

I mean so because some of them need not to be good there after. A constituency, they should be governed by the population and not by geographical area. Because those geographical areas which are wide can be covered by giving more traveling allowances to the concerned.

Date of election; there should be a fixed date within the Constitution, which can be altered by Parliament if there is need.

Kile kingine ni President votes; presidential votes should be 50 and over and ten percent from every province. The term of Parliament should be five years, and terms of service all elected people should have five years contract, renewable only once. Ballot boxes, this should be transparent boxes, because of transparency. Electronic voting in Parliament, this will give freedom to Members of Parliament to vote without fear of victimization.

Kingine ni giving of rights; they should be honoured and signed by the government of Kenya. And any law that goes against human rights must be ignored or deleted.

Habari ya land; there should be no trust land in Kenya, but government land with title deeds, and those I think I have completed.

Com. Wambua: Thank you very much for giving those views.(inaudible) we need Mama Alice Murungo to come and present her views, mention your name and give us your views.

Alice Murungo: Okey good morning to you all. My names are Alice Murungo, I am working with an organization called Kibas Association Work in Kimilili, but I happen to come from this division, and also do some activity in outreach division south east division, Alondo and other divisions in the district. So actually I am not having views because we have presented so many memorandums to you. Commissioners you are aware of Kidepo organization, and what I just wanted to say, is to give comments or some views on women. Just as some of my fellow colleagues have presented here in Bungoma district, actually women are marginalized although it is not easy for us to accept. But you, you can also see for yourself even in the hall, you can see there is a problem.

So with me I say, women rights are not rightfully represented in the Constitution, especially on land rates and property rights. I happen to deal with some cases of widows who have been snatched land, just as the presenter who has left has said that the land belongs to a man and that has brought a lot of problems in our area. Women have no say over land and actually we have got so many cases, they are suffering, so with me I say something should be done. My specific proposal is that women should also have a right to own a title deed. Because in our Bukusu community even a woman needs to buy her own land. It is not easy to have a title deed on your own if you are married, so it is a problem and also I propose that affirmative action for women to be represented in public places, for example as I have said you can see in this hall.

Interjection (Com. Wambua):(inaudible)

Alice Murungo: Even this men know they are not supposed to because they areit is true.

Com. Wambua: Let us.....you have been cheating on us, so don't cheat us.

Alice Murungo: Actually culture, I can say Bukusu culture has really made our women to remain behind. Because even our changing public baraza, it is not easy, even since civic education we have been going around, we have seen the percentage of women is very low. Even it is not easy to get 10% of women attending. The most serious issue attributing to this is culture. So I also see, some of our culture should be streamlined, we should continue educating our people on civic education and especially sensitizing them on gender balance. So that they can also know that if they come in a place like this they have something to contribute.

Com. Wambua: Finish commenting on that.

Alice Murungo: Also on the side of culture I recommend that why it should be looked into it.

Com. Wambua:(inaudible)

Alice Murungo: Yes we have it. That is why you had the presenter who left saying that, a land belongs to a man and the 'ukoo', the people from that clan so that the widow when the husband dies, he can be inherited with any relatives or maybe the brothers of the husband if they are there, and it is causing also so many problems to the widows and the children because somebody who takes over ends up taking everything, the property and leaves the wife crying because she has no say, she is just a widow, she just got married into that clan and she has nothing to say. So actually that is what I hate I just came mainly to represent the issues of women. Thank you very much.

Com. Wambua: Thank you very much. Now if I may ask you, what are you doing as an organization in terms of civic education to men so that they can recognize that the women have the rights, are you doing something upon this?

Alice Murungo: Yes, thank you very much. In our organization, we had civic education before even we were picked to train people on civic education on constitutional review, we have been training people, and we train sometimes optical couples, and even the venue is always here, Mabanga FTC. We pick some families, we train them on development and civic education and also legal rights, we normally even have the lawyers to come and enlighten people on their rights, and we also have a training for women, empowering women also to join men in development and we also hold workshops in the villages, and we normally

invite old people, the man and the women if they are there. We train people on gender issues also. That is what we do in our organization.

Com. Wambua:(inaudible) Edward Bilimo. Aje hapa azungumze kwa niaba ya youth group.

Com. Wambua: Please mention your name and the group you are representing and give us your views.

Edward Bilimo: I am Edward Bilimo. Representing a Bungoma raw resources programme. You are welcome to Bungoma, we wish a happy stay, successful stay. We have collected views from various people, including ours and this is what we have to say. One on preamble; we say we need this in our Constitution, it is important because at independence, we were suffering after a bitter struggle with colonial government and during that struggle, we were given a hurried Constitution which had had mainly faults. The series of amendments immediately thereafter served to address bad practices in the society, e.g. violation of human rights, corruption, tribal clashes and so on.

Interjection (Com. Wambua): I am very worried if you start reading that memorandum you will not finish, now just summarize issues we will take that memorandum and read it thoroughly. Don't use a lot of time giving us the issues you already have once you make a proposal give us issues.

Edward Bilimo: Thank you I am going to be very brief. We say on citizenship for example, we say our people should be allowed to have double citizenship, this is very important especially to us on the border, we feel that we should have a right to say in the government of a unitary state. The normal documents carried by citizenship are there you know them I don't have to say them. In political parties, we say we should have not more than three political parties in the country, because you know politicians have been saying that the government should support the political parties, but right now we have more than 40 parties, now it is difficult but if you say we had few parties, maybe it will be possible and I think to have also few parties will enable us to choose the strong party to represent the government.

Interjection (Com. Wambua): So every party to recommend.

Edward Bilimo: Yes, from the national fund. That is why I am saying if we had say two or few parties, it will be possible. The President on structures and system of government, we feel that the President should be given the polling powers. Already it has been said we should have a prime minister, that way we agree, but then let us see how they will work. We say the President should be only remain the head of State, ceremonial head of State and then appointment of prime minister, remain the commander in chief of the armed forces and have prerogative of mercy, dissolution of prorogation of Parliament. Those should only be the powers of the President. The prime minister appointed should have the power to form the government, represent the state in international forums, appointment of heads of departments, Public Service Commission, parastatals of the general

point of view. Head of government should also remain head of government, business in Parliament and also be given some powers to release some people with minor offences you know.

On system of government that we recommend for this country. The unitary system of government. Because we think right now this would be the best because there are some regions or provinces which have acquired quite a lot of national resources, the.....(inaudible). So that is one, we need a unitary system because it is not expensive, and can even rapidly improve the economy of small states. There can also be strong citizenship. You know we are talking of tribalism and so on. If we have a unitary system, this will be able to control, we will not accommodate any tribes. Not that we do away with tribes but we bring them together, let them all say that they are Kenyans, not Kikuyus or Luhyas, so unitary system is the best.

Federal government is not good at all. We have seen problems affecting those governments with federal system, for example we have Nigeria that is one of them, quite a lot of problems so totally we agree that we should have a unitary system because if you want to change a unitary government it is easier than having a federal government because if two or three states could use, can make a harmful decision against the nation.

On legislature; the following appointment should be vested by Parliament. You are saying Chief Justice, Attorney General, chairman of Public Service Commission. The general ministers in the foreign ministries, foreign affairs, finance, interns of security and prime ministries. Because this are very sensitive ministries and they need to know if a person is going to be appointed by the prime minister, whether he can really command the respect of the people in the country.

Functions of Parliament will include, vetting of certain appointments in government. impeachment of certain ministers, including the head of State and then declaring state of emergency and easy limitation also approves citizenship application because there maybe people who may come to this country wanting to be citizens, we think that Parliament should have a sole responsibility in deciding who should become a citizen of this country. And also debating on no confidence motion brought in the house. That should be the functions, of course they are many but this are some of them. We feel that people should have powers to recall their representatives if they are proved to be inefficient. A Constitution can lay down how this people can be recalled. We feel that the dominant party should always form the government.

The existence of small parties usually weaken the coalition and this is why we have suggested we should not have more than three political parties. Such examples, we have been here, we have seen Israel, coalition governments and very very stubborn. We need only one chamber of Parliament, not two houses. The removal of the Executives from power should not be through a vote of no confidence alone. A referendum should follow and conducted by Electoral Commission.

We think that the President should have the powers to vital the legislation relating to finance and security, to protect the interest of resignation. The Head of State currently can be anybody above the age of 35. We feel that this age is still very low, should

be raised to 45. maximum can go up to 80 that is what we fee. This is because we feel by that age I think we would have had a lot of problems in life and going beyond 80 I think it is not proper.

President should not be a Member of Parliament. But he should not be controlled. Equally agree that he should not be a member of political parties. If he is elected the President presenting a political party it will be bad.

Interjection (Com. Wambua):(inaudible) yes and if he is to be a member after he is elected the President or you must run an independent candidate.

Edward Bilimo: I think he should run as an independent candidate, because that is why we say the Constitution be changed, because 35 years to be presented by political party I think that one should be changed. Let him be independent.

Provincial Administration; we say we need the Provincial Administration to take care of security and oversee development on behalf of the government. But we have pointed out elsewhere in the memorandum that village elders do a lot of work and I think that they should be included in the government system. We say that especially the assistant chiefs, we don't see what they do, they don't do much. Most of the work is done by village elders and then they only receive what has been completed by the village elders. The village elders hold small cases, settle disputes, land disputes, family disputes and we therefore feel that if we must improve there, we must give them moral and encouragement if they are involved in the system.

The present Judiciary is enough. But we feel that mobile courts should be established where there are no courts, where people can not reach where courts are situated. I think that is the little we can say on Judiciary. Local government.

Interjection (Com. Wambua): Please summarize what you are talking. We will have the memorandum we will go through it. Make the land issue to be the last.

Edward Bilimo: On land we say that the Constitution should leave it to the owners to decide whether they should give land to daughters and sons because human rights say, all human beings are equal irrespect of sex or whatever, so why should we discriminate against women? We feel that owners of land voluntarily be given authority to give to anybody who wants. I think because time is going, thank you very much.

Com. Wambua: There is a clarification. You said that the President should be one of the partner President should exercise the prerogative of mercy, and if I heard you correctly you said that it is the function of the Prime Minister to release people who have been convicted of minor offences. My concern is that why do we separate this too because it would appear they would make more sense if they are exercised by a person who holds one office, for example the one who exercises the prerogative of mercy should be the same office which releases people who are convicted of minor offences, well maybe you can think about it and maybe you can give us further proposal later. But we would have liked to see what is the rationale of that distinction.

Edward Bilimo: Distinction, the President has got also to feel that he has got powers to exercise therefore if he is given that chance.

Com. Wambua: Thank you very much Edward. Lets call Mr. Leonard. Please register the memorandum there and sign. Just register you will leave it with us here. Mzee Leonard Wamalwa, come forward, mention your name and give us your views.

Leonard Wamalwa: Mimi kwa majina naitwa Leonard Wamalwa Wanjeira, na nitazungumza Kibukusu, kwa sababu nimemuona mwenzangu hapa ninataka vile azungumze kidogo.

Com. Wambua: Ningelipenda kutambua Mbiro Teresia ambaye tumekuwa naye tangu jana. Carolyne Onsoga. Karibu madam Mbiro, nafikiria uja toa maoni yako. Endelea kutoa maoni yako.

Leonard Wamalwa: *Esie bananga mbu Wamalwa Wanjeira.*

Translator: I am called Wamalwa Wanjeira.

Leonard Wamalwa: *Ndakhetsa khulomakho alubeka wa elisomo.*

Translator: I will first talk about education.

Leonard Wamalwa: *Busomi, esie sabanga mbu khube busome butsayi.*

Translator: We would like to have the old system of education.

Leonard Wamalwa: *Nesie saba mbu kali nende nafasi ne mbola,*

Translator: For this reasons if there is time.

Leonard Wamalwa: *Isaino omwana anyala khusoma khuru form one khula form four, lakini khuka class eight, khuloma loma kati khwandika sanyala ta.*

Translator: Today a child can learn from form one up to form four, but can hardly reach the standard eight.

Leonard Wamalwa: *Ne busomi bwa khali bwa iclass ya munane omwana yali akhola ikasi biyali nga omwana wa university.*

Translator: But in the old system a standard eight was as good as the university student.

Leonard Wamalwa: *Kandi kali eno khubera tsisaa,*

Translator: There are others but because of time.

Leonard Wamalwa: *Eliokhubiri, saba mbu, busomi bwosi bube bikhaya.*

Translator: The second thing I would like to request is that all systems should be free.

Leonard Wamalwa: *Elano nga lubeka lwokhunywa ka malwa.*

Translator: Especially concerning drinking beer.

Leonard Wamalwa: *Abandu beli nende miandu banywa tsi beer.*

Translator: The wealth ones drink beer.

Leonard Wamalwa: *Mana kosi ni kamalwa niko.*

Translator: Beer is also a beer like any beer.

Leonard Wamalwa: *Ne omumanani nanykho ibusaa, aba polisi betsa khumudira.*

Translator: If the poor drink 'busaa' a local brew, the administrative arm comes to intervene.

Leonard Wamalwa: *Khwakha fuchirirwe khunywe malwa nikali amalayi, bajame khunywe ka malwa.*

Translator: We should be allowed to take our local brew because it fits us, agree we take our beer.

Leonard Wamalwa: *Mu bakusu malwa bandu banywetsanga mu party.*

Translator: In Bukusu, beer or busaa are also some party.

Leonard Wamalwa: *Mundu akhwakira, akhubolere ka matore, wakhole ikasi indi yosi yosi mana arera buinda.*

Translator: Someone comes and works for you and then in the course makes your work easy and may end up just taking that beer.

Leonard Wamalwa: *Malwa kosi kali nende ingira yo khukhola ikasi nende amani.*

Translator: Beer is also a motivator towards working hard.

Leonard Wamalwa: *Handi saba buleka bwa provincial administration, khurula khu sub chief, chief, bosu boberwe tsikura.*

Translator: That provincial lineup they should be elected people.

Leonard Wamalwa: *Khubera, onyala bandi babechanga sa bakulirwe engati, sibamanyere nge efwe khumere ta.*

Translator: Because people imposed in the community, do not know how they live in that community.

Leonard Wamalwa: *Ne nikhwabukula oyo ulichingi wefwe, okhumanyire nga khumenyere, ne khuba nende kimirimo eko kimilai, sikhunyala khunyasia abandu tawe.*

Translator: If we pick on one of our own who knows as well we will not be tortured by the cell.

Leonard Wamalwa: *Saba andi, village elders banolengekho ku mshahara.*

Translator: We would like to see a village elder given a salary.

Leonard Wamalwa: *Khubera ikasi yabakholanga ili kama ye ipunda, bakhola ikasi ingali kakhali mukasa.*

Translator: Because the donkey work is done by that 'Mkasa' the village elder.

Leonard Wamalwa: *Lano saba, khube nende government ya mseto.*

Translator: We would like

Leonard Wamalwa: *Isystem ya coalition inyala khukhola bilai mu tsingongo.*

Translator: Today's system of(inaudible) makes it very difficult for other places but a coalition government can easily share very well within all other communities.

Leonard Wamalwa: *Number sita, saba mbu makhuba kabe bukhwe,*

Translator: I want to talk about dowry.

Leonard Wamalwa: *Bukhwe munyanga tsino bube amapesa elfu ekhumi, andi kumi na mbili, kumi na tatu.*

Translator: I want to propose that dowry be atmost 10,000/=.

Leonard Wamalwa: *Mana khubakhana bano, bosi, sikira bosi, balibakha be tsinzu, kata ni wa soma, nende wa class eighty, nende wa university tawe khulwa khubera bosi balibakhasi benzu.*

Translator: This time it should apply to all, learned or not learned.

Leonard Wamalwa: *Bwauhani bubeo ndi amapesa nikaliwo.*

Translator: Make the difference where there is money.

Leonard Wamalwa: *Saba, saba mbu tsiloni khu bana basomera mu Kenya nende basomira rwanyi, banyole tsiloni.*

Translator: All university students learning locally or abroad should be given loans.

Leonard Wamalwa: *Number nine saba andi, nikanyalikhana, amundu wakhabere nende omwana mukhana wadekha*

yetse akabwe indalo.

Translator: It should not even be mentioned that the married Bukusu girl to come back for a share in their birth place.

Com. Wambua:(inaudible)

Translator:(Inaudible)

Leonard Wamalwa: *Saba andi, abana betsibukusu bakhana batekha balakobala engo ari banyole kamaloba ta khwalwakhubera balanyola mumalia kabwe.*

Translator: A married Bukusu girl should not come back to have a share in their birthplace because in that way then breaks a marriage.

Com. Wambua: A share of what?

Translator: A share of land.

Com. Wambua:(inaudible)

Leonard Wamalwa: *Khubera chisaa, ndalekhera bandi bosu balomekho.*

Translator: I want to end there and leave for others to talk.

Com. Wambua: Okey thank you Leonard. Tunamuita Edward Mogimo. He has spoken, okey. Pamela Mangoli, please come forward and give your views.

Pamela Mangoli: Okey thank you very much. My names are Pamela Mangoli, the way you have just heard. I have a few points here which are my personal views;

- 1) The issue of land; my view is that women should have a right to possess land. That is either as a daughter in your home, you should also have the right to inherit land, and from your parents and if that one is not accepted, then where you are married you should share the land with your husband, and that one means legal sharing of land. That is your name should appear on the title deed also, because you have been denied the land at home so in the sense that you should own land at your husband's place, so if we are to own land at our husband's places, then it has to be legal such that your name is appearing on the title deed. In case of divorce, you know that you left land somewhere to come and own this one, you share, let him remain with half and the wife remains with half because you are all sharing. And this I tend to finish will refer to the first wife only. Such that if a man intends to marry more than one, then he should buy the second wife, land somewhere else. I don't want to explain on that. Its okey.

- 2) My second point is about seats in the Parliament. I tend to feel that there should be a number of seats set a side, for special groups like somebody said but my concern initially was that for women, because we believe Kenya is a Christian country, we are always told that, and God says it is not good for a man to be alone and therefore if also applied even in our Parliament, it is not good that men be alone, we need women there. I strongly feel that God had a reason as to why he said it is not good for men to be alone. So even in our Parliament, we need women there. We have equal opportunities we told yes, that we should vie just like the men do, but we want to appreciate one thing that, we are in a transition period, whereby women have been put down so much by our culture, so they are still trying to come up. So by setting aside this faith it will help at the moment to increase women participation in the issues concerning our country.

Com. Lethome: We should have women in Parliament, we have women in Parliament, we have always had women in Parliament, maybe what you should be talking about now is to propose a certain percentage to be women. Because we have women right now.

- 3) I think that is still okey we should have a certain percentage, I feel 40% so that if those ones who have been elected there are not meeting in that percentage, then there should be some more seats. We can nominate them or use whichever means to ensure that the 40% is catered for.
- 4) About couples; I tend to feel that when in case two people are married they are staying together, they are couples if one person is employed and the other one is not, the spouse should be able to be given some salary, either a full salary or a certain percentage can be set a side, so that we don't have one party being dependant on the other. Because once you are dependant on somebody, you actually don't maximize yur potential well, because if this person says no, you will have to go by that person's decision. In this case I will feel it should be the employer. It applies mainly in the case of women because we realize like I said earlier on women have some kind of potential which needs to be utilized and if the wife in the house is only dependant on the man, she has no land, all subsistence she is depending on the man, so whatever the man says she will agree. She cannot implement her own decisions and that is why we find that its like the contribution of the woman as a person towards our economic developments, is reduced, because he is only implementing to what the man wants. So we want to utilize that potential in the woman fully. So that if she is given some salary, then she also has atleast something supporting her, she is empowered economically, and she can make her own decision, she can go into business and all that.
- 5) The salary of professionals; we all realize professional are capable in economic development, when I say this I am talking of people in various positions, doctors, lawyers, agriculturalists, teachers, and the like. They are key players actually, besides others players in economic development. So I feel their package should be looked into and increased

to the extent that if somebody is a doctor, he can comfortably deliver his success as a doctor, without running into business or A, B, C, D so that he can earn a living. You realize that somehow the package has been a bit low, forcing this professionals to venture into other things, he is either having a business, he is having his own clinic, he is running a school, and that reduces the output of this person as a professional. So I feel that their package should be looked into so that he is not far away from the colleagues in the private sector. Also I was feeling that it should also be more less uniform so that the difference between what lawyer earns and what a doctor earns, should be minimal if anything, if has to be there. But not such a big difference.

- 6) About our MPs; that is those ones we elect and send them to represent us in the Parliament. I tend to feel we should have some official forums, official meetings of the MPs with their people. Actually I don't know how to put it. But so that they can be able to have meetings, scheduled meetings. If they are in Parliament to day, maybe the next month it is known every MP is meeting his people to discuss, to get the views from the people he is representing, such that when he calls there, he is representing the people and not giving his own views. Okey his own views can be there but it should become among the view of the people he is representing. Otherwise if they stick up there, then they are not representing us they are representing their own views. When they come down like that, it is when we will feel that we are actually governing our own land because my view will be felt in the Parliament. Two I was also feeling about the same that this official forums will help to avoid interference of politicians, it is not necessarily MPs but it comes down to Councillors and the like, in things like funerals, you find maybe a funeral is going on, a social function, people are in good mood, then a politician is invited, then he starts campaigning, and maybe restorts theme of the function. So it this forums are there, they will help to reduce such like problems. I also feel wananchi should be empowered, or should be allowed to pass the vote of no confidence in the MP if they feel he is not performing, he is not delivering. And I think maybe they will look into the procedures, lets say if three quarters of the people are saying we have no confidence, then this person should be allowed to come back and they carry out by-elections.
- 7) Agriculture; we are all aware that our country is heavily supported by agriculture as a sector. And I think to fill because of that we need to have agriculture as a subject taught in school up to a certain level. Maybe you can say in primary level it should be at least examinable to give it the way it is deserved, so that this people we are producing will be agriculturalists, they will understand the meaning of agriculture. They might go up to maybe being in other professionals but still they will play a big role in agriculture as a sector. Because as we know in our country some are doctors, some are politicians but still they play a big role as far as agricultural production is concerned. So we don't want to produce people who are ignorant about agriculture.

Com. Lethome: You have a few minutes remaining.

Yeah I am just finishing infact. Alongside that I think it has been my observation that a lot of our agricultural land is being taken

up by buildings maybe if we can look into that and come up with something in the Constitution, to restrain such that use of agricultural land, productive land into use by putting up buildings it will help a lot especially in the future.

- 8) Finally, or rather the second last one if you can allow me it goes along with that, our farmers who are producers in agriculture, some of them they get late payment, their money is held up somewhere because either the company or the institutions are unable to pay them and this thing is affecting the production by the farmers. So I was feeling, if money is held somewhere for some reason, then it should accrue interest, as per the prevailing interest rate. Because if it is just kept there, it was 20,000/= in the year 1996, it is 2020 and still 20,000, I feel it is not very fair to the farmer.
- 9) Finally about wife battering, I tend to feel that thing should not be given any sympathy. It just should be that if somebody has beaten his wife, or the wife has beat the man, it will just be taken as a criminal offence. This person should be sued and the case looked at at that level and not a matter of saying that this is a family issue. It should be taken as a thief somebody found somewhere on the road and beat that person. I think that is all I had.

Com. Wambua: Kuna swali kidogo.

Com. Lethome: Pamela you promised to come to my question you didn't come to it. When you suggested that MPs should be meeting with electors that is the people, I ask you where do you propose they should be meeting. You didn't come to it. Come to it now.

Pamela Mangoli: I think I forgot. They should be meeting them in their constituencies.

Com. Lethome: Okey parliamentarians are supposed to be in Parliament, from Tuesday to Thursday, are you suggesting that we continue that way or maybe they work for the whole week and then they meet over the weekend. Are you also proposing that they meet them in their homes they go to Honorable Onyasia's home or do we propose that he has an office or offices within the constituency where people can go and meet him, because I know what is happening now, if I want to see him, I will go and time him at the gate of Parliament, you find people outside the gate of Parliament or if I am from around here, I will go to his home when he is there, I will chase him all over the place.

Pamela Mangoli: Okey this is why I am saying this official work and people should not see him from his home, there has to be an office, where people can see him from, and two just an open forum maybe lets say one in a month or so. It should be known that all MPs are going back to their people to have meetings with their people. They can get a venue for that one an open place like the market, whichever place is comfortable for them. But offices it is good that also they have offices in their constituencies.

Interjection(Speaker):(inaudible)

Pamela Mangoli: This are now some of the things they have to work on, to see whether they maintain them. Well Tuesday to Thursday, it can remain as long as on a monthly basis they come and meet their people.

Com. Lethome: Who pays for this offices, is it the constituencies is it the MP himself or the state should provide such offices and facilities to the people.

Pamela Mangoli: I think to say the government should be able to provide, because as I said it is official work.

Com. Lethome: Thank you very much Pamela. Please register your name there. Before we call muheshimiwa to give us views, with your permission here one more person, muheshimiwa David Waliahula as you polish up your notes and then we can call you. Waliahula please be brief to the point. Taja jina na uendelee.

David Waliahula: Mimi kwa majina ninaitwa David Waliahula Makokha. Kwanza kabisa ningependa kutoa maoni yangu kuhusu elimu ama education. Kulingana na mimi ningependelea mvumo wa elimu wa zamani. Kulinganisha huu mvumo wa sasa wa 8-4-4 naona kuna tofauti kubwa sana. Mpaka sasa kuna wazazi wengine ambao ama sisi tunapendelea mvumo wa zamani kwa sababu, Kenya ni shule chache zinapeana kwa mfano A level, sasa wazazi wengi wanagharamika sana kupeleka watoto wao katika nchi jirani kama Uganda kwenda kufanya A level. Kwa nini tusipatiwe elimu kama hiyo irudi, ninafikiri tutapata maendeleo vizuri ama watoto wetu watosoma vilivyo.

Jambo lingine lenye ningependa kuongea juu yake, ni matibabu ama health. Maoni yangu ni ya kwamba raia ama wakenya wapewe matibabu ya bure vile ilivyokuwa zamani, tusiwe tunaongea juu ya cost sharing. Kwa sababu tunaongea juu ya cost sharing na huku tunasahau ya kwamba tunalipa tena tax, indirectly to the government. Halafu baadaye tunapoenda hospitalini tena tunaitishwa pesa. Sasa hapo ninaonelea hakuna cost sharing ni raia tu anafanya hiyo kazi.

Jambo lingine lenye ningeguzia, ni provincial administration. Vile ninaonelea kwanzia kwa assistant chief, chief na wengine, naonelea hawa watu kwa kweli hawana kazi nyingi. Kazi zingine zinafanywa na watu wengine ambao wako chini kabisa kwa mfano wazee wa vijijini, na hao wazee wa vijijini pia ningependelea wao pia wapatiwe kitu kama mshahara ili waendeleo, kwa sababu kulingana na hali ya maisha ya sasa, uwezi kuwa unatoka kila asubuhi na upewi chochote, na wewe unazunguka huku na huku, ujaribu kusaidia raia kuishi vizuri.

Com. Wambua:(inaudible)

David Waliahula: Provincial Administration, nilikuwa tu ninapendelea ya kwamba hawa watu ili wafanye kazi vizuri, tuwapigie

kura kwa mfano sub chief na chiefs na ikiwezekana wawe ni watu tena ambao wanaweza kupewa transfer kama mtu mwingine yeyote.

Com. Wambua: Ma D.O. na D.C.

David Waliahula: D.C. kulingana na maoni yangu wangebaki pale hata D.O. angebaki ili hapa chini tuwe tu na wazee wa vijijini. Halafu jambo lingine ni mishahara ya wafanyikazi kwa jumla. Utapata ya kwamba kuna sehemu zingine ambapo mishahara ni midogo sana na maisha yanabadilika kila siku. Na tena wanafanyikazi wana kazi wanapewa mishahara midogo hivyo, mimi ninaonelea hiyo ndio sababu tumekuwa na corruption nyingi, mtu hapewi pesa za kutosha, sasa inamfanya atafute pesa kwa njia ingine ambayo si nzuri. Sasa nafikiria ya kwamba, sasa kila mtu mwenye ako katika kiwango cha chini kabisa apewe mishahara kama wa shilingi elfu kumi nafikiri hiyo itakuwa imesaidia.

Halafu kumaliza ni mambo tena ya agriculture. Mambo ya kilimo tunajua ya kwamba zote tunategemea kilimo. Upende usipende utakula kwanza ndio ufanye kazi yote nchini. Sasa ningependelea kutoa maoni ya kwamba, upande wa kilimo, serikali itusaidie ama kulingana na Katiba yenye tunajaribu kutengeneza hii, iwe ni ya kwamba hakuna mtu mwenye pengine anaweza pengine kuchukua pesa ya watu pengine kama ni cooperative society. Mtu anaibia watu lakini sheria si kali sana yenye inamfuata pengine ikimshtaki. Anachukua hiyo pesa na nyinyi wakulima kama kawaida mtaenda huko mpige kura kwa mfano, na mnamvuta kazi sasa atakuwa amepoteza atakuwa tu alienda huko akachukua pesa na ikaisha hivyo, hakuna sheria yoyote yenye inamfuatilia. Nafikiri yangu ni hayo.

Com. Wambua:(inaudible)

John Munyasia: I am honorable John Baraza Munyasia. MP Sirisia. This centre is in my constituency, Mr. Chairman I want to go straight to our job and make a number of recommendations. First I want to start saying that you have come to a heavy polygamous community. Here most people are polygamous, and in polygamy we always recognize the distinctiveness of the houses of that polygamous home. So when you have married from clan a, clan b, clan c. You recognize those as part of your home. And although they all recognize themselves, they will take themselves as being your children. But they would resist any attempt to ignore their distinctiveness. So it is from this that I want to explain to you.

Why the most preferred system of government, that we would recommend is federalism. That federalism protects distinctiveness of the ethnic communities without destroying the national community. It is quite clear now Mr. Chairman no one does not regard himself as a Kenyan. Infact if you went anywhere and someone took you for Uganda or something you would resist, you would say I am a Kenyan. But being a Kenyan, you would also would like to be recognized with the community from which you come. So that is the situation I see, Kenya is made up of 42 communities, you can see from the political rivalist that people are grouped around their communities and many those vying even for the presidency, are representing their

ethnic communities. So it will be unrealistic for us to ignore the distinctiveness of the ethnic communities, that is why I would take exceptions with those who recommend unitary system. Mr. Chairman from independence now about 40 years we have been a unitary state, and we have even adopted philosophies that we taught would bind the people together. Sijui upendo, umoja, that has not worked.

Mr. Chairman those who have held the power have heard tendencies to favour their communities, so it wasn't strange that the first settlement scheme, the so called one million acre scheme, was dominated 90% by the community from which the President then came. It is not by surprise Mr. Chairman that from the time President Moi took over, those who have been high Commissioners in London, were first seven of his own community in a row before he appointed anyone else and that one has already been recalled and he has replaced him with one from his ethnic group. So it is not by chance, by accident. What we would like is that we are recognized and we are given a share of the national wealth.

Those who fear that their areas have not been developed much and therefore they would have nothing to take over as a state and a federal system, has fears for nothing, because whatever has been developed so far if there are universities, they would be regarded as federal universities. But then the states or the regions that would be established, would be free to establish extra universities that would be called state universities. So for me federal system of government enables balanced development. And the reason why people are vying for the presidency, is they think they can then row development towards their areas.

So I would recommend therefore, that Kenya is established as a federal state, with regions that will be called states, with Nairobi as a federal area, so it will belong to no particular ethnic group. I would recommend that the head of the federal state would be the President elected by direct adult suffrage and that he will have a running mate who will be a Vice President. Mr. Chairman, this assures the Vice President in his position and he can seek in and help the President with all the confidence, without fear that he might be dropped by the road side as it is so often happens. He doesn't have to listen to the one o'clock news bulletin, to see whether he still holds his position or not. The President would then have a cabinet. Mr. Chairman I am not in favour of a Prime Minister also elected. If the President is not the Member of Parliament as I wish to recommend, his Vice President will also not be a Member of Parliament. So the two don't have to sit in Parliament. But the President would then have to appoint one among the ministers to be the senior, and that would be the Prime Minister. Mr. Chairman, I then recommend that the federal state has a federal Parliament, made up of the house of representatives and the senate.

That the house of representatives, would be like the President, a Parliament that we have now, where age limit would be 21 for one to be an MP and it could go on up to any age, the people themselves will choose. But I recommend that in order to give balance so that the minority you know ethnic groups are also assured of the voice, in Parliament, that we have a senate that will have equal representation of the districts. The house of representatives will be made up of two types of MPs, one the constituency MP for easy accessibility to the people, and sometimes it has been very difficult to create to demarcate constituencies of about equal size in population, because in the arid areas one would have to create a very diverse constituency

in order to have a number of voters that would be equal to an MP. So.....

Com. Wambua: Within the constituencies.....(inaudible)

John Munyasia: The federal state of Kenya, that is what I am recommending, that is the one that is all encompassing for the whole country, I was going to come later to talk of states to mean regions that would be for various regions that we have. I was saying that we will have constituency MPs and that it would be understandable that it is not possible to draw areas of equal geographical sites and equal population. First because some areas are heavily populated, we would need to have, because if we want to respect the principal of popular supreme, that one Kenyan is equal to another, then we must say a group of Kenyans together would require an MP, so we would have a certain number of seats on a proportional principal. So that if a particular party has got a certain percentage of the popular vote and it is not reflected in the number of MPs they have, that they can have a certain percentage of the seats set aside as proportional.

The reason I suggest that Mr. Chairman, is that in the last election for instance, in 1997 we had the DP presidential candidate getting 31.1% of the popular votes and yet this was reflected into 39 seats in a Parliament of 210. The KANU presidential candidate had 40% of the popular vote, but in Parliament it came to have 107 seats so that shows that the way constituencies have been drawn, have not actually given respect to the principle of popular sovereignty. So for the moment they have proposed some 90 seats which would make bring the house to about 300 and I would like to propose that those 90, be shared out according to the popular vote that each party would have got at the general election.

The states would be regions, I am moving away from region Mr. Chairman because people have got a certain connotations attached to regions. Because they were rejected immediately after the 1963 Constitution, many people think region is retrograsive, so we are changing the name from region to state, perhaps it has higher status in the understanding of the people. So the state would be headed not by the president.

Com. Wambua:(inaudible) majimbo.

John Munyasia: State.....are you a translator? I do not know. I am very poor Mr. Chairman in Kiswahili, but I think we must look for a Kiswahili word for state instead of region. Instead of having for the head of that state, instead of having President, because I still feel President should be reserved for the federal President, so we would have governor. So there would be a governor say for the western state, or whatever name you call it, governor for the Nyanza state, etc. that the governor will also be elected at a separate time from that of the federal state and that he will also have his own legislature and he will have his own cabinet with people responsible for various ministries. We will only say he will not be allowed to have a ministry of defence, a ministry of foreign affairs, they won't in control of the central bank the currency etc. Then under the states Mr. Chairman we would have the local government. that would be the county and the municipal council, also elected at their

own times. This particular arrangement would ensure that each year after the federal state has collected the taxes, they would have to sit with the governors and share out that money, so a certain percentage will have to go to the state, so every state has its own money, that it can organize how it can be spent.

Mr. Chairman I wanted to talk also about land. Land here is a problem. In Sirisia we have a growing number of landless.

Com. Wambua: Muheshimiwa, I was thinking of(inaudible)

John Munyasia: What I would like to propose is.....

Com. Lethome:.....(inaudible). I think that whoever that does not belong in that.....(inaudible).....

John Munyasia: What I would like to propose,.....

Com. Bishop Njoroge:(inaudible)

John Munyasia: People when they get used to certain things, they become conservative they resist, drastic change. I am sure if I was to have my way I would actually propose that parties would have to go round campaigning the whole country and that whatever popular hope they would have, they will have the party list down which they will have to go up to that particular percentage that they have achieved. But I know also that at the moment it might be drastic, that is why I am saying the imbalance could be collected by this additional seats that will be on a proportion of state, I mean principle. I think it would be retrogressive for anyone to think that we can go round demarcating states exclusively for certain tribes. It is not possible at the moment. People have mixed so much. But what we would like is that people belong where they are now, and where you have got your land, that is your home and you will be entitled to a share of the tax wealth that will be collected. So when it comes to construct roads, they are improving your home for whatever. So no exclusive ethnic states.

Com. Bishop Njoroge: What does that mean if there is no exclusive.....(inaudible) then the question should be adictable, how are we going to have a federal more of type of professional boundaries which in some cases(inaudible)

John Munyasia: No no, fortunately they will not represent exclusibe tribal communities. Because here in Western province for instance, if we were to say we have the Kakamega state, we have the Tesos, Sabaut, we have now a significant element of the Kikuyu and we have the Somalis, this are people who that should consider themselves at home here. In Nyanza we have the Luo, we have the Kuria, we have the Kisii, and we have Suba, you know they should consider themselves at home where they are.

On land reform, I was saying there is a growing number of landless people here, on my understanding, this has come about because of a few greedy fellows who have the money and who can buy out the poor. There are those that have lost land, because they genuinely hoped they would develop by taking their land title deeds to be charged and to get loans from the banks. And with the high interest rates, that the banks have been charging people who were unable to pay, and their land would be sold at the post office in Bungoma, the poor didn't know.

So my thinking is that this land title deed is what has caused this land speculation, that many people go to get plots, land because they think they can use this land to get money from the banks. If we had a way of stopping, I would like to recommend that land being a property that should be used by all the Kenyans for the benefit of all the Kenyans, it should produce food for the Kenyans, that land must not be used as collateral to secure loans in farms. And I am quite sure that those rich men who are running around to acquire land, will stop, they will find now little need of going to get land here land there, everywhere.

Com. Wambua:How do you ensure even the fact that we need them to run the economy how do you propose.....(inaudible) will also want to get asurerity, how do you propose. What measures do we have that the banks that.....(inaudible) you have an alternative.

Com. Bishop. Njoroge: Those people who have big land have the advantage, so it is a fact(inaudible) from a constituency of the poor, because the rich people have homes outside they can use them for that. So what(inaudible) to accept money towards the development.

John Munyasia: The truth is that the poor hardly go to the banks for the loans. So they won't loose anything, but we would be forcing the rich to turn their money into other productive activities, from which the poor might benefit. If one had collected a lot of money, and he was with the title deed he wanted to go and invest it in land, so that it lies idle waiting for a time when he might need to go to the bank to get more money, he would now be forced to use the money that he would have used to buy the land. Maybe to start up some little industry, in which he would employ the poor. So I would have liked a situation like it is in Uganda, where land in the village is controlled by the village committee. There can be no cheating, you cannot sell it to two people, when you have to pass through a village committee in order to say let Mr. A. cultivate my land from such a place such a place. Because the cillave committee goes to see, so anytime you have anyone else to come, and you want to give in a bit of your land, the village committee knows but this one you get so and so. So it is not available, and that way we would have saved many things.

Mr. Chairman I wanted to talk about the family also. What is disturbing about the family, at the moment is an increasing rate of divorce cases. What is also clear is that there is a growing under class, criminals, bhang addicts, people who are taking this drugs and they are harming the society. My understanding is that this under class is growing mainly from broken homes, at least

that is what the experts say. So we should draw a Constitution, that should make it much more difficult for people to exceed married, and improve what we call voice. So we should allow those who are married, more opportunity to complain, but remain in there than to allow them to move in and move out as they do. That is why I wanted a special exception to one of my people here, who said you know wife battering is criminal offence etc. When you call it battering you are already taking side, you are exaggerating a matter that would otherwise would have been fairly normal. I think if there is in Kibukusu, we say ‘Gusola’ what is that in English? A man as a head of the family, may sometimes intervene to keep order, unlike in a state, you know in a state people don’t complain when you have the police, for what reason do you have the police? You have the police to keep order.

Com. Wambua:(inaudible)

John Munyasia: We allow limited force in a state, it must not be to hurt its people, it must be to correct its people. Equally I think it would be okay to allow it in a family because you cannot have authority, the father has the authority of the home, without allowing him to discipline say a child, to say this child is getting out of the way, you know here in Bukusu land the women usually keep their children in order, by telling then eh you have been out I will tell your father when he comes, and then the child will plead no mama, don’t tell father, I will improve what you want. There must be some authority well organized but an authority that has no access to limited or reasonable force, will be no authority. I wanted to solve a little it has been mentioned here Mr. Chairman, about the local brew, it is true that people would wish to entertain themselves. Refresh themselves after a hard days work. Here they have traditional brew called ‘busaa’. It is not that it is illegal, what is illegal is to sell the busaa without license. We have a traditional legal licensing hold here appointed in this district, but it has never met to issue the licenses, so the police and the administration then find it easy to go round and harass this people you have busaa you don’t have license so they threaten them with court cases, and many times the people bribe their way out. So this is abused.

What I would like to recommend is that we have monitors, because the law is already there, this rule is not illegal but it is being abused by those who have refused to give licence. So therefore they are the ones frustrating the operation of that law, so should there be monitors who would penalize public officers, who frustrate the operation of law. I would already have imprisoned the D.C. here and all his staff, because they harass this people. When this people are merely taking what is recognized as traditional brew. Mr. Chairman there was mention of affirmative action. It has been used in a number of places, it is used for the minority. When you know on their own they will never. Affirmative action is straight when it is recommended to a group that enjoys numerical superiority. So I would not be for affirmative action. And it must never be tried.

Com. Wambua: In respect of the women?

John Munyasia: Yeah in respect of the women. So the women are upcoming now, in Mombasa, infact we left them there Mr. Chairman. The women who are aspirants to Parliamentary elections fourthcoming, were there meeting and they were being

taught by some NGOs how they can win, and we think this should be increased, such seminars would be healthy, let them go through that, we know they can win. Those who have tried, a number of them have worked. I was working out the statistics and I saw that DP for example had only 3 women in the last election, standing for MP. And one of them won. So they had one third of those who tried to win the seats, so what is the worry about. Mr. Chairman, about the village courts. There are many quarrels among the people, there are many disputes at the village level, some one started across into another person's shamba and eaten, someone abused the other, someone has beaten the other, etc, and many times the small offences are settled at the village level by the village Mukasa or the village elder. Mr. Chairman, what I would recommend is that these be recognized because if we were to allow every dispute to go over to our formal courts that we have now, the formal courts would not have the capacity, to handle. And yet this courts at the village level do a lot to bring peace, to bring understanding among the villagers. So all I would recommend is that they should be formalized so that at least their proceedings are also recorded. So that they can be used in the higher courts should anyone disagree with what the old men have reached at the village level. So that the higher court can ask for the proceedings. And many times I think that brings better understanding than it would have been.

Mr. Chairman I wanted to make a comment also on the President being independent I heard that here, I wish to add my voice in the opposite direction. That there is no way I can imagine that you can have a President who is not pushed up, who is not probed up by some grouping. And I can only see that Presidents would be proposed by parties, and there is no harm in a President belonging to a particular party. After all that is why it is periodic, so after a certain time when this party does not satisfy us, we can have another.

Power of recall for the community that they can recall an MP who is not performing, first if the job description was clear, he would say yes let us try it. But do many people understand the role of an MP? And how do you now access? Because it was proposed here that if $\frac{3}{4}$ of the people of the constituency are dissatisfied, how do you access that and when do you do it? Because if you allow that kind of thing, it would start immediately one is elected. And the group that lost begins collecting signatures, two weeks down the line they say no we are not happy.

It happened Mr. Chairman, in 1998 immediately after the '97 elections, when one of us an MP, brought up a motion of no confidence in the President, I said no no, this is like having elections through the back door, because we have just lost an election at the end of '97, you can't bring a motion of no confidence in the same government, before it has had its first budget. Because whatever programme it had promised in its manifesto, could only have been implemented after its first budget and we hadn't had the first budget. And the motion came we have no confidence in so and so, so I didn't vote for that motion but that was my understanding that we were trying to cheat the people of Kenya, by going through other attempts to remove the President.

Com. Wambua: Mheshimiwa you agreed that it involves the President then you have mentioned of people staying in after you

remove the MP.....(inaudible) mechanism which means campaign that can be given to the(inaudible) what I could be interested to know is how really(inaudible) MP becomes like a(inaudible) do we actually come up with a situation where we find a job description.

John Munyasia: It would be so good because I think then those giving the civic education, would have something to refer to. Mr. Chairman we have problems because even those providing civic education will judge an MP by the number of harambees he has and by how much he contributes at the harambee, without regard to the means that the MP has. I have never heard it anywhere Mr. Chairman that the electorates can sit and say no no we want to recal our MP he is given a certain period and at the end of that period, you have a chance now to say no you will go back or you want.

Com. Wambua: Mheshimiwa I want to say about what you hear about your job..... (inaudible) when you are campaigning in your home district, what do you tell them, because many people give promises to the people, they give promises that they cannot(inaudible) for example you are not in charge of road construction but you come and tell your people I will make sure(inaudible) of my term of Parliament, I will make sure that road is tarmacked, we know I know that.....(inaudible) but you promise your people to do that. What do we do in such offices and also what do we do for the people understand that you are just using land to get votes.

Audience: (clapping)

John Munyasia: It is for that reason that we would like that job description. Because I personally for instance I have never gone anywhere to say that there will be a health centre here, there would be a road here.

Interjection(Com. Wambua): But you know your colleagues do that.

John Munyasia: Yeah, I know my colleagues do it. But that is why I am saying, if the people were informed about the role, the job description of the MP, when you stand up without having your own graders and your engineers, when you stand up to say I am going to tarmack this road, they would say no no you are telling us lies. That is why it would be good to describe that.

Then there was some mention about an MP not giving his own views, I say it is not practically possible, for an MP for everything that is brought in Parliament to come home and go round meeting people saying what do I go and say? What about this you find that its contradictory, you find one group which says that it is this that we want, and you go and find another which says no. So which one are you going to take? Are you going again to access to see whether the majority were the ones who said you do this, so that is why when we come around our electorate should know, they are choosing a law maker. And you should know that someone, I think it is said in the condition that you must be of sound mind. So you judge that someone is of sound mind, you know his upbringing, you know the way he talks, so you say it is this one. I am usually very confident Mr. Chairman, that when I speak, I speak generally for the people of Sirisia, without sometimes even having going round making a

survey to see whether this is what should be done.

Com. Lethome: Mheshimiwa, I agree with you. It is important that Members of Parliament are given chance to make law.(inaudible) the issues that were very important to the constituency, Members of Parliament coming to(inaudible) not every issue but they have major issues.

John Munyasia: Yes, I do agree and that is why say for this domestic violence thing. I have been to a number of rallies here in the constituency, and worked them I said in Parliament we are discussing this. We are discussing a law that is saying, the man will be caught having slapped his wife, and the wife goes to court to seek protection that the court will bar the husband from that home for one year, and then even the women say eee and the men say eee, I say yeah but they even go further and say if the man will be found even stealing a loop at his home where his wife is who is under court protection, he will still be charged again for an extra offence. You had been barred from from the home why did you steal a loop again and the people are all unhappy both the men and the women. So for some of them we do but I remember when we were choosing the Constitutional Review Commission, I refused to go to ufungamano, because I said look my people sent me to Parliament, in Parliament you can loose emotions but you can win. It does not matter whether the other people might appear more, but I will sit here and debate let them hear my views if we loose it will be bad luck, but if we win it will be okey. So I didn't have now to come and consult the people, do I stay in Parliament or do I go out because I had been sent to Parliament.

The last thing I wanted to mention is very sensitive here, its whether we should allow our daughters to inherit land from their fathers. But I want to make it very clear that I am myself a father of nine daughters the majority in my family and I love them. When they marry I want them to stick to their homes. I want them to share the property of their husbands. It would be bad Mr. Chairman to have your daughter having land on your farm, you have given her, she has maybe got a title deed or whatever if it is not removed, so once you have given her a potion of the land. Whatever she does with that land will not be in question. You cannot have again the right to ask her what she wants to do with that land. She might put up a home there, and if she quarrels with the husband instead of coming to you to bring it to your attention so that you get up as a family as a clan, to go and find out whether you can resolve their differences, and let them stay in peace, she just comes over from her house, you cannot go to ask her why are you here? So we would like that exit closed. When a lady marries let her stay with the husband and we promise that we would do everything possible to ensure that her marriage succeeds, Mr. Chairman.

Com. Wambua: Let me talk on the last part I(inaudible) that you mentioned something about the teaching profession, I know originally(inaudible) if you have you can give it to us if not.....(inaudible).

Com. Bishop Njoroge: Also in addition to that, I will have to have liked to hear you(inaudible) we would like to hear your recommendation.

Com: Lethome: I would also like, I don't know whether you remember all this.....(inaudible).

John Munyasia: Let me write it down.

Com: Lethome: There are so many I don't know whether.....(inaudible) you were talking about the President, that we shall have the President and also the Vice President, I would like you also to mention something to do with preparation of power, the Executive, Judiciary and particularly you have heard about the Judiciary, because being Kenyans if talk about the independence of Judiciary people will tell you that is a mockery, because of the mode of acquinting the way divisional officers are appointed, we know that they are appointed by a President, we talk of the judicial service Commision and think that the President is involved in the appointment of the neighbourhood commission.(inaudible) what would you recommend as we are writing a new Constitution.

John Munyasia: On the teaching profession I am aware of the law that there is the TSC Act, the trade disputes act, the codes of regulations as they are at the moment, I am sure they provide enough mechanisms for teachers to negotiate their terms and conditions of service and they have done it. The problem has been, that the government has not been able to honour the undertakings that they had made, which is unfortunate. I do not know whether some avenues should be made to compel the government to honour that if there was, that is what we would have recommended.

On succession, I think it is already in the current Constitution that the President will be there for not more than two terms. That we would recommend stays not more than two terms, the problem is, what happens when a sitting President is contesting a second term. Because I think that it is clear that a sitting President contesting a second term, is likely to use the resources of the state, for his campaign. They will go round sometimes they say to inspect projects of development even when there is no development. But you know that you can't question because he is free and he can come by air, he can come by anything and he can have all the schools brought etc. I would have liked that a seeking President when he wants to go for a second term, the campaign for the presidential contest starts that he gives power to the speaker, on the understanding that the speaker is only holding it for that period of the campaign. So at the end of the campaign, whoever has one should takeover. That would have been the best thing so that here they do not abuse their positions. So that we have a level play ground. So it also has problems getting resources to campaign with.

Com. Wambua: Here we have the question of succession because that is where we are getting now for the first time since we got independence. We know that first our Constitution as far as I understand is silent about when the new President should take over, for example(inaudible) immediately I kept you you walked out, how do you expect them to run that office? Do you think that maybe there should be a period between there that maybe one will just be a President and the outgoing President will be there so that at least he hands over properly maybe for a period of one month two months, because I

think our Constitution is silent about that and we are heading towards that now.

John Munyasia: I am not quite sure that he needs that time, to organize himself to handover. It doesn't happen in written, when you lose the election written as Prime Minister, in fact the moment it is announced the other person is coming in, you have got to move out. Personally I do not think that it is necessary to give him time to organize himself to hand over. So those of us who would have won will be itching to get in. There is this crisis of confidence in the Judicial service, I do not know I think it might be emanating from the fact that the President has been the one ultimately making the appointment of whoever he wants to go to the high courts and then after that to go to the court of appeal, and he is the one who appoints the Chief Justice. So when you have an authority that is not changed, it is bound to happen that all other people are going to be competing for his attention. And so many times the Presidents have interests in certain cases especially the cases that we call political or those involved in their friends.

So they are bound to ask some of this people that they have appointed, I think if those appointed were assured that it was not the President's final choice, and that after the appointment, the President does not have much chance of demoting him etc. I think they would be independent, so we would propose, that appointment especially to the high offices in the judicial services, be first recommended by the judicial service. The President must have the power to appoint, but we would merely be making his preferred choices to Parliament, or is it the Senate and that it is that Parliament that will finally give the okay. So when someone knows that he had to go through such a process, I think he might be more independent in work.

There should also be something said about the Parliamentary service so that there is separation of power indeed, that Parliament for instance should be in charge of its own calendar. That Parliament should have a fixed period, term so that it is known from such such a time to such a time, we would have a new Parliament. With the exception of course being when we are in a state of war, everyone would understand, and then recommendations must be made to Parliament for the extension of that period. I think that is all that I had.

Com. Wambua: We wish to thank you very much for your contribution, we have all those views and we ensure you we will take account of that.....(inaudible). You can take the memorandum, sign there. We had some school children here have they returned to present their views? I think we have to give them a preference so that we release them. Na mtatusamehe kidogo tuwapatie wanafunzi nafasi kwanza halafu tuendelee na list. Tumekubaliana hayo, watoto yule representative kama yuko aje hapa mbele. Please start with your name.

Stella Wanyonyi: I am Wanyonyi Stella aged fifteen years from St. Christopher Mabanga Academy, form four. I am going to talk about rights of vulnerable groups. Some Constitutions make special provision for the rights of groups of people who have suffered marginalisation to historical, social, cultural or other reasons. Our current Kenyan Constitution does not have all special provisions for the rights of women as marginalized group. The interest of women are not fully guaranteed in the Constitution.

This matter should be seriously addressed in its fullness.

- 1) The Constitution should make a provision to allow wife in the decision making especially on matters of property, disposal eg if a husband wishes or wants to sell a piece of land, the wife consent must be told in advance. Reason, the husband if allowed to sell the land alone, he might misuse the fund venturing the wife and children lastly.
- 2) The Constitution should make a provision to keep woman power to own property. One; ancestrol and marital property. A girl should have a right to own her father's property just like a son has. A wife should have a right to own her own husband's property, this provision should only refer to the first wife in polygamous setting.

Com. Wambua: Stop making comments and you are interrupting she has a right to speak and air her views no interruption.

- 3) The Constitution should make a position bearing some cultures from subjecting women to torture. Should bar men from forcing widows into inheritance. Should bar parents from forcing their daughters to be circumcised. Infact female circumcision should be abolished. Reasons juvenile should question criminals. Most of the men who inherit widows are usually material driven, after few years, the widow and the orphans are left without any property to lean on. The orphans make victims of child labour because their home becomes hostile.
- 4) Female circumcision has side effects. The Constitution must make a provision bearing wife from being mistreated by their husbands. E.g. incase of any dissatisfaction on the side of the husband, every transaction should be turned in court thereafter. The acquired wealth must be shared equally between the two, that is the man and woman. The Constitution should bar the husband from beating their wives. That is all.

Com. Wambua: What about disciplining them?

Stella Wanyonyi: In matters of discipline, I think as a man and woman, living in one house, just call her if she has(inaudible) on you and then you discuss with her, you tell her the right to be followed. Not just beating her.

Com. Wambua: If there is marital problem.....(inaudible).

Stella Wanyonyi: If she is not doing the way you want it to be, it is better to call her parents and discuss with them, rather than beating her.

Com. Wambua: Thank you very much Stella for your views, is there another student or you represent all of them? How many teachers are there? Does the teacher have different views from the students. Why don't we have your views so that we can release you to go to school. Mwalimu utayafanya yawe mafupi such that you go, I don't want the teachers to be late. Give summary points.

Godfrey Wekesa: Mr. Chairman Sir, my presentation is that the law should prosecute those misusing the national resources. My views are on management and use of national resources. My first view is that the Executive should not have exclusive powers in the management and use of national resources. You note that one major resource that has been misused in this country is labour. Labour has been misused in the respect of terms and conditions of service, which has been very discouraging in the delivery of services from the same. I am saying that because terms and conditions have been set, arbitrary set, such that some sections are handsomely rewarded at the wind of the Executive as others are pushed to the periphery. This has resulted in very poor performance delivery of services from particularly the public sector.

The Parliament should retain the power to raise and appropriate public funds, but this should be modified. I want to quote the American system where Parliament fought by vote, debate and approve specific vote heads for specific ministries. In Kenya, this does not happen because they give it a few minutes to the minister to talk to the Parliament and after that, Parliament may not even have time to ask or reject certain specific vote heads and you will find this is fast, wholesale, to me once again this misuse of power from the Executive, because there is intrusion here and I therefore recommend that there should be recourse to law by Parliament, the law that should be entrenched in the Constitution, by such a policy like clause to prosecute those misusing public resources.

Collection of income in case of a federal state should be such that such an income should be proportionately divided, not proportionally as such, but should be divided in such a way that the state, that is the federal state should get a certain fraction and the rest of the national exchequer. This should not be like the American way where we have some states that are very rich eg. Texas but others are very poor. In some extreme you get that this can cause succession like it was the case maybe in Nigeria. The system should be such that overtime, there should be an equal distribution of income. So my view is that the federal system, should eventually balance income distribution around the country.

Benefits from the resources should be apportioned to communities where such resources are found. I have in mind a situation where we have a national park and the locals do not benefit, yet they share in its troubles, the animals might be over-running their farms, it might even be killing some of them, but all the money goes to the national kitty.

The controller and auditor general should have powers to prosecute. And this should be entrenched in the Constitution. I don't know what is happening because I have not read a Constitution very well Mr. Chairman, I don't know if the auditor general and the controller have powers to prosecute because quite of the catalogue

Interjection (Com. Wambua): Why do you want it to have those powers? He does not have he wanted to have.

Godfrey Wekesa: I really wish he had, because currently he named people who have misused,

Com. Wambua: Give us our view now, give us a recommendation.

Godfrey Wekesa: I recommend that he be given the powers to arrest and prosecute those he names as having misused public resources. Currently he just names them, and then that is all, we just see them on papers such a such a sector, so much was lost.

Com. Wambua: That is under(inaudible) move on to the next.

Godfrey Wekesa: Number six is that the President should have the powers to nominate the civil service and other public service auditors but the Parliament should approve. Parliament should form special committee with powers to summon, investigate and prosecute. Currently I don't know how the situation looks like, but I am inclined to say this because people have been known to misuse public resources and they still hold public offices, they still run businesses and nothing has happened. So such bodies like public accounts committee and public investment committee should have more deal.

Point number three was talking about rewarding or remuneration of workers I talked about it.

Com. Wambua: Is that the last one?

Godfrey Wekesa: Third last Sir.

Com. Wambua: You have taken all the time allocated to the teachers.

Godfrey Wekesa: We should establish code of conduct for civil servants, which I am aware has already been, there is a dealer as I wish this bill should be entrenched in the Constitution so that the ethics and the conduct of the civil servants must be specified while at their places of work and while working for this country. The President should nominate members of Public Service Commission, who should then be fended by Parliament. I think earlier on I had talked about it.

Finally, Parliament and the Judiciary should spell to make stiff penalties for people particularly the chief Executives who misuse public resources, currently I think it is too soft and very many public servants have been misusing public resources, they are known to fluculate and they get away with it. I suggest if somebody has for example has reviewed the feeling of saying over five million shillings from the public duty, such a fellow should be jailed 20 years, citizens 20 years custodial sentence. This should be enough.....(inaudible) to people who would plan or be tempted to steal from the national ex-checker. Those are the views that I had. Thank you very much.

Com. Wambua: Thank you very much Godffrey.....(inaudible) I want to call my colleague before, I know there no more walimu, I don't know whether there are two or one. Do you have different views from the other mwalimu? Very different. Wanyonyi Kitui can you come and present your views. Then we come back to the others. Okey let us settle down we listen to him.

Sign interpreter:(on behalf of Kitui Wanyonyi -deaf): His name is Kitui Wanyonyi Wambonga. So he is saying that he has two views, the first one is on education. Education for children should be made free. Many of the days people have no income, therefore cannot cater for the expensive education system. Then the second proposal is also on the farmers, that the government to make sure that the companies that take in the sugarcane, pay the farmers without delay. I am a deaf and I depend on cane, but since my cane was cut in the year 2000 I have not been paid. There is a feeling on the law, it could be made in such a way that, when the cash crops are delivered the disrespective companies, those involved should be given their money in good time. So he insists on the delay of the cane, that they cut three times took five stakes to the company but he has not been paid, he has gone there to check but has not been paid.

Com. Wambua: Does this have the policy to make as someone with disability but who is safe, what does it mean the government should do, what does he think they should do in our law to make that, it needs abundancy what special needs are there?

Sign interpreter: The most thing he is still insisting on is the income, they have no income. He is still talking about the cane he has worked hard on and his cane has been cut three times he has not been paid.

Com. Wambua: Thank you very much, in taking views conveniently, that those views would be incorporated in the report we are going to make.

Sign interpreter: Wanyonyi, what you have said here, you have written here, will be given and taken to the government in Nairobi there and if you work on and maybe the government will look into all that you given to the companies there in the factory, so that they give you your money. They will make a law.

Com. Wambua: Thank you very much. Now mwalimu can you come forward please and be very brief, you said you have separated the issues, we have heard on natural resources, I don't know what you want to talk about, but whatever it is please be brief and to the point.

Patrick Simiyu: Thank you very much Mr. Chairman. My name is Patrick Simiyu Wafula, from Mabanga Girls high school. Before I start I want to make a special request that kindly allocate me some slightly more time because we have issues here which we have discussed exostively, and I want the members also to get to hear about them.

Com. Wmbua: Mwalimu the proposals you are making are meant for us the Commissioners, not the public, it is not a political rally, and we will plan to go and read those documents, analyse them we have allocated time so that we can review them and it will give us double work, so my suggestion to you will be, which will make a lot of sense, please highlight the key issues, don't take us through it because you are going to give that memorandum us. We have allocated a lot of time to just go through those documents and analyse the issues.

Patrick Simiyu: First I will start with education. It is known everywhere that the current group of students who pass through our hands are incompetent. This is mainly because of so many factors, but I would highlight some, we force so much onto them at a very young age, they are not able to grasp them qualitatively, and because of this we would recommend the return of the 7-4-2-3 system of education.

When that system returns I recommend that technical schools to be reintroduced. But this time, technical education to be taught up to form 6, paving way for entry to colleges of technology which will offer special attention to engineering related courses. This has been done elsewhere and that is why a country like USA is doing so well. For us somebody passes through grammar school, they go to university and take engineering. And engineering course takes about 4 years, by that time, somebody do not be fully qualified to take the duties so prescribed.

Let me talk about teacher hiring. Right now we have boards of schools hiring teachers. Like we know the exercise about to start, as teachers of high schools, we recommend that the hiring of teachers to be done centrally by the Teacher Service Commission. This is because when a teacher finishes training, this person is fully qualified to go and teach and in any case he is given powers to go and do all that appertains to his degree. I have personally participated in the viewing some of the teachers to be hired by some schools. I am saying that in that interview room, there is little of professional requirement that these candidates are subjected to. We have people who are illy equipped as far as the teaching process is concerned, interviewing professionals. Mr. Chairman I think this is irregular.

About corporal punishment, it was removed sometime in the course of last year. From experience we have found that it is very hard to be able to teach our students well, minus the ability to cane them. Lets look at what has happened in America and Europe, we have students who run while they have to shoot teachers and fellow students because there is no immediate punishment for them. Do you want such students to also reach in Kenya? We suggest that corporal punishment be re-introduced. And my question again is this, why do we what to remove corporal punishment from high school, but insist that it be introduced in jails.

Interjection (Com. Wambua): You have made your point all the time please don't explain just highlight, give us points.

Patrick Simiyu: Let me go to structures and systems of government. We should adopt a federal system of government in which exactly even the legislative authorities brief between the central government and distinct regional units. People have been here and one of the factors that came out was that a federal system of government will be expensive.

Interjection (Com. Wambua): Go to the next point don't explain.

Patrick Simiyu: The second point would be, we should remove Provincial Administration and be replaced with regionally elected councils. Let me talk about electoral system and processes. We should introduce rule of 50% representation of total wards cast for presidential election. In case of a failure to attend this at first round, then our run off of the first two people to be done.

Constituencies should be demarcated on the basis of population to avoid under representation and over representation.

Election date should be specified in the Constitution. This is to avoid undue advantage of incoming President. Also a date for handing over or swearing in for the incoming President should be highlighted in the Constitution.

The two or two elections should be done under the following changes. Counting of votes to be done at polling stations. The Electoral Commission should have powers to prosecute election offenders.

Legislature; the following appointments to be made by the President but to be vetted by Parliament. Senior civil servants like the head of civil service, Chief Justice, Attorney General etc, heads of parastatals and ambassadors. Two Parliament should have powers to control its timetable or calendar. Three, Members of Parliament to be full time to discuss incompetence. Four, people should have a right to recall the MP. This should be done by two thirds of party delegates in the constituency in which the MP comes from. This should check MPs from political prostitution, where we know as it is now they sell their loyalty to the highest bidder in Parliament, that is wrong. While in Parliament, MPs should act in most cases on instructions from their constituencies or parties, on sensitive issues.

Interjection (Com. Wambua): You know you have one minutes more.

Patrick Simiyu: Thank you. But on their conscience, on issues deemed less sensitive. Six, MPs should have periodic open forums in their constituencies, to discuss topical issues and get feedback from the people. The Constitution should have permission for formation of coalition government. The power of Parliament to remove the Executive through a vote of no confidence is adequate. The President should have power if at all legislation by Parliament, if it threatens security and is against the interest of citizens.

Last Parliament should have power to override the President's veto if it deems fit, it is not in the interest of the country, in such a case Parliament should recommend for a national referendum on such an issue at hand.

Com. Wambua: Thank you very much.(inaudible) they are good issues. Can we have the other teacher. Benedict we want you to highlight because we will have to go through the memorandum. Don't read everywhere.

Benedict Watamba: I am Benedict Watamba from Mabanga Girls secondary school. I have views and my views will be on political parties and I want to propose that we should(inaudible) a clause in the Constitution, to allow for the independent candidate also to vie for the presidency. I propose that we should have a limited number of political parties, and I suggest that let's have at least five political parties in the country provided for in the Constitution.

I will touch also on land and property rights, I want to suggest that government should have the ultimate powers on the ownership of land, I would also suggest that in case the government wants to use land then you should have to compulsorily acquire the land, but adequately compensate the owner of the land. I would also suggest that the girl child also have a right to ownership of land, especially in cases where somebody has only daughters, and does not have sons. At the same time also we may have girls who may not want to marry, and in such cases such children should also be catered for by the family of the parents.

I want also there to be a provision in the Constitution that wives should also be involved when it comes to land transactions. And that when a husband wants to sell land, he has to get the consent of the wife, I would also want to propose that there must be a ceiling of the total number of land acreage somebody should have at least to own in the country. I suggest that let us have at least an individual owning 100 acres of land to the maximum. This at least will make it possible at least for land to be utilized well and reduce the problem of squatters in this country, because currently now we have some people who own large tracks of land and they are not putting them to proper use. So I suggest that should also be catered for in the Constitution. I want also to propose that the transfer maybe of land should be simplified, because currently if somebody wants for example to transfer to get a land title deed the ways and means of getting it are very difficult, and I suggest that we should at least give this land title deeds from the divisions where at least the family or the local people will be involved. This will have at least to reduce corruption that is there now currently and make people at least be satisfied with transfer of land. I would also suggest that the Constitution should provide for village at least courts and restriction should be that they should be also involved in matters of the transfer of land and also solve simple problems that affects people.

I want also to suggest that when it comes to land let the government heavily subsidize the acquisition of land, that it gives people at least money because sometimes the poor have been denied the right to land simply because they cannot afford the fee that is paid. So if the government can come in to subsidize the acquisition of land, then that one will be easy for even the local people also to get that.

On succession I want also to say that the fee currently now paid by people to have to succeed land, is very alarming the money is a lot. In some cases poor people have not been able to get titles for their land and this has openly look to make the rich get land from the poor without them knowing.

On defence I would propose that, on matters of national security, the armed forces at least should have special courts, like the court marshals like it has been, which will deal with disciplinary problems. But on the appointment of senior officers in the armed forces, Parliament should be given also some authority to vet to see who is put there. That one at least will make it possible at least for the armed forces to be run well. I want also to suggest that in the event of the President maybe declaring the state of emergency and then directly Parliament should be involve. If that one happens, then it should be okey.

On the independence of the Judiciary, I want to propose that the Judiciary should be independent, and that the Judicial officers should be appointed by an independent body like the Judicial service Commission, and the judges must not be appointed by the President, because if they are appointed by the President, then the President is bound to misuse to influence the decisions of the court.

Interjection (Com. Wambua): One more minute.

Benedict Watamba: Thank you. I want also to say that we said a maximum maybe for professional qualifications for the Councillors, let at least a Councillor have a form four certificate, at least with a pass, because now the Local Authorities are playing a very important role in the development of this country, and therefore we shall put there somebody who can understand and then utilize the resources given. Thank you very much.

Com. Wambua: Write your name there. Vincent Ndalo are you here? Okey if you are not here, can we have Dismus Yukuri, kama hayuko, tumpate, mheshimiwa ameshazungumza, Vincent M. Mukhongo, Mukhongorio, hayuko, okey can we have now Cleophus Wayongo, Mukhongo umekuja na Wayongo yuko? Wayongo you spoke yesterday, yes, you know that name is very unique it reminds me of my father's friend so I can't mis it.

Vincent Mukhongo: My name is Vincent Mukhongo Munyasia from Luhya. My recommendation the first one goes on the dowry. We have at least 42 tribes in Kenya. And this children are interacting marrying one another, and therefore if they have married, the men they must pay dowry, so that the boy will be recognized to that particular family. Another recommendation.....

Interjection(Com. Wambua): How many girls for the Bukusu's?

Vincent Mukhongo: For Bukusu's, we have ten. This is my own suggestion

Com. Wambua: That is his view, you respect it, when you come here you say what you want.

Vincent Mukhongo: And it is finance that will depend on the son in-law and the father. Another recommendation that I would like to pass to you, is that we always elect some local Councillors, and this local Councillors, we need to elect them those ones above form four, division three if possible or C, and if it's a Member of Parliament, must be a graduate, the same to someone who is contesting for presidential candidate.

Another recommendation that I would like to pass over, is about nomination of the President with parties. It must be done with the parties, and in case that particular candidate perhaps dies before the day for elections, then that particular party must be given a chance to nominate another candidate, so that this one cannot run alone as a democracy country.

Finally I will talk about free education especially to disabled children. Free education if possible form one up to form four and also they can be considered for chances as employment is concerned. You have seen a friend who has been here has a problem. And lastly, I say the other thing should be free education we want to be paid in primary and then with further education there they can pay. Those are my views.

Com. Wambua: Thank you very much. Has Mr. Steve Wanyonyi spoken, okey can we have now Patrick Simiyu, he spoke, can we have now Fredrick Wesisi, ni wewe? Afuatwe na Moses W. Khaemba, I think Khaemba spoke, Khaemba the chief spoke. Nickson Monyama, yuko? Kwa hivyo karibu utamfuata huyu, halafu tumpate Watamba Benedict yuko, amezungumza, halafu Godfrey Wekesa, amezungumza. Okey, start with your names.

Fredrick Misisi: Thank you Mr. Chairman, I am Fredrick Misisi and my point of today I will talk about the civil service, I will talk about the lowest debate cater in the civil service. Most of the time the lowest paid cater have worked for more and more years, but they still remain on the so called temporarily farms when they are working for their own countries, so in my view I will suggest that your team do not bring this problems and present up there.

Com. Wambua: What do you recommend for the lowest paid civil servant, what do you recommend.

Fredrick Misisi: I recommend that they should be paid around 15,000 per month and terms of service, they should also be on permanent and pensionable terms, because they also work like any other Kenyan. The other one is that we have been having Councillors, MPs representing the constituency or the common man, but this people have been cheating all through. So I would suggest that, we have the common man representative who will be counter running with the Councillors and MPs....

Com. Wambua: We have an MP, a Councillor and then a common man representative. How does he go there? How do we get to this common man representative? Do we have another election for them, or just a point of nominating?

Fredrick Misisi: We have an election for them so that they shall meet the common man's problems.

Com. Wambua: Who will be representing, for example in this constituency called Sirisia, so you have the MP, you have your Councillor and then you have your common man to present them. So who will the MP be representing.

Fredrick Misisi: He will be representing everybody.

Com. Wambua: What about the common man?

Fredrick Misisi: The common man will be represented by the so-called common man's representative.

Com. Wambua: How do you decide that this is the common man?

Fredrick Misisi: By voting.

Com. Wambua: Just a minute you said a common man representative will be representing the common man or woman. Okey. Who is this common man to be represented?

Fredrick Misisi: The poor man is the representative. That is all.

Com. Wambua: That is all, thank you. Moses Wakora.

Moses Wakora: Mimi ninaitwa Moses Wakora Khaemba. Natoka sehemu za Derendaba Bungoma. Mimi nitaongea kitaifa, Kiswahili. La kwanza ninataka kwa upande wa title deed, nikiwa na title deed yangu, iwe pamoja na jina la bibi yangu. Sana sana tunakuwa na shida sana upande wa kina mama, mzee mimi ninaweza kuingia kwa boma langu na mke ni mwenye kununua hilo shamba langu. Ninajifanya tu kama mimi ninatembea na kuwa mimi ninauza hilo shamba. Mama kugundua tayari nimesha uza hilo shamba na mwishowe family yote inaishia sokoni, nataka hiyo iandikwe.

La pili, nataka haki ya wanaume. Sisi wazee vile mnatuona sisi tunapigwa sana. Tumeoa wakina mama wengine wako very strong, wanatupiga sana. Na ukienda kwa mzee wa kijiji anacheka tu anasema hiyo ni upuuzi si ungempiga wewe mzee, mbona ulipigwa, ukienda kwa polisi pia wanakufukuza wanasema huo ni uongo na ukiangalia ndani kwa kabisa umeumizwa.

Interjection (Com. Wambua): Sasa swali ni hili, unataka mama akipiga baba tufanye nini? Sheria ifanye nini?

Moses Wakora: Sheria ichukuliwe, hata yeye ashitakiwe kama mtume kama mwanaume, hata afungwe.

Com. Wambua: Na mwanaume akipiga mama nyumbani?

Moses Wakora: Pia sheria ichukuliwe afungwe. Upande wa watoto, kama mimi nikipatikana nimefanya rapping mtoto msichana, mtoto mdogo, niwe si eti nifungwe niuwawe tu hakuna kitu ingine.

Com. Wambua: Uki-rape msichana mdogo, yeah, okey na uki-rape mama?

Moses Wakora: Hii case yangu pengine nifungwe lakini sio kuuwawa, na hao watoto kwanzia standard one mpaka seven, unajua inatakikana ibadilishe education sasa ifike standard seven sio eight.

Com. Wambua: Unataka turudi ile ya zamani?

Moses Wakora: Ya zamani ukifika standard seven unaenda form one. Kwanzia standard one mpaka standard seven mtoto asome free. Halafu kwanzia form one tufanye kitu inaitwa cost sharing, serikali itusaidie kidogo kidogo. Halafu la kufuata, kuna poor families. Kuna families zingine ambazo ziko very poor hapa nchini hapa kwetu Kenya. Kwa hivyo ninataka family kama hizo, kila mwisho wa mwezi waende kwa district, wawe recognized wawe wakipewa kitu at least one thousand for their soap. Kwa sabuni yao ili wasiibe.

Disabled children wale hawajiwezi, watoto hao wasome bure na ikiwa kama ni kazi wawe recognized.

Upande wa siasa. President aende two terms, sio zaidi, akimaliza two terms anaenda kukaa.

Interjection(Com. Wambua): Umesema sasa kwanzia nimeona kwenye magazeti, akienda kukaa unapata kuna vitu fulani anaendelea kupewa, mshahara anaendelea kupata kiasi fulani, magari, body guard na mambo mengine, hiyo unapendelea aje?

Moses Wakora: Hapana hiyo akisha retire ako na mali mingi, arudi nyumbani akae tu, akule hiyo pension kama ya watu wengine. Si eti tena arudi anyanyase raia hapana. Mshahara wa MPs ni kubwa sana, hiyo ipunguzwe, tena kuna ma MPs fulani ambao wakisha pigiwa kura aende kwa Parliament anaenda kabisa, sasa tunataka kuunda kamati katika hiyo constituency. Hata akilala huko mshahara wake uwe inakatwa at least 40%, iwe ikisaidia kwa hiyo constituency development.

Upande wa Local Government, kuna pesa za development funds huwa inaingia kwa council, na wanahesabia tu Councillor

namna hii, wanapewa tu kwa mkono hivi, wanasema enda tu fanya kazi, yeye hata akiingia huko hatujui anafanyia nini, tunasikia tu anaanza kujenga nini na anasema hiyo pesa imeisha.

Interjection (Com. Wambua): Unapendekeza nini?

Moses Wakora: Ninapendekeza tuunde kamati tuwe tukimfuata, hiyo pesa inafanya kazi ama la.

Com. Wambua: Sasa umebakisha dakika moja peke yake.

Moses Wakora: Upande wa mashamba, kuna matajiri hapa nchini Kenya ambao wako na mashamba, mtu unakuta ako na shamba elfu kumi.

Interjection (Com. Wambua): Unataka awe na ngapi?

Moses Wakora: Tunataka matajiri wagawie masikini hiyo mashamba.

Com. Wambua: Huyu tajiri unataka awe na eka ngapi kabisa?

Moses Wakora: Mwisho kabisa awe na eka mia moja.

Com. Wambua: Na masikini kabisa awe na eka ngapi?

Moses Wakora: Masikini kabisa at least awe na one eka.

Com. Wambua: Malizia malizia basi.

Moses Wakora: Halafu la mwisho, tunataka hapa kwetu katika nchi yetu hapa Kenya, madaktari hawatangazi ungonjwa, kama ni malaria waseme tu ni malaria imeua huyu mzee, kama ni ukimwi waseme tu ni ukimwi, hiyo ndio imefanya sisi hapa watu wamekufa ukimwi sana kwa sababu hawatangazi ungonjwa.

Interjection (Com. Wambua): Sasa madaktari ndio wanatakikana waje waseme.

Moses Wakora: Wanafuata sheria, daktari awezi kutangaza ovyo ovyo, wanafuata system fulani, tukitangaza tunaweza kushitakiwa. Ni hayo tu. Asanteni.

Com. Wambua: Asante Bwana Wakora. Enda ukajiandikishe huko. Kuna Moses Baraza W. ama alizungumza huyu, hayuko.

Tumpate sasa Patrick Nyongesa, halafu afuatwe na Philip Ngomeni alizungumza, afuatwe na Peninna Ambuko, ni wewe? Hebu karibia hapa mama. Pamela ameshazungumza tumempata. Zebedil Soita, hayuko, wacha hawa wazungumze, sema majina.

Patrick Nyongesa: I am Patrick Nyongesa Malaba. Chairman wa CJPC Kibai Parish this is my personal views.

- 1) I feel the land handled with care or management of the family and not of an individual. That is the clan should take care of the land and also view of that the land should not be shared to the children, because if we continue sharing land, in the end there will be nothing to be shared.

Interjection (Com. Wambua): So what happens to the land?

Patrick Nyongesa: It should remain under the care of the clan.

Com. Wambua: Then the title documents should be under whom then?

Patrick Nyongesa: It should be under the name of the family.

- 2) The system of education should be changed from the present system of 8-4-4 to previous system of 7-4-2-3.
- 3) Also the system of 85% of form one intake should be changed to be replaced with national intake as it was previous.
- 4) The present system of issuing identity cards and the issuing of voter voting cards should be continued because the people get the age of 18 every year.

Com. Wambua: Are you having the system of(inaudible) like the Ids, you have to(inaudible) district level, divisional level, would you like them to move closer to the people.

Patrick Nyongesa:

- 5) Yeah, now I feel also the religions denominations should be reduced, and sensed before registration they have become so many.

Com. Wambua: Reduced to how many?

Patrick Nyongesa: Reduced to about ten.

- 6) The penalty on rape cases of under age children, should be harsh.

Com. Wambua: What is under age?

Patrick Nyongesa: Like children of under 12 years.

Com. Wambua: So what is that harsh something?

Patrick Nyongesa: Should be life imprisonment, if one rapes a child of nine months and so on.

Com. Wambua: What about if she is a grown up woman?

Patrick Nyongesa: Well that should be soft penalty.

Audience: (laughter)

Com. Wambua: What is soft penalty?

Patrick Nyongesa: Imprisonment should be just like 3 years. Thank you those are my six points.

Com. Wambua: Thank you very much. Next, na hiyo point ya mzee ametaja taja jaribu kuiepuka. Your name first.

Peninnah Ambuko: Thank you very much. I am Penninah Ambuko. My recommendation or views are as follows, even according to the early days when God created man and woman, we find that man was to head and the woman was to assist the man. So on that note I believe that if, our President is a man, then the Vice should be a woman. If a minister in the ministry of agriculture is a man, then the assistant minister to be a woman. So that we can have a smooth running of the this institutions.

Interjection(Com. Wambua): So women should only be the assistants.

Peninnah Ambuko: Yeah, according to how... if it is a must that a man should hold that post.

Com. Wambua: You recommend, what do you recommend, is there should be a President or it be a man?

Peninnah Ambuko: Not always but for this coming election. The other one is about university education. I would recommend that it be free. Because we find that most of the parents struggle in secondary schools, and then coming to university they have nothing to pay, so you find good students are left out. Also after the university, I would recommend that they be given jobs, because you find most of them are jobless after that long struggle of the parents.

Interjection(Com. Wambua): A guarantee that once you go to the university, you have a job.

Peninnah Ambuko: Yeah, even us during our time, when we used to finish colleges, jobs were already there for us and on that note I would also recommend that one man-one job so that we can now create chances for this university students.

The other thing is also retirement age. I would recommend that it be 65 years, this is because you find that most of our university students, tarmack up to an age of around 30 years. So, they can only work for 20 and now retirement has reached. So that is why I have recommended 65years.

Then the other one I should just recommend that there should be no comments on other people's views because sometimes this ones makes other people not to be free because some people when they are asked some questions, others become nervous and they don't actually give what they would have given, if they were not interrupted with a lot of question.

Another one is on this rape cases. Women are the ones who are mostly affected and the girl child. So I would just recommend that the penalty should just be life imprisonment for such people, so that because when they go to prison and they come back, they still repeat the same mistake.

Interjection(Com. Wambua): Where it is an under age girl or woman.

Peninnah Ambuko: Yeah, rape is just rape, because even if you are a woman and you are raped, it affects you psychologically. So I don't see why such people should be kept in the community.

Interjection(Com. Wambua): Recently in the paper, somebody raped a nine month old girl. Would that be the same as raping a 30 year old woman? The effect, so should the punishment be the same?

Peninnah Ambuko: No, at least I would suggest that for children, that is under 18 years, because in our country we believe that anybody above 18 years, is a grown up, I would then recommend that, those who rape under 18 years, can have life imprisonment. But this other ones it is for the judge to decide.

Com. Wambua: We want you to recommend, pretend you are the judge, recommend.

Peninnah Ambuko: Those ones I would recommend that they can be given five years imprisonment with some strokes, so I think with those recommendations I have said thank you very much.

Com. Wambua: What is your recommendation? You said that God created man, he also gave man an assistant woman, what is your comment about 'husola' discipline at home, will the man be allowed to discipline the wife at home?

Peninnah Ambuko: But you see when you courted the two of you. You were all grownups and you had 32 teeth, and you sat down or you were on the road discussing before you came to an agreement that we can stay as husband and wife. So I don't see why you cannot also seat at table when you have problems and then try to solve them. Because by canning her, in fact you are solving nothing, instead you are creating more problems. You should look for the root cause of the problem to solve it.

Com. Wambua: So, no wife beating.

Peninnah Ambuko: Yeah, no wife beating. Thank you very much.

Com. Wambua: I know that part of beating is..... can we have now Preston Obutete. Followed by Tom Mayaka, Tom are you here? Okey utamfuata. Halafu Moses Wambungu, utamfuata, halafu Wakholi David, utafuata, Fred Musiro, tuendelee anayefuata.

Preston Obutete: Thank you. I am Preston Waswa Obutete of Egerton University.

Com. Wambua: Speak into the mic we have some rain now.

Preston Obutete: Yeah, I want to start with constitutional supremacy. We desire a referendum for any serious national issue, e.g the foreign aid to Kenya, from IMF and World Bank. The change of educational system, from say the old system to 8-4-4 as I guess the citizens could have been asked for their views. Then I would also like to propose that we should have a joint referendum of the citizens especially when we are having the foreign forces from say US training with Kenyan forces, on our Kenyan grounds. I would also to say we need a referendum when the parliamentarians are talking about their salary increment.

After this referendum the Parliament should then be responsible to pass a majority vote of 85% not 65%. This will curtail the glutinous behaviour of buying MPs and put a check on the tax payers money. They should come back to ask the voters first on what we should do. So I was asking that please we should empower the governed through the referendum.

I would like also to talk about the political parties. The Constitution should strongly stipulate the formation on management of political parties, so that they operate within a set frame work. This will ensure that only disciplined and orderly parties survive. That is to say, cutting winds of roots like 'Mungikis' and the unwanted parties that are operating behind the shadows. Parties should gather 10% of the national votes to remain in the races. This ensures only strong parties remain in the race. Or parties like I don't want to mention them, of course you will not enjoy the elections because they are having less than 8.5% national votes. This means then strong parties will now be financed by the public funds. For a legal ground during campaign I would say, there should be an equal amount of money which should be dispersed only to those parties that enjoy 10% majority votes nationally. This will in turn strengthen democracy like the case we have written new labour and the conservative.

Com. Wambua: And how many parties should we have?

Preston Obutete: At least we have say ten parties. The state should relinquish its contacts from the political parties and the selection of politically correct personalities in a compromised marriage, into state parastatals should be curtailed. We should scrutinize these personalities by a set organ. They should be set up, so that we ensure only the diligent and the efficient ones are selected like in the case of US. To ensure corrupt officers don't get access to office of power. That organ should be very free from the government. The state should fund all zones including those ones that are enjoying the opposition support since they are all tax payers to the public offer. Opposition or ruling party supported zones.

The phalasy that is taking toll now that join the government you get supported, should be done away with since we don't have a second class organization or tribe in this country. We all deserve to be supported. Donor funds should be accounted for because in the end we pay them back, whether poor or rich we have to pay for them. The position and the rulling supporter zones are in Kenya. So there is no need or I don't see why they should not be given access to facilities like roads, amenities in towns like swimming pools and stadiums as the case is right now.

Lastly, I will talk about the structure and systems of the government. I am proposing a federal government in which case we should have the two distinct authorities over the country. I am proposing that we should get out the P.C., Provincial Commissioner and the D.O., the assistant chiefs should be gotten out office because I don't see what they are doing in the offices. In place I am putting there the President as the highest man at the hem, followed by the governor as the case in the US, then we will have the District Commissioner or the sheriffs, then we will have the chiefs followed by the village elders who will be paid by the government. All the ones in the offices are voted for. From the President down to the village elders, we have to vote for them. All the vies above are voted in and can be vetoed out by the voters because they are the tax payers who will be paying for their salaries. They will serve five years in which case they are checked and balanced.

The President serves a maximum of two terms and the governor has the lee way towards vying for the Presidency as the case in the US. I am going to talk about the finances. The central government should be given ten percent of the taxes paid by the citizens. Then the remaining 90% will remain in the federal.

Interjection(Com. Wambua): Just a minute about the Provincial Administration, you are proposing that they should be elected by the people, meaning within this district some people will vote for a certain P.C. And some will not vote for that P.C. now when it comes to serving the people, do you expect it to be neutral?

Preston Obutete: Of course it will be neutral since we will also give him some mechanisms that will ensure that he is protected in his working.

Com. Wambua: When he is just about to be elected he will campaign or he of she will campaign, is it not so and when campaigning he will be promising people, once you let me I will do this and that. Okey, do you expect such a person to be neutral once you think of being elected.

Preston Obutete: In a democratic country, in which we are forcing that we will get one soon, I am sure we will elect such people. I am also talking about the culture, ethnic and religious diversity and communal rights. I am meant to understand that human diversity brings unity with the various ethnic groups in Kenya we have struck unity and the Constitution should stipulate strongly for the respect of culture, like circumcision and especially in Bukusu we have riverside where they go mud the young boys and for this case I am worried because people are fencing their land, and the owners of this riverside are mostly foreigners who don't recognize the Bukusu culture.

Com. Wambua: Foreigners from which country?

Preston Obutete: Well I will swallow that word. People from outside Bukusu land they are not recognizing the cultures of the Bukusu people. So in any case this sites of mudding the boys are being sold off, in any case it means the circumcision sites will be done away with in ten years time. So they should be protected.

Com. Wambua: And should the Bukusu be allowed to have such people because of their culture, for example I understand Luos cannot come to Bukusu land or Bungoma to inherit.....(inaudible).

Preston Obutete: I think that is a barbaric and salvage behaviour which should not be encouraged by, I can blame the Provincial Administration for allowing such things to take place around. Because they are done in town where I guess the policemen are the majority.

Land and property rights. I guess every Kenyan should have a right of access to land. I am proposing that we should have at least five acres for every Kenyan with a sailing of the maximum of 200 acres. Then also I had a chance of working in a surveyors office and I realize the transfer of land is a very tedious process, so I think we should simplify this process to suit the low income earners, the processes like the application of consent, the survey itself, the physical planning, the registration and the taxes are just too high for a common man.

Com. Wambua: You have a minute please.

Preston Obutete: I would say that this process should take the course of the ID card, the procedure we have when getting the ID card. Lastly, succession and transfer of power. The Constitution should put it clearly how the head of state should transfer his powers to his successor. The process should be spear headed by the religious leaders and the Chief Justice, and the

Constitution should stipulate the packages, enumerations for the President. In any case like the housing and the vehicles, the monthly or yearly pay....

Com. Wambua: I think this could refer to the retired.

Preston Obutete: The retired President. Then later on he should for his duty in office, like the case in Zambia, even in the Bible they say every sin should be punished. So I am sure he should, he will pay back from maybe the packages you will give him, he will get out some of the packages to pay for the mistakes he did in his office. Thank you.

Com. Wambua: Asante sana Bwana Preston, next.

Tom Mayaka: Asante sana Chairman. Mimi ni Tom Mayaka na nitaenda kuongea kwa lugha ya taifa ya Kiswahili. Maoni yangu kwanza ninaongea juu ya mambo ninayoona hapa Kenya. Unakuta kwamba mtu ameua mtu. Anamkata ameua amekufa, amepelekwa ndani amezikwa, na unaona muda kidogo amerudi nyumbani. Sasa inaonekana ya kwamba hakuna hatua amechukuliwa anashikiwa bond anarudi nyumbani. Sasa akirudi nyumbani anasema sasa walinfanyia nini.

Com. Wambua: Wewe unapendekeza nini mtu akiua mtu mwingine?

Tom Mayaka: Mtu akiua mtu mwingine, na ushahidi umepatikana ni ukweli ameua, yeye pia auwawe. Halafu ninaingia kwa haya mambo ninaona wengine wanaongea juu yake hata mimi nitaongea juu yake. Unakuta kuna watu wengine wananajisi watoto wadogo, na hata wakina mama. Mimi kitu ninaonelea, kwa vile watu wengine wanafanya kusudi, ikiwa amenajisi mtoto under 15 years, huyu mtu anastahili kuingia ndani kwa jela, miaka arobaini na tano akirudi hatakuwa na nguvu tena ya kufanya kitendo kama hicho. Nguvu zitakuwa zimekwisha. Na akinajisi bibi ya mwenyewe, huyu mtu anatakikana alipe shilingi elfu mia moja fine.

Interjection (Com. Wambua): Analipa nani hiyo pesa?

Tom Mayaka: Analipa yule mwenye bibi.

Com. Wambua: Hold on ni yeye anasema, analipa mwenye bibi.

Tom Mayaka: Analipa mwenye bibi na aingie ndani miaka ishirini na tano, kifungo, iwe ni funzo kwa wengine halafu tuzuie kufanya mambo kama haya, kwa sababu watu wengi wamezidi sana na wanafanya vitendo vingine vibaya.

Com. Wambua: Na kama sio bibi ya mtu?

Tom Mayaka: Kama sio bibi ya mtu inachunguzwa, wakiona saa zingine amemwambukiza yeye vitu kama HIV.

Com. Wambua: Kama ajamuambukiza?

Tom Mayaka: Kama ajamuambukiza, aingie 15 years ndani, kwa sababu ataendelea na vitendo hivyo.

Com. Wambua: Endelea.

Tom Mayaka: Halafu nitaongea juu ya mambo ya kimila. Kuna pahali wazee wengine wanakaa baada ya kazi, wazee wanapenda kukaa mali fulani.

Com. Wambua: Wewe unapendekeza nini kuhusu busaa?

Tom Mayaka: Iruhusiwe free watu wakunywe bila kutatizwa, kwa sababu watu wanatatizwa sana wanashikwa shikwa na askari hata ufisadi tena unaingia kwa njia hiyo. Sasa iruhusiwe wazee wakunywe pombe busaa bila kutatizwa na askari yeyote.

Com. Wambua: Na akina mama?

Tom Mayaka: Wakina mama hao ndio wanatengeneza lakini hao wakae nyumbani, kwa sababu kazi yao ni kidogo tuanze vile zamani walikuwa waanza.

Com. Wambua: Na uta control lipi watoto kwa sababu unapata pahali wazee wamekaa ndipo watoto wako.

Tom Mayaka: Busaa tangu zamani, mama anaenda pahali bwana yake amekaa, anakaa kwake hapo kwa miguu yake akinywa kidogo anamwambia saa zake zimekwisha anaenda nyumbani.

Com. Wambua: Na watoto?

Tom Mayaka: Watoto wasiruhusiwe kunywa busaa, kama ni watoto wa shule hiyo wasiruhusiwe, lakini hii ni mambo ya wazee, halafu wazee kuna saa zingine wanakaa na watoto, wanafundisha hao kimila, wale wamekuja wamekuwa wakubwa wanawaambia kuna sheria inasema hivi, kama unainama kwa hii mulicha, shika mulicha uiname, hapana shika mulicha mzee, na tena wanaambiwa mambo ya kienyeji, ya kimila, tulikuwa tunafanya namna hii tangu zamani, tulikuwa tunakaa namna hii, basi mambo kama hayo sasa busaa iruhusiwe ili asikari wasije kusumbua watu sana.

Nikiingia kwa upande mwingine, kwa watumishi wa serikali, tukitaka tupambane na umasikini na tunaona watumishi wa serikali wamestaabishwa mapema, na akirudi nyumbani anakaa masikini na hata family yake sasa haijiwezi, hata watoto wa huyu mtu amestaabishwa, hawana namna. Hata wanaeza kuwa ni werevu wanataka kusoma lakini hawana namna ya kusoma.

Com. Wambua: Kustaafu ni miaka hamsini na tano unapendelea nini?

Tom Mayaka: Sasa ninapendelea kwa wale watu wamestaafishwa, kustaafishwa waingie miaka ishirini, sixty years na wale wamestaafishwa mapema, serikali iingie ndani yake iangalie ilipe hawa watumishi wa serikali wasife masikini. Iwalipe ridhaa kama shilingi elfu mia nane ili wakae nyumbani bila kutatizika, bila kuwa masikini.

Nikiingia upande wa wabunge, tunachagua wabunge wanaenda bunge halafu na Macouncillors. Kuna wengine wanadanganya wananchi mimi nikienda huko nitakuja kufanya hiki na hiki. Nitawafanyia hivi na hivi. Na akifika huko anaanza kupiga mvumo huko Nairobi kwa bunge, hakuna kitu anafanyia wananchi, ikiwa ni pahali ametoka constituency kama Sirisia hapa, tuseme hiyo iwe ni Kenya mzima. Wabunge hao wanapata pesa nono sana, shilingi elfu mia nne kila mwezi. Napendekeza shilingi elfu mia moja kwa constituency yake, iende kusaidia wale watu hawajiwezi, na hata kuna watoto werevu wanatakikana kwenda kwa shule ili kamati ichaguliwe kwa constituency yake ya kukaa na kuangalia hizi pesa zinakuja kwa maendeleo ya district development committee. Wazee wanakaa kutoka kwa area yake, lakini hii ni katika Kenya mzima, kila mbunge akatwe hizo pesa elfu mia moja. Ikiwa ni Councillor kama 75 ile mshahara yake, kwa hivyo 20,000/= irudi kwa constituency kusaidia watu masikini hata watoto wale hawajiwezi.

Interjection (Com. Wambua):(inaudible)

Tom Mayaka: Ikiwa ni elfu kumi ama ni elfu kumi na tano, wacha wakate elfu tano tu irudi nyumbani. Nitaongea upande wa machief. Kuna wengine wanaongea mambo yao na hapa Kenya, naona kuna watu wengine hawaelewi mambo ya machief ni nini, kwa sababu ninaona kuna mahali pengine hakuna universities, kuna pahali pengine hakuna vitu fulani kama maendeleo yamefanywa. Sasa kitu ninapendekeza, lazima Kenya ielimishwe kwanza upande wa majimboism. Waelimishwe ili waelewe kwanza, majimboism ikianza, ili watu waelewe maana ya majimbo ni nini.

Interjection (Com. Wambua): Kwa sasa unataka waelimishwe unapendekeza nini?

Tom Mayaka: Kwa sasa, ninapendekeza mambo ya majimbo iwachwe kwanza tuendeleo vile tunaendelea namna hii. Kwa sababu kuna area zingine ama district zingine ziko nyuma sana kimaendeleo.

Upande wa ufisadi kama mtumishi wa serikali ama mtu yeyote atafanya kwa serikali, amepatikana amekula pesa za uma, mali ya uma, huyu mtu anatakikana kuanza alipe ile pesa amekula akishalipa hiyo pesa, awekwe ndani miaka kumi na tano ili iwe

funzo, kwa sababu ikiwa namna hiyo itakuwa funzo kwa wengine hawatafanya namna hiyo, atasema nikifanya namna hiyo nitapoteza kazi yangu. Lakini hiyo pesa amekula irudishwe akatwe, hiyo pesa irudi ile amekula. Yangu nafikiri ni hayo machache tu Bwana Chairman.

Com. Wambua: Asante sana Bwana Tom. Nani alikuwa anafuata? Sema jina na uendelee.

Kevin Wakholi: Kwa jina ninaitwa Kevin Wakholi ni kijana nimemaliza shule last year. Kwanza kabisa ningependa kupendekeza ya kwamba, Rais, mamlaka ya Rais yapunguzwe. Hasa hapa, isikuwe Rais ndiye ana appoint Attorney General, akuwe aki electiwa na wabunge kama vile Speaker hu-electiwa. Halafu high court judges wakuwe waki appointiwa na special body halafu Parliament lazima i-approve ndio waingie wafanye kazi zao. Halafu ofisi ya Ombudsman or something like that, ifuatiwe sasa ndio wananchi tupate kupeleka complaints zetu. Halafu akue akiwa elected by the MPs, hatutaki awe appointed na Rais kwa sababu hatakuwa fair. Halafu allocation of public property. Iwe ikifanywa na special body.

Resources management body, sasa ndio ina allocate watu, kitu kama show ground, unaona hata hizi Rais anagawa, sasa after kugawa sisi hatujafanya kitu ukisema unajua Rais ana powers mingi some sort of(inaudible). Sasa ukisikia tu ni Rais amepeana huwa unaogopa unaenda. Lakini sasa, iwe ikipeanwa kwa watu. With consultation with the Councillors and MPs of that region.

Civil servants na public servants kama chiefs, P.C. Wawe neutral, na kama hawakui neutral, if mwanasiasa yeyote afikiri kwamba hawako neutral, hawapeleke kortini, awe free kuwapeleka kortini. Kortin sasa it is an independent judicial service. Wata act freely wanaeza mtoa ama kumchukulia hatua.

Interjection(Com. Wambua): Usawa sawa wa neutral ni nini?

Kevin Wakholi: Wakuwe neutral.

Com. Wambua: P.C., D.C.,

Kevin Wakholi: Hiyo hata chief, hata Mkasa.

Com. Wambua: Waingie kufanya nini? By appointment ama by election?

Kevin Wakholi: By appointment.

Com. Wambua: Who should appoint them?

Kevin Wakholi: The Public Service Commission. After appointment, sasa hao wasitoe decisions. Tuseme kama wakifanya makosa, tuwe free kuwapeleka kortini. Halafu after kuwa appointed, Parliament should approve, kwa sababu kuna resident ama Public Service Commission wanaweza kuwa maybe biast. Halafu searching of Presidents, asiwa sack vile anajisikia, after wameappointiwa President anaweza recommend kwamba, mtu fulani asakiwe, public servant Fulani asakiwe. Halafu hapo, wa-create Commission to investigate, kama ako guilty, sasa hapo wanaezamvuta, kama hayuko guilty, aendelee kufanya kazi kwa sababu anaeza kuwa anafanya haki sasa President maybe ana feel this man is not favouring me, let me throw him away. Lakini kama anafanya kazi mzuri he should be appreciated. Ataendelea kufanya kazi.

Halafu impeaching MPs. MPs wenye hawafanyi kazi, wananchi more than 50% of the electorates wakiamua kwamba huyu MP hatufanyii kazi, korti ama kitu kama board wanaeza wapa chance, sasa watu wa-vote either for him, vote of no confidence.

Inaeza ku-votia ma citizens waende tupige tu kura sio eti tunamwekea kwa watu wengine, lakini tu-vote whether he should continue or not continue, kwa sababu hapa hivi, MPs pia wanaeza kuwa unfavoured.

President should hand over power to the Speaker during the election time halafu after that mwenye anapita kura ndiye anachukua. Attorney General a-work for only ten years. Maneno ya kuishi sana atakuwa biast. Halafu Attorney General pia akuwe free ku-prosecutiwa, akipoteza files tunaweza kum-prosecute, sasa hapo...Electorate tupewe say in changing Parliament decisions if there is need, tukikataa tuseme tu-demonstrate pia tupewe chance tu-change decisions kama vile wabunge wanataka tuseme ku-hike their salaries ten times na huko hawalipi walimu mshahara. Sasa hapo tukikataa, halafu tukatae kwamba mishahara yao haiendi ten times high, hapo aiendi.

Dowry, hii maneno ya kulipa mahari isikuwe lazima, watu wakipendana kama mwanaume hana mali, waache tu wazazi waachane tu watoto waishi bora waishi vizuri. Maneno ya kuwasumbua iishe.

Interjection (Com. Wambua): Are you married?

Kevin Wakholi: I am not. Nikidhani ni hayo tu. Asante.

Com. Wambua:(inaudible) what is your home?

Moses Wakhungu: Thank you Bwana Chairman. As I have said my names are Mose Wakhungu. I have just almost 4 points to say.

Com. Wambua: Moses Wakhungu I don't know whether you.....(inaudible).

Moses Wakhungu: I have got four comments to make. I start by the first one which is allocation of our national budget. I feel that Kenya being an agricultural country, we should get the highest allocation of our national budget.

Interjection (Speaker): Speaker we can't hear you.

Moses Wakhungu: I am saying Kenya being an agricultural country, agriculture should be allocated the highest budget allocation. I say this because, you find that the ministry of agriculture, gets the least allocation, in fact almost less than 10% of our national budget, which is almost unfair.

Interjection (Com. Wambua): What percentage should be given to agriculture?

Moses Wakhungu: I think it should be around 30%. Or even above. I said that because it can assist the government to give subsidies to agricultural inputs like fertilizer and seeds so that it can be affordable to our farming community.

Another comment I want to make is choosing of students to colleges, and employment in the Kenyan government. You find that there is a lot of unfairness, and this one especially if they have advertised any vacancy or any college intake, the list of those not allowed to go to colleges should be vetted by even Parliament. They should take all the names to maybe to Parliament or another organ so that they should take only the best. You find that just here in our government somebody has passed with a C+ or a B she is being left where they are taking somebody with a D+. So you find that one is very unfair, it is really discouraging students who working hard.

Interjection (Com. Wambua): It should be on merit.

Moses Wakhungu: It should be on merit and should be voted by..... If somebody is registered at the district level, the whole list should be forwarded to Nairobi even to the Parliament to see how many students have gone to college and

Com. Wambua:(inaudible) coordination of colleges. What about employment?

Moses Wakhungu: Even employment should fall the same.

Com. Wambua: For example you have applied for work at.....(inaudible)

Moses Wakhungu: Yes, they want somebody with a diploma not with a credit, a distinction and a pass.

Com. Wambua: All employment should go to Parliament.

Moses Wakhungu: To Parliament, after maybe the selection has taken place. So that they see, how was the conduct of that student. I have just in a case or I have just used a short cut to pick somebody. Another issue I want to comment on is corruption. It is a very big problem, infact it is affecting.....

Interjection (Com. Wambua): What do you recommend? You know it is a problem, what are you recommending?

Moses Wakhungu: I recommend we should set an anti-corruption unit from the basic level to the national level, which is totally independent, so that corruption issues are paid with without any favor or fear. The last point I want to make is, when we were making this new Constitution of our country, we should also bear in mind our level of development, that is socially, economically, politically and education wise. We should not compare ourselves with the Europe or America. Because you find the wholesale candidates have developed a bit far. Most of the citizens of those countries are illiterates unlike our society here, so when you are making a Constitution also we should bear in mind thatmaybe having land or not having land.

Com. Wambua: So what do you recommend? Should they have land or not?

Moses Wakhungu: That one is abit optional in a way. Incase if a lady has married, that one should be considered, but in case she has not married because sometimes you may find that you are having daughters, some are married and some are not married, those ones who are married, should not be considered for land. And those ones who are at home, maybe they have given children and they have no fathers, they should be given land at home.

Com. Wambua: It may not be given to children who have fathers, I thought every child belongs to a father.....(inaudible)

Moses Wakhungu: You know sometimes they are given fathers who are not responsible, I am saying fathers who are not responsible, maybe the father should consider.

Com. Wambua:(inaudible) so what do you recommend?

Moses Wakhungu: If that is the effect, because if we have a stable country you must have a stable family, so we should discourage this thing of giving our daughters land. They should not be given unless it is an extreme case.

Com. Wambua: Josephat Mukwana yuko?(inaudible)

Josephat Mukwana: Mimi ni Josephat Mukwana. Nitaongea juu ya polisi. Polisi hutesa wananchi sana.

Interjection (Com. Wambua): Unapendekeza nini?

Josephat Mukwana: Ninapendekeza wasitese wananchi.

Com. Wambua: Na wakitesa?

Josephat Mukwana: Hata hao pia wachukuliwe hatua. Kwa sababu naweza kazini usiku zaidi, madereva kama mimi ni dereva, unapeleka gari kwa tajiri, unakuja usiku nyumbani unakutana nao wanakuuliza unatoka wapi? Ninatoka kazini. Wapi kitambulisho? Unatoa kitambulisho pamoja na license ya kazi. Watakuchulia tena hata wakushike, wakuwekee hata bhangi kwa mfuko, unekane kama wewe huwa pia unakunywa bhangi, kumbe sio hivyo. Halafu police post watakufanya korti ndogo hapo wakule pesa zako, halafu kesho yake unapigiwa kelele na tajiri umekuwa wapi.

Com. Wambua: Sasa, wacha nikuulize swali moja, wakati unafanyiwa hivi na polisi, kuna pahali unaweza kuenda kulalamika? Sasa unapendekeza nini kwa hivyo?

Josephat Mukwana: Hakuna. Ukinyanyaswa na polisi na uende kama kwa chief wako ama kwa OCS ama OCPD na asikie maoni yako.

Speaker:(inaudible)

Josephat Mukwana: Sub chief, ninaongea juu ya sub chief na chief pia wawe wakipigiwa kura, ili walete maendeleo katika area yetu kwa miaka mitatu peke yake, akikosa kufanya maendeleo basi na tuchague mwingine. Naongea juu ya mzazi masikini. Anaweza kuwa amesomesha mtoto, mtoto mzuri sana amepita shuleni na hana namna, huyo mtoto atakaa naye na tutakuwa tumepoteza bahati ya huyo mtoto. Pengine anaweza kuwa mtu mzuri huko mbeleni maishani mwake.

Com. Wambua: Unapendekeza nini?

Josephat Mukwana: Ninapendekeza kama mzazi atapeleka maoni kwa mbunge, na mbunge awe na jukumu la kusaidia huyo mtoto, na huyo mtoto apate elimu ili tupate matunda yake mbeleni.

Com. Wambua: Sirisia pengine kuna wanafunzi ishirini ambao wanahitaji msaada kama huo.....(inaudible) tupatia nini kuwasomesha watoto hao.

Josephat Mukwana: Hapana atatusaidia kwa sababu sisi ni wakulima wa miwa, na kwa ajili sasa Nzoia imetutesa, hauna

namna.

Com. Wambua: Sasa tuzungumze habari ya Nzoia kuwatesa, unapendekeza nini?

Josephat Mukwana: Ninapendekeza Nzoia ilipe mkulima kawaida kwa muda unaotakikana.

Com. Wambua: Iwalipe mara moja, mkulima akipeleka bidhaa yake, mavuno yake analipwa hapo.

Josephat Mukwana: Ndio.

Com. Wambua: Sasa badala ya kupeleka(inaudible)

Josephat Mukwana: Ukienda Nzoia utafungiwa nje kwa gate, na umepeleka miwa huko, utafungiwa, hauna sauti huko, na pengine ujasoma huyo mzee ajasoma na hajui vile anafungua.....(inaudible).

Matajiri, kuna tajiri anaweza kuwa amenunua shamba karibu na shamba lako lile umepewa na baba yako, kwa ajiri ya wewe ni masikini hauna kitu, pengine atazongeza hilo shamba lako na hakuna cha kuzungumza, hauna mahali pa kumpeleka na hiyo ndio shamba yako utakaoona tu inaenda. Ukipeleka malalamishi kwa chief au subchief, unaona chief amevura tu.

Com. Wambua: Unapendekeza nini?

Josephat Mukwana: Ninapendekeza tajiri pia achukuliwe hatua, hata kama yeye ako na pesa, achukuliwe hatua kwa nini asongeshe shamba.

Com. Wambua: Na huyu chief mwenye amekula?

Josephat Mukwana: Yeye pia achukuliwe hatua. Ni hayo tu.

Com. Wambua: Evans Wekesa, Evans, I thought he was here, kama ameenda, tupate Makinde.....(inaudible) Kolongolob Baraza. Wale wamejiandikisha hapa wameenda, hatutasoma tema.

Kolongolob Baraza: My name is Samson Baraza Kolongolob. I would like to give my views from Upangani to the Constitution Review committee of Kenya. And first of all I will start with the top office that is the Presidency. Presidency in Kenya as we see how it has been performing, it has got immense powers and it has been affecting our lives though appointing ministers, through appointing senior tactifs and this job in most cases turn by one person, so me I recommend for any senior

Executive for minister to be appointed, must be fended by Parliament, so that it is recommended even the President accepts. Then we have several problems and complaints that affect our people, especially now when it comes to farming. We are an agricultural based country, and I would have wished so much that the government whenever it budgets for its financial year, I would have wished the budget to reflect the constituency needs, so that, this issue of powers following the MP, asking so much from the MP, should not arise because the government could have gathered, the constituency or the voters would have had and met some committees, they recommend whatever immediate and priority projects they need the MP to forward to Parliament when the government makes its budget, the Constitution has budgeted before.

Then on Local Authorities as a Councillor, they should not go their way out to make their own projects, they should go down to the people, talk to the people of any given area then the people recommend the projects that they will wish them to be put in place immediately, then from there it will be a job done by the community and they will appreciate. There is problem of own administration, I will have wished chiefs and sub chiefs, if they suffer various for about five ten years and if subjects are not satisfied, it is people who are just like any civil servants, they should be transferred to any other area and serve there, because they are civil servants like any other, I don't see why somebody should just be maintained in an area just because he is a chief, he is not delivering the services and we accept it in the Constitution that he has to remain there until he retires.

Com. Wambua: I don't know what you are saying, if he is a failure he be transferred to another constituency.

Kolongolob Baraza: Sorry, I withdraw that, what I would rather say, if let say this is what I mean like any normal or any other local civil servant, there are things that you have done which do not amount for your sacking, then instead of perhaps remaining in that same station, you have to be transferred.

Then we have this problem now particularly here in Bungoma, we are farmers and we have one cash crop which is sugar cane. We have heard a lot of stories, a lot of recommendations, people have talked about Nzoia, day in day out, nothing has been done. People are farming, people wait for four years, people are not paid. So me I would have recommended, for anybody serving in such an organization, let us not wait for him to retire, if you are a failure to serve people, then lets give chief Executives to serve on the contracts, if you serve for five, three years people are not satisfied, your contract is withdrawn, the high the chances of somebody else who will be able to deliver services.

Interjection (Com. Wambua): What is that problem of the farmers in Transzoia?

Kolongolob Baraza: Nzoia, I think I don't know the problem emanated from farmers, the biggest problem is non-payment of farmers deliveries. Delay and also the calculations and deductions are not well understood. Because somebody will be paid and he has not been given the statement, then he is not able to compare with what he had delivered with the payment.

Com. Wambua: So what do you recommend?

Kolonglob Baraza: What I recommend, I think the chief Executive, who is the MD or whatever the case is, let him develop objective, let him be practical by either sacking or transferring if it is possible of those officers.

Com. Wambua: Just a minute, you know we don't what to know the problem and then recommend the position, appoint the chief Executive to the government, would you recommend that we retain that we remain that one?

Kolonglob Baraza: Infact what I had said just earlier, I would have wished before anybody is appointed in such a position, not only Nzoia, in the entire republic, let three or four names to be forwarded to Parliament, let Parliament fill those names, then let them recommend and forward either to Public Service Commission, or for the President to ascend so that that person is appointed. Any way all in all Sir I feel we have a very bad system in place, we inherited a bad system from the.....

Com. Wambua: That is why we are here, it is you to recommend.

Kolonglob Baraza: We inherited a system which the European put in place to impregnise an African. I think whoever gets in position will not want to change that simply because he is to beneficial

Com. Wambua: You have been given now the opportunity to change it now.

Kolonglob Baraza: Now I think we should not leave much power to the President. Not really a common man but I would have wished if for anything that matter, lets go through Parliament, let Parliament set.

Com. Wambua: Using the farmers, there should be farmers, there should be people to the appointment of whoever is heading.

Kolonglob Baraza: You know now that is professional, if we have already involved farmers.

Com. Wambua: Involving farmers doesn't mean that they presented in(inaudible) on appointment

Kolonglob Baraza: They are involved on their own arm, that is their own farmers representatives, they are invoved, but you know now that arm does not have a lot of powers like the arm of the government who appoints the chief Executive. So that is why I am recommending that whoever will be always appointed to any institution, as a chief Executive must be fended by Parliament, his name forwarded to the Public Service Commission then the President access the power. On Judiciary I would recommend that Judiciary must be independent. In the sense that the AG should be appointed by Parliament and the Chief Justices should also be appointed by Parliament. Judges as we have all heard there are problems in the Judiciary, if problems

emanate from the issue of corruption, so I would have wished in our entire republic, let's have a very independent office, I don't know whether to call it Ombudsman or whatever the case. Whereby genuine complaints will be forwarded and not just be heard, but something must be done to follow up the complaints, like the police like you have heard, we should have an office where people will forward their complaints so that action is taken so that whoever will be appointed in that position will always know he has to work and will keep on toes.

Other than keeping somebody the D.C. or somebody will keep him for over 10 years just because you want him to retire and the issue of retirement to me I would recommend, let it be on the lower cater at 55 as it has been but on the senior post, let people work on contract so that we shall have the best heads, best knowledge to be used at the right field. Other than keeping somebody in position, just because it has happened he is in that position, then we keep him there and he is not producing to the whole.

There is this problem on the issue of succession and retirement of the President. I would have said, whatever recommendation they make for the retirement President should be picked on the strength of his performance. We should give him all those packages. Picked on the performance he has given to the public. We cannot just say that somebody has loaded the public. Somebody has not done the economic law, then we give him whatever little we have, that one to me is material. Thank you so much.

Com. Wambua:(inaudible) have you registered? Wekesa, Cleophas Wanyonyi, what is your name?

Cleophas Wanyonyi: Cleophas Wanyonyi Kasembei. Asante Chairman. Mimi nitazungumza kwa upande wa pension, wale wazee ambao tumeenda. Hasa kama mimi. Ingestahili wakati serikali inaongeza, wangukuwa wanakuongezea kitu kidogo kama 10%. Hapo being wakati mimi ninakufa, next of keen, bibi wa kwangu akule miaka kumi badala ya miaka tano.

Pointi namba mbili, ningezungumza upande wa nursery, walimu wa nursery, hao walimu Chairman, hawa ndio wanafanya kazi sana haswa wa nursery, mbona serikali yetu hii tukufu, kwa nini hawawezi kupatia hawa walimu kama hao walimu wengine wa TSC.

Com. Wambua: Tafadhali ninakuita pendekeza, unapendekeza nini?

Cleophas Wanyonyi: Ninapendekeza wawapatie mshahara kama hao walimu wengine. Neno namba tatu, upande wa uzee, kwa upande wangu ningependekeza ikuwe kama amefika miaka hamsini na tano wengine wanasema hamsini.

Ningezungumza upande wa Nzoia Chairman, tuko na shida sana, ingekuwa shida tu ya watu wa miwa kwanzia Nzoia, Mumius na Sony, tukuwe tu kwa uniform moja. Mbona sehemu za Mumius tunakuwa tofauti? Kama mtu amepanda miwa akitaka loan

anapewa hasa kama Mumius, na Nzoia hakuna, kama watoto wake wanasoma, Mumius wanaandikiwa cheti na mtoto anaendelea, na Nzoia hakuna kitu kama hicho, kwa nini? Na sisi zote ni watu wa pahali moja.

Com. Wambua: Unapendekeza hiyo, wawe watoto wa.....(inaudible) endelea.

Cleophas Wanyonyi: Jambo la tatu, haswa sisi hapa Nzoia si kama Mumius, Mumius wanafanya competition. Watu wanapalilia vizuri kwanzia mtu wa kwanza mpaka ishirini wanapewa zawadi ndio watu wanakuwa na hamu sana kutengeneza miwa yao inakuwa vizuri, na hapa kwetu Nzoia mbona inakuwa hivyo?

Com. Wambua: Unapenda aje?

Cleophas Wanyonyi: Napenda tufanye kama mtindo moja kama factory zingine. Tusiwe tofauti. Hiyo ndio ya mwisho.

Com. Wambua: Asante. Wachie Macheche. Kwa sasa kwa list yangu huyo ndio mtu wa mwisho kwa siku leo lakini kwanza ngoja, tunataka kufanya democracy wale mnaokaa hapo mkiangalia ninaona mtu mmoja pale hivo, mnataka kuzungumza? Kujeni hapa mbele. Sasa wewe ndio namba ya mwisho baada ya huyu, number tatu sasa wengine mtanisamea ni sawa, sema jina halafu uendelee.

Wachie Macheche: My names are Wachie Macheche. Mr. Commissioner, I would like to talk one doctrine of definition of powers. This is approving three categories, Judiciary, I will start with Judiciary. Before I speak on that I should say, on Judiciary appointment of judges. Those people who should hold those portfolio, must be people who are highly qualified and people who in their records, academic and professional records are people who have adapted integrity. Restrictly unlike initially when you are talking of anybody who has qualified from common wealth university must be indigenious, must Kenyan.

The Executive; the head of civil service, he or she should be appointed by the Parliament or a special tribunal which must be appointed through the Parliament. In that case the President should not have direct powers of influence on his or her work. The Parliament, must have some.....(inaudible) from somewhere, sort of tribunal or something office of a special person with some secretariat to watch some of the performance. One is like the remuneration. You find that in the eighth Parliament, has been awarding a tribunal calling itself hefty payments on the expense of the wananchi and taking content with this economic scenario which is prevailing in this country. It is like we tax payers we are the people who are finding the problem and now that our previous condition we didn't have such a thing, we need this to be there.

Next thing is called the presidency. The presidency is under, we have made up some checks and balances, it should not be exceptionally be immune on all civil and criminal proceedings. Because there is some loopholes which personally I know like if sometimes a President is a head of the Executive and because stays in that state he has committed some civil offence, maybe on

corruption or he has ordered some corruption somewhere and something which could cause the economy something substantial. We need to have somewhere we should have checks and balances.

Com. Wambua: Now he should be charged?

Wachie Macheche: Yeah, or impeached in other words. The President apart from attaining mandatal 35 years, he must be a graduate and abiast with some professional in management, human resources exactly. He should be directly....

Com. Wambua: Maximum age should be what?

Wachie Macheche: Maximum age to me is material because somebody cannot perform. At 90 that is material. What does somebody cause, we have people who are 100 age are more competent. On President again, he should be elected directly by wananchi and he should be somebody neutral from no specific party. I am coming on corruption, corruption is too rampant here in Kenya it is everywhere.

Com. Wambua: What do you recommend?

Wachie Macheche: I am recommending like this, this time we should have more kept offence on somebody who commits corruption and starting from grassroots. The thing that we set up this special court for corruption, should be material we must have specific changes and to me I would say the capital offence should be for somebody.

Com. Wambua: Capital punishment should be there.

Wachie Macheche: Yeah for somebody who commits corruption because there are some minor offences like somebody killing somebody's hen and he goes for capital offence while somebody has stolen a pigeon.

I am changing on Provincial Administration, we have people called assistant chiefs and chiefs and I recommend that they should be getting promotion on merits. If somebody can merit from subchief to chief, then why can't you give them the arling to go even to go even to the D.O. or even the P.S. that one should be open, depending on the competence of somebody.

Police, police should be regionally employed, apart from the national screen intelligence. That is why when you say some region I don't know whether it like a province should have its own police, that is the CID and the other unregular police. This Administration Police should be disbanded and incooperated with the regular police.

We have something called people with disability, they say for all the blind, then one eye man is the king. I am saying like that

because when we are going with something called faulty, we should have somebody to aid somebody to go to vote. Academically we must have somebody to help this people who are disabled. On voting, in Parliament we must have special seats, you cannot say they can also struggle, but they are unable to struggle, they can struggle academically, but physically they can manipulate that is why we say you must be(inaudible). In employment there are some jobs whereby head of civil or public services, this people have been very competent but they have been hampered, they have been segregated because of disability, and even some of them who can even use force, we don't just say use force should be also be incooperated even the police like the national intelligence.

On marriage, marriage we must try something Mr. Commissioner to minimize expenses on marriage.

Com. Wambua: What do you recommend?

Wachie Macheche: I recommend like this, we must dispatch this forced giving out dowry. It must be negotiable not in active family like previously that somebody who has attained a mandatory age of marriage and he has seeked the consent from another party, then we must have somewhere they walk in and pay some minimum fee and they get married. Like now I don't know because this things we take but it should be reasonable amounts, because I can say 100/= and 100/= after ten years it will be material, it should be just reasonable amount like....

Com. Wambua: You know that is the fee for registration, what about the parents of the girl? Do you recommend payments.

Wachie Macheche: No nothing, we are just vying, yeah, what about if I married a daughter of the President and I am a peasant farmer. No dowry, infact that is what is discouraging and inaenesha hii maneno ya ukimwi kwa maana watoto hawataki kuelewa. Lastly, I would like to say we have the Constitutional Review Commission of Kenya, and this people that is the landmark in our history and it will be there perpetually. I could say like this, because most of this people we have high hopes in them. They must be retained in some(inaudible) like monitoring of corruption, one person must retain whether Mukango or Mr. Yash Pal Ghai or whatever and all those who are competent and because we know they are the people who have been overhearing those things, we should not retrench them but much this be retained in some sensitive issues, like appointment of civil service, we must have one person there, Judiciary, we must have one person there and whatever.

Com. Wambua: What you are trying to say is that they should maintain someone.

Wachie Macheche: Yeah. Thank you very much.

Com. Wambua: Are you married my friend.

Wachie Macheche: Yeah I am married with two kids.

Com. Wambua: First time did you pay dowry?

Wachie Macheche: I have not paid, I don't have money.

Com. Wambua: Kina mama mnataka kuzungumza pia? Sasa mtapewa nafasi. You were supposed to be the last one, there are two other gentlemen, they gave up, there position should be taken by akina mama. Start with your names.

Baraza Wasike: My names are Protas Baraza Wasike. On my side I feel old education system be started direct before of after this coming election, of future government.

Com. Wambua: Ngoja, all education should be

Baraza Wasike: We should start old education....

Com. Wambua: We go back to the old system?

Baraza Wasike: Yes, there I mean form four.

Com. Wambua: When you say old system we know.

Baraza Wasike: On the side of our daughters, when we go on land and we encourage them to say that we give them a share that will be encouraging divorce in our country.

Com. Wambua: What do you want yourself?

Baraza Wasike: I say we appoint that is more.....

Com. Wambua: Your sister should not get land from your father? And your daughter should not get land from you? Suppose she is not married, she is just staying at home she doesn't have a pen, she is not married? If she is not married she can get, yes, and if she is married, no. go on.

Baraza Wasike: Yeah, I go on Provincial Administration, I insist starting from 'Omkaka', chief to be elected by the people D.O. by the people(inadible). Assistant chief by D.C. also and P.C. to be elected by the D.C. elected by people.

On that of the President I feel when the his period has expired, I feel the immediate person to take over is Mr. Speaker. Also the President and his vice should be elected by the people, that will be avoiding a.....(inaudible) women assistants. That is all.

Com. Wambua: Thank you very much and you are free to use any language you want, Kibukusu, Kiteso, Kiswahili, English, any language you are free.

Margaret Wanjala: Kwa majina ni Margaret Wanjala.

Com. Wambua: Haya Margaret endelea.

Margaret Wanjala: *Esie ndenyere khurusiakho maoni kidogo.*

Com. Wambua: Ngoja kidogo, haya endelea.

Margaret Wanjala: *Ndenyere khurusiakha maoni kase khulondakhana nende bana.*

Translator: I wanted to give my views about children.

Margaret Wanjala: *Omwana mukhana nende musololi, bali sa sindu silala.*

Translator: A girl or a boy is same.

Margaret Wanjala: *Kwa hivyo abana boshi banyole musomi.*

Translator: All should be educated.

Margaret Wanjala: *Nokaba abana bo bulisindu, abana bakhana boshi banyole sindu anga basolili.*

Translator: When you are dividing your wealth, you should give the girls a share.

Margaret Wanjala: *Halafu, andi musacha ne mukhasi mungo bali sa sindu silala.*

Translator: I want to say that a husband and a wife are one and same thing.

Margaret Wanjala: *Mungo nikhukhola ikasi, khukhole sa fwesi.*

Translator: When we work for our home we no work.

Margaret Wanjala: *Mukhasi nakosere, omusatha amubolere busaa kose musacha sawa sawa nakosere kuskhasi yesi*

namubolera wakose lakini khukhupa mba.

Translator: If the wife errands she should be advised just like when the husband errands, he should awfully collect the advice but beating should be there.

Com. Wambua: What about his sons sio kukupa, sons?

Translator: *Na basolili*

Margaret Wanjala: *Ni khuberesania sa mawaidha, lakini ifimbo tawe, nende khutumia ali achei wenywem, sikira warulayo mba.*

Margaret Wanjala: *Halafu, ndanya khulomakho likhuwa lindi*

Translator: I want to say this.

Margaret Wanjala: *Abana befwe be sikhana,*

Translator: Our daughters

Margaret Wanjala: *Omundu nadeshia omwana wowo,*

Translator: When one marries your daughter,

Margaret Wanjala: *Sobalasisimia mbu bakhola arusi nombamba sina ta, lakini omwa li week lilala bakhweresie imali.*

Translator: We should not force them to wed, but then whoever has married the daughter should be given one week free and within that week he should pay dowry.

Margaret Wanjala: *Basi kabwere.*

Translator: That is all.

Com. Wambua: Kiasi gani? Ng'ombe ngapi? Dowry.

Margaret Wanjala: *Baberesie omwana mukhana tsikhafu kumi na mbili.*

Com. Wambua:(inaudible) Mary Nafula. Jina.

Mary Nafula: *Elila bananga Mary Nafula.*

Translator: I am called Mary Nafula.

Mary Nafula: *Ndenyere khubolakho mbu enyanga tsino,*

Translator: I want to say that these days,

Mary Nafula: *Ni khuulirisania*

Translator: It is a world of discussing and agreeing.

Mary Nafula: *Sikira, basakhulu nende balosi, munyumba babe sindu silala.*

Translator: Because today, the wife and the husband should appear or should be united.

Mary Nafula: *Sikira mube sindu silala simwenyekhana mumba musakhulu nende omulosi, mubirane ma musakhulu anze khukonya mukhasi undi ta.*

Translator: We should not as husband and wife disagree to an extent that the husband starts looking for another wife.

Mary Nafula: *Sikira narere mukhasi oundi khamutsia khuba nende bubirani bukali, bulekani bwetsa khwingira ao, bisimi sibulabao ta.*

Translator: With the marriage of a second wife, there will be a lot of disagreement, a lot of witchcraft, there will be no harmony in that home.

Mary Nafula: *Mulosi nende musakhulu, mungo babe nende silala, busatsa aba wasiwasi eyi ne eyi tawe.*

Translator: The wife and a husband in a homestead should all be peaceful so that no one is threatened by anybody's attitude.

Mary Nafula: *Mana mulilisanie, omusatha kaamine omukhasi, omukhasi kaamine omusatsa.*

Translator: Leave in a faithful way so that the wife trusts the husband and the husband trusts the wife.

Mary Nafula: *Sikira sibala siabiire.*

Translator: Because the worry is bad now.

Mary Nafula: *Sikira mukhasi noba nende tsimoni tsimemu, nola ei wakhamira nende musakhulu oyo ta. Saa hii ukimwi bashirire.*

Translator: If you are the wife you have sharp eyes, looking this way and that way, you are likely to contract HIV/AIDs.

Mary Nafula: *Ese ako niko kambere nako, omwami abalinde nako.*

Translator: I don't have much God bless you.

Com. Wambua: Unajua katika mila ya Kiafrika, mwanaume anapatia.....(inaudible) mwanamke wa pili, wa tatu, pengine wa nne sijui mpaka ngapi wanakubaliwa, sasa unataka tuseme eti hii ni makosa, wachukuliwe hatua ya kisheria.

Mary Nafula: Ee ninataka wachukuliwe, kwa sababu huyu si kama mimi, mimi ninaweza kuvumilia saa hii, na yeye havumilii huyu anaweza kuniletea balaa na mimi nimevumilia nasema nimengoja mzee wangu.

Com. Wambua: Hatusemi mwanamke wa nje, anaoa vizuri kabisa anafanya arusi ingine ya mtu mwingine na boma yake, na mwingine watatu na boma ingine.

Mary Nafula: Lakini arusi inatakikana mwanamke tu mkubwa mmoja si wanawake wawili watatu hao ni walinzi wako wa kufuata wewe nyuma na arusi ni mtu mmoja, bibi wa kwanza.

Com. Wambua: Kwa hivyo mwanamume mmoja, bibi mmoja, akioa wa pili anashitakiwa.

Mary Nafula: Ashitakiwe hata ashikwe.

Audience: (laughter)

Com. Wambua: Mwingine, sema jina lako halafu uendelee.

Mark Wanjala: Mimi ninaitwa Mark Wanjala. Ninasema ya kwamba sisi wakulima, tunalalamika upande wa Nzoia, tunalima chakula, kile chakula chenye tunapeleka huko hakina malipo, sasa tunaumia kwa njia zote.

Com. Wambua: Sasa unataka nini?

Mark Wanjala: Tunataka watulipe, halafu sisi tupate pesa tutumie vile tunataka.

Com. Wambua: Mimi ninasikia wanalipa lakini wanachelewesha sana?

Mark Wanjala: Hakuna hawalipi. Sasa sisi miwa imeenda huko imemaliza miaka mingi lakini hatupati pesa. Sasa tena watoto wa shule sisi tunataka waunganishwe wakae huko na walimu wazuri. Waongeze walimu wawe wengi ndio sisi tuone hao watoto wakipita mtihani sasa. Sasa sisi walemavu tunatembea njiani tunapata yule yoyote ambaye ameona huyu ni mlemavu anampitia kwa njia yeyote tu ile anataka, sasa sisi tunataka watupe sheria wakituchezea tuchukue hatua yoyote.

Com. Wambua: Wanakucheka?

Mark Wanjala: Si wanataka wakupige, kwa sababu sisi hatuna nguvu.

Com. Wambua: Unataka sheria iwalinde.

Mark Wanjala: Yeah, tena msaada ile inakuja kutoka ngambo, sisi hatuoni huo msaada, sasa tunalia msaada huo unapatiwa watu gani na sisi ni watu gani? Sasa hayo ndio nilikuwa nayo.

Com. Wambua: Na unasema nini vile mama amesema, mwanaume mmoja bibi mmoja, unasema nini?

Mark Wanjala: Hayo ni yake tu kwa sababu sisi ni Wabukusu, tutaoa hata bibi wakue wengi.

Com. Wambua: Wewe unataka nini, unapendekeza nini?

Mark Wanjala: Hapo mama alisema tu hayo yamepita tu, mama aseme tu hivyo halafu ikwishe hivyo kwa sababu tuko hapa tunaongea lakini tutaoa, kama niko naye mmoja, nitaoa wawili.

Mary Nafula: Wewe ndio utakufa mara moja.

Com. Wambua: Basi mama ni hivyo ni maoni yake anatoa. Josephat Wangila sijui kama unataka kuzungumza ama hutaki, ulikuja unaenda nje mara unarudi uwezi kaa pahali pamoja? Sema jina halafu uzungumze.

Josephat Wangila: Jina ni Josephat Wangila. My point ni kwamba tupunguze corruption kwa nchi yetu. Njia moja wapo ya kupunguza corruption, kwa nchi yetu, ni mtu anapokosa, korti hii inapompata na makosa kusikuweko na faini yoyote. Kwa sababu mara mingi watu wamekuwa wakikosea wenzao lakini ametegemea pesa.

Jambo la pili, mambo ya mtu kutoka kwa bond, itolewe, hiyo imefanya corruption imeinuka kiwango kabisa. Upande wa hosipitali, madawa imekosekama hosipitali ni kwa sababu madaktari wengi wameanzisha pharmacy.

Com. Wambua: Unapendekeza nini?

Josephat Wangila: Wakomeshe mambo ya pharmacy.

Com. Wambua: Wale ambao wameajiriwa na serikali wasifungue pharmacy zao.

Josephat Wangila: Yes, upande wa tradition, especially circumcision, tohara ya kienyeji hii, nataka wa bum kabisa completely, mtu akipatikana akifanya hiyo tohara ya kienyeji achukuliwe hatua kali kabisa. The reason is this, ukimwi imekuja na daktari wanasema ya kwamba hii ukimwi inaambukizwa kupitia kwa damu, inapokuja in contact, sasa wanapokata huyo mtoto, huyo mpasha tohara anakimbia na hiyo kisu, kabla haijasafishwa, nakimbia anaenda kukatia mwingine na mwingine mpaka hata afikishe nambari ishirini.

Com. Wambua: Sasa hiyo kimila ndio mbaya ama ni hiyo kutumia kisu.

Josephat Wangila: Hiyo aina ndio inainua kiwango cha ukimwi.

Com. Wambua: Sasa shida ni hiyo kimila ya kukimbia, ama shida ni kutumia kisu moja.

Josephat Wangila: Me I propose wawe wakitumia daktari, kwa sababu daktari anapokata mtoto atatumia spirit na njia jinsi alivyo fundishwa. Ingine ni upande wa worship. Tunaamini ya kwamba tunaabudu Mungu moja tu aliyeumba bingu na dunia, na hata kumuinamia yeye. Lakini unapoingia kule kortini, unaona people are bowing down before mens

Com. Wambua: What would you recommend?

Josephat Wangila: I propose that mambo ya kuingia kortini halafu mtu anainama mbele ya mwanadamu, hayo yanakomeshwa. Asante.

Com. Wambua: Nafikiria huyo ndiye alikuwa mtu wa mwisho kuzungumza nitatoa nafasi, I have given somebody a chance, people are going out and coming in, I don't even know what to do. Do you want to speak? Why do you people disappear? Sema jina lako.

Ferdnand Masinde: I am Ferdnand Masinde. I am a teacher by profession and my contribution before the Commission is centred on the supreme organ of the government, that is the Legislature or the Parliament. Whereas Kenyans are deceived to believe that the Executive is a very powerful organ, it is actually the Parliament which is very powerful and selfish.

Com. Wambua: You know we came here to recommend, so what do you recommend?

Ferdnand Masinde: This is what I recommend, the Constitution should therefore, make the Members of Parliament answerable to the electorate by empowering the latter to declare a vote of no confidence against non performing MPs. The same way the MPs to declare a vote of no confidence to the President incase he is not performing. Another contribution is that the powers of the MPs, should be put under check by setting up a constituency treasury, which is supposed to receive at least

20% of their salaries. Not only the MP, but also the President because he is an MP and the Councillors, because going by the current mentality you realize that people are vying for these seats that is the presidential, parliamentary and civic seats, simply because they want to ammerse well and they are not answerable to the electors in any way. So we should set up those treasuries to deduct the salaries whether they are willing or not. Then apart from that, I also believe that for there to be any competence, we should set up job groups in the Parliaments, the same way we have done with other jobs. By that I mean, we should have things like, we should have discrepancies in salaries, for instance we can have MPs who are graduates, MPs who are diploma holders, MPs who are form four leavers, they should be treated in accordance to the papers they have.

Then besides that, we have this debate going on on the pension for a retired President. I believe that going by the salary a President gets, I don't know how much, but I believe it is a good salary, I don't see a point for awarding or rewarding a President when he retires. I think the best reward we can give a President, is not in terms of monitory but in terms of security. We should ensure that first a President is protected and incase of any advice, legal or whatsoever, he should be approached so that the government can be run properly. I talk of security reward, he can be given a minimum of two limousines, and some security guards and of course a residential place whose rent has to be paid by the state. Then on the same token I believe that surely there is a way that the electorate has to be made to contribute towards the welfare of the Kenyans. I don't know but the Parliament somehow should be very serious.

The Constitution is supposed to empower the MPs only to make decisions that affect everybody, not decisions that affect themselves only. like this issue of salaries. Its like when you tell a glaton, to go and do some self service, so that way we are not going to help Kenyans. If you tell this guy to decide their salary, they can even talk of four million per month. The Constitution is supposed to put a clause, to set up an organ other than the Parliament itself, at least to decide its salary, and I said before that we can do that by the education standard of the MPs or set some other standards.

Then another thing I would like to talk about is that, a law should be inacted to bar any retiree from contesting any elective post. On holding any public office. The reason for this is that we have got, Kenya is producing a lot of graduates at different levels, but simply because we still go back, to this retirees, somebody resign get all his dues before the retiree dies because he is very comfortable, and this one is frustrated. So when people talk about the youth abusing drugs, doing what I think it emanates from such like things. So once somebody has served, when he retires, please let him get the pension and lets give a chance to other people to run the country. I think that is all I had to the Commission. Thank you.

Com. Lethome: Thank you Masinde for your points(inaudible). Nafikiri tumefika mwisho wa kikao chetu, kila mtu ambaye amekuja hapa amepewa nafasi ya kuzungumza na tunawashukuru sana kwa maoni ambayo tumeweza kupata hapa kwa watu wa Mabanga, kesho tutakuwa mahali pengine nafikiri tutakuwa Bungoma town council. Munaweza kuwaambia watu wengine ambao pengine hawakupata nafasi ya kuja hapa, mtu anaweza kuja Bungoma sio mbali sana. Anaweza kutoa maoni yake.

