

**CONSTITUTION OF KENYA REVIEW COMMISSION**

**(CKRC)**

**Verbatim Report Of**

**DISSEMINATION OF REPORT AND DRAFTS BILL CHANGAMWE.  
HELD AT CHANGAMWE SOCIAL HALL**

**ON**

**8<sup>th</sup> OCTOBER 2002**

**CONSTITUTION OF KENYA REVIEW COMMISSION**

**DISSEMINATION OF REPORT AND DRAFTS BILL HELD AT CHANGAMWE - CHANGAMWE SOCIAL HALL ON 8TH OCTOBER 2002**

**Present**

1. Com. Prof. I.A. Salim

**Secretariat in Attendance**

William Opili – Assistant Programme Office  
Gladys Osimbo - Verbatim Recorder.

**Others**

Ahmed Mohamed -District Coordinator - Mombasa  
Sylvia Chidodo -District Coordinator - Mombasa

**The Meeting started at 10.41 am with Com. Prof. I.A. Salim In chair.**

**Com. Prof. Salim:** Samahani, tumechelewa kuanza kikao chetu lakini si kwa ajili ya kuwa hatukuwa tayari lakini kulikuwa hakuna stima hapa ikabidi kupata msaada wa majirani kutupatia na kuweka machine zetu ili tuanze. Lakini nashukuru kwamba sasa tumeshapata kila kitu na tayari kuanza. Na ningependa mmoja wetu aje hapa mbele ili atuombee ama atupe dua ili tuanze mkutano wetu. Any volunteer?

**Musa Ali:** Yarabi tujalie mkutano huu, mkutano mwema. Tujalie mkutano huu Yarabi utupe faidha na ulete makusidio iliyokusudiwa. Yarabi jalia hii tume ifaulu, na Katiba hii ipite na iende Mwenyezi Mungu ipe nguvu Yarabi na utupe nguvu sisi wenyewe kuisemea na kuitetea. Utupe nguvu kuitetea na mpaka ipite na iweze kufaidi sisi wote.

**Com. Prof. Salim:** Shukurani, asante, shukurani sana kwa dua zako Mungu inshala atapata dua zetu na .....(inudible) kila jambo, mkutano wetu huu ufaulu na pia kazi yetu hii kubwa ya kurekebisha Katiba iweze kumalizika kwa ukamilifu kabisa

kwa ajili ya masilahi ya wananchi wa nchi hii.

Sasa ningependa kuanza kwa kuwaambia sisi ni nani. Sisi ni wanatume wa Commission bila shaka hakuna haja ya kueleza mengi, mimi jina langu ni Ahmed Idha Salim, ni mwana tume na pia ni naibu wa mwenye kiti wa Tume ya kurekebisha Katiba. Mkono wangu wa kushoto ni District Coordinator Sylvia, bila shaka wengi wenu mwamjua, kwa upande wangu wa kushoto ninaye District Coordinator wa pili wa wilaya ya Mombasa Bwana Ahmed na hapa yuko mwenzetu aliyejukua kwa ajili ya kuandika kila neno na kunasa, yeche anaitwa Gladys, na mwenzake pale anaandika report ya mambo yanayosemwa ni William. Ninapenda kuwashukru nyote mlionika hivi leo kwa wingi na hiyo ni ishara nzuri kwamba muna shauku kubwa ya kujua yaliyomo katika hii Katiba. Kwa ajili wakati ni mfupi, ningependa kukatakata hapa na pale si mambo muhimu sana lakini baadhi ya mambo ya kuwaeleza jinsi ambavyo tumefikia stage hii ya kurekebisha Katiba na kuweka mswada wake na kuandika report yetu.

Bila shaka mwajua kwamba kabla ya hapo tulitembea hapa na pale nchi nzima kupokea maoni ya wananchi na tukaandika report yetu juu ya kazi yetu hapa na pale, na kila Constituency ambapo tulikwenda, tuliandika report yake makususi. Kwa hivyo kuna report maalumu ya tuliyoyasikia hapa katika Constituency ya Changamwe. Na kila Constituency ingine ina report yake. Kisha tukaandika na report ya nchi nzima. Sasa report tuliyonayo hii ni report ya Changamwe Constituency, yeche ambaye angependa kusoma report hii ya Changamwe, anaweza kufika kwenya kituo chetu kule National Library, Said Bin Salim public Library ambavyo inachulikana kwa wengine hapo mjini Mombasa kuisoma kwa makini. Kuhakikisha kwamba yote mlionyasema katika kutuo maoni yamerekodiwa. Kisha kuna kama nilivyo sema report ya nchi nzima tumeshachapisha report ndogo juu ya kazi yetu. Wengine mtapata copies wengine samahani copies zinakuja, tumetumia copies nyingi jana, kwa hivyo hatuna za kutosha kuwapa nyote lakini twaomba kwamba kabla ya wiki kupita copies nyingine zitapatikana na District Coordinators watajaribu kugawanya copies hizo.

Na juu ya hii report tukaandika na mswada or draft ya Katiba mpya njinsi ambavyo sisi tungependekeza Katiba hiyo iwe, nasema ni Mswada, si Katiba. Haiwezi hii kuwa Katiba mpaka mkutano mkubwa ufanywe, National Constitutional Conference. Mswada huu ujadiliwe na wajumbe huko ambayo watakuwa kiasi cha mia sita na kitu, mia sita na hamsini, wataaka pamoja kujadili Mswada wa Katiba hii mpya. Hao watakuwa ni MPs wote, ma-commissioners, wanatume kama sisi, lakini sisi hatuna vote ni kuhakikisha kwamba mkutano utaendelea vizuri. Kisha kutakuwa na wajumbe waakilishi watu kutoka kila wilaya, Mombasa ina waakilishi watatu, na hawa washachaguliwa. Na mmoja yuko hapa, Bi. Amina yuko pale, ungenuka, Bi Amina huyu ndiye mwakilishi mmoja wenu wa Mombasa na yuko Bwana Faruk ambaye nafikiri hapa leo hayuko, jana alikuweko kule Baluchi hall na watatu mwininge je sijui kama yuko?

**Sylvia Chidodo:** Anakuja.

**Com. Prof. Salim:** Anakuja hivyo twasikia. Kwa hivyo hawa watatu kazi yao ni muhimu sana. Ni kwenda kule si kukaa tu

kimya.. bali kusema na kunena, na kuhakikisha kwamba watu wa Mombasa, yale mambo ambayo yanayo shughuli sana yamezungumzwa kule na kutoa maoni yao. Kwa hivyo hao wote watacaa pamoja mia sita na hamsini pamoja na waakilishi wa kila wilaya, kutakuwa na waakishi wa kila dini katika nchi yetu ya Kenya. Pia waakilishi wakina mama na kadhalika wa jakilishi wa walemovu, na wa jamaa mpaka leo wamewekwa kando marginalized, kwa hivyo hao pia watahudhuria nao pia na watasema yao. Na wote hao tumewataja haki zao, haki za akina mama, haki za walemovu hapa na kadhalika. Kisha wakifika kwenye Conference watasema tumetosheka hapa au tungependelea sisi walemovu tuongezwe jambo hili na lile. Sawa? Na jamaa wote kisha watajadili, MPs wako hapo, viongozi wa dini watakuweko hapo, watazungumza, watajadiliana na inshala tusema kwamba mwishowe wataafikiana pamoja au watapata consensu, wataafikiana, watakubaliana kazi yao ya kuipitisha hii kwa mapadiliko machache sana. Maana sisi kwa upande wetu tumepata fununu hapa na pale kwamba mwananchi wa ada amefurahia Mswada huu. Lakini sisi si watu kamili, si malaika, we are not angles, ni binadamu kama nyinyi. Tumejaribu kadri tuwezavyo kaandika Katiba kufuatia maoni ya wananchi wala si moani yetu sisi wenyewe.

Hapa na pale tulifikiria kubadilisha ili kwamba iwe ni Katiba ambayo yaezekana ku-implement, kuifanya kuwa ni kanuni. Lakini nyinyi mwishowe mna haki kama leo kutoa maoni yenu kwa hapo umesahau kitu fulani, pale mngeongeza jambo hili, hapa tumefurahia na kadhalika. Hii ndio sababu ya sisi kuja. Lengo letu ni kueneza Mswada wa Constitution na report yetu hii ndogo na kisha nyinyi muisome, mjadiliane nyinyi kwa wenyewe, mikahawani na kadhalika, mzungumze na kisha mwaendee hawa delegates wenu, waakilishi wenu, mseme nao kwamba jambo hili mngesema mkifika kule, semeni hivi, tungependa jambo hili liwe hivi na kadhalika. So the whole thing to remember tukumbuke kwamba it is the people driven Constitution. Ni Constitution ambayo imepelekwa na wananchi kwa kutoa maoni yao na Constitution ambayo wananchi kwa njia ya waakilishi wao kama Bi. Amina pale na wenzake na MPs amba ni waakilishi wa umaa pia, na waakilishi wa wananchi hao. Tuombe kwamba watafikiria wananchi na wataipitisha kufuatia maoni ya wananchi.

Kwa hivyo mimi lengo langu leo ni kupitia sura zile kubwa kubwa ambazo nafikiri tutaweza kuwaeleza kinaganaga kidogo, lakini kwa ajili ya dhiki ya wafuzi, sitaweza kusoma au kupitia mswada mzima. Na tulichapisha Mswada huu katika Nation na Standard na ninaona wajamaa wengine walifika hapa na copies zao, nakala zao na kwa hivyo watafuatia mzungumzo yetu leo.

Na wale amba wamesoma lakini hawakuleta, twataraji kwamba wanakumbuka yaliyomo na bia watashiriki katika kuuliza maswala na kutoa maoni yao juu ya mswada huu.

Jambo ambalo ningependa sana wakati uwe mwangi zadi tuelezane kwa urefu zaidi lakini kwa kuwa wakati ni mfupi ni lazima tumalize kiasi cha saa saba hivi, nitapitia haraka haraka. Lakini baadaye wale amba wamesoma wataweza kuinuka na kuuliza maswali au kutoa maoni yao.

Jambo la kwanza la kusema ni kwamba hapa kuna sura ishirini, twenty chapters ya huu mswada wa Katiba. Wale walio nao wataona kwamba kuna ishirini, si hiyo, hiyo ni report au tarifa lakini Mswada wenyewe ni chapters ishirini. Kwa hivyo nitapitia zile chapters ambazo mimi ninafikiri kwamba mngekuwa na hamu zaidi kujua yalimo na zile zingine nitaacha maanake sina time

ya kueleza kwa urefu. Lakini wale ambao wana swala lolote ama wataka kueleza juu ya hizo chapters zingine wana haki ya kuuliza baadaye. Tunaweza kuendelea hivyo? Mpango sawa sawa huo?

**Audience:** Ni sawa

**Com. Prof. Salim.** Very good, sasa bismilahi. Chapter ya kwanza Kabisa tunazungumzia Sovereignty of the people and Supremacy of the Constitution. samahani, kwanza kabisa ni kitangulizi, Preamble, tulipata habari na mapendekezo mengi sana juu ya Preamble. Preamble au utangulizi au kitu cha kuanzia kitu ni muhimu sana katika kila Constitution kubwa ambayo inajulikana ya nchi ambayo inajulikana. Constitution iliyoko hivi sasa haina Preamble. Na lengo la Preamble ni kueleza, ni watu kujitolea kulinda ile Constitution na kusema kwamba katika ile Constitution wamefurahia kwa kuwa Constitution yafanya kadha na kadha na kadha. Na kumuomba Mwenyezi Mungu aibariki nchi yao.

Kwa hivyo tumeandika Preamble, na nitawasomea maanake ni fupi na kwa hivyo mpate kuikumbuka wale ambao wamesaau na pia kusisitiza mambo mawili matatu katika hii Preamble.

We the people of Kenya, aware of the ethnic, cultural and religious diversity and are minded to leave in peace and unity as one indivisible Sovereign Nation.

Sisi watu wa Kenya, tukiwa watu tofauti wa utamaduni na dini lakini tunasisitiza kwamba tutabakia nchi moja katika umoja, na nchi ambayo ina Ufalme wake, Sovereignty, hiyo point ya kwanza.

Committed to nurturing and protecting the well-being of the individual, the family, and the Community within our Nation.

Tumejilazimisha kwamba tutaipa chakula, au tutamupa chakula kila mtu na pia tutalinda afya nzuri ya kila mtu binafsi, every individual, kila jamii na pia community nzima katika nchi yetu. Kwamba hawa wote watakuwa na haki zao zile za kuwabakisha katika hali nzuri.

Recognizing the aspiration of our women and men for a Government based on the essential values of freedom, democracy, social justice and the rule of law.

Tunatambua yale matumaini ya kila mwanamke na kila mwanamme apate Serikali ambayo imewekewa, or imewekwa juu ya msingi wa maadhili, values. Maadili gani? Maadili ya uhuru, demograzia, uwadhilifu wa kijamii, social justice and the rule of law, na kanuni ya sheria. And tuendeshe maisha yetu kwa kanuni, si mtu kufanya atakavyo. Hii ni sehemu ya Preamble.

Na mwisho, exercise na si mwisho, exercising our sovereign and indelible rights to determine the form of governance of our

country and having fully participated in the Constitution making process to adopt and in act and give to ourselves and to our future generations these Constitution.

God Bless Kenya.

Yaani sisi tukitumia uwezo wetu, na uwezo wetu wa Ufalme wetu, sovereignty ni neno ambalo ni taabu sana kulitafusiri kwa Kiswahili, Kiswahili changu ni cha kimatata kidogo, sovereignty ina ile ziada ya kiarabu. Ziada ni mtu kujua kuwa mimi najiendesa najihukumu mwenyewe na mtu asijilingilie uwezo wangu wa kujiukumu mwenyewe. The excising of sovereignty and indedible rights. Na haki ambayo mtu yejote hawezi kuchukua. Kufanya nini? To determine the form of Governance. Kukata shauri ni aina gani ya Serikali sisi twaitaka. Serikali ya nchi yetu na kwa kuwa nameshiriki katika kuiandika hii Katiba, sisi tunaikubali na twajipa nafsi zetu Katiba hii na kisha twawapa vizazi vijavyo pia Katiba hii. Na twamaliza kwa God bless Kenya. Mungu aibariki Kenya. Hii ndio Preamble, na ni muhimu sana maana inasema kwa ufupi aina gani ya Serikali, nani ambaye ataendesa ile Serikali, nani atakayechagua ile Serikali na umuhimu wa watu katika hiyo Serikali. That is the Preamble ambayo iko mbele katika Constitution.

Pia kuna chapter one ambayo ni Sovereignty of the people and the Supremacy of the Constitution. Kwa ufupi, sovereignty of the people nishawaeleza. Yaani ni watu ambao ni sovereign, wanajitawala wenyewe, hakuna mtu mwengine anaowatawala, na hao ndio muhimu kabisa katika nchi, ni watu.

Supremacy of the Constitution pia Katiba iwe ndiyo Supreme, ndiyo sheria kubwa Katika nchi. Si mtu ni mkubwa bali ni Constitution na kwamba kanuni zote za nchi lazima zitokane na Katiba. Na hakuna Kanuni ambayo ina pingana na Katiba ambayo itatambulikana. Maana kanuni yoyote ambayo inapingana na Katiba huwa si kanuni ya halali. Na mtu akiwa anaona kwamba amefanyiwa kanuni au amefanyiwa jambo na lawyer wake, au kwa kutumia lawyer wake akaambiwa wewe umefanya jambo hili na hili hailingani na sheria, inapingana na Constitution. Anaweza kudai jambo kama hili katika mahakama. Kila jambo linalo fanywa na yejote ambaye ana kazi ya kuendesa Serekali, any Executive authority, any, lazima ifuate Katiba. So chapter one ni hiyo. Sovereignty of the people and Supremacy of the Constitution.

Chapter two: chapter two pia ni mUhimu na inaitwa the Republic, jamuhuri. Katika Constitution ya sasa kuna line moja inasema Kenya will be a Republic, something to that effect au siyo? Ni line moja tu. Hapa katika Msada huu wa Katiba hii tunaeleza hasa Republic ni kitu gani, Jamuhuri ni kitu gani? Jamuhuri ni nchi ambayo inaendeshwa kufuatia mabadhi, siwewezi kuziita sheria lakini misingi ya kijamuhuri. Na misingi ya kijamuhuri ni ipi? Misngi ya kijamuhuri kuwe na utawala mzuri kufuatia siasa vya vyama vingi, kuwe na utawala ambao unashirikisha wananchi, si utawala ambao unaendeshwa bila kuwaambia wananchi je menakubali utawala huu ama amakubali, utawala unao shirikisha wananchi. Participatory governance. Participatory, to participate is to take part in something, kushiriki katika jambo. Kwa hivyo wananchi twasema lazima wananchi katika Jamuhuri yetu washiriki katika utawala wao. Wale wanao watawala kwa hakika wanawatawala kufuatia njia na msingi

ambao wananchi wenyewe wamechagua watawaliwe. Maana uwezo wangu wa kujitawala naweza kumpa wewe niendeshee kazi hii, lakini wewe waendesha kufuatia mapendekezo yangu na mapendeleo yangu. Pia iwe ni transparent, iwe ni wazi, waweza kuiona na ukiona utajua kwamba ilikwenda kombo, siyo? na hapo utamwambia yule aliyempa hiyo kazi to be accountable. Lazima akueleze kwa nini amefanya kazi yake hivyo au vile. Kwa hivyo tunasema accountability ni kitu muhimu sana, transparency ni kitu muhimu sana katika Serikali ya Jamuhuri hiyo. Sawa? Tukiendelea mbele, hiyo ni chapter two au sura ya pili. Pia tumesema kwamba official language ya Kenya. Lugh rasimi za Kenya sitakuwa ni Kiswahili na English na pia luga ya kitaifa itakuwa ni Kiswahili. So Kiswahili ni official and national language.

Chapter ya tatu or sura ya tatu inazungumzia shabaha na maadili ya mabadhi. National goals, values, maadili, maanake mtu anaendesha maisha yake kufuatia maadhili fulani, usitawi fulani, unaendesha maisha yake kwa usitawi fulani, hizo ndizo zinazoitwa values. Kwa hivyo sisi tumesema katika mswada huu kwamba kuna values maalumu, au shabaha maalumu ambazo lazima kufuatiwa katika Katiba zitimizwe katika nchi yetu. Hizo ni zipi? Serikali itaendeshwa kwa njia iliyo wazi, wafanya kazi wa Serikali wawe accountable, tuweeze kufanya esabu kama mwenyezi Mungu alisema atakufanya esabu siku ya kiama, ukiwa mslamu au ukiwa mkristo, kwa hivyo hao wakikosa tuwambie mumekosa na tuwashitaki na kuwaondoa au kuwatia ndani. They must be accountable. Na Serikali ya Jamuhuri itaheshimu, italinda na kusitawisha haki za kibinadamu na uhuru wa kila ina ambao kila mmoja wetu amezaliwa nao. Zote tuna uhuru wetu ambaa tumezaliwa nao au nazo uhuru hizo. Serikali itajilazimisha kuleta uwadhilifu wa kijamii, social justice an kuipa wananchi wake basic needs, haja zao za kimsingi. Hii ni katika lengo, or shabaha zetu, kwamba Serikali yetu ikiwa kwa muda wa mwaka mmoja mbili ama mia tatu, lakini miaka mitatu na kadhalika. Itaanza mpango wa kuleta marekebisho na kuleta mabadliko ili kwamba kila mwananchi atapata haki zake za kimsingi. Tutataja baadaye haki hizo za kimsingi.

Pia lengo lingine ama value ingine au maadili mengine ni maendeleo na ustawi kwa kila sehemu ya nchi bila ubaguzi na kutumia mali ya uma kwa uzuri na uadilifu. Kumekuwa na malalamiko kwamba sehemu fulani ya nchi imeendelea mbele haraka, sehemu ingine ya nchi iko nyuma, kwa hivyo sasa tunasema lengo letu, chini ya Katiba hii, ni kuhakikisha kwamba mali ya umaa itatumia kuleta maendeleo katika kila sehemu ya nchi yetu. Na itakuwa ni shabaha ya Serikali kuanza kuweka misingi ya kuleta maendeleo katika zile sehemu ambazo hazikupata maendeleo. Basi hizo ndizo goals na maadili ambayo tumeandika hapa.

Tuna maadili zaidi ya kumi na tano, kwa wale ambao wana copies or nakala ya msuada wa Katiba waweza kusoma wapata. Mimi nina-highlight au ninapitia yale ambayo ni muhimu zaidi katika maadhili hiyo.

Kisha tunaendelea mbele chapter four au sura ya nine inahusu citizenship, wananchi: tunasema kwamba kila mwananchi ni sawa na mwenzake. Hakuna mwanchi mmoja mbaye ni bora kuliko mwenzake, au mwananchi mmoja mbaye yuko nchini ya mwenzake. There is nothing like second class citizen and first class citizens. Wananchi wote ni sawa. Akishajulikana kuwa huyu ni mwananchi basi ye ye haki yake na mwananchi mwenzake mwingine ni sawa kabisa. Na hakuna tofauti kati ya raia wa kiume na wa kike. Raia wa kiume na wa kike wote wana haki moja. Na kila raia ana haki ya kupata passport au ID karatasi yote ya kirasimi akipeleka ombi lake. Na hakuna ambaye ataambiwa wewe ni lazima ulettee hili na lile na lile kabla ya kupewa

passport yake. Maadamu ni raia atapata passport yake kama raia mwenzake bila uubangazi wowote.

Kisha tunataja jinsi mtu anaweza kuwa raia. Raia ni yoyote ambaye atazaliwa ikiwa babake au mamake ni Mkenya basi huyu pia ni automatically raia. Karibu Mweshimiwa. Na mwaaliswa hapo maelezo mengine juu ya aina tofauti ya raia, citizen by birth, registration na naturalization. Nafikiri hizo sinajulikana.

Na tukiendelea mbele, tunazungumzia chapter five, the bill of rights: Bill of rights, kanuni ya haki. Tumeambiwa na wenzetu wale watalamu amba ni watu wa kanuni sisi hapa Kenya katika Msuada huu, tumeweka idadi kubwa zaidi ya haki ya binadamu kuliko nchi yeyote ingine. The number of rights we put in these draft Constitution, kumpa mwananchi ni nyingi kuliko nchi nyingi sana, ikiwa si nchi zote ulimwenguni. Hivyo nikuakikisha kwamba kila mwanchi anapata haki hizo. Na tunasema kwamba Serikali itachugua hatua ya kuweka sheria ili kwamba kuwapatia wananchi haki za kimsingi. Hiyo ni haki moja ambayo tumeweka hapa. Basic needs, basic rights. Ili kila mtu nafa.....atapata mahitaji yake ya kimsingi ambayo mtu hawesi kuishi bila haki hizo. Haki gani hizo? Chakula, matibabu, elimu ya msingi, maji masafi, kujiepusha na aina ya madhara na ugonjwa, makao, asije akalala kwenye barabara kama ambavyo wengi wanalala kwenye barabara na amani ya kibinasi, security kwake na jamii yake. Hizi zazingatiwa kuwa ni haki za kimsingi. Kila mmoja wetu ana haja ya mambo kama haya, wala la? Kwa hivyo tunasema kuwa Serikali ianzishe na ikishawekwa au Katiba hii ikisha.....katika implementation, haki kama hizi Serikali ianze kuzitimiza kwa wananchi. Na hatukuweka kiwango cha mda. Tunafahamu sana Serikali yetu na mali yetu si mengi hivyo, na hayawezekani kuwa haki zote zitapatikana na kesho au kisho kutwa au mwaka ujao, lakini tunasema iaanzishwe ile process ya kuwapa wananchi haki kama hizi. Na hakuna time limit, baada ya miaka mitano, sita, au saba. Lakini tunaone kwamba kazi hii inafanyika.

Na tumeandika hapa kwamba Rais wa jamuhuri yetu, atakuwa akitoa report kila mwaka mara moja. Kuwaeleza wananchi njinsi maendeleo yanavyo fanyika katika eneo hili na maeneo mengine. Ili tujue mambo gani yametimizwa ili wananchi wapate haki kama hiyo.

Pia tumetaja hapa haki za wazee, katika kuzunguka kupokea maoni ya wananchi tumeambiwa kwamba wazee wengi wanaishi kwa taabu sana, watoto wao wamewatupa au wako mbali, kwa hivyo tunesema kamba jambo lifanywe ili jamii, sisi wote wadogo, niseme mimi, mimi si mdogo, sisi zote wale amba ni wadogo kati yetu wawatizame wazee kwa uangalifu zaidi na Serikali pia isaidie kuhakisha kwamba wanaishi kwa njia ambayo ni ya heshima, wasibadilike katika miaka yao ya mwisho.

Pia haki za watoto, tumesisitiza haki za watoto ili walelewa vizuri na wazazi, wavishwe kwa kutosha, waelimishwe kutosha, kutolazimishwa kufanya kazi, na kulindwa dhidi ya kila aina ya madhara. Kama tujuavyo kuna jamii nyingi ambayo uwalazimisha, si kuwalasimisha wanahita kuwapeleka watoto kufanya kazi fulani baadala ya kuwapekeka sukuli wanawapeka kufanya kazi ili wapate mabado ya kutosha wapate chakula nyumbani. Kwa hivyo tunasema kwamba hali kama hii ipatilishwe na kuna njia nyingine kuhakikisha kwamba taabu zao, taabu ya kila jamii itapunguzwa ili kwamba mtoto apate na yeze haki

zake mwenyewe.

Walemaru pia tumezungumzia katika bill of rights, haki zao, pia mweshowe privacy, mtu binafsi asiingiliwe mpaka nyumbani kwake na mtu kuanza kusipekisheni, kutafuta hili na lile bila ya amri ya sawa. Every person as the rights to privacy which includes the rights not to have their personal homes searched, their property searched, their possetions ceased. Au bindi yake anachukuliwa nyumbani aambiwe tumechukua, kila mtu ana privacy na mali yake pia iwe ina dhamaniwa..

Kisha haki ya dimi, kila mtu awe na haki ya kufauata dini yake bila kuingiliwa au bila ya kulazimishwa kufuata mila ya mtu mwingine au dini nyingine. Na hii ni kulinda kila dini na tunasema kwamba kusiwe na ubaguzi wowote katika dini zozote. Kusiwe na ubaguzi kati ya dini tofauti. Ingawa tunasema pia haki zote hizi pia sina mipaka. Kwa mfano haki ya kusema utakavyo na kutoa maoni yako, ni sawa ni haki yako, huna haja ya kuogopa kutoa maoni juu ya jambo lolote lakini usiseme jambo ambalo litaleta chuki, litaanzisha watu kupigana, au watu hata kuuana. Kwa hivyo una haja ya kusema jambo ambalo litaleta uvunjaji wa amani katika mahali popote, katika hii hall hakuna aliye na haki kati yetu kusema jambo ambalo litamhudhi mwenzake hapa waanze kuteta, wapigane na Mungu asijalie mmoja wao akaumia au akafa. Kwa hivyo haki huenda na wajibu.

Rights with responsibilities.

Na tukiendelea mbele, haki ya wafanyi kazi pia, tumetaja, everyone has the right to fair labour practices. Kila mfanyi kazi ana haki apate mapato ya kutosha, mshahara wa kutosha , fair au mshaahara muhadhifu. Pia hali yake ya kufanya kazi iwe ni nzuri. Asilazimishwe kufanya kazi katika mazingara mabaya na kadhalika. Aweza kushiriki na wenzake wakafanya union yao pia, wana haki hiyo. Kisha tajiri pia ana haki zake, sina haja ya kuyasoma maana hatuna wakati wa kutosha.

Health, upande wa matibabu, every person has the right to health, which includes the right to health care services including reproductive health care kwa wanawake na kadhalika. Education every person had a right to basic education including pre primary and secondary education an kadhalika. Lakini ukiwa una nakala kamili ya Mswada huu utaona mwishowe kule tunasema kwamba mambo fulani hayawezi kufanyika leo na kesho na kwa hivyo tumetoa muda. Sasa wengine tunasema mambo haya yatimizwe kwa muda wa miaka mitatu, mengine miaka mitano, mengine haina time limit, lakini lazima tuwe na lengo na shabaha ya kuendelea mbele na kusitawisha nchi yetu na kusitawisha hali ya wananchi walioko katika nchi yetu.

Haki ya kuhukumiwa kwa njia ya uadhilifu pia iko, mtu akishikwa asiwekwe remand kwa muda mrefu sana, mtu akipelekwa kortini apewe ikiwezekana na ikiwa hana pesa zake mwenyewe apewe wakili na tunasema kuwa kuwe na public defender. Yule ambaye atamtetea mwanchi. Tumeweka kazi kama hiyo ifanyike katika ile judiciary kutakuwa na sehemu fulani kwamba mtu ambaye hawezi kujitetea, hana pesa za kuweza kupata wakili, kutakuwa na public defender's office kwa office ya yule mwenye kutetea wananchi, amsaidie kupata kutetewa na kadhalika. Na hiyo pia ni certification ambayo yapatikana ulimwenguni, maanake saa ingine mtu anashikwa na analazimishwa kukubali kuwa amefanya makosa. Kwa hivyo kuna njia ambazo zimetumiwa ng'ambo kule ambavyo sasa tusifikirie kwamba mtu akishikwa ana haki ya kusema mimi sitasema jambo.

Siwezi kusema mimi ninakosa au sina makosa. Nitangojea mpaka nipaye waakili wa kunitetea. The right to remain silent. Haki ya kupakia kimia mpaka mtu atakapo pata msaada wa waakili kumsemea, kwa maana mtu anasema jambo katika hali ya kuogoba na kila kitu na kwa njia ambayo si ya haki analazimishwa kusema jambo ambalo litamnia katika taabu.

Na sura ya Sita, nafikiri ni sura ambayo ninataka tuizungumzie kidogo. Representation of the people. Kumasilisha watu katika uchaguzi, na kuchagua wajumbe katika Bunge na kadhalika. Hapa tumeaandika mengi, tumezungumzia Electoral system na process na tumesema kwamba elections zifanywe kwa njia iliyo wazi. Kuwe na registration ya wananchi saa zote na si katika wakati maalum.

Pia tumeanzisha jambo ama tumependekeza kwamba mwananchi aliyeo ng'ambo pia apatiwe nafasi ya kupiga kura yake, jambo ambalo kwa hivi sasa haliwezekani au hlifanyiki. Na pia tumesema kwamba wanawake wawe katika candidates watakaosimama kwenye uchaguzi. 50% of the candidates kwa kila party wawe ni akina mama, 50% wa candidates wawe ni proportional na representation. Nitazungumza baadaye propotional representation ni kitu gani. Haki ya kupiga kura tumetaja kwa urefu, qualifications for registration, mtu au mwananchi ambaye amefikia umri wa miaka kumi nane, hivyo ana haki ya kusajiliwa kuwa ni mpigaji kura na kadhalika. samahani ninaenda mbio ndio ninataka kujua ni lipi la kutaja na lipi la kuachwa kwa sasa.

Registration of polical parties: tumesema kwamba sasa political parties au vyama vyaya kisiasa havitasajiliwa na registrar of societies, visajiliwe na Commission, Electoral Commission. Tume ya uchaguzi, ndiyo ambayo ita-register political parties na pia Tume ya uchaguzi itashughulikia pia kazi ya kutayarisha elections za office bearers katika kila chama cha kisiasa. Watakuweko pale kuhakikisha kwamba uchaguzi wa office bearers katika chama chochote cha kisiasa kimeendelea vizuri njisi ambavyo inatakikana. Pia tumezungumzia wale ambao wana haki ya kupewa registration, politital parties ambazo zina haki ya kupewe registration na wale ambao registration yao inafanyiwa cancellation kwa sababu fulani. Kwa mfano tumesema kwamba kila political party lazima iwe na National outlook. Iwe ni siasa ambayo ni ya nchi nzima, si siasa ya kikabila au kufatia dini moja tu au kufuatia kabila moja, race moja na kadhalika. Iwe na na out look ya nchi nzima. Na membership yake iwe ni National.

Na jambo lingine ni Legislature chapter seven sura ya saba, Bunge: Tumesema kwamba kuwe na mabadiliko makumbwa kwa upande wetu katika hali hii ya Bunge. Tumesema kwamba Bunge iwe na two houses, nyumba mbili. Upper house na lower house, au National Assembly na national Councill. Nyumba hizi mbili, upper house na lower house or National Assembly na National Council pamoja zitaitwa Bunge. Ni sehemu mbili Inayofanywa kitu kimoja. Bunge ina houses mbili.

National Assembly ni kama hii tulivo nayo sasa. Kutakuwa na elections za ada, kutakuwa na two hundred and ten MPs kama ilivyo hivi sasa, kisha tutaongeza tisini wengine. Hawa tisini hawatachaguliwa vile tulivo mchagua mweshimiwa Ramadhani Kajembe. Bali watachaguliwa kufatia idadi ya votes au kura. Kila party itapata kura fulani, ukijumlisha kura zote Za party hii na ukijumlisha kura zote za party ya pili, na ya tatu na nine, maana za hii ni multiparty democracy. Viti hivi tisini vitagawanywa kati ya party zote, waongezwe kuafatia idadi ya kura mlizopata katika national elections. Ikiwa .....tano juu ya elections

ambayo tumezoea, tutajumlisha votes zote za KANU kisha tutasema kufuatia formula, kutakuwa na formula mahalumu ya ki-sign. Kufuatia formula hiyo tuta- calculate, tutahesabu juu ya hizi votes tuseme ya KANU mia moja na kitu, watapata six, ingine tuseme ishirine au thelathine au arbabaini katika tisini nyingine. Party ingine tutaesabu, hivi ni kuakikisha kwamba kuna democrazia kubwa zaidi. Maana huenda katika Constituency fulani tofauti iliyoko kati ya wakombeaji wawili wa election, tofauti ni kidogo, vote mbili au tatu. Kwa hivyo ni haramu wale ambao walimpatia kura yule mwingine hawana mtu kuwa-fill au kuwa-represent katika Parliament. Na vote zao sitapotea zote zile. Kwa hivyo zile sitaesabiwa katika vote za party yake yule mtu, ikiwa ni KANU au party ye yote ingine na kufuatia ile itadi kubwa katika hizi tisini zilizowekwa kando watapewa hizo votes. Ili kuwa kila party itapata. Hiyo ni system inatumwa katika nchi ingine kama Germany na sisi twafikiria ikitumiwa tupata udemokrasia zaidi. Kwamba vote za kila party hazitapotea, atajipatia mtu viti fulani zaidi. Hii inaitwa mixed member proportional system. MMPS. Kwa hivyo National Assembly yetu itakuwa na two hundred and ten plus ninety watakuwa waote mia tatu, National Assembly, na kama tulivyosema kwamba akina mama lazima wafikiwe katika list ya kila party, na kila list katika maanake kutoa candidates wake , ihakikishe kwamba ikiwa mtu wa kwanza number one ni mwanamme, number two awe ni mwanamke, number three mwanamme , number four mwanamke na kadhalika. Ili tuhakisheshe ya kwamba kati ya ile list ya pande wowote waweko wakina mama na waweze kuingia katika .....

Sasa hiyo ni National Assembly.

National Council itakuwa members mia moja, hiyo ni nyumba ya pili ya Parliament. Sasa hao mia moja sabini watakuwa wakichaguliwa at the District level, kwa njia ya uchaguzi, si nomination. Kila district itapeleka mjumbe moja katika National Council, na tuna District sabini, so seventy District representatives in the National Council. Kisha kutakuwa na viti thelathini vya akina mama. Viti thelathini hivi vya za akina mama vitapatikana kwa njia ya Provinces. Provinces ni saba mbali na Nairobi. So four women per Province, four times seven is twenty eight au siyo, Nairobi pekee yake kwa kuwa ni capital itapata wajumbe wawili, total ni thirty. Wote ni thelathini.....

Tuliuliswa hapo jana tofauti iliyoko, tukasema kwamba kwa hakika tofauti ni taabu kusema ni kitu gani muhimu, ni kwamba kati yao hawa watawapatia wananchi more representation au siyo? Wakuwa na more representatives katika Parliament. Sasa katika kazi zao kazi ya Parliament ni ile ambayo tunachua hivi leo. Parliament inakaa inarekebisha au inaweza msingi wa sheria , they form laws .....wanapitisha sheria iwe ni laws katika nchi yetu, bills before Parliament they became laws, na Parliament inafikiria mambo ya matumizi ya pesa, inachuunguza njinsi pesa za umaa zinavyotumiwa na kadhalika. Basi it looks nyumba zote mbili hizi zashugulikia jambo kama hili. Kutoka nyumba moja kufuatia nyumba ya pili. Pia National Council na National Assembly, yoyote kadi yao inaweza kupeleka bill. Msuada wa kanuni, kanuni anaweza kuwa ni msuada, ni draft kabla ya kuwa kanuni, kaa hi Katiba, hivi sasa si sheria, ni draft, ni msuada, lakini ikishapitishwa katika stage zake zote na kupelekwa mbele ya Bunge, Bunge ikipitisha, itakuwa ndio kanuni. Sasa National Council na National Assembly zote mbili sina haki ya kupeleka msuada wa kanuni. Msuada wa kanuni ukishabitishwa katika National Council, inapelekwa National Assembly kupitishwa. Ikishapitishwa National Assembly itakuwa ishapita na itapelekwa kwa Raisi atachugua, akishakubali ataiweka sign itakuwa ni....kwa hivyo nyumba zote mbili sina kazi moja ya kuweka sheria perfect.

Pia National council ina kazi au itapewa kazi ikibitishwa , itapewa kazi ya kuahakiksha kwamba wale waliochaguliwa katika tume nyingi hapa, kuna Tume kumi na tatu, lazima National council ipitishwe kwamba wale walio chaguliwa watawakubali. Appointments in respect of the following institutions shall be referred to the national Council for approval before they amend. Kwa hivyo National Council inauwezo wa kutoa yule na kumbakisha yule.

Commission zenyewe ni Judicial service commission, ile tume ambayo inachagua majudge na Mahakimu, Ethics and integrity Commission, hiyo ni commission ambayo sisi tumependekeza iwekwe, kazi yake ni muhimu sana, kazi yake ni kuakikisha kwamba wote wafanyi kazi wa Serikali, wajumbe, Rais, Prime Minister, Minister na kila momja aliyechakuliwa na mwananchi anafanya kazi yake ili ipasavyo na ikiwa kuna kosa lolote linafanywa wanafanya uchunguzi kuhakikisha kwamba jambo litafanywa kurekebisha mambo. Ethics and integrity Commission. Ethics nafikiri mnafahamu, ethics ni mambo yanayokaribia sana mambo ya dini na mwendo mzuri na Kadhalika.

National Land Commission, hiyo ni Commission au Tume ambayo tumesema kwamba matatizo yote na mipango yote au sheria zote zinazohusika na ardhi, land Commission ndiyo itakayo shughulikia. Hakuna tena kazi ya Commissioner of Lands.

National Environmental Management Commission, Commission au Tume anayohusika na mazingira. Teachers Service Commission, salaries and remuneration Commission, Commission au Tume ya kuweka mipaka ya mishahara. Tangu Rais mpaka civil servant, Commission hii ndiyo itaa jiri. Wabunge pia mishahara yao itarekebishiwa na Commission hii ya salaries and remuneration. Constitution Commission, tumesema kwamba kubakie hata baada ya huu mswada kukabiliwa kutakuwa na Commission ndogo itaendelea na Kazi yake. Kati yetu sisi watabakia watatu ama wane kufuatia mambo kuhakikisha kwamba mambo inahitajika taasisi zinazoitajika ili kwamba Constitution hii mpya ifanye kazi sawa- sawa wataendelea kufuata, yale mambo ambayo lazima yafataliwe: Commission hii itakuwa ikifuata na kuhakikisha kwamba wanassema na idara inayofaa au tahasisi inayofaa kwamba mambo inaendelea kama ambavyo hii Constitution inataka.

Commission on human rights and administrative justice, National council lazima ikubali wale ambao watafanywa wanatume katika tume hii. Commission on human rights and administrative justice, hapa katika Commission hii atakuweko yule jamaa ambaye mmemtaja sana katika kukusanya maoni yenu, ombudsman, mwakumbuka,? Mlitaka ombudsman, mtu ambaye atashugulikia mambo kuhakisha kwamba mwananchi hadhulimuiki kwa njia ye yeyote na ambaye atamsaidia mwananchi kupata haki zake au mashitaka yake yasikizwe na idara au tahasisi ye yeyote ya Serikali. Huyo itakuwa ni member wa Commission hii. Director of Public prosecutions, yule ambaye ataongoza mashitaka katika korti kwa upande wa Serikali, huyo appointment yake lazima ikubaliwe na National Council, hiyo nyumba moja katika nyumba mbili ambazo tulintaja. Public defender, huyu ndiye ambaye atasaidia katika kumwezesha mwanchi kupata msaada wa kisheria, wakili kumsaidia kumtetea katika mahakama. Police Commissioner, appointment yake lazima ikubaliwe na National Council na kadhalika.

Kwa hivyo uchaguzi wa kila officer mkubwa, lazima ukubaliwe na National Council au na National Assembly. Kwa mfano National Assembly lazima ikubali Prime Minister, Rais atamchagua Prime Minister, lakini lazima National Assembly kama hii tuliyo nayo sasa lazima imkubali pia. Deputy Prime Minister wawili, Minister or ministers, deputy Ministers, Permanent Secretaries, Ambassadors and High Commissioners, Electoral Commission Members, Auditor General, Controller of Budget, Director of Central Bureau of Statistics na Governor of the Central Bank of Kenya. Appointment za wote hawa lazima ikubaliwe na National Assembly, kwa hivyo utaona kwamba nyumba hizi mbiili za Parliament zina kazi ambazo zinaambatana, Kazi ya kuweka sheria, mbili isiende kutoka hapa ikifuata nyumba moja mpaka nyumba ya pili kabla ya kuwa sheria katika Bunge. Sina wakati mwingi zaidi kuwaeleza kwa urefu lakini kwa ufupi hiyo ndiyo itakayo kuwa Parliament yetu mpya.

Representation of women nimesema kwamba kuna haja kwamba kila party ifikirie representation of women, nimeeleza kwa ufupi jambo kama hili.

Sasa tunaendelea kutizama chapter...., vile tumeiweka hapa muda wa , lakini si mhimu nafikiria time ninataka tupate maoni yenu kwa hivyo sitaki kuendelea na maelezo juu ya jambo hili.

Executive: kama ujuavyo Serikali ina three organs au sio? Legislature, Executive, and Judiciary, sio? Mahakama, Bunge, na Utekelezaji ni executive, kwa hivyo sehemu hii ya Executive chapter eight anazungumzia jambo kama hili. Na tunasema kwamba wote hawa the National Executive.....of Kenya, comprises the President, the Vice President and the Cabinet appointed under article 1(51). Hiyo ni wing moja ya Serikali. Tunazungumzia authority ya President, tunasema President na uwezo wake tunaeleza hapa, President is the symbol of the unity of the people, ye ye ndiye ishara ya umoja kwa wananchi: President atakuwa ni head of state, atakuwa Commander in Chief of defence forces, atakuwa chairperson of the National Security Council au baraza ya amani ya nchi na pia Chairman of the Defence Council. Baraza ya ulinzi wa nchi. Baraza hizo zote mbili Rais ndiye atakayekuwa ni Chairman, atakuwa ni head of state, symbol of unity, ana responsibility ya ku-enhance the unity of the Nation, kufanya kila awezalo kusitawisha umoja wa nchi na kadhalika. Pia the powers of the President shall be exercised in accordance with the Constitution and the laws. The President shall not hold not any other public office, including any elections or pointed office within a political party. Rais asiwe ni mwana chama wa chama kinacho endesha kazi yoyote, asiwe na connection na party yoyote, ili kwamba atakuwa baadaye neutral. Hana learning hana mapendeleo juu ya party , atakuwa ni national symbol. national figure.

Kisha tunasema President ata-address Parliament kila ikifunguliwa, ata- address any special seating of Parliament, ata-address Parliament siku yoyote ambayo anataka, ataита Parliament, ata-dissolve Parliament only the circumstances conflicted in the act 142. Rais maanake hawezi kuivunja Parliament ila ikiwa katika hali ya kuunda Serikali. Kama tulivyosema kwamba Serikali itakuwa na Prime Minister, two deputy Prime Ministers na Minister. Prime Minister and the two deputy Prime Ministers watakuwa wabunge. Lakini ministers watachaguliwa kutoka inje ya bunge. Sawa? Sasa Rais ndiye atakaye mchagua Prime Minister na Prime Minister atakuwa ni yule ambaye ni leader wa majority party . Majority party leader ataambiwa na Rais unda

Serikali, na yule atajaribu kupata kuunda Serikali. Lakini Parliament ina haki au National Assembly itakuwa na haki ya kuikubali ile Serikali. Isipoikubali yule Prime Minister hataweza kuwa na Serikali. Kwa hivyo President itabidi amchague Prime Minister wa pili, na yule Prime Minister pia atajaribu kuunda Serikali, akifaulu, ataendelea, asipofaulu mara ya pili, itabidi sasa Parliament to dissolve na new elections are held. So katika hali hiyo tu pekee yake Rais anauwezo wa ku-dissolve Parliament, ikiwa Parliament haikukubali Serikali aliyounda Prime Minister. Haikutoa vote of confidence katika Serikali aliyounda Prime Minister. Ikiwa Jambo hili litatokea mara mbili basi President ata-dissolve Parliament, new elections, na atajaribu tena kuunda Serikali mpya na ndivyo itakavyo endelea kutoka hapo.

Kisha tunazungumzia ni nani ambaye anaweza kuwa Rais, awe ni citizen of Kenya by birth, amefika umri wa miaka thelathini na tano, lakini asizidi miaka sabini. It is thirty five to seventy, ana-qualify kuwa Rais na hapa pia tunasema pendekezo hili halitahusu elections zijazo. Kwa hivyo those who are over seventy na wanataka kusimama katika kugombania kiti cha Rais wanaweza kusimama. Elections zijazo are excused from these particular proposals. Lakini the following elections itafuatwa. Kwa hivyo tunazile transitional measures tumechukua au mapendekezo ya kupita kutoka hali moja kuingia hali ya pili, na katika zile transitional measures ambazo ziko hapa tunesema kwamba sheria hii ambayo tumependekeza haitahusika na elections zijazo.

Pia takayekubaliwa mtu kuwa mgombea cheo ama kiti cha Urais ikiwa mtu huyu ameapa kiapo kufuatia dola nyingine. Amepata cheo fulani akaapa kufuata Rais wa dola nyingine. Is under an oath or under allegiance to a foreign state, huyo is out, au law ....ina any office in the public service including the office o judge, Magistrate or other Judiciary office, or is acting in any office in the public service including the office of Judge, Magistrate, or other Judicial Office, or in an office to which Act 108 applies in the defence forces of the republic or in the local government authority. Yeyote kati ya hawa hawezikugombea kiti cha Rais or cheo cha Rais. Na pia Rais awe na degree kutoka kwa university and he is nominated by a registered political party. Lakini baada ya kuwa nominated by that party, baada ya hapo asishikilie cheo chochote katika party ile ..... na awe na high moral integrity and impeccable character. Ana tabia ambayo haina madoa, haina doa au aibu yeyote na kadhalika. Na kisha tunaeleza kwa urefu na sina haja ya kuwaeleza kwa urefu sasa yaliyomo.

Kisha tunazungumzia Vice President, qualifications zake ni kama zile za Rais, Prime Minister kama vile niliyvo waeleza atakuwa ni leader of the women party or majority party na yeze ndiye ambaye ataunda Serikali na Serikali yake lazima ifikiwe through National Assembly na ipate kuwa ni Serikali ya kutambuliwa na kadhalika. Rais aweza kuondolewa akiwa atadhibitika kwamba ana ugonjwa mbaya kama ni wakimwili au wa akili. Lakini hiyo lazima idhibitishwe na Committee ya madaktari wa tano. Committee ipitishwe kwamba huyo Rais ni mgonjwa kiakili au kwa njia ambayo hataweza kuendesha kazi yake. Basi National Assembly itapitisha Kura ya two thirds kumuondo Rais huyu. National Assembly, pia Rais aweza kuhukumiwa na kuondolewa kama Rais ikiwa amefanya kitu kimoja, amevunja Katiba. Amefanya jambo ambalo limevunja Katiba ambayo ni sheria kubwa nchini au amefanya jambo mbaya sana. Gross misconduct. Mwajua kwamba Clinton alifanyiwa gross misconduct na Lewinsky, si jambo ambalo Rais yataka afanye. Hiyo ni kama Gross misconduct, basi hapo pia

lakini mara hii kazi hii itafanywa na not National Assembly but the National Council, hii itakuwa ni National Council pia kufanya uchunguzi katika jambo hili likidhibitika. The details people kwa hakika sina time kusoma zile steps ambazo zitafuatwa mpaka Rais ikiwa umedhibitika ataondolewa. Rais atakuwa na haki ya kukuja mbele ya mahakama lakini na kujitetea au mbele ya ile special committee itakayohusika. If two thirds of the members vote to have cause to the impeachment basi Rais atatolewa, anashika mahali pake Vice President mpaka Rais mpya atakapo jachaguliwa.

Judicial and legal system, hapa pia kumeundwa Supreme Court, kabla ya pendekezo hili hatuna Supreme Court, court of appeal ndiyo ya mwisho kabisa siyo? Sasa nimesema ya kwamba kuweko na Supreme Court ambayo kichwa chake au mkubwa wake atakuwa ni CJ or Chief Justice na ambapo mambo mengi yatafanyika. Sina haja pia kuzungumza mengi juu ya hilo. Hili ni maAdiliko moja na adiliko la pili ni kwamba katika hali ya subordinate courts tumependekeza kwamba idadi ya Kadhis' courts iidhinishwe. Hatuna Kadhis courts za kutosha na kwa hivyo tumeleza njinsi ambavyo makadhi watakuwa, qualifications zao ni zipo? Chief Kadhi lazima awe ni Muslim of not less than thirty five years of age, ni advocate of the high court, ni wakili, na pia experience ya miaka kumi katika kazi hiyo ya uwakili wa high court. Kadhi na senior Kadhi au pia ni wakili na experience ya miaka mitano itatosha mtu kufanywa kadhi au baadaye apate cheo cha senior Kadhi nakadhalika.

Pia tumeleza kwamba Waislamu mambo yao ya kibinasi yanayo huusu binafsi, arusi,... talaka na uridhi ishugulikiwa na kadhis courts peeke yake. Na mtu asipotosheka na kadhi anaweza kwenda katika Senior Kadhis Office, Kadhis appeal courts, pia atakuwa entirely Islamic, Chief Kadhi atakuwa ni chairman wa appeal court, atakuwa na wenzake wawili wengine na watakata shauri. Na kukiwa kuna haja ya kuendesha mbele zaidi, mpaka supreme courts, Supreme Court haiwezi kutumia sheria isiyo ya Kiislamu kutizama jambo hilo. Lazima iwe imapelekwa Supreme Courts juu ya maswala ya Kiislamu. Huenda mtu katika appeal court hakutoshuka na kuona kwamba ile appeal court hakutoshuka nakuona kwamba ile appeal court, chief Kadhi na wenzake wale wawili hawakuhukumu kwa njia ya kisheria, kwa hivyo inaweza kupigania lakini ile Supreme court lazima iwe itafuata au itafanywa uchunguzi katika sheria ya kiislam na kukata shauri yake kufuatia sheria ya Kiislamu. Na ile Supreme Court chief kadhi ni member, ukitazama hapo mtaona kwamba members wa supreme court watakuwa ni wangapi. ....(inaudible) mabadiliko muhimu hapo ni kwamba mwiislam pia ikiwa ana dispute na mwenzake mwiislam juu ya mambo tuseme ya biashara na kadhalika, akitaka dispute hiyo ifanywe kisheria, pia anaweza kujipeleka mbele ya kadhi na jambo hili linaukumiwa kwa njia ya Kiislamu, hiyo pia innovation ni madiliko. Lakini ni lazima wote wawili wakubali kufuata sheria ya Kiislamu na hukumu ya Kiislamu katika jambo kama hilo. Lakini ikiwa moja wao hakukubali basi itabidi jambo hilo au kutofahamiana hao Waislamu jambo hili lipelekwe katika court ya ada. Basi hiyo ni sura ya judiciary zaidi ya hapo nafikiri nitawaja baadaye kukiwa kuna swala tutawajibu.

Chapter ten pia ni muhimu, devolution of powers, mgawanyo wa mamlaka. Katika kuzunguka na kupata maoni ya wananchi, tumeleza mengi na wananchi hapa na pale kwamba wangependa Serikali iwe karibu na wao zaidi. Serikali iko mbali huko Nairobi, ukitaka jambo lifanyike lazima ufunge safari mpaka Nairobi na kadhalika. Pia wengine wameshitaki kwamba Serikali ya Nairobi haifikiri maeneo fulani kama vile nilivyozungumza hapo awali maeneo mengine yamesahauliwa hayazingatiwi hayapati

usitawi wa kutosha, maendeleo ya kutosha na kadhalika. Kwa hivyo ni muhimu kwamba mamlaka or powers zigawanywe, sienezwe kufikia kila wilaya. Kwa hivyo tumekawanya mamlaka kwa malengo haya. Lengo moja ni kuleta Serikali na kila aina ya utumishi na tahasisi zake na idara zake karibu zaidi. Pili lengo la kugawanya mamlaka was devolution of power ni kusitawisha zaidi maendeleo ya kijamii na kiuchumi kupitia kila sehemu ya nchi. Lengo la tatu ni kuhakikisha kwamba mali za asili inakawanyika kwa uwadhifu zaidi. Kuna mashitaka kwamba pesa kutoka National funds, wengine watwambia National Fund iko hapa, mabado yote yanakwenda serikalini kule na hatupati chochote. Na wanyama wako hapa waliyoko hapa porini ni mhimu kuliko sisi wananchi wale ambao tuko. Kwa hivyo tunataka sehemu fulani ya mabado ya eneo letu itumiwe hapa hapa na tufaidike sisi.

Lengo la nine ni kugawanya mamlaka ya Serikali kutoka Serikali ya kati kufika mashinani, hili ni ombi ambalo pia tumepata. Kwa hivyo tumependekeza kwamba kuwe na Serikali ya kijiji au baraza la kijiji, tangu chini kule, village council. Juu ya hapo kutakuwa na location council, wanachama wa location council watakuwa ni wawili kutoka kila village katika location itapeleka wajumbe wawili katika location council. Na hapo watazungumza juu ya mambo yao, matakwa yao na kupeleka maombi yao juu zaidi katika District ili wapatiwe manufaa katika maeneo yao. Kisha juu ya hapo kutakuwa na Serikali ya wilaya, or District Government, na hapa kutakuwa na uwezo mkubwa zaidi, District government ndiyo yenyenye madaraka makubwa zaidi baadaya Central Government, not provincial Government, District Government, ingawa kutakuwa pia na Provincial Government lakini kazi ya provincial government ni kuhakikisha kwamba District tofauti katika ile province wanashirikiana katika mambo ya maendeleo. Lakini mamlaka yatakuwa kwenye Districts.

Na kabla ya kuwapa nafsi ya kuuliza maswali, ninatakaonge juu ya mashamba. Hili ni swala ambalo watu wengi wameuliza wakati tulipokuwa tukichagua maoni. Jambo hili liko kwenye Commission ya Njonjo ambayo inachunguza jambo hili na tume ambayo imechaguliwa na Rais kufanya kazi hiyo: kwa hivyo sisi kama tume ya kurekebisha Katiba, hatukulangilalia sana, tunaongojea mpaka watoe report yao ambapo ujunguzi utafanywa ni vipi watu walipata mashamba, na yale yote yaliyopatwa kwa njia isiyo ya halali yatachuguliwa na Serikali kisha yagawanywe kwa wale ambao hawana. Na baada ya miaka miwili wale wote ambao ni ma-squatter Serikali nitajaribu iwezavyo kuwapa makao. Na pia hili jambo linahitaji muda.

Na sasa nitakoma hapo ili niwape wananchi nafasi hii ili yule anaswali au maswali aweza kuuliza. Na kama unaswali utainua mkono wako ili upate numberi.

**Ahamed Mohamed:** Kama una swali lolote, raise up your hand so that you can be given number. Wa kwanza ni Mr. Arani Mokoya.

**Arani Mokaya:** Kwa majina ni Arani Mokaya kutoka Uzalendo youth group. Nina maswali au mapendekezo ya kutoa. La kwanza ni hili, in Kenya there is no economical balance of which has not been mentioned.

La pili, The Ghai Commission did not address most of the economic matters, na mahitaji na ya mwananchi wa kawaida mahitaji

yake hayajawakilishwa vyema kwenye mswada huu wa Katiba.

La tatu ni mambo ya wafanyikazi, the workers union which we had mentioned during our last hearings still has not been looked into well. Also the issue of foreigners who have undermined the Kenyans, kama wahindi ambao wana ma-company za kuajiri watu ambapo hawajali masilahi ya wafanyi kazi wao.

The last one is the youth issue, we youth also need to be represented in the Parliament, we need somebody who can take our issues to the Parliament to be discussed. Thus in the draft the issue has not been well looked into.

**Ahamed Mohamed:** Wa pili

**Stephen Mranga:** Swali langu la kwanza ni hili, kwenye mswada huu, tumeona ya kwamba wale wote ambao ni wananchi wa Kenya watapata vitambulisho na passport, hii passport itakuwa ni ya bure ama malipo yatatakikana?

Pia mambo ya elimu yamesemwa ni ya bure, kwa hivyo elimu itakuwa ya bure kutoka Primary school hadi Secondary School? Ama tutaitishwa tena malipo kama ya security na kadhalika? Tafadhali tufafanuliwe hapo vyema.

Na la mwisho ni kwamba ni kwamba Tume ya kurekebisha Katiba, the time allocated to today's seating is too short.

**Ahamed Mohamed:** Number three

**Maurice Amakoya:** Kwa majina ni Maurice Amakoya My question is on chapter 5, Bills of Rights mostly freedom of worship is not well defined, tukiongea mambo ya freedom of worship does it mean that even devil worship is allowed?

**Ahamed Mohamed:** Number four.

**Samuel W. Wamaitha:** My name is Samuel W. Wamaitha, my question is on electoral Commission, mostly the election timetable, the date of election has to be defined. Inatakiwa tarehe za ku-vote zijulikane kwa wananchi wote kwa sababu wakati huu na ule uliopita imekuwa tu ni siri ya Rais pekee yake.

Another question is that wale ambao wamenyakua mali ama mashamba ya wengine watafanyiwa nini and even those who are corrupt, what we will be done to them when the new Constitution is passed? Jambo lingine ni kuhusu vingozi corrupt wao hutenda mambo mabaya nao watafanyiwa nini?

Then the other issue is on Human rights, mostly land issues, sisi watu wa Coast wengi wetu tunaoishi kama ma-squatter, jambo hili katika huu mswada wa Constitution halijafafanuliwa vyema, tutafanya nini?

**Ahamed Mohamed:** wa tano?

**Jack Ogwiri:** Kwa majina ni Jack Ogwiri, KANU Secretary also the chairman for the disabled. I have a few questions or recommendations I would like to make.

The first one is the problem of land and squatters at the coast province, which has not been well addressed in the draft Constitution. Watu wengi hapa pwani ni ma-squatter na jambo hili wengi waliongea siku ya kuchukua maoni. These issues have to be looked into mnapoenda kwa the National conference ili tupate ukweli kwamba wale ambao hawana makao shida yao itataturiwa viyi.

I would also like to know what are the functions of the Prime Minister ? And also the disabled need to be represented in the Parliament and the council.

Na pia 10% of vacancies in all jobs, opportunities need to be set aside for the disabled people, kwa maana kuna wale ambao wamesoma na kuhitimu kama watu wengine na kwa maana they are disabled wanakosa kuajiriwa kazi. Hayo mambo yaangaliwe vyema.

**Com. Prof Salimu:** Nitawajibu hawa kwanza kisha tuendelee na wengine. Kila mtu ana haki ya kutoa maoni au mapendekezo yake na tena inatakina tuchunguze tabia na mienendo yetu vyema.

I would like to answer your question, the first presenter said this is a political Constitution and that is not true. Hii Katiba ni ya wananchi, peoples' driven Constitution and not for politicians.

Kwenya huu mswada tumesema wafanyakazi wapate mishahara mizuri, itakayowawezesha kutosheleza mahitaji yao.

Na mambo ya exploitation of workers by the employers, hiyo iko under the rights of employers and employees and COTU will contribute a lot during the National conference.

Uliongea tena about freedom of worship, every person has the right to freedom of conscience, religion, thought, belief and opinion, thus to worship the right God and not devils. Kila mtu ana haki ya kuabudu na kuomba Mungu wa ukweli na ila si mashetani.

You also talked about the date of election, which is not described, we have said the date of election will be the second Tuesday of August.

Na pia mambo ya land, those who have grabbed other peoples land or property can only be taken to court if proved guilty. Wale ambao wamenyakua mashamba ama mali ya wengine waweza kufikishwa mahakamani baada ya uchunguzi kufanywa, na ikipatikana walipata hayo mashamba au mali kwa njia isiyo ya kweli, watashitakiwa na ile mali ama mashamba yachukuliwe na kurudishiwa wenyewe. Na hii mambo ya land nilisema hapo mwanzo kuna Tume inayofanya hiyo kazi na watatoa report yao kamili wakimaliza kazi yao.

**Hassan Fake:** The land issues are under the Njonjo Land Commission.

**Com. Prof. Salim:** Land rights, we have said all the squatters will be taken care of by the Government. The land laws are to be reviewed and these can take two years or more and the rest is under the land Commission which will give a report on land issues. Mambo ya mashamba na ma-squater hapa pwani sitasema mengi kwa sababu yako kwenye ile Tume ya Njonjo vile nilivowaeleza ambao watatao report kwa Rais kuhusu haya mambo ya mashamba.

**Hon. Ramadhani Kajembe:** Hata kwenye Bunge walisema kila mtua atapewa ekari mbili

**Ahamed Mohamed:** Wa sita

**Zadock Mbeya:** Kwa majina ni Zadock Mbeya. Kwanza nitatoa maoni kuhusu kikao hiki cha leo ambacho ninaona hakukua na matayarisdho kamili kwa sababu hatukupata the necessary materials on time to read in order to prepare the questions which we were to raise. Hivi vijitabu na copies za mswada tungepata mapema ili tujitayarische vya kutosha.

We need also to know the division of powers between the Prime Minister and the President na pia qualification za council members ni gani?

**Ahamed Mohamed:** Wa saba.

**Dzingo Shigulu:** Kwa majina ni Dzingo Shigulu. Ningependelea mambo ya retrenchment, miaka iwe inaangaliwa kwa maana kuna watu wengine ambao wanakuwa retrenched wakiwa na umri mdogo na wazee wanabakia. Tena mambo ya kufutwa kazi bila notice na waajiri wao yaangaliwe sana.

Ni hayo tu.

**Ahamed Mohamed:** Number eight.

**Chengo Mumba:** Kwa majina ni Chengo Mumba. Ningependa kujuu ni hatua gani ambazo zimewekwa kwa hii hali ya kufungwa kwa Bunge kabla ya muda wake kwisha na tena mambo ya laws of arrest, askari wetu wa hapa Kenya, inatakikana wafundishwe mambo ya laws of arrest kama wale ndugu zetu wa Tanzania.

**Ahamed Mohamed:** Wa tisa.

**Mohamed Faki:** My names are Mohamed Faki. I would like to know what is the .....(Inaudible) for us to follow and use what is in the Constitution?

Also what were the citizens' powers towards the election of their delegates who will represent them during the National Conference? Thank you.

**Pili Tatu:** Kwa jina ni mama Pili Tatu a KANU women's leader. Sisi wanawake tumenyanyaswa sana, kwa hivyo mambo yetu yaangaliwe sana.

Tena ile Constitution ya zamani ilikuwa nzuri sana, kwa hivyo ni vyema kama tungebakia na hiyo hiyo na hata mimi ninge-campaign kuwa councillor. Asanteni.

**Com. Prof. Salim:** Tena wacha niyajibu hayo maswali. The draft Constitution Mswada ulichapishwa kwa magazeti na kisha copies ziko kwa wingi na zimetumwa kwa hivyo zile tulizokuwa nazo zilikuwa chache sana na waliofika wa kwanza washapewa.

Kwa hivyo tumependekeza kwamba kuwe na Serikali ya kijiji au Baraza ya kijiji, tangu chini kule, village council. Juu ya hapo kutakuwa na location council, wanachama wa location council watakuwa ni wawili kutoka kila village kila location itapeleka wajumbe wawili katika location council. Na hapo watazungumza juu ya mambo yao, matakwa yao na kupeleka maombi yao juu zaidi katika District ili wapatiwe manufaa katika maeneo yao. Kisha juu ya hapo kutakuwa na Serikali ya wilaya, or District Government.

Naye Mr. Shigulu aliongea mambo ya retrenchment issues, haya mambo ni kweli yanahitaji kufikiriwa sana. Na mambo ya watu wenye biashara ndogo ndogo yote hayo yako under District governance.

Naye Bwana Odero, if the draft will not be passed, what will we do, I am not sure what to say, lakini but lets hope for the best, kwa sababu kila mwanachi yuangojea sana mambo ya hii Katiba mpya.

And when is the Parliament being dissolved? Kwa kusema ukweli hayo hatujui and if it is going to be dissolved the national

Conference then will have to be dissolved because all members of Parliament have to participate, kwa hivyo tunawahitaji. And on the issue of ill treatment of suspects, there will be a need for a fair trial of suspects.

Mr. Faki's question of people powers, the powers of the people can only be represented to the national Conference through their delegates who they elected, tulisema kutakuwa na delegates kutoka kila wilaya kuwakilisha.

Naye Mwana Tatu would like the old Constitution hayo ni maoni yake. Nafasi hii sasa tutampa Hon. Kajembe

**Hon. Ramadhani Kajembe:** Kwa majina ni Ramadhani Kajembe, MP wa hapa. I will talk about the two houses of the Parliament, Lower house and Upper house, the cost of running the two house will be too expensive.

You also mentioned freedom of movement also should be looked into because this will allow so many foreigners in the country, so I think this should be limited. The issue of Presidential powers has also to be looked into.

**Com. Prof. Salim:** Na sasa tutampa nafasi hii Bi Amina Rajabu ambaye ni delegate wenu na ndiye ataenda kwa National conference itakayofanywa kule Nairobi..

**Bi. Amina Rajab:** Kwa majina mimi ni Amina Rajab, ukitazama kwenye huu mkutano wa leo unapata kwamba wanawake hawako ni kwa nini? Swali langu ni kwamaba .....(inaudible) and what about if the President does not sign the bill?

**Com. Prof. Salim:** Thank you for the question, we thought of the two chamber houses and found out that it allows more spaces for democracy. It is expensive but will have checks and balances. As pertaining dissolving the Parliament, it can be dissolved by the President any time.

The meaning of the yellow ribbon is the mark of solidarity. Na hapo ndipo tumefika mwisho wa kikao chetu cha leo. Kama una pendekezo lolote unaweza kufika kwenye afisi zetu kwa maelezo zaidi. Na district coordinators wetu wako pale kuwatumikia.

Asanteni sana

The meeting closed at 2:30 PM.