

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

Verbatim Report of

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**DISSEMINATION OF REPORT & DRAFT BILL, MVTA
CONSTITUTENCY, HELD AT CHANDARIA HALL**

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ON

11th OCTOBER 2002

**DISSEMINATION OF REPORT AND DRAFT BILL, MVITA CONSTITUENCY, HELD AT CHANDARIA
HALL ON FRIDAY 11/10/2002**

Present

Com. Prof. A.I. Salim

Secretarial Staff in Attendance

William Opili	-	Ass. Programme Officer
Sylvia Chidodo & Ahamed	-	District Coordinator
Gladys Osimbo	-	Verbatim Reporters

Meeting was called to order at 10.00 a.m. with Com. Salim in the Chair.

Com. Salim: Hamjamboni, nafikiri tutaanza na kama ilivyo haja yetu ufunguo wa kila kikao kwa dua na ningependa mmoja wetu aje hapa mbele atufungulie kikao hiko. Any volunteer? Kumetoka amri upande ule kwa upande huu .. (Laughter). Nafikiri moja asome moyoni mwake kwamba Mungu ni saba atatupa uwezo wa kufanya kazi hii yetu kwa leo na kwa kesho mpaka mwisho, kwa njia itakayofaa kila raia na kufaa nchi yetu amen.

Sasa madhumuni ya kikao hiki kwa hakika ni elimu ya raia ya kimwisho. Ka mjuavyo, tume ya kurekebisha Katiba imeshaanduka mswanda wa Katiba yenyewe na pia report yetu, kabla, ya kuendelea mbele zaidi nimekumbuka kwamba nina haja ya kujijulisha na kuajulisha wezangu hapa jina langu ni Ahamed Ida Salim, mimi ni mwana tume na pia ni makamu wa mwenyekiti wa tume. Hapa mkono wa kushoto ninaye Bwana Ahamed ambaye ni District Coordinator wa Wilaya ya Mombasa. Yeye na mwezake, upande ule nafikiri pia mnamjua. Hapa tunaye William na Gladys ambao ni wenye kuandika repoti juu ya kikao hiki na kumsaidia Sylvia pia kutayariza ripoti zake yeye na Ahamed na pia wana naza kila neno ambalo litasemwa hapa.

Maana kabla nimesema tuna haja ya kuwaeleza yaliyomo katika mswada wa Katiba na taarifa yetu fupi na pia kupata maoni yenu maana mambo haijamalizika katika huu mswada ya Katiba tumepewa mapendekezo mengi, juu ya kila kitu kinachohuzu Katiba. Lakini mapendekezo hayo lazima yapelekwe mbele ya mkutano mkubwa kabisa utayofanyika Nairobi, Bomas of Kenya nafikiri. Ambapo kutakuwa na waakilizi mia sita na kitu, kati yao wakiwemo wajumbe wa Bunge wote, pia sisi wanatume kisha wakilishi watatu kutoka kila Wilaya. Na hapa leo naona katika hall tuna wawili kati ya wakilishi watatu wa Mombasa. Yuko Bwana Faruk pale aanza kuingia na mbele yake hapa mstari wa kwanza yuko pia Amina Rajab Kibel na watatu ni councilor.

Basi kila Wilaya itakuwa na wakilishi watatu kwenye mkutano huu mkubwa kisha kutakuwa na waakilishi wa kila pembe ya Kenya, kutakuwa wakilishi wakina mama, waakilishi walemavu na vikundi vingine ambavyo vianjulikana hapa nchini. Vikundi

vya makabila madogo, yale ambayo mpaka leo wanalalamika kuwa hawajaliwi na Serikali na hawajalawi na mtu yoyote, kama kwamba hawako katika nchi yetu ya Kenya.

Hivi ni kuhakikisha kwamba, mkutano huu mkubwa ambao utaendelea kwa muda wa mwezi mzima, utajadili kila neno liloko katika mswada wa “Constitution”, Ukatiba. Na lazima ukubali wao kila neno ambalo limeandikwa hapa. Na kama munavyo katika magazeti majadiliano hayo itanza pia. Sisi wenyewe kwa upande wetu tumekuja hapa kueleza yaliyomo, kupata maoni yenu. Pia tuna vipindi katika radio kueleza yaliyomo na twazikiza maoni ya wananchi juu ya tunayoyasema katika radio na kadhalika. Yaani, tuna mwezi mmoja tangu mswada wa Katiba kuandikwa na kuchapishwa na kutiwa kwenye magazeti namuona Bwana Hamisi pale ana ‘copy’ yake ya saa hii nafikiri ni ya ‘Nation’ hiyo. Kwamba kila moja aisome apate nafasi kusoma, atoe na maoni yake. Na kisa kwa njia ya mwaakilishi wake, katika mkutano huo mkubwa wa mwezi moja, tupata kujua maoni ya wananchi. Na itabadilizwa Katiba kufuatana na decisions ya mkutano huo mkubwa kule Bomas of Kenya.

Wakisha kubaliana kama nasemavyo wana mwezi mzima, kujadiliana juu yake, wakiwa wakikaa hapo hapo wataalishwa hapo hapo watakuwa wakishafilishwa hapo hapo ‘day in day out’, siku baada ya siku mpaka wafikilie ijumaa of ‘concensus’ juu ya mswada wa Katiba. Wakisa patana Mungu akipenda sabatana baada ya siku tano, siku sita, wiki moja, wiki mbili, kabla ya mwezi kumalizika, lakini ‘maximum’ itakuwa ni mwezi moja.

Wakisha afikiana mswada wa Katiba utaletwa kwetu, tutayarisha kumaliza kufuatana na mapendekezo ya huo mkutano mkubwa. Baada ya hapo itapelekwa mbele ya Bunge, Bunge haipitisha na hatuoni tatizo lolote Bunge kupitiza bana wabunge wenyewe watakuwemo katika huo mwafaka juu ya mswada wa Katiba. baada ya hapo Rais ataipitisha na itakua ndiyo Katiba yetu mpya.

Mbali na mswada wa Katiba tumechapisha taarifa au ripoti, sasa hii ni ripoti ndogo. Ripoti fupi juu ya kazi yetu yote taangu sisi kuundwa kama tume na kuundwa kwetu kisha tukafanya kitu gani tukazunguka hapa na pale, maoni ya wananchi tumepata, maoni mangapi ya mtu binafsi, maoni mangapi ya vyama na kadhalika, tulisikia nini huko, Bungoma each and every constituency. Kila eneo ambalo yasimamiwa na mbunge tulikwenda tukasikiza maoni ya watu. Na maoni hayo kisa yatachapizwa, kila constituency tuna ripoti yake sasa, mbali na constituency nyingine. Na ripoti kama tunavyosema ni fupi. Ripoti kubwa yenyewe itakuwa ni mjalada of volume tano kubwa na si lahizi kumpa kila mtu copy lakini kutakuwa na copy katika district documentation centers zetu ni kama tukimaliza kabisa sasa tutamaliza maliza.

Baada ya hapo, tunatarajia kwamba ripoti hizo pamoja na tapes zetu kila neno limesemwa litakuwa kwenye archives, kwenye eneo letu la kuweka ripoti yetu, taarifa zetu na kadhalika ili sisi ambao sasa tutasoma ripoti hizo lakini vizazi vyetu pia vikija. “Twenty years, thirty years, forty years twaomba one hundred years, two hundred years from now” ripoti zote zitakuwako katika archives or museum ili watu baada au raia baada ya miaka mia moja waweza kuenda kusoma, tume ya 2001 kwa district ya mswada wao wa Katiba zipi wafilikisha watu wangapi na kadhalika. Basi hito kwa ufupi ndio kazi iliyobakia, kazi ya

conference or kongomano neno jipya hii ambalo naanza kutumia hivi sasa na baadaye Katiba kukubaliwa.

Hivi sasa tuna mengi yanasemwa juu ya taarifa hii yetu, na juu ya mswada wetu lakini leo madhumuni yangu ni kueleza yaliyomo na tupate kujua na nimefurahi wengi kati yetu wamekuja na copy zao na nakala zao za mswada wa Katiba iliyoshapizwa kwenye magazeti na kwa hivyo niko zimetoka Nairobi au tumewapatia sisi? Sawa. Na kwa hivyo tusameye kwamba tukimaliza mkutano kabla mkutano wetu leo tutakuwa fikira nzuri juu yaliyomo katika 'draft Constitution au mswada wetu wa ' Constitution'. Kwa kuwa leo ni Ijumaa tutamaliza saa sita unusu kumwezeza kila moja wetu ambaye atakapokwenda kuswali pale Ijumaa apate nafasi ya kufikika huko bila kuchelewa.

Mswada huu unasura ama chapter one, kitangulizi au **preamble** ishirini. Sura ishirini nyingine fupi, nyingine ndefu na kabla ya sura ya kwanza kuna kitangulizi or preamble. Constitution tuliyonayo hivi sasa haina preamble au utangulizi, lakini utaona kwamba Constitution nyingi za nchi nyingi zinautangulizi tulijidiliana juu ya jambo hili tukaona kwamba sisi pia Katiba yetu iwe na preamble, utangulizi. Faida ya kuwa na preamble ni kubwa. Maana kabla hujajiwekea sheria ungependa kujua kwa nini wataka sheria hiyo kubwa au hiyo Katiba kubwa. Kwa nini waitaka? Na preamble inasema kwa ufupi kabisa ni aina gani ya Serikali waitaka, ni matumaini yako ni yapi, or yepi? Ungependelea uishi na mwezako kwa njia gani? Ni maajili gani ungependelea yawekwe yawe ni mzingi wa kutawaliwa na Serikali yetu na kadhalika.

Kwa hivyo kuna preamble hapa ya Kiingereza : We the people of Kenya, utaona kwamba people of Kenya is right at the beginning. Tunaaza kabisa na watu wa Kenya, raia wa Kenya. Hii inaitwa people driven Constitution, Katiba ambayo mesukumwa mbele au kupelekwa na wananchi. Ni wananchi walio iweka Katiba hii. Kwa hivyo Katiba inasema or preamble inasema :

“We the people of Kenya aware of our ethnic cultural and religious, diversities and determine to live in peace and unity as one indivisible sovereign nation committed to nurturing and protecting the well being of individual, the family and community within our nation recognizing their spiritual of our women and men for a government based on the essential values of freedom, democracy, social justice and the rule of law, exercising our sovereign and in arable rights to determine the form of Government in our country and have fully participated in the Constitution making process do adopt in that and give to ourselves and to our future generations this Constitution. God bless Kenya”.

Nafikiri wengi wetu tumefahamu yaliyomo lakini kwa wale ambao labda kuna haja ya kueleza yaliyomo kwa Kiswahili tunasema na Kiswahili zangu mtakisamehe kidogo kina matata na kutukuku. Sisi raia wa Kenya tukiwa tunadhiliki tofauti zilizoko za kikabila, utamaduni za kidini na tukiwa na nia ya kuishi pamoja kwa amani na umoja kama taaifa moja isiyo gawanywa na mtu yeyote, tukiwa na azma kuu ya kuzawiza na kulinda hali nzuri ya kila moja kati yetu kila familia na kila jamii tukitambua matakwa ya akina mama, akina baba ya kupata Serikali ambayo mzingi wake ni maadili ya kitharura ya uhuru, demokrasia, uadhilifu wa kijamii na utawala wa sheria tukitumia haki yetu ya ufalme sovereign rights na haki yetu isioweza kuchukuliwa na

mtu yeyote, kuchagua aina ya Serikali tunapendelea nchi yetu kuwa nayo, na kwa kuwa tumeshiliki katika kazi ya kurekebisha Katiba, sisi wenyewe tumekata shauri kuipokea Katiba hii kuifanya ni sheria yetu na kujipa Katiba hii. Tumeifanya na twajipa nafsi zetu Katiba hii sisi wenyewe. Na pia kuipa vizazi vijavyo Katiba hii. Mungu aibariki Kenya.

Si hiyo niyo preamble au utangulizi wa Katiba na wananchi wengi kabla sisi tukate shauri kuiandika hii preamble walitupa mapendekezo yao juu ya preamble pia na masamani kwa nyingi zuri sana lakini ilimbidi kuchukua hapa na pale na ilibindi iwe fupi kwa hivyo tumechagua haya. Kwa hivyo tusiulizwe kwa nini hamkutia hapa neno hili au neno lile sasa tukiwa wakati wa kurekebisha sana lakini tuko tayari kuzikisha maoni yenu juu ya jambo hili la preamble ikiwa wako wengine kazi yetu haukutendelea sana. Hiyo basi ni preamble chapter one au sura ya kwanza pia ni muhimu sana ni fupi kabisa ni paragraph tatu ndiyo nne, lakini ni muhimu na sikitiza ufalme wa watu sijui kuma iko mtu awezi kunipa neno bora zaidi kuliko ufalme wa watu au sovereign ya watu.

Hivi ni kusema kwamba, watu ndio wanaojitawala wenyewe, hakuna mtu juu yao, wao ndiyo wafalme katika nchi yeyote. The sovereignty of the people and the supremacy of the Constitution. Umuhimu wa kijuu kabisa wa Katiba. Katiba hii ni yaani ni kanuni iliyo juu kabisa, supreme iko juu kabisa, hakuna kanuni nyingine ambao iko sawa na Katiba. Kanuni zote zilizobakia ziko nchini ya Katiba na ikiwa kuna kanuni yeyote ambayo itagongana na yaliyomo katika Katiba basi kanuni hiyo si ya halali, sio sawa na mtu aweza kuenda kotini akasema hii inagongana na Katiba kwa hivyo lazima kanuni hii au sheria hii iondolewe.

Mtaisoma kwa details ninyi wenyewe, all sovereign authorities belongs to the people of Kenya. Nguvu zote, jukumu zote, utawala wote uko katika mikono ya watu wa Kenya lakini mamlaka hayo ya watu wa Kenya waweza wao wenyewe kutumia au watachagua wajumbe wao, they will choose their representative kutumia nguvu zao Ni kama mtu Bwana mkubwa anampa mtu mwingine kazi nendeni mnifanyie hii. Lakini ziku ambayo wewe utafanya kazi hii sawa sawa kuna kanuni ya kuondoza katika kazi yako na kadhalika. So that is the sovereignty of the people, supremacy of the Constitution, pia iko hapo ni Constitution kama nimesema in to supreme law and bide all authorities and persons towards the Republic. Hiyo ni chapter.

Chapter 2 pia ni muhimu. The Republic. Jamhuri, katika Katiba yetu ya sasa kuna line moja mstari moja tu unaosema Kenya will be a Republic. Lakini hakuna maelezo kufananua hasa tukisema hata sisi ni Republic or Jamhuri maana yake nini? Jamhuri ni neno la Kiarabu maana yake watu, uma, raia, taifa, kwa hivyo tukisema Kenya ni Republic maana yake ni uti ambapo watu ndiyo wanaokata shauri mambo yote. Na watu ndiyo muhimu kabisa. Na aina hii ya Serikali kwa hakika ni ya zamani sana, tangu siku za waziliki zamani walikuwa wakiendeza utawala wao kwa njia ya watu na manaibu wa watu. Tusema kama wabunge wao, lakini watu wote walikuwa ni sawa katika Republic za Ugiriki na kadhalika.

Kwa hivyo sisi tumesema kwamba kuna haja ya watu kujua maana ya kuitwa Republic au Jamhuri. Na yeyote au nchi yeyote ambayo yandai kwamba ni Republic ni lazima msingi wa utawala katika nchi uwe umejengwa juu ya misingi au maadili maalum. Msingi hiyo ni utawala mzuri kufuatia siasa ya vyama vingi, multi-party democracy ni sehemu ya Republic. Nchi ambao imejiita

Republic lazima iwe ni multi-party democracy. Utawala uwe unazilikisha wananchi, haya ni madili mengine. Unazilikisha wananchi. Participatory government, utawala wa kuwazikilisha wananchi katika utawala huo. Sio umeyaweka kado kesho unaendeza mambo bila ya kuwa shauri au kuwajuliza.

Na apart to that is transparency uwazi, utawala uliowazi unaona unavyoendesha, unaendesha vizuri au unaendesha vibaya. Na uwezo wa kuipima na pia kui-judge utawala huu.

Vizabu another word may be (inaudible) is a better word accountability wale wanaofanya kazi ya kutawala na nchi wawe ni watu ambao wataeleza wananchi au raia vipi wanaendeza kazi. Vipii wamepata pesa za kuendeza ile kazi. Matumizi ya kazi yao ni vipii. Wametumia kiasi gani kila mwaka kuendeza ile kazi. Transparency and Accountability participatory government ndizo principles za kuendeza jamhuri yetu ya Kenya. Lazima maadili haya yafuatwe katika kupeleka utawala wa nchi yetu. Hiyo ni chapter 2.

Chapter 3 pia ni muhimu national goals values and principles.

Shabaha za kitaifa, kama club ya mpira au chama chochote lazima nchi pia iwe na shabaha. Sio? Goals tunaelekea wapi? Tunataka kuenda wapi? Tunapendelea kujenga nchi ya aina gani? National goals values madili sio lazima mtu ajuye kwamba mimi nitaendeleza lakini haina fulani ya maadili ni lazima iweko, itaendeza vipii, udugu, umoja, usaidiana, haya ni maadili these are values. Kwa hivyo katika chapter hii tumeeleza maadili yaliyoko na shabaha ya Serikali ambao itakwekwa katika nchi yetu.

Maadili ya hayo ni kama kwa ufupi kuna mengi lakini nitataja mawili matatu Serikali itaendezwa kwa njia iliyowazi. Wafanyi wa Serikali wawe accountable unaweza kwambia umefanya vipii kazi hii, umetumia kiasi gani, kwa nini kuzezea pesa, bona hizi pesa fulani hamkusema jinsi mlivyotumia. Serikali ya Jamhuri itahesimu, italinda na kustawiza haki za kibindamu na uhuru wa kimla na kila mmoja wetu ambaye samahani na uhuru wa kila aina, kuna uhuru nyingi, uhuru wa kuwabudu, uhuru wa kusema, na kadhalika, basi katika majili ya Serikali ya Jamhuri yetu itabidi Serikali ihesimu na kulinda na kustawisha pia iwe bora zaidi, hati za kibinadamu katika nchi yetu na pia uhuru wa kila moja wetu apewe uhuru zake zote na freedom is si freedom ambao wamepewa na mtu. Ni haki ambazo amezaliwa nazo. Kwa hivyo kuna haja za kuzilinda haki hizo. Mtu aziingilie haki za yeyote kati yenu.

Inherence, yamo hati zi yamo katika – samahani baadaye tutaeleza maana kuna mengi ya kusema. Nataka nimalize kisha tafadhali utaweka swala lako tayari.

Pia Serikali yetu itailazimu chini ya Katiba hii kuleta uadhilifu wa kijamii social justice. wadhilifu wa kijamii nafikiri yafahamika bila... Pia basic needs haja ya kimsingi kabisa ya kila moja wetu lazima Serikali ifikirie kumpatia kila moja wetu. Hizo basic needs nitazitaja baadaye pengine tafadhali sijasahau the republic shall be committed to social justice, uadhilifu wa kijamii, through a corporate policies and measures to providing for all Kenyans the basic needs of food, chakula, shelter, clean water, sanitation,

education elimu, health-matibabu, clean environment mazingara, mavazi and security. Amani kwa mtu binafsi, kuondozewa hafali yeyote na mali yake. Hizo ndizo basic needs. Haja ya kila moja wetu ya kimsingi, Serikali lazima kuchukua hatua na itie sheria au iweke sheria ya kumhakishia kila moja wetu his or her destiny. That is one of the goals, major goals of the republic.

Sasa lingine ambalo tumelisikia hapa na pale tukizunguka kupokea maoni ya wananchi ni kwamba maendeleo katika maeneo fulani ni makubwa kuliko maendeleo katika maeneo mengine. Yaani maeneo kadha yamewachwa nyuma lakini kuna watengeneo maeneo fulani, bona barabara kule ni bora hapa miaka kadha sisi hatujaona barabara moja ikitengezwa na kadhalika. Kwa hivyo, mali yetu tunalipa kodi na kadhalika lakini hatupati matumizi ya kutosha. One of the goals and principles of the republic would be maendeleo ya ustawi wa kila sehemu nchi bila ubaguzi na kutumia mali ya uma kwa uzuri na kuwadilifu. Kwa uzuri to avoid corruption, misuse of money. Kwa uadhilifu kuhakikishia kila eneo maendeleo na ustawi. That is another of other...goals or principles kisha chapter 4, samahani naenda mbio maana nataka cover as much ground as possible kabla kua ...

Chapter 4 Citizenship Uraia na haki ya uraia.

Hapa principles zilizoko ni kwamba raia wote watakuwa ni sawa. Raia mmoja ni sawa na raia mwezake. Hakuna mmoja aliye bora kuliko mwezake.

Equality subject with the duties and responsibilities of Citizenship. Kila mmoja wetu ana hako zake, na kila mmoja wetu ana wajibu wake pia. Rights go with responsibilities. Ni nani ambaye aweza kuwa raia, every first and born after coming into force of this Constitution is a citizenship of Kenya, if by the state of the person born either the mother or the father of the person is a citizens of Kenya. Ikiwa mzazi mmoja tu ni Mkenya mama ama baba basi huyo ni raia wa Kenya.

Tunasema pia ya kwamba, Mkenya bado kupata uraia wake hawezi kunyimwa uraia huo. Pia tunasema kwamba ikiwa Mkenya atamuoa asiye kuwa Mkenya yule ajina D or asiye kuwa raia pia anaweza kumpata uraia wa Kenya. Kwa hivi sasa raia Mkenya wa kiume akimuoa raia wa nchi nyingine wa kike huyo mke wake atapata uraia wa Kenya. lakini raia wa Kenya wa kike akimuoa mme asiyekuwa Mkenya, huwa hapati haki hiyo. Kwa hivyo sasa tunasema kwamba kuwe na usawa kati ya Wakenya wote. Any Kenyan man or woman who marries a foreigner that is foreigner is entitled to citizenship. Pia badiliko moja tumefanya ni kwamba tumesema kwamba dual citizenship should be allowed. Mtu hawezi kuchukua uraia wa nchi nyingine. Ikiwa nchi hiyo kanuni zake zaruhusu uraia wake kuchukuliwa na mtu ambaye si ya kuzaliwa hapo. Dual citizenship is permitted under the laws of Kenya.

Kwa ufupi kuna mengi zaidi lakini mtasoma wenyewe.

Chapter 5 the Bills of Rights

Kanuni ya haki. Mtu ana haki nyingi. Kama nilivyosema haki hizo zikuwa amepewa na mtu. Amepewa na Mungu tangu kuzaliwa kwake. He has got the right to live, live to breath, the right to eat, the right to live, the right to that, that right to speak his mind, the right to say no, the right to say yes, the right to discuss with friends, the right to give his opinion, hizi ni haki za mtu aliyopewa na Mwenyezi Mungu for those of us who believe in God. There are inherent from to God. Kwa hivyo tumeweka chapter 5 listing all the rights which we have as Kenyans and we are saying that the laws should make sure that these rights are respected. Na wezangu ambao wanajua sheria na wamehusika na mambo zaidi yangu maana sisi wanatume tuna lawyers, Constitutional lawyers, tuna wengine ambao, work in Public Affairs tunasikia kwamba hii Bill of Rights tunayo sisi katika hii Katiba mswada wa Katiba is the most comprehensive of many other Constitutional in the World. Tumetia hapa haki ambazo ni nyingi kuliko Constitutional nyingine nyingi hapa ulimwenguni. Kwa hivyo kwa ufupi basi nita taja the important ones. Kwanza kabisa haki Serikali itachukua hatua za kuweka sheria kumpatia kila mwananchi haki zake za kimsingi, kama nilivyotaja hapo awali chakula, matibabu, elimu ya msingi, maji masafi, makao na amani yake binafsi.

Pili, kuwe hakuna ubaguzi wa kikabila kwanzia mume au mke, wadhiri mtu anatoka wapi huyu, rangi, umri, uzima, kwakuwa mtu anajiona yeye mzima, yule mlemavu ana haki sawa sawa na yeye, that is wrong, dini, twasahau maana yake haki ya ubaguzi wa kidini na pia wa utamaduni au lugha. Watu wote ni sawa. Haki za kila moja wetu anaishi hapa kama raia wa Kenya itakuwa ni sawa regardless of all the differences. Pia haki za wazee ambalo ni jambo tangu hapo tumekuwa tukulie hapo glances, kuna wazee watoto kati yetu, pia kuna wazee, kwa hivyo tunasema kwamba wazee wazingatie hali zao zamwe wakimstajia misada jamii zao zizaidiwe kwa kuwatizama wazee kazi yao.

Haki ya watoto pia kulelewa uzuri, na wazazi kulishwa, kuelelewa, kutolazimishwa kufanya kazi, unajua kwamba there is a lot of child abuse, watoto badili kuenda shule wanapelekwa kuuza njugu, kuuza mahamli, kuuza this or that tangu asubuhi mpaka usiku. So child abuse is banned au kumlazimisha kufanya kazi ambao itamduru au kumtia katika hatari. Nchi nyingi utaona kwamba watoto wanatiwa katika factories ambapo kuna machines ya kumkata mkono na kumtia katika hatari. Kulindwa dhidi ya hali yoyote hayo au kutumiwa vibaya. Pia tunajua child abuse goes in some countries to a horable extent. We all know about child monography, we all know about child abuse, piddle file and that sort of things. Pia mtoto ana haki ya elimu ya msingi ya bure. We are emphasizing this among many rights which we have already mentioned, the children will have basic education compulsory and free.

Walemavu tunataja haki zao nyingi sana, kuna kutoka page zijui kama muna wale wana copies maana jana tumeulizwa kwa nini mumewafikilia walemavu, lakini sababu yake ni kwamba aliyeliza alikuwa hana nakara au copy ya hii Constitution lakini mkitazama page 6 ya hii iliyochapishwa kwenye magazeti tumetaja kwa urefu. Walemavu wana haki ya kila aina ya uhuru kama wenzao na kushiriki katika maisha ya kila siku kama wanavyoweza. Wana haki ya kuhesimiwa. Serikali ichukue hatua na kuweka sheria ya kuhakisha kuwa shule zote za walemavu zimeunganishwa, integrated na maisha ya jamii kwa jumla. Wasiwekwe kando, wakawa ni kama kwamba hawa si sehemu ya jamii yetu kwa jumla. Serikali ishahilize mawashiliano kwa

walemavu waweze kutembea hapa na pale bila taabu na kuondoa kila aina ya kiingamizi inayowapa taabu kushiliki kikamilivu na wenzao. Serikali yawezeza walemavu kushiriki katika kila ustawi wa kukata shauri. All decisions making bodies tangu committees mpaka county councils, municipal councils, mpaka bunge pia waweze kushiriki kikamilifu katika kazi zote za vyama kama hivyo.

Pia tumesema kwamba political parties, vyama vya kisiasa, saa zile wakipewa list zao za candidates wahakikishe kwamba wamohapo wakina mama pia wamo, walemavu na youth vijana katika ile list. Tumependekeza tume fulani ziundwe na kati ya tume hizo kuna tume moja muhimu tume ya haki za kibinadamu na idara ya wadhilifu. The commission for human rights and administration of justice. Tumesema kwamba katika tume hiyo lazima mmoja wao awe ni at least one must be a disabled person ambao anajua matatizo ya disabled na ambaye atahakikisha yeye atakikisha kwamba, all these other laws related to the disabled are implemented. Is like a watch dog if you like kuhakikisha kwamba majili yote kanuni zote au sheria zote zinazomhusu disabled zina fuatwa.

Kuna nyingine pale mtasoma wenyewe haki za kidini pia ni hakikisha kila raia ana haki ya uhuru wa kidini, fikira za kidini na maoni yake ya kidini. Hakuna atakayemuungilia katika haki zake. Kila raia ana haki za kuabudu kufuatia mila au dini yake au kusoma au kusomesha dini yake. Elimu ya kidini itatolewa katika shule za Kiserikali na kupewa kwa njia isiopendelea dini yeyote. Each and every religion should be allowed to teach its doctrine and in the government schools all religions should catered for without any favour.

Raia asinyimwe ha kuingia kwenye shule yeyote au kupata kazi yeyote kwa ajili ya dini yake. Hapo wewe huwezi kufanya kazi wewe kwa ajili ya dini yako au shule hii kukuwa wewe ni dini fulani huwezi kupata admission. Nafikiri mtasoma yaliyobakia chini ya Bill of Rights yenyewe kama mliosema ni mengi yaliyosemwa hapa tuna freedom of movement maana muajua ile loitering the law of loitering uko njiani unasimimashwa na askari akwambia wewe una kwenda wapi unatoka wapi iko wapi kipande na usipompa chochote anakupeleka police station na kadhalika. Mtu ana haki lakini ni muhimu ikiwa utaulizwa akiwa kuna shaka yoyote kwamba huenda ukawa si mtu unatiwa shaka madam umejeeleza nafsi yako, mtu hana haki ya kuingilia katika kutembea kwako hapa na pale. Every person has a right to freedom of movement, every person has a right to live the republic and every Kenyan has a right to come back to the country. No one can stop you for coming back for any reason.

Tumezungumzia pia hali ya kumuweka mshtakiwa yeyote katika hali ya kibinadamu. Mtu akishikwa kwa jambo lolote asipigwe, asidhalilishwe kwa njia yeyote, akitiwa kwenye kwa jela kungoja trial yake au kuhukumiwa na kadhalika awekwe pahali vizuri, akataka hali nzuri, alishwe akiwa ni mgonjwa apewe matibabu na kadhalika mpaka siku ambapo atakwenda mahakamani kuhukumiwa na kadhalika. This is to make sure that there is fair trial and people in custody are also treated properly.

Hapa pia tumezungumzia mambo ya elections representation of the people means Parliament, tumesema habari ya election nini ambaye anaweza kusimama kwenye election, ni nani ambaye ana haki ya kupiga kura, haki ni kama hizo za kwanza. Mabadiliko ni kwamba, tumesema ya kwamba they should be continuous registration of voters. Wakati wowote mtu anaweza ajiadikisha akapata voters cards si lazima angojee mpaka itangazwe kwamba mwezi fulani kwa mda wa wiki moja au wiki tutaandikisha watu ku-vote. Pia tumesema ya kwamba police (inaudible) shall ensure that at least 1/3 of its candidate for direct election are women. Tungependa wakina mama waendeleo mbele washiliki kikamilifu zaidi katika mambo yote kama hapa nchini na tumesema kila political parties katika kuweka ile list yake ya candidate iwe ni alternative. Wakianza na mwanamme wapili wawe ni mwanamke, watatu mwanamme wane ni mwanamke, watano labda ni mlemavu, wa sita ni youth na kadhalika iwe ni mix ile list ya candidates iwe ni mix representing the various categories of Kenya in the country.

The Right to Vote imetajwa, more less the same anyone of eighteen years of age anaweza ku-vote. Pia tumesema kwamba kwa ili ni badiliko zingine kwamba Wakenya ambao hawako hapa nchini, pia mambo yatengenezwe ili waweze ku-vote. Wezetu walioki America, walioko Uingereza na Tanzania na kadhalika, matayarisho mambo yawekwe ili waweze kushiliki katika uchaguzi.

Ballot boxes would be transparent. Sio masuduku ambayo huwezi kuona kuna nini ndani. Transparent boxes, counting will be at the polling station, kura itahesabiwa pale pale ikiwa hii ni kituo cha Chandiarria Hall ni kituo cha kupiga kura basi kura itahesabiwa hapa at the end of the day na matokeo yake kutangazwa.

Political parties zitafanyiwa (inaudible) au registration si na registrar of societies mbali na Electoral Commission. Electoral Commission will come in to register a political parties, will also preside over, itasimamia election za kila chama cha kisiasa. Kuhusu election zao nani chairman, nani treasurer na kadhalika Electoral Commission ndiyo itakayosimamia Election hizo. Pia political parties zitahitajika kupeleka hesabu yake, account kila mwaka ichunguliwe imepata pesa kutoka wapi, tazation za members ni ngapi, mumepeata msaada kutoka benefactors au wazaidizi wenu au donors, wangapi na kadhalika. Il donors wasiwe ajinabi wasiwe kutoka nje, so that there is no influence, hakuna tashishi itakayo asali chama chochote cha kisiasa hapa nchini kutoka nje. Tukaambiwa party hii or part hii is for this government or that government au inaendeza siasa ya Serikali hii au Serikali ile iwe ni independent.

Tumesema kwamba bunge yetu itakuwa na nyumba mbili. Two chambers kwa ajili ya moja hivi sasa tuna Assembly National Assembly. Right? Tumesema kwamba tuwe na National Assembly na National Council. National Assembly, itakuwa na kama sasa viti mia mbili na kumi, lakini kesho yake tukaongeza sitini ingine. Ikizidi sitini zingine vitaganywa kati ya vyama vyote vya kisiasa kufuatia idadi ya kura ambazo kila chama kitapata. KANU, kura zake ni three million and half, kufuatia formula three million and a half votes we get so many extra seats.

DP imepata kura God knows whatever what, I will not say higher or lower than the KANU ziwe kama tatu. Lakini whatever the figure is using the same formular watapewa nao excesses. Hivi ni kuhakisha kwamba kura zizipotee. Tuseme Sabatia or whatever seats, ikuwa kura tofauti kati ya aliyeshinda na yule anayeshindwa ni mbili tatu hii kuonyeshwa kwamba kura na jamaa aliyeshindwa zilipotea. Sio? Kwa hiyo wale raia na wananchi waliopiga kura zile watakuwa hawana representation. Kwa hivyo kura zao zitahesabu pamoja na kura ya party yao. Kila moja huyo ame-vote party fulani ume-vote party fulani kwa hivyo kila moja atafaidika. Kila party itafaidika with extra seats so total 300 seats for the National Assembly.

Chapter Seven – Legislature:

National Council or so called Upper House, kuna Lower House na Upper House. So National Assembly is called Lower House, National Council will be called Upper House. Hapo kutakuwa na 100 members in total. 70 will come from the district.

Kila wilaya kutachaguliwa kwa kura not nominated, one member na thelathini viti thelathini vingine vitagawa akina mama. Kila Province worthy, province saba. Province ya nane Nairobi watapewa viti viwili, two representative, total vitakuwa ni thirty 4 x 7 = 28 + 2 for Nairobi that is thirty seats.

Na kati yao, for these two houses National Council na National Assembly zaweza kutunga sheria yeyote. Kwa hivyo sheria za kutungwa na National Council na National Council zikipitisha sheria hiyo itapelekwa National Assembly. Ikipitishwa itapelekwa kwa Rais aichunguwe asikubali itapitishwa. Asipokubali au swala lolote atalegesha na swala lake au ataipeleka kwa Chief Justice. Sheria hii iko sawa na Katiba au la au yagongana Katiba mimi nachaka nayo hii. Chief Justice atafanya uchunguzi katika ile sheria, ikiwa kuna hitilafu yoyote itarudishwa kwenye Parliament, ikistawishwa irudishwe kwa Rais ai-sign. Na ikiwa Chief Justice atasema la, hii haigongani na Katiba Rais ataititiza atai-sign itakuwa ni sheria na kadhalika. Kwa hivyo Bill can emanate from either the National Council or the National Assembly.

Kisha kazi zao, kuna kazi fulani ambazo ni tofauti. National Council ndio watakata shauri walioko kule wata-approve appointments katika commissions fulani. Appointment hizo zitafanywa na Rais approve by the National Council. National Assembly pia ita-approve another category of appointment. National Council is approved Judiciary Service Commission, Ethnic and Integerate Commission, Commission muhimu sana hiyo ni mpya ambayo hatuna hivi sasa. National Alliance Commission, ambayo itasimamia ardhi katika nchi kuhakikisha kwamba kila shamba, kila ardhi, kila acre ambayo ni ya Serikali au ya Community inatumia kwa njia iliyofaa wala hakuna mtu mmoja ambaye atakuwa na haki au uwezo wa kutoa ardhi au sehemu yote ya ardhi hiyo kwa jambo lolote bila ya National Land Commission kukubali.

National Environmental Management Commission, Mazingara tume ya kutunza mazingara, Teachers Service Commission, salaries and remuneration commission, tume ya kuweka mishahara au kukata shauri juu ya kikomo cha mishahara. Mishahara wa Rais tangu Rais mpaka mfanyi kazi wa ada wa nchini. Ujumbe wa Parliament bunge, all Parliamentarians, their salaries, there salaries of the President, the Ministers, the Deputy Ministers, Permanent Secretaries, Civil Servants and so on. They will

be part determined by the Salaries and the Remuneration Commissions.

Constitution Commissions: A Constitution Commission itakuwa ni kwa sasa temporary, tukisamaliza kazi zetu watabakia labda wezetu watano hivi kuhakikisha kwamba yale ambao yamekubaliwa katika Katiba mpya, yanaendezwa mbele, hakusimama maana kuenda kukapitizwa Parliament ikapitisha mambo ya kuchanga. Kwa hivyo Commission ndogo itakayobakia itahakikishwa ya kwamba mapendekezo na sheria zile zimepitishwa zinaenda mbele na pia Rais atakuwa aki-ripoti kila mwaka juu ya maendeleo, juu ya mambo fulani. Mambo ya Human Rights, the promotion of the Human Rights, how far has that gone? Progress report in otherwards by the President will be required.

Commissions on Human Rights and Admission to Chief Justice: Tumezaitaja hiyo pia ni tume muhimu sana ambaye sasa hatuna lakini tunaona kwamba ni muhimu kuweco, mastaka yote kuhusu haki ya binadamu na kadhalika itapelekwa huko, hii ndiyo iliosema kwamba itakuwa representative of the disabled hapo kuhakikishwa kwamba mambo ya disabled kwa mfano yanapelekwa mbele.

Attorney General, Director of Public Constitution, Public Defender, huyu Public Defender ni kama ofisi ya mwana sheria ambaye kukiwa na raia ambaye hana pesa za kujitetea kwenye korti, huyu Public Defender atampa wakili kumsaidia mahakama, kujisemea na kujitetea.

Polisi Commissioner, Judges and Chief Kadhi: Kwa hivyo Commissions zote hizi all these appointments have to be approved by the National Council, one of the two house. National Assembly pia ita-approve appointment by the President of the Prime Minister, Deputy Prime Ministers wawili, Ministers, Deputy Ministers, Permanent Secretaries, Ambassadors and High Commissioners, Electoral Commission, Auditor General, Controller of Budgets, Director of the Central Bureau of Statistics and the Governor of the Central Bank of Kenya. Kwa hivyo hilo ndio bunge la nyumba mbili na kazi zao itakuwa ni hizo.

Tofauti moja iliyoko kati ya nyumba hizi mbili ni kwamba National Assembly nimeona hapa hapo, National Assembly will be the only one dealing with finance. All anything to do with money and so on that will be restricted to the National Assembly – the Lower House. Na tumeambiwa na mmesoma nyinyi wenyewe kwamba wengine wanasema can we afford having to have this? Hawa ni wajumbe wengi, mishahara ni mingi, pesa gharama ni kubwa, do we need two houses? Hili ni pendekezo it will be up to the National Conference kukutana kujadiliana juu ya jambo hili kukata shauri. Tumeona kwamba itakuwa uzuri kwa nyumba mbili moja ita-moderate what happens in the other house.

Maana katika historia tutaona kwamba kule Wingereza kuna House of Lords and House of Commons. House of Lords, very often when it look through a Bill au kanuni ya sheria au mswada wa sheria uleta mabadiliko, maoni yao wale House of Lords saa ingine hubadiliza ile sheria na House of Commons kukubali kubadilisha in the right of the discussions in the House of Lord. Kwa hivyo kuna faida hapo lakini the big question is the benefit what the money is spent on it. So it is a question that has to be

answered. Na chapter inayofuata, samahani najaribu kwenda mbio ili ku-cover as much ground as possible.

Chapter Eight – The Executive:

Legislature as you know is one organ of the government. Sio? Kuna tatu kuna Legislature, kuna Judiciary, kuna Executive. Sasa ni Executive na the part of the Executive kama mnajuvyo ni President, na hapa tumeeleza mamlaka ya Rais atakuwa ni Head of State, atakuwa ni Mkuu wa Majeshi ya Kenya ya Ulinzi, atakuwa ni mwenyekiti wa National Security Council, Baraza ya Ulinzi wa Taifa, pia mwenyekiti wa Defence Council. Ama ni baraza ya amani ya Taifa na National Security Council na hii ni baraza ya ulinzi two – two different council. Yeye pia atakuwa ni symbol of unity ishara ya umoja wa nchi yetu atakuwa na jukumu wa mamlaka ya kuendelea mbele na kustaliza umoja wa nchi, pia kulinda the sovereignty of the republic, ufalme wetu, pia ufalme wetu, pia ku-promote and respect diversity of the people and protect of the human right and fundamental freedom. And shall uphold safeguard and respect the Constitution and the rule of law.

The President shall not hold any other public office including any elected or appointed office within the political party. Akisha kuwa Rais hawezi kuwa office bearer katika chama chochote cha kisiasa, ili ambaki neutral. Sote ni raia wa nchi, zote ni sawa katika macho yake. Kwa hivyo that is to make sure that President will address the opening of the newly elected Parliament, shall address a special seating of Parliament, may address Parliament at any other time, may dissolve Parliament only on the circumstances contemplated in actual one or two.

Na article one or two ukitizama utaona kwamba Rais atamwa-appoint Prime Minister. Prime Minister ni lazima awe ni leader of the majority part. Kumetokea election 131 leader of that Party becomes the Prime Minister. So, Rais ndiye atakaye kumchagua. Pia yule Prime Minister baadaye atachagua na waziri wake kutoka nje ya Parliament. Prime Minister is a member of Parliament lakini ministers will come from outside Parliament. Deputy Prime Ministers wawili watakuwa pia ni from within Parliament. Lakini minister and assistant minister from outside Parliament. Sasa Rais akimchagua Prime Minister Parliament ni lazima imkubali, has to approve huyu kweli mnamtaka awe ni Prime Minister.

Wakimkubali ni vizuri, wasiomkubali, Rais atajaribu kumchagua mwingine who can win the support of Parliament. Asipoweza au sio wa pili amechaguliwa bila kukubaliwa na Parliament, basi the President will dissolve Parliament and call for fresh elections. Atafanya matajaribio mawili. If both fails new elections will be held kisha the same procedure will be followed. New elections, new Prime Minister posed by the President come before Parliament be approve him by the to-third majority yeye mwamtaka awe Prime Minister, yes twamtaka, aendeleo mbele. La wasipomtaka try another one. So that will be the position. So in the Ministry, the President will appoint the Prime Minister but the Prime Minister has to win the confidence of Parliament. But being as we know hii atakuwa ni leader of the majority so just the case what will happen after his appointment..... (inaudible) registration will be denied before

Hii itaweza kuondolewa ikiwa amezwa kwamba hana uwezo wa kimwili ama ni mgonjwa, amepata ugonjwa hawezi kuendelea

kazi yake, basi they will be a panel itafanywa ya madaktari kum-check na pia tufanye nini ikiwa ni mgonjwa hawezi kuendeza kazi zake basi Rais aweza kuondoka. Kiakili pia mtu hawezi kuendeza kazi zake kuajiri ya taabu za kiakili pia again a panel will have to meet together, carry out checking, if they say he is fair hiyo lengo in practise if the panel says no, he cannot, again the procedure is repeated. That is one way na hapa Natural Assembly take charge, ndiyo itakayo vote baada ya hiyo report ya panel kusema hawezi National Assembly may on more sincere supported by the vote of two-third of each number ractify the decision of the tribunal. Na Rais sasa ataacha kazi.

Kuna njia ingine ya kumuondoa Rais. Impeachment and removal of the President. if two-thirds of the members of the National Assembly approval motion for the impeachment of the President for violation of the Constitution of gross misconduct, The Speaker of the National Council shall convene the meeting of the National Council to hear charges against the President. On approval of the National Assembly lakini for impeachment and removal of the President for one or two things for bridge of the Constitution or for gross miscoduct hapa ni National Council itakayofungulia mambo kama hayo and again, the question of investigation being carried out and only on confirmation of such all things will the procedure be followed to the end and the President shall have the right to appear and be represented before the special committee investigating the whole thing should defend himself.

Ni hayo tu kuhusu the Judicial and the legal system. Hapa kuna mabadiliko mawili kwa hakika moja ni kwamba tumependekeza Supreme Court iweko. Kwa hivyo sasa hatuna Supreme Court. Tunapendekesha kuweko Supreme Court na pili tumesema kwamba there should be at least thirteen Kadhis courts. Sheikh Ali sasa tuna ngapi? Kuna Kadhi's court ngapi hivi sasa nchini?

Sheikh Ali: Kuna thirty.

Com. Salim: Less than that. Thirty. Na muhimu ni kwamba korti iwe ni karibu sana na mwananchi ili apate matumishi ya Kotini. Kuwe na Kadhi's court, kuwe na anyother court. The main thing to bring is to bring justice closer to the people to facilitate justice closer to the people. Na mabadiliko mengine ni kwamba any of the office of Judges, a Judge and another Judicial officers of the subordinate court shall reture from office attaining the age of 65 byt may retire at 62. Tulibadilisha hapo ndiyo tukapata taabu. Lakini ile ni pendekezo na sasa twategemea National Conference itakavyo kata shauri.

Pili Kadhi's court kama tunambiwa there shall be a number being not less than thirty of other Kadhi's as be described by the Act. Of other in a different to what we have now, other Kadhi's in addition to what we have now.

Na tumesema kwamba mbali na kutazama kuhukumia mambo yanayohusu Muislam mambo ya marriage, divorce, and personal status in general, inheritance and succession. Ikiwa Waislaam wawili wamegombana kuhusu mambo ya sigara, wa biashara na kadhalika, wangependa hukumu iwe kwa sheria, iweze kuenda mbele ya Kadhi wakuhukumiwe kufuatana na sheria. Lakini ni

lazima wote both parties must agree to that. This is just another proposal to extend the arm of the Kadhi in advance.

Resettlement of the dispute over for arising out of the administration of work properties pia tumepata malamiko mengi kwamba work properties zinaendeshwa kwa njia ambayo .. (interjection)

Speaker: (inaudible)

Com. Salim: Mojawapo commissioners katika wale umesema naam.

Speaker: (inaudible)

Com. Salim: Naam ndiyo unataka kuniambia sio? (Laughter)

Speaker: Kutoka wale na kutoka ule ametoka kisiwa ya nje...

Com. Salim: Sasa mambo yote tumeweka katika Kadhi's court. Kadhi ndiye atakayefikiria.

Settlement of disputes arising from administration of work properties will be under the jurisdiction of a Kadhi's Court but pia appeals kutoka Kadhi's court zitakuenda to Provincial Kadhi's court and then to the Kadhi's court of appeal presided over by the Chief Kadhi and two seniors (inaudible). In the Appeal court fully and entirely Islamic. Hakuna cheque offs. Supreme Council (interjection)

Speaker:(inaudible)

Com. Salim: La, by Court of Appeal. Lakini tumesema an Appeal from the Kadhi's Court of Appeal lies with the Supreme Court, but only on appoint of Islamic law. Lakini, Supreme court will be limited to looking at the dispute in the light of the Islamic point of view sheria yenyewe, sio njia ya sheria tukisema lets forget the sheria this is Supreme court we are not governed by the sheria.

Pia nafikiriatatueleza zaidi maana yake he is from within. Tumeambiwa ile procedure katika Kadhi's Court hivi sasa haiko. Mnafuata procedure ambao ni kiinje, ile ya circular. Sio? Hivi sasa tumesema kwamba the Chief Kadhi in consultation with Chief Justice and the Law Society of Kenya, should make rules of court for the practice and procedure to be followed by the Kadhi's court. Wawe na procedure yao wenyewe. Kadhi's court will have their own procedure worked out in consultation between the Chief Kadhi and the Law Society of Kenya and the Chief Justice ili kwamba things are done under code of search and procedure, in public procedure and all over each and every Kadhi' court, the same will be followed.

Privileges and status which is very important. The Chief Kadhi shall have the same status, privileges and immunities as a High Court Judge. The Senior Kadhi as the Chief Magistrate and the District Kadhi as District Magistrate in a Magistrate court. Ametawazishwa sasa and given the (inaudible).

Na pia tumependekeza kwamba a muslim woman will represent the muslim community in the Judicial Service Commission in addition to the Chief Kadhi. Kutakuwa na Chief Kadhi pia one muslim woman of course qualified awe kule. Maana yake tumesikiza mengi, malamiko sometimes good hold sessions only will enable particularly lawyers sisi kule. Tumesikia kwamba akina mama wasema Kiswaamu that there are times when we can't speak to men openly and frankly about certain things. So it seem that it could be a woman also to speak for us and explain. So we are saying that all Kadhi's court kuwoko mwanamke wa Kiswaam mwenye elimu ya sheria ya kutosha labda ya degree au elimu ya kutosha sheria ile amusaidie mama wa Kiswaam unataka kumuona Kadhi na kumueleza ikiwa mama hawezi kumwambia Kadhi directly awe tu a lady, hiyo ni haya ile haya ya Kiswaam ambayo sometimes Woman yaani priority hawezi kujieleza (inaudible). These are the changes we have proposed. Na tukiendelea mbele kuna

Pia hii ni sehemu kubwa labda very quickly. A person qualified to be appointed as a chief is a muslim of not less than thirty five years of age ana degree katika sheria from a well known university and have served as a Advocate of the High Court for no less than ten years. Tunaambiwa labda very high qualifications but we want to aim high and see what we can come up with and it is a proposal only. It is a matter to be discussed later on. Kadhi pia awe ana degree lakini experience ya five years and of course the Kadhi can also go up to the position of Senior Kadhi. But both Kadhi and the Senior Kadhi the requirement is the Law degree- a degree in Islamic Law completed in university and has not less than five years experience.

Chapter Ten Mgawanyo wa mamlaka. Devolution of Power: Mamlaka ni kitu muhimu sana na katika kusungumza na watu kila wezako tunaambiwa a kwamba power is the center are too much we should devolve them. President alittle bit so that people feel they can run their own affairs, maana yake wanaweza kujiendeshea maisha yao na wapate huduma, heshima ya utawala karibu zaidi. Kwa hivyo, we have done that na lengo la devolution of powers ni kuleta Serikali na kila aina ya utumishi wa Serikali na hata seat zake na idara zake karibu zaidi kwa wananchi .

Pili kustawisha zaidi maendeleo ya kijamii na kiuchumi kufikia kila sehemu ya nchi. Through the devolution of power we feel things should be brought to the people ili maendeleo yawe ya kisiasa, ya kiuchumi, na kijamii yawe bora zaidi.

Tatu kuhakisha kwamba mali za asili inagawanywa kwa kuwadilifu zaidi. Natural Resources should be better distributed among different parts of the country.

Nne kugawanya mamlaka ya Serikali kutoka Serikali ya Kadhi from the Central Government kumfikia mwananchi karibu zaidi.

Kwa hivyo kufuatia mapendekezo hayo, mamlaka, tumependekesha hapa yatagawanywa kwa njia masinani. We start with village councils and these village councils should be made up of elders – wazee. Wataunda baraza ya kijiji.

Juu zaidi, location councils – location councils au baraza ya locations itakuwa na wajumbe wawili kutoka kwa kila kijiji. They will form the location councils. Kisha kutakuwa na Serikali ya Wilaya au district government juu zaidi and here we will put some powers mamlaka. Each and every district will be able to run its own affairs. Again hapa kutakuwa na elections to the district council, and the district council will appoint from among the members a district administrator. Kila district council itapewa powers kuendesha mambo fulani. Na kila district council the members will be between 20 and 30. Mamlaka gani mkiwa na page nyingine na colour zenu, page 45 mkiwa mna copies it is much easier for me. On page 45 mtaona powers za kila district councils spelt out. Kwanza tunaanza na hawa National Government. The repossess of powers wale washukia mamlaka ndio (inaudible) ni national government through Nairobi page 45 seven schedule mwayiyona?

Na Local Government itahusika na mambo ya nchi – National Relations mambo ya kidola international trade, telecommunication kuhakishwa kwamba tuna mawashiano ya kisimu na kadhalika, national resources, national elections, formulation of national policies, development planning nchi nzima, currency mambo ya pesa or sarafu, courts, prisons, citizenship, immigration, national public service, scent controller management of disasters maafa na kadhalika, statistics, mambo ya hesabu au serufi, Central Bank, patterns, standard weight and measures, administration and management of research and institution of national reporters na monument, museum na kadhalika.

Chini zaidi page 45 tunanza district government list. Hapa kuna list ya mamlaka ya kila district. Kila district itakuwa na madaraka au nguvu gani au mamlaka gani. Kila district and therefore kila District government itahushika na local tactics, it would collect local taxes, education services, elimu at all levels, nursery, primary na secondary to every District will be responsible for that.

Many current health services matibabu , water services, road services utengenezi barabara, market and trading centers, provincial and other services activities as follows, District planning, District statistics services, District project identification, agriculture and services, kustawisha kilimo na kadhalika. I think they have all that list there. All these should be underneath control of the district governance.

Tumeambiwa tunataka majibo in some places. Kwa ajili ya majimbo tumesema tuwe na Serikali ya Wilaya. Tukaona Serikali ya Wilaya ni karibu zaidi. Na tukasema two or three districts Mombasa na Malindi yaweza kushikiliana, kuna katikati ya Kilifi na Mombasa hii barabara ni mbaya what can we do? Nasikia resources has been slow between us. Shule zenu na zetu or anything, nyinyi specialize in this and we will specialize in that and the two will complement one another. And the person who will do this, the government that will do the coordination between Districts will be the Provincial government. Not hii ya sasa. kutakuwa pia na Provincial Council, kila district itapeleka wajumbe katika Provincial Councils. Na kazi ya Provincial Council ni

ku-coordinate kati ya district kazi zao.

Speaker: Na government iko gani?

Com. Salim: Nani samahani? Government? Wapi?

Speaker: Kwa hii District hapa.

Com. Salim: Ni hiyo District government. Ni Serikali ya district. Itakuwa ni district council ambayo itakuwa kama ni Serikali ya district. Na hawa watakua elected kama small Parliament. Na kila District council itakuwa na mapato lakini juu ya hivyo Serikali ya Kadhi kutoka mapato ya nchi nzima, from the Natural Resources from Treasury, it will give to each council also some funds or some revenue and it will pay special attention to those areas that are particularly poor ambao hawana mapato ya kutosha. North Eastern Maralal na District zingine kama Lamu ambao haina mapato ya kutosha. Tukifikilia Coast peke yake lakini any other part of the country ambapo there will be infact mkitizama katika sehemu (inaudible) mtaona kwamba Serikali ya Kati share of natural resources page 27 kutakuwa article 225 “inasema a Commission on Local Government Finance tume maalum kuhusu pesa au fedha itaundwa it shall consist of six members three of whom are appointed by the National Council and three appointed by the National Government. The Commission shall advice the National Government Nairobi, and the devolve government, District government on the distribution of grants to the devolve towns. Jinzi ya kugawanya pesa kutoka Nairobi kati ya Local government is the district government.

Nafikiri mmepata kifungu 225 mia mbili na ishirini na tano na mia mbili na ishirini na sita. They are very important kwa upande huu wa devolution of powers. 225 “nitawasomea. Serikali ya kati Central Government shall give grant hundi za pesa to include unconditional grants based on the criteria population and geography and any other relevant party. Mombasa District zitapewa grants or hundi la pesa kufuatia idadi ya watu walioko. Sio? Na mapato ya Mombasa district. Wakienda Lamu pia itafikiria idadi ya watu, hawa watasaidia (inaudible)

226 muhimu “District shall be entitled to a substantial share of the Natural Revenue from local resources and for the allocation for the local percentage to the communities in his areas the resources are generated.”

Vile tutazunguka kukusanya maoni ya watu, jamaa walilalamika kwamba hapa sisi tuna natural natural park hapa, tuna wanyama wa porini, watalii wanakuja hapa, lakini hatuoni faida yeyote kuja hapa kwetu, pesa zote zinaenda Nairobi. We are now changing later we are saying: “Districts shall be in entitled to a substantial share of the Natural Revenue from local resources. Nime-Taita Taveta bure kuna National Park so sehemu ya income au mapato kutoka National Park ya Taita Taveta itatumiwa pale pale. Taita Taveta. Na watapewa a fix percentage to the community in his areas the resources are generated. Pesa ambazo zinakuzanywa Taita Taveta zakusanywa in any other part of the country hapa (inaudible) kutoka hapa au

kutoka beach hotels and so mambo ya utalii na kadhalika a fix sum from this income will be spent locally.

So that is the devolution you wanted. We left out majimbo it was supported by many people lakini zikaenezwa kwamba hii ni aina not majimbo but wilaya or you know government not majimbo government. So that each and every District will get the services, huduma zote zile ama utumishi wote ambao kila mtumizi wote ambao kila mmoja wetu anasanyia wa elimu, wa matibabu, na kadhalika atapata pale pale. Barabara kutengenezwa kutakuwa na pesa kutengeneza pale pale na kadhalika. Nafikiri nitafika kuingilia mambo ya ardhi. The details for chapter 10 mtasoma wenyewe.

Chapter 11 – Ardhi

Pia mambo haya ya ardhi analyze aina tofauti ya ardhi na mashamba na kadhalika, tunasema kwamba tuna public lands ambao inajulikana kuna pia surplus, surplus we decided to call community lands katika maeneo fulani inajulikana kwamba watu fulani wa community fulani ndiyo wanaoishi pale kwa hivyo tunasema kwamba maeneo hayo yatushwe kwa maslahi ya watu katika eneo hiyo. Kasha kuna private lands, ardhi ambayo katika milki ya mtu binafsi. So these are the figures.

Tukasema ya kwamba public lands na community lands to be protected for the benefit of the people. Na hakuna mtu moja binafsi ambaye ataweza ku-emininate au kuondoa au kukata sehemu fulani kumpa mtu yeyote bila land committee niliyotaja hapo awali kujua na kuruhuziza. Tukasema kwamba within two years, baada ya Katiba hii kuundwa, kuwa ni sheria lazima kufanywe uchunguzi katika malamiko yote kuhusu watu. Wale ambao wasema kwamba sasa they are landless, they are squatters, Serikali lazima katika muda huo wa miaka miwili iwatafutie makao watu hao.

Mwisho kabisa hapa tumetia list, inaitwa action to be taken schedule C. Action to be taken by Parliament, kuna mambo ambayo itachukua mda kidogo kutimizwa kwa kufanya. Lakini mambo haya ya mashaka malamiko ya wali kwamba ni ya muhimu sana so within two years all disputed, all land ambao wengine ambao wamesema wengine sio haki yao au ni haki yetu ifanywe uchunguzi na mambo yastahilishwe ili mwishowe rights needs to be done.

Disputes are supposed page 28, the government should establish mechanism so the review of all branch, all the position of government or other public lands is establish their probity and legality and to determine whether or not such grants of the position should be revoked. Ikiwa kuna hitilafu au mambo yamekuenda kombo hapo tumekuwa na kukosa uajilifu in any branch, government to be revoked na title deed iseme hapa kumetokea kitu ambacho si sawa take that land and do what it should be done with it. Give it to the right owner.

Kule juu kabisa page 28 inasema “The government should enact law for the resettlement of the landless people including spoteneous settlement community in the urban areas. At the same time protection of properties in land subject to the Constitution, property right lands, lawfully acquired, mashamba au ardhi iliyopatikana kwa njia iliyo halali shall be protected and

may be freely elenated without discrimination on the basis of gender and (inaudible) and may not be reinstated yet.

Speaker: (inaudible)

Com. Salim: That is what the law should apply to?

Speaker: Na yule ambaye amechukua shamba za wengine araganyiwa nini?

Com. Salim: It says this to establish government lazima iweke mechanism au what is the tool? Iwe njia ya ku-review, kutazama, kuchungua all these branch, all these possessions all the provision of land. to establish its priority, kujua ikiwa ilikuwa ni sawa kufanya hivyo au la. Ikikiwa ilikuwa si sawa ... (interjection)

Speaker: (inaudible totally)

Com. Salim: That is injuction under this. Now it is the case of whether this law will be implemented on not. But the law is there and now this also is very important these are proposals. Ndiyo nikasema kwamba hapa tuatoa mapendekezo, huenda ikapita mapendekezo hawa katika National Conference. Na ni wajibu wa kila – samahani nafikiri mwezetu ajua ana kazi ya kujua jina lako ilikua nimalize nini ndio na kila mmoja wenu alisikia ana swala ainuke ataje jina lake kwa reporting purposes kisa aulize. Sawa nafikiri tumefahamiana nao. Kwa hivyo, jambo lolote kuhusu ardhi kutafanywa uchunguzi katika kila title kuhakikisha kwamba charge hii was authorize or was not right. If it was right kihalali iwadhilifu it will be natural ikiwa si halali ifanywe kutotumia njia ya haki na usawa. The worded shall be, or should be revoked iondolewe. Imehitaji kuchukuliwa na kadhalika.

Nafikiri ni hayo tu ambao tunataka kusema, kuna chapter twelve kuhusu Environment and Natural Resources. Mtasoma wenyewe, muhimu wa kishi katika mazingara mazuri kutakuwa na tume, tumependekeza kuwe na tume ya kuhifadhi mazingara because the natural environment management commission tumeleeza hayo hapo kwa section 39. Chapter thirteen, public finance and revenue management jinsi ambavyo pesa za umma sisemi pesa za Serikali, pesa za umma, natural resources na natural resources zinaweza kutazamwa na kulindwa na kutumiwa vipi ambavyo yapaswa.

Economic and social councils, tumependekezwa kuwekwo baraza na kiuchumi na kijamii. Hivi ni kuhakikisha kwamba, hali yetu ustawi wetu wa kijamii na hali yetu ya kiuchumi imeendezwa sawa sawa. Council hii pia itaharakisha mambo ya investment katika nchi. Kuhakikisha kwamba kanuni zetu za kuuzia watu moyo kuja hapa na pesa zao ku-invest wanafanya hivyo kwa njia ambayo itawasaidia na kuwatia moyo kuhusu (inaudible).

The promotion of domestic and foreign investment with the views enhancing the revenue base of the nation ili tupate mapato

makubwa zaidi. In promotion of industrial development maana yake tunastaki kwamba hatuna kazi nyingi kwa kua industrial development, is low or investors are not willing to come, the atmosphere was invalid, the investment environment is not good enough. This council or baraza hii ya kiuchumi na kijamii ndio itakazo tia mganga. Nafikiri nitasimama hapa na ninawashukuru sana kwa supra yenu nimekua nikisema kwa muda tangu saa nne mpaka saa nne unusu ningendelea lakini ningependa kuwe na nafasi pia kuasikia na nyinyi. Shukrani sana, na sasa nafikiri tutaanza kufuata maoni yenu na maswala yenu na ningependa kufuata utaratibu yetu kama haja kwamba kila moja achukue number yake. Bwana Ahamed atamwendea kila moja wenu na (inaudible) tafadhali.

Mzee Mwinyusi : Salaam Alikum. Jina kamili ni Mzee Mwinyusi Mwidadi kutoka kwa waamini foundation. Kwanza naipongeza tume kwa kazi nzuri na nikapewa hii ripoti.

Swali langu la kwanza ni juu ya preamble or comment. Ni vizuri Katiba yetu mpya ina utangulizi. There is a preamble. Lakini tumeona kua hii preamble imewacha mambo muhimu sana juu ya value of the Kenyans. Kwanza ni kuwa, wale ambao walipagania uhuru freedom fighters. Watu wapata taabu wamekufa, wengine wameuzia jela na hakuna mention katika preamble at least one vizazi vyao, wajukuu zao wajione kazi nzuri zilifanywa na babu zao kupigania nchi hii against the colonialism.

Tukiangalia mfano wa Katiba ya Namibia, katika utangulizi wao preamble yao wameeleza siku wale ambao walipigania uhuru wa Namibia, kwa hivyo nilikuwa nafikiria ikiwa tunaweza kueneza the role of nation to struggle for the independent of this country should be mentioned in the preamble.

Vile vile tuliona katika preamble hatukueneza our experience with the previous Constitution. Notable independent Constitution, ambayo imebadilishwa mara nyingi sana baadaye. Kwa hivyo nafikili ikiwa tuta-mention briefly the history of the Constitution in Kenya in the preamble, kujua tulikuwa na Constitution and sasa tunaendelea au tume-review that Constitution. Iko Constitution nyingi lakini nimesema ile Constitution ambao tulipatia uhuru independent Constitution, they should start to mention in the preamble about the short history of the previous Constitution particularly the independent Constitution.

My point number two is on the laws of Kenya. Nimeona article five there are some laws of Kenya mentioned, but I didn't see the by-laws which are made by the Local Authorities. There is no mention because these are also part of laws of Kenya because the offenders are imprisoned, they are fined and some sentenced I think to me, there is a point mentioned in By-Laws which are very important Laws. Particularly at this time when we are going to the people, the devolution of powers has made the government to be near the people. So I think it is important it is mentioned in the By-Laws which are made by the Local Authorities.

Number three is about citizenship. Our current Constitution, especially the citizenship of the present Constitution gave the laws about how one can be chosen and so forth and it is good that you have mentioned this one also. But, I think when you come

to mention the duties of constituency this one should have been combined. The article number 15 should eventually be placed after article number 28 to be (inaudible) trade line, the duties of the obligation of the citizen, it should be placed immediately after article 29 because this should one party but now it serve in chapter 3 we are going to chapter 4.

The other one is about creation of the new Districts. The present Constitution, Section 42 sub-section 3 mention about the boundaries, but when you come to the present draft of the Constitution article 7(2) and article 86(2)(b) sub-section on 5 it mentions about the boundaries of the Constitution but there is no authority or guidelines of (interjection (inaudible). What I am saying, if you check the present Constitution section 42 sub-section 3 it mention about the boundaries particularly the Constitution. Now, when you come to the present draft of the Constitution, if you check article 7 subsection 2 and also article 86 sub-section 2, you see that their boundaries regarding the Constitution, but there is no mention about the creation of the districts.

These has caused a lot of problems in fact last year or this year there was a case in court where Hon. Michuki the member of Kangema took the AG and Electoral Commission to the court, he says that such new districts were created after 1992 illegally, so my fear is that there is no guidelines in the present Constitution regarding creation of new Districts, we may later again next year that the AG and Electoral Commission may be taken to the court again because there is no mention in the present Constitution that they have got authority to creat new Districts and also in the new draft Constitution which we are discussing now there also no mention of creating new districts.

Finally, is about the defence of the Constitution. I think in article 4 sub-section 3 there is very little about defending the Constitution. If you take an example of Uganda our neighbours in their Constitution there is a statement to say that if this peace the system of Uganda we should learn to make sure we defend of the state. But in the present Constitution there is no statement about defending the Constitution and also if that is what is there in the draft is defending the territory of Kenya, it has a lot of in fancy on that one, but there is no mention of how this Constitution the new Constitution to be defended and I have given an example of Uganda. In the Uganda Constitution there is a statement to the extent that if someone is playing with the Constitution, the Ugandans are ready to defend the Constitution even by sacrificing their lives. So, I think I just want to end there. Thank you very much.

Com. Salim: Number two? Number two? Number three? Number three?

David Machoka: My names are David Machoka, I come from the Seventh Day Adventist Church. Kwanza nataka kushukuru tume hii ambayo ilitoa mapendekezo na sisi tuimekubali kwa mambo ambayo mumependekeza. Kwanza mimi nataka kuuliza the security and tenure of judges page 26, 196 in one. Tume imepedekeza ya kwamba majiji sasa na wale ambao wanafanya kazi watakua wakistaafu kwa miaka sitini na tano. Mimi naona ya kwamba sijui kwa nini pake yao waliwekwa wangeweka ya kwamba watu wote waweza kustaafu wale wanafanya kazi kwa miaka ishirini na tano kwa sababu

watu wawe wakistaafu kwa miaka hamsini na tano, me naona they are still able to do the job. Kwa hivyo mimi ningependekeza kwamba hapo kuna discrimination of age. Watu wote wastaafu kwa miaka ishirini na tano. Hata wale wengine ambao wanafanya kazi katika (interjection)..... (inaudible) Okay. Kwa hivyo nilikuwa nauliza hata wale wengine magistrates sasa wanastaaf at 65 wote watakuwa wakistaaf at 65.

Devolution of Powers page 26, that is chapter 10, 213. Our village elders sasa watakua wakilipwa mshahara kama kwa sababu district ati mzee atakua akilipwa mshahara. Na hawa village elders watakua wakifanya kazi free kama sasa unajua headmen hawalipwi chochote wanaenda pengine kwa wale ambao wamewahudumia ndiyo wanawalipa mshahara, je hawa wengine sasa wakuwa wakilipwa mishahara ama itakuwa namna gani. watakapokua wamechaguliwa watakaa ofisini miaka mingapi ndiyo sasa wengine wachaguliwe?

Com. Salim:(inaudible)

David Machoka: From the village hiyo devolution of power. Watakaa kwa miaka mingapi ama wao watakua hapo tu endless namna hiyo?

Freedom of Religion, Mimi nataka kuuliza swali page 8, 44 section one. Inasema ya kwamba a person may not be compelled to do any other act that is contrary to that person's religion or belief. Mimi naona ya kwamba hiyo word may can it be also be abused halafu mtu aweze ku-force mtu pia afanye kazi kulingana na against his rule, his belief, where belief is a person will not be compelled. Mimi naona ya kwamba may somebody can quit halafu aka-compel huyo mtu akafanya kulingana... nilikua ninaleta hii case ni point kama mimi as an Adventist nimeona ya kwamba wanafunzi wetu katika shule wamelazimishwa kufanya mitihani ama kusoma contrary to their beliefs. Hata wameenda kortini and the court has throw out those cases and yet the old Constitution say that there should be freedom of religion. May this also be used this word may here may be used to do what? Ku-deny mtu freedom yake ya belief. Asante sana Bwana Chairman.

Com. Salim: Number four?

Daniel Okondo: Hamjambo, majina yangu mimi ni Daniel Okondo. Mimi shida yangu sioni vizuri. Kwanza, ningependa kusema ya kwamba sisi walemavu haswa kusema ule ukweli ningependa mfikirie sana, kwa mfano sisi hatuwezi ku-retire wakati sawa na nyinyi kwa sababu tayari mambo ya kujitatatibu maana tumelemaa tayari. Ule mtu anapoteza kwa kutibiwa mpaka nini ndiyo uje uanze tena maisha kiuzuri kuwa miaka imepita. Kwa hivyo hapo bona ningependelea mtufikilie tena.

Pili, hili swala la mishahara, sisi walemavu sisi wakati twasidia kwa kusaidiwa kwa hivyo lazima tuwe na msaidizi katika maisha yetu iwe ni kazi kuenda, iwe ni kuandika, kwa kila jambo kusema ukweli ni lazima tuwe na mtu wa kutusaidia.

Tatu, mwatusomesha kweli twashukuru lakini kusema ule ukweli wengi katika Kenya nzima tuko wengi,wengi tumepita vizuri

kabisa lakini si collect kubwa kwamba tumelazimishwa kufanya masomo ambaye hawezi kusaidia kimaisha. Kwa mfano mimi mwenyewe nilisoma Biology, mimi siwezi kuwa lab assistant ama lab electrician siwezi. Nilisoma hesabu siwezi kuwa accountant, nilisoma physics siwezi kufanya hata kazi ya electronics, ningesikisha hayo masoma yetu kufanya tena ile review kumbakisha yale only practical subjects kwa mfano, mimi na band yetu, sote hatuoni twapigia kwa hizi hoteli hapa Mombasa. Mimi mwenyewe ni sound engineer ni kitu nilifunza tangu shuleni, kuhusu kufushwa masomo kwa mfano kama ya dini, kama geographia, hizi language inafaa kuhusika kama French, German, na hizo zingine tafadhali hapa kwa masomo tufunzeni yaani only practical subjects.

Halafu swala linge ambalo ningependa kusema ni kuhusu haya mambo yetu ya hivi vifaa. Kusema ukweli kiangalia shule zote hapa kwa mfano nyinyi nyote mwatoka hapa Mombasa, tembeleeni shule zetu zote za walemavu, yeyote yule ako karibu na (inaudible) tena vipovu, mkaangalia ile hali iliyoko wakati huu. Kusema ukweli vifaa vyetu, wazazi wetu kuhimudu hamwezi. Na za dhamana na mno maana nyingi zimetoka nchi tafadhali ikiwezekana Serikali itughalimikie maana yake sisi ukimalisha shule tu ndiyo mwisho wako wewe kuandika, wewe ndiyo mwisho wako wa kusoma hivi vitabu, maana yake haana mwezake. Asanteni

Com. Salim. Nambari ya tano? Numbari ya sita?

Daniel Mwakaga: Mimi jina langu naitwa Daniel Mwakaga. Ama kwa kifupi ninataka nishukuru tume hii kwa ile kazi njema iliofanya. Likini hata hivyo kuna machache ambayo niliona nije ni shauri hii tume ili ingiweze kama itaweze kana. Na hayo nimeyafanya kwa maandiko kuna kitu kuhusu ya kwanza appointment of Prime Minister na deputy wake.

Ya pili ni kuhusu ofisi mbili za Deputy Minister, I beg your pardon.

Na ya tatu ni kuhusu appointment za zile ofisi kuu katika nchi. Kuchaguliwa na President.

Ya nne ni kuhusu maeneo ya uchaguzi yaani constituencies.

Ya tano ni kuhusu death sentence ambayo ilikubaliwa iondolewe, ili-suggest wa kuondolewe.

Na la mwisho ni kuhusu shida ya ardhi. Hizi zimezungumzwa sana, hata mimi nikaonelea ni vyema niziandike na ni wapatiwe hawa wahesimiwa waziangaliye. Pamoja na hayo nina maswali mawili. Swali la kwanza ni juu ya elimu iliotajwa hapa. Tumeona kuna hizi aina za Serikali, tunaita councils, kuna ile councils, locational councils, district mpaka province. Hizi tumeona kazi yao nyingine ni kuhusu elimu, kutoka Primary mpaka secondary, lakini haikutajwa wala katika hii Katiba haikuonyeshwa elimu ya university itakuwa namna gani. Sikuiiona, kwa hivyo ninataka niulize tume iangalia hiyo elimu ya university itaendeshwa namna gani. Itakuwa ni ya national council au itakuwa ni ya hizi council zingine. Na ikiwa ni hiyo

in-depth itakuwa namna gani, kwa sababu mpaka leo tuna watoto wengi wamekosha university and they qualify, lakini kuna sababu fulani hivi ambavyo vinawafanya wanambaki hivyo. Hata mimi nikisema nina mmoja ni naye kule tumejaribu tumeshindwa.

Sasa hii mambo yatakwenda namna gani? Tutayaendesha wenyewe au hataendeshwa na national. Na ikiwa itaendeshwa na national council itafanywa namna gani ili inue elimu ya university iweze kutambashwa kikamilifu kila mahali nchini.

Swali la pili ilikuwa ni juu ya kazi. Baada ya elimu kazi itapatikana namna gani. Hapa itakuwa na hiyo aina za Serikali zetu zile kutoka vile juu ya post ya provincial. Sasa haikutajwa hizi aina za kazi ambazo zinaweza kupatikana wananchi wakihapa sisemi watu wapwani lakini wa pwani wote wanaoshi hapa ile vitakwenda namna gani. tunajua kuna kazi ambazo wananchi wanaweza wakijifanya kwa mfano kazi ya kufagia hata yule atakuwa bwana mkubwa. Sasa iwe kazi ya kufagia ili ofisi ya yule atakaye bwana mkubwa wa province hii awe anatoka sehemu nyingine. Sasa hiyo itakuwa ni sawa. Sasa hatutajua au haikuyeleshwa hii maneno ya kikazi itakwenda namna gani kama itakua yataendeshwa kama vile elimu ya ilivyo sasa kwamba kuna in depth ya kiwango fulani kwa mfano Mombasa District watu kutoka Kilifi District lazima watu wapo wapate ile 85% secondary school kwa mfano. Halafu na wale kutoka nje wanapatiwa 16% kitu namna ile. Sasa hii mambo ya kikazi haikuelezwa sasa mimi ningomba kuwa na aina fulani ya mkazo kuona kila watu wanaweza kupata kazi kule ambapo wanaweza kuenda kuomba kazi.

Kwa mfano mimi nikitoka hapa nikienda Nyeri sijui nitakuenda aanza namna gani kule mpaka nipate kazi. Sasa iwe ni watu wa hapa wanapata ile percentage ya kuwezesha kupata kazi. Hilo ndilo swali langu lingine. Asante sana.

Com. Salim: Nambari ya saba.

Mzee Musa Jaka: Jina langu naitwa Mzee Musa Jaka, na mimi ni mwana harakati wa trade union. Na hapa niko na maswali manne. Swali langu la kwanza liko chapter 5 katika Bill of Rights ambapo tumeambiwa kuna political rights ambapo utakuta kwa sasa mfanyi kazi yeyote ya Serikali ama wa parastatal board yeyote haruhusiwi kusimamia ubunge mpaka wakati ataacha kazi ama kufanyia campaign chama fulani ama vyote. Hapo tunaambiwa anayo political rights ndiyo lakini sasa hatukwaambiwa je anao uwezo wa kusimama kabla hajaacha kazi ambapo ikiwa atapata kile kiti aendelee aache kazi lakini hakupata arudi kazini. Katika hii Constitution mpya hatukuambiwa wakati kule nyuma tuliambiwa kwamba mpaka aache kazi ndio aweze kusimamia kiti lakini tulipendelea mtu hata kama uko kazini asimamie kiti cha ubunge au councilor akipata then aache kazi.

Halafu swali langu la pili katika hiyo hiyo Bill of Rights, kuna rights to a worker to have fairly remuneration. Sasa utakuta kwamba kuna wanafanyi kazi tunaita kibarua. Mfano kibarua anaweza kufanya kazi katika idara fulani ama kampuni fulani ile design ya mhindi ama mtu yeyote. Lakini mfanyi kazi yule katika sheria tunaambiwa kwamba ana miezi sita ya kufanya kama kibarua lakini utakuta anafanya miezi mitatu anasimamizwa, halafu anarudishwa baada ya miezi mitatu, anafanya miezi mitatu anasimamizwa sasa pale unakuta hakuna fairly remuneration na hapa tunaambiwa kuna fairly remuneration lakini hatukuelezwa je itakuwa vipi kwa mfanyi kazi wa kibarua kama ile. Sisi tungependelea kama ni fair remuneration, yule mfanyi kazi akiajiliwa

ajiliwe straight away bila kuwa kibarua kwa sababu tunaona wengi sana wanatesheka.

Halafu tuna the Right to Strike: Unakuta chama kinatoa notice ya ku-strike labda ile 21 days inakwisa wana-strike lakini hapo hapo tunaambiwa kwamba ile strike ni illegal. Wafanyi kazi baadaye wanafutwa. Sasa pale the right to strike hakuna. Sasa sijui hii Katiba mpya hiyo right to strike iko kwa njia gani hatukuelezewa pia.

Halafu swali langu nne liko katika chapter 11. Mambo ya lands hapa tuna absentee landlords wengi sana. Utakuta mtu ana kisauni nzima ile shamba ni lake. Lakini nyumba ni za watu wengine wa club ambapo yeye mwenyewe haizi pale. Sasa katika hii Constitution mpya hatukwambiwa absentee landlords, Serikali ina nia gani kusaidia watu kama wale ambao wamejenga sehemu ya Kisauni wa na nyumba zao pale lakini landlords mwenye ile ardhi lets say yuko ngambo ama yuhaihi huko nguze ya masimu wale ambao tunaitwa mabwanyenye ambao wanatawala zile ardhi. Hatujaelezewa katika hii Constitution mpya Serikali ina nia gani ama itasaidia sisi wapi.

La mwisho; Sheria tulikuwa na Constitution ya nyuma ambapo ilipitizwa wakati wa uhuru, lakini kuna sheria nyingine ambacho zinatufaa sisi wananchi. Ni nzuri ziko zinaendelea lakini zilikuwa hazikuozi na ni kwa sababu ya ubinafsi wa watu. Na hii pia ni Constitution vile vile, haya ni maandishi hatujui atakayaingia atakua vipi. Je ni njia gani ambao itafutwa kuhakikizwa kwamba Constitution hii inafuatwa kulingana na sheria. Yaani mtu asichukue mamlaka kama vile Rais sasa ama mawaziri. Utakuta waziri anashitakiwa lakini yule msitaki akienda kule kortni ndiye anapata haki. Sheria ni hizi zinandikwa lakini hazifuati, je tuna hakika gani kwamba sheria hii zinafuatwa? Asanteni.

Com. Salim: Namba ya saba?

Abdul Rahmani Ali: Salaam aleikum. Habari zenu wengine ambao sio Waislaam? Jina langu kamili naitwa Abdul Rahmani Ali. Natoka katika kikundi cha harakati ambaye kinafamaaka kama Zingaro Environment Youth Group. Nimekuja kidogo nina maoni mawili, matatu. Kwanza nawashukuru kwa kazi yenu nzuri mliofanya Bwana Professor na wezako wote, halafu vile vile nasukuru kwa hii Katiba ambayo tumepitia pitia kidogo tumeona mambo ambao iko ndani si ma mbaya sana. Lakini kulikua kuna kitu kizizitisha kama mwezangu aliondoka hapa amesema ile kuzizitiza kwamba Katiba hii itakuwa na uhakika gani kwamba itafuatwa kama vile alivyosema kwamba siku ya ukoloni pia haikua mbaya bwana zingine ni nzuri, lakini vile hakikisho kwamba kweli itatimika na wakipewa wale wateleka. Njia gani ambayo hata wakitunyima ile haki yetu sisi wananchi tuwe tunaweza kuwa tutakuwa na jukumu wa kuweza kusukuma wasipitimizwa, hiyo ni moja.

Pili nilikua nazungumzia zaidi kuhusu mahakama, maana yake nimeona mahakama zetu hapa zimepewa uwezo wa hali ya juu sana ambalo ni kosa kubwa. Sasa, nimeona kwamba Katiba hii inasema kwamba zingine ikiwa itakubalika hawa judge wengine lazidi wa-sign upya ama sio vile nilivyolea. Hata kwa hiyo tulikua tunaomba kama itakuwa wana-sign upya at least ikijaribu kufuata kama mifano wa nchi zetu jirani imetembea kidogo tukaona kwa mfano kama hapa Tanzania ilikuenda kidogo.

Nikatembelea sehemu za mahakama zao nikaona zinapata haki ya kisawasawa. Shauri zile mahakama zenyewe zinaanzia gazi ya chini masinani. Utakuta kule mahakamani labda kuna balozi wa nyumba kumi, halafu kuna wazee wa mitaa ambao wanakaa kado ili kujadiliana na yule hakimu. Kuihukumu kesi ya yule mshtakiwa. Sasa iwapo yule mstakiwa labda pengine amedhulumiwa maana hapa kwetu Kenya tunaona wengi wafungwa pale ni suspect. Wale waliofanya makosa makubwa makubwa wote tunaona wako nje mpaka leo. Lakini ukitembelea magereza kwa mfano kama mimi niko katika human rights groups tulitembelea Shimo La Tewa tukahoji watu maswali pale. Tukakuta katibu aslimia kumi na tano yote wamefungwa bila makosa ni vile hawa watu wa kusimamia na hajui sheria na wala hakuna pale kortini pakazimika tu ujanja akificha yule maskini, lakini yule ambaye anahusika kupelekwa pale akatolewa kwa ajili ya uwezo fulani.

Hata kwa hiyo kama tungekuwa tunaona hapa kwetu Kenya sio kulingana na hii Katiba mpya vijeongezewa kwamba haya mambo ya sheria ingaazia huko gastani ili tuwe kuweza na wazee wa kadhaa na akina wama kadhaa kama wawili watatu kama tunaambiwa na jirani wetu Uganda, Tanzania, wanaweka wale wazee, mzee anaweza kujuwa huyu bwana huu kijana ni mwizi mimi namjua kabisa, sasa iwapo atamzongea Judge bwana ni kweli kazi yake. Nyingine yaweza ikapatikana haki.

Halafu swala la mwisho kabisa ni hizi swala la ardhi. Mimi nashangaa sana kuona hapa kwetu kwamba kuna Ministry of Lands.

Wakati hiyo ministry yenyewe haina land yeyote, land zote zimemilikiwa na watu binafsi. Lakini nashangaa ile ministry kazi yake nini imewekwa pale. Na afadhali kama haingekuwa kabisa. Shauri hizi land za Kenya hapa kwetu tuna squatters in zaidi ya ma million ya squatter katika nchi ya Africa zima sisi tunaongeza kwa scattered Kenya. Tukiangalia ndugu zetu Nairobi wanalala kwenye slams, tafadhali Mombasa kidogo, na miji miinginevyo. Hasa tulikua tunaomba kama inawezekana sijui iliyo fungu kwamba hizi ardhi zote zitemeshwe bahati yake kwanza. Iwe ni kama sababu ya kuweza kuzuia ile grabbing.

Unajua sasa hivi watu wengi wana grab ardhi kulingana na ardhi yenyewe ya Kenya yamewekwa zamani ya chini sana. Kiwango mtu akiwa ni ardhi kidogo cha bicha anachukua sasa milioni hamsini. Unaona hata kama ingekuwa hii faini lingetelemshwa kidogo chini nafikiri hazingekuwa kuna mtu anataka kunyakua, utanyakua kitu cha sumu uweke? Unanyakua kitu cha sumu uwezi? Kwa hivyo napigania kunyakua kwa kwamba kina value yake imewekwa juu na ndiyo kwa hivyo kwa sababu mahalai unawadwa ni huko juu. Kwa hivyo ndio langu la mwisho la ardhi.

Benson Masika: Asante Professor na Coordinators vile mmejitolea kuja kuchukua yale mapendekezo yetu ambayo yalikuwa yametolewa. Kwa jina yangu naitwa Benson Masika kutoka kanisa la Seventh Day Adventist Church. Katika mapendekezo ambayo nimeyaona, kuna machache ambayo nataka kutoa maoni juu yake ili mweze kuangalia. Ni juu ya Education. kuhusu elimu nimeona ya kwamba mmependekeza ya kuwa private institutions ama watu wanakua na private institutions ama watu wamaliwa ma private institutions these universities and colleges baada ya kupewa chati na kujulikana ya kwamba zinafuzu vizuri wanafunzi wao wakimaliza baada ya graduation hawapati kazi, ama wakati mwingine wanachwa nje. Hilo jambo liweze kuangaliwa kwa sababu ikiwa mitihani na masomo yale ambayo wanahitimu ni kama yale ambayo yako public universities ni vizuri waweze kuwangaliwa.

Na jambo lingine kuhusu hicho private institutions wakati mwingine zinatoshia bei ya juu kwa sababu gani. Sababu hawapati msaada wowote kutoka kwa Serikali. Serikali ingeangalia kwamba wanapokuwa wanasaidia katika latola njia hiyo kuandeleza elimu ama kwa matibabu, ni vizuri pesa zitengwe pia kama grants za kuwasaidia ili maana watoto wale ambao wanasoma pale ni watoto wetu, ni watoto wa Kenya waweze kuangaliwa pia ili hata ile gharama iweze kurudi chini. Kwa sababu ile fees ambayo wanatoa ni kwa sababu hawapati msaada kuto mahali popote nina kumbuka zamani tulikuwa tunapata misaada kutoka ngambo ambayo ilikuwa ilikuja kusaidia hapa Kenya. Lakini siku hizi hakuna nchi yeyote ambayo inaweza kuleta msaada wake hapa Kenya. Ni Kenya tu peke yake ambaye inaweze kujiendeleza na kwa hivyo sisi kama wana-Kenya na tunaona jambo ile ni nzuri tuweze kulifanya ni vizuri Serikali iweze kutia mkono wa kusaidia.

Swali la mwisho ama pendekezo la mwisho ni kuhusu matibabu, health. Kuhusu Health nimeona ya kwamba watu wanaweza kupewa matibabu, lakini sasa kuna hii kitu kinaitwa cost-sharing. Na mahali pengine unaweza kupata kwamba, huyu ambaye amekua .mgonjwa hana njia yeyote ya kuweza kutoa fedha ila apate yale matibabu. Ni vizuri Serikali iweze kuangalia kwamba jambo hili la cost-sharing, uhai wa mtu uweze kuangaliwa vizuri ili matibabu yaweze kuwa ya bure. Kwa sababu kuna system ambacho zimewekwa ya kuhakikishwa ya kwamba mwananchi anapotozwa kodi, ile kodi iliyo kazi yake ili iweze kuangaliwa vizuri maana nafikiria kwamba hii cost-sharing ilikuja kwa sababu there was misappropriation of these funds katika Serikali. Kwa hivyo wakaona sasa wabuni njia ingine ili wananchi waweze kutoshwa wapoenda kwa matibabu. Na kwa sababu Constitution hii yetu ambayo tumependekeza iweze kuangalia vizuri ili pesa zote ambazo zinatozwa kutoka kwa kila jambo liweze kuangaliwa vizuri na misappropriation yake ifanywe vizuri. Ni hayo tu ambaye naweza kusema na asanteni.

Michael Kiti Nyanje: Mimi naitwa Michael Kiti Nyanje. Nilikuwa nina mambo fulani ambayo nilikua nitaka kuzungumzia. La kwanza ni kuhusu elimu. Tumeona katika ile mapendekezo yenu mmesema kutakua na elimu ya bure ya primary, lakini nafikiria hamkusema hii ya nursery pale ndani, ikiwa pengine umesema pengine mimi sikuiona. Kwa hivyo mapendekezo yangu ningomba kua hata hii ya nursery pia hivyo itakua ya bure. Yaani Serikali iandike walimu wa kufundisha nursery.

Pia kuhusiana na elimu tunaomba, ama ninaomba ama natoa pendekezo ya kuwa kila province iwe na university moja. Tena na hapa pwani ambao tunaona kuna Waislaam wengi pia Serikali ione kuwa tunapa university moja ya Kiislaam.

La pili ni kulingana na uchaguzi. Nimesoma pale nikaona kuwa mapendekezo ya kwamba a third of candidate from an individual party to be women. Lakini naona mimi kuwa pengine itakuwa kwa sababu hawa watu wanachaguliwa na watu wenyewe, raia wenyewe. Naona kuwa pengine itakuwa uwe shida kwa chama. Pengine wale nominated it is okay, but these one who are elected directly I think it is not going to be applicable.

Lingine, ni kuhusu qualifications za National Assembly that power Nikisoma pale nimeona mmeandika mtu awe amefikie kidato cha nne na awe amepita mtihani lakini hamkusema ni kiasi gani hapo, mtu anaweza na D- na atasema tu amepita mtihani.

Mimi nilikua nimepita mthani. Kwa hivyo nimeonelea angekua na kama ningesema it is a degree and above or C and above. Na pia kwenye hizi councils qualifications zake pia ziwe kama D+ ama degree ya kitambo.

Jambo lingine ni kuhusiana na refugees. Tunajua sheria za refugees za kimataifa lakini unaona hapa kwetu Kenya, sisi sheria hizo hatufuati tunaona refugees wamehusiana na sisi, wananchi na sisi, unaona hata kuna wengine kabisa wamepata kitambulizo wanafanya biashara kama Wakenya ambao mimi ningependekeza hiyo Constitution mpya, ikiwa inafanya kazi hawa refugees ambao wamepewa kitambulizo ya Kenya wapokonywe na wawekwe mahali pamoja kama safety place ambapo wanafaa wawekwe.

Jambo lingine ni kuhusu ministers. Ministers napendekeza ni kumi na watano hiyo ni sawa, sasa ningependa kuongezea pale hawa ministers ningependekeza kua wawili watokezee kwa kila province, tena they should be indigeneous people hata mimi by indigenious people those tries which originated from that place.

Then lingine ni kuhusu miji. Ningependekeza miji ambaye imestawi na imendelea kama vile Nairobi tayari imejimudu kuongezea na hiyo Mombasa, Kisumu na miji mingine ambao imestarab kama hiyo ifanywe city.

Com. Salim: City ni wapi?

Michael Kiti Nyanje: Officially haijafanya tu district. Imesemwa tu kisiasa lakini haijafanywa.

Halafu la mwisho kabisa ni kuhusu wajiri i.e recruitment and employment of any kind should comprise at least 75% of the indigenious people of that particular province or district.

Com. Salim: Asanteni sana kwa maoni yetu kwa hakika nilisema hapo awali kwamba hatuna nafasi tunafunga saa sita unusu, maana leo ni ijumaa na swala, wengine tunaelekea kutawaza na kadhalika lakini huenda ikawa maswala na jawabu ya maswala haya ni kutosha hamazisha mtu kusoma zaidi. Lakini tayari kabisa kupata memorandum. Ikiwa hukupata nafasi kuliza swala lako na unapendekeza tafadhali haraka uinandike na tuko tayari kuipokea na kuisoma baadaye na itapelekwa kwa njia fulani katika matayarisho yetu ya National Conference. Lakini kwa leo samahani hawa kumi ndio ambao tutaweza kuwajibu kama tuwezavyo maswala yao.

Kwanza Mzee Mudadi, umeuliza preamble ungependa iwe na values zitajwe, value kwa hakika tumezifiya mbali, goals , principles and values, lakini swala lako kwa nini freedom fighters hawakutajwa ni swala nzuri tumezingatia sana mambo ya freedom fighters na kulikuwa na mswada or draft ya preamble nyingi sana. Nyingine zilikuwemo ni sala fulani kuhusu freedom fighters lakini mwishowe tumaona kwamba tutaja yale tuliotaja maana kuna nafasi kutaja kila jambo lakini huyu msitajabu kwamba tukienda kwenye conference, freedom fighters wengi wata pendekeza kwamba watajwe au at least kwamba ile

msitasali yetu au kupigana kwetu kwa ajili utawala wetu wenyewe au uhuru utakagika. Lakini tunataka kuhakikishia kwamba pendekezo hilo lilikuwa ni kati ya mapendekezo mengi ambayo tulifikilia sana kisa kwamba experience yetu should also be there, kuna pia mapendekezo mengi kwamba tuhitaji kidogo jinzi ambavyo tulitawaliwa na wageni na mwishowe tukapata uhuru wetu, our historic experience na Constitutional experience. Lakini preamble huwa ni fupi sana na there are so many things to put there. Kwa hivyo lazima vitu fulani kwa sasa viwachwe lakini kama nise mavyo hili ni jambo ambalo huenda likabadilika. Na mwishowe tukapata preamble ambao ni tofauti na hii tulionayo sasa.

The Laws of Kenya By-laws sisi tulitaja jina laws at the national level. Tumewacha zile by-laws ambazo zinahusu Local Government. Lakini kwa kuwa tutakuwa na District Government na mambo kama haya huenda pia mabadiliko yakatokea hapo.

Boundaries of Kenya kwa hakika ni kweli kumetokea kutofahamiana juu ya district na cases to be put forward about the..... so we will bear ni mind your proposals and saa zile transcription ikifanywa they would be picked up na huenda ikahitajika kwenye conference.

Defence of the Constitution, hatukusema hasa we have to defend the Constitution but we did refer to .. tumezungumzia, au dokezea mambo kuhusu kwamba Constitution hii ni ya watu na kwa hivyo Constitution hii izipandilishwe kwa urahizi na baada ya kuzungumshia mambo ya defence na kila kitu tulitaja katika ukurasa 39 kwamba subject to provisions of the Constitution Parliament may in exercising Constitutional powers amend by ways of judgment, variation or repeal any provision with the procedure laid down at this article. Lakini tukasema ya kwamba lazima both houses si kutokua na two houses must ganner or get two-thirds majority kabla Constitutional kubadilishwa na hii si jambo la lahizi tena si two-third ya wale watayohudhuria vikao za National Assembly or National Council ambao watapiga kura lazima two-thirds of all the members. Kwa hivyo njia hii nafikiri itaidwa na kuna mambo fulani hapa ambayo tunasema ambayo tunasema hayawezi kubadilishwa bila referendum bila watu kupiga kura wenyewe kubadiliza mashala ile territory ya Kenya, mipaka yetu, bill of rights ikibadilishwa kabisa kama ilivyo mpaka two-thirds of each house wakubali kubadilika. Restructures values and principles of devolution pia ibadilizwe, citizenship na mambo kama hayo.

David Machoka umeuliza habari ya security judges ungependelea kwa mfano kwamba, uliuliza ikiwa security of judges itakuwako lakini ile age of retirement ni 65. Sijui age of retirement for other people hatukuzungumzia hilo maana ulisoma hapo section (inaudible) section tu mahakimu. Kwa hivyo hatuingilia mambo ya civil servants na permanent secretaries kwa hivi sasa ni nafikiri ni 55 kwa hivyo tumeona kwamba imbakie vile vile – 55. Devolution of powers elders will be paid. Yes they will be paid.

Freedom of religion page 8 why not to make sure that there is no comparison to any act why is the word “may” hiyo ni fikira nzuri, lakini na kuhakikishia kwamba mambo haya kuhusu haki ya mtu asilazimishwe kwa mfano jumamosi kwenda shuleni au kuhudhuria jambo lolote kuhusu shule au sport na kadhalika tumezungumshia na jamaa wengi na such kuna two commissioners

who are seventh day 'S.D.A.' Pastor Ayonga na Dr. Maranga .. lakini neno "may" nakubaliana kwamba huenda ikawa haifanyiki au ifanyiike. The right words may be should have been (inaudible) lakini ni jambo ambalo pia huenda kwa conference likaleta majadialiano makubwa na marefu hasa tukiweco people of different religions bila shaka watakuwako pale ni jambo ambalo wewe pia yaweza kuwadikia barua jamaa ambao watawakilisha kwenye conference walileta jambo comment. Mambo haya sio mambo ambao yamemalizika na ni final lakini ni mumetaja jambo muhimu sana.

Mengi, different from shall, kuingine ambapo mmesema kwamba ni lazima ifanyiike tumetumia neno la shall, no one shall be compelled.

Bwana Daniel Okondo, twakushuru sana kwa maoni yako lakini nakuhakishia ya kwamba disabled tumewataja kwa wingi kila hujapata nafasi kuisoma section kuhusu disabled umpewa nafikiri kuna nakala ya Braille utaisoma uzuri tumetaja kwamba ufikirie – umetaja kuwa mishara yao izingatie kwamba wao wana haja ya wasaidizi. Sio? And you feel that their salaries should higher ile yaweza kupata sijui kwamba ni kufaham hapo. Ulikusudia jambo hilo sio? Kwamba mishahara yao izingatiwe kwamba wao watahitajia mtu kuwasaidia kwa hivyo they should be allowed to any one whom they might need to help them their day today activities. Pia ni jambo ambalo tumelinasa na bila shaka zitalingatiwa. Zile passport za disabled to suit their abilities and reliabilities pia ni fikira nzuri ni maoni mazuri na inahusu syllabus za shule.

Bwana Daniel Mwatata appointment of Prime Minister and DPM umesema kwamba umeandika mapendekezo yako juu ya mambo na karibu Bwana ha karibu tutasoma mapendekezo yako juu ya mambo haya uliyoataja nafikiri 1,2,3,4,5,6 tutasoma kwa maakini si kuyataja hapa lakini tutasoma baadaye.

Universities not mentioned in the Constitution, kweli lakini ujuavyo kujenga university katika kila District. Kujenga university ni gharama kubwa sana na ni taabu kwa District kujisimamia kwa upande ya elimu ya juu. Tunavyo sisi ni kwamba University au Chuo Kikuu huwa ni National Government responsibility. Kwa hivyo labda, pendekezo lako tutaliunganisha na pendekezo na mwezetu wa mwisho Michael, ilikua ni Michael alisema kwamba kuwe na University Coast Province, kwa hivyo nafikiri ni pendekezo kwamba ila tukijenga universities tufikilie kujenga na kwa ajili gani ili kwamba universities zizijengwe katika eneo moja ama mawili tu, kuwe na a good devolution if you like of higher education. it is a matter that also will be taken by the way within many other tumependekeza idadi ya tume ambazo zitashugulikia mambo tofauti tofauti kwa mfano tumependekeza councils, – Economic and Social Councils ni council ambao itafikilia umuhimu wa kuhakishwa kwamba tunasaidia uchumi na tunasadia uadhilifu wa kijamii kuwe kila pahali. Kwa hivyo, this is the Social Economic and Education bila shaka councils ambao tumependekeza itafikilia wapi kujenga shule.

Na kadhalika kuna tume ambayo yazingitia mambo kuhusu haki ya binadamu. Kwa hivyo proposals about the building of universities where to build universities can be captured by many many agencies and organizations within the boundaries we are proposing na bila shaka fikira hii ya kuwe na universities, education ambayo ni ya uadhilifu also if you look at the bill, goals and

values and principles, tunasema kuwe na equity uadhilifu kila mahali. So, the issue of university education will be I am sure taken care of within the context of those values and principles.

Employment quotas, nafikiri ulipendekeza kuwa, kuwe employment quotas. Tunasema hapa course wafanyi kazi wa idadi fulani, wa percentage fulani wawe local. Nafikiri ni prayer yako.. Bwana Daniel, ulikuwa ulipendekeza hilo. Sio? Kwamba upande wa employment ulitaja kwamba sehemu fulani ya kazi ipewe wenyeji wa pale or something to that effect probability?

Anyway the main thing is, unajua employment na how to employ itabusana kupitia kwenye Constitution. It is a matter of details, hapa na pale tutasema kwamba, mambo haya hazingaziwe na sheria ya Parliament. Kwa hivyo mambo ya employment, mambo ya kuhakisha kuwa kuwe na uadhilifu katika kazi na jinsi ya kuu... ni mambo ambao yatafikiliwa na sheria nyingine ndogo. Hii ni sheria ya mzee, sheria ya mama kuna sheria toto, or sheria ya watoto, bila shaka mambo haya .. wajua early employment ni matatizo. Kila sehemu ulimwengu ina matatizo ya early unemployment. Na kuna nchi moja duniani ambao haina problem ya employment sema pengine problem yao ni ndogo kuliko wenzao. Lakini you can't possess issue of employment, you can only put Equity uadhilifu na mambo kama hayo. Principles ambazo zaweza (inaudible).

Mzee Musa Jaka – Bill of rights political rights and civil and the politics, tumesema kwamba hili pia ni mambo ambalo hatukutaja in details. Hatukutaja nakubali kwamba mtu asilizamishwe ku-resign kabla hajaweza kusimama kwenye election. Pia, ni fikira ambayo tume inaza na huenda tulizingatie tena watu (inaudible). Tumepata malamiko mengi kwa wananchi kwamba kwa nini civil servants wa-resign kwanza kabla hawaja... kwa nini hawapewi leave of absence? Leave bila kulipwa kwa ajili ya kupoteza kazi zao. It is a matter that.. bila shaka ukisoma ripoti yetu utaona ya kwamba tumetaja hapa na pale.

Fair remuneration of workers when– hatukweza kusema zaidi ya hivyo maana tukisema the rights or the fair salary of a messenger should be so much. The fair salary of a clerk should so much. The fair revenue or remuneration of a doctor in government hospitals should that. Hatuwezi kutaja figures. Fair, maana yake ni adhififu ambayo yamwezesha kuishi bila kupata idhilali bila kupata taabu. Pia, tumezungumshia bill of rights kwa Serikali ina haki ya kumpa kila mwananchi haki zake za kimsingi. Ikiwa maana yake makao, matibabu, elimu na kadhalika imetajika parable moja na kwingine tumetaja fair salaries – sasa sheria ndogo zile au sheria ya watoto kufikiria mambo kama hayo. Industrial courts ndiyo ambayo yakata shauri.

Wajua hii ni Katiba ya kuja – twasemaye kwamba itahishi milele au itaishi miaka mia moja mia mbili, mia tatu kama hii ya America. Kwa hivyo tukiwa na 100 years from now au miaka mia mbili kutoka sasa mambo yatabadilika kabisa. Fair remuneration ya leo si fair remuneration za miaka kumi kutoka sasa. So we can't give the details nafikiri zile hatuwezi kujitaja hapo.

The rights to strike is again the matter of details. Equal rights to strike but under certain circumstances, we have to resource,

lazima umalize zile negotiations. Kuna procedure kwa watu kwamba ukiwa unagombana na tajari, mfuate procedure fulani. Kwa hivyo, labda zile procedure zinahitajia kustahilishwa zaidi, but again it is not a matter to put into negotiation. Ni ufanyi kazi COTU, kupigania kwamba ile procedure ya kufuatwa iwe ya uadilifu zaidi kufuatia Katiba.

Absentee landlords tumepata shtaka hiyo jana pia kwamba mtu amejenga ya ardhi ya mtu mwingine lakini hana hile security of tenure. Hii ni sub-tenancy, you are sub-tenant. Pia hapa sheria lazima iundwe juu ya haki yalio suspended in relation to the landlord. Iwe ni adilifu zaidi pia. May ikiwa siadilifu sasa, au ile jamaa aliyejenga kesho afukushwa na nyumba yake itajenga yapata gharama ya kujenga ya ni mambo ambao bila subsidiary registration can only outlaw, ya kuongeza hiyo zinazo fikiria mambo kama hayo na kustawisha.

Hapa pia kuna tume ingine tatu ambazo inahusika na human rights kama nilivyosema. Tume kama hiyo mtu aweza kuyapelekea mastaka na tume hiyo itaweza kupeleka barua kwa the right department or the right agency groups. Hawo wabunge waambiwe na constituency, mbunge wako alete sheria mbele ya bunge kwamba mahusiano kati ya sub-tenant na mwenye ardhi ambaye ni sasa watu wahulumika nyumba zao zafujwa landlord akitaka ardhi yake anafuja nyumba ya mtu anatupa vitu vyake nje na anafanya atakavyo. That is ile case of – they must having been taken up. Naona shule yetu ni taabu ikiwa kuna nia ya kurekebisha mambo. Mara nyingi mnasema tumelekebisha Katiba, lakini kuna kazi kubwa zaidi, sisi hii ni ile kazi rahisi kabisa. Kazi kubwa zaidi ni kurekebisha akili na nyoyo za watu. Hizo ni lazima zibadilike.

Yule askari ambaye anakulazimisha umpe kitu kabla ya kumpa P3 huyo moyo si mzuri, fikira zake si nzuri. Roho yake si nzuri roho yake ana kudhurumu ile P3 si kuchukuliwa pesa lakini ni lazima tumlekebishe, lazima asomeshwe haki ya mwezake, haki ya raia ni ipi kisa atishwe kwamba akifanya siki nyingine atatiwa ndani. Lakini yule hakimumu ambaye amahukumia hivyo, lazima awe ni honest pia asipate na chake yeye a dismiss ile case au ai-ignore. So we have to change things, we have to change our minds, we have to change our hearts ili kwamba Katiba hii ifaulu. Haiwezi kufaulu it will be just writing on paper, print on paper ikiwa it will not be implemented in the 100%.

This leads to your question. Laws are not follows. Sheria haifuatui, ni kweli. Sheria nyingi ambazo sasa tunalalamika kuwa twafanywa hivi, tufanywe vile sheria iko pale lakini haifuatwi. So what you need is a mechanism, njia au silaha ile huhakikisha kwamba itafuatwa. Na hapo kuna haja ya honesty, uaminifu, uadhilifu na watu ambao wamepewa madaraka fulani kufanya kazi zao bila mapendeleo na kwa nia nzuri.

Abdul Rahman Ali, pia what guarantee kuna dhamana gani kwamba hii sheria itafuatwa? Hatuna dhamana kama nilivyoeleza. Ni watu kukata shauri kwamba tutaifuata.

Court Procedures, Tanzania umesema kwamba ni nzuri kijilinganisha na wenzetu lakini kila nchi itakuwa na sovereignty yake ufalme wake na bila shaka kutakuwa na procedure yetu huenda ikawa ni bora kuliko ile uliona.

Ministry of Lands, ipunguze bei ya ardhi labda tukasaidia kupambana na ufizadi tukifanya hivyo au na mambo mengine ni fikira lakini unajua mambo haya bei ya ardhi na kila kitu is very complicated. You can't law reject like that. Utoe amri acre moja kutoka kesho bei yake itakua hivi. There are all sorts of economic issues na mambo ya uchumi ambayo lazima izingatiwe.

Benson asante sana mambo na masika kwa maoni yako. Graduate employment it is a matter – is a very big problem watu wanamaliza masomo yao hawana kazi – there is an issue of employment, all we are saying kwamba tupate Serikali, systems au mipango ambapo hata ikiwa huna kazi unajipatia ndonge na chakula. And that is a basic needs. Hata huna kazi lakini unapata matibabu ukienda Kenyatta National Hospital, Coast General Hospital, you get the basic medical treatment, mpaka utakapopata kazi.

Shida ya kutokuwa na kazi kutokana, huwa ni kubwa zaidi ikiwa hujui utapa mkate wako lini au wapi. Lakini ikiwa tumepata system, ambayo basic needs zitapatikana kwa kila moja wasi wasi itapungua na tumesema kwamba ingawa hakuna limit zile basic rights tulizozitaja kwa urefu, hapo awali lazima Serikali iazize sasa mpango wa kufanya kuliko kuwapatia wananchi basic needs zao. Ingawa hatukuweka kiwango cha time. Kama nilivyoeleza hapo fixed schedules tumeweka mpango wa time. Jambo hili lifanywe within two years, jambo hili lifanywe within three years.

Basic rights nasema unlimited. Maana siojambo la lahizi kumhakikishia kila mwananchi kwamba atapata matibabu, atapata elimu, atapata makao, atapate maji masafi. Nakumbuka tukisema kwamba water by the year 2000, piped water by the year 2000. Lakini tumepata matatizo ni kweli kikamilifu. Basi, we have to have a target, lazima tuwe na shabaha kufikia pale na tuanze safari ya one thousand, wasema wa-China safari ya one million mine begin with the first step ile first step, second step, ichukuliwe tufikie kule.

Nafikiri Michael sisi tayari education to nursery level. Hapa hatukutaja nursery maana nursery schools nyingi ni private nafikiri. Kwa hivyo hatukuweza kusema kwamba hawa pia watoe elimu ya nursery bure lakini tumepata did you say basic education in primary. Lakini ni fikiria huenda ikazungumzwa na kujadiliwa katika conference.

Each Province to have a university fikira nzuri pesa zikipatikana na official kwamba there is again uadilifu kwamba kukiwa kuna mbili tatu Nairobi itatosheka sasa, tujenge kwengine. Twagenda kislani and that is why Commissions tume zinzohusu human rights and administration of justice tume moja inaitwa hivyo inaweza kusema hapa lazima tupeleke tuwe na kuwapa hali wale pia wapate university. Coast haina university na kadhalika.

Muslim university Coast Province again it is an idea ingawa mujuavyo kwamba kuna mpango wa kujenga university hapa Coast Province ambao itakuwa ni private.

One-third women candidates it is not possible una maoni yako, una haki ya kusema kwamba haiwezekani au ni taabu lakini kuna wale ambao wasemayo inawezakana. Where there is a will there is a way. Ikiwa political parties zataka votes zinategemea wakina mama kesho kina mama tazizia party ambazo haziwasaidea wakina mama kuendelea mbele, votes itakwenda kwingine. May be political parties will be forced to at least consider women candidates.

Na elimu ya MP na elimu na elimu ya councilor ume-suggest should be D+, ndiyo na C again hapo hatukutaja details makusudi.

Twangojea conference labda kuzingatia jambo hili na kufikiria mambo in details. Je ikiwa ni certificate iwe certificate ya C au iwe D.

Refugees in kweli tumepata taabu kutoka kwa wakimbizi na ni kweli vibaya kwamba wakiombizi wanapata IDs za Kenya hapo twarudia mambo haya ya ufisadi, kwamba hawa wanapata IDs kwa ajili ya ufisadi wanamhonga mtu wanajipatia na hapata tegemeo yule administration of our refugees problem. How it is administered na uaminifu uliyoko katika administration ya mambo ya kidini. Again it is a question of reform of the system.

Fikiria za mawaziri ikiwa ni kumi na tano tuhakikishe kwamba wasitoke wote katika province mbili tatu. It is a very good idea tumei-note na bila jambo ambalo litaleta majadiliano mengi sana na majadiliano, ambayo yahistahili kufanywa juu ya distribution of the Ministries between the various provinces.

Nafikiri tumemaliza. Jawabu nawashukuru sana, na samahani nimekwenda mbio katika mambo haya, huenda ikawa nimewacha mambo fulani hapa na pale ambaye ni muhimu lakini ningewasisitiza msome vizuri kuna time ya kupokea reaction zenu, maoni yenu juu ya yaliyomo katika mswada huu wa Katiba tafadhali utataandika hamna haja ya kuweka kwenye posta, district coordinators wetu wawili wako hapa mtawelekea barua kama mlivyofanyia Bwana Daniel ametuachia ile memorandum tutapokea memorandum na tutazingatia mapendekezo yenu baadaye.

Tunawashukuru sana kwa kufika, twafurahi na tumefurahi kwa maswala yenu, na Mungu atusadiye tukamilishe hii kazi kwa ajili ya manufaa ya nchi yetu na raia wa nchi hii. Tumalize siku ya baraka leo kwa dua tena ili mambo yetu yafanikiwe. Ningemuomba mmoja aje mbele atuombee kufunga kama tulivyooombewa tulivyofungua. Asante.

PRAYER

Basi tusimame na tuombe. Tunakushukuru Mwenyezi Mungu uliye juu Mbinguni, asante kwa sababu tulikupendeza ya kwamba katika nchi yetu ya Kenya, twaweza kuwa na Katiba mpya. Asante kwa sababu umewaongoza viongozi waliochaguliwa katika tume hii. Asante kwa sababu wamekuwa hapa katika hapa sehemu ya Pwani na leo hivi wanamaliza na kurundi yale maoni yote ambao tumetoa wana wapatiye hekima ili wanapoyatekeleza, yaweza kuwa kwa manufaa kwa watu wote wa nchi ya Kenya. Tunaomba haya na kwamini katika jina lako lilo tukufu. Amen.

Meeting ended at 1.15 p.m.

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