

**CONSTITUTION OF KENYA REVIEW COMMISSION**

**(CKRC)**

**Verbatim Report Of**

**DISSEMINATION OF REPORT AND DRAFT BILL, MAKUENI  
CONSTITUENCY, HELD AT MAKUENI AIC WOTE**

**ON**

**11<sup>TH</sup> OCTOBER 2002**

**final copy**

**DISSEMINATION OF REPORT AND DRAFT BILL, MAKUENI CONSTITUENCY, HELD AT AIC WOTE  
ON 11<sup>TH</sup> OCTOBER 2002**

**Present**

Com. Abida Ali Aroni

**Secretariate in Attendance**

1. Collins Mukewa - Programme Officer
2. Susan Mutile - Verbatim Recorder

**3Cs Members**

1. Rose Mulu
2. Benard Maingi

The meeting started with Com. Abida Ali in the chair.

**Sammy Kiteng'u:** So, I want us to start of today's meeting by a word of prayer from Reverend Mulatya.

**Rev. Mulatya:** Okay na nitawasalimia kwanza. Hamjambo? Basi tuombe: Baba tunakushukuru sana kwa kuwa wewe ni Mungu mwena. Tunakushuru kwa kuwa wewe ni Mungu wa mipango na wewe ni Mungu wa mapenzi makuu. Na tunataka kujipeana mikononi mwako, hasa wakati huu tunapoketi hapa na kutafakari mambo makubwa yanayo husu nchi yetu. Leo kuna mazungumzo kuhusu Katiba mpya ambayo ni pendekezo nzuri la kuongoza watu wako. Hakuna jamhuri inayoishi vizuri, pasipokuwa na Katiba nzuri. Tunajua wewe ulipotaka kanisa lako lisisimame vizuri ulitengeneza ukaketi chini ukaandika Biblia

ambayo kwa kweli ndio Katiba ya wale ambao wanataka kuja kwako. Na tukitaka kwenda vizuri na muongozo mzuri tunasoma neno lako.

Ndiposa leo tunakusanyika hapa kwa kikao kingine, maana hiki sio kikao cha kwanza tumekwisha kaa kikao kingine. Yatakayo zungumzwa leo, viongozi wote watakao zungumza na wenye kuadhaa shughuli hii na mipango yote tunataka uwe pamoja nasi. Vile vile hatuwezi kusahau kumuomba kiongozi wa Commission hii, Professor Ghai ambaye anashika kazi ngumu na ma-Commissioner ambao wahudumu na yeye. Tunajua hii ni kazi ambao ikiisha itaongoza nchi hii miaka mingi na hata sio wakati mfupi. Labda itakwisha Yesu Kristo atakaporudi. Tunatake kuiweka katika misingi mizuri, misingi ya kufuatwa na yenye maadili mema yanayofaa wananchi watukufu. Tuongoze katika sherehe zote, shughuli zote, tukimaliza tutakushukuru. Katika jina la Yesu Kristo tunaomba na kuamini. Amen.

**Sammy Kiteng'u:** Tukianza, I would like to introduce to you the people who have made possible this day, and they are the 3Cs wa huku Makueni Constituency. Tuko na Rose Mulu na Benard Maingi. As we continue may be towards the end of the meeting, I will tell you the representatives that were elected by the county council Councillors. Now, without wasting more time let me give the mike to the Commissioner to introduce the people that she has come with from the head office. Thank you.

**Com. Abida Ali:** Hamjambo?

**Audience:** Hatujambo.

**Sammy Kiteng'u:** Sorry I had forgotten, my name is Sammy Kiteng'u. I am the district coordinator CKRC Makueni district. Thank you.

**Com. Abida Ali:** Hamjambo?

**Audience:** Hatujambo

**Com. Abida Ali:** Mimi naitwa Abida Ali Aroni naibu wa mwenyekiti wa Tume ya Marekebisho ya Katiba na leo nimeandama na Programme Officer Collins Mukewa na Verbatim Recorder Susan Mutile. Tutaanza nafikiri shughuli ya leo ingawa tunasikitika sana kwamba watu wachache sana wamejitokeza. Tulidhania kwamba hii sehemu yenu ya Makueni tungepata watu wengi zaidi kwa sababu tuko karibu na town, lakini tunatumaini kwamba watazidi kufika. Na wale mko hapa mtatusaidia kwa kuweza kueneza mambo ambayo tutaweza kuyazungumzia kwa siku ya leo.

Kwenya programme ya leo, nitawaeleza kwa kifupi ni kwa nini tumeandaa huu mkutano wa leo. Nitawaeleza pia jinsi ambavyo tuliweza kufanya kazi hadi tukafikia wakati huu wa kuweza kusabaza hii draft Constitution. Halafu, nitaweza kuwapeleka kupitia

kwa hiyo draft Constitution kwa kifupi sana halafu nitawapa nafasi ya kuweza kujadiliana au kuuliza maswali ikiwa kuna vifungu fulani ambavyo hamjavielewa.

Madhumuni ya mkutano huu wa leo, ni kutuwezesha kuwaletea rasmi draft Constitution ambayo mumeweza kupewa pale mlangoni. Kwa sababu ningetaka sana muweze kusoma kuelewa na muweze kujadiliana ili muwatume wale wakilishi watatu wa district yenu ambao watakuja katika kikao cha kitaifa. Muwatume, muwaeleze mambo ambayo mngetaka kuona katika Katiba mpya ikiwa mumefurahia hii draft Constitution mutaweza kuwatuma hili waje na kujidhinisha Katiba hii mpya. Ikiwa kuna mambo fulani ambayo mnadhandia yanafaa kuongezwa ama kubadilishwa, mtaweza kuwatuma ili katika huo mjadala wa kikao cha kitaifa mambo hayo ambayo mtaona ni muhimu yaweze kuongezwa ama kubadilishwa wakati wa kikao hicho ambacho ni kikao muhimu sana katika vikao vyote vya marekebisha ya Katiba.

Tulipokuwa hapa kuchukua maoni tuliwaeleza kwamba tungeweza kurudi na report za Constituency katika province. Lakini tulipomaliza shughuli za kuchukua maoni Bunge ikabadilisha sheria na ikawa sana hatutapata nafasi ya kuja katika province na kujadiliana report yenu, kwa sababu kama mnavyojua kuna watu wengi ambao wanahimiza kwamba Katiba mpya itoke haraka iwezekanavyo. Kwa hivyo pia ikapunguzwa muda wa kujadiliana na kwa wakati huu tuna kama wiki mbili, kujadiliana report hii kwa sababu hicho kikao cha kitaifa kinaweza kufanyika kuanzia tarehe ishirini na nane wa mwezi huu wa kumi.

Baada ya sisi kuchukua maoni yenu, na maoni ya Wakenya wote. Wakati ambapo tulizinguka katika Constituency zote za nchi yetu. Tuliweza kuandika watu ambao walitusaida katika kuchambua maoni yenu, na sisi tukaweza kusoma maoni hayo na pia tukaweza kuangalia report ambazo tulipewa na wataalamu kupitia washa ama workshop ambazo tulifanya pamoja na wataalamu tofauti wa hapa nchini na wengine ambao walitoka ng'ambo ili watusaidie kuelewa mambo tofauti tofauti ambayo mliyatajia. Baada ya kusoma ripoti hizo za wataalamu na kuangalia maoni yenu, tuliweza kuandika ripoti ambayo imesambazwa pia kupitia katika magazeti na nina hakika Bwana coordinator hana zingine ambazo pengine anaweza kuwapatia. Ambapo tumefupisha maoni ya wananchi katika ripoti ingawa tutatoa pia ripoti ambayo itakuwa ni ndefu na ina mambo mengi zaidi. Lakini kwa sababu ya wakati tumefupisha na kutoa ripoti fupi ambayo ilituwezesha na sisi kuweza kuandika hii draft Constitution, kupitia mambo ambayo mlitueleza. Na wakati kabla hatujaandika hii draft Constitution, kama Tume tuliweza kujadiliana kwa muda wa wiki mbili na hatimaye tukakubaliana kuwa ni hii draft Constitution. Na katika kuandika hii draft Constitution tulipitia njia tatu.

Kwanza, katika hizi chapters ama vifungu tofauti tulijadiliana na kuona kama sote tumekubaliana kwa kauli moja, na ikiwa tulikubaliana kwa kauli moja kukuwa hakuna shida. Wakati ambapo tulikuwa hatukubaliana tuliweza kutumia consensus. Consensus ni kusema kwamba tulijadiliana tukashauriana na hatimaye kukawa hakuna haja ya kupiga kura tukachukua kauli ambayo ilikuwa ni ya watu wengi. Kwa sababu pia katika sheria ambayo inahusishwa kazi hii ikiwa Tume haikubaliani wote, tunaweza kupiga kura. Lakini kukawa hakuna haja ya kura, tukatumia njia ya consensus kufikia mambo ambayo yako katika draft Constitution. Na kwa wakati huu tukaileta ilivyo ili muweze kuisoma. Kuna wale wanaona kwamba ni maneno mazuri na

hayafai kubadilishwa, kuna wengine wanaona kwamba kuna seheni kadhaa ambazo zinataka kubadilishwa. Kwa hivyo sasa ni jukumu lenu kusoma na kuhakikisha kwamba mambo yale ambayo yako hapo ni mambo ambayo yanafaa katika utawala wa nchi yetu kwa siku za usoni.

Kufikia hapo, nadhania sasa ingekewa bora tuangalie vifungu tofauti vya Katiba au proposal hiyo yetu, na ikiwa mna mambo ambayo hamjalewa au kuna mambo mngetaka niwaeleze kwa kirefu tuweze kufanya hivyo. Tunatarajia pia kwamba mliweza kusoma hapo mbeleni kwa sababu tulizitoa katika gaziti kama sasa nafikiri zaidi ya wiki mbili. Na mambo ni hayo hayo ambayo yalikuwa kwenye gazeti hayajabadilika. Na kwale ambao hawajasoma tungewaomba mzidi kusoma, na kujaribu kuwatuma hao watu watatu ambao mmewachagua kutoka katika district. Na pia, MP wa area yenu atakuwa ni delegate ikiwa kuna maneno ambayo mngetaka kumtuma, itakuwa pia ni sawa kumtuma katika National Conference.

Kwanza kabisa, katika hii draft tuna utangulizi au preamble kama mliyvyo tueleza, na pia tukaelezwa na Wakenya wengine kwamba kuna umuhimu wa kuwa na utangulizi ambao unatutambua sisi kama Wananchi wa Kenya. Kutambua tofauti zetu za kidini, za kimila na pia tutambue amani na haki ambayo tungetaka kuona katika nchi. Pia, mkatueleza kwamba mngetaka tutambue familia na jamii tofauti. Mkata pia tutambue haki na juhudi inayofanywa na akina mama na wanaume katika kukuza demokrasia na shughuli tofauti na sheria katika nchi yetu. Na pia mkata tusisitize kwamba nchi yetu ni nchi ya demokrasia ambapo wananchi wa kawaida wanapewa nafasi ya kujishughulisha na utawala. Sasa mtaangalia hiyo preamble ama utangulizi muone kama tumeandika mliyvyo taka ama mngetaka tubadilishe na kuongeza mambo fulani.

Katika chapter ya kwanza ya Katiba, tumeangalia umuhimu wa wananchi wa Kenya na tukapendekeza kwamba nguvu zote za jamhuri ya Kenya zimetokana na wananchi na ni lazima katika utawala wananchi wawekwe mbele. Na pia tukasema kwamba, nguvu hizi za wananchi zitapewa vyombo tofauti vya serikali. Vyombo hivyo kama mnavyo elewa ni Parliament. Na tukasema kwamba wanaokwenda katika Parliament, tumewapatia jukumu la kutuwakilisha pale. Tukasema pia, tumetoa nguvu zetu zingine au uwezo wetu tukaupa serikali kuu na kwamba watu ambao wamepewa jukumu la kuwa na kazi katika serikali kuu, watakuwa wanafanya kazi zao kulingana na Katiba. Tukasema pia tumetoa nguvu zetu zingine tukazipatia mahakama na kwamba mahakama hayo yanafaa kuwa ni huru na litafanya juhudi zake zikiwa zinaweka matumaini yetu kama Wakenya mbele. Halafu, tukawa na vyombo vingine ambavyo tunaita ni vyombo vya Kikatiba ambavyo tutavipatia uwezo na tunatarajia kwamba vitafanya kazi kulingana na vile ambavyo vitapewa nguvu na Katiba ya nchi yetu.

Katika section ya pili ama Article au kifungu cha pili tumetambua umuhimu wa Katiba katika nchi. Halafu, kifungu cha tatu tumeeleza jinsi ambavyo tunaweza kuhakikisha kwamba mambo yetu ya Kikatiba yanatimizwa. Na tumesema jambo ambalo halikuwa, tumependekeza jambo ambalo halikuwa katika Katiba iliyopita. Na tukasema mtu yoyote anaweza kupendekeza kesi katika korti wakati ambapo anaona kuna jambo ambalo ni la Kikatiba limekosewa. Na kwamba korti itaweza kutoa amri inayofaa kuhakikisha kwamba Katiba yetu imewajibika. Na katika Article ya nne, tumesema kwamba serikali yoyote itakayo jaribu kufanya kazi kinyume cha sheria itakuwa haifanyi kazi ambayo inafaa na kazi ambayo ni ya halali.

Katika kifungu cha tano, tumeangalia sheria za Kenya na tukazifafanua kuliko vile zilivyokuwa katika Katiba ya hapo mbeleni. Tumependekeza kwamba sheria kuu ibaki ikiwa ni hii Katiba ya nchi yetu. Tukapendekeza kwamba ifuatiwe na sheria ambazo zimetungwa na Parliament, kwa sababu hii Katiba tumetunga sisi kama wananchi lakini sheria zitakazo tungwa na waakilishi ziwe chini ya Katiba. Tumependekeza kwamba sheria pia za kitamaduni ziweze kutumika kama sheria za Kenya. Tumependekeza pia sheria ya jamii ya Kiislam na ya Kihindu. Na pia tukapendekeza kwamba sheria ambazo hazijaandikwa lakini zimetumika na zikawa ni kama desturi ambazo kwa Kiingereza zinaitwa common law, pia zitumike wakati ambapo kutakuwa na haka yake. Tumependekeza kwamba sheria zitakazo tungwa na jumuhia ya Afrika ya mashariki pia zitumike. Na pia sheria au utaratibu utakao wekwa na nchi zingine za ulimwengu ziwe zinatumika kama sheria ya nchi yetu.

Halafu katika chapter ya pili, tumeangalia kama jamhuri ya Kenya tutaishi na kufanya mambo kwa njia gani. Na kwanza kabisa tumetambua mambo ambayo pengine ni muhimu katika jamhuri. Na tumesema kwamba jamhuri yetu ya Kenya iwe ina malengo ya kitawala ambayo tutakuwa na utawala bora wa viama vingi. Utawala wa kidemokrasia na utawala utakao husisha wananchi wa kawaida. Tumesema tuwe na uwazi na uwajibikishaji katika utawala huo. Tuwe tuna vyombo vya kiserikali ambavyo vina mipaka na ni huru. Tuwe ni jamhuri ambayo inazingatia sheria, inazingatia haki za kibinadamu na uhuru wa mtu binafsi. Tukaangalia mipaka tofauti ya nchi yetu, katika schedule mkiangalia upande wa nyuma wa hiyo karatasi ambayo mnayo.

Katika schedule ya kwanza, mtaona tumeandika mipaka tofauti yetu ya Kenya na majirani kwa mfano Kenya-Uganda, Kenya-Tanzania, Kenya-Ethiopia, Kenya-Sudan, Kenya-Somalia. Tumeandika kwa urefu baada ya kuzungumza na wataalamu wa mambo haya. Tumeangalia pia miji tofauti na tukapendekeza kwamba Nairobi ibakie ndio mji mkuu na kwamba Bunge itoe sheria itakayo simamia mji mkuu. Na pia tukapendekeza kwamba, mikataba ni misimamo tofauti ya kiserikali isabazwe katika sehemu zingine za nchi ambazo tutakuwa na utawala wa mashinani.

Tukatanzama pia na kupendekeza kwamba tuwe na lugha ambayo ni lugha rasmi na tukapendekeza kwamba Kiingereza na Kiswahili ziwe ndizo lugha rasmi na kukiwa na mambo yote ambayo yamechapishwa kwa Kiingereza ni mpaka yaandikwe kwa lugha rasmi ambayo ni lugha ya Kiswahili. Na pengine kufikia hapo ningeomba msamaha kwamba hii draft Constitution ambayo tumewaletea hiko katika lugha ya Kiingereza ingawa tungewaletea pia ya lugha ya Kiswahili lakini pengine baada ya siku chache Bwana coordinator ataletewa ambazo zimeandikwa kwa lugha ya Kiswahili. Tuliziwacha zikichapishwa na kwa sababu ya haraka ambayo tunayo kumaliza shughuli hii ikawa hatukuweza kuzisubiri ili ziletwe kwa wakati huu. Lakini pengine kufikia wiki ijayo atapata nakala ambazo zimeandikwa kwa Kiswahili. Na pia tukesema kwamba ingawa Kiswahili ni lugha rasmi pia iwe ni lugha ya taifa. Na tukapendekeza kwamba lugha zote za nchi ya Kenya, pamoja na lugha inayotumika kwa watu wasio jiweza kwa mfano lugha ya ishara na pia Braille, ziweze kukuzwa kama vitu ambavyo ni muhimu.

Tukazatama serikali na dini, na tukapendekeza kwamba kusiwe na dini yoyote ambayo inasemekana ndio dini rasmi ya nchi yetu. Kwamba tuwe na tofauti baina ya serikali na dini na kwamba dini zote ambazo tunaziabudu katika nchi hii ziwe zinachukuliwa na kupewa uzito wa usawa. Tukatazama vyomba ambavyo tunatambua ni vyombo muhimu na vyombo ambavyo

ni vya kitaifa. Tukapendekeza kwamba bendera ya Kenya iwe ni chombo kimoja cha kitaifa na pia national anthem au wimbo wa taifa. Tukapendekeza pia court of arms ama muhuri ambao unatumika katika chapa ambayo unaona katika vitu ambavyo ni vya kiserikali. Na pia tukasema muhuri rasmi wa nchi yetu pia uwe unatambulika kama chombo cha kitaifa. Tukatambua pia katika kifungu cha tatu siku ambazo ni za kitaifa na tukatambua siku tatu peke yake. Na tukapendekeza zile zingine ziondolewe tubakie na tarehe moja mwezi wa sita Madaraka day, December tarehe kumi na mbili Jamhuri day na tumependekeza kwamba tuwe na siku ambayo tutaidhinisha Katiba hii kwamba ifanywe ni siku ambayo ni ya kitaifa. Kuna wale wanadhania kwamba hilo sio jambo nzuri na kuna siku zingine za kitaifa tumeziwacha sasa tungependa kufuata maoni yenu kuhusu jambo kama hilo.

Katika chapter ya tatu, tunaangalia National Goals and Values and Principles au maadili ambayo yatatuwezesha kuendesha nchi yetu na maadili ambayo ni muhimu katika kuendesha shughuli zetu kama Wakenya. Na mambo ambayo tumetambua kama maadili ya nchi yetu ni uhuru wa mwananchi, umoja wa taifa letu, usawa na udhamini wa jamii, demokrasia na utawala mwema na utawala wa kisheria. Tumependekeza pia haki za kibinadamu, usawa wa watu wote bila kuangalia jinsia yao. Tumependekeza bidii ya wananchi hili kufanikisha mahitaji ya kimsingi. Tumependekeza pia ushiriki wa watu binafsi katika shughuli za umma. Uhadhilifu wa kibinafsi na wa kitaifa. Pia tumependekeza uvumilifu na kutoa heshima kwa maoni ya watu wengine. pia tumependekeza mila na maadili tofauti ya jamii za Kenya. Tumependekeza pia kuleta utawala karibu na wananchi. Utatuzi wa mabishano kwa njia ya amani na pia jinsi tutakavyo kuza taifa letu liwe ni miongoni mwa utaifa na umoja wa nchi za Afrika. Mengine mtaweza kusoma nimewapatia kwa kifupi sana. Tumependekeza pia katika sehemu hiyo jinsi ambavyo vyombo au shirika zizizo za kiserikali zitaweza kupatiwa nafasi katika utawala wa nchi.

Katika chapter ya nne, tumeangalia uraia na kwa kifupi sana nitawaeleza mapendekezo ambayo tumeyatoa na tumesema kwamba kuna njia tofauti za mtu kupata uraia wa Kenya. Na tumependekeza kwamba iwe ni kwa kuzaliwa na kwa kujiandisha na pia kwa kuidhinishwa kuwa mwananchi wa Kenya. Tumependekeza pia umoja na usawa wa haki zote kwa kila mmoja ambayo ni mwananchi wa Kenya. Tumesema pia katika majukumu ya kiraia kuwe na usawa na pia katika kutoa vitambulisho ama passport kuwa na usawa kwa wananchi wa Kenya bila kubagua watu kupitia rangi yao, dini au kabila lao. Na pia tukependekeza kwamba, mtoto yoyote chini ya miaka minane ambayo atakayepatikana katika nchi yetu na hawezi kujitambua kupitia kwa wazazi aweze kupewa uraia wa Kenya. Tumependekeza pia kwamba raia wa Kenya aweze kupata uraia wa nchi nyingini kwa kimombo dual citizenship. Na pia tumependekeza kwamba kuwa kumewekwa boards au watu watakao simamia uwadhibishaji wa uraia kwa watu ambao watapendekeza kutaka uraia wa Kenya.

Na katika chapter ya tano ambayo ni muhimu zaidi tumeangalia haki za kimsingi au haki za kibinadamu. Na nitawapitisha kwa haraka na nyinyi mtazidi kusoma na kuona kama kuna haki zozote ambazo zimebakia ama mmependezwa na mambo ambayo tumeyaandika. Na katika sehemu hiyo kuanzia utaona ina vifungu vingi tumeanzia ishirini na tisa, hadi kifungu cha sabini na tano.

Na tukasema kwamba haki za kimsingi ni muhimu katika uendeshaji wa nchi ambayo inazingatia demokrasia. Tukapendekeza kwamba, hizi haki zipewe kila Mkenya bila ubaguzi wowote na tukapendekeza kwamba serikali iwe na jukumu la kuweza kutoa haki hizi. Na katika kigungu thelathini tumeeleza haki ambazo ni lazima zifuatwe na serikali.

Na katika kifungu thelathini na moja tumesema kwamba, ingawa tuna hizi haki wakati wingine haki hizi zitaweza kupunguzwa hili tusiweze kuingiliana na kuharibu haki za watu wengine. Na ukiangalia kifungu cha thelathini na mbili tumesema kwamba kila Mkenya hana haki ya maisha, right to life. Na ikiwa kila mwananchi hana haki ya maisha tumependekeza basi hukumu ya kifo iondolewe. Halafu tukaangalia usawa katika hizi haki na tukasema usawa huu uwezi kuwa kwa kila Mwanakenya na sheria iweko ili kuweze kusimamia hizi haki. Tukapendekeza kuwa kuwe na haki ya kutobaguliwa na tukasema hakuna Mkenya atakaye baguliwa kwa sababu ya rangi, umbo lake au msimamo wake katika jamii, kabila lake, umri wake, kwa sababu ni mlemavu, kwa sababu ya lugha yake ama jinsi alivyo zaliwa.

Tukaangalia haki za wanawake katika kifungu thelathini na tano, tukasema kwamba wana haki ya kupewe usawa na wanaume hasa katika shughuli za uchumi, shughuli za kijamii na siasa. Tukasema kwamba wanawake pia wapewe heshima kama wanavyo pewa wanaume na wapewa haki sawa katika urishi wa mali katika umiliki wa mali na kuweza kujishughulisha na shughuli ambazo ni za kiuchumi. Na tukapendekeza kwamba kusiwe na sheira yoyote, iwe ni ya kitamaduni, iwe ni ya kimila itakayo mbagua na kukosa kumpatia mwanamke usawa katika mambo yake. Na tukapendekeza kwamba ni jukumu la serikali kuhakikisha kwamba wanawake wametambulika hasa katika shughuli zao za uzazi na wamepewa nafasi na usaidizi utakao wawezesha kuendesha mambo yao. Pia tumependekeza haki za watu wazima na tukapendekeza kwamba ni jukumu la familia ya watu hawa wazee pamoja na serikali kuweza kuwawezesha kufanya mambo yao, kuwapatia heshima, kuwapatia nafasi ya kujiendesha na pia kuwapatia reasonable care and assistance au kuhakikisha kwamba wameangaliwa kwa njia inayostahili.

Pia tukapendekeza haki ambazo tunasema ni haki za watoto. Na tumependekeza kwamba watoto wote wanao zaliwa katika ndoa ama nje ya ndoa waweze kupatiwa usawa wa sheria. Na kwamba jambo lolote litakalo fanyiwa mtoto lifanyiwe mtoto huyu ikiwa tumeweka masilahi yake mbele. Pia tumependekeza kwamba wazazi wote wawili waweze kumuangalia huyo mtoto na wamepewa jukumu sawa kisheria.

Halafu tumependekeza sehemu ya familia katika nchi yetu, na tukasema kwamba mtu yoyote ambaye amefikisha umri wa miaka kumi na nane apatiwe nafasi ya kuoia ama kuolewa na kuweza kuunda familia. Na kwamba katika ndoa bibi na bwana tumependekeza kwamba wawe na haki sawa na hata watakapo kuwa kumewachana wawe na haki sawa katika shughuli zao. Na kwamba sheria itambue ndoa za kidini na ndoa ambazo zitakuwa zimefanywa kupitia taratibu za kimila.

Tukaangalia pia haki za watu walemavu na tukapendekeza kwamba serikali itoe utaratibu atakao tambua haki za watu walemavu. Tukapendekeza kwamba wapewe elimu na vifaa vya elimu vya kutosha. Na tukapendekeza kwamba serikali ihakikishe kwamba vyombo vya usalama na nyumba zote ambazo ni za kiserikali zitakuwa na vifaa zitakavyo wezesha watu hawa kuweza kutumia vifaa hivyo. Tukapendekeza kwamba serikali itambue na kukuza lugha ya ishara pamoja na Braille ili watu wasio jiweza au walemavu waweze pia kuelewa mambo ambayo yanafanyika. Na kwamba watu walemavu waweze kuhuzishwa katika sehemu zote za utawala.



Pia katika hizi haki za kibinadamu tumezungumzia kuhusu haki za kisiasa, haki ya kuweza kutembea na kuishi pahali popote katika nchi ya Kenya. Haki ya mtu kuweza kufanya kazi au biashara anayotaka. Tumependekeza pia haki za wafanyikazi. Tumependekeza kwamba serikali itoe huduma kwa watu ambao wasio jiweza kabisa. Tumependekeza kwamba kila Mkenya apate nafasi ya kuweze kuishi katika nyumba inayofaa. Tumependekeza kwamba kila Mkenya aweze kupata chakula na kutoweze kukaa njaa. Tumependekeza kwamba kila Mkenya aweze kuhudumiwa na kupewa maji masafi na maji yaliyotosha. Tumependekeza haki za wanunuzi wa huduma na vifaa. Pia tumependekeza haki ya kila Mkenya kuweza kufika katika mahakama na kuhudumiwa kwa njia iliyo bora na kwa haraka. Tumependekeza pia kwamba watu wanaoshikwa na kupelekwa katika cell za polisi, wasiwekwe kupita masaa arubaini na nane. Haki ya elimu na tumependekeza kwamba serikali itoe elimu ya kimsingi na ya lazima kwa watoto wote.

Katika chapter ya sita, tumezungumzia haki ya uwakilishaji ambapo tumeangalia mambo yanayo husika na upigaji wa kura. Na tumeangalia hapo kuanzia kifungu sabini na sita. Na tumependekeza kwamba ni haki ya kila Mkenya kusimama kwa kutaka kura na kupiga kura. Tumependekeza kwamba kura iwe ni ya siri na kwamba upigaji kura uwe ni wa haki na wa halali. Na kwamba tutakapokuwa tunapiga kura, tutahakikishiwa kwamba matokeo ya kura hizo zitakuwa ni matokeo ambayo ni ya haki. Na kwamba katika upigaji wa kura wanawake, watu walemavu na jamii ambazo zimetengwa zitapewa nafasi. Na katika haki ya kupiga kura tumependekeza kwamba iwe ni lazima kila Mkenya ambayo amefikisha umri wa miaka kumi na minane kupiga kura. Tumependekeza ni akina nani watakao weza kujiandikisha na ni vipi mtu atakosa kuandikishwa kama mpiga kura. Tumependekeza pia hili Tume la kupiga kura na tukapendekeza kwamba Tume hii ipuguzwe wanachama kutoka watu ishirini na mbili wapuguzwe ni watu wasio pugua nane na wasio zidi watu kumi.

Tukapendekeza pia shughuli za Tume hii na tukaweza kupanua shughuli zake. Tumesema kwamba, Tume hii ama tumependekeza kwamba Tume iwe inaandikisha wapiga kura kila wakati. Tumependekeza kwamba Tume hii pia, iwe na kazi ya kusimamia shughuli za kupiga kura na kwamba pia katika kazi yake iwe ni kuhakikisha kura zilizo za haki na za halali. Pia isimamie vyama vya kisiasa, isimamie pesa zitakazotolewa na serikali kwa vyama vya kisiasa kwa sababu tumependekeza kwamba pesa fulani katika budget ya nchi zipewe vyama vya kisiasa. Tumependekeza kwamba zisimamie mizozo yoyote itakayo kuwepo wakati wa kupiga kura na kwamba wasabaze elimu ya upigaji kura na demokrasia. Na pia watazame maneno ambayo ni ya Constituencies na mipaka ya Constituency. Na watakapo zungumza na wananchi ili kuona jinsi watakavyo panua ama kuangalia mipaka, watazame wananchi au population ya Constituency, waangalie jiografia ya Constituency, waangalia haja za jamii inayoishi pale na waangalie census ama ripoti ambayo ilitolewa baada ya kufanyiwa hesabu. Na kazi hii wale wanafanya baada ya miaka kumi.

Pia tumeangalia na kupendekeza mambo mengi kuhusu vyama vya kisiasa na jinsi shughuli zao zitakavyokuwa zinaendeshwa. Na tukapendekeza kwamba kila Mkenya awe na haki ya kuunda chama cha kisiasa au kujiunga na chama cha kisiasa. Tumependekeza pia jinsi vyama vya kisiasa vitakuwa vinaendesha shughuli zake na tukasema kwamba bali na kujishughulisha

na upiga kura kwamba vyama vya kisiasa viweze kueneza mambo tofauti kama vile elimu ya demokrasia, viweze kusimamia shughuli za serikali kuhakikisha kwamba kuna uwazi na uwajibikishaji wa shughuli hizi za serikali. Na tukasema kwamba au tukapendekeza kwamba 0.3% ya budget ya nchi yetu itengwe ili kuhudimia vyama vya kisiasa. Na tukapendekeza kwamba asilimia hamsini ya pesa zitakazo tengwa zipewe vyama vyote vitakavyoweza kupata asilima tano ya kura zitakazokuwa zimepigwa nchini. Halafu zile zingine zitabakia zingawanyishiwe vyama vya kisiasa kulingana na viti ambavyo watakuwa wamevipata. Na tukapendekeza kuwe na nidhami katika hivi vyama vya kisiasa. Na kwamba vikikosa kufuata utaratibu fulani, vinaweza kutolewa na kufutiliwa mbali.

Katika chapter ya saba tunaangalia na kupendekeza Parliament ama Bunge na hii tumependekeza katika ukurasa mia moja na moja, 101. Tumependekeza kwamba tuwe na Bunge itakayo kuwa na sehemu mbili. Tumependekeza National Council ama Senate au Upper House na tukapendekeza National Assembly au Lower House. Na tukapendekeza kwamba njia ya uchaguzi iwe ni tofauti kwamba watakao enda katika hiyo nyuma ya juu Upper House, wawe wamechaguliwa kutoka katika district tofauti. Na watu ambao watakuwa katika (end of side A)-- vitengwe kwa akina mama na hawa wachaguliwa kutoka katika kila province. Na kila province ichague akina mama wanne na hio sasa kwa vile tumetambua province saba, watakao salia watatoka katika mkoa wa Nairobi kwa sababu Nairobi ni mkoa na pia ni district. Na hawa watu watachaguliwa kupitia kupiga kura.

Katika hiki chumba cha pili ama National Assembly, tumependekeza kwamba tupige kura za Wabunge mia mbili na kumi kama kawaida, kupitia kura kama tunavyofanya kawaida. Halafu tumependekeza kwamba, kuwe na wanachama mia tatu. Kwa hivyo tutakuwa tumebakisha viti tisaini na tunapendekeza. Kwamba, viti hivi vipewe watu watakao tolewa katika ordha zitakazo tolewa na vyama party list.

Kwamba vyama ambavyo vitakuwa vimewasilishwa Bungeni, vitatoa orodha ya majina kulingana na watu ambao wangetaka wateuliwe katika Bunge. Na tumependekeza kwamba hiyo orodha itoe majina ifuatayo.

Ikiwa mtu wa kwanza ni mwanamke wa pili awe ni mwanaume na hivyo hivyo mpaka kufikia number itakayo tolewa na Tume hii ya kupiga kura. Kwa hivyo tunapendekeza kwamba tuwe na Parliament itakayokuwa na Wajumbe mia nne.

Halafu tunapendekeza kwamba Ministers na Deputy Minister wawe ni kuma na watano na watoke nje ya Bunge wasiwe ni watu ambao tumewatuma kule Bungeni. Pia, tumependekeza kwamba kikao cha Bunge kitakuwa ni Nairobi na kwamba Bunge litajiwekea calender yake na kwamba Bunge haliwezi kufutwa kabla ya kupitisha muda wake wa kazi. Na tumependekeza kwamba, National Council ama Upper House iwe inafanya kazi yake kwa miaka minne na National Assembly iwe inafanya kazi yake kwa muda wa miaka mitano. Na kwamba Bunge litakuwa na uwezo wa kuweza kupitisha kura ya kutokuwa na imani kwa Waziri Mkuu, kwa sababu tumependekeza kuwe na Waziri Mkuu.

Kisha tukiangalia serikali kuu, tulivyo pendekeza ni kwamba seriakali kuu iwe kuna Rais atakayekuwa amechaguliwa na wananchi wote. Huyu Rais awe amesimama pamoja na mtu tutakaye mchagua kama Makamu wa Rais. Kwamba kiti cha Makamu wa Rais akitapigiwa kura. Tukimchagua Rais, tutamchagua pamoja na mwenzake au running mate ambaye atakuwa ni Makamu wa Rais na atatakiwa awe na qualification ambazo zitakuwa ni sawa na zile Rais kwa sababu kuna wakati ambapo atasimama kama Rais wakati ambapo Rais atakuwa hayuko, atakuwa ni mgonjwa ama atakuwa amefariki.

Na pia tumependekeza kwamba kuwe na Waziri Mkuu na huyu Waziri Mkuu tumependekeza kwamba, achaguliwa apendekezwe kwa National Assembly au Lower House na Rais na kwamba ni lazima aidhinishwe na Bunge. Ikiwa Bunge limemkataa basi hawezi kuwa Waziri Mkuu ni lazima akubalike na Bunge na Rais atakapo mchagua huyu mtu kwamba kabisa tumependekeza kwamba awe ni kiongozi wa chama kitakacho kuwa na wakilishi wengi katika Bunge. Na ikiwa mtu huyu ambaye amependekezwa na Rais amekataliwa na akakosa kuidhinishwa na Bunge, basi mtu atakayekuwa anasimamia vyama vya upizani atapewa nafasi ya kupeana jina na ikiwa jina ambalo amepeana limekataliwa na Bunge basi Rais ataulzwa kuchagua Mbunge yoyote kuwa ndiye Waziri Mkuu.

Waziri Mkuu atafanya kazi yake mpaka wakati atakapo fariki au wakati atakapofutwa kazi na Bunge kwa kupitisha kura ya kutokuwa na imani na yeye ama atajiuzulu. Na ikiwa hayo mambo hayajafanyika basi atafanya kazi mpaka wakati ambapo tutaenda kwa kura.

Katika serikali kuu, pia tumependekeza kwamba tuwe na Mawaziri kumi na watano na manaibu Deputy Ministers kumi na watano, watakao wasaidia hao Ma-ministers. Tumependekeza tabia ambayo itakayofuatwa na Baraza la Mawaziri. Tumependekeza kwamba pia kuwe na Tume itakayo angalia mishahara ya Rais, Makamu wa Rais, Mkuu wa Mawaziri na pia Mawaziri na Makamu wao. Na pengine pia tungependa kuangalia shughuli ambazo kwa kifupi zitakuwa zinafanywa na Rais na zile ambazo zitakuwa zinafanywa na Waziri Mkuu.

Kwanza, Rais anatakiwa kufanya mambo yafuatayo ambayo ni mambo ya kisiasa. Ni lazima alinde uhuru wa taifa, ni lazima aheshimu wingi wa kitaifa na ulinzi wa haki za kibinadamu na ni lazima alinde Katiba na atetee kanuni za sheria. Na pia katika sheria, jambo muhimu ni kwamba ni lazima sahihi ama idhini ya Rais iwe katika miswada yote au sheria au bill zozote zitakazopitishwa na Bunge. Naye Rais amepewa haki ya kuweza kupitisha ama kuidhinisha hizo sheria kwa mara moja, anaweza kukataa na kuridisha hiyo sheria kwa Bunge au anaweza kuomba korti kuu Supreme Court kuweza kumpatia mawaidha kuhusu pendekeza ambalo limepitishwa na Bunge kama mswada au bill ama sheria mpya.

Rais pia amepewa majukumu mengine, kwa mfano kama nilivyo waambia kutafuta ushauri wa korti kubwa. Pia amepewa jukumu la kuhutubia Bunge rasmi mara moja kwa mwaka ingawa anaweza kuhutubia Bunge kwa mara zingine akiona haja ya kufanya hivyo. Atahakikisha kwamba tumekuza demokrasia katika nchi yetu na tumefadhili na kutumia fedha za nchi kwa njia iliyo bora. Na pia anaweza kupendekeza hatua za kisheria kupitia kwa baraza la Mawaziri na sio direct. Na pia ni lazima Waziri

Mkuu, kila wakati kumueleza na kumfahamisha Rais shughuli za kitawala za nchi yetu. Rais pia amepewa uwezo ufuatao:-

Amepewa uwezo wa kuwa ndiye mkuu wa majeshi na anasimamia baraza la usalama wa kitaifa, National Security Council.

Aneweza kutangaza hali ya hatari baada ya kushauriana na Waziri Mkuu na Baraza na pia baada ya jambo hili kuidhinishwa na Bunge.

Anaweze pia kuteuwa Makakimu kulingana na pendekeza atakalo pata kutoka kwa Tume ya huduma za mahakama

Na pia anauwezo wa kuanzisha utaratibu wa kuwaondoa Mahakimu na Ma-judge.

Anaweza pia kuidhinisha makataba ambayo tumeweza kuingia na nchi za kingeni.

Anaweza kuwateuwa mabalozi na kupokea mabalozi watakaokuwa wametumwa na nchi zao. Na pia kuongoza wakati ambapo Bunge linapofungwa.

Naye Waziri Mkuu atakuwa ndiye msimamizi wa shughuli za kiserikali kwa sababu ndiye atakaye simamia Baraza la Mawaziri. Anatakuwa anapendekeza na kusimamia makadirio ya kifedha budget. Atawakagua na kuwapendekeza Mawaziri na pia Manaibu wa Mawaziri na yeye ndiye atapendekeza maswala ya kiserikali yote. Na pia kupendekeza miswaada ya kiserikali yote na ni lazima ahudhuri Bunge. Kwa vile tumeona sio lazima kwa Rais kuhudhuria Bunge.

Tumeangalia pia mahakama katika chapter ya tisa na tumependekeza kwamba tuongezewe tuongozewe korti nyingine itakayoitwa supreme court. Na itakayo simamiwa na ma-judge wapya, ambao hawafanyi kazi kwa wakati huu. Tumependekeza pia kuwe na hiyo Tume itakayo simamia huduma za mahakama za mahakama na tukaipatia kazi zaidi itakavyo weze kuchunga na kuhakikisha kwamba mahakama zinahudumia wananchi vilivyo. Tumependekeza watu watakao weza kuandikwa kama ma-judge na tumependekeza watafanya kazi yao hadi miaka migapi, tumependekeza kupuguza kutoka miaka sabini na miwili hadi miaka sitini na nne. Tumependekeza jinsi ambavyo Rais anaweza kuanzisha utaratibu wa kuondoa judge katika kazi yake kwa sababu hatungependa wafutwe kazi hivi hivi, kwa sababu itakuwa hawawezi kufanya kazi yao kwa njia ya uhuru na njia inayostahili.

Pia tumeangalia ofisi ya Mkuu wa Sheria, na tukapendekeza kwamba ofisi hiyo igawanyishwe mara mbili. Kwamba tuwe na atakayekuwa ni msimamizi wa shughuli za kiserikali, Legal Adviser ambaye tumependekeza ambaki na jina la Mkuu wa Sheria. Halafu tumesema kuwe na Director of Public Prosecution mtu atakaye kuwa anasimamia na kutetea kesi za kiserikali, ambaye kwa wakati huu ako chini ya Mkuu wa sheria lakini tumesema tugawanyishe na awe kazi yake ndio ya kuenda kortini.

Halafu kuna mtetezi wa haki za wananchi ambaye ni Public Defender ama kwa lugha nyingine ni Ombudsman, tumesema ofisi hiyo pia iwekwe ili wananchi wa kawaida wawe na pahali pa kuenda na kulalamika wakati ambapo wanadhulumiwa.

Pia tukaangalia shughuli za mawakili kwa sababu tumeonelea kwamba mawakili huwa kazi yao ni kulinda sheria na ingefaa mambo yao yawekwe katika Katiba. Na tumependekeza mwanzo kabisa kwamba shughuli zao ni kulinda na kutetea Katiba ya nchi yetu. Na pia shughuli yao ni kuweza kufanya kazi yao kwa njia iliyo bora na njia ya uhaminifu, wakiwa wameweka haki na haja za wateja wao. Na pia shughuli nyingine ni kwamba, mbali na kuweza kuharibu shughuli na haki za wateja wao wataweza kushughulika pamoja na mahakama kuhakikisha kwamba hukumu inayo tolewa ni hukumu ya haki.

Katika chapter ya kumi tumeangalia utawala na jinsi ambavyo utawala huo utaweza kufika hadi mashinani kama mlivyo tuagiza. Ukurasa mia mbili na kumi na tatu tumezungumzia mambo hayo. Tumependekeza kwamba utawala ugawanyishwe hadi mashinani ili kuhakikisha kwamba huko karibu na wananchi na kwamba wananchi wanajihuzisha pia tuweze kuwa na utaratibu wa kuhakikisha kwamba kuna checks and balances. Na kwamba rasilmali za nchi zinaweza kugawanyishwa kwa usawa na pia tutaweza kupata huduma inayofaa kama wananchi na tukapendekeza kwamba utawala huu ugawanyishwe mara nne.

Kwamba utawala uanzie katika vijiji, ufike katika locationa ama kasa na ufike katika district hatimaye ufike katika province. Na tukaeleza jinsi ambavyo utawala huu utagawanyishwa na jinsi ambavyo watu watatawala kwa mfano, katika vijiji tumependekeza kwamba wazee wa vijiji wapewe nafasi ya kuwa ndio watawala au ikiwa haiwezekani kijiji kitakachokuwa hakina wazee wa kufanya kazi hiyo wachague viongozi wasiodizi kumi na wasio pugua sita. Katika kata ama location, tumependekeza kwamba representatives wawili watoke katika kila kijiji, katika location hiyo ili waweze kuunda location councils na katika hao viongozi wawili mmoja awe ni mama. Na kwamba watachagua ni nani atakayekuwa ni msimamizi ama administrator.

Tukitoka hapo tunaingia katika districts ama wilaya na tumependekeza kwamba, wilaya ndio iwe na nguvu zaidi katika hizi serikali za mashinani na kwamba watakao chaguliwa wawe ni watu ishirini na wasididi thelathini na wachaguliwe kupitia kura na pia msimamizi wao haweze kuchaguliwa na wananchi.

Halafu kutoka hapo tunaenda katika mikoa, na watu watakao kuja katika mikoa ni watakao toka katika wilaya watu wawili katika kila wilaya katika mkoa huo mmoja awe ni mama. Na tukasema kazi kubwa ya wilaya au serikali ya wilaya itakuwa, ni kukuza utawala katika district councils na kuwasaidia kuweza kupanga mipango yao ya utawala. Na tutatoa kwa kirefu sheria itakayo tumika katika utawala huo wa mashinani mtaweza kusoma.

Katika chapter ya kumi na moja tumezungumza kuhusu mashamba na mali. Tumependekeza kwamba serikali izidi kuangalia mipango na utaratibu wa mashamba. Tumependekeza kwamba serikali ijaribu kugawanya kwa usawa na kuwapatia watu nafasi ya usawa kufikia mashamba. Na kwamba watu ambao wana mashamba, mashamba yao na mali yao ilindwe na tuweze pia

kutumia shamba hizi na mali hii kwa njia ambayo inafaa. Tuweze pia kuifadhi udongo kwa njia inayofaa. Tukasema kwamba kila Mkenya aweze kumiliki ardhi sehemu yoyote ya nchi yetu, na kwamba mgeni asipewe nafasi ya kumiliki ardhi. Wawe wanakodi ardhi kwa miaka isiyopugua tisaini na tisa, sio kuwa ni wenye ardhi lakini wawe wanakodi. Na kwamba kuwe na umiliki wa ardhi wa aina tatu, wa binafsi wa jamii na wa jumhia, private, community na public land. Na tukapendekeza kwamba, mashamba yote ambayo sasa yanasemekana kwamba ni trust land yaweze kuandikwa majina na vikundi au jamii.

Tukapendekeza pia kuundwe Tume itakayo simamia shughuli za mashamba, Tume ambayo itahakikisha kwamba sheria zote ambazo zinasimamia mashamba zimeweza kutengezwa kwa sababu kwa wakati hazilingani na hazifanani. Na pia Tume hii itaweza kuwa ndio msimamizi wa mali au shamba la umma. Na pia Tume hii itaweza kuangalia jinsi ambavyo ubadilishanaji wa umilikiwa wa ardhi utarahisishwa kwa sababu kwa wakati huu kazi hii ni ngumu. Pia wataweza kutafuta suluhisho katika maadhibio ambayo ni ya kihistoria kwa jamii fulani fulani kuhusu umiliki wa ardhi. Kwa mfano, jamii ya watu wanaoishi mkoa wa Pwani wamelalamika wakisema wao ni ma-squatters katika mashamba ambayo ni ya mababu yao. Pia watu wa North Eastern malalamishi na pia watu wa Rift Valley na sehemu zingine pia sehemu za Eastern province mmelalamika sasa tumependekeza kwamba wasuluhishe mambo kama hayo.

Pia tumeagalia mazingara na jinsi ya kuweza kulinda mali asili matasoma na kuangalia tulivyo pendekeza. Tumetoa pia mapendekezo kuhusu fedha za umma na jinsi ambavyo fedha hizi zitaweza kulindwa. Tumependekeza kwamba Bunge iwe ndio msimamizi wa fedha hizi na kwamba fedha ambazo hazijaidhinishwa na Bunge zisitumike na pia jinsi ambavyo serikali itaweza kuomba mkopo, either ni hapa nchini ama ni nchi za kigeni.

Tumependekeza pia shughuli za Banki Kuu ya Kenya, pia tumegawanisha ofisi ya msimamizi wa fedha za umma. Tumependekeza tuwe na Controller of budget au atakaye simamia makisio ya fedha za umma na kuhakikisha kwamba fedha zinazotengwa zimetumiwa kwa njia iliyoidhinishwa na Bunge. Halafu tukapendekeza tuwe na Auditor General ambayo ni mkaguzi mkuu wa fedha za umma atakaye simamia na kuhakikisha kwamba hizo fedha zilitumika kwa njia iliyo ya haki.

Halafu tumetazama katika chapter ya kumi na nne, huduma za umma public service na tukapendekeza msimamo unaofaa kuchukuliwa na wafanyikazi wa umma, Article 258. Na tukapendekeza kwamba wafanyikazi wote wa umma ni lazima wawe wanafanya kazi yao kwa hali ya juu. Ni lazima pia wafanye kazi yao ambayo ni ya usawa katika uchumi wetu. Ni lazima wafanye kazo yao kwa njia ya haki. Ni lazima pia wajishughulishe na misimamo ya kitaifa na ya kisekali. Wawe wanatumikia wanannchi kwa hali ya haraka. Wawe na uwazi katika shughuli zao. Wawe na uwajibikishaji katika kazi zao. Waandikwe kwa sababu wamestahili kuandikwa, na sio kwa mapendeleo na wawe wanapewa training mara kwa mara na pia katika uandikishaji wa watu katika sector hii ya umma, kuangaliwe kwamba kuna usawa wa wake na waume na watyu wasibaguliwe kupitia kabila zao. Na tukaweka Tume ya huduma ya umma na tukaipatia kazi ambayo watafanya. Mtasoma na kuelewa kazi ambayo Tume hii itakayokuwa inafanya.

Kisha tukaangalia sector ambayo ni ya huduma ya usalama. Na katika sector hii tumesema na kupendekeza kwamba zitambuliwe katika Katiba kwa sababu katika Katiba ya wakati huu, huduma za usalama ingawa ni muhimu hazikutabulikana. Na tukapendekeza sector zifuatazo polisi, wa utawala, jeshi la ulinzi, jeshi la wanamaji, jesho la wanahewa na kikosi cha upelelezi. Na pia sisi tukaziwekea na kupendekeza kanuni watazo fuata. Kwa mfano, tumependekeza kwamba wasifungamane na pande zozote za kisiasa, wawe na udhibiti kwa raia, waheshimu kanuni za sheria, demokrasiaa na haki za kibinadamu. Wawe na uwazi na iwajibikaji katika kazi yao. Waongozwe na sheria, wasitii amri isiyo ya kisheria na wasijiuzishe na vitendo visivyoleta manuufaa ya kiuchumi. Walinde uhuru wa wananchi na kusaidia wakati wa shida na wawe na nidhamu ya hali ya juu na uzalendo kwa nchi yetu.

Jambo lingine pengine mngepanda kujua ni kwamba katika huduma ya magereza, tumependekeza kubadilisha jina la huduma hiyo na kuiita Kanya Correctional Services. Kwa sababu huduma ambayo inafaa kutolewa na magereza ni kujaribu kuwabadilisha wahalifu ili wakifika katika jamii baada ya vifungo vyao wawe ni watu ambao wanaweza kuwa na manufaa katika jamii. Na tukaona pengine jina likibadalishwa litaweza kuwa na manufaa katika huduma hiyo.

Katika chapter ya kumi na tano, tumependekeza kuwa na National Security Council itakayo simamia huduma ya usalama na tukatoa shughuli zake na watakao kaa pale. Na pia tukaomba kuwe na huduma ya utawala na tukapendekeza kazi watakayofanya na watakao kaa pale.

Katika chapter ya kumi na sita, kuna Leadership and Integrity, yaani ni mambo gani watakayo zingatia viongozi. Majukumu yao pia tumeyaweka hapo mtaweza kusoma.

Chapter ya kumi na saba, tumeangalia chombo tunachosema kiwe ni chombo cha nne katika serikali na hizi tunaziita vyombo vya Kikatiba. Na tumependekeza tuwe na vyombo kadhaa. Tumesema tuwe na Tume mbali mbali zitazosimamia huduma kama vile huduma ya umma, huduma ya mahakama, huduma ya Bunge. Halafu pia tumependekeza tuwe na Tume ya Haki za Kibinadamu na haki za kitawala. The Commission on Human Rights and Administrative Justice. Tumependekeza tuwe na Tume ya maadili ya uhaminifu, Ethics and Integrity Commission. Tumependekeza tuwe na Tume ya uchaguzi, Electoral Commission, tumependekeza tuwe na kamati au Tume ya mishahara na malipo, Salaries and Remuneration Commission. Tumependekeza tuwe na Tume ya Katiba, Constitutional Commission, tumependekeza pia tuwe na Judicial Service Commission. Tumependekeza pia tuwe na Public Service Commission. Tumependekeza pia tuwe na Public Service Commission, tumependekeza pia kama chombo cha Kikatiba ofisi ya Mkuu wa Sheria. Mkurugezi wa mashtaka, Deputy Public Prosecutor, Public Defender ambaye ni wakili wa umma. Na kama nilivyosema Govenor wa Banki Kuu na msimamizi wa makadilio ya mapato na matumizi wa fedha. Mhasibu Mkuu wa ofisi ya kitaifa ya uhasibu Auditor General na pia Tume ya ardhi. Mkisoma mtaona kwamba hizi Tume tumezipatia kazi zitazokuwa zinafanya ili kuhakisha kwamba tuna utawala ulio bora.

Katika chapter ya kumi na tisa, tumeangalia jinsi tutaweza kubadilisha Katiba. Na tumependekeza kwamba kwa wakati huu

Katiba ibadilishwe kwa njia ifuatayo. Kwamba kukiwa na miswada ya kubadilisha Katiba katika kutengeza sheria Bunge huwa na readings ama msomo mara tatu. Kwamba, katika second and third reading ni lazima kupitishwe by two-thirds majority ya wanachama wote wa Bunge. Lakini pia tumependekeza kwamba, sio Katiba mzima iwe inapitishwa na two-thirds majority. Kwamba mambo yafuatayo yapitishwe na kuletwa kwa kura ya maoni ipingwe na wananchi, na jukumu ambalo limepewa wananchi wa kawaida katika Katiba.

Pili, maadili ambayo tumeyaweka katika chapter six tunasema pia haki za kimsingi chapter kumi isibadilishwe na Bunge. Pia, mapendekezo kuhusu uraia na pia hii chapter ya kumi na nane isiweze kubadilishwa na Bunge mpaka wanaanchi watakapotoa kura ya maoni.

Chapter ya kumi na tisa tumeeleza maneno tofauti ambayo yametumika. Chapter ya ishirini, tumeangalia jinsi tutakavyoweza kutoka kwa Katiba mzee hadi Katiba mpya tunaziita transitional and consequential provisions. Kwa sababu kuna mambo yale hayawezi kubadilika kwa siku moja. Na hapo tutakuwa tumefikia mwisho wa chapter za Katiba hii lakini mkiangalia tuna schedules. Schedule ya kwanza, inayozungumza kuhusu mipaka tofauti ya nchi ya Kenya na majirani. Schedule ya pili, tumeweza kuandika majina ya mikoa na wilaya tulizo nazo sasa tungependa ziwekwe kwenye Katiba ili zisipuguzwe wala kuongezwa ovyo ovyo.

Halafu schedule ya nne, tumeweka vihapo tofauti vitakavyo tumiwa na watu watakao shika kazi za umma. Halafu katika schedule ya tano, tumeandika ile leadership and integrity code, masharti yatakayo fuatwa na watu watakao kuwa ni viongozi na wameshikilia kazi za umma.

Katika schedule ya sita, tumeandika shughuli ambazo zinafaa kutekelezwa ili kuhakikisha kwamba hii Katiba mpya imeweza kutekelezwa kikamilifu na juhudi hizi zimepatiwa Bunge na tumependekeza ni miezi mingapi au miaka mingapi shughuli hizi zifanywe. Kwa mfano katika hii right of access to information, haki ya mwananchi kupata maneno ya kimuhimu Bunge imeambiwa itekeleze jambo hilo kufikia miezi sita baada ya hii Katiba kuidhinishwa.

Tukiangalia mambo ya mashamba Bunge imeambiwa baada ya miaka miwili tuwe tumekamilisha mapendekezo yote ya mashamba. Mtasoma na kuzidi kuelewa. (end of tape 1)... msome taratibu ingawa kuna wiki karibu mbili na nusu sasa muone kama kuna mabadiliko ama hii Katiba ni sawa. Kama kuna mtu yoyote ambayo ana neno la kusema, au swali tungemuomba asema ama aulize. Lakini maswali hayo tafadhali yawe ni maswali yanayo husika na draft Constitution kwa sababu hiyo ndiyo kazi ambayo tumekuja kuifanya kwa siku ya leo. Yes, tafadhali njoo ukae pale tumekuwekea kiti na microphone kwa sababu tunataka sauti yako tuichukue kwenye tape na utueleze jina lako tafadhali na hatimaye uta-sign register hiko hapa na Bwana Mukewa.

**Benard Maingi:** Asante sana. Jana langu naitwa Banard Maingi, na niko na maswali na mapendekezo. La kwanza ni swali



kuhusu watoto wale waliozaliwa out of wedlock. Kama vile ulivyo tueleza, wazazi wawili walee hao watoto. Unaweza kutueleza zaidi kwa sababu uenda ukawa huyu mtoto nilizaa na mama na sio bibi yangu tulizaa tukiwa tunafanyakazi Mombasa na mimi nikaja huku kwetu, na nikamwacha huko. Huyu mtoto nitamlea namna gani?

Pili, ni zile councils ulituambia, ile ya village, locations, ya districts na province. Ya kwanza, nauliza kama kuna standards of education of these people, kama ni wazee wa kijiji. (inaudible) Sasa ikiwa hawasoma waingie huko. Hapo tena nauliza mode of electing the twenty to thirty district officials or council members.

Swali lingine ni kuhusu death sentence, kama vile mlisema death sentence iwe scrapped. Ninaonelea kama mtu wangu aliuliwa na mtu fulani na akaenda akafungwa miaka tano/sita na aje huku, si hata sisi tutamuua? Villagers ama watu wa nyumba yetu? Ninaonelea ndio hii taabu isingie tutumie zile zinaitwa Kamba African Traditional Customs. Kama vile Wakamba hapo zamami walikuwa wanaua wengine na wazee wanaketi chini uikiwa ni mwanamume wanajua ni ng'ombe kumi na mbili, ikiwa ni mwanamke wanajua ng'ombe kumi na mbili, ikiwa ni mwanamke wanajua ni ng'ombe sita. Na wakilipwa hawa ng'ombe hata huyu mtu akiwa anaonekana watakuwa na matata. Kwa hivyo napendekeza hizi African culture ziwe zikitumiwa kwa jambo kama hilo. Ninaunga mkono scrapping ya death sentence lakini malipo yafanywe.

Nne, ni these national holidays. Taabu yangu ni kuondolewa kwa Kenyatta day sio hati nasema kuwe Kenyatta day, ninaonelea kwa sababu tulikuwa na viongozi wengi ama nationalities wengi waliokuwa wanapigania uhuru wetu na hao watu walifungwa tarehe ishirini mwezi wa kumi. Tupindue hili jina la hii holiday iwe kama Kenya Nationalities holiday ama jina liginde tuwe tukiwakumbuka mashujaa wetu kwa kupigania uhuru. Hii Katiba holiday ninaonela haifai, kwa sababu hii Katiba imefanywa mwaka huu na kama vile ulitueleza ikaaendelea na kufanywa na kufanywa tena. Kwa hivyo mimi ninaonelea ziwe tatu, lakini hii Katiba day isiwe kwa sababu Katiba inaendelea na kuundwa. Hayo ndiyo maoni yangu, wamalizie wengine.

**Com. Abida Ali:** Asante jandikishe pale. Kuna mtu mwengine ana maneno au maoni. Is your hand up? The lady behind.

**Rhoda Ndumi:** Thank you. Majina yangu ni Rodha Ndumi Maende from Mavindini. Na langu lilikuwa swali juu ya pesa. Nilikuwa ninaonelea kama ingewezekana pesa ya Kenya ikae na picha kabisa isiwe inapidiliwa ovyo ovyo. Kwa sababu sikuionelea vile ilikuwa imewekwa. Kwa sababu sasa kama kila President akija atakuwa anabadilisha pesa pengine inaweza kuwa pesa ambayo haina maana na hata watoto wale tunazaa wawe hawajui pesa yetu ni ngani. Na hile ingine nilikuwa nataka kuongezea ni juu ya elections. Pale kwa elections sikuelewa vizuri lakini maoni yangu naolea kama ingewezekana tungekuwa tunafanya elections za Members of Parliament civic wakati wake na President wakati wake. Asante.

**Mutuku Muthiani:** Madam Commissioner jina langu ni Mutuku Muthiani. I am representing a local civil education provider, kule Law Society. Nina maswali ya kuuliza kuhusu Katiba yetu. Moja, nilipokuwa ninaitazama niliona kwamba ni kama Tume ingawa ilifanya kazi nzuri, kuna mambo fulani fulani ambayo yaliwachwa nje. Kitu cha kwanza ni the Kenya Police Service.

Draft inasema, kutakuwa na Kenya Police Service lakini haituambii ni nani atakuwa ikisimamia hii isipokuwa mmesema kuna Commissioner wa Police. Ninauliza haingewezekana kuwe na Kenya Police Service Commission hama kitu kama hicho ambapo tungekuwa na police Commissioner kama Executive Officer wa hiyo Commission.

Pili, mahitaji ya Police Commissioner ni sawa lakini mimi nashidwa imekuwa haje Police Commissioner apewe miaka kumi. Appointment for ten years is a bit too long. Ingewezekana huo muda upunguzwe kidogo.

Tatu, National Security Intelligent Service. Isipokuwa tu pale mahali mmesema watakuwa wanachama wa National Security Council hakuna mahali pengine ambapo tunaambiwa this is a Constitutional establishment pengine sijaelewa sana lakini nimeisoma na nimeona imetokea pale. Sijui inatokea pale na sijui inatokea wapi pengine iwe imewachwa kwenye yale makaratasi ambayo tunasoma.

Nne, ni appointments. Sijui kwa nini Commission haikuangalia ione kama mtu amekuwa kama Chief Justice ama amekuwa Commissioner of Police, ama amekuwa cheo kingine kama hicho. Atumike kwa muda fulani na hakimaliza, arudi chini na aendele kufanyie wananchi kazi. Nasema hivyo kwa sababu tumeona katika majeshi yetu. The former Army Commander is now heading a college somewhere in the military circles na huko tu. Mahali pengine kuna vyeo vingine ambavyo mtu anakuwa Vice Chancellor akimaliza anaingina pale anaendelea kufunza, lakini ni kama hapo ukiwa Chief Justice ama President of the Court of Appeal utakaa tu, sijaona unatakiwa uondoke wakati gani.

Lile lingine ni nominations ya Assemblies. Mmesema kutakuwa na wateuliwa tisaini, pengine Madam Commissioner ungetuambia sijui ni nini mliangalia kwa sababu nafikiria watu tisaini wajumbe tisaini nafikiri ni wengi sana kwa nchi ya Kenya. Ingewezekana haje wapunguzwe kwa sababu nafikiria hao ni wengi sana?

La mwisho, ni hivi vyumba viwili the National Council and National Assembly na ni wazo nzuri. Kile kinacho nishinda ni kwa nini moja iwe na miaka mitano na ile nyingine iwe na miaka minne? Tunapiga kura namna gani? Asanteni sana, kazi yenu isipokuwa hayo maneno, kidogo tuangaziwe.

**Rose Mulu:** Asante. Majina yangu ni Rose Mulu. Madam Commissioner langu kwanza ni pendekezo ni kusema ya kwamba hii holiday imewekwa ya Katiba naona haifai. Kwa sababu Katiba itaendelea kubadilishwa na ikibadilishwa kama imebadilishwa mwaka huu ibadilishwe mwaka mwingine haitasomwa wakati mmoja hama haitapewa wananchi wakati mmoja na itakuwa ngumu.

Kile kingine ni Members of Parliament. Wakati tulikuwa tukipeana maoni tulikuwa tumesema Mbunge yule tutamchagua na hakose kufanya kazi yake vizuri turuhusiwe tumtoe, tuchague mwingine na niliposoma sikuona mawazo hayo kama yamewekwa ndani.

Mwisho, ni pahali uliongea. Sikushika vizuri, lakini uliiongea juu ya miaka nikaona umesema miaka sitini na mne na nikaona pengine imeandikwa sitini na tatu, tano. Sasa ningependekeza sijui na judge ama ni wapi nilikuwa niko na kazi nyingine. Ningependekeza hiyo miaka yote iwe sawa sitini na tano. Asante.

**Raphael Ndavi Kiiti:** I am Raphael Ndavi Kiiti from Mavindini. First of all, I want to talk about citizenship. When I went through the Draft Constitution, I was somehow marvelled by some kind of restriction I don't know, whether the Commissioner have considered that. It is good for them to state that for a Kenya President lets say or Prime Minister or other people in those big posts. Actually I think we can still press and say that for somebody to stand for election as a President of this country he or she should be a citizen by birth. Because, you can see that people can acquire citizenship in let say in form of marriages and if they come and they are eligible to be elected as President, he will be a nomad there. I would like to suggest that we put that as a condition for Presidents to be citizens by birth.

When I was going through it I have noticed that there are some provisions which are inadequate, especially in health I think that is the Bill of Rights. I would like to say that in most case and for most citizens they cannot afford health and education including social security. I would like to suggest that in the Constitution it be said that it is the duty of the government to ensure that everybody has got rights and access to good health and social security including education.

On the other part of Members of Parliament, I don't see whether I have got any problem with that because in most cases people where complaining that the expenses will be high, but I tend to believe that if we have to accomodate all what Kenyans want and especially Affirmative action. I don't think we have got any other good way of achieving that goal except having to increase the number of Parliamentarians.

In the Devolution of powers there is also another problem. I don't know whether this upper house will have a special category of Members or it will just be for everyone. I don't know the specific criteria which will be used in selecting those people because there must be a distinction between the two houses and if the upper house has to serve a purpose. I think we should have some interest which should be represented and well articulated in the new Constitution. I don't know whether the Commission can be able to come up with those criterias of trying to have the functions of the two Parliaments, they have been given their criteria. I think I will end there.

**Daniel Ngii:** Asante sana Commissioner. Majina yangu ni Daniel Ngii. Ningesema kwa ufupi mimi nimeona Katiba na nikakumbaliana nayo kabisa. Lakini kuna mambo mawili, matatu ambayo nataka kuyasema. Kwanza sijaelewa vizuri lakini nimeona mahali panasemekana kwamba Waziri atachaguliwa nje ya Bunge na nimeona ni vizuri wale wako ndani ya Bunge wachaguliwe Mawaziri. Hayo ndio maoni yangu ya kwanza.

Pili, ni kuhusu kuoa. Nimeona mahali pameandikwa eighteen years miaka ya watu wote, lakini huyo awe mwanaume lakini mwanamke apewe sixteen kwa sababu wanawake wanakua haraka. Kwa hivyo mwanamke akifika sixteen years awe anaweza kuolewa. Lakini mwanaume iwe eighteen hiyo ingetofautishwa kwa sababu imesemekana eighteen years.

Tatu, ni kwamba national days. Nimeona days ya kwanza ni 1<sup>st</sup> June Madaraka day. Kabla ya kupata madaraka kama Kenyatta angefungwa hatungepata madaraka. Kwa hivyo yangu ni kwamba ni lazima - na ni mimi nimesema hivyo ni lazima Kenyatta day iwe inakumbukwa sana. Na nafikiri maoni yangu yalikuwa ni hayo. Asante sana.

**David Kirimi:** Kwa majina ni David Kirimi. Ningetaka kuchangia ama kutoa maoni kulingana na vile, nimeangalia Katiba vile iko. Mahali ambapo ningetaka kutilia nguvu ni pale ambapo tunaona hizi siku ambazo ni za kitaifa ambazo tunasherehekea kama vile Jamhuri day, Kenyatta day na hizo zinginezo. Maoni yangu ningetaka kutilia nguvu nisema ya kwamba siku ambazo ninaona at least tuwe tunasherekea ni kama Jamhuri day. Kwa sababu unaona hizi siku zingine tumezisherekea serikali yetu inatumia pesa nyingi sana ambazo hizo pesa ama hizo fedha zingetumika kwa njia ingine kama kusaidia wale ambao hawajiwezi ama kusaidia hata vikundi vingi hapa nchini. Huwa tunatumia pesa nyingi sana ambazo hazipaswi kutumiwa kwa njia ovyo ovyo. Asante.

**Com. Abida Ali:** Kuna mtu mwingine?

**Joseph David Maundu:** Thank you. My names are Joseph David Maundu, I work with Kenya National Library Services. I want to give a recommendation to the good work the Commissioners have done in coming up with this Draft Constitution. There is a lot we need to go through it and also understand but I want to say one thing on the access to information. On that bit, the recommendation was the government has to publish any information they may have for the wananchi to know, but I want to add something there. Such documents should also be deposited in our national library for reference and also for posterity for people to know what was there even others as they go on making other references. Thank you.

**Albanus Maingi:** My names are Albanus Maingi. I am representing civil organization MAPACA, Makeni Paralegal Coordinating Agencies and on my behalf I have three issues to raise to the Commission:-

1. About the appointment of the Police Commissioner. That is the Police Commissioner has been given a term of ten years. We see as Kenyans that this is a very long time and should be revised or addressed severely by the Commissioner. For example, we may have the term reduced to two years term of three and after the three terms he should not be appointed again.
2. Nomination of members who are not elected in the National Assembly. We have found that the Commission is talking about ninety members being appointed in the National Council with two 210 elected members. We feel this is a very big

number and we feel and we need the Kenyans, to feel that what is coming from the Parliament is whom they have elected to the Parliament. Not people who are coming there individually or with personal interests. So, this number can influence very much what is coming out of the Parliament.

3. The customary law on inheritance concerning women. On my behalf, I think the customary law should be respected which does not violet the Constitution. But I insist that the customary part on inheritance on each tribe or ethnic group should be respected. Thank you.

**Com. Abida Ali:** Is there any other person we are through with questions? Yes please.

**Richard Naibei:** Asante Commissioner. Mimi ni Richard Naibei na kuna jambo moja ambalo limesahuliwa ingawaje haki ya mtoto imesemwa kwa upande moja. Lakini kuna wale watoto ambao wanapatwa na wasichana wetu, wakiwa shule ama kabla hajaolewa. Na Katiba inasema ya kwamba, haki ya mtoto lazima baba na mama wahusike kwa malezi yake. Sasa huyu mtoto ambaye ni wa msichana, ni nani huyu mtoto atakuwa anamtengemea nani akiitaji jambo lolote? Maana mara nyingi tumezunguka sehemu mbali mbali tunaona ya kwamba wakati watoto wanataka kupata vipande mara nyingi anarudishwa kanisani, anaandikwa haki ya kuzaliwa na pale inaandikwa jina la baba yako, jina la mama. Lakini inakuwa ni shida saa zingine, unakuta kama sehemu hii ya ukambani kuna watoto wengi wanandika tu jina la mama, baba hayuko sijui hawa watoto wanapata haje vipange ukifika umri wa kupata vipande. Na sehemu zingine unakuwa wanaandika tu hata kama walipata nyumbani wata-identify wa mtu fulani na wanaandika jina la huyo mzazi anaye husika. Kwa hivyo ningependa nijue hapo. Sasa sijui hii Katiba itawasaidia hawa watoto kwa njia ngani ambao ni msichana tu aliyebeba ndiye atazaa na amlee peke yake.

**Com. Abida Ali:** Asante, jiandikishe.

**Praxedes Nzisa Wambua:** Asante sana. Kwa majina Praxedes Nzisa Wambua. Ninauliza upande wa, hii Local Government. Sijaelewa kabisa kama hii ndio inamaanisha tukichaguana kwa village, hiyo ndio inawakilisha Assistant Chiefs ama Assistant Chiefs watakuwepo? Ama hii ndio tutakuwa tunaita local authorities kama Councillors. Hiyo ndio ninataka nielezwe. Asante.

**George Ndambuki:** Thank you Madam Commissioner. My names are George Ndambuki Kombulo, I am a teacher. Now, mine is on cabinet because you have hindered the cabinet members or lets say those ministers they are not members of the Assembly. So, I think in this one though they will be appointed by the Prime Minister I think it would be better if the Constitution may give guidelines especially, as per the academic qualification. Because without this we may have a situation where by somebody who is a militant given a ministry like finance or lets say medicine. So I think though I may not have gotten it well, according to me I feel that I would be better if the Ministers they may be in the line in which they are speciliated in so that we can have lets say cabinet which is well organized in their areas.

The other thing I feel I should talk about is on marriage. Because in the past we have had let's say the mothers being given the maternity leave, I also think the men should be given the same to attend their wives. Because you can't be in the office and the same time you are attending a wife who is in the hospital. So I think we can also have that being looked into. Thank you.

**Com. Abida Ali:** Nafikiri tumemaliza maswali ama yako mengine? I don't think so. Yes.

**Benard Maingi:** My names are Benard Maingi.

**Com. Abida Ali:** Do not repeat what others have said.

**Benard Maingi:** You want me to repeat it. I said that in your draft you have written that a child should be taken care of by both parents and my problem is a child who is born out of wedlock. How would the father care for that child if he is not married to the mother?

Okay, now my easy question is on National Council representatives that is what you said the senate. You said that there are seventy seats from the seventy districts and thirty seats preserved for women. The seventy seats, specially meant for men or for men and women, and if for both and it happened that of the seventy seats women occupied majority of them should be the thirty be preserved for men?

**Com. Abida Ali:** Asante kwa maswali yako. Bwana Maingi amauliza kuhusu hawa watoto ambao wamezaliwa nje ya ndoa nadhania Bwana Maingi what we are trying to do for the moments is to make sure that citizens take responsibility for their actions. So, if you father a child knowing very well that you have legal wife, it then becomes your responsibility to take care of that child. So we are just trying to make sure that as citizens we take charge of our actions because that child is innocent. So if you father a child in Mombasa so long as the state can prove and these days we have technology to prove, then you will have to take care of that child. And that is why we are saying whether a child is born within or outside wedlock both the parents should take charge and responsibility and care equally depending on their financial status to take care of that child. I think that is not a difficult thing to do, we are just trying to be responsible.

Halafu, ukauliza swali kuhusu National Council and the seventy seats. Now, the seventy seats are open for anyone to contest so long as you meet all the requirements. And we propose that we should preserve thirty seats for women as a way of creating affirmative action. And my answer for you is this in the last forty years of independence, we have had only seven elected women. It will take us a long time to have seventy elected women in the National Council. That is the historical reality of our country and the whole world. So we wanted to be realistic and we also wanted to take into recognition the cry of women that this country cannot be built if they are left behind. And for us having considered all the views, having considered the traditions worldwide we thought there was a need to have affirmative action but I can see you have too ladies representatives to the

National Council if this is not acceptable around these areas you can always send them. I am sure if they will healthily represent your view to reduce the number of women.

Kisha, ukazungumza kuhusu village councils and the other councils. We did not set educational standards for utawala wa huko chini. Because we have done that for the MPs and we have done that for the National Assembly and the National Council. And while we were collecting views, there are people who told us and I think rightly so, that education is not everything in the governance of this country. So what we said, if we want to recognize like you told us the village elders then it would not be right for us to put an age limit. I mean educational limits. So we did not do that but again if you think we need to do that you can always recommend and I am sure this is something that I have heard in the other three Constituencies that I visited. I am sure my colleagues are probably hearing the same thing and it is something that can be reconsidered at the National Conference.

Na ukauliza the twenty to thirty ambayo wako katika locations, how are they going to be elected? They will be voted in, watasimama kura kwa njia ya kawaida. We also propose that we should use African Traditional Systems to sort out issues of murder that is also something that can be taken up. We have recognized the African Traditional customs as one of the laws of Kenya, so that is something that can be enhanced we see whether in such situations we can also reconsider the place of customary law. That is something that can be done.

I will also say that we shall also reconsider the Katiba holiday, a lot of people also think it is not useful and that is why this document is out here for you to give us your views. That is something that can be reconsidered and removed from the Constitution.

The next person was Rodha Maingi, she talked about the Kenyan currency. This is something that can be taken up by may be policy on Legislation. Hatukutaka kuiweka kwa Katiba but it is something that is there in our report. We were told by a lot of people and I am sure it can be taken up. Na ukauliza kuhusu election of MPs and civic leaders. Katika hii Katiba tumependekeza kwamba tusiwe na civic seats. Kwa hivyo tutakuwa na election ya MPs, election ya President na zile za leaders wa village na wa district. Kwa hivyo kama hivyo unataka sifanywe tofauti when you come to the National Conference, you can tell us but we are proposing to do away with the county council, the municipal councils and the like and the local councils.

And then Mr. Mutuku akasema kwamba hatukuzungumzia kuhusu ni nani atakayekuwa incharge of the Kenya Police. I think the National government is normally incharge of the police, so we may not have said it in the Constitution, but it is there in Legislation. But if you feel that we need to specify, that is something that we can do to make sure that everyone knows who is incharge of the police service.

Na pia ukasema and somebody else asked the same question why are we giving the Commissioner of Police ten years, isn't it

too long? We have actually given the Police Commissioner five years like we have done with other Constitutional offices other than the ones that enjoy security of tenure. And we have said if this Police Commissioner has done a good job he should be given another five years to continue. And the biggest question that we put in our heads was this, supposing there is a very a good police who is promoted to be a Police Commissioner at the age of forty. Now, are we going to expect this man to retire at the prime age of forty five years. Because you cannot in reality be a Police Commissioner and then after five years we expect you to serve in a junior position. I think in reality certain things don't happen and we said, let us then give him an opportunity to serve another five years if he is a good person so that if he is retiring at least he is retiring at the age of fifty. So, those are the consideration that we had but again of course we are open to wider proposals that will be acceptable.

And then you talked about the National Intelligence Service. Yes we have not specified although we have said the person heading should seat in the National Security Council because it is an arm of the police as it is now. The National Security Service, so we didn't not talk about Kenya Police, we didn't talk about the reserve, we didn't talk about the APs those are things that are just reviewed by ordinary Legislations. So again we did not specify and if you think it is important it can be taken up at the National forum.

You are also, not happy with the nominated ninety MPs, they are too many that could be so. But again we considered that, at the moment we have a lot of people in Kenya who are marginalized and cannot be able to compete in the normal elections. For instance, we took into account the youths, we took into account people with disability, we took into account people from marginalised groups and we took into account women. Because as much as we preserved seats, in the National Council we believe that they should also be represented in the National Assembly. And we thought that ninety is a reasonable figure but of course it is subject to revision at the National Conference so you could probably propose a figure that you think is reasonable. And for the parties we have recommended that they should look at diversity in appointing these people who will form the figure ninety. That they should not look at their friends, their brothers and sisters and so on and so forth.

Then, you wanted to know why the National Council serves for four years as the National Assembly serves for five years. What we thought is that we cannot have then dissolved at the same time, then we will have a vacuum that at least we should have a difference of one year for continuity. That is the way we looked at it.

Rose Muli is not happy with Katiba day nafikiri hiyo tumeambiwa and we will reconsider that I am sure. Halafu ukasema kwamba mliambia turudishe MPs na hatujaandika na ukiangalia section 112 it is there. Infact, it is there na tumesema kwa kirefu ni vipi mnaweza kuridisha MP. Section 112 sub-section 2 anaweza kuitwa akiwa ni mgonjwa, anaweza kuitwa akiwa hana tabia nzuri na anaweza kuitwa ikiwa hajatumikia na amekimbia kutoka kwa Constituency. Na kwamba mtapendekeza kupitia kwa Speaker ambapo mtafanya petition ya 30% of the registered voters. Iko hapo.

Halafu ukapendekeza kwamba judges wote wa-retire at sixty five, imeona ukisoma kwamba haikulingana. Vile tumependekeza



ni kwamba, judge akifika miaka sitini awe na uwezo wa ku-retire bila kulazimishwa. You can opt to retire at age sixty but you must retire at age sixty five. Ndio maana iko na tofauti and I think that is normal even in the civil service at fifty you can opt to retire, sixty five mandatory.

Na pengine watu wengi wanauliza kwa nini judge wanapewa muda mrefu wa kustaafu. The reasoning that we had is that, to attain the quality of a judge it takes many years, infact you cannot be a judge unless you are thirty five and above. Where else you can become a civil servant as you qualify even at age eighteen. Na kwa sababu experience is important in the kind of work the judges do, that if we limit it to age to fifty and fifty five tutakuwa tumepoteza youth na wisdom ambayo hawa watu wamepata kufikia umri huyo. Lakini kwa sababu pia tunaelewa kwamba kila ukizeeka nayo akili inaenda ikipungua kwamba age seventy two ambayo wako nayo kwa sasa kuna wale wanakuwa sinale kitambao hawajafikia hapo. Ndio tukasema iwe reduced to age sixty five.

Halafu, Raphael ukasema President to be a citizen of Kenya. If you read section 156 subsection 1A the qualifications of a President is that you must be a Kenyan by birth. I think we just need more time to study the document.

Na ukasema pia kuhusu health if you look at section 57 tumesema kwamba it is right of every Kenyan. Sio lazima tuseme haki hospitali unajua huu ni muongozo the Constitution is really the guide, there are many things that will be there katika policy za serikali na katika normal Legislation. But we have said it is right for every Kenyan to enjoy good health.

Na pia ukazungumza kuhusu education iko hapo katika section 58 where we have said that the state should provide free and compulsory basic education and that the state will ensure we have the necessary institution for post secondary education.

Halafu ukasema social security it is there in section 56 where we are saying kwamba the state will provide (end of side A)...yes because now we have given you an opportunity to take the state to court. In the current Constitution the provisions are there but there is nothing we can do. They are there in paper but you cannot take the government to court. If you look at chapter one- I don't blame you, but take time to read the whatever. If you look at Article 3 of chapter one it gives a citizen the right to go to court to enforce the Constitution. So we giving our people to go and say look, the state has the following obligations but it has failed to do that. And you don't even have to go as a person you can go as a group of people, you can go as a community, umeelewa? To make sure that the provisions of this Constitution are exposed something that is not there in the current Constitution.

Kisha ukauliza what is the difference of qualification in studying for elections in the Upper House. The difference is that in the Upper House you have to be thirty five years and above in the Lower House you can stand at age twenty one. So that is mainly the difference otherwise the other qualifications are more or less the same.

Now, the other difference is also that there are hundred in the Upper House and in the Lower House we are going to have three hundred MPs.

Then, Mr. Daniel Ngii is proposing that MPs should come from Parliament. I think a lot of people have said that and it is an issue that can be taken up at the National Conference.

You have a problem with women and men marrying at the same age. Mr. Ngii you can't have your cake and eat it, you have told us we should not have discrimination. Now, if we say that men are to marry at eighteen and women are to marry at sixteen, men are going to tell us we are discriminating against them. So, the Constitution if you look at section thirty four has stated that there should be freedom from discrimination. So, you can't give with one hand and take with the other hand.

If we must have harmony, then we should have equality and also we took into recognition the fact that girls are forced to marry at age sixteen when they are still in school. So if we had given that free hand then parents would have no reason to take their children beyond age eighteen in school. And we know that in our current educational system, people are in school until age eighteen. So we thought that we have to give equal treatment to boys and girls and I think that is also a universal provision worldwide that children in fact the Constitution now says a child is everybody under the age of eighteen. So, how can a child be married at age sixteen. That is something that ... but you still have room to pursue the six hundred and twenty nine delegates at the National Conference that girls are marriable at age sixteen.

Then, of course you had your recommendations on Kenyatta day you would like to see it remain. I think that is something that we take up.

David aliongea pia kuhusu National days and the expense. He proposes that we should only have one National day. I don't know whether other Kenyans can accept, but we will take forward your information.

And then you also talked access to information. We will see whether that can be improved as we have written it so that it can take on board what you are talking about.

Albanus Maingi, aliuliza kuhusu Police Commissioner, I think I have answered that. He also had a problem with ninety members nominated I think I have answered that as well. May be the only comment that I wanted to make is that our vision in recommending the ninety people was that due to the new Constitution and the guidelines that have been given to the political parties that they will not appoint people who will propagate personal interests. That these are people who will come to represent the interest of the marginalised members of our community. But that is the way we looked at it and hope the national political parties will be able to follow the Constitution.

Then there was the problem of inheritance of women and that customary law must be respected. What we have said in section thirty five, is that no law should be used to discriminate women. Because what we had from women is that customary law has been used to discriminate them. So, if there any customary law of inheritance that does not discriminate women it can be used. But for as long as it is discriminatory and it does not allow women to inherit then the women can go to court to enforce the provisions of the Constitution. But, if that is not acceptable again it is something that can be brought up at the level of the National Conference to be debated. There will be several women tusikie vile watasema.

Rights of children. Richard Maingi uliuliza ni vipi hawa watoto ambao wamezaliwa nje ya ndoa watalindwa ikiwa wamezaliwa na watoto wa shule. Article 37 (1 and 5) is very clear. Imesema hivi kwamba watoto ni lazima wachungwe na wazazi wa hizo families and society and the state. Kwa hivyo msichana wako akizaa, inakuwa ni jukumu lako kuchunga huyo mjukuu ikiwa haziwezi.

And then section five ukauliza kuhusu jina kwa sababu pia watu wanasema mtoto umelavyo ndivyo akuavyo sasa pia it has to be your responsibility to make sure kwamba mjukuu wako amelelewa kwa njia nzuri, umemsomesha na umempatia mapenzi na mahitaji yote. Ikiwa wewe uwezi unaenda kwa jamaa wako kwa sababu it becomes a responsibility of the community, the society and the state. Ukishindwa kabisa serikali itaingilia, ndio tumependekeza hivyo.

Halafu kuhusu jina tumesema kila mtoto ni lazima apewe jina. Na ukisoma hii section ambayo inasema “ a child whether born within or outside wedlock are equal before the law and have equal right under the Constitution.” Unawesa kusoma inamaanisha kwamba, kila mtoto apewe jina lake kulingana na mila. Kama mila inasema ni baba ikiwa alimuoa mama yake hajamuoa basi amupatie jina. But you can interpret it, depending on your traditions.

Kisha, kukawa na swali kuwa hawa Chiefs na Assistant Chief watakuweco na watakuwa na nguvu. Tumependekeza kuondolowe kwa Provincial Administration kwa hivyo hakutakuwa na Chief na Assistant Chief, DO, DC na PC na ndio maana kuna village councils, districts, watu wale watakuwa huko ndio watakuwa wanatawala.

Na Bwana George Ndambuki akasema afadhali cabinet iwe na MPs na akasema tupewe guidelines. Nafikiri ukisoma tumesema kwamba the Ministers and Assistant Ministers should have relevant education to their Ministries so we have taken care of that.

Na pia ukazungumza kuhusu marternity unfoutunately, I don't think we had a lot of views like that one. May be your views have come a little late but I can tell in reality it may not get a lot of support. I think the economy need a lot of us working so that we can develop it na ukiuliza wamama pengine watakuambia wacha mzee akae nyumbani siwezani na mtoto na mzee nyumbani. So, I think you are ipinion has come in a little late and we didn't get a lot of views like that. Pengine siku zingine tukibadilisha

Katiba au tuma hawa wakilishi wamama kama watakubali watuambie hivyo kwa National Conference. But it doesn't work in reality I can assure you that. Uliza wamama utasikia watakuambia wacha nichunge mtoto mmoja. Asanteni kwa hayo nitawarudisha kwa Bwana coordinator.

**Sammy Kiteng'u:** Asante sana Commissioner Abida Ali Aroni for that nice presentation, and I would like us to appreciate the presentation by a clap. Just once, one, two, three.

**Audience:** Clappings

**Sammy Kiteng'u:** Thank you so much. To continue, I would like to thank you all of you having had this time to come and sit here with us and listen to this draft Constitution. I would also like to tell you that, you will be ambassadors to those that have not come here. You go tell them the same thing, you tell them also to be keen and read the Constitution, as it is on that piece of paper you have and understand exactly what is in it.

Secondly, I would like to introduce to you the three representatives that were elected on 17<sup>th</sup> September 2002. That is the time we had the elections and the electors were your county council Councilors. So, I will start with Rodha Ndumi Maende, so that is one of your district representatives to the National Constitutional Conference. The next one is Praxides Nzisa Wambua, thank you. And one who is not here because he comes from Kilome Constituency is William Matheka Nduse. So, what I would urge you to do, if you have more views concerning this Constitution and you did not get a chance of presenting it here, you can write it down and give it to them. When they go to the National Constitutional Conference they will present those views. Again a part from these three your area MP can also be used for the same purpose.

I would also like to take this opportunity to ask them to familiarize themselves with the draft Constitution, please read it from cover to cover. Also come for the short report, I will also give it to you, please make sure you read it through because you will be representing the whole of Makueni district. And we believe that you are able to do that responsibility we have given we have given you as the people of Makueni district. Unless there is anybody with something else, I want to close the meeting with a word of prayer from a volunteer. Thank you, utatuambia majina yako halafu uanze.

**Daniel Ngii:** Thank you very much. Majina yangu naitwa Daniel Ngii. Tutaomba. Baba twakushukuru kwa sababu ya uwepo wako tulikuuliza wakati tulipoingia kwa nyumba kwamba uwe pamoja nasi na utuongoze. Na umeongoza Commissioner na wale wengine walikuwa naye na watu waliokuwa hapa ukatuwezesha tukamaliza kikao hiki tukiwa pamoja nawe. Tunashukuru kwa sababu wewe ni Mungu na tunakuuliza hii Katiba iende through mpaka National Conference ili tuweze kushinda. Kwa sababu ni kazi tulianza na tukafanya kwa nguvu sana, tukitakia Kenya yetu mema na nafikiri katika Katiba hii, Kenya yetu itakuwa Kenya nzuri. Na tutafurahia kuishi katika nchi hii na Mungu tutaendelea na kukusifu na kukuinua kwa sababu wewe ni mwema. Wakati huu tunataka kwenda manyumbani na kuenda mahali popote tunataka kuenda huwa pamoja nasi. Na yote

