

**CONSTITUTION OF KENYA REVIEW COMMISSION**

**(CKRC)**

**Verbatim Report Of**

**DISSEMINATION OF REPORT AND DRAFT BILL, MASINGA  
CONSTITUENCY, HELD AT MASINGA CATHOLIC CHURCH**

**ON**

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

Final copy

**DISSEMINATION OF REPORT AND DRAFT BILL, MASINGA CONSTITUENCY HELD AT MASINGA  
CATHOLIC CHURCH ON 17<sup>TH</sup> OCTOBER 2002**

**Present**

1. Com. Abida Ali Aroni

**Secretariate in Attendance**

1. Collins Mukewa - Programme Officer
2. Susan Mutile - Verbatim Recorder
3. Rose Kimeu - District Coordinator

The meeting started at 10.45 with Com. Abida Ali in the chair.

**Rose Kimeu:** Ningependa kuwasalimia asubuhi ya leo. Good morning to you?

**Audience:** Good morning

**Rose Kimeu:** How are you?

**Audience:** We are fine.

**Rose Kimeu:** I welcome you this morning to the Constitution of Kenya Review Commission meeting today here at the Masinga Catholic Church Hall. My name is Rose Ngila Kimeu, I am the district coordinator Constitution of Kenya Review Commission Machakos and with us this morning is Commissioner Madam Abida Ali Aroni who is one of the twenty nine Commissioners at the Constitution of Kenya Review Commission. Would you want to welcome her with a clap?

**Audience:** Yes.

**Rose Kimeu:** Please do, one, two, three, karibu, Madam Commissioner, hapa Masinga, sisi ni watu wazuri karibu sana, tutafurahi kuwa na wewe, fungua, fungua. (*Clappings*.)

**Rose Kimeu:** So, with the Commissioner we have a Programme Officer from Nairobi. We have Collins Mukewa, Collins please say hallo. And Madam Mutile from the Constitution of Kenya Review Commission. I wouldn't want to take much of the time, let us give the microphone to the Commissioner to proceed with the meeting.

**Com. Abida Ali:** Good morning everyone.

**Audience:** Good morning?

**Com. Abida Ali:** I hope we can speak in English for the sake of everybody, tuzungumze Kiingereza.

**Audience:** Kiswahili.

**Com. Abida Ali:** Kiswahili na wanafunzi wanaelewa kweli Kiswahili. Mnaelewa?

**Audience:** Ndio

**Com. Abida Ali:** Okay. Nimefikiria wamesoma sana wamesahau Kiswahili. Habari zenu.

**Audience:** Nzuri.

**Com. Abida Ali:** Ningependa kuwakaribisha katika huu mkutano kwa niaba ya Tume na kusema tumeshukuru kwa vile mmejitokeza na kufika. Tunajua hapa kwenu kuna shida nyingi ya transport na tunataraji kwamba wengine wako njiani na wanaweza kufika na kujiunga na sisi. Na kwa wanafunzi tunashukuru kwamba mmewanacha shughuli zenu za masomo na mkaweza kufika hapa kwa siku ya leo. Sasa leo, tumekuja hapa na programme yetu ni fupi sana na tumezuguka sehemu zote za Kenya katika Constituency zote kujaribu kuwaletea hizo nakala za mapendekezo ya Katiba na leo na kesho tutakuwa tumemaliza Constituency zote za Kenya. Kwa sababu tunafanya kazi kwa wiki mbili zilizopita tukiwa tumeenea sehemu zote na hii ndio sehemu yangu ya mwisho katika Eastern Province. Kwa hivyo ninashukuru sana kwa vile mmejitokeza. Leo tumesahau kuomba Bi coordinator, labda tuombe halafu ndio tuendelee. Asante.

**Rose Kimeu:** That was a serious oversight. So kuna mmoja wetu mwenye angependa kutuongoza kwa maombi leo? Kunaye? Who is going to pray? Sawa, karibu.

**Winrose Muthoni:** Let us bow our heads and pray. Heavenly Father, we worship you, we give you all the glory this morning. Thank you Father for taking care of us throughout the day, from morning up to this far oh God. We thank you for the meeting God of the Constitutional Review. We thank you God because you are the Father who leads our country and takes care of our country oh God. We pray that Jehovah everything that God will be said here, oh God. And as the leaders go for the meeting of leadership of our country, we pray that God you may help us oh God. We pray that Jehovah you may lead us because you are worthy. Be with and move with us through Jesus name we have prayed.

**Rose Kimeu:** Asante sana. Karibu Commissioner.

**Com. Abida Ali:** Asante sana na tunaomba musamaha tulikuwa tumesahahu kidogo na kawaida tunapenda kuanza mikutano yetu kwa maombi kwa sababu jambo hili ni nzito kwetu sote kama Wakenya.

Sasa nilikuwa nataka kuwaeleza kwamba tumekuja siku ya leo kuwaeleza hizo nakala za mapendekezo ya Katiba na kuweza kuwasaidia kupitia katika chapters tofauti na kuwaeleza kwa kifupi sana ili mpate nafasi ya kusoma baadaye. Na ikiwa mna maswali ambayo yatahitaji sisi kufafanua ama kuelezea tuweze kufanya hivyo kwa sababu tunatarajia mtawatumia wakilishi wenu wa upande huu wa Machakos district ili wafike katika kikao cha kitaifa baada ya wiki moja kutueleza kama mnafurahia mapendekezo hayo ama mna mambo mengine mngependa kuchangia.

Pia, kwa vile tuko na wanafunzi sijua kama wanaelewa madhumuni ya sisi kutaka kubadilisha Katiba. Mnaelewa? You understand why we are changing the Constitution? Kwa vile hawaelewi nitawaeleza kwa kifupi kwa nini, the objectives and also the structures tumetumia structure zipi ili kuweza kubadilisha Katiba ya nchi yetu. Halafu nitawaeleza pia kwa kifupi ni njia ngani ambayo tumetumia ili kuweza kutoa mapendekezo ya Katiba na baadaye nitachukua kama nusu saa ili niwapitisha katika hiyo Katiba mpya kwa kifupi sana. Na nitawapatia tena nafasi ya kuuliza maswali au kusema kama mna maneno kidogo ambayo mngependa kusema na baadaye tutafunga mkutano tena kwa maombi.

For the students, na wale ambao hawajui kwa miaka kama kumi au zaidi kidogo, watu tofauti hapa nchini wanasiasa, watu ambao wanasimamia shughuli za kidini na watu ambao wanasimamia shughuli ambazo hazikusimamiwa na serikali Non Governmental Organisations ama civil society wamekuwa wakiomba kwamba tuwe na Katiba mpya kwa sababu inaonekana kwamba mambo mengi yameharibika nchini hasa uchumi, mambo ya kisiasa na wakafikiria kwamba pengine tukiwa na Katiba mpya, tutaweza kubadilisha mambo mengi katika nchi. Na kufikia mwaka wa tisini na saba 1997, kupitia kwa Mkuu wa Sheria Attorney General, serikali ikapendekeza mabadiliko ya sheria na kukatengezwa sheria ambayo ni chapter 3A of the laws of Kenya. Ili kutuwezesha kujishughulisha na mambo ya kubadilisha Katiba. Na watu ambao walikuwa wakiomba mabadiliko walishihi serikali kuwahusisha wananchi wa kawaida katika harakati za kubadilisha Katiba ya nchi yetu. Na kwa hivyo, Mkuu wa Sheria akaweza kuwaomba watu wote ambao wangependa kujiuzisha na shughuli hii kufika katika mkutano mkubwa ambao uliandaliwa pahali panaitwa Bomas of Kenya uko Nairobi ili kujadiliana mambo tofauti ya kubadilisha Katiba yetu.

Watu walipokutana Bomas of Kenya, kukaonekana kwamba jambo hili haliwezi kumalizika kwa siku moja na tukawa na mikutano tofauti mnamo mwaka huo wa 1997, na tukawa tunakutana sehemu ya Safari Park, Nairobi. Safari Park kukawa na mikutano mikubwa ambayo ilihudhuriwa na watu zaidi ya elfu kutoka sehemu mbali mbali za nchi na vikundi mbali mbali wanasiasa na watu wa dini na hatimaye kukasemekana kwamba ile sheria iliyotungwa na Mkuu wa Sheria ni lazima ibadilishwe ili Wakenya wauzishwe kwa njia inayofaa. Na 1998 sheria hiyo ikabadilishwa kukawa na what we call an amendment. Ikiwa kuna marekebisho yoyote katika sheria uitwa amendment. 1998 kufanywa amendment ambapo walihusishwa watu tofauti ambao walikaa katika kamati na kujadiliana mapendekezo ambayo yangetusaidia kurekebisha Katiba. Baada ya marekebisho hayo mwaka wa 1998 kukawa tena na mkutano Safari Park na kila vikundi vikapewa nafasi ya kuwa na wakilishi katika Tume ambayo ilitakiwa kuundwa.

Na baada ya hapo, vikundi vyote vikawa havina shida ila wanasiasa. Wakawa shida yao kubwa ni kwamba, hawajui na hawakukubaliana jinsi watagawanya nafasi ambazo walipewa kwa Tume ambayo ingekuwa na watu nafiri ishirini na moja. Walipewa nafasi kadhaa kumi na tatu lakini wakawa wanabishana, chama hiki kitatoa watu wagapi, kile watu wagapi na kwa sababu ya mzozo huo kukawa kazi hii haikutekelezwa. Baadaye, watu wa dini pamoja na watu wa upinzani na watu wa mashirika yasiyo ya serikali wakajitenga na wakajiunda katika kikundi kikaenda pahali ambapo panaitwa Ufungamano House, Nairobi. Nao wanasiasa hasa wa chama kinacho tawala cha KANU na chama cha NDP na vikundi vingine ambavyo vilikubaliana nao vikawa vitatumia Bunge ili kutatua jambo hili. Mzozo huo uliendelea kwa miaka kadhaa hadi mwaka wa 2001 kutoka 1997, lakini mnamo mwaka wa 2000, Bunge kupitia chama kinacho tawala cha KANU kikafanya amendment ya pili katika hiyo Act 3A. Wakasema kwamba ile iliyo badilishwa 1998 ndio ilileta mzozo. Baada ya kubadilisha wakaamua kwamba kutakuwa na Tume ya watu kumi na watano watakao teuliwa na kamati ya Bunge ili kujishughulisha na shughuli hizi za kubadilisha Katiba. Na wakauliza watu watume maombi ili wateuliwe katika kazi hii. Wakatuma maombi na watu kumi na watano wakateuliwa kufanya kazi hii.

Na walipoteuliwa, kukawa wameleta Mkenya ambaye anafunza sheria huko nchi ya Hong Kong jina lake ni Yash Pal Ghai na akateuliwa kuwa ndiye mwenyekiti wa Tume hili lililo teuliwa na Bunge. Wakati ambapo walipelekwa kwa Chief Justice kule High Court au Mkuu wa Sheria kuapishwa, wenzake wote kumi na wanne wakaapishwa Yash Pal Ghai akasema hawezi kwa sababu nchi hii haiwezi kuendelea ikiwa kile kikundi cha Ufungamano akitajiunga kwa sababu tutakuwa na shida kubwa ya kuweza kupitisha katika Bunge Katiba itakayo tengezwa na hiki kikundi cha watu kumi na watano ua kikundi kile cha Ufungamano. Basi hapo pia kwa upande wa Ufungamano walitumia ile Act ya 1998 na ingawa hawakuwa na nguvu za kiserikali wakatamia nguvu za wananchi ambao walikuwa wanaungana nao. Na wakateuwa watu ishirini na moja ambao waliapishwa kule Ufungamano House na watu wa makanisa na wakaazisha shughuli zao za kuchukua maoni ya wananchi.

Sasa Yash Pal Ghai akaona hivi kwamba Ufungamano group they did have the force of law. Kwa sababu ilikuwa ni watu wanaotengemea wananchi na wanasema nguvu za wananchi zitaopitisha Katiba mpya ya nchi. Lakini hata wananchi

wangepitisha Katiba, sheria inasema kwamba Katiba ni lazima ipitishwe na Bunge na itiwe idhini na Rais. Na Bunge ilikuwa imengawanyika na wingi wa Bunge kwa sababu KANU ilikuwa pamoja na NDP kwa wakati huo, ndio the majority party, hawangekubali kupitisha mawasiliano ya Ufungamano. On the other hand, watu walioteuliwa na Parliament hata wangepitisha Katiba yao, hawangeweza kuipitisha Parliament kwa sababu KANU na NDP hawakuwa na two thirds majority 65% kwa sababu Katiba ni lazima ipitishwe na 65% of Members of Parliament. Kwa hivyo, akaona shida hiyo na pia shida ingine iliyo kuweco ni shida ya kisiasa. Watu ambao walikuwa ni wa Ufungamano hawangeweza kutembea sehemu ambazo zilikuwa za KANU na watu wa KANU hawangeweza kutembea sehemu ambazo zilikuwa za upinzani na kungekuwa na mzozo mkubwa ambao haungetusaidia kama nchi ya Kenya. Basi baada ya kukataa kuapishwa, akaomba apewe nafasi ya kuzungumza na pande zote mbili ili aone kama pande hizi zingeweza kuungana na tuwe na kikundi kimoja kitakachoweza kufanya kazi hii ya kurekebisha Katiba.

Na kuanza December mwaka wa 2000 hadi June 2001 ikawa Yash Pal Ghai na kukundi au kamati ya Bunge ilikuwa ikizingumza na wakilishi wa dini waliosimamia Ufungamano House hatimaye 16 June mwaka iliopita, wakaweza kukubaliana na kukaundwa Tume moja. Ufungamano wakaombwa kupendekeza majina ya watu kumi kuungana na wale ambao walikuwa kumi na watano ili wajiunge na kufanya shughuli hii. Baada ya mazungumzo marefu wakakubali na kupendekeza watu kumi wengine wawili wakateuliwa na serikali kukawa sasa kuna Tume ya watu ishirini na watano. Wakaongezwa Katibu au secretary wa Commission na Mkuu wa Sheria wakawa ni watu ishirini na tisa ambao watarebisha Katiba ya nchi yetu. Na kufikia mwezi wa August mwaka wa 2001, wakaanza kazi ya kerekebisha Katiba. Sasa hiyo ndio historia fupi ya mzozano na mambo ambayo yalifanyika ili kutuwezesha kubadilisha Katiba ya nchi yetu.

Sheria hii pia ya 3A chapter 3A of the laws of Kenya, ikabadilishwa upya kwa sababu ya mikataba iliyo andikishwa baina ya Parliament na Ufungamano ili kuwezesha vikundi hivi kuungana. Kuna mambao ambayo yalikuwa yamebadilishwa mwaka wa 2000 ambayo upande wa Ufungamano ulikataa. Na sasa tuna sheria mpya ambayo ilikuwa third amendment iliyofanywa mwaka uliopita mwezi wa Junie. Na katika sheria hiyo, imetupatia objectives and principles au muongozo ambao utakao fuatwa katika marekebisha ya Katiba and the objectives I will read them in English, are as follows:-

To guarantee peace, national unity and integrity of the republic of Kenya. Kutuwezesha kuishi kwa amani na kutupa umoja na kutupa sifa kama jamhuri ya Kenya.

To establish a free and democratic system of government that enshrines good govanance. Itakayo tupatia uhuru wa demokrasia wakuendesha serikali yetu itakayokuwa na utawala bora.

To recognize and demarcate decisions and responsibility among the various state organs including the Executive, the Legislature and the Judiciary and to create check and balances and to ensure accountability of the government and its officers to the people of Kenya. Itakayo wezesha mikono tofauti ya serikali ikiwa ni serikali kuu, mahakama na Bunge kuweza kufanya kazi yake bila

kuingiliwa na tuwe na wazi kwa watu wanao hudumia serikali wakati ambapo wanatumikia wananchi.

Promoting the peoples participation in the governance of the country through democratic free and fair elections and the devolution and exercise of power. Kutuwezesha kama wananchi wa kawaida kuhusishwa katika mamlaka ya serikali na kutuwezesha kuwa na kura za haki na za halali na zitakazo weza kuleta utawala karibu na wananchi kupitia utawala wa mashinani.

Respecting ethnic and regional diversity and communal rights including the right of communities to organize and participate in cultural and activities and the expression of their identities. Kuweza kutambua tofauti za kimila na tofauti za watu tofauti na kuwapatia nafasi ya kuweza kufanya mambo ambayo ni muhimu katika mila zao.

Ensuring the provision of basic needs of all Kenyans through the establishment of equitable framework of economic growth and equitable access to national resources. Kuona jinsi ambavyo tutaweza kugawa mahitaji ambayo ni ya lazima kwa wananchi wote bila kupendelea sehemu yoyote nchini.

Promoting and facilitating regional and International Corporation to ensure economic development, peace and stability and to support democracy and human rights. Kuweza kushirikiana na nchi za kingeni, nchi za Afrika mashariki na nchi zingine ili kuhakikisha kwamba uhusiano wetu utaweza kukuza uchumi wa nchi yetu, kukuza demokrasia na haki za kibinadamu.

Strengthening national integration and unity, itakayo tuwezesha kukuza umoja wetu kama wananchi wa Kenya.

Creating conditions conducive to free exchange of ideas. Tuweze kuwa na mazigira ambayo yatatuwezesha kuwasiliana na kuzungumza kwa hali ya wazi bila kuingiliwa.

Ensuring the full participation of people in the management of public affairs. Kuhusisha wananchi katika mambo ya umma.

Enabling Kenyans to resolve national issues on the basis of consensus. Tuweze kusuluisha mizozo yetu ya kitaifa kwa njia ya amani.

So, those are the objectives of the review process and then we also had guiding principles. Other than the objectives we have guiding principles, the first one is to be accountable. All the organs of review have to work in a certain manner.

1. Vyombo vyote vya kurekebisha Katiba viliwajibika kufuata miongozo fulani katika kazi yao. Kwanza kuwa wazi na kuaajibika kwa wananchi wa Kenya. To be accountable to the people of Kenya.

2. Kuhakikisha kwamba katika kazi yetu, tumewahusisha Wakenya wote bila kuangalia hali yao ya kimaisha, kabila lao, rangi yao, jinsia yao, dini, umri, kazi yao au wawe ni watu walemavu au watu ambao wamejiweza. To ensure that the review process accommodates the diversity of the Kenyan people including social, economic status, race, ethnicity, gender, religion, age, occupation, learning and people with disability and the disadvantaged ones.
3. Kuhakikisha kwamba tunawapatia Wakenya wote nafasi ya kujihusisha na shughuli hizi kwa njia ambayo ni wazi na ya uhuru. To provide to all Kenyans an opportunity to actively, freely and meaningfully participate in generating and debating proposals to alter the Constitution.
4. Na pia kwamba kazi zetu zitakuwa zinafanyika wazi
5. Kwamba tutaheshimu haki za kibinadamu, haki za jinsia tofauti na demokrasia na hatimaye tuwe na tunahakikisha kwamba mapendekezo yetu yatatokana na matakwa ya wananchi wa Kenya. To ensure that the process reflect faithfully, the wishes of the people of Kenya. And that is why we have given you the draft before it goes to the National Conference, so that you can study and be sure that reflects the wishes of Kenyans.

Halafu, kwa kumalizia ningependa kuwaeleza Organs of Review au vyombo tulivyo tumia ama tutakavyo tumia kukamilisha kazi yetu. Kwanza kabisa tuna Tume, the Commission ambayo kama sijawaambia ina wakilishi ishirini na tisa walio chaguliwa kutoka sehemu mbali mbali za nchi na kutoka dini tofauti, makabila tofauti na pia discipline mbali mbali. Masomo mbali mbali ili waweze kuleta maarifa tofauti katika kazi hii.

Halafu, tukawa na organ ambayo tuliita Constituency Constitutional Forum ambapo tulitembea na kuwa na vikao tofauti katika Constituency au uwakilishi Bungeni na tulifanya hivi kwa zaidi ya miezi saba tukatembea katika Constituency zote za Kenya. Na sasa tumefikia organ ya tatu ambayo ni National Constitutional Conference ndiyo tunaitayarisha na itaanza kazi mambo yakienda sawa tarehe ishirini na nane. Hiki kwa Kiswahili kinaitwa kikao cha kitaifa na kitakuwa na wakilishi mia sita na ishirini na tisa watakao toka katika sehemu mbali mbali nitawaelezea.

Kisha tutakuwa na referendum au kura ya maoni ikiwa hiki kikao cha kitaifa kitakosa kusuluisha mapendekezo ambayo yako katika Draft Constitution. Na hapo itatubidi turudi tena katika Constituencies na kuomba wananchi kupiga kura kuhusu mambo yatakayo kuwa hayakutatuliwa katika National Conference.

Hatimaye Draft Constitution itakayo kuwa imepitishwa na National Conference na itakayo kuwa pia imepitishwa na referendum ikiwa tutakuwa nayo itaidhinishwa Bungeni ili hatimaye tuwe na Katiba mpya ya nchi yetu.

Katika National Conference, tutakuwa na watu watakao toka katika district, na kila district imechagua watu watatu watakao



kuja katika Conference na sheria ilisema kwamba watu watakao chaguliwa ni lazima katika hao watu watatu mmoja wao awe ni mama.

Halafu, tutakuwa na Wabunge wote watakao kuja kule kama wakilishi wa Constituencies tofauti na pia kutakuwa na vikundi vya akina mama ambao wameweza kuchagua akina mama ishirini na wanne watakao kaa pale na kuhakikisha kwamba maslahi ya akina mama hayatopotea. Pia tutakuwa na vikundi vya dini na vimepata nafasi thelathini na nne kuhakikisha kwamba mambo tutakayo fanya na kupendekeza hayako kinyume na sheria tofauti za kidini. Halafu kutakuwa na watu tofauti kutoka kwa civil society au mashirika yasiyo ya kiserikali, kutakuwa pia na waakilishi wa professionals tofauti ambao pia wataketi kule. Sasa wakijumlishwa watu hawa watakuwa ni six hundred and twenty nine delegate pamoja na Tume ya watu ishirini na tisa. Katika kikao hicho, Tume itakuwa haina kura na kura zitapigwa na wakilishi wengine kwa sababu ni lazima tuone kwamba either kuna consensus kwamba watu wanakumbalina kwa wote mapendekezo ambayo tumeyatoa ikiwa tunaona kwamba mambo hayo hayakupendelewa na kila mtu itatubidi tupige kura na kura hiyo itakayopitishwa ni ya 65% of members present and voting. Kuhusu mambo ambayo yatakuwa yanapendekezwa. Nafikiri sasa nimewapatia organs na objectives na principles za review process. Kwa hivyo ningeingilia kuwaeleza jinsi ambavyo tumefanya kazi na kuweza kutoa Draft.

Kwanza tulitembea katika Constituencies na tukafanya vikao viwili na kwingine tukafanya vikao vitatu katika Constituency zote ambapo tuliweza kupata maoni ya wananchi kuna wale walio zungumza, kuna wale ambao waliandika na kuna wale walikuja na kuketi na kusikiliza wenzao. Na kabla ya kuenda katika Constituencies tuliweza kuwa na workshops na seminars ambapo tuliweza kuzungumza na wataalamu au experts tofauti kuhusu mambo ambayo ni muhimu ya kikatiba. Na hawa watu wengi walikuwa ni wataalamu wa hapa nchini lakini pia tukaomba na tukaweza kupata wataalamu wa nchi za ng'ambo ambao walikuja na kuzungumza na sisi kutupatia mawaidha tofauti. Basi tulipomaliza kuchukua maoni ya wananchi tuliweza kupata watu ambao walijiriwa na Tume walio keti na wakaweza kuchambua maoni tofauti tuliyo pata kutoka kwa wananchi. Na wanatume wakaketi na kuandika background papers au makaratasi tofauti kuhusu mambo tofauti ambayo yalipendekezwa na wananchi na hatimaye tukaketi na kuweza kutafsiri makaratasi hayo au maneno yale ambaye tulielezwa na wataalamu. Tukaweza pia kutafsiri maoni ya Wakenya na tukawa na mijadala tofauti ambayo ilituwezesha kuandika hiyo draft Constitution ambayo mnaiona.

Tulijadiliana kwa kirefu, watu wakafanya kazi mchana na usiku na tukapendekeza mambo ambayo yako katika Draft Constitution na tungependa kwa sababu tunaiita first draft muangalie na muone kama mambo ambayo tupendekeza yanafaa ama hayafai, muone kama kuna mambo yanafaa kuondolewa au kuna mambo ambayo yanafaa kuongezwa. Na hayo mambo mtaweza kuwatuma hawa wakilishi watatu au kumtumia Mjumbe wa area hii yenu ili waweze kuleta mapendekezo yenu mapya katika hicho kikao cha kitaifa kwa sababu kwa wakati huu Tume haiwezi kubadilisha jambo lolote katika hiyo Draft Constitution. Na kwa kufikia hapo nadhania ningependa tuangalie hiyo Draft Constitution ili kwa kifupi sana tuweze kupitia mambo tofauti ambayo yako katika Constitution hiyo.

Katika Katiba yetu ya wakati huu ambayo ilitengezwa kule Lancaster House, wakati ambapo tulikuwa karibu kunyakuwa uhuru wa nchi yetu kulikuwa hakuna utangulizi au kitu chochote ambacho kinahusu wananchi au kuzungumzia historia ya nchi yetu. Na tulipokuwa tunatembea na kupata maoni watu wengi walipendekeza kwamba tuwe na preamble au utangulizi utakao tambua wananchi wa Kenya kama watu ambao wamependekeza Katiba ya nchi yetu. Na katika ukurasa wa pili wa gazeti yenu mtaona kwamba tumependekeza preamble ambayo imeanza kwa kutambua wananchi wa Kenya na pia imetambua tofauti zetu na nguvu zetu kama wananchi wa Kenya. Tumetambua makabila tofauti, tumetambua makabila tofauti, tumetambua mila zetu tofauti, dini tofauti na pia kutambua kwamba tumeweza kuungana na kuishi kwa amani na umoja kama kitu kimoja. Tumeangalia juhudi za wananchi katika kukuza jamii yetu kama wananchi wa Kenya.

Tumetambua jitiadi tofauti za wananchi wa Kenya wakiwa ni wanawake na wanaume katika shughuli za kutuletea utawala wa demokrasia na utawala unaotii sheria za nchi. Ingawa tulielezwa na watu wengi kwamba tutambue kukundi cha Mau Mau kuna wale pia walituelezea kwamba mbali na Mau Mau kuna wananchi ambao wamezidi kupigania tuwe na utawala bora, utawala wa haki na kwa hivyo tukaona hakuna haja ya kutambua kikundi kimoja tutambue wanawake na wanaume kwa jumla ambao wameendelea kupigania haki zetu kama wananchi wa Kenya.

Pia tumetambua haki yetu ya kuweza kuunda serikali itakayo tuwezesha sisi kama wananchi kujishughulisha na utawa wa nchi. Na hapo mwishowe tukamtambua Mwenyezi Mungu na kuomba baraka zake katika shughuli zetu kama wananchi wa Kenya. Sasa huo ndio utangulizi ambao tumependekeza lakini mkiona kuna mambo zaidi mtaweza kuwatuma representatives' wenu ili waje na waweze kutupatia maarifa zaidi ikiwa mnaona hivyo ni sawa.

Katika chapter ya kwanza tumetambua umuhimu wa wananchi wa Kenya. Katiba yetu kwa wakati huu haikutambua sehemu ya wananchi au sehemu ya mwananchi. Na sisi tumependekeza kwamba kuanzia tuangalie mamlaka ya wananchi na tumependekeza kwamba mamlaka yote ya jamhuri ya Kenya yako kwetu kama wananchi wa Kenya. Na sisi kama wananchi ndio ambao tunatoa mamlaka hayo kupatia vyombo tofauti vya utawala. Tunapendekeza kwamba kwanza kabisa tunatoa mamlaka yetu na kupatia Bunge kwa kupitia wakilishi tunao wachagua na tumependekeza pia wakilishi hawa tukiwatuma kule Bunge ni lazima watumie hayo mamlaka kupitia maagizo ambayo tutakuwa tumeweka katika hii Katiba mpya ya nchi yetu. Tumependekeza pia kwamba mamlaka yetu tutakuwa tumepatia serikali kuu the Executive na kwamba serikali kuu ni lazima itawale kwa kupitia mamlaka ambayo tutakuwa tumeandika katika Katiba mpya ya nchi yetu. Na kwamba mamlaka hayo tumewapatia watutumikie sio kuwa ni watawala lakini wawe ni watumishi wa wananchi.

Pia, tumependekeza kwamba mamlaka tutapatia mahakama ili mahakama yaweze kutatua matatizo yetu kwa njia ya haki na ya ahali na wakiwa wanafanya kazo yao wakiwa huru bila kuingiliwa na chombo kingine cha serikali. Tumependekeza pia tuwe na chombo cha nne ambacho tunasema tutakuwa na vyombo tofauti vya kikatimba vitavyo saidia serikali katika juhudi zake za kuwasilisha matakwa ya wananchi na baadaye nitawaeleza vyombo hivyo vya kikatiba. Pia, tumeangalia ukuu wa Katiba katika nchi yetu na tumependekeza kwamba Katiba ndio sheria kuu na sheria zote na vyombo vyote vya utawala ni lazima

vizingatie sheria hii kuu ambayo ni sheria ya nchi yetu. Tumeangalia na tukapendekeza tuwe na uwezo kama wananchi kuweza kulinda na kutetea Katiba ya nchi yetu. Kwa wakati huu Katiba yetu haituelezi jinsi mwananchi wa kawaida anaweza kutetea na kulinda Katiba ya nchi. Tumependekeza kwamba kila mwananchi aweze kufika mahakama akiwa ni mtu binafsi au kama ni kikundi kuweza kushtaki mtu yoyote au serikali ikiwa hakukuzingatiwa mangano ya Kikatiba. Na tumependekeza kwamba mahakama iwe na nguvu ya kuweza kutatua mambo kama hayo.

Tumeangalia pia sheria za Kenya na tukazipanua kidogo. Tumependekeza kwamba bali na Katiba kama sheria kuu tuwe na sheria zinazotungwa na Bunge kwa sababu kazi yao kubwa ni kutunga sheria kwa hivyo tumependekeza hizo sheria zitakazo tungwa ziandamane na maagizo ya Katiba. Tumependekeza kwamba sheria za kitamaduni zitambulike na ziwe zinatunika katika kutatua shinda zetu kama wananchi wa Kenya. Tumependekeza kwamba jamii ya Wahindu na jamii ya Waislam ambao pengine hawana mila au sheria za kitamaduni na wanatumia sheria zao za dini sheria hizo zitambulike. Tumependekeza kwamba mambo ambayo yanatumika kwa muda mrefu na yakawa ni kama sheria kwa Kiingereza tunaita common law.

Kuna mambo ambayo utendeka kwa miaka mingi na yakatambulika kama mambo ambayo yanaweza kutumika kama sheria tumependekeza pia mambo hayo yatambuliwe katika kutatua mambo yetu. Tumependekeza pia sheria itakayo tungwa na jumuhia ya Afrika mashariki East African Community iweze kutumika hapa nchini au kutakuwa hakuna haja ya sisi kujiunga na nchi za Afrika mashariki. Tumependekeza pia sheria ambazo zinatokana na mikataba ya kitaifa International Treaties ambazo tutakuwa tumesahihisha kama nchi ya Kenya ziweze kutumika kama sheria hapa au hakuna haja ya Kenya kuenda katika mikutano ya kitaifa kuandikisha maneno na kufika Kenya na kusahau mambo hayo. Pia pia tumependekeza kwamba kupitia miaka miwili baada ya kuidhinishwa kwa Katiba mpya ni lazima Bunge ihakikishe kwamba sheria hizi zote ambazo tumeziweka zitatambuliwa na kutumika katika nchi yetu.

Katika ukurasa wa pili tumeangalia jamhuri yetu, na tumependekeza kwamba jamhuri ya Kenya iwe na miongozo fulani kwa sababu watu wengi walisema nchi yetu haina muongozo na ingekuwa ni bora tukiweka mambo haya katika Katiba. Kwa hivyo tumependekeza mambo yafuatayo. Kwamba nchi ya Kenya iwe ina utawala wa demokrasia wa vyama vingi na kwamba utawala huu uhusishwe wananchi wa kawaida. Uwe ni utawala utakaokuwa wazi wazi. Uwe ni utawala utakao heshimu haki za kimsingi, haki za kibinadamu na pia kushughulikia hali za kisheria. Kwa Kiingereza Mult-Party Democracy Participatory Governance Transparency and Accountability, Separation of Powers, Respect for Human Rights, Fundamental Freedom and the Rule of Law. Pia tukaangalia mipaka tofauti ya Kenya na nchi jirani kama vile Uganda, Tanzania, Sudan, Ethiopia na Somalia na tumewapatia kwa kirefu katika ukurasa wa thelathini na tisa kwenye schedule ya kwanza mipaka hiyo na pengine mtasoma baadaya kwa sababu tumeandika kwa kirefu sana.

Tukaangalia pia lugha zinazotumika hapa nchini na tukaona kwamba tukuze lugha ya Kiswahili na pia Kiswahili kisewe tu ni lugha lakini iwe ni lugha rasmi. Kwa sababu kwa wakati huu lugha rasmi ni lugha ya Kiingereza ndio maana tunasomeshwa katika mashule kwa Kiingereza, tukienda katika mahakama High Court unaketi na judge muafrika lakini uzungumze na Kiingereza

na kuwe Court Clerk ambaye anatafsiri mambo ambayo hayaeleweki. Si ni ukweli? Kwa nini wafrika watatu wazungumze kwa lugha ya Kiingereza na ilhali wanaelewana hata judge atasema I cannot hear you. Mpaka kuwe na clerk atakaye kuja na kutafsiri mambo hayo lakini ni kwa sababu sheria ya mahakama inasema kwamba lugha rasmi katika High Court, Court of Appeal ni lugha ya Kiingereza. Sasa tumependekeza kwamba Kiswahili kiwe ni lugha rasmi ili watu waweze kuwasiliana kwa njia ya urahisi.

Tumependekeza pia Kiswahili kibaki kama lugha ya kitaifa na serikali ifanye vyovyote vile kuweza kukuza lugha tofauti za nchi yetu ya Kenya. Na pia serikali iweze kukuza lugha ya ishara au sign language pamoja na Braille kwa sababu lugha hizo ndizo ambazo zinaeleweka na watu walemavu. Tukaangalia hali ya serikali na dini na tukapendekeza kwamba serikali yetu iwe ni secular state kwamba kusiwe na dini rasmi ya kiserikali lakini mkisoma hapa msi-translate kwamba tumesema watu wanao husika na dini wasijihusishe na siasa, hatukusema hivyo tumesema tu serikali ijiweke kado isimame na kutumikia dini zote kwa usawa bila kupendelea thehebu hili ua thehebu lile.

Tumeangalia pia National symbols au vifaa ambavyo vitatumika ama kutambulika kama vifaa vya kitaifa. Tumependekeza bendera ya Kenya, tumependekeza pia wimbo wa taifa, tumependekeza Court of Arms au alama inayotumika kwa serikali. Tumependekeza pia mhuri au public ---- mhuri wa kiserikali utambulike kama National symbol. Tumeangalia pia na kupendekeza siku za kitaifa na tumependekeza tuwe na siku tatu (end of side A) – mwezi wa kumi na mbili ambayo ni Jamhuri day, na tukapendekeza kwamba tuwe na siku itakayotengwe iitwe Katiba day. Sasa ni juu yenu kuangalia kama mambo haya yanafaa ama mngetaka siku zaidi au tupunguze au tuondoe.

Pia tukaangalia katika chapter ya tatu goals and values miongozo na maadili ambayo tunafaa kuzingatia kama wananchi wa Kenya. Na tukapendekeza kwamba kwanza kabisa ni lazima tuangalie uhuru wa wananchi.

Pili, tukapendekeza kwamba ni lazima tuwe na umoja kama taifa la Kenya. Pia tukasema ni lazima tuzingatie usawa na kudhamini jamii zote za nchi yetu. Tukapendekeza kwamba ni lazima tuzingatia demokrasia, utawala mwema, na utawala wa kisheria. Pia tuzingatie haki za kimsingi na haki za kibinadamu. Tuweza kuwa na usawa wa watu bila kujali jinsia yao kwamba wanawake au wanaume wabaguliwe wanawake wafanyiwe hivi bila wanaume kufanyiwa vile. Pia tumependekeza kwamba ni lazima tuwe na jitihadi na bidii kama wananchi wa Kenya ili kuweza kupata mahitaji ya kimsingi. Tumependekeza pia kuwe na kushiriki na uwazi katika shughuli za umma yaani katika public service. Tuwe na uhadilifu wa kibinafsi na wakitaifa. Tuweze kufumilia na kuheshimu maoni ya kila mmoja. Tuweze pia kuheshimu mila na maadili tofauti ya wananchi wa Kenya. Tuweze kuleta utawaka karibu na mwananchi wa kawaida. Tuweze kutatua mizozo yetu kwa njia ya amani na tuweze kuwa ni nchi itakayo weza kujumhika na kujipatia nafasi katika taifa la afrika na mataifa yote ya ulimwengu. Those are the values and principles lakini nimewasomea kwa kifupi mtazidi kusoma kwa kirefu na kuelewa wakati mtapata nafasi ya kusoma.

Katika Article ya kumi na tano tumeangalia na tukasema ikiwa tutakuwa na maadili haya ni lazima kila mwananchi wa Kenya

aweze kuwa na obligations au mambo ambayo anafaa kufanya au tutakuwa hatukuweza kujenga nchi iliyo na maadili na values ambazo tumeangalia. Kwanza tukapendekeza kwamba liwe ni jukumu la kila Mkenya kuweza kujua maagizo ya Katiba.

Pili, iwe ni jukumu la kila Mkenya kuweza kusimama wima na kutetea haki ambazo zimetolewa na Katiba na pia kuweza kutetea Katiba ya nchi yetu. Tukapendekeza pia liwe ni jukumu la kila mwananchi kupiga kura na kuweza kujihusisha na siasa za nchi yetu. Ni kwa nini tukasema iwe ni jukumu la mwananchi kupiga kura kwa vile tunajua ni haki ya mwananchi kupiga kura. Tumesema iwe sio haki peke yake it becomes a duty for all Kenyans of the right age to vote kwa sababu mara kwa mara mambo uharibika kwa sababu wananchi wanakosa kuchagua viongozi ambao watatuletea maendeleo. Unakuta kama hii Constituency yenu pengine kuna watu laki moja ambao wanafaa kupiga kura. Watu themanine watajiandikisha lakini siku ya kura mtashikwa na uvivu na uzembe tupate watu elfu ishirini peke yake ambao wamepiga kura. Si ni ukweli? Halafu mnasema huyo MP hata akuchaguliwa na watu wengi lakini kwa nini hamkujitokeza kupiga kura kuchagua mtu ambaye atachaguliwa na watu wengi. Sasa tumesema iwe kila mwananchi anawajibika na ana lazima ya kupiga kura.

Pia tukapendekeza kwamba liwe ni jukumu la kila mwananchi kujihusisha na shughuli za kitaifa ili aweze kupata mapato yatakayo muwezesha kuangalia jamii yake kwa sababu hii ndio njia ambayo tunaweza kukuza taifa letu kiuchumi. Pia tukasema liwe ni jukumu la kila Mkenya kuweza kupata elimu sio tu ya shule lakini elimu itakayompa maarifa zaidi katika kazi yake. Pia iwe ni jukumu la kila Mkenya kuweza kuchangia hali ya jamii yake. Pia tukasema liwe ni jukumu la kila Mkenya kuweza kuchagua umoja wa taifa la Kenya. Kuweza kukuza demokrasia na kutii sheria za Kenya. Pia kuweza kukuza familia itakayokuwa ni familia inayo chukua jukumu. Tuweze pia kuchunga mali za umma bila kuharibu kwamba tutachunga vitu ambavyo tumepewa na serikali. Tutachunga mazigara yetu na tutachunga rasilmali ili kuhakisha kwamba vitu hivi vinatmika kwa njia inayo stahili. Pia tutaweza kuhakikisha kwamba wanao weka na kuifadhi amani tuna wasaidia katika shughuli zao za kuweka amani katika nchi yetu. Na kwamba kama wananchi wa Kenya tutakosa kujihusisha na mambo ya rushwa deceased from corrupt practices.

Pia, litakuwa ni juhudi letu la kuhakisha kwamba tutaipatia nchi yetu nafasi itakayo tupa heshima katika nchi za ulimwengu na kuhakisha kwamba kutakuwa na usawa kwa wananchi wote wa Kenya. Hayo ndio majukumu ambayo tumependekeza yawe ni majukumu yetu kama wananchi isije ikawa kila wakati tunasema the state has the responsibility to do this and that na sisi je, ikiwa serikali itatutumikia tutafanya nini kama wananchi wa Kenya kuhakisha kwamba tumechagua mambo ambayo ni muhimu.

Chapter ya nne tumeangalia uraia na tumependekeza mambo mengi lakini nitataja mambo kidogo. Ni nani ambaye anaweza kuwa mwananchi wa Kenya? Tumependekeza ni mtoto au mtu yoyote ambaye amezaliwa na mzazi mmoja Mkenya. Katiba ya wakati huu inasema mzazi wa kiume lakini tulipotembea akina mama walilalamika sana na pia watu ambao wamepatikana na shida kwa sababu walizaliwa na mzazi wa kike ambaye ni Mkenya na tumependekeza kusiwe na ubaguzi ukizaliwa na mama Mkenya uweze kupata uraia wa Kenya. Ukizaliwa na baba Mkenya na mama asiye Mkenya pia uweze kupata uraia wa

Kenya. Tukapendekeza kwamba kuwa na uraia wa kujiandikisha baada ya watu kuwasilisha maombi yatakayo tatuliwa na kamati itakayo wekwa na Bunge. Tumependekeza pia watu ambao wameishi Kenya zaidi ya miaka saba wanaweza kupendekeza maombi na yakaangaliwa kuona kama watu hawa wanastahili kupewa uraia wa Kenya.

Tukapendekeza pia ya kwamba watoto ambao wako na umri wa chini ya miaka minane na wamepatikana hapa Kenya na wazazi wao hawajulikani ni akina nani waweze kupatiwa uraia wa Kenya bila wasiwasi wowote. Tukapendekeza kwamba wananchi wa Kenya pia waweze kuwa na dua citizenship au kuwa na uraia wa zaidi ya nchi moja. Hapo awali kulikuwa au kwa wakati huu sheria yetu inasema ukiwa ni Mkenya usichukue uraia wa nchi nyingine. Lakini watu wengi walipendekeza kwamba kuna watoto wao ambao wamekwenda kufanya kazi nchi za ng'ambo, wamekwenda kutafuta maisha kule kwa sababu kazi ni duni hapa Kenya na wakifika kule wanakosa benefits nyingi kwa sababu hawawezi kuchukua uraia wa nchi hizo hata ingawa nchi zile zinakubalisha uraia zaidi ya moja.

Tukaangalia pia mienendo ya nchi zingine za ulimwengu na tukaona kwamba nchi yetu iko nyuma kwa kukosa kuwapatia nafasi Wakenya wanao taka kuchukua uraia wa nchi zingine. Mfano mzuri ni watu ambao pengine wameenda kutafuta kazi nchi ya America ua wameenda kusoma kula. Nchi ya America kila mara utoa uraia kwa wananchi wa nchi zingine. Na ukiwa kule na unakuwa na uraia wa America unapata mambo mengi ya bure na unapata benefits nyingi za kiserikali. Sasa Wakenya ambao wanaenda kule wanatatizika kwa sababu wakichukuwa irai wa America wanapoteza uraia wa Kenya. Na wakikosa kuchukua uraia wa Kenya wanatatizika zaidi wakiwa nchi ile. Na mambo haya yako katika sehemu nyingi za ulimwengu kwa hivyo tumependekeza kwamba hakuna hasara yoyote tutakayoipata kama wananchi wa Kenya kwa kuwapatia watu wanao taka wawe na uraia wa nchi mbili.

Halafu chapter ya tano ambayo ningesema ni muhimu inatupatia haki za kimsingi, basic rights ambazo or fundamental rights ambazo tunasema kila mwanadamu anazaliwa na hizi haki na hazifai kunyimwa mtu yoyote. Na kwamba ikiwa utaweza kuishi kama mwanadamu ni lazima upate hizi haki ambazi ni za kimsingi. Na tukapendekeza majukumu kwa serikali na kusema kwamba serikali yetu ni lazima itimize masharti fulani ili sisi kama wananchi tuweze kufuata hizi haki za kimsingi. Na masharti hayo yako katika Article thelathini ambayo mtaweza kusoma baadaye. Na pia kwa kutoa haki hizo tumesema na kupendekeza kwamba kuna watu ambao ukiwapatia haki isiyo na kipimo wataweza kufanya madhara kwa wenzao.

Na katika kifungu thelathini na moja tumependekeza kwamba kuwe na limitations kwa haki fulani. Na kwamba utapunguziwa haki zako tu ikiwa kuna haja ambayo ni ya haki ambayo ni wazi na ambayo haita kosea haki yako ya demokrasia, na pia haitakukosea heshima yako kama mwanadaamu, na pia itaangalia. Kwa mfano, tunasema kwamba kuna haki ya kuabudu lakini kuna madhehebu mengine yatakuwa kwenye kijiji na wanaabudu usiku mzima na kupiga ngoma na kuomba na sauti ya juu. Jambo ambalo pengine haliwafurahishi watu wa madhehebu mengine na watu hao wa madhehebu mengine watalalamika na kusema this is beyond freedom of worship. Na tunasema jambo kama hilo wanaweza kisheria kuambiwa tafadhali mkihabudi jaribuni kuabudu kwa njia ambayo haitawakasirisha majirani wenu. Sasa itabidi anayeshtaki korti iweze kuangalia mambo yote

kabla hayajakataza mtu fulani kukosa kuweza kuendeleza haki zake.

Na tukasema kwamba haki hizi ziwe zinapewa kila Mkenya bila ubaguzi na tukasema kwamba kila Mkenya ana haki ya kutokubaguliwa. Freedom from discrimination. Na tukapendekeza kwamba hakuna Mkenya atakayebaguliwa kwa sababu ya rangi, maubile yake, msimamo wake katika jamii, kabila lake, dini yake, umri wake au mafikirio yake, mila yake au alivyo zaliwa au ikiwa ni mtu mlemavu.

Katika Article thelathini na tano tumeangalia haki za akina mama na pengine wengi mtauliza kwani akina mama sio binadamu na mmeweka haki zao hapa. Sababu ni kwamba akina mama walisema kwamba Katiba ya wakati huu ingawa ilitenga haki za kibinadamu haikutenga kwa njia ambayo ilieleweka na kwa miaka arobaini ya uhuru wamezidi kunyanyaswa kwa sababu Katiba haikuwatekelezea haja zao. Na kwa sababu ya maoni hayo ambayo yalikuwa ni mengi zaidi tukapendekeza haki za akina mama kama ifuatavyo:-

Kwamba akina mama wapewe haki ya usawa na wanaume hasa kwa wakati ambapo kuna nafasi au opportunities za kisiasa, za kiuchumi na ki jamii. Kwamba wasinyimwe nafasi yao wakati wa siasa nhughuli za kiuchumi na shughuli za kijamii.

Pia tukapendekeza kwamba akina mama wapewe hashima sawa na wanaume.

Tukapendekeza kwamba akina mama wapewe haki sawa katika mali. Katika kuweza kufikia mali. Na katika urithi.

Tukapendekeza pia kwamba ikiwa kuna sheria yoyote iwe imeandikwa, iwe ni sheria ya kitamaduni, itakayoweza kuwadunisha akina mama na shughuli zao sheria hiyo isitumike na iwe ni kimyume cha Katika ya nchi yetu.

Tukapendekeza kwa upande wa serikali kwamba serikali ni lazima iwachunge na kuwahudumia akina mama ikitambua sehemu muhimu yao katika jamii.

Na pia iweze kuwapatia nafasi na vifaa vitavyo wezesha akina mama kuendesha shughuli zao.

Tukapendekeza haki za watu wazee kwa sababu walilia pia na wakasema sheria wakati huu imewatupilia mbali.

Na tukapendekeza miongoni mwa mambo mengi iwe ni jukumu la familia na jukumu la serikali kuwatumikia hawa watu wazee na kuhakikisha wamepata vitu vyote vinavyostahili katika maisha yao.

Tukaangalia haki za watoto na pia kwa sababu ilimwengu mzima haki za watoto kwa wakati huu zinatambulikana na sheria

zimetungwa hata hapa nchini tuna sheria mpya ambayo itaitwa The Childrens Act na hapa kwa wakati huu Katiba ya nchi yetu haijatoa na kuzungumzia kuhusu haki za watoto. Na tukapendekeza ifuatavyo:-

Kwamba watoto ni lazima wapewe sehemu muhimu katika jamii na iwe ni jukumu la wazazi, familia kwa jumla na pia jamii kuwatumikia watoto, kuwachunga, kuwasomesha na kuhakikisha kwamba wanakaa katika nazigara yanayofaa yakuwa na mapenzi. Na pia tuweze kuelewa shida zao ili tupate watoto ambao wataweze kushughulikia jamii zetu kwa siku zijazo.

Tumependekeza kwamba watoto wasibaguliwe kwa sababu wamezaliwa nje ya ndoa au kwenye ndoa. Tumependekeza pia kwamba ikiwa kuna jambo lolote ambalo linamhusu mtoto na ni lazima watu kulitatua jambo la kwamba ambalo litaangaliwa ni masilahi ya huyu mtoto. Mfano mzuri ni wakati ambapo wazazi wanatengana. Inasitahili kutokuangalia matakwa ya baba au ya mama lakini tuzingatie masilahi ya mtoto je, mtoto huyu masilahi yake yatafaa akikaa na nani. Ni baba au mama? Huu ni mfano tu ambao nimewapatia.

Pili, kwamba wazazi wote wawili wawe wako katika ndoa au wamewachana au hawakuoana waweze kuwa na haki sawa na majukumu sawa katika kulinda na kumlea mtoto.

Tumependekeza pia kwamba lazima kila mtoto apate jina kumaanisha jina la familia na pia aweze kuwa na uraia wa pahali fulani. Tumependekeza kwamba kila mtoto aweze kupata elimu ya lazima na ya bure katika shule ya msingi. Na kwamba watoto walindwe dhidi ya mambo ya kimila na kitamaduni ambayo yanawadhuru. Pia watoto wasifanyishwe kazi ambazo zinawanyanyasa na ambazo ni za hatari kwa maisha yao. Kwamba kila mtoto aweze kupatiwa makazi mazuri, aweze kupata matibabu ya kilazima. Na aweze kupata social services au huduma za kijamii. Watoto wasipatiwe hadhabu ambayo itawadhuru corporal punishment, ambayo ni kinyume cha haki za kibinadamu iwe ni katika shule au institutions zozote za masomo. Wakati wa vita, watoto wasitumike na ikiwa wamepatikana na jambo na ni lazima washikwe na kuwekwa gereza wasiwekwe pamoja na watu wazima. Wapatiwe wakili atakaye wasaidia na pia afikishwe mahakama kwa wakati mfupi uliofaa. Na ikiwa kuna watoto wowote ambao ni walemavu waweze kupewe huduma inayostahili kwa kupitia serikali na kupitia jamii. Na pia tunaangalia je, mtoto ni nani? Na tukapendekeza kwamba mtoto ni aliye na miaka kumi na minane kufikia chini. Kwa hivyo wanafunzi mnaona vile tumewachunga.

Kisha tukaangalia familia na tukapendekeza kwamba mtu akifikisha miaka kumi na minane awe na haki ya kuweza kuoia ama kuolewa na pia hasizalimishwe kuolewa ama kuoia awe amefanya hivyo kwa hiari yake mwenyewe. Tumependekeza pia katika ndoa na wakati wakatengana kwa watu ambao wameoana wawe na haki sawa.

Tumependekeza pia kwamba kutengezwe sheria na Bunge itakayotambua ndoa zinazofanywa kupitia njia za kitamaduni. Kumaliza hapo tumeangalia pia haki za Mkenya yoyote kutofanywa mfungwa ama kupewa kazi ambazo zitamfanya awe ni kama mfungwa slave.



Tumependekeza haki ya kuabudu na tukasema kwamba kila Mkenay ana haki ya kuamini, kuwa na mafikira ya kidini, kuwa na mawazo wa kidini bila pigamizi lolote. Na pia tukasema mtu huyu ana haki ya kuabudu au kuwa na mafikira haya au matendo haya ya kidini bila pigamizi na anaweza kufanya akiwa peke yake au na jamii. Na hatukuweka limitation yoyote katika haki ya kuabudu kwa hivyo mngetaka muangalia kama mambo haya yanafaa.

Tukapendekeza kwamba vikundi vya dini viwe na haki ya kuweka shule na wazisimamia. Mkenya yoyote pia asilazimike kuabudu dini au kufanya vitendo ambavyo ni kinyume na dini yake wala kuabudu siku ambayo ni kinyume na siku yake ya kuabudu. Tumependekeza kwamba kila Mkenya awe na freedom of expression au freedom ya mawazo, uhuru wa mawazo na kuwa na uhuru wa kuchapisha chochote kile haja kitu ambacho anachapisha kisiwe kinyume cha sheria. Kwamba tuwe na haki ya kufuata information au maneno kutoka kwa serikali. Tuwe na haki ya kuweza kukana freedom of association. Na pia tuwe na haki ya kuweza kuwa na maandamano ambayo ni ya haki na yasiyo ya fujo.

Tumependekeza haki za kisiasa na kupendekeza kwamba kila Mkenya awe na haki ya kujiunga na chama chochote cha kisiasa au kuunda chama cha kisiasa na kujihusisha na campaign ya chama chake na shughuli zote za chama alichu chagua.

Tumependekeza haki ya kuishi kwa mwananchi sehemu yoyote ya nchi yetu. Tumependekeza haki ya Mkenya kuchagua kazi anayopenda haja iwe ni kazi na biashara iliyo halali. Pia haki ya kumiliki mali na tukapendekeza kwamba serikali itoe sheria zitakazo Linda mali ya wananchi. Tumeangalia haki za wafanyikazi na tukependekeza kwamba wafanyikazi wawe na haki ya kazi iliyostahili binadamu alipwe mshahara unaofaa kazi ile anayofanya. Aweze kupewa mazigara yanayofaa na aweze kujiunga na kikundi cha wafanyikazi na awe na haki ya mgomo.

Tumependekeza pia kwamba waajiri pia wawe na haki ya kujiunga na vikundi vya watu wanao ajiri. Tumependekeza pia social security au huduma ya umma na tukapendekeza kwamba serikali iweze kutoa huduma kwa mtu yoyote atakaye kuwa hajiwezi kujisimamia wala kusimamia familia yake.

Tumeangalia huduma za matibabu na tukapendekeza kwamba iwe ni haki ya kila Mkenya kuweza kupata huduma na ikiwa ni wakati wa dharura ama wakati wa shida Mkenya hasinyimwe matibabu kwa sababu amekosa pesa.

Elimu, tumependekeza kwamba kila Mkenya awe na haki ya elimu na kwamba serikali itatoa elimu ya lazima na ya bure katika shule za msingi. Na kufanya vyovyote itavyo weza kuhakikisha kwamba Wakenya wanapata elimu ya viwango vingine vya juu.

Tumeangalia nyumba na tukapendekeza kila Mkenya awe na haki ya kuishi na kuwa na makao yanayo faa. Na kwamba mtu yoyote asifukuzwe wala kufunjiwa makao yake ila kupitia amri ya mahakama itakayokuwa imechuguza mambo yanayofaa kabla ya kutoa mari hiyo.

Chakula, kwamba ni haki ya kila Mkenya kutokuwa na njaa na kwamba serikali itahakikisha kwamba Wakenya wanapata chakula cha kutosha.

Maji, kila Mkenya ana haki ya kupata maji yanayo tosha na yaliyo safi. Tumeangalia mazigara na tukasema ni haki ya kila Mkenya kukaa katika mazigara yanayofaa.

Tumependekeza kuwa haki ya ununuzi na tukapendekeza kwamba iwe ni haki ya mtu anayenunua huduma au kununua kitu, kupewe kitu kinacho stahili pesa unazolipa. Na kitu hicho kisiwe ni hatari kwa maisha yako na kilingane na fedha ulizolipa. Kwa sababu kwa wakati huu hata ukinunua shati imepasuka ukirudisha mwenye duka anakuambia hata mimi nilinunua hivyo factori sasa unataka nifanye nini. Sasa itakuwa ni hatia ya mambo kama hayo kutendeka.

Pia tumependekeza kwamba ni haki ya kila Mkenya kutokubali kutii amri ambayo ni kinyume cha sheria. Tumependekeza kwamba kila Mkenya aweze kupata nafasi kamilifu ya kufika katiak korti uu mahakama. Pia tumeangalia haki za watu ambao wanashikwa. Na tumependekeza kwamba wakati ambapo mtu anashikwa ni haki yake kunyamaza bila kusema chochote kwa afisa ambayo amemshika. Na kwamba atakaye kushika akueleze kwa luhga unayo elewe kwamba una haki ya kunyamaza. Akueleze kwamba sio lazima ukiri makosa yako kwa kuandika statement. Na kwamba ukitaka kukiri ukumbuke kwamba statement hiyo inaweza kutumika wakati wa kesi yako. Na kwamba watu ambao wameshikwa wasiwekwe na wafungwa ambao kesi zao zishaa sikizwa na kwamba ukishikwa usipitishie masaa arubaini na nane kabla ujapelekwa mahakama.

Na ikiwa sehemu yako ni mbali na mahakama ufikishwe kwa wakati uwezekanavyo na uwachiliwe na bond ikiwa mashtaka yako yanakubali jambo hilo. Na pia wakati utakuwa umefika katika kituo cha mahakama ueleze mara moja mashtaka yako. Upewe nafasi ya kujitetea na udhaniwa kwamba hauna makosa mpaka wakati ambapo kesi yako itakapo malizika. Na isikilizwe kwa haraka na upewe nafasi ya kutafuta wakili na ikiwa kesi yako ni serious upatiwe huduma ya wakili na serikali. Nafikira mengine mtajisomea kwa sababu ni mambo mengi.

Chapter ya sita tumeangalia uwakilishaji kule Bungeni kwa kupita kura. Tumependekeza kwamba ni haki ya kila Mkenya kuweza kupiga kura ya siri. Ni haki sisi kupewa nafasi ya kuwa na kura haki na ya halali. Na kwamba ni haki ya kila Mkenya kuweza kusimama akitaka kupigiwa kura. Na kwamba katika upigaji wa kura Tume ya upigaji kura itahakikisha kwamba kuna uwakilishi wa akina mama, watu walemavu, vijana na jamii zilizotengwa.

Na tukapendekeza kwamba kujiandikisha kwa kura kuwe ni kazi ya kila siku. Tumependekeza mtu yoyote atakaye fikisha umri wa miaka minane aweze kujiandikisha bila pingamizi lolote. Miaka kumi na minane samahani kama nimesema miaka minane.

Tumependekeza pia kuwe na Tume ya upigaji kura na tukaonelea kwamba watu ambao watakuwa kwenye hii Tume wapuguzwe kutoka ishirini na mbili hadi watu nane wakizidi sana wawe ni watu kumi. Na tukafafanua shughuli za Tume hii. Tukapendekeza kwamba kazi yao iwe ni uandikishaji wa kura wakati wote. Pia kuangalia sehemu za uwakilishaji Bungeni, kuhakikisha kura zinafanywa kwa njia iliyofaa. Kufundisha wananchi masomo ya upigaji kura na pia elimu ya demokrasia, na pia kuhudumia na kuangalia vyama vya kisiasa, na pia kuhudumia fedha zitakazo tengwa kwa vyama vya kisiasa.

Halafu tukaangalia vyama vya kisiasa. Na tukaweza kuzipatia shughuli roles and functions ambazo kwa wakati huu kwa hakika kama wananchi hatujui ama mnajua roles and functions of political parties? Hatuelewi tukapendekeza kwamba Katiba ni lazima iandikishwe na tukasema kwanza kabisa kazi yao ni kuhakikisha kwamba wanakusanya na kuwaelewa wananchi shughuli za kitaifa.

Pili, wataweza kuelimisha wananchi kuhusu mambo ya demokrasia na Kikatiba. Pia kueleza maendeleo katika sehemu tofauti. Na pia kuweza kuhakikisha kwamba serikali imewajibika na kufuata miongozo ya Kikatiba. Na tukapendekeza ni vyama vipi vitakavyo weza kuandikishwa na nini kitaweza kuwapa nafasi hii Tume kufuta vyama hivyo vya kisiasa.

Kwanza tumesema chama kitakacho andikishwa ni lazima kiwe ni chama kinachokuza umoja wa nchi yetu. Ni chama ambacho kina misingi ya kidemokrasia, na chama ambacho kitaweza kuwa kura kwa wanachama wake mara kwa mara. Na chama ambacho kitazingatia haki za kibinadamu na haki za jinsia. Chama ambacho kitaweza kusimama na misimamo ya Kikatiba. Na kwamba chama chochote ambacho kimeundwa kwa sababu ya kikabila, kidini na chama ambacho kinaendesha propaganda kitupiliwe mbali. Na chama ambacho kitakosa kutoa vitabu vya hesabu kwa Mkaguzi Mkuu wa serikali pia kufutuliwe mbali. Chama ambacho kinahusisha wanachama wake kwa binu za vita na mambo ambayo hayafai pia kufutuliwe mbali. Chama kitakachokuwa na kikosi kwa sababu kuna vyama ambavyo vina vikosi ya vijana kwa mfano Mungiki na mambo kama hayo pia vifutuliwe mbali. Lakini tukapendekeza kwamba hivi vyama kwa sababu pengine vyote vinaweza kufutuliwa mbali tukipendekeza mambo haya kwa sasa kwamba vipewe miezi kumi na miwili kuweza kuhakikisha vitaambatana na shria mpya.

Na kuhusu pesa zitazotengwa na serikali tumependekeza kwamba .3% ya budget ya nchi yetu kila mwaka zitengwe kwa shughuli ya vyama vya kisiasa. Lakini tukapendekeza kwamba sio kila chama kwa sababu tunaweza kuwa na vyama vingi zaidi kwamba ni vyama vitavyo weza kupata zaidi asilimia mia tano ya kura zote zitazokuwa zimepigwa nchini. 5% of the total votes cast at the previous Parliamentary elections. Na kwamba pesa hizi zitagawanishwa mara mbili mara ya kwanza the first 50% itapewa vyama vyote vitakavyokuwa na 5% of the total votes halafy 50% hiyo itakayo bakia ingawanishwe vyama kulingana na uzito wa kura vyama hivyo vilivyo pata. Na pesa hizi tumezipatia kanuni kwa mfano zizipewe nje wanachama kama zawati 10% ama mia kumi peke yake ndio utumike katika ofisi au kuendesha ofisi za chama. Na kwamba hivi vyama vinaweza kupata pesa vingine kutoka kwa uandikishaji wa wanachama na pia donations ama zawadi kutoka vyama vingine.

Chapter ya saba, tunaangalia Parliament au Bunge. Na tunapendekeza kwamba tuwe na Bunge itakayo kuwa na chambers mbili au vyumba viwili. Tumependekeza National Council na... (end of tape one)... na je ni kina nani ambao watakuwa katika National Council? Tumependekeza kuwa National Council au Upper House iwe na Wabunge mia moja na Wabunge hao tumewaganyisha mara mbili. Tuna Wabunge sabini ambao tumependekeza watoke katika kila district, tumetambua district sabini na hawa watachaguliwa kupitia kura. Tumependekeza kwamba viti thelathini vilivyobakia vitengwe ili viwe ni vya wanawake watakao pigiwa kura kutoka katika provinces. Na kwamba kila province itatoa akina mama wanne na province ya Nairobi itapewa nafasi ya kutoa akina mama wawili. Pengine mtajiuliza kwa nini tumesema viti vitengwe. Ni kwa sababu ukiangalia historia ya Kenya kwa miaka arobaini hii ya utawala tumeweza tu kuwasilisha nafikiri akina mama saba katika Bunge la watu mia mbili na kumi. Na pia tukaona kwamba kulingana na maoni tuliopewa kwamba ikiwa akina mama hawatasaidiwa kwa miaka kadhaa basi watakosa kufika katika Bunge na hakuna nchi itakayoweza kuendelea ikiwa hatutaweza kuwa na mama na wazee katika Bunge.

Katika Lower House au National Assembly tumependekeza kwamba tuwe na Wabunge mia tatu. Wabunge mia mbili, na kumi watoke katika Constituencies kama kawaida au sehemu za uwakilishi Bungeni. Halafu wale sitini wachaguliwe kutoka kwa list itakayo tolewa na vyama vya kisiasa. Jambo hili utendeka kwa mfano katika nchi ya South Africa, katika South Africa huwa watu wanachagua chama, halafu kinatoa Wabunge. Tumesema hapa kwetu kwa sababu tumezoea Constituencies labda tuwe na Constituencies elections na pia nominations za vyama kulingana na uzito wa vyama katika Bunge ili tuweze kuwakilisha vijana. Kwa sababu ukiangalia katika campaign inakuwa ni vigumu sana kwa vijana kuweza kuingia katika Parliament. Imekuwa ni vigumu kwa akina mama kuweza kuingia Parliament. Watu walemavu na makabila madogo madogo kwa sababu utengemea fedha, nguvu, pia jamii na kabila. Kwa hivyo tumependekeza kwamba, vyama vya kisiasa viweze kuzingatia watu tofauti kuhakisha kwamba National Assembly itakuwa na uwakilishi utakao kuwa ni bora zaidi na watakataa list yao wai-rank, waweze kuweka kulingana na watu ambao wangetaka sana waingie katika Bunge wakiangalia masharti ambayo tumeweka. Wataangalia je, hawa wakilishi mia mbili na kumi je kuna vijana? Waseme hapana hatukuona vijana kwa hivyo kwa list yao wanahakikisha wameweka vijana. Waangalie je, katika hawa watu kuna wamama kwenye National Assembly pengine waseme kuna mama mmoja waweze kuongozea wamama. Waangalie kuna watu walemavu wawaongezee na waangalie jamii ambazo zimetengwa. Kwa mfano jamii ya El molo haijawai kuwa na muwakilishi katika Bunge kwa hivyo wanafaa kuangalia mambo kama hayo.

Na pia tunapendekeza kwamba hii list iwe ina-alternate, ikiwa mtu wa kwanza kwa sababu tumesema priority, ikiwa nafasi ya kwanza imepewa mama ya pili iwe ni mwanaume mpaka watakapo kamilisha nafasi ambazo zimetolewa kwa chama hicho.

Tukapendekeza kwamba katika National Council watakao pigania wawe ni Wakenya na watu ambao wana miaka zaidi ya thelathini na tano. Katika National Assembly wawe ni Wakenya na wamefikisha umri wa miaka ishirini na moja. Na hawe ni mtu ambaye amestahili kupiga kura na amefika kidato cha nne form four, na anaweza kuzungumza lugha ya Kiswahili na Kiingereza. Na ikiwa ni mtu mlemavu anaelewa sign language. Na pia, viongozi hawa waweze kuwa wamepita mtihani ambao

tumewakilisha hapa wa tabia jema na heshima kwa viongozi, moral and ethical requirements ambazo mtazisoma.

Na pia tumependekeza kwamba ikifikia miaka mitatu ni lazima kuhakikishwe kwamba waakilishi watakao kuwa Bungeni asilimia thelathini ni lazima wawe wanaweke. Halafu, tumeangalia pia na kupendekeza kwamba kuwe na njia ambayo waakilishi hawa wa Bunge wanaweza kurudishwa nyumbani ikiwa hawakutekeleza kazi ambayo wametumwa au wamepewa kufanya na wananchi. Tumependekeza kwamba mwakilishi atakaye kuwa mgonjwa kimwili ama pengine akili zake zimepungua kidogo, asiendele kufanya kazi hiyo ama muakilishi ambaye ana tabia ya kuleta chuki na kutenganisha watu asiendele kuwa ni muakilishi Bungeni. Na Mbunge ambayo atakuwa amewakimbia watu wake hawe pia ni mtu atakaye tolewa katika Bunge.

Na pia tumependekeza hivi, ikiwa kuna watu wa sehemu fulani ambao wana malalamishi hayo machafu ni lazima watume maombi petition itakayo kuwa imesahihishwa na asilimia thelathini ya wapiga kura wote wa eneo hilo kwa Speaker wa National Assembly. Na baada ya kupata malalamishi hayo, kupitia siku saba atawaomba Tume ya upigaji kura kufanya upelelezi na mambo hayo yakiwa ni ya ukweli basi yule Mjumbe atatolewa kwenye kazi na kura zipigwe upya.

Tumependekeza pia kwamba Bunge liwe na calendar yake itakayo wekwa na Bunge yenyewe. Na kwamba Bunge lisivunjwe ila kupitia sheria ambayo iko katika kifungu mia moja arobaini na mbili baada ya kumaliza miaka minne kwa National Council na National Assembly miaka mitano. Tumependekeza pia kwamba Bunge inaweza kupendekeza maombi ya kutokuwa na imani na Waziri Mkuu ambaye tumependekeza. Kwamba ikiwa Bunge kupitua wanachama sitini na tano watapitisha vote of no confidence itabidi Waziri Mkuu atalowe katika kazi.

Halafu, katika chapter ya nane tumeangalia serikali kuu the Executive na tukapendekeza kwamba serikali kuu itakuwa na Rais, Makamu wa Rais, Waziri Mkuu na Baraza la Mawaziri. Katika kuchagua Rais tumependekeza kwamba Rais atakaye chaguliwa ama mtu atakayetaka kusimama kuwa Rais hawe ni mtu ambaye ana shahada ya degree kutoka chuo kikuu kinachotambulika. Pia aweze kuwa ni mzaliwa wa Kenya, na pia mtu huyu ni lazima asimame na mwenzake running mate ambaye pia ame-qualify kuwa President na huyu Rais akishinda huyu mwenzake automatic atapewa kiti cha msaidizi wa Rais.

Na pia katika structure ya utawala, tumependekeza kwamba tuwe na Rais na Vice President. Halafu tumependekeza tuwe na Waziri Mkuu ambaye atakuwa ni msimamizi wa Baraza la Mawaziri na tumependekeza kwamba kwa wakati huu tuwe na Deputy Ministers sio Assistant Ministers. Kwa sababu tunataka hawa wawe kwa hakika ni wasaidizi wa Mawaziri sio watu ambao wanakaa na kukosa kazi kwa sababu wengine huwa hawana kazi ya kufanya wana cheo tu. Na kwamba tuwe na wizara zisizozidi kumi na tano, Mawaziri wasiozitu kumi na watano na Naibu wa Mawaziri wasiozidi kumi na watano.

Tumependekeza kwamba Rais ndiye atakaye pendekeza jina la Waziri Mkuu kwa Bunge sio yeye atakaye chagua atakaye pendekeza. Na kwanza kabisa atapendekeza ambaye atakuwa ni kiongozi wa chama kilicho na vitu vingi katika Bunge leader of the majority party in Parliament. Na akisha pendekeza jina hili ni lazima Bunge kupiga na kusema kwakupitia watu wengi

asilimia sitini na tano kwamba tuna imani na huyu mtu na tunadhania ataweza kuwa ni Waziri Mkuu. Ikiwa Bunge limekataa hilo jina nafasi ya kuteuwa Prime Minister itapewa kiongozi wa manority party au tuseme kwa lugha ambayo tunayo ielewa leader of the oppositin atapewa nafasi pia ya kupendekeza jina. Akipendekeza jina ambalo litakataliwa na Bunge tumependekeza basi Rais apewe nafasi ya kuteuwa mtu yoyote ambaye ni Mbunge katika Wabunge wa National Assembly ambaye atakuwa ametoka sehemu yoyote katika vyama ambavyo viko pale na ni lazima Bunge liseme kwamba ni mtu ambaye lina uhaminifu naye.

Na pia ningependa tuangalie shughuli za Rais kama tulivyopendekeza. Je, shughuli za Rais zitakuwa ni nini? Na pia katika shuguli za Rais tumependekeza mambo ambayo ni lazima huyu Rais kuyafanya. Amepewa majukumu ya lazima na mengine ya hiari yake yaani mandatory duties na zile anaweze kufanya ikiwa anaajibika kama Rais wa Kenya. Majukumu ambayo ni ya lazima ni kama yafuatayo:

Rais anapewa jukumu la kulinda uhuru nataifa la Kenya.

Pia analazima kuheshimu wingi kwa mawazo ya wananchi na haki za kibinadamu.

Ana jukumu la kutetea na kulinda Katiba yetu na pia kanuni za sheria, the Constitution and the rule of law.

Pia amepewa majukumu mengine ambayo sio lazima lakini ni muhimu.

Rais amepewa jukumu la kuidhinisha miswada ua bills zote zikazo kuwa zimepitishwa na Bunge. He has to assent or to put his signatures to all the laws that have been passed by Parliament of all the Bill before they become laws.

Na hana njia tatu za kuidhinisha sheria hizi. Anaweza kuidhinisha kwa mara moja, anaweza kuomba maoni ya korti kuu ambayo tumependekeza ambayo itakuwa ni Supreme Court. Anaweza kuwauliza wampatie advice kuhusu hiyo Bill kabla hajaidhinisha. Tatu, anaweza kuiridisha kwa Bunge na kuomba afanye mabadiliko.

Na pia amepewa jukumu lingine kwa mfano la kuhudhuria Bunge kwa mara moja kwa mwaka. Lakini akitaka kuhudhuria Bunge zaidi ya mara moja anaweza kufanya hivyo hiyo ni shauri yake.

Rais anaujumika kutetea demokrasia na kuhakikisha kwamba fedha za nchi yetu zinatumika kwa njia inayostahili.

Na pia anaweza kupendekeza hatua za kisheria kwa baraza la Mawaziri na hawezi kufanya hivyo direct kwa Parliament.

Amepewa jukumu pia la kuweza kupata habari kutoka kwa Waziri Mkuu mara kwa mara kwa sababu tumependekeza kwamba mkuu wa serikali awe sio Rais mbali awe ni Waziri Mkuu.

Rais pia amepewa kazi zingine kwa mfano amepewa nafasi ya Mkuu wa Majeshi yote ya nchi yetu na msimamizi la usalama wa kitaifa National Security Council.

Amepewa pia jukumu la kutangaza hali ya hatari baada ya hali hii kupitishwa na Baraza la usalama na pia Bunge.

Jukumu lingine ni la kutangaza hali ya vita baada ya jambo hili kupitishwa na Bunge.

Amepewa haki au jukumu la kuteuwa ma-judge baada ya kupewa pendekezo na Tume litakalo husika na huduma ya mahakama Judicial Service Commission.

Amepewa pia jukumu la kuanzisha utaratibu wa kuwatoa judge wakati ambapo pendekezao hili litapewa Rais kupitia

Tume ya Huduma ya Mahakama.

Pia amepewa jukumu la kuidhinisha ama kuweka sahihi mikataba ya kitaifa baada ya jambo hili kupitisha na Bunge.

Anaweza pia kupokea mabalozi na kuwatoa mabalozi wa Kenya

Rais anaweza pia kutoa misamaha rasmi padon of mercy kuwasameheha wahalifu.

Anaweza pia kutoa tunzo za kitaifa baada ya mapendekeza ya Baraza la Mawaziri

Na pia anaweza kuongoza kufungua rasmi kwa Bunge akiwa amefuata kanuni za sheria.

Na je Waziri Mkuu atakuwa anafanya nini ikiwa Rais ana mambo hayo yote? Waziri Mkuu atakuwa ndiye msimamizi wa shughuli zote za serikali. Atakuwa ndiye mwenyekiti wa Baraza la Mawaziri. Yeye ndiye atakaye simamia budget ya nchi yetu na kuhakikisha inatumika vilivyo. Yeye ndiye atakaye pandekeza majina ya watu watakao teuliwa kwa baraza la Mawaziri na Naibu wao. Na yeye ndiye atakayekuwa anaendesha serikali katika maswala ya kila siku. Yeye ndiye atawajibika kwa wananchi na kwa Bunge katika shughuli za kiserikali. Na analazimika kufika Bunge kwa sababu Rais atakiwi kufika Bunge mara kwa mara. Sasa hizo ndizo kazi Rais na kazi za Waziri Mkuu. Lakini mtasoma na kuelewa zaidi.

Katika chapter ya tisa tumeangalia mahakama na shughuli za kisheria. Tumependekeza tuwe na korti ingine juu ya Court of Appeal ambayo tumeipendekeza iitwe Supreme Court itakayo kuwa na judge wasiozidi kumi. Na pia tukatoa shughuli za korti hii tukapendekeza kwamba shughuli yao itakuwa kuweza kumpatia ashauri Rais atakapo wauliza ushauri wao. Pia, watajiuzisha na election petitions za President zile zingine zitoteuliwa na Tume ya uchaguzi. Na pia atawasilisha na kutatua mizozo itakayo kuwa katika serikali za wilaya. Na wataongoza zile korti za chini katika kazi zao. Zile korti zingine hatukuziingilia lakini tumependekeza kwamba judge ataweza kustaafu akifika miaka sitini na tano kwa lazima na kupendekeza kwamba akifika miaka sitini akipenda anaweza kukumbalishwa kustaafu. Kwa wakati huu wanastaafu wakiwa na miaka sabini na mbili.

Tumependekeza pia qualification za watu ambao wanaweza kuchaguliwa kuwa ma-judge wa High Court, Court of Appeal, Supreme Court na nani ambaye anaweza kuteuliwa kuwa judge mkuu. Tumeangalia korti zile zingine chini ya High Court na jinsi watakavyo teuliwa na shughuli zao zitakazo fanywa.

Tukapendekeza pia ofisi ya Mkuu wa Sheria Attorney General igawanishwe mara mbili hili tuwe na atakayekuwa anatoa ushauri kwa serikali na asifanye kazi nyingine na pia tuwe na atakaya simamia kesi za umma, Director of Public Prosecution atakayekuwa anasimamia kesi zitakazokuwa ni za umma kwa sababu kwa wakati huu kuna mabishano kwamba mtu anayeshauri serikali atasimamia vipi tena kesi zinazopendekezwa hasa wakati ambapo wanashtakiwa watu ambao pengine wamefanya vitendo visizo pendeza serikali. Kwamba huyo hawezi kuwa ni mshauri na atutetee haki za umma.

Pia, tukapendekeza kuwe na mtetezi wa haki Public Defender or Ombudsman. Mtu atakayekuwa ana hakikisha kwamba haki za kibinadamu zinazingatiwa na atatoa ushauri kwa mtu atakaye kwenda kumuuliza ushauri wa kisheria.

Halafu, tukaangalia sehemu ya Mwakili na kwa sababu kulikuwa na malalamiko mengi kuhusu mawakili tumependekeza kwamba mawakili ni lazima watende shughuli zao kwa kuzingatia na kuheshimu Katiba ya nchi. Na kwamba watazingatia kukuza na kuheshimu haki za kimsingi. Na kwamba watakapokuwa wanawakilisha na kuwafanyia kazi wateja wao watafanya kazi hio kwa uhaminifu wa hali ya juu. Na watakapokuwa wanatetea wateja wao watawatea bila ouna na kwa njia ya hali ya juu. Na pia watasaidia mahakama kuweza kutoa hukumu inayostahili haja tu asitoe nje siri za mteja wake.

Katika chapter ya kumi tumeangalia Devolution of Powers au jinsi ya utawala utakao wafikia wananchi wa kawaida. Kwa sababu kulikuwa na malalamiko kwamba wananchi wanaona kwamba mambo yote yako Nairobi, utawala na amri zote zinatokea Nairobi. Na ukienda kwa chief anakuambia sasa unajua ni lazima DO aniambie, ukienda kwa DO anakutuma kwa DC ukifika kwa DC anakuambia PC naya anakuambia amri yote is from higher authority. Sasa tukajiuliza je, ni njia gani ambayo tutaondoa mambo haya ili wananchi waone kwamba utawala huko karibu nao. Na tukatoa miongozo ifuatayo ya utawala wa mashinani:-

Kwanza, kwamba wananchi wahusishwe katika sehemu tofauti za utawala. Na kwamba katika utawala huu tuweze kukuza umoja na tofauti zetu kama wananchi wa Kenya. Tuweze kukuza uwazi na demokrasia katika mamlaka. Tuweze pia kukuza hali ya kiuchumi na kijamii. Tuweze kugawanisha masilmali za nchi yetu kwa njia ya usawa na kuweka maanani sehemu ambazo zina shida ama zimetengwa. Na pia kuhakikisha kwamba huduma zinawafikia wananchi kwa hali ya urahisi na haraka. Na pia kuangalia haki za watu waliotengwa na wasio jiweza.

Tukapendekeza kwamba, pengine tukitumia viwango tulivyo vipendekeza tutaweza kuleta utawala karibu na watu. Tumependekeza kwamba, tuwe na viwango vinne vya utawala. Utawala wa kijiji, utawala wa kasa au location, utawala wa wilaya au district na utawala wa province au mkoa. Tumependekeza kwamba katika utawala wa kijiji na tumeziita village government tumependekeza kwamba wazee wa kijiji wapewe nafasi ya kuwa ni wasimamizi wa vijiji. Na tumependekeza kwamba Chief na Assistant Chief waondolewe katika madaraka. Na pia tumependekeza kwamba DO na DC na PC pia waondolewe katika mamlaka na waweze kupatiwa kazi zingine waondolewe katika utawala wa nchi.

Pia tumependekeza kwamba madiwani waondolewe katika mamlaka ili kusiwe na duplication ya kazi kwa sababu tulikuwa tunaambiwa kwa wakati kunakuwa duplication ya kazi ya DC na Ma-councillors. Sasa tukapendekeza kwamba katika kijiji kwa sababu watu waliwasifu sana wazee wa vijiji wapewe mamlaka ya kuwa ndio watawala na wazee hawa ikiwa wanajulikana wazee sita na wasizidi kumi ndio wasimamie kijiji. Ikiwa hawatambulikani wazi wazi kuwe na uchaguzi. Na kwamba wazee hawa washikiane na wanzao katika kijiji wakubaliane jinsi ya utawala. Kwa hivyo wakikwa wametumia miongozo ambayo tumeiweka katika kifungu mia mbili kumi na tatu moja.

Pia, katika kasa au location tumependekeza kwamba vijiji vilivyo katika kasa hiyo vitume wakilishi wawili watakao unda serikali ya kasa. Na sheria imesema katika hawa watu wawili ni lazima mmoja awe ni mama. Kwa sababu msipoambiwa wazee



watatuma wazee wawili. Hiyo inamaanisha katika serikali ya vijiji ni lazima muakikishe at least one third watakuwa ni akina mama. Na hapa wachague msimamizi wao atakayekuwa ndiye anaendesha shughuli za kila siku za ofisi hiyo ya serikali ya kasa.

Tumependekeza pia serikali ya wilaya ambayo ndio itakuwa na shughuli kubwa mno katika utawala wa nchi yetu. Na hapa tumesema viongozi wachaguliwe kwa kupitia kura na wasipuguei ishirini wala kuzidi thelathini kulingana na locations ambazo zitakuwa katika district. Na pia atakayekuwa ni administrator ama msimamizi wa shughuli za kila siku atachaguliwa kupitia kura na waazi wa district hiyo. Na mkiangalia katika schedule upande wa nyuma tumetoa shughuli zitakazo fanywa na National Government na District Government, schedule ya saba ambapo tumependekeza kwamba miongozo yote ya maendeleo itahudumiwa na district government. Wao ndio wataokota kodi zote zitakazokuwa zinalipwa. Watasimamia shule za nursery, shule za msingi na shule za secondary watatoa huduma ya matibabu, watatoa huduma ya maji, huduma ya barabara watasimamia masoko na kufanya mambo yote ya mashamba na mengineyo ambayo ni muhimu katika district yao. Ndio maana tukasema wanafaa wachaguliwe kwa sababu hapo ndio kuna utawa mkubwa.

Nayo provincial government tumependekeza kwamba district zote za province zitume wakilishi wawili watakao chaguliwa miongoni mwa wale ishirini kufikia thelathini waende katika province. Na kazi kubwa ya provincial government ni kusaidia district government kwa shughuli zao nyingi. Mtasoma kifungu 220, 221 na kuelewa zaidi maneno ya provincial council.

Chapter ya kumi na moja tunaangalia mashamba na jinsi mashamba haya yatafaa kulindwa. Pia tumeangalia jinsi Wakenya wanastahili kuwa na mashamba na tunatambua kwamba mashamba au ardhi ya Kenya ni ardhi yetu sote kama wananchi wa Kenya. Na kwamba wananchi wa Kenya ambao wana mashamba watambulikana na mtu ambaye sio Mkenya asiweze kuwa anamiliki ardhi kwa zaidi ya miaka sitini na tisa. Na ikiwa amenunua ambayo free hold ibadilishwe iwe ni ninety nine years kwa watu ambao wanaelewa mambo ya mashamba. Na tukaangalia sheria zote za mashamba na pia mashamba ambayo ni ya communities jamii au mashamba ambayo yamesimamiwa na serikali. Na tukapendekeza kwamba mashamba hayo sasa yasimamiwe na Tume ya mashamba sio Tume ya Njonjo lakini tunapendekeza kuwe na Tume ya Kikatiba itakayoundwa. Hata kama ni hiyo ya Njonjo ifanywe Tume ya Kikatiba isimamie hali ya mashamba na kuangalia shida zote na kutataa shida zote zinazo tukabidhi kuhusu mashamba yetu.

Chapter ya kumi na mbili tumeangalia mazingara na mali ya asili na kutoa shughuli zitakazo tendwa na serikali ili kuchunga wanyama, bunga na rasilimali zote za nchi yetu pamoja na mazingara. Na tumeomba kwamba kuwe na kamati maalumu itakayo shughulikia mambo hayo.

Chapter ya kumi na tatu, tanaangalia fedha za umma na kupendekeza kwamba fedha hizi zisimamiwe na Bunge. Na kwamba makadilio hiyo ya matumizi yasimamiwe na Bunge. Pia fedha zitakazo tengwa kutumiwa na serikali matumizi yake yasimamiwe na Bunge na ikiwa serikali inataka kuchukua mkopo wa deni mambo haya yapitishwe na Bunge. Tumependekeza pia kwamba shughuli za banki kuu ya Kenya yafanywe kupitia maangano ambayo tumeandika katika Katiba hii. Na kwamba Governor wa

Benki Kuu ateuliwe kupitia Bunge na afisi yake iwe ni ofisi ya Kikatiba na mtu huyu asifanye kazi zaidi ya miaka mitano. Na tukatoa pia shughuli za banki kuu mtasoma.

Pia tukasema ile ofisi ya Mbaguzi Mkuu wa fedha za serikali, Auditor and Controller General igawanyishwe mara mbili kwa sababu ni vigumu sana kushughulikiwa mataumizi halafu ujikague mwenyewe. Tukasema kuwe na Controller of budget atakaye simamia na kuhakisha fedha zimetumiwa kwa njia nzuri na atakaye kagua hawe ni mtu mwingine aitwe tu Auditor General na ofisi zao zilindwe na Katiba.

Pia katika chapter ya kumi na nne tumeangalia huduma ya umma Public Service. Na kwa sababu Wakenya tumelia sana kuhusu huduma za umma tukasema ni lazima tutoe misimamo au kupendekeza misimamo itakayo zingatwa ama kufuatwa na watu wanaofanya kazi katika huduma za jamii au public service. Tukasema watu hawa ni lazima wafanye kazi yao kwa nidhamu na hali ya juu, na wakipewa madaraka wapewe kwa sababu ni watu wanaostahili na wakifanya shughuli zao wafanye kwa njia ambayo haitakuwa ni hasara kwa nchi. Wawe ni watu watakao zingatia uhaki katika kutoa huduma zao. Na ni watu ambao watahakikisha wanaajibika kwa wananchi wa kawaida. Na kwamba kazi zao zitafanywa kwa uwazi na pia watapatiwa mafunzo bila mapendeleo na watu watakoandikwa wawe wametoka katika sehemu zote za nchi yetu bila kupendelea sehemu moja ua ile ingine.

Pia tukapendekeza kwamba, Tume inayotoa huduma ya umma Public Service Commission ipewe mamlaka zaidi katika uandikishaji au kupendekeza kwa watu watakao andikwa. Katika pia kuwatetea wafanyikazi wa umma. Tukaangalia pia tunazoita huduma za usalama. Tukaangalia idara ya police, idara ya majeshi, ya nchi kavu, majeshi ya majini, tukaangalia pia askari wa utawala na tukaangalia huduma ya upelelezi au intelligent. Na tukapendekeza kwamba itakuwa bora ikiwa huduma hizi pia zitapatiwa miongozo ya kufanya kazi. Na tukapendekeza mambo yafuatayo:

Tukapendekeza kwamba ni lazima huduma hizi zikose kujishughulisha na siasa za pande zozote, they should be impartial. Wawe wanaudhibiti kwa raia yaani wanatumikia raia. Waweze pia kuheshimu kanunu za sheria. Waheshimu demokrasia na haki za kibinadamu. Wafanye kazi yao kwa njia ya haki na ya uwazi. Waongozwe na sheria katika kazi zao. Na kwa upande wa majeshi tukasema wawe na haki ya kukataa kutii amri isiyo ya kisheria kwa kazi zao. Pia wajishughulishe na vitendo vitavyoleta manufaa ya uchumi na pia huduma hizi zote zilinde uhuru wa mwananchi na kusaidia mwananchi wakati wa dharura au wakati wa shida na wawe wana nidhamu na uzalendo wa hali ya juu.

Tumeangalia pia huduma ya magareza na tukapendekeza kwamba huduma hii ibadilishe jina lake na isiitwe Kenya Prisons lakini iitwe Kenya Correctional Services kwa sababu kwa wakati huu inaonekana watu wakitumwa jela ni kama wamepelekwa huku waangamie na kuteseka na ilhali madhumuni ya kupeleka watu jela ni kujaribu kuwarekebisha mienendo yao.

Na pia tukependekeza hivi kwamba watu ambao wanahudumia magareza wawe wana nidhamu ya hali ya juu. Waweze

kuondoa corruption na hivi pia tumependekeza katika huduma zote za umma pia waweze kuweka haki zxa kibinadamu. Na waweze kuwahudumia wafungwa na kuwapa vitu ambavyo ni vya kimsingi kwa binadamu. Kwa mfano wawapatia chakula kinacho stahili kula mwanadamu. Wawapatie pahali pa kulala panapo stahili mwanadamu na wapewe nguo za kufaa zinazostahili kufaliwa na mwanadamu.

Katika chapter ya kumi na tano tumependekeza kwamba tuwe na National Security Council, kamati itakayo angalia huduma za usalama. Kwa hivvyo mtasoma na kuelewa zaidi.

Chapter ya kumi na sita tumependekeza Leadership and Integrity ya viongozi wetu ni mambo gani wanayo stahili kufanya kama viongozi.

Chapter ya kuma na saba tumeangalia vyombo tunavyo viita vyombo vya Kikatiba. Na tukapendekeza kwamba vyombo hivi visaidie serikali katika kutoa huduma za utawala. Na tumependekeza a number of Constitutional Commission and offices. Kwanza kabisa tumependekeza Tume mbali mbali za huduma. Kwa mfano huduma ya umma Public Service Commission, Tume ya huduma ya mahakama Judicial Service Commission, Tume ya huduma ya Bunge ambayo ni Parliamentary Service Commission. Halafu tukapendekeza kwamba tuwe na Tume ya haki za kibinadamu na haki za kiutawa.

Human Rights and Administrative Commission na tumetoa kazi ambayo itakayofanywa na Tume hii. Tumependekeza pia tuwe na Tume itakayoitwa the Ethics and Integrity Commission yaani Tume ya maadili na uaminifu. Itakayo hakikisha kwamba viongozi wamefuata kanuni ya maadili ambayo yamewekwa na Katiba.

Tumependekeza Tume ya uchaguzi, the Electoral Commission, tumependekeza Tume ya mishahara na malipo the Enumeration and Salaries Commission itakayotekeleza na kukagua mishahara ya viongozi wote mpaka Rais, Mawaziri, Bunge, Ma-judge, Mafisa wa kijeshi na mafias wengine wa hali ya juu. Tumependekeza pia Tume ya Katiba, Constitutional Commission, tumependekeza pia Tume ya waalimu iwe katika Katiba na kutambulika. Tumependekeza pia kwamba afisi fulani zitambulike na ziwe ni afisi za Kikatiba. Kwa mfano Judge Mkuu na ma-judge wa mahakama ya juu, High Court, Court of Appeal and Supreme Courts. Mkuu wa Sheria, Mkurungezi wa mashtaka Director of Public Prosecution, Wakili wa umma Public Defender, Governor wa Banki Kuu ya Kenya, Msimamizi wa makadilio ya mapato na matumizi wa fedha ambayo nilisema kwa Kiingereza ni Controller General. Mhasibu Mkuu na afisi ya kitaifa ya uhasibu Auditor General na pia Tume ya ardhi.

Jambo lingine ambalo nilisahau kusema ni katika values zetu tumependekeza kwamba ni lazima serikali iondoe mambo yote ya rushwa ili kutupatia nafasi ya kuweza kuendesha kazi ya hali ya juu.

Katika chapter ya kumi na nane tumependekeza jinsi Katiba yetu itakavyo badilishwa. Na tumependekeza kwamba kuna sehemu ambazo zibadilishwe na Bunge kupita kira ya two thirds majority ama asilimia sitini na tano. Na kwamba kuna sehemu

ambazo Bunge isiguze ikiwa sehemu hizo zinafaa kubadilishwa kuhusishwe kura ya maoni kwa wananchi. Na sehemu hizo ni kama zifuatazo, mipaka ya nchi yetu, mamlaka ya wananchi katika Katiba kwa sababu Katiba hii imetupatia mamlaka ya hali ya juu, maajiri yanayosimamia muongozo wa nchi yetu, haki za kimsingi.

Na pia chapter ya kumi inayotoa miongozo ya utawala, uraia na pia hii chapter ya kumi na nane. Ikiwa kuna hali ya kubadilisha basi wananchi wahusishwe direct bila kupitia Wabunge wao.

Chapter ya kumi na tisa tumewaeleza maana ya maneno ambayo tumetumia maana ambayo pengine sio ya kawaida. Kwa mfano Pastors, mtu, tunasema kwamba mtu katika Katiba hii ni mtu binafsi au kikundi cha watu ... (end of side A). Na mengine mtasoma

Chapter ya ishirini tumeangalia mambo ambayo ni muhimu katika hizi shughuli za kutoka katika Katiba ya zamani kuingia katika Katiba mpya. Hapo pengine tuna schedule first schedule tumewapatia boundaries, second schedule tumewapatia wilaya na mikoa tofauti kama yanavyo tambulika kwa wakati huu. Schedule ya tatu tumewapatia vyombo vya kitaifa National symbols. Schedule ya nne tumewapatia viapo tofauti vitakavyo chukuliwa na viongozi tofauti. Schedule ya tano kuna ile Leadership and Integrity Code of Conduct. Mambo haya yameandikwa hapa ni lazima yazingatiwe na mafisa wanaohudumu katika serikali na ofisi zote za umma. Mtasoma na kuangalia ndio mjue vile wananyikaza kwa sababu wafanyikazi wa umma ni wafanyikazi wetu wanafaa kututendea na tabia zinafaa kuwa za aina gani. Schedule ya sita tumeandika mambo ambayo yanafaa kutekelezwa na Bunge kuhakisha kwamba Katiba yetu imekamili either mara moja au baada ya miaka kadhaa.

Saba ni zile nguvu za serikali kuu na serikali za wilaya. Halafu schedule ya nane, tumeangalia kwa kirefu mambo ambayo yatafanyika katika sehemu mbali mbali kwa sababu ya hii sheria mpya. Kwa mfano, majuku ya serikali, ni nini tutafanya katika sheria za wakati huu ambazo pengine ziko kinyume ya Katiba mpya. Je, kura zitapigwa kivi? Kwa sababu pengine hatutaweza kufanya mambo yote ambayo yanastahili kuwa katika Katiba mpya. Pia vyama vya kisiasa vitaendeshwa vipi? Utawala utakuwa ni vipi? Na mambo kama hayo mtasoma na kuzidi kuelewa.

Nafikiria kwa hayo ningewashukuru sana kwa kunisikiliza na kwa kuwa watulifu na sasa ningewapatia nafasi ikiwa kuna mambo mngpenda kuyauliza ama kuyasema yanayo husika na draft Constitution tungewaomba mfanye hiyo. Where are we asking them to sit today? na tutaomba kila mmoja atakaye zungunza kutupa majina yake kamili na kufika ambapo kiti kitawekwa na kutumia microphone. Kwa hivyo, nitachukua maswali yote yatakayo ulizwa halafu nitajaribu kuyajibu ama kufafanua zaidi mambo mtakayosema. Halafu, mtaenda pale alipokaa Bwana Mukewa na kujiandikisha majina yenu katika register ili tupate kujua ni watu wagapi ambao wamechagua na pia nafikiri ni vizuri ukienda katika library ukute jina lako kwamba ulichagua Katiba mpya ya Kenya, sio? Okay asanteni. Do we have another microphone? No. kwa hivyo tafadhali... (inaudible).

**Joan Muoki:** Kwa majina mimi ninaitwa Mrs Joan Mathei Muoki na ningependa swali na pia kuongeza jambo. Kwanza

ningependa kufurahia hii Katiba kwa sababu inatuambia ni sisi raia ambao tuna nguvu zaidi. Hii Katiba itatuzwa vipi? Huo utetezi uwe wa ukweli. Kwa sababu wakati wa uhuru Mubeberu alipoenda tuliambiwa Kenya ni yetu na sisi ndio wenye nguvu lakini baadaye kama Kenya na nguvu zote zimebaki pale juu. Kwa hivyo sasa tutarudi hapo tena ama ni kweli nguvu ni zetu?

Kile kingine ninaona kwa new Constitution vile tumejiwekea the other time you were here tulisema Parliament ndio ofisi kuu ambayo inapanga mipango nyingi, kuangalia mambo ya Kenya, budgeting, making laws doing so many good things for our country. Lakini miaka hiyo yote tukiangalia tumeona Parliament ikiwa the most indisciplined office in the government. Wanafika Parliament wakati wanapenda, wanafika pale wanapigana magumi. Saa zingine hata hawaendi. Na huku chini pia tungependa Wabunge wetu iwe ni lazima wawe na maofisi ndio sisi tukiwapata tunaenda kwa maofisi. Ukiangalia, sana hakuna Mbunge ana ofisi wengi wanakutana na watu wao kwenye bar, kwenye maoteli, barabarani can it be made a law that there is an office in every Constituency? And can there be strict measures ambazo sisi raia tunaweza kuwafuta kazi? Kama Mbunge wetu alienda Parliament mara fulani, ama akienda huko kupigana sisi raia basi tunaambiwa tuna nguvu na uwezo tuweze kuwafuta na tuchague wengine. Mimi nitafiaka hapo.

**Com. Abida Ali:** Sasa wazee mmeshindwa na akina mama (inaudible)

**Josephat Nzau:** Kwa majina ni Josphat Nzau. Kwa upande wangu nimeona kwa haki za watoto, nimesikia hati kwa wale watoto ambao wamezaliwa nje wako na haki zao kwa baba. Lakini kwa maoni yangu ama kwa kuchabua kwangu hawa watoto hawafai wapewe haki zao, kwa sababu wamezaliwa nje ya ndoa. (Interjection inaudible) mwisho nimesema hicho kifungu muangalie.

**Samson Kitema Sia:** Kwa jina mimi naitwa Samson Kitema Sia. Kile kitu ningetaka kujua zaidi nimesikia hati Sub-chiefs, Chiefs wamepokonywa madaraka na hawa watu tutachagua watu kama sita namna hiyo. Sijui tutachagua kwa kuitwa kwa mkutano ama itakuwa vipi? Mimi ningetaka kujua hapa sana. Asante.

**Nicholas Kalimi:** Kwa jina naitwa Nicholas Kalimi. Tumeona hii Katiba ikiongea mambo mengi kuhusu wazee, watoto, wanawake na hata the disabled lakini sijasikia mambo ya youths kwani youths tuko wapi katika hii society? Are we not part of the society? Yangu ni hayo.

**Michael Mbondo:** Kwa majina naitwa Michael Mbondo. Kwanza ningetaka nichukue fursa hii niwashukuru sana Commissioners kwa kazi ambayo mlifanya. Asubuhi nilisikia mtu mmoja akisema Katiba hii inaweza kulinganishwa tu ya South Africa. Alikuwa anasema it is even better than that one of South Africa, so who knows?

Jambo lile lingine ambalo ningetaka kuuliza tunasikia hapa na pale kwamba kunaweza kuwa na --- kama Bunge litavunjwa. Nyinyi makamishenas najua mmefanya kazi lakini kama Bunge litavunjwa tusema leo ama kesho ama kabla hajamaliza kazi yenu

na iwe ule muda ambao mnahitakika kufanya kazi mpaka January sijui ni January tarehe gapi utakuwa umekwisha kabla ya Parliament ile ingine haija ingia ni kusema pesa zetu zitakuwa zimepotea ama ni kusema tutakuwa tumefanya kazi gani? What are some of the things you are putting in place that you will make it difficult for the present government? The present reason not to dissolve Parliament before the enactment of this Constitution.

Secondly, umesema ama Katiba hii imesema kuna uhuru wa kuabudu. You have not put a limitation to that, kwa sababu kuna watu wengine ambao wanaabudu mashetani na you have not put limitations. I think when you go back and you have the National Constitutional Conference you will put some limitations where people will not be able to uphold the freedom because they can abuse the freedoms.

Jambo lile lingine ni kwamba Katiba hii haijaangalia kabisa, yaani iliangalia lakini sio kabisa kabisa haki ya wafanyikazi. Ndio kuna haki ya kugoma, unagoma lini na ukigoma utafanyiwa nini? Sijui kama kungekuwa na enactment where utagoma ukifanywa hii na hii na hii. Na usipofanya hii na hii na hii utafanywa hii. Hayo ndio nilikuwa nayo. Asanteni sana.

**Com. Abida Ali:** Any student?

**Josephat Kalung'u:** Kwa majina naitwa Josephat Kalung'u Mutiso na ningependa kuuliza swali moja tu. Nimeona Katiba imetilia maanani kulea watoto vizuri, kusomesha na mpaka watoto waitumu mpaka wapate degree lakini sijui Katiba imefanya nini kuhusu jambo la ukosefu wa kazi ambapo ni jambo mlishughulikia zaidi ili tuweze kutatua matatizo ambayo tuko nayo hapa? Asanteni.

**Jacinta Mutua:** I am Jacinta Mutua. You said eighteen old can marry and have family. I would say that I dont --- because eighteen year old they deopend on their parents. Lets say for examples are the form fours, a form four doesn't have any job to earn their living so if they get married how will they raise their familily. I also wonder whether they are seeing the economy of the coutry by giving birth to children whom they can't raise.

**Com. Abida Ali:** Any more?

**Sharon Meroka:** My names are Sharon Meroka and I am going to ask a question regarding the President. You are saying that one function of the President is to pardon offenders and then you have put that under the prorogative of mercy in that he can choose the six members who should advice him. I think that the President should not be allowed to be the person who chooses the six members.

On the part of the education, you are putting free primary education and you are ensuring that there is secondary education but, you have done nothing for the secondary education. Let me say that there are some schools which benefit a lot than others.

You go to a school in Nairobi it has all the facilities but visit one in the rural, it is lacking some of the facilities so the students are straining a lot. I would ask that all the schools be given equal chances, equal opportunities and equal facilities. So that education can be made easy to them. Thank you.

**Japheth Nzangi:** I am Japheth Nzangi and I have a few questions here. One regards the 30% set aside for women in most of the positions as per this draft Constitution. Now my question is if we are to go by that aren't we putting ourselves at a risks that we shall women who will just be pushed into the lets say Parliament and other arms of the government who are very rendard, they are just there because they have to bring up the percentage. I should think that if it is to work let the women work for getting into Parliament by proving their work and we judge against this. Because we might create a loophole where the politicians are likely to use women because you have seen they know and they have come through Maendeleo ya wanawake and we know women and the majority of the voters so they are likely to just drag them into Parliament to be using them, to rubber stamp their decisions and the like. So let us have women go there through their ability.

The other thing regards to resources, there is a section on resource distribuion. I don't know whether in the draft Constitution because I understand this is just a sketch I don't know whether there are all those details the way it is. I thought it was supposed to be six hundred pages. (interjection iaudible) it seem then there is a lot that has to be done for example lets take the resources sold locally like Game Parks, Dams and the like. I understand there is a 2% which is supposed to benefit the locals, lets say for example Masinga dam I don't know whether there is any way that we can make the people in the Constituency demade for accountability of the usage of that maney, because they might not be assited and there are no avenues. So I don't know whether we come to resource distribution we are going to put adequate machinery to ensure that there is accountability like on such cases.

My other issue has to do with accessible information. There is a section on accessible information it is state here that there is going an efford but I would like to ask a question regarding for example these Commissions of inquiry and you have seen so much money put into them and you have seen so much money put into them, but at the end of the day we don't have access to that material. How is the new Constitution going to ensure that for example even in the previous Commissions of inquiry the information that is contained there in is availed to the public even if it is an summary form so that at least we may get an idea what trasfered because I don't see it as reasonable to commit so much money and then we lock it up and pretend that it is jeopadising the National Security.

The other one has to do with citizenship. I read here that, if you marry a Kenyan after three years you can apply for citizenship and I wonder whether we are not creating a loophole if at all it is to be left the way this draft where by even foreigners can come pretend and stay for three or four years and then they apply and then they become a threat to our security source. So, I think in that area we need to look a bit in details. I think that is all I have, thank you so much.

**Com. Abida Ali:** Any other question?

**Eunice Wambua:** I am Eunice Wambua. You said that in that Constitution in the part of privacy that ransacking should be abolished. I want to ask about ransacking of peoples privacy and house should be abolished. Isn't this increasing theft if then this should be abolished? You should look for ways and means of detaching other ways of may be intruding instruments of detaching something dangerous or something illegal in somebody. If somebody's house or in somebody's possessions so as to increase thieves in the country. Thank you.

**Isabella Sambu:** I am Isabella Ole Sambu. I want to ask this question, you have said that in choosing the Vice President the next candidate who follows the President who follows the will be the Vice President and according to the draft it says that the Vice President dies before he assumes the office, the President nominates the Vice President. And on my side, I see this gives the President the power of sacking the Vice President any time when feels like. And according to us, ---- if the Vice President dies before he assumes the office the President should look for a person to run the office for some time and then the citizens should elect a Vice President.

**Com. Abida Ali:** Is there any other question?

**David Kimeu:** My names are David Kimeu. I wanted to talk about the President, first so I have said a motion to be enacted in Parliament or to become a law it has to see its concept from the President. Now is this not twenty years back to the present situation where by a motion can be passed in Parliament and the President can refuse it and say it is to be taken back to Parliament again. I think there is no point for one person to be relied on a resolution that has been passed by the majority of the representatives of the country.

The other thing is that we are talking about unemployment where by many of our youth people have no jobs. Where by we see some people after retirement they are given also chances to go back to the government and start --- with the government again.

Could there be an Act whereby this person it not allowed after retirement to be given any other chance to block the young people to get employment? Because now when you look at the present government or the present thing you find that many retirees for example the politicians after retirement they use their wealth that they have to challenge those other people who have no job to go back to Parliament and start enjoying the same resources they have been enjoying when they were employed.

The other thing I wanted to talk about is this provision you have given women as 30% where by we have been talking about equality. If it means that we are given equal chances why don't they compete with men because they are equal? Because we can see that there some women like Charity Ngilu who is in the front line of fighting for this country where else there are some men who don't have such guts.



The other things is about the women to have the right for the ownership or inheritance of the parents wealth. Now I can see there might be something like duplicate or double ownership whereby this woman is married she has got the right for inheriting the wealth of her husband and because of this right on inheritance this woman can also go back and start disturbing the brothers and say that I have also a right to inherit the wealth of my father or my family. And you find this will be to the disadvantage of the men who cannot now argue on any other inheritance. Thank you.

**Joseph Makau:** My names are Joseph Kamau and I have at least two points to make. One is about the Police Commissioner where the draft Constitution has talked about the President appointing the Police Commissioner with advice of the Parliament. But then down there we are saying or the draft says that the Police Commissioner can be sacked by the President with the approval of the Parliament. What about if the President has no quarrel with the Police Commissioner but the Parliament has? What powers does the Parliament have over the sacking of the Police Commissioner?

The other point is something which has been talked about and that is citizenship, that is after you marry a Kenya woman. It is saying that after three years you can apply for registration but then down there it says also that citizenship cannot be revoked by the virtue of the marriage thing dissolved. What if we have people who want to marry just because they want to become citizens and then after that they kick out the woman? Won't we be letting people who are foreigners to come into our country? So I think we should check on that.

And also about the a third of women, we are saying these two people the women and men should be equal and you have said that at least a third of the National Assembly should be reserved for women, that is the minimum. What about the minimum for men? Does it mean that we can have 90% being women and 10% being men. So, I think if we have a minimum for women at least we should also have a minimum for men so that we can bring this thing to be having a level of playing ground, because may be saying that because women in the past have not been going to the Parliament but because you want us to be equal. You know the point is being equal and treating these two sexes equally or the gender it is both men and women. So if we have to put a minimum for women then there should also be a minimum for men. That is my opinion. Thank you.

**Com. Abida Ali:** ... incharge of governance, I this country as citizens. One, what I would say is that it is quite evident that chapter eighteen that to amend that chapter one that gives us the power as citizens you will have to go back to the people. So if there is a need to remove that power and Parliament comes back to us and do a referendum we accept then I think we will be not delegating our powers. But if no one can remove the citizens position in this Constitution unless by way of our referendum. It is quite clear in chapter eighteen.

Two, we have also recommended in chapter one free and how citizens are going to enforce and uphold the Constitution. So we should be able to look for ways and means of ensuring that we enforce the right in the Constitution, we have the powers and if anyone tempers with those powers you have a right to go to court and ask the Supreme Court to make sure that you remain

incharge.

Then you talked about representation in Parliament and how our MPs are undisciplined and we are now giving them a lot of power. One, I think you and I should ask ourselves why we have undisciplined MPs we are the ones who elect the wrong characters to go to Parliament. Now the Constitution is telling you it is your obligation and duty to make sure that we have the right leaders and we have been given a lot of guidelines that will ensure that we have disciplined and we have leaders who are worthy of being in that House. I think that is the first thing that we should ensure that we have people who deserve to be our leaders in Parliament.

Two, what we have said and what I also want to tell you is that since our system of government is that we have representation by our MPs it was going to be extremely difficult to keep coming -- to people to make decisions. It is not practical and it is very expensive. I don't think we can afford to have a Commission going without a country every day getting views. It is also an assumption that an MP goes to Parliament with instructions from the Constituency that is why right now in section 112 we are given the rights to recall an MP who deserts a Constituency. Because MPs are supposed to consult with us before making a decision in Parliament.

We also have proposed an Integrity and Ethics Code that all our MPs and all our leaders will have to comply with and I think it is a measure to sieve out the wrong characters who got to Parliament to fight and be unruly. But I think at the end of the day the onus is on you and I as citizens of this country to make sure that we are not bought by a kilo of sugar or ten or twenty shillings to send the wrong people to Parliament. So make sure we have good people that we can rely on in the, --- times.

You have a problem that MPs do not have offices. Let me tell you there are MPs who have and I can tell you this, as a matter of fact because we have gone to all the Constituencies in this country. I know as a matter of fact of two MPs who have offices in their Constituencies. In fact one and I don't want to name names because you may not believe constructed a Constituency office in his own piece of land. So they have people who have such offices but without telling MPs to have offices and dictating to them how they are going to relate to their Constituency what we have recommended is that an MP who deserts. So it becomes mandatory for an MP to be in constant stand with his Constituency. If you do not see your MP you have a right to recall him. That is in section 112 or Article 112 so I think we have put adequate measures, we have also under the chapter dealing with Parliament we have given a recommendation where Members of Parliament and especially Ministers must be present at and when it is required for them to be in Parliament. But at the end of the day if we choose proper leaders I am sure they will be there to represent us.

Josephat, I didn't get your second name, you have a problem with section 37 that deals with the issues of illegitimate children or children born out of wedlock. As far as you are concerned, they should not have equal rights with children who are born within wedlock. My question to you that I hope will answer you what have these children done not to deserve to be treated like

human beings? Our Constitution has traced the needs for non-discriminatory practices. We have also said that one should not be discriminated because of the way they were born or their status in society. I think we should be asking the parents or men and women to make sure there are no illegitimate children that the issue of equal will not arise. I think the problem of men and women who do not comply with the moral ethics of society. The children are innocent and on our part we saw no justification whatsoever to have them discriminated. But again if this is a very strong feeling by and others please use your delegates to see whether you can convince 629 Kenyans at the National Conference that there is a point and a reason to discriminate innocent children.

Samson kuhusu Chief, Chief akiondolewa how do we elect the village elders. Of course village elders will be elected in the normal way by secret ballot but we are recommending that if is possible because village elders are people who are known in any given village and I don't think they are very many that any village should be able to identify village elders without going through the votes, but if is necessary for one reason or the other then they should be elected in the normal way by way of secret ballots. Although it is not clear may be we need to come out clearly or have regulations that we assist people at the village level.

Nicholas Kiremi youths have not been dealt with in the Constitution. May be if you wanted to see the name youth or the word youth it does not appear, but who is a youth? Under the international definition of a youth it is anyone under the age of thirty five. So when we talk about men the youth are included, when we talk about women under the age of thirty five are still women and youths. So in our considers opinions it was going to be a duplication and we felt that children require a special position in society and so do women. And if we talk about women we expect that whoever is dealing women will deal with women of thirty five and above eighteen and when we are dealing with men we are also talking about men above eighteen and below thirty five. Although if you look at various sections of the Constitution we have indicated very clearly that one should not be discriminated and it is either firm for instance the government the political parties to ensure that youths are represented in various sectors of governance. It may not be there in black and white may be word youth but our reading is that youths are represented and there are also sections that are very clear on protection of the youths. But again that is something if it is the youths strongly feels that we need to do something about that it is something that can be brought up at the National Conference.

Michael Mbono, we hear there will be a problem if there is dissolution of Parliament, what happens? What law, what measures are you putting in place? can I also say that we hear also at the Commission that there might be dissolution of Parliament and this is beyond all Kenya except the President. And there is nothing we can do because the current Constitution gives him the prerogative to dissolve Parliament. So it is upon him to dissolve Parliament or not if he dissolves Parliament we cannot continue with the review process because a third of the delegate as MPs and we cannot do without them.

You also have a problem with freedom of worship and you would like us to put a limitation. I think that is a very important point that probably you can ensure it is brought at the National Conference for further deliberation. We had a problem

because of the clauses that deal with freedom of association and freedom and freedom of expression. So we are hoping that this issue will come up at the National Conference so that we can all together be able to find a solution to this problem of cult without carteling freedom of worship unnecessarily. You also said that the Consitution does not conclusively dealt dealt with the rights of workers what I can tell you with a lot of authority is that we could not have done more than we have done. We consulted very wisely, we studied Constitutions of other countries and anything added to that section, section 55 would not have been a Constitutional issue. I think probably what workers need to do is to ensure that there terms of employment include details like the ones you are talking about. Because remember that a conduct or terms to reference of employment and contract between two people so you should be able to bargain at the point of employment to ensure that all your rights are catered for.

The Constitution is just a guideline and we could not have done more than we have we done, but probably different Legislations or acts of Parliament can deal with that thing but as far as the Constitution is concerned I think we gave the best that a worker can get having looked around and having consulted with experts.

Josephat Mutiso, we have not dealt with the issue of unemployment. Now, this Constitution is supposed to hopefully hold this country for may be the next hundred years. Unemployment is a situation may not be there forever really if we have proper governce and exploitation of our resources in a good way. So for us the issue of unemployment although it was advocated it is featured in our report and we are hoping that the government up that issue in its policies so that it can be able to cater for it. We did not think that really it was an issue to be put squarely in the Constitution, but again it depends if the National Conference feels otherwise you can take up that issue, sent you representatives and we see whether it can be taken up, but seriously speaking it is really a policy issue that our government should hundle and sort out once the issue of governance it rectified.

Jacinta Wambua, why should children or people of eighteen years have the right to marry, have families and yet some of them are in schools and may not be able to raise a family. I think your feeling is very genuine but on the other hand every provision comes with its own risks. We were looking at a situation infact the current law the marriage act in particular says that girls can be married at the age of sixteen and we thought that that is discrimination because if boys are not to marry at age sixteen then we have no reason to say a girl should be married at age sixteen. Because right now at age sixteen other than for government you can leave school and consent to get married and very little can be done seriously speaking other than the DO getting your father and instisting that you go back to school. So we were safeguarding a situation like that and requiring that laws should be amended so that people at eighteen both boys and girls if they wish infact we are saying by your own consent nobody will force you to do that.

Then, the other thing is that the adult average or when does one become an adult? Worldwide it is at age eighteen. Infact, in other countries when you are eighteen even in Kenya your parents have no obligation to take care of you. But of course, we do because of the different values that we have in our society, so we looked at all that and all we are saying is that children below

eighteen should not get married with or without their consent. We are not saying it is a must may form a family that is what we are saying because there are those who are eighteen and may be they are out of school and may be they don't need to work, or may be they are girls they are eighteen they are out of schools oh my I should get married I don't need to go beyond school. And we are saying since they are adults we should not deny them the freedom of association by them wanting to get married. So it is really upto you to read the law and see what is relevant and what is important in society, infact it is important to get --- and have some income that it can help you sustain yourself. But again these are not issues of law these are values that we grow up with and we are supposed to respect and uphold in our daily life.

Sharon, you have a problem with the President appointing the people to assist him. That is valid but you did not say who should be appointing, may be you want Parliament to appoint. But then surely if we have a good President and we hope that we shall get one who we shall be able to uphold and defend the Constitution you cannot remove all powers from this man who has been elected by majority of Kenyans. Why do we want to have a powerless President then why do we waste our time and resources electing him we must be able to give him some powers and hope that he will pick men and women of integrity to assist him in giving the pardon of mercy. But again that was the considered opinion of the Commission that this issues can be revisited at the National Conference and to see the feeling of majority of Kenyans.

Then you have a problem because we haven't stated much about secondary education, section 5 (8 (i)) has talked about it although I agree with you it is not clear. So may something needs to be done to make that section clear, but you can read in between and we have mentioned about secondary schools.

Japheth has a problem with 30% representation of women. We are not taking a risk to have women who are redundant? I didn't understand what you mean by women who are redundant to begin with I think we have women of substance and quality in this country and we are all hopeful that they are the ones who will go to Parliament to represent us. And that was the spirit for the Commission and I believe the spirit of men and women who are in support of 30% representation of women. And if I have to give you my opinion you have a problem that women may be used as rubber stamp let me tell you the reality of life. Women are never used they have fairly principles and that is why even a policeman will have a big problem asking a woman to bribe. They will go to men because have principles so I think your fear is unfounded but all the same since we have said we should have a have a culture where we accomodate peoples views, please if it is a very itchy problem sent your representative to the National Conference and let us see whether the men and women of wisdom at the National Conference will agree with your point.

Distribution of resources, you said a lot has to be done. I agree with you, but on the other hand if you look at Article 239 sub-section 2A and B, I believe we have covered the issue of distribution of resources. But again some of these things really depend on the government policy and Legislation and the Constitution can only say so much. Infact there is no way our Constitution would have been six hundred pages because our instructions from Kenyans was that we should have a small and

precise document that gives guidelines of governance. Infact if you ask me the Constitution is too big we need to trim it a little. We want a document that Kenyans can be able to carry in their pockets you can have a look at what South African have to realize that you can actually have a small document that assist in the governance of a country.

Access to information, I agree with you entirely that citizens needs to get information especially where the state has used public resources and I believe section 47 one to four deals with that problem. If not may be again you can give your proposals through your representatives.

On the issue of citizenship, if you marry a Kenyan you can apply after three years. Foreigner can come and ---. There is a friend of yours who said that if you marry a Kenyan woman, I don't know whether you are also thinking about marrying a Kenyan woman as apposed to marrying a Kenyan man as well. I think this is a risk and we looked at practices worldwide and what we felt that if a Kenyan marries a non-Kenyan we should only refuse their spouses and citizenship for good reason. And again we have recommendated that we should have citizens registration board that will look at all applications. So we have men of reason sitting in that board I am sure they will detect if there is anything that these people are probably looking for and I think every right comes with some sort of a risk. People can wait even for ten years to marry and they cause problems. But again if you think three years is too little may be through your representative you could tell us since you did tell me you tell us what you think is reasonable. Because that was really something that we debated and at the end of the day we thought three years was reasonable but again this is a first draft subject to discussion and that could be amended.

Eunice Wambua, rensacking of house why has it been abolished isn't this going to increase theft? We had a lot of views from people who thought that it is really unfair for police to search house and that police have misused the right that they have in law right now to search houses. That they do that steal from people, rape women and do a lot of bad things. And then if a citizen has a right to privacy surely the right to privacy should also take into account the right that will not allow a officer to rensack a house unless with authority may be from the courts. So if it is really necessary I am sure that there are ways and means of obtaining a warrant to do that. but unless it is for reasonable course where the officer has a warrant then it should be illegal for officers to enter people's homes without good reasons to rensack because this is a preivilaged they have abused. So we were responding to the cry of Kenyans and like has said every right has a risk but again that is subject to debate.

Isabella Said that we have a recommended that a President has a running mate who will be appointed as a VP but if the VP dies and the President nominates this gives him a lot of power to sack. The President has no power to sack the VP by the way.

Two, we are recommendating in section sixteen three, that before the President nominates this person he should be scrutinized and approved by Parliament.

David has a problem with the President having to assent to bills. That is the current practise and having considered the practise

in other parts of the world and having consulted widely we felt that we should leave that obligation and duty to the President. But we have not given him a lot powers if you look at that section that deals with this item, what we have proposed is that when the President refers the Bill back to Parliament, Parliament may consider his recommendation or may not and if they return back to him he is under an obligation to sign it within seven days. So we have checked the powers they are not unchecked.

Unemployment I have answered that, women 30%, equality, why can't they compete? I don't know whether I need to answer that question years women have been unable to compete and I think that we need to be practical and we need to be sensitive to the needs to this country if a home requires both a man and a woman to run smoothly sure a country deserves to have over 50% of the other sex represented in Parliament. Women form more than 50% of the citizens of this country due to his historical, cultural and religious reasons. Women have been unable to get to that Parliament. And because of what we had like have said from reasonable men and women we were forced to have what we call affirmative action so that this country may probably run smoothly if women are adequately represented. We may not have the problems that we have right now.

On the other hand we have recommended probably not in the Constitution but in our reports that Parliament should enact a law after we have achieved the 305 representations to ensure that affirmative action does not grow overboard. So we are of the fact that a time may come and hopefully very soon where majority of women will be in Parliament and we do not need affirmative action.

Then, you also had a problem with inheritance by women; you think that women or a woman may go to disturb her brothers to demand her inheritance. Sure enough if the law says you can inherit, why shouldn't you go and demand your rights. I think your concern is a bit misplaced but overall, I know a lot of men especially in Ukambani, because I think this is my eighth Constituency, have a problem with women inheriting. I am sure other Kenyans also have that problem but again this is an issue that can be taken up at the National Conference to see how we can balance a Constitution that talks about non-discrimination. That talks about equality and on the other hand discriminated when it comes to inheritance. Those are the things that we need to balance so please discuss further, consult those who have wisdom and sent your representatives so that we can sort out this issue of women inheriting. But remember that more than a third of the delegates are going to be women so I don't know how whether they are going to agree to this after the draft Constitution has given them such a right.

Makau on Police Commissioner appointed by President after consultation by Parliament and why should he be sacked if Parliament approves and the President does not agree. Infact what the section says 266 (6) is that the President may sack for goof course. So if Parliament recommends and the President thinks it is not for good course he may not do it. And also I don't know whether a Parliament full of men and women of integrity would ask and pass by a majority votes a motion to sack a Police Commissioner for the sake of doing it. I think they will do it for good reason. That is the assumption that we had as a Commission.

And then you had a problem of citizenship, marriage of Kenyan women. Don't you think even Kenyan men can marry women who are problematic I think it is either way and I answered that question. Without us having bias towards one gender. On the fact that citizenship cannot be revoked, what we felt is that just as you think that one can marry a Kenyan and then misuse that Kenyan and kick them out, we also thought and I can tell you that this is a reality that Kenyans are also married and marry non-Kenyans, and then use the citizenship as blackmail. So, once you become a citizen of this country in our considered opinion is that the law should protect you. So if you are a good citizen as you have dissolution of your marriage because that is also a Constitutional right you should not be denied to continue being a citizen of this country. Because you could divorce for good reason and a lot of men and women divorce for good reason.

You also had a problem with a third of women and whether we should have minimum of representation of men in Parliament. I think this time in our country that issue is irrelevant and like I said in our recommendation we have recommended once we achieve the one third representation of women then this section of the Constitution should be repealed and a third will still leave 70% of men in Parliament. But due to natural courses if we have more women in Parliament than men I am sure men will move a motion to have affirmative action and it will be relevant that time and not today.

With those answers and remarks, thank you very much for listening and attending this session and making it a success. I will take you back to the coordinator so that she can close the session.

**Rose Kimeu:** Thank you very much Madam Commissioner. We have been able to go through everything that we were meant to, today. We all have copies, at least a majority of us have copies of the draft Constitution and I would rather want to carry something on the National Constitutional Conference. The Commissioner has been referring to delegates to the National Constitutional Conference and it is for your information that we have already held elections of three delegates from Machakos district to the National Constitutional Conference. And the three happen to be from Kathiani, Mwala na Machakos. So, Yatta na Masinga, Kangundo could not be able to get people to the Conference but that does not mean we are not represented. Because as you have been told the Conference will be attended by our Members of Parliament. So our area Member of Parliament is a delegate to that Conference. And we would also like to say that even though we don't have delegates with us here, if you have any queries that you would want taken to the Conference, you can write what you want, pass it up through the Constituency committee, we will give them to the delegates to take them to the National Conference for use. So don't feel that you are not going to have an opportunity to meet this people or to get to understand what is happening.

Then, I also want to thank you for coming to this meeting may be some of you had a very short notice. Thank you very much for availing yourselves it shows how committed to the Constitution making process. And for the close of the meeting I would want to ask if there is someone who is ready to say a word of prayer to come up and close the meeting for us.

**Rose Kimeu:** Lets pray, Father in the name of Jesus Christ, we want to thank you this afternoon. God, we want to thank you



