

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

Verbatim Report Of

**DISSEMINATION OF REPORT & DRAFT BILL, TIGANIA EAST
CONSTITUENCY HELD AT MIKINDURI MARKET PRIMARY SCHOOL**

ON

14TH OCTOBER 2002.

DISSEMINATION OF REPORT AND DRAFT BILL, TIGANIA EAST CONSTITUENCY, MIKINDURI
MARKET PRIMARY SCHOOL ON 14/10/02.

Present:

Com. Domiziano Ratanya.

Secretariat Staff in attendance:

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|-----------------|----------------------|
| George Kimathi | District Coordinator |
| Solomon Anampiu | Program Officer |
| Jim Muketha | Chairman 3Cs |
| Mary Babu | Verbatim Recorder |

The meeting started at 10.45am with Com. Ratanya in the Chair.

Gregory Muriira: (Prayer) Hebu tuombe. *Kwa jina la Baba na la Mwana na la Roho Mtakatifu. Amina. Baba mmenyezi Mungu mwenye huruma, tumekushukuru sana kwa vile umetuwezesha kuhudhuria mkutano huu wa kueleza mambo ya Katibaya nchi yetu. Baba mwenyezi, muumba wetu, tunakuomba na tunajiweka mikononi mwako ili uwaongoze, kwanza, Commissioner na wasaidizi wake wote na washiriki pia ili wakati huu tusaidiwe na Roho wako Mtakatifu ili tuweze kupeana maoni na kushika yale yote ambayo tutaelezwa ili zote pamoja tujaribu na kujitahidi kutoa maoni ambayo yatawezesha Katibayetu kuwa ya muhimu katika nchi hii yetu. Kwa vile Baba unajua mambo yote na fikira zetu, tunakuomba utusaidie na yote yale yataweza kutuongoza na kutusaidia siku hii ya leo kwa mambo yale yote ambayo tumekuja kuambiwa hapa. Tunaomba hayo machache kwa jina la Bwana wetu Yesu Kristo. Amina. Kwa jina la Baba na la Mwana na la Roho Mtakatifu.*

Jim Thimangu Muketha: Asante sana Bwana Gregory Muriira kwa maombi, kwa jina mimi ni Jim Muketha, mwenyekiti wa

3C's hapa Tigania East Constituency. Yangu Bwana Commissioner Ratanya, Secretariat ya CKRC, Bwana Coordinator, ni kuwakaribisha katika hiki kikao cha kusoma draft ya Constitution. Tunafikiri kwa sababu tumepatiwa makaratasi ya kuona vile maneno yalivyo, tutasikiliza na tutapeana feedback kutokana na yale tutafundishwa na watu wetu.

Karibuni Bwana Commissioner na staff wenu. Asante sana.

George Kimathi: Asante sana Sana Mr. Jim Muketha. Mimi nitaanza kwa kuwashukuru sana kwa vile mmefika kwa yale ---? nimesema. Kama mjuavyo ni kwamba mara ya mwisho tulipokuwa hapa ilikuwa mwezi wa tano, naona wengi wenu mko hapa. Wale tulikuwa tunapeana maoni na kama tulivyo waahidi ni kwamba, tuliwaambia maoni ambayo mlipeana yataenda yaunganishwe na mengine. Tulikusanya maoni katika Constituencies zote 210 tukasema maoni yenu yatahisiwa katika Katiba mpya lakini kwa saa hizi tuko na Draft Constitution ama kielelezo cha Katibaambacho lazima kijadiliwe na wananchi na kama kuna mtu ambaye labda ako na la kuongeza ama la kutoa katika Draft Constitution.

Tunajua ya kwamba tutakuwa na Delegates Conference mwezi huu, kama ishirini na nane hivi; na ndio maana tumekuja hapa tukiwa na Commissioner na other officials kutoka headquarters, ili wawaeleze ama tujadiliane sote, tupitie hii Draft Constitution tuone vile iko. Kama kuna swali kuna mambo ambayo hayaeleweki vizuri, kuna Commissioner hapa ambaye atatueleza kwa kindani na kutoka hapo tutataraji ya kwamba nyinyi kama wahusika, kama kuna mambo mnataka kubadilisha mtaandika, mnaweza kuandika mlete kwa ofisi yetu. Kuna mengine mnaweza kutuma huko headquarters ili delegates wakikutana mwisho wa mwezi, waweze pia kujadili yale mapendekezo ambayo yametolewa na wananchi kuhusu mswada huu; Draft Constitution hii.

Kabla sijamwita Commissioner Ratanya atujulisha wale wametoka naye huko headquarters, ningetaka kidogo niwajulisha wale tumekuwa nao hapa Tigania

East, upande wa Constitution Constituency Committee. Tuko na chairman hapa, Jim Muketha, tuko na Muriungi na ninamwona Isaiya Mwilari King'ero yuko pale, hawa wengine labda hawajafika. Hata ninaona kuna civic education providers hapa, hawa ndiyo watu tulikuwa tukifanya nao kazi hapa Tigania East na ninawashukuru kwa ushirikiano wao.

Nitamwalika Commissioner Ratanya ambaye atatupeleka hatua kwa hatua katika hii Draft Constitution lakini kwanza atawasalimia na tuendelee na programme yetu. Thank you so much.

Com. Domiziano Ratanya: Asante sana Bwana ---(not clear) na Chairman wa Committee ya Constitution hapa. Hamjamboni nyote wananchi?

Audience: Hatujambo.

Com. Ratanya: Langu kwanza ni kufanya introduction, yaani kuwajulisha wale ambao tumekuja nao. Mimi mwenyewe tumeonana mara nyingi sana. Mimi ninaitwa Domiziano Ratanya, nimekuja hapa mara nyingi na ni mtu wa kwenyu hapa, kwetu ni upande wa ---? mimi ni Commissioner.

Kwa upande wangu huu kuna Solomon M'Anampiu, hata yeye anatoka upande wa Meru lakini ni Programme Officer wetu headquarters, one of the senior officers at the headquarters of CKRC. Asante sana Bwana Anampiu. Yule mama ambaye anaandika anaitwa Mary Babu, ndiye officer wetu kutoka headquarters na kazi ile anatufanyia sana ni kufanya hii recording yote, verbatim recording na hii machine mnaona hapa na kuandika halafu atatoa ripoti ya kila pahali ambapo tunaenda. Mary Babu simama uwasalimie wananchi.

Mary Babu: Habari Zenu?

Audience: (Response)

Com. Ratanya: Hao tu ndio nimetoka nao kutoka Nairobi lakini kuna mwingine ambaye ni wa maana sana, yuko hapa, Bwana Ibrahim Muthee, naye ni Driver wetu, he is busy, atakuja tu mtamwona.

Inaonekana kwamba tumekubaliana tutumie lugha ya Kiswahili kwa sababu mlianza na Kiswahili lakini sikusema kwamba hatutatumia Kiingereza. Kama kuna kitu ambacho ungetaka kueleza kwa Kiingereza ni sawa sawa. Ukiona umelemewa kabisa na hauwezi Kiingereza ama Kiswahili, kama vile niliwaambia siku ya gathering of views, mtasema hata kwa Kimeru kwa sababu hapa si mambo ya kusema tuna-stop mtu yeyote, hakuna mtu tunasimamisha asiongee. Ongea kwa lugha yako, ya muhimu ni tuelewane ama sivyo wananchi?

Audience: (Response)

Com. Ratanya: Hiyo kama hujui Kiingereza kabisa, hujui Kiswahili kabisa, hata neno moja, lakini ninajua Kiswahili ni national language, kila mmoja anajua na ninaona kama tumekubali tutumie Kiswahili. Tukiendelea kwa hii Draft yetu, mtaona kuna pahali tumesema Kiswahili kitakuwa official language ya Kenya na English itaendelea kama official language na Kiswahili kitaendelea kama National language. Kwa hivyo Kiswahili ni official na national language; yaani lugha ya kutumiwa ofisini na ya kuongea sisi wananchi, kama vile tunaongea. Hiyo ndiyo kitu kimeongezwa kwa Kiswahili. Nimewaambia hayo kwa sababu tumeanza kusema mambo ya lugha lakini tutaangalia ndani pahali tutafika kwa languages. Kiswahili kimekuwa promoted, kimekuwa official. Haya mambo yote ya kisheria ambayo yatakuwa yanaandikwa baadaye yatakuwa kwa Kiswahili na Kiingereza. Hata ukienda kortini, Kiswahili na Kiingereza, Constitution yenyewe, Kiswahili na Kiingereza. Tanzania wanatumia Kiswahili pekee yake lakini vile tulivyo katika stage yetu ya Kenya, tumeonelea Kiswahili na Kiingereza vikiandamana namna hiyo, may be there will be a stage when wakati tutasema kwamba Kiswahili kibaki. Ama si namna hiyo?

Audience: (Response)

Com. Ratanya: Lakini as per now, ama kulingana na Draft yetu, itakuwa namna hiyo. Kabla sijaketi ili tuendelee na mazungumzo zaidi, ningetaka kuwaeleza sasa ile programme yetu, ile tutafuata.

Kwanza, nitawaeleza mafupi kuhusu report ambayo tulifanya kama Commissioners, tulipokuwa huko Mombasa. Baada ya kuchukua maoni yenu, ripoti iko hapa kwa ufupi, ambayo ilikuwa kwa magazeti, lakini ilikuwa zamani kidogo. Hiyo tutazungumzia na hii mnayoona hapa mbele ndiyo Constitution Draft yenyewe. Hii ni Draft Bill, ambayo kutoka hapa ikiendelea na kutengenezwa, itaingizwa kwa vitabu vizuri na itaenda iangaliwe Parliament na Parliamentary Council, I mean National Conference ambayo tutakuwa nayo, halafu itaenda kwa Parliament, halafu itakuwa sheria. Haitaendelea kuwa katika magazeti.

Katika Commission tuliamua kutumia in this form kwa sababu tuliona ku-print vitabu vile vikubwa namna hii, ama vingine kama hii ya law yenyewe, kwa sababu vitabu vya law viko in this form, wakati huo utafika. Tuliona ni heri kuandika hata draft namna hii, ndiyo itakuwa cheaper, ili wananchi waangalie, waifanye corrections, waifanye amendments na halafu baadaye tukiendelea tuipolish namna hiyo, tutaweka iwe kwa kitabu cha maana. Na hii, katika kila Kenya kuna Draft kama hii imeandikwa na watu wa Daily nation, tulinunua, commission ilinunua hii pull out, hii yote tupeane katika Kenya yote pale tunaenda kwa kila constituency. Kila constituency iko na kitabu kama hiki.

Tukitoka kwa hii sasa tutaendelea kuzungusha hii halafu kutoka hapo, nyinyi wenyewe mtauliza waswali ama mfanye debate na maswali ambayo mnataka leo, kwa sababu ni wakati mfupi, muulize na halafu baadaye tuwaachie muendelee na hii debate ya Constitution Draft for thirty days mpaka wakati tutaenda kwa National Conference. Kwa hivyo ningetaka tuketi na tuendelee step by step.

Kitu cha kwanza, ningetaka mjue kwa nini tumekuja hapa. Tumekuja hapa ili tuwaambie pale tumefika kwa ile kazi ambayo tulipewa na watu wa Kenya ya kufanya Draft ya Constitution na halafu kuendelea mpaka itoke iwe Constitution, ku-review Constitution yaani, kubadilisha ile Constitution ya zamani. Constitution, kitabu kama hiki, hii ndiyo Constitution tunayo sasa, imeandikwa kwa kitabu kama hiki. Hii Constitution ndiyo Constitution of Kenya ambayo iko hapa leo, kwa sababu hii haijakuwa Constitution, hii ni proposals.

Watu wa Kenya waliona kwamba hii ina mambo mengi ambayo yanataka kubadilishwa kwa sababu hii ilianza 1963, kutokana na Lancaster House Constitution. Lancaster House ni huko ulaya, kulikuwa na mkutano wa kufanya Constitution ya kufanya Kenya iwe huru na baada ya hapo, ilianza kubadilishwa, kutoka 1964, 65,66,7 kulikuwa na mabadiliko makubwa kabisa katika Constitution ya Lancaster House. Unajua kwanza mwanzo kabisa, tulikuwa na hata kiti cha Prime Minister, kutoka the Lancaster House Constitution lakini hiyo ilibadishwa, hiyo ni amendment moja kwa Constitution iliyofanywa kutoka mwanzoni. Tukaingia kuwa na President bila Prime Minister. Zamani zile, tulikuwa na Regional Assemblies; yaani kulikuwa na Serikali za

provinces, regions zilikuwako na kulikuwa na wajumbe ambao walikuwa katika region. Hiyo yenyewe ilibadilishwa.

Kama nikikumbuka, hapa kulikuwa na mjumbe wa regional assembly wa Meru North kwa sababu kulikuwa na Nyambene South, Nyambene North. Si kama sasa tunasema Ntonyiri, Igembe Constituency, Tigania East, Tigania West but in those days, kulikuwa na Constituency ngapi? Wale wazee wanajua hapa, tulikuwa na mbili: moja ilikuwa inaitwa Nyambene North, hiyo ni Igembe (Kimeru) Nyambene South ndiyo ilikuwa Tigania (Kimeru), but ilikuwa inaitwa Nyambene South na kule na Nyambene North kulikuwa na Mjumbe wa kwanza katika National Assembly; hata majina ninakumbuka alikuwa anaitwa M'ikilai and Nyambene South ilikuwa ya Thiatha. Si ndiyo? Hiyo ni zamani zile. Wazee hawakumbuki? Ninawakumbusha Katiba ile ilianza wakati ule na hapo baadaye tulikuwa na National assembly kwa sababu kulikuwa na regions, commonly known as Majimbo na kulikuwa na Mjumbe wa Igembe ama Nyambene North, huyo alikuwa Muturia, pengine wazee wanakumbuka, hata tusiposoma, na Tigania South tulikuwa na nani? Mnamkumbuka sana.

Audience: (Response not clear)

Com. Ratanya: ---? Anampiu. Si ndiyo? Yeye alikuwa upande huu. Sasa, hayo yote yalibadilishwa. Ikaendelea kubadilishwa, kulikuwa na Upper House ambayo ilikuwa inaitwa Senate, na Lower House: House of representatives. Kulikuwa na nyumba mbili lakini ilibadilishwa ikawa moja ikaendelea mpaka ikabadilishwa mara nyingi nyingi mpaka sasa miaka hii, kutoka 1992, wananchi wakaanza kupiga kelele, wakasema hii Katiba imebadilishwa mara nyingi sana, kwa hivyo tunataka itengenezwe upya, kuwe na Katibasawa sawa kwa sababu tumekuwa na hii tunaita amendment nyingi; wiki ikiisha, tunasikia kuna amendments. Miezi miwili, mwaka mmoja, sasa amendment hiyo ikawa kama kuwa na nguo ina viraka vingi.

Sasa watu wakasema hii ni mbaya, watu wa Kenya wakasema ni heri tuwe na the Review of the Constitution. Kutoka hapo ndipo tulitengeneza Commission ya kuangalia mambo ya review, yaani ku-review hii kwa sababu hii imedilishwa mara nyingi, si ile ilitoka Lancaster, hii sasa imekuwa mara nyingi nyingi. Sasa watu wa Kenya wakakubali hii ibadilishwe, na ifanyiwe Review na ndiyo tulikubaliana tuwe na Commission na Commission ikazungumziwa vile itachaguliwa. Wakati mmoja watu hawakukubaliana kutoka 1997, waliendelea kupigana hivi mpaka wakakubaliana mwaka wa 2000. 2000 walikubaliana lakini si wote; kulikuwa na group moja wakakubalina kukachaguliwa first Commissioners 15, group ingine ilikuwa na Commissioners wengine. Sasa walipoingia, wakaona hawawezi kuendelea na kazi wakiwa tofauti, Kenya ni moja na lazima waungane.

Professor Ghai alipochaguliwa kwa Commissioners wale wa kwanza, alienda akasema lazima aunganishe Commissions zote mbili; Ufungamano na hii ilikuwa ya Parliamentary Select Committee. Wakaungana mwezi wa May, June hapo wakaungana na ikawa sasa Commission imekuwa moja, ikaendelea na kazi na mpaka sasa Commission ni members 28, kwa sababu waliungana wakawa 28 na 2 ex-officio; Attorney General ni ex-officio, hana kura, lakini ni ex-officio Commissioner na mwingine ni Secretary, PLO Lumumba, ndiyo Secretary wetu. Kwanza kulikuwa na mwingine, mnasoma hiyo history na mambo ikabadilika, tukawa na huyu ambayo tunaye. Hao ni wawili, Attorney General na Secretary, two ex-officio

Commissioners na wengine ni 27, wote tuko team ya 29.

Wakati mliona kwa ile paper ya kwanza nilikuwa na report, walikuwa hapo, majina yao yalikuwa hapo na hata picha na hiyo ilikuwa ni full commission ya Constitution of Kenya Review Commission. Sasa iliendelea na kutengeneza sasa Katibakulingana na ile sheria tulipewa. Hii sheria ilikuwa katika sheria za Kenya, Cap 3, laws of Kenya, inaeleza yale tumeambiwa tufanye. Commission ikaendelea, siku moja ikaingia mpaka hapa katika Tigania East, wakati tulienda round kwa kila Constituency kukusanya maoni ya wananchi; wanataka Katibaiwe namna gani, Katibaibadilishwe namna gani. Tulikuja hapa hapa, hata tulikuwa katika hii nyumba wakati wa kukusanya maoni.

Mbele ya hapo watu walifundishwa kidogo, wakafundishwa ili wajue kuna nini, ndiyo maana kulikuwa na civic education, committee tukaifanya, coordinator akaingia kila district. Baadaye tukaja kukusanya views, maoni yenu, yale mnataka yaingie kwa Katiba. Nilikuwa hapa, nina hii, mnaona hii file, hii ni ya Tigania East Constituency, Constituency number 50, yale yako hapa ni yale mlisema siku ambayo tulikuwa hapa. Pengine tutafungua moja mbili ili tuangalie na tulinganishe na Draft Bill, mtaona kwamba maneno yale mlisema, mengine yamekubaliana na wengine katika Kenya na yameingia kwa Draft yetu. Sasa haya maneno yote tuli-collect kutoka Tigania East, hii ndiyo report tutawapatia, tutaacha hii hapa muwe mnasoma kwa documentation centre ama copies baadaye zikipatikana.

Kwa hivyo hayo yote tulipokusanya everywhere, kaitika constituencies 210 katika Kenya, kulingana na ile sheria inatusimamia tuliambiwa twende. After collecting, kulikuwa na stage ya collating, yaani kuchunguza maoni, tukaenda sasa tukayachukua yote tukaketi kama Commissioners, tukaangalia Tigania East imesema hivi, tigania West, huko Tharaka, huko Bomet, huko upande wa Kisii, yaani Kenya yote, 210 Constituencies, tukaangalia. Tukaona maoni yenu vile mnasema, kama ni President mnataka awe mmoja, achaguliwe, kama ni Vice-President, kama ni Prime Minister, hayo yote tukalinganisha haya maneno katika Kenya yote, 210 Constituencies, hiyo kwa Kimombo ndiyo tunaita collation, tukaweka pamoja na kuchagua, tukaendelea sasa kuchagua, kuona yale yataingia kwa Katibana hiyo ilikuwa kazi ya Commission, ambayo tulikuwa tunaketi pahali.

Tulienda huko Mombasa tukaketi, tukaunganisha hayo yote, tukaketi kuyaangalia, tulipomaliza hapo tukatokea na ripoti na hiyo report si report ya mwisho ya Draft, ni report ya kusema kazi hapo tumefikia na hapo tumefikia kwa maoni ya watu na tutaendelea kutengeneza Draft ambayo itaenda kwa Parliament. Kwa hivyo ile report tulitoa, kwanza ilitoka kwa paper kama hii, kuna wengine walinunua Nation, baadaye tukaandika kwa kitabu kama hiki, kuna vitabu vichache ambavyo viko kwa documentation center kwa sababu hatukuweza kuwa na copy ya kila mtu. Hii ni report ambayo hata ukiangalia tunaita 'People's Choice' na kwa Kiswahili, sikuweza kupata ya Kiswahili kwa sababu zinaendelea kuandikwa, inaitwa 'Chaguo la Wananchi'; yaani hii Katibatunatengeneza ni chaguo la wananchi, wananchi ndio wamehusika.

Ile ya zamani ya Lancaster House, mimi nilikuwa tu kijana mzima lakini sikuulizwa maoni na hakuna wazee waliulizwa. Ama tuliulizwa wale walikuwa wakati huo, tuliulizwa?

Audience: (Response inaudible)

Com. Ratanya: Kwa hivyo ilikuwa katika Kizungu na viongozi lakini ya sasa ni Katibaya wananchi wetu na ndiyo unaona kitabu kama hiki kinatokea, kinaitwa people's choice, ni kueleza sasa maelezo yenu tunayaweka namna gani. Tulipoandika hii report, mambo yale yako ni background ya kuonyesha vile process ilianza, hapo utaona kuna page ina majina ya commissioners wote. Kwa hii kuna page ambayo tunaandika kile kinafanya tutengeneze Katiba, ni kuonyesha ya kwamba mambo mengi yamekuwa mabaya, nchi yenyewe inaendelea kuwa mbaya na tunataka kuirekebisha, tunataka kuifanya iwe mpya. Kwa ile Katibaya zamani mtaona kuwa kuna mambo mengi. Mengine yataachwa na mengine yataunganishwa sawa sawa. Yale ya muhimu na yale wananchi walisema tubadilishe ndiyo tutabadilisha na ndiyo utaona kwa draft ukiingia hapo yamebadilishwa.

Kwa hii report utaona kuna section inasema mambo ya civic education, and that was preparing the people for participation; ili watu wawe tayari na waweze kuendelea kwa kujua mambo inaendelea namna gani. Kuna section ambayo ina listening to the people, ndiyo wakati tulikuja hapa kuchukua maoni yenu. Kwa hivyo hii ni report ambayo inaeleza ile kazi ile tulifanya na pale tulifika kwa kuandika hii, ambayo ni Draft yenyewe ya Constitution ambayo tutaangalia.

Nikichukua mfano moja, kuna points zile tulichukua kwa watu, thirteen main points, nikisoma moja ya ile tulichukua kwa watu.

Watu walisema:

We want an end to corruption; yaani watu walisema ufidia umalizike kabisa na hongo imalizike, hayo mambo yaishe. Nikisoma hapa kwa Tigania East nitapata pahali wengine walisema tumalize corruption. Hiyo si ni kitu ya muhimu ilisemwa?

Audience: Ni kweli.

Com. Ratanya: Kenya yote ilikubaliana hicho kitu kinaitwa corruption, hii mambo ya kitu kidogo kidogo hapa. Ukienda kwa polisi, badala ya kuandika OB, vile ilikuwa inaandikwa bure na ni bure sasa unaanza kufanyiwa maneno mengine hapa. Si ndiyo? Hayo mambo yaishe. Kama ni kazi, fanya kwa njia nzuri na mambo kama hayo yaishe. Kwa hivyo point kama hiyo watu wa Kenya wote walikubaliana point kama hiyo, Katiba itengenezwa, itengenezwe kumaliza kitu kama hicho.

Point ingine ni we want respect and decent treatment for the disabled. Yaani hawa watu wetu wasiojiweza tuwape heshima. Kuna desturi nyingi ama customs nyingi za watu wengine, sisi Waafrika, wanachukia hawa watu ambao ni walemavu sana. Hata mzazi akiwa na mtoto mlemavu na ni mtoto wa Mungu, ana roho, ana kila kitu kama mtu, lakini ukiona amekuwa mlemavu, kama hana miguu, ama kiungo kingine, anamfichaficha; hii ilikuwa kizamani. Sasa tunaseama kwa Katibampya, hawa watu tuwaheshimu kwa sababu ni watu na wasaidiwe vile wataishi. Kama hana macho, njia itafutwe ya kumsaidia vile ataishi, kama hana miguu, asaidiwe vile ataishi, kama hana mikono, kama hata hawezi kusikia, hawa wote ni walemavu.

Point ingine kwa report ni kama vile tulikubaliana, karibu kila pahali, “we don’t want power concentrated in the hands of one person. Hatutaki utawala ama ile nguvu ikae kwa mtu mmoja”. Na si iko namna hii? (Kimeru) Tunataka kila mtu awe na uhuru, na tena kama wale tunawapatia watawale, kama ni watu ishirini tunasema watutawale sisi, we are the people, sisi wananchi. Hawa watu wa kututawala, si mtu mmoja aende atawala badala ya hawa watu wengine, wa-share ule utawala. Si mtu mmoja, ni watu, kila mtu awe na sehemu ya kufanya. Sharing of powers na hata that authority na hiyo ninaona kila pahali watu walikubaliana ati utawala ama nguvu isiwe na mtu mmoja. Ipelekwe kwa watu wengine na hata ipelekwe pahali pengine.

Unaona kama pahali pengine, we want women to have equal rights and gender equity. Kina mama wawe kama wengine. Kina mama wana kazi yao ya muhimu na kina baba wana kazi yao ya muhimu lakini wote ni binadamu na kwa hivyo kitu kimoja. Hata kama mtu ako na mambo yake ya kufanya kazi kidogo kidogo, yake ya kufanya kulingana na maumbile, lakini mbele ya mungu, mbele ya nchi yetu, sisi zote tuko pamoja. Kama ni kisomo, mtoto wa kiume akisoma, msichana naye asome kabisa. Siku hizi unasikia kuna Professors, tuna nini, wote wote, kama mwanaume anakuwa Professor, mwanamke anakuwa Professor.

Kwa hivyo kusiwe na njia ya kuwarudisha akina mama kwa sababu ndiyo kwa kawaida tunaona kwa traditions nyingi wanarudishwa nyuma.

Ninakumbuka wakati tulipokuwa tunasoma, wasichana hawakuwa wanaenda shule, walikuwa wanaambiwa nyinyi kaeni huko tu. Ninakumbuka wakati mrefu sana sikuwaona wasichana katika class yetu. Walikuwa wamezaliwa wako lakini walikuwa wanaambiwa kaeni huko tu na hiyo ilikuwa makosa. Hata ninakumbuka nilipokuwa ninasoma hapa Mikinduri, 1952, tulikuwa tulikuwa tunasoma na huyu mzee, Joseph Mng’ori, kulikuwa na msichana kwa class yetu Joseph?

Joseph Mn’gori: Hakuna Bwana.

Com. Ratanya: Imagine.

Joseph Mng’ori: Lakini ----(not clear)

Com. Ratanya: Wanakaa nyumbani hapo, wanambiwa (Kimeru) lakini sasa tumeenda hatua, si kama 1952 ama hapo mbeleni. Tumeenda hatua sasa, tumeanza kuona sababu ya wasichana wetu, watoto wetu, wa kiume na wa kike wote waungane. Kwa hivyo itakuwa kitu cha Constitution, Constitution provision, ama kinakuwa entrenched sawa sawa kwamba wanawake na wanaume wawe kitu kimoja; gender equity. Kama ni shule waende wote pamoja, kama ni mambo ya mashamba, mzee akiwa na shamba lake, ajue ya kwamba amezaa msichana na mwanamume, wote wawe sawa sawa. Huo ubaguzi hatutaki uendelee na watu wa Kenya wote walikubaliana.

Kitu kingine kilikuwa na watu wote ni “ we want a fair system of access to land for the future and the justice for the wrongs of the past” Mambo ya mashamba yawe sawa sawa na yale yaliyokuwa zamani tufanye hiyo correction, tusahihishe hayo mambo

na tuendelee katika maisha sawa sawa katika miaka ijayo na hayo wote walikubali.

Then kulikuwa na point ya “give us the chance to live a decent live with the fundamental needs of food, water, clothing, shelter, security, basic education met by our own efforts and the assistance of Government. Yaani mambo yote, tuwe na maisha mazuri, kuwe na kama chakula, nguo, security yenyewe na masomo, hayo yote tuwe nayo, tukiwa tumejisaidia sisi wenyewe pamoja na Serikali.

Hizi point zote ziko katika report na kuna nyingi na point zingine ningetaka kuwaambia kwa hii report ya kwanza ni... tumeguzia mambo ya watu wasiojiweza. Point moja, ile Constitution tutawafanya hao ambao ni walemavu, “discrimination on grounds of disability is prohibited”. Kwa hivyo Katiba itakataa, hii ambayo tunafanya, any discrimination of the disabled people.

“Human Rights Commission to have a special focus on disability”. Katika hii Katiba, na tutaangalia kwa Draft, tutakuwa na ile inaitwa Human Rights Commission ambayo itaangalia haki ya binadamu. Kama ukifanyiwa makosa, hiyo Commission itaangalia, kila mtu afanyiwe yale yaliyo mazuri kama wengine.

Page 18, kuna point hapa “How is the new Constitution different from the old one?” Kama sasa niliwaeleza kitabu kama hiki vile muundo wake, hii ni sheria na ni Katiba ile ambayo tunayo. Tukiangalia huku, na uone hii Draft yetu tumefanya kwa hii Constitution Mpya, ndiyo utaona hii ikitokea iwe kama hii, iwe law, kuna mambo ambayo yatakuwa tofauti kidogo kidogo, kulingana na maoni ya wananchi. Nikiangalia kwa point moja hapa, nitafute ile fupi niangalie, ikireflect “what the people are concerned about instead of being mainly a set of Governmental structures.” Badala ya kufanya ati ni Serikali inasema inatawala, iwe inatawala kulingana na vile watu wanataka, kulingana na maoni ya wananchi. Ndiyo unaona Katiba yenyewe tunaiita Katiba ya watu kwa sababu utawala utakuwapo kulingana na maoni ya watu. Si vile wanaketi ofisini tu kuitengeneza wao wenyewe lakini itakuwa kulingana na maoni ya wananchi.

Ukiangalia point ingine hapa ni “a person does not have to be a member of a party in order to stand for election.” Katika Katiba hii, lazima unakuwa sponsored na party, kwa hii ambayo tunayo sasa, lakini hii ambayo tunapendekeza haitakuwa lazima ati wewe utoke kwa political party, unaweza kutoka hata ukiwa independent candidate. Kama unakumbuka wale walikuwa zamani kidogo, tulikuwa na Independent parties. Si ni namna hiyo? Wale wazee kidogo wanajua hivyo. Kulikuwa na Political parties za zamani kama KADU na KANU na APP na zingine na kulikuwa hata na Independent, yule ambaye haendi kwa party.

Sasa ukisema ni party pekee yake na kama kuna mtu ambaye anaweza kusaidia watu, a good politician, mnataka kumtupa hivyo?

Audience: (Response not clear)

Com. Ratanya: Lazima apate nafasi na hiyo nafasi ni kuingia, aseme mimi si mtu wa party lakini ni mtu wa wananchi.

Unajitokeza, independent, wewe huna party yoyote lakini utakuwa supported by wananchi. Wataonyesha wanakupenda na baadaye watakupigia kura na utashindana na wale wengine katika parties, wale wako zinaitwa siku hizi sijui NAK, sijui KANU, zingine what. Hawa wote watashindana na yule anasema mimi siko pahali popote, mimi ni mtu wa wananchi, hata yeye atapewa nafasi ya kupigania kiti, yes. Kwa hivyo utaona hiyo ni tofauti na hii tunayo.

“Parliament will consist of two Houses; the National Assembly and the National Council”. Katika hii Draft na tutaangalia pengine hapo, tutaona ya kwamba Parliament itakuwa na two chambers, itakuwa na nyumba mbili, moja inaitwa National Assembly na nyingine tumependekeza iitwe National Council. Kwa hii Constitution ambayo tunayo ni nyumba ngapi iko Parliament, si moja? National Assembly. Hapa mna mjumbe wenu na ni mjumbe ambaye anaenda wanatengeneza huko Nairobi nyumba moja, kila constituency Mjumbe moja, mtu mmoja. Wanaenda kwa National Assembly wote 210, lakini kwa hii Draft Constitution ambayo wananchi wamependekeza, kutakuwa na nyumba mbili na hapo tutaangalia baadaye kwa Draft, tutakuwa na two chambers or two houses. Hiyo ni tofauti moja.

Kuna tofauti nyingi ambayo mtazidi kuona mkiendelea kusoma kwa hii Draft. Hapo, stage ingine ambayo ningetaka kuingilia, hii draft yenyewe tuli-launch on 18th September tukiwa Mombasa na ikatokea hata kwa papers, pengine watu walinunua, this is just a report. Kutokana na report hii, ndiyo unaona tunakuja kwa draft yenyewe ya Constitution. Kuna point moja ya report, kabla ya kwenda kwa Draft ningetaka tuangalie, ama niwaeleze.

The new structure of Government, yaani muundo wa Serikali (Kimeru). You know the first person katika utawala, ukumbuke mtu wa kwanza, mtu wa heshima ni mwananchi. So hii Serikali tunaita Serikali ya wananchi. Si kusema ni ya huyu na huyu, ni ya mwananchi. Si ya President, ni ya wananchi. President tumemuweka aangalie hii Serikali kwa niaba yetu na MP tumewaweka waende watuwakilishe kwa niaba yetu lakini sisi wananchi ndiyo tuna nguvu.

Katika hii picha ambayo mmepigwa hapa, tutaangalia tutaona kwanza imeandikwa the people, yaani wananchi. Hao ndio wa maana na hao wananchi wanasema wawe na President ambaye atawatawala. Wanasema kwa njia gani? Wanamchagua. Si wanamchagua kwa kura? Sasa watu wenyewe wanamchagua, wanasema wewe ndiye tunaweka, utuangalie, na wakati utafanya makosa, kulingana na hii Katiba tunatengeneza sasa, wamesema ya kwamba watatafuta njia ya kumuondoa, ambayo inaitwa impeachment.

Hawa watu wanasema kuwe na Vice-President; Vice-President anakuwako kusaaidia President. Hawa watu tu wakiwa top, wakiwa kwa hii diagram, on top, ni mwananchi, yaani ni people. Wanasema kuwe na Parliament kwa sababu wanataka representation, kuwe na Parliament, waakilishi, na hawa waakilishi, wamegawanywa kwa group mbili.

Kabla ya kuja hapo kwa.... kutoka vice President, watu wenyewe wamesema kuwe na Prime Minister. Katika hii Katiba, hata nikisoma kwa Tigania East pengine mlisema tuwe na Prime Minister na tulisikia pahali pengi, sasa tumeweka kwa Draft.

Commission imeweka kuwe na Prime Minister na kuwe na Deputy Prime Minister wawili na kuwe na Ministers. Tumependekeza kuwe na Ministers kumi na watano kwa sababu wale wengi na economy, ama nchi yetu uchumi kuwa vile ulivyo, tuliona tuanze na kumi na watano. Hawa kumi na watano wawe na deputies wao kumi na watano.

Kutoka hapo sasa twende kwa Parliament, waakilishi: hawa watu wa Kenya wamesema kuwe na Parliament kama kawaida lakini hiyo Parliament tumesema hapo, ukiona kwa report wamesema kuwe na nyumba mbili, two chambers. Moja iitwe National Assembly na ingine iitwe National Council. Zamani kulikuwa na National Assembly or house of representatives ama Lower House, ingine zamani ilikuwa inaitwa Senate ama Upper House. Tulikuwa nayo lakini niliwaeleza iliondoka kwa kubadilishwa kwa Katiba lakini sasa Commissioners walichagua majina wakasema National Assembly iwe nyumba moja ya Parliament na hii ingine ambayo ni Upper House nayo iitwe National Council.

National Assembly iwe na Members 210, vile ilivyo, kama sasa, tuko 210, nyinyi mna mmoja hapa, Tagania East, Ntonyiri, Igembe na kuendelea mpaka Kenya yote inakuwa mia mbili na kumi. Tumependekeza kuwe na 90 party linked members ambao watafanyiwa njia yao ya kuchaguliwa na sababu yao hawa wawe wanarepresent special groups kama disabled, kama akina mama, kama professionals. Hawa wote mpango itapangwa na njia itaelezwa ya kuwachagua hawa 90. Ukiunganisha hawa 210 na 90 ni wangapi wote?

Audience: Mia tatu.

Com. Ratanya: Mia tatu, three hundred members katika National Assembly. National council ikapendekezwa kuwe na one from each district. Katika Kenya siku hizi tunahesabu district tunaona ni kama 69 hivi. Kwa hivyo kama ni mmoja, mmoja kutoka kwa kila district, watakuwa wangapi? 69. Nairobi itaitwa district kwa mpango ambao tunao sasa, itaangaliwa kama district na kwa hivyo atatoka mmoja. Kwa hivyo wamekuwa wangapi mpaka sasa? Sabini, seventy. Thirty watatafutwa kutoka kwa akina mama ili wawakilishwe lakini kwa sababu district ni nyingi, hawatoki kwa district; imekubaliwa watatoka kwa Province. Kila Province ione mpango vile watafanya kwa sababu sheria itafanywa ile watachaguliwa wawe wanne kwa kila Province. Mnajua tuna province ngapi? Ni nane pamoja na Nairobi. Si ndiyo? Hebu tuseme saba wanne wanne, ni wangapi hawa?

Audience: Ishirini na wanane.

Com. Ratanya: Twenty-eight. Nairobi nayo wamependekeza wawe wawili. Wamekuwa wangapi sasa?

Audience: Thelathini.

Com. Ratanya: Sasa, hiyo nyumba ya wazee, ambayo inaitwa National Council Upper House itakuwa na members a

hundred. Sasa Parliament yetu yote ikilinganishwa yote itakuwa na wajumbe mia nne. Sasa kutoka hapo, wananchi wa Kenya kulingana na vile tulisoma kwanza hapa tukaona hawataki power iwe pahali pamoja ama iwe ya mtu mmoja, wakasema Serikali isikae Nairobi lakini iteremke kwa wananchi.

Serikali ya Nairobi ndiyo sasa nimewaeleza kuna nyumba mbili hapo, National Assembly na hii National Council, na MP, na halafu Prime Minister na President. Sasa kutoka Nairobi, kumependekezwa na tumeweka kwa draft, tutakuwa na hii tunaita devolution of power, yaani kugawanya nguvu na hiyo nguvu itagawanywa kutoka Nairobi, tumependekeza sana ije kwa district level. Zamani ilikuwa inatoka kwa headquarters inaenda kwa province mbali mbali, lakini tukaona tumeendelea sana na hata taabu imekuwa nyingi kwa wale watu wako huko, tuwapelekee Serikali. Tukaona kwamba Serikali itoke Nairobi, ile ingine, mpango mwingine iende kwa district level.

Kwa hivyo kwa district kutakuwa na District Councils ambayo itakuwa inaangalia mambo ya district hiyo na ikishirikiana na headquarters, yaani na Central Government. Hiyo itakuwa na nguvu nyingi, si kama tuko na County Councils. Itakuwa na nguvu nyingi kwa sababu itakuwa inafanya sheria ya district yao, itakuwa inaangalia mambo yote ya district hiyo yao wakiwa karibu na watu na watakuwa na wajumbe, yaani Councillors. Kama wataendelea kuwaita councillors, hiyo ni sawa sawa, lakini watakuwa na representatives ambao wataenda kwa district. Wengine watatumia ile wards ambazo ziko. Wale councillors watachaguliwe wanaenda kwa District level, sasa hiyo itakuwa kama Serikali, inaitwa Serikali ya district, District Government. Kutoka kwa district, tukaona sio kupeleka Serikali kwa wananchi, tufanye Serikali ya location. Hiyo Serikali ichaguliwe na wananchi; kama ni mkubwa wa location achaguliwe na wananchi, wampigie kura na wachague councillors.

Na kutoka kwa villages nayo iwe na councillors wake. Sasa unaona tumesikia kwa mwananchi. Mtu akitaka barabara, asiende Nairobi kuuliza hii barabara, aulize hapa hapa kwa village level hapa, tumekuja nyumbani. Kwa location level kuna hiyo level ya Serikali, district level, kwa hivyo hakuna mambo ya kwenda kule mbali Nairobi, yale yatakuwa magumu kidogo kuhusu location tofauti yatamalizikia kwa district. Yale mengine yanaweza kumalisikia kwa location, mengine ya wananchi huku kwa village, nini yote, yatamalizikia kwa village level na hao wote hiyo itakuwa ni Serikali na wanalipwa. Si mambo ya kusema ni wazee wa vijiji, watakuwa na office. Kama ni kwa village level kutakuwa na office, secretariat yao, security yao, maaskari wao, kila kitu, itakuwa kama Serikali ya hapo.

Na hata koti, cases ambazo haziwezi kwenda huko Nairobi, huko mbali ama katika district level, wananchi wataamua ziwe zinafanyiwa kwa hiyo level kwa sababu kuna cases huku za mashamba, cases za family, za customary law na all these things, badala ya kwenda kutumia pesa nyingi kwenda kwa district huko, zitapangwa kuwe na tribunals, yaani kama courts, inaweza kumaliza cases hapar na kesi ikimaliziwa hapa na wazee inakwisha. Ikienda kwa locational level nayo ikimalizikia hapo ni sawa badala ya kwenda mbali halafu watu wanatumia pesa nyingi kwa ma-advocate, kwenda huko mbali kama ni kwa district level. Mambo mengi yawe yanamalisikia village, location and district level halafu kama ni court, Nairobi itakuwa na Supreme court, hapo tutaangalia kuhusu court.

Kwa sababu nimeguzia hapo mambo ya court, kwa court imeongezwa na hiyo ni tofauti moja ya Constitution ya sasa na hiyo ambayo itakuja, imeongezwa kuwe na supreme court. Zamani kulikuwa mpaka court of appeal. Kama unatoa kesi yako hapo, inaenda, inafika kwa Magistrate, Chief Magistrate na akiona mambo haiendi sana hata kwa Chief Magistrate, uneenda kwa High Court, mwingine anaenda hata High Court directly na ukiona kuna appeal, itaenda mpaka Court of Appeal lakini sasa kwa hii Katiba, tumeongeza Court ingine juu, ili mwananchi awe na mahali pengi pa kwenda, ambapo tunaita Supreme court. Kwa hivyo kwa hiyo Supreme court, hiyo ndiyo tumeongeza ya mwisho kabisa huko. Pengine kama tutakuwa na East African Court baadaye, ambayo itashikanisha nchi hizi zote, iko lakini pengine itatengenezwa ikawa ya juu lakini kila nchi itakuwa na court yake ya juu. Kenya Supreme Court, pengine Tanzania na Uganda. Sasa tuseme kutoka Supreme Court kule juu, tukienda chini huko, chini kwa wananchi kutakuwa na tribunals. Kwa hivyo hapa Supreme Court itakuwa ya juu kabisa, then kuna Court of Appeal, kuna Lower Courts, ambazo hizo ni Magistrates Courts, kutoka District Magistrate mpaka pengine Chief Magistrate na kwa Constitution yetu tume-recommend kuwe na hata tribunals.

Kwa hivyo tukiangalia tunaona Supreme Court na hii itakuwa headed by Chief Justice, huko juu kabisa na halafu tuakuja chini kuna Court of Appeal na kutakuwa na President wake, halafu kuna High Court na kutakuwa na msimamizi wake na kutakuwa na Lower Courts and tribunals. Siku hizi tuna Lower Courts tu, kama hapa ---? ni example ya Lower Court kwa sababu kuna District Magistrates hapo, na hapo ukienda unaona huyu anajua hata mambo ya kienyeji lakini haiwezi kuyakagua yote. Sasa Serikali ikitoka ni mpaka iende kwa wananchi, tutakuwa na zile tunaita tribunals na hayo mambo yalikuwa ya zamani, wale wazee kama mimi na wengine wanajua ilikuwa ni hivyo. Si tulikuwa na African Courts? Yes. Sasa itarudi in that form kama African courts na ije hapa, kama ni Mikinduri hapa kuwe na court ambayo cases zinaweza kuishia hapa na yale atashindwa yanaenda kwa koti zingine. So kutoka kwa Supreme Court mpaka Lower Court and Tribunal.

Upande wa Muslims wataendelea na Kadhi Courts zao, court of Appeal yao ya Muslims na watakuwa na Provincial Kadhi Court na District Kadhi Courts. Hayo ndiyo mapendekezo kwa Muslims. Kwa hivyo mambo ya courts yamependekezwa namna hiyo na unajua hii sheria, hii sheria now, kulingana na Katibayetu sasa, President atakuwa chini ya sheria. Hata kuna diagram moja inaonyesha kuwa sheria ndiyo iko juu lakini si sheria iko chini, sheria itakuwa juu. Hii picha hamuwezi kuona sana kwa sababu ni kidogo lakini utaona hapo juu kumeandikwa the law, na tena President ako na handbag yake hapo chini, not above lakini chini na haya yalikuwa mapendekezo ya kila pahali in Kenya. Kwa hivyo President hata naye atakuwa subject to the law na hii si Commission imesema hivyo, ni wananchi walisema.

Tuendeleo sasa tuende kwa Draft yenyewe: Hii karatasi mnaona hapa, niliwaambia kwanza tuliamua kuweka kwa karatasi kama hii ili ikifanywa correction, ikifanywa amendments, watu wakisema yale wanataka na yawekwe, itabadilishwa hii, iandikwe kwa kitabu kingine kizuri. Mnasoma sasa ni kama gazeti, lakini hii si gazeti ovyo ovyo na ikiwezekana hii iweke kabisa, hata watoto wako, mababu na ninu wawe wanaona, hii ni ya muhimu. Tuliona iwekwe namna hii ili ukizungumza ufanye mabadiliko, iwekwe kwa kitabu kizuri lakini hata hii iweke kwa sababu ni historia. Sasa hii ndiyo tumeweka, ndiyo tunaita

draft, the Constitution of the Republic of Kenya na hii ilitokana na maoni ya wananchi, hayo yote nimewaambia, tukaweka sasa kwa ile tunaita lugha ya Katiba, Draft ambayo ikitoka hapa itaenda sasa kwa National Conference. Ikitoka National Conference, kukiwa na mabadiliko yale yatafanywa, itaenda kwa Parliament baadaye itakuwa sheria na itawekwa kwa vitabu vya sheria kwa muundo kama huu ama ule utakubaliwa.

Sasa kwa hii Draft, tulipomalizia hii draft tukiwa Mombasa na tukaja Nairobi mpaka tukamaliza kabisa. Tarehe 27/09/2002 ndiyo tulipatia watu wa Kenya hii Draft, ndiyo tulifanya hii inaitwa launching, yaani tukawapatia waanze kusoma na kuendelea. Kulingana na ile sheria tumepewa, hii Cap 3(a), tumeambiwa, na kulingana na mabadiliko yake kwa sababu imebadilishwa, hii yenyewe imebadilishwa kidogo, tulikuwa tunasema iwe sixty (60) days kusoma hii lakini sasa hiyo sheria yetu imebadilishwa tukaambiwa ni 30 days, siku thelathini na kutoka tarehe ishirini na saba mwezi wa September, siku thelathini zitaisha siku gani? 27th October. Kwa hivyo kutoka 27th September tuliwapatia watu wa Kenya, tukiwa Nairobi. Ikaenda kwa magazeti, magazeti kama hii Nation ikaandika njia unaona iliandika, Standard iliandika na hata magazeti mengine yaliandika na hata watu walisikia kwa TV, wakasikia kwa redio. Siku hiyo ndiyo tuliambia watu wa Kenya kwamba Commission imetoa Draft ama report ya kwanza ya Katiba mpya na kutoka tarehe 27th September wataisoma mwezi mmoja kulingana na sheria tumepewa. Watasoma thirty days na wakisoma thirty days watakuwa wamepata makosa ama wanataka kuongeza yale wanataka kuongeza hapo watakuwa wameangalia.

Hiyo ikimalizika, kutakuwa na National Conference, yaani mkutano wa wale delegates wamechaguliwa katika Kenya yote. Kila district wamechaguliwa watatu na hawa watatu mwanamke lazima awe ako mmoja kulingana na hii sheria tulikuwa tunafuata. Hata katika Nyambene ama Meru North District, kuna hawa watatu kwa sababu wakati nilipokuwa ninaenda round nimewajua wote na mna bahati nyinyi watu wa hapa Tigania East, Mikinduri, mmoja wa hawa watu anatoka hapa. Mko na hiyo bahati kwa sababu kwa district yote ni watatu lakini mmoja wa hawa watatu ametoka hapa. Wapi yule bwana, yuko hapa, hata mmpigieni makofi, amechaguliwa na ametoka hapa hapa kwenu na atakuwa mmoja wa hao wataenda kwa National Conference, yaani mkutano ambao utakuwa Nairobi kuangalia hii Katiba; Draft ya Katiba ambayo watu wamesoma siku thelathini na pengine wametoa makosa ama kuongeza, hawa watu na ---? ndiyo wataenda kuangalia.

Mama ametoka upande wa Kangeta na mtu mwingine ametoka upande wa Lari-Ntonyiri. Hawa wajumbe watatu, watu waliamua wakaona huyu mmoja atoke Ntonyiri, mwingine Igembe na mwingine Tigania East na watatu wakishia hapo. Sasa hawa wataenda huko National Conference na watakuwa kama 600, kila district ikiwa na watu watatu, hata tulihasabu hawa pekee yao. Districts ni 70, pamoja na Nairobi, watatu watatu kila district ni wangapi hao? 210. MPs wale ambao mmechagua, wale wako hapa leo, kina Karauri na wengine, nao watakuwa huko katika huo mkutano na hao ni wangapi? 210, the current MP na halafu kutakuwa na waakillishi wengine wa makanisa, wakina mama wengine na disabled na ... yaani vikundi mbali mbali, nao watakuwa na wengine na ukifanya group yote, tena kuwe na Commissioners 29 na ukiweka Commissioners na wengine wataochaguliwa, wote group watakuwa ni 600, around 650. Commissioners kama mimi na wengine watakuwa huko, sisi zote 29 lakini hatutakuwa na kura sisi kwa sababu ni sisi tumeandika. Hii ndiyo itaenda kupigiwa kura na kama

wakiona kuna kitu kibaya hapa, wanavote, kina ---? Hawa na wengine huko watakuwa kali sana huko wanavote lakini commissioners kama mimi sitapiga kura kwa sababu already hii ni Draft yangu. Tutakuwa huko tu tunaketi, tunapangia watu viti na makaratasi na nini, tukiwa na Anampiu, tunapanga kila kitu lakini hatuna kura. Kura ikisemekana ipigwe, sasa sisi tunaondoka. Kina Chairman hapa wanapiga kura.

Kwa hivyo siku ya leo ni kuwaletea hii draft yenyewe na si siku ya kuzungumza sana. Ni kueleza kidogo muende muanze kuisoma. Ukiangalia kitu fulani ambacho wewe hautaki, ama unataka kibadilishwe, andika report yako wewe mwenyewe. Mtakuwa mnasoma kwa vikundi, kama vikundi vya akina mama, vikundi vya wazee, hata wazee wa Njuri-Ncheke wanaweza kusoma wakiwa wazee, kama ni Muslims, kama ni akina mama, manaweza kusoma kwa vikundi vikundi ama individuals, mtu binafsi. Mtoe ripoti yenu nyinyi wenyewe na msemi section fulani hatutaki, tunataka iwe hivi, tunataka iwe vile kwa hivyo tunaweza kufanya amendment kwa hii, this is not final.

Hata wale walikuwa wakisema Commissioners wamesema hivi, kweli tumefika mwisho?

Audience: Hapana.

Com. Ratanya: Hapana. Si hii mnaweza kugeuza? Na ndio inatufanya tuje hapa kuwaletea muisome. Mkiona mambo mengi, mimi ninaamini ni yale mlisema lakini kama tumefanya kombokombo kidogo kwa yale mlisema, mna haki ya kugeuza and this is why you are given thirty days to read. Sasa ukiona watu wengi wanaanza kuchallenge ama kusukuma commissioners sana, wanasema commissioners wamesema hivi, wamesema umri wetu wetu badala ya kuwa 74 commissioners wamesema irudi 65, wanasema hivi, si mmejua kuna watu wameshtaki commission? Ndiyo unaona tunaweka hii ndiyo tuseme tunakubaliana na draft ya Constitution ile sisi wenyewe tulisema. Tuwaambie hii ripoti ya Tigania East iko hapa na nitaiacha Tigania East, muangalie vile mlisema na ndiyo tumeingiza hapa. Sasa, haya yote si sisi tulisema, tuliambiwa na watu.

Watu walikuwa wanasema korti ni mbaya sana, kortini unaenda huko, unakaa miaka tano kwa kesi, wanasema kortini yenyewe mnapeleka pesa huko kwa advocate, mnahonga, mnahonga hata judge, hata mwingine, si watu walisema hivyo?

Audience: Ndiyo

Com. Ratanya: Sasa hayo maoni ndiyo tulichukua yote, tukasema sasa tutafanya mabadiliko hata kwa Judges. Si Judges pekee yao tunafanya mabadiliko, ni wananchi walituambia tufanye nini? Review ya kila kitu ama si ndiyo wananchi?

Audience: Ndivyo.

Com. Ratanya: Sasa hawa wanatushtaki, ni kwa sababu ndio wanakalia koti. Si ndiyo?

Audience: Ndiyo. ----(not clear)

Com. Ratanya: Yes. Ni nyinyi mmeshtakiwa. Si ndiyo?

Audience: Ndiyo.

Com. Ratanya: Maneno ni kama hayo sasa wananchi, mkianza kusoma hii, ninajua mtajadiliana zaidi. Nilipokuja hapa, kulikuwa na wananchi walianza kujadiliana, wanasema hivi na hivi lakini sasa mkichukua hii mtaisoma zaidi na mtajadiliana zaidi. Ama si hivyo?

Audience: Ni hivyo.

Com. Ratanya: Mtajadiliana zaidi na mtaona yale ambayo tumeweka ambayo ni kweli ---? ama yale mnataka kuongeza na ukiona yale utaongeza ama kufanya amendments kwa ni Constitution Draft, utaandika in writing. Ukiandika in writing useme kitu fulani ninaona si namna hii, we better change here, we better change there, kufanya amendments na halafu ukifanya kuandika, iende kwa Commission Nairobi. Upatie Coodinator, Coodinator naye atuletee.

Tarehe 28/10/02 ndiyo tutakuwa na mkutano wa hawa wazee na akina mama, wale watakuwa huko. Haya mambo yote mmesema yatapelekewa hao. Kama tumesema kuwe na Prime Minister na nyinyi mnasema pengine hamtaki, mtasema namna hiyo. Haya mambo yote, amendments, yatapelekewa akina Muketha hapo na delegates wengine, nao watazungumzia, wakakaa mkutano huko karibu mwezi mmoja, watazungumzia, waone yale ambayo wataweka.

Sisi hatutakuwa na nguvu wakati huo, commissioners, hao ndiyo watakuwa na nguvu nyingi ya kupigia kitu kura, kutupa ama kuweka. Nao wakimaliza hiyo kazi, stage ingine, ni kuwa ripoti hiyo na draft ile itafanywa wakati huo itaenda kwa Parliament. Parliament itaangalia kwa sababu hata ikienda Parliament haiwezi kupitishwa ovyo, wana procedure yao ya kuangalia na wataangalia mpaka wakimaliza sasa inaenda kupewa assent na President na halafu itakuwa Law.

Wakati huo ikiwa Constitution Law, sasa wakati huo ndiyo itanza kutekelezwa, yale ambayo yamesemwa huko yaanze sasa kutengenezwa, kisemekane kitu fulani Constitution mpya inasema kifanywe, kingine kifanywe na haya yote hayatafanywa siku moja. Hatuwezi kusema Katiba ikitoka leo, kesho kila kitu kifanywe. Itaenda ikifanywa na taratibu. Wakiona hiki kimekuwa namna hii, inafanyika, hii ikiwa namna hii, inafanyika. Mnaona namna hiyo? Untill waone ya kwamba, baada ya miaka pengine chache hivi, waone kila kitu kimekuwa sawa sawa.

Baada ya kusema hayo tuende kwa Draft yenyewe tuelewane vile tutaisoma kwa sababu niliwaambia hakuna mazungumzo

mengi, ni kuwaachia msome. Hebu twende sasa tuone vile tutaisoma hii. Tukiangalia hapa kwanza, tuna page two, hii tunaita table of contents. Tutasomewa na ataeleza kila kitu. Page two, table of contents, inaanza kutoka Chapter one: Sovereignty of the people and the Supremacy of the Constitution, yaani ile nguvu yenyewe watu wanayo, na ni nini maana yake na ndiyo wakubwa. Pamoja sasa na kuonyesha Katibaina nguvu na ni sheria ambayo ina nguvu, hakuna sheria ingine ambayo inakubaliwa juu ya Katiba. Kama ikifanywa ingine juu ya Katiba, hiyo inasemekena hiyo ni mbaya, lazima kila sheria ndogo ndogo hapo ikubaliane na Katibandiyo unaona iko Supreme, iko juu, ni ile sheria ambayo iko juu ya ingine.

Hapo Chapter one inaongea mambo ya Sovereignty of the people na ukisoma hapo kutoka article one, hizi tunaziita articles, one mpaka tano, hapo utaona yale yamezungumzwa juu ya Chapter one. Hatutasoma Chapter zote lakini tutachukua Chapter moja tunazungumza, ingine moja, mbili tatu na halafu muende musome. Ukienda Chapter two, utaona wameongea mambo ya Republic.

Sasa, kabla ya ingine ningetaka tuangalie upande huu mwingine hapa katikati: imeandikwa Preamble, wale wanajua kusoma Kiingereza, Preamble. Preamble ni kama utangulizi ama introduction, mambo ya kuanza na kuonyesha vile unaanza na yale unapendekeza mwanzoni. Watu wa Kenya walitumbua, tuwe na mwanzo wa Katiba, tuwe na utangulizi wa Katiba. Hii ambayo tunayo sasa haina utangulizi. Tukisoma pale inaanza na njia yake, njia ingine, sasa wale wanajua Kiingereza watasikia, inaanza "Kenya is a sovereign Republic" kwa hivyo hata si watu, inasema Kenya na Kenya si ni watu, lakini inasema Kenya ovyo ovyo lakini kwa hii utaona inaanza na kusema watu ndiyo wamefanya kitu kinaitwa Kenya, wananchi wa Kenya ndio Kenya. Sasa inaanza na kusema Kenya is a Sovereign Republic, hakuna utangulizi. Hiyo inakwisha, number two yake inaenda, "the Republic of Kenya shall be a multiparty democracy state" yaani inaendelea namna hii, chapter one hakuna maelezo mengine.

Sasa kwa hii ambayo tunapendekeza katika Katiba, kulingana na views of the people, hii Preamble nimewaambia ni utangulizi na ni nyinyi katika Kenya yote mlisema hivyo, hata hapa, ninajaribu kusema kuwe na utangulizi, kuwe na Preamble. Nimepata mfano, na hii nimewaambia ni report ya Tigania East, tumeitengeneza na tukaiandika. Katika Tigania East, mtu mmoja alisema "the Preamble should facilitate the realization of national harmony and principle of social justice" Huyu alikubali kuwe na Preamble na akasema mambo yaingizwe ili watu wawe kitu kimoja, waungane katika nchi yote na wawe na mambo yao kusaidiana, social justice, yaani wawe wanajuana katika groups zao, wapendane na kuendelea. "The Preamble should reflect the history of the Kenyan people" Preamble lazima ionyeshe historia ya watu wa Kenya, pengine vile tulipigania uhuru, kuonekana ya kwamba kulikuwa na struggle na tulikuwa tunapendana, yaani kuonyesha historia ya Kenya. Hapa mwingine anasema the Preamble should spell out the directive principles that will guide Government policy", yaani kuonyesha vile Serikali itaendelea.

"The Preamble should emphasize that the Constitution is a Kenyan document that caters for the interests of Kenyans". Hayo ni maoni kutoka Tigania East, kuonyesha hata nyinyi wenyewe mlisema kuwe na Preamble. Sasa tulikusanya maoni kama haya

kila pahali na tulipoweka pamoja, tukafanya kama summary hivi, tukichukua yale maoni yenu, ndiyo tuliweka namna hii, Preamble ikawa namna hii: “We the people of Kenya, aware of our ethnic cultural and religious diversity and determined to live in peace and unity, as one individual sovereign nation” na nikiendelea, kama tuko pamoja kama mmoja wetu akiendelea hapa, asome Preamble sehemu ingine itakuwa vizuri. Nani anataka kuendelea hapo? We are in page 2. Who wants to continue adding more about the Preamble, the introduction, ni wewe umeraise mkono? Endelea hapo.

Speaker: “Committed to nurturing and protecting the wellbeing of the individuals, the family and the community within our nation. Recognising the aspirations of our women and men for a Government based on the essential values of freedom, democracy, social justice and the rule of law. Exercising our sovereign inalienable right to determine the form of governance of our country and having fully participated in the Constitution making process do adopt, enact and give to ourselves and to our future generations this Constitution. God bless Kenya.

Com. Ratanya: Unaona sasa utangulizi ya mambo ya sisi kama watu wa Kenya na unaonyesha vile ni lazima tushikane na unaonyesha pale tulitoka na mwishowe sisi zote tunalindwa na nani?

Audience: Mungu.

Com. Ratanya: Na tukasema tukichukua hii Katiba, na ikifanywa Katiba, Mungu afanye nini? Atusaidie. Si huo ni utangulizi mzuri?

Audience: (Answer to the affirmative)

Com. Ratanya: Okay, mtasoma zaidi na hata mtaeleza zaidi wakati mnasoma. Hata huu utangulizi ukiona kuna kitu unataka kirekebishwe hapo, kiwekwe, hiyo utasema wakati unasoma. Hii niliwaambia si mwisho, ndiyo inatufanya tuwaleetee muangalie, msome, you can comment, you can add, you can reduce and so on.

Kabla ya kuchukua mfano, tunataka mjue njia ya kusoma hii; wengi hapa wamesoma na wengine wangetaka kusaidiwa lakini hii page, 2 na 3 ni ile tunaita contents lakini maneno yenyewe yako wapi? Yako ndani. Kama ni Chapter one, ukisoma mambo yale yako Chapter one, utaenda utafungua kama page 4 na utaangalia katika chapter one article 1 (i) utaona yale yameonyeshwa katika sovereignty of the people. Mmeona hapo chapter one? Sasa ukienda page 4, utaona number 1, article number 1 hapo inaeleza. Article 1 section 1, “all sovereign authority belongs to the people of Kenya and may be exercised only in accordance with the Constitution.” Yaani mamlaka yote na nguvu yote iko kwa watu wa wapi?

Audience: Wa Kenya.

Com. Ratanya: Na hayo mambo yanatengenezwa kulingana na hii sheria watu wa Kenya wametengeneza, ambayo inaitwa aje? Katiba. Yale mnataka yasemwe yatasemwa, yale mmesema Katibaiwe hayatasemwa kwa njia ingine. Yatasemwa kwa Katiba, mambo ya watu wa Kenya. It will be only in accordance to the Constitution na Constitution nayo ni ile sheria ambayo iko juu, zaidi ya zingine.

Utaendelea kusoma hii yote kutoka number 1 mpaka number 4 kwa sababu sitaki kuwasomea, mataendelea kusoma. Hii ni kuonyesha jinsi ya kutafuta hapo, tutasoma sasa about sovereignty of the people. Utaendelea kuona Supremacy of the Constitution na ningetaka kusoma article 2 ya supremacy, tukiwa pamoja hapa ndiyo tuone ni kitu gani.

“Kenya is founded on the supremacy of the Constitution and the rule of law and shall be governed in accordance with Constitution.” Yaani Kenya imetengenezwa kulingana na ukubwa wa Katiba na hii Katiba itaendelea kuonyesha utawala, vile nchi itatawaliwa na ni wewe unataka kutawala namna hii, wewe mwananchi. Then, tusome number two tuone, kwa sababu ni fupi hii. “The Constitution is the supreme law and binds all authorities and persons through out the republic.” Constitution ni supreme law, yaani ni sheria ile ya juu zaidi na lazima iwe ndiyo inaangalia mambo, inaunganisha mambo yote ya ukubwa, mambo ya utawala na kila kitu, ya watu wote katika Republic. Hakuna sheria ingine itakuwa juu yake.

Kuna pahali pengine hapa ukiendelea kusoma, utaone imeandikwa, kama sheria ingine ikitengenezwa, ikose kushirikiana na Constitution, hiyo sheria ni mbaya. Kama iki-contradict Constitution, it is null and void. Kwa mfano, kama Katibaikisema, mtu hata akiuwa asiuwawe, kwa sababu hii Katibanew itasema namna hiyo, mtasoma pahali inasema namna hiyo. Kile kinyongo tumemaliza kwa hii hakutakuwa na sheria ya kusema mtu anyongwe na ni watu walisema. Watu wa Kenya walisema mtu maisha yake ni ya Mungu, ndiyo anaweza kuondoa kwa hivyo haitaki tusema ati mtu aende akanyongwe na binadamu mwingine; tutafute njia ingine ya kumwadhibu, si ndiyo?

Audience: (Response Inaudible)

Com. Ratanya: Sasa, kama hii Katibaitasema mtu asinyongwe ama kusiwe na hanging ama kunyonga mtu, kama ukienda huko kijijini ama ukienda kwa location ama kwa district level, utengeneze sheria ya kuua mtu, hiyo sheria ya district itakuwa sheria? Kwa sababu imehitilafiana na Katiba. Huyo ni mfano na kwa hivyo hiyo sheria itakuwa inatengenezwa hata na Bunge, National Assembly and National Council pamoja, wakitengeneza sheria na ikiwa hailingani na Katiba, hiyo si sheria, hiyo ni null and void, kitu kibaya.

Ukienda kwa sheria za district ile ambayo hailingani na Katiba, hata hiyo si sheria na huenda hata kwa location, kama watakuwa na devolution zao ambazo wanatengeneza by-laws ama kitu kingine, ikiwa kinakataa Katiba, hata hiyo si sheria. Mnasikia namna hiyo? Kwa hivyo Katibani juu, ndiyo tunaita na Kiingereza au Kimombo Supreme. The supreme law. Ni kubwa zaidi ya zote. Hapo mtaendelea kusoma zaidi na mkiona kuna yale mngetaka kuongeza, mnaongeza ama mnafanya amendment.

Ningetaka tufanye mfano mwingine, tuchukue kitu kingine ambacho kimekuwa kitu kipya. Hebu tuende kwa content tuone kama Section 9, hapo Chapter 2, hapo tu page 2, ninapendelea sana kusema namna hiyo sababu niliwaambia kwanza mambo ya Kiswahili. Imeandikwa nini wale wanasoma Kiingereza? Languages ama lugha. Twende kwa article nine which is on page 4. Article 9, page 4 (i), tuanze hapo tuone mambo ya lugha. Imeandikwa languages hapo juu. “The official languages of Kenya are Kiswahili and English and all official documents shall be made available in all languages. Nilianza kuwaambia Kiswahili sasa kimekuwa official language na vitabu vyote vya sheria, vitabu vya ofisi, vitakuwa vinafanywa kwa Kiswahili and English. Hii Constitution hii ya zamani, niliyo nayo hapa, imefanywa na English pekee yake lakini ikitokea hii mpya, itaandikwa na English na Kiswahili ili wale hawajui Kiingereza waweze kusoma. Tena hii Katiba imesema Kiswahili kitakuwa official language pamoja na English. Official language ni ile inatumika kwa maofisi na ile imeandika hivi vitabu vyote vya sheria, vya utawala na kila kitu na tukiita national, ni ile language inazungumzwa na wananchi wote na Kiswahili kimekuwa namna hiyo. Sasa kitakuwa na kofia mbili; moja official na ingine national kama vile ilikuwa.

Hapo tukienda number 2, “the national language of Kenya is Kiswahili” Hebu tumalize language kwa sababu ni kidogo tu. Number 3 “The state shall respect and protect the diversity of language of the people of Kenya and shall promote the development and use Kiswahili, indigenous languages, sign language and Braille. Kwa hivyo hapa, ukiona Kiswahili kimekuwa promoted namna hiyo, kimekuwa national language, kitaendelea kuangaliwa mpaka kikuzwe iwe sawa sawa kwa mashule na kila pahali na tena hata lugha zetu za kienyeji; Kimeru, Kiluo, Kiluhya, Kikuyu, hata hizo zote zitaendelea kukuzwa iendeleo kuwa lugha ambazo tutaendelea kutumia kwa mambo yetu. Kama huku katika village Government, kweli tutakuwa tunatumia Kiingereza pekee yake huko ama Kiswahili? Si tutakuwa tunaongea Kimeru yetu? Kwa hivyo hata lugha za kienyeji zitakuwa promoted na hata Katibatumesema itaandikwa na hata lugha zingine. Hii Katiba itaandikwa na hata Kimeru lakini haitakuwa official document. Official document ni Kiswahili na English lakini itaandikwa kwa Kimeru ili iweze kusomwa. Na hata Kikuyu, Kiluo, nini, yote.

Tena kuna languages zingine zinaitwa sign language, ile ambayo anaongea na yule mtu ambaye hasikii. Hiyo ni sign language, sijui kama kuna yeyote hapa, tungefanya mpango lakini hiyo inatumika. Wakati tunaenda pahali, tunataka kujua kama kuna mtu yeyote. Hata hiyo itakuzwa, itaendelea kutengenezwa na ingine inaitwa Braille. Braille ni ile kuandika ili kusomwa na mtu ambaye haoni. Anasoma kwa mkono tu. Kuna yeyote ambaye haoni na anataka kusoma? I think we had copies of Braille here. Kuna yeyote haoni na anajua Braille hapa? Here in this hall?

Response: ----(not clear)

Com. Ratanya: Mnaye. Anampiu, can we may be organize to give that ...

Solomon Anampiu: Yes, we have got copies for the District Coordinator.

Com. Ratanya: Kwa hivyo huyo mtu mwambie kuna copy hii inasomwa na mikono, Braille na itakuwa na District Coordinator, na atapewa asome. Hata anaweza kuuliza Muketha hapa nyumbani aone vile anaweza kufikia hiyo. Si ni namna hiyo?

Sasa mmesikia mambo ya lugha sasa. Kutoka kwa lugha ya Kiingereza, Kiswahili, lugha zetu zenyewe zitakuzwa, zitatengenezwa sawa sawa. Tutarudia kufundisha shuleni kwa njia nzuri kama ilivyokuwa zamani. Kama sisi wakati wetu tulikuwa tunasoma Kimeru vizuri, na kikatupwa hivi hivi, Kiingereza kikawa ndicho kizuri. Kiingereza ni lugha ya watu wengine.

Ni vizuri kuisoma ili ujue vile wanasema lakini si kusema lugha yetu ni mbaya, ama ni mbaya?

Audience: Hapana.

Com. Ratanya: Kwa hivyo itarudi tusome ile vernacular vizuri, kila pahali. Itakuzwa na tuwe tunaisoma sawa sawa. Kitu kingine, where is another place we would like to highlight ----(not clear).

Tukiangalia kwa Chapter 2, it is still chapter two, that is where the state and religion --- (not clear) It is Chapter 3.

Chapter 3 article 15, ama tuone hata article 14, are you on Chapter 3? Article 14 and 15, page mumeipata? Page 5. Hebu tuangalie hapa kwa ufupi ----(not clear). Tukiangalia hapo mnaona kuna typing era, ndiyo mnaona tunawaletea hii kitu msome na hata nyinyi m-correct, lakini tutaiangalia hiyo. We are talking of chapter 3; national goals, values and principles ----(not clear) Hebu aangalia page 4, are you on page 4? Page 4 chapter 3; national goals, values and principles, heading ya hii ni national goals and principles. Hapo kuna pahali moja nimesahau kuwaeleza mpango kama hiki kitabu.

Hii Katibaya zamani, headings zake zimefanywa kwa paragraph, unaona hapo maneno yanafanywa kwa paragraph lakini kwa hii yetu itakuwa wapi? Juu. Mnaona kama National goals and values, badala ya kuwa kwa paragraph inakuwa juu na ninafikiria hata kitabu kikiandikwa mwisho, hiyo tumekubaliana inaweza kuwa namna hiyo, isipokuwa National Conference wageuze. Kina Mketha wakienda huko wakigeuza itakuwa sawa sawa, ama ninyi mkisema ule mpango wa zamani iwepo, itageuka lakini vile tumependekeza, ni heading iwe juu, si kwa paragraph.

Okay. Tusome 14, "the national goals, values and principles contained in this chapter apply to the Executive, Parliament, Judiciary, Local Authorities and all the state organs and officials, citizens and private bodies whenever any of them applies and interprets the Constitution of any other law and (b) applies, makes and implements the policy decisions. Hata tukiangalia hiyo sasa, tukiendelea kuona hii yote, inaeleza mambo ya National goals, values and principles, yaani vile nation ya Kenya inataka kufanya kulingana na sheria. Yote yameelezwa hapa na maelezo yote tumeona yamepangiwa kutoka number 114-18. Tukija hapa jambo la muhimu ningetaka mjue, hata ingawa tunasema Serikali ina kazi ya kumaliza corruption, pengine mambo ya education, ya kutengeneza kila kitu, na kuleta utawala kwa sisi, hata sisi wananchi tuna kazi na ndiyo kwa page 5 tumesema duties of a citizen na ningetaka tusome machache hapa kuhusu kazi yetu kama wananchi, kama Wakenya ambao wamepatia

viongozi kazi, hata sisi wenyewe tuna kazi. Ama unataka tunyamaze namna hiyo? Tuseme tutawalwe bila kufanya kitu?

Audience: Hapana.

Com. Ratanya: Lazima tufanye. Hebu tuangalie moja hapa. Hata ningetaka hii kazi ya wananchi tunasema duties of a citizen isomwe na mmoja wenu hapa, point moja mbili. Naona Joseph umeinua mkono. Hebu soma hapa, tusomee moja mbili. (Joseph was not taped because of some hitch on the recording)

Sema jina lako kwanza.

Mary Mburung'a: Majina ni Mary Mburung'a. Nitasoma D. "engage in work including home making for the support and welfare of themselves and their families, for the common good and to contribute to national development.

E. "Develop their abilities to greatest possible extend through acquisition of knowledge, continous learning and the development of skills.

F. "Contribute to the welfare and advancement of the community where they live.

G. "Strive to foster national unity and live in harmony with others.

H. "Promote democracy and the rule of law.

I. "Promote family life and act responsibly in the context of the family.

Com. Ratanya: Si unaona we have our duties. Lazima wananchi wao wenyewe wawe na kazi ya kufanya kama hizi unaona imesomwa hapa. Lazima tukuze demokrasia, kunaonekana mambo mengine kama mambo ya welfare advancement, ama katika community tufanye kazi tukiwa pamoja. Voting is somewhere, number C, "exercise their democratic rights by voting" Kazi ya kupiga kura si ni yetu?

Audience: Ndiyo.

Com. Ratanya: Sasa hapa, hata ingawa hatukusoma yote, mtaendelea kuisoma na muone kama kuna rights zingine, pengine za wananchi, tumeacha, uko na uhuru wa kuongeza kwa ile ripoti yako utaandika, ama mkiwa katika group.

Hebu tuhighlight pahali pengine ----(not clear) Hebu angalia page 4, nina interest sana na hata nyinyi mwangalie, kutoka article 10, state and religion. "state and religion shall be separate" Kwa hivyo Serikali yetu si ya dini; nchi itakuwa tofauti na dini. Dini

itakuwa na kazi yake na nchi itakuwa na kazi yake. “there shall be no state religion” Kuna pahali pengine kama huko Arabia ama pahali pengine kuna State religions lakini hapa dini itakuwa dini tu na itafanya kazi yake na Serikali kazi yake. “the state shall treat all religions equally” Dini zote itakuwa kitu kimoja, hakuna ubaguzi. Ukiwa na dini yako, ukiwa Muslim, utafanya kazi yako sawa sawa na ufanye kulingana na dini yako. Ukiwa Christian ni sawa sawa na Christian wako wengi sana; iko full Gospel, iko Catholic, iko nini, na tuseme kuna mtu ambaye haendi kwa hii makanisa imeandikishwa, kama hii ambayo ina manyumba, yeye amekubali kwenda kwa Mugumo kuomba, si huyo mtu anamwomba Mungu?

Audience: Ndiyo.

Com. Ratanya: Hata hiyo ni dini. Kwa hivyo hata hiyo dini ya kienyeji, hata hiyo inaheshimiwa. Si hiyo ni dini? Religion ni our relationship with God. Kwa hivyo hata ukisimama ukimwomba Mungu, unamwomba Mungu. Hakuna mtu atakusumbua ama utaenda kumwambia askari ashike yule mtu atakuta anaomba? Anaomba Mungu wake na kwa hivyo hakutakuwa na mambo ya kubagua ama kumwambia mtu asiombe kulingana na vile anataka lakini akiomba maombi ambayo yanahitilafiana na Constitution, against the Constitution, hiyo tutakubali? Kama anaomba maombi ya kuua watu, hiyo tutakubali?

Audience: Hatutakubali.

Com. Ratanya: Kwa hivyo tuingie pale tulisema Constitution ni supreme. Ukiomba maombi yako kama uko chini ya Mugumo, ama uko kule kwa (Kimeru) Hiyo haiwezi kubaliwa. Lazima hata dini ikubali na utawala wa nchi, na wananchi. Heshima ya mtu, na ndiyo Mungu amesema. Lakini ukifanya vile hata Mungu hataki, hiyo tutasema si dini, ama si namna hivyo?

Audience: Ndivyo.

Com. Ratanya: Okay. Kama utasema dini yako ni kupiga watu viboko kila jumapili (Kimeru)

Now twende kwa National symbols: (Kimeru) “The national symbols of the Republic of Kenya consisting of the national flag(Kimeru), pengine somewhere lakini kama kuna moja...

Speaker: ----(Kimeru)

Com. Ratanya: (Kimeru) igeuzwe kidogo. Wengine wanasema, kuna pahali wengine walisema ile jogoo inakaa pale, iondolewe.

Audience: Iondolewe.

Com. Ratanya: Hatusemi sasa, unajua tulitoa maoni (Kimeru) I think (Kimeru) lakini ile ninawaambia ni kwamba walikuwa wachache na ninawaambia hii draft si mwisho wake. Kama kuna mambo unataka yageuzwe, uyaaandike yaende kwa Coordinator halafu kina Muketha wataangalia kule Nairobi. Watazungumzia mwezi mmoja, hata inaweza kuzungumziwa lakini kwa sasa hatujapata hayo mambo sana, pengine tukiendelea na kuzungumza hii Katiba, tukizungumza mwezi moja, National Conference nayo izungumze, pengine watageuza kwa sababu hii ni Katibaya wananchi.

Alama ingine ni National Anthem, ule wimbo wa Taifa ndiyo tunaita National Anthem, “Ee Mungu nguvu yetu...” Hatujasikia mtu wa kutuambia, pengine wachache walisema lakini hiyo ni maombi watu walisema lakini wakitaka kugeuza, tutajua baadaye.

Then the Court of Arms: court of arms ni ile kirauni unaona ina Simba, ina shield, hiyo ndiyo court of arms lakini watu wengine walisema ile shoka na ile jogoo, wengine walisema iondoke kwa ile court of arms. Kwa sababu hii draft si mwisho, mtazungumza na nyinyi thirty days, mtapeleka hayo maoni, itaenda kwa delegates, National Conference on 28th, watazungumza kwa mwezi mmoja na kwa hivyo pengine ile draft ingine tutaipata itakuwa hiyo imeondolewa ama imewekwa zaidi ama pengine mengine yamewekwa lakini ile ya muhimu, lazima kuwe na court of arms. Court of arms iwe na kile watu wamekubali. Na lazima kuwa na wimbo, lazima kuwe na pendera ya nchi.

Then “the Republic seal of Kenya as prescribed in the third schedule”, kuna pahali imeonyeshwa kwa hii draft, ama seal yenyewe ya Kenya, na hii ningetaka mtaangalia zaidi hapo.

National oaths and affirmation: yaani hii inaitwa (Kimeru) that one will also be there. There is an example in the schedules, in the fourth schedule; ukiangalia page 43, kuna swearing hapa “oath or solemn affirmations of due execution of office for a minister, deputy minister and so on” Si mumeona hapo? Sasa hii iko namna hiyo, kuna ingine hapa, hata tukianza kwa page 42, tuone ya President, ya President iko hapa, “oath or solemn affirmation of a President, acting President and the Vice- President. Anaanza na kusema “ I, so and so, in full realization of the high calling I assume as President or acting President” na kuendelea na anatumia nini kwa ile mtindo tunatumia?

Audience: Biblia.

Com. Ratanya: Ni Bible ama Quran. Na ukiwa wewe unaenda huko kwa Mugumo kuomba, unainua nini?

Audience: Mkono.

Com. Ratanya: Mkono. Si muliona vile Leakey alipokuwa Head of Civil Service, yeye hakuinua Bible ama nini kwa sababu yeye anaenda huko katika misitu kuomba, kwa hivyo aliinua mkono. Si hiyo ni dini tu, kwa hivyo hata hiyo ni sawa sawa. So, hii ndiyo tunaita oaths na iko kwa kila ---? kulingana na ofisi.

Then we come to National Days: The following days shall be observed as National. Sisi tumependekeza kuwe na;

1st June – Madaraka Day

12th December – Jamhuri Day then the date of enactment of the Constitution, of this draft, iwe inaitwa nini? KatibaDay. Sisi mambo mengine, sisi draft yetu tumesema namna hiyo. Kama kuna mengine utapendekeza, pengine utasema baadaye. Pengine utasema ile inaitwa Kenyatta Day, ama useme Moi Day, ama uite ingine, lakini kulingana na Draft yetu tumeweka hizi tatu na kama mtakubaliana na hizo ni sawa sawa, wajumbe wa National Conference pengine watamaliza wakisema tumekubaliana ama wakitaka kuongeza, hii si mwisho. Si ni namna hiyo?

Audience: Ndiyo.

Com. Ratanya: Okay, hiyo ni kuwaambia kuna mambo ya muhimu. I would like to go to devolution, ile niliwaambia pale Serikali inaenda. Page 3 chapter 10. Page 3 kuna maelezo kuhusu devolution of powers, principles and objectives of devolution. Hapo utasoma utaona general principles, kwa nini tunasema kuwe na devolution. Devolution of power ni kama kugawanya madaraka, kugawanya utawala, kugawanya hiyo power yote. Si ikae na mtu mmoja. Ikawanywe na itoke, kama ni hapo juu, iende kwa wengine na wengine. Ndiyo unaona tumeweka, kwa hiyo imewekwa, ile ningetaka muangalie sana ni the levels of Government. Page 26, tuone pale ukubwa unaenda ama Serikali inaenda. Katika page 26-katika kugawanya mamlaka, mtaona kuna levels of Government, katika part 2. “ The organization of devolution, principles of devolved Government.

Tukifanya hapa introduction kidogo halafu tuangalie pale Government inaenda, number 214, that is article 214 (1) subject to the Constitution

- a) “the structure of devolved authority is based on democratic principles and the separation of powers” Ile inafanya tufanye namna hii ni kwamba uwezo ama utawala uwe ni democratic, yaani uwe ni wa kweli kwa kila mtu na uwe wa kugawanya mamlaka; separation of power. Kwa hivyo tunataka tufanye hivi ili kuwe na democracy, watu wajitawale wenyewe, waone ya kwamba hawafanyiwi mabaya na tena wagawanye uwezo; they share the powers.

Tukiangalia kwa levels zenyewe; 215 kuna, “ the powers are devolved to the following levels; kuna village, location, district and the province na halafu kuna headquarters huko Nairobi. Tuliona huko Nairobi ama Head office kutakuwa na two chambers; Upper House na Lower House, ama tunaita National Assembly na National Council na halafu kutoka hapo kuna Ministers, kuna President, Vice-President. Ile tu mtakumbuka ni kwamba President hatakuwa MP, hayo yameandikwa huku, utayasoma.

He should not be an MP, atakuwa tu President. Constituency yake itakuwa wapi? Kenya. Si pahali pengine, ni Kenya na hata Vice President hatakuwa MP. Minister kulingana na hii Katiba, hawatakuwa MPs. Wakakuwa people outside Parliament. Nyinyi mkichagua MP ni MP wenu ambaye ni mwakilishi wenu, si mtu aende kusema anaenda kupewa bendera huko, hapana, ni mwakilishi na atakuwa na ofisi katika Constituency na atakuwa na ofisi kule Nairobi. Mnaona sasa hiyo ni

tofauti. Sasa hiyo ni Central Government, ama hiyo ni Serikali ya huko lakini Serikali itakuja ilete mamlaka huko chini ndiyo unaona imeleta kwa level ya village, location, district and province. Province itakuwa coordination ya districts.

Ukiangalia kwa village itakuwa namna gani? “the village decides whether the village council is constituted by village elders or through elections” Hizi Serikali zikianza, wazee wa village, ambayo itapangwa ikiitwa village wataamua kama wakubwa wao watachaguliwa na wazee ama kama watapigiwa kura. Kama ni kupigiwa kura, waakilishi wapigiwe kura na hata yule mkubwa wa village hiyo apigiwe kura na niliwaambia hiyo ni Serikali, hata kulipwa watalipwa. Hao ni watumishi wa Serikali. Kutakuwa na ofisi, kutakuwa na hata askari na itakuwa ni Serikali kabisa ya kuangalia mambo ya huko chini.

The village council shall contain not less than six members and not more than 10 members. The village decides on the system of village Government, including the role of the village council. Wao wana mamlaka ya kueleza vile wanataka wajitawale. Wakieleza hiyo sasa wataeleza district na itaenda hata kwa Bunge na wajue village fulani tunataka sisi mpango uwe namna hii. Tunataka kuchagua watu namna hii, tunataka kuwe namna hii, yaende kama sheria hata huko juu na waendeleo na utawala wao.

Then locational Government: “the location council consists of two representatives, one of whom shall be a woman elected by each village council from among its members” Tukienda hapo juu kwa Serikali ya location, kutakua na Councillors ambao watawakilishwa na watu wawili wawili kutoka kwa kila village. Mmoja awe mama na mmoja awe mwanaume; one-woman one man. Tukienda kwa hii ingine, kwa ---? inasema; “The Location administrator is the executive authority of the Location” na huyu mtu atakuwa anachaguliwa na watu katika location level na tena awe ndiye executive, ndiye msimamizi wa location. Pengine tukiendelea na kufanya amendment ya hii, watu watapendekeza aitwe jina. Kama watataka aitwe ile ya zamani, chief, ni sawa sawa ama kama wanataka aitwe jina lingine ni sawa sawa, ama kama wanataka aitwe administrator, ni watu watasema.

Kwa mfano, kwa district level, Commissioner, tulikuwa tunataka mkubwa wa district awe anaitwa district governor. Tulikuwa tunasema namna hiyo lakini tukageuka kidogo tukasema aitwe district administrator lakini kina Muketha wakienda kwa National Conference waseme governor, district governor, hiyo pengine itatoka baadaye iwe district governor. Tukija kwa location, mkitaka aitwe chief ama aitwe Mukiana ama aitwe jina lingine, ni vile tu mtakubali na akiitwa namna hiyo itakuwa sheria.

Twende kwa district level, there is something there: the location administrator shall be elected by the registered voters of the location. Nyinyi mtamchagua, si mtu kusemekana kuwa ametoka kule, amependekezwa ni chief. Kama ni chief ama nini, ataitwa jina lile ataitwa lakini ni wewe na kura yako ndiye utamchagua. Mkimchagua mtu mbaya si ni juu yenu? Na huyo mtu atakuwa na nguvu kwa sababu atawala sawa sawa na hata wa sub-location, wote watakuwa watumishi wa Serikali, hata hawa Councillors, na mishahara watakuwa wanalipwa huko juu, kutoka kwa pesa za Serikali, ambayo imetolewa na Bunge.

Then kwa district level, “the legislative authority of the district is vested in the district council.” Mamlaka yote yako katika district council. Level of devolution ni kwa district na hii itakuwa na nguvu kubwa na halafu itaenda chini na chini mpaka village.

Ya province itakuwa tu ni coordination ya district kwa sababu hapa mkiangalia haitakuwa inafanya sheria. Wajumbe wa hapa watakuwa consisting of two representatives, one of whom shall be a woman, chosen from every district. Kwa hivyo kwa province hakutakuwa na elected people, watakuwa tu wanachaguliwa kwa district, mwanamke mmoja na mwanamume wanaenda kwa province na kazi yao itakuwa ni coordination ya district, lakini si ile kazi ngumu sana, si ule utawala mwenyewe.

Utawala utakuwa district na utakuwa utaenda mpaka Nairobi lakini provincial level is just coordination. Ninataka kuona pahali pengine moja halafu tumalize, tuulize maswali na niliwaambia leo sikuja kuwafundisha, ni kuwaonyesha tu njia ya kutumia hii na uende usome hiyo siku zote kutoka sasa.

Mambo ya mashamba ni ya muhimu sana. Si ndiyo?

Audience: Ndiyo.

Com. Ratanya: Hebu tuangalie page 28; land and property. Now, mambo ya mashamba, wakati mnasoma, na msome hapa vizuri ili baadaye muandike comments zenu. Mtaona kuna land policy framework, ambayo huonyesha vile mashamba lazima yaangaliwe kwa njia hiyo na tena kuna ownership of land. Tukiangalia kwa mfano hapa ownership of land, 233, “all land in Kenya belongs to the people of Kenya collectively as communities and as individuals.” Yaani mashamba yote ni ya watu wa Kenya. Watu wa Kenya wanaweza kuwa ni wenye hayo mashamba wakiwa kama vikundi, kama kuna mahali wanafanya kama Ranches, wanakuwa vikundi, wanaweza kuwa individuals kama wewe, kama --- hapa anakuwa na shamba yake, wewe unakuwa na yako, si hiyo kila mtu shamba yake. Kwa hivyo hiyo itaendelea namna hiyo.

Yale mashamba yatakuwa ya public yatakuwa yanasimamiwa na Commission. Tutafanya Commission, kuna pahali nitasoma kuna Commission, kama page 49 kuna establishment of national land commission. There is established a National Land Commission consisting of a Chairperson and Deputy Chairperson and eight other members nominated and appointed in accordance with the provisions of Chapter 17 of this Constitution. Tutaona chapter 17; pale kuna Commissions nyingi na vile zimechaguliwa. Kile cha muhimu kujua hapa ni kwamba kutakuwa na land commissions.

Mpaka sasa hakuna National Land Commission; ile iko katika Kenya, ambayo imeharibu maneno ni hii inaitwa Commissioner of lands na Commissioner of lands ni mtu mmoja, ndiye ana ofisi yake. That is a one man’s commission.

Ni mmoja tu, naye anaitwa Commissioner of lands na ana watu wake, makarani ambao si wajumbe kutoka kwa watu. Ni makarani wake, mmoja anamwita director of Adjudication, mwingine anamwita sijui National registrar, anawapatia majina hapo na anaitwa Commissioner of lands. Lakini sasa kutakuwa na National Land Commission ambayo itakuwa ni Commission ina

watu wengi, unaona kuna difference hapo; Commission na Commissioner mmoja, kuna tofauti. Sasa hiyo itakuwa na nguvu nyingi sana ya kuangalia mambo yote ya mashamba; land policy, ownership, land tenure, classification of land, wataona vile land itakuwa, property ni land. Yaani ukiangalia kwa functions of the National Land Commission, ziko hapa.

Nikisoma ya kwanza na ya pili hivi; “ hold title to public land in trust for use by the people of Kenya” Mpaka sasa County Council ndiyo inasema ndiyo trustee wa land na wameyauza, wameifanya kama owner. Unajua kuna tofauti between a trustee na owner. Sasa County Council imechukua ownership. Hata pengine hawajui ownership na trust ni nini. Sasa imechukuliwa ati unaaambiwa kuna mashamba ya County Council, wako trustee tu, yaani kuangalia kushikilia on behalf of the public, lakini sasa hayo maneno ya County Council na nini yamekwisha. Tutakuwa na Land Commission ambayo itakuwa national, itakuwa trustee wa nini? Wa mashamba yale ni public land. Unaona hapa, “will hold title to public land in trust for use by the people of Kenya.

Kama ni shule, kitu cha public, kitakuwa kinakuwa held na the Land Commission na inashikilia kwa watu wa upande huu watumie. Sikuja kugawanya mashamba huko ama plots, ni nyinyi mtumie. Kama ni shule, kama ni hospitali, kama ni barabara, hiyo yote ni public land lakini haitaingilia shamba yako mwenyewe. Kama ni registration ikifanyika ukichukua, shamba yako imekuwa yako kwa sababu Constitution inakubali kutakuwa na public land, kutakuwa na private na kutakuwa na community land, ile inakuwa held by the community ama in groups.

“Administrate the public land on behalf of the Government and local authority” Yaani administration ni kuangalia management ya land, hiyo ndiyo itakuwa inaangalia.

“To define, keep constantly under review the national land policy” Sasa, board akama hii ndiyo itaruhusu hiyo Land Commission, zile sheria zote ambazo zinaharibu watu kama Cap 283; land consolidation ambayo kila pahali watu wanalia hiyo ni mbaya, ama 284, ama 288 ambayo ilikuwa inaitwa Trust land Act, zote hizo Land Commission itageuza na itengeneze vile itafaa watu wa Kenya. So the Commission can review all policies, can review the law relating to land also.

“Consolidate and from time to time review all laws relating to land” Hata hapa ndipo inaelezwa zaidi kwa sababu kuna sheria nyingi zinahusu land, wale pengine wa land officers hapa, ama agriculture wanajua kuna very many laws ambayo ni ya land. 283 ni moja, Cap. 284 ile ya adjudication, kuna Cap.288, kuna hii ya Land Control Board, kuna ya title, nyingi nyingi. Kwa hivyo hii itakuwa Consolidated ama ifanywe kama moja mbili tatu, ziwe chache na tena iwe reviewed kwa sababu zingine ni za kikoloni; kama hii ya kuunganisha mashamba ilitoka wakati wa mkoloni na imeangamiza watu. Unasikia shamba yako inatoka hapa pahali pazuri na unapelekwa kwa mawe. Si hiyo ni mbaya?

Audience: Ni mbaya.

Com. Ratanya: Hiyo yote itakuwa corrected. Najua nikisema hivyo, hata mimi nimehusika, hata mimi nina makesi. Especially ukisikia mtu wa Nyambene ama North Meru, kule tumeanza na hii maneno tuna mambo makubwa ya mashamba. Kwa hivyo land Commission itarekebisha hayo yote. Sasa hii Chapter, hii na zingine zenye tumesema, ni juu yenu sasa kurudia na kusoma sawa sawa, ikifika mwisho wa thirty days, wakati umefika wa kuandika comments. Tuseme kama ni hii mambo ya mashamba, mnaweza kusema hayakusemwa vizuri, ningetaka kuongeza hii, mtoe hii. Ukiandika hizo comments zako, zitakuja kwetu na zitapeanwa kwa ile inaitwa National Conference ambayo itakuwa tarehe ishirini na nane, Nairobi ili baadaye itaingia kwa Katiba.

So, mmeletewa hii ili muweze kusoma, kutoa makosa, kuongeza, kwa siku hizo zote. Kwa hivyo tungetaka kusema tumeanza hii na sasa mtaendelea na ningetaka kumaliza hapo ili niwapatie nafasi tuende kwa ile stage ingine ya maswali yenu. Haya maswali, kwa kawaida, mahali pengine tunachukua kama watu watatu, pengine tena watatu na muongee kuhusu yale ambayo nimewaambia. Usiulize yale mambo haujui kwa sababu mengi utasoma hapa na tena si siku ya kuja kulalamika, kuniambia kwa nini Commissioner hamkuweka hii. Sasa hiyo ndiyo nimewaambia mtasoma na utaandika in writing na tutaletewa huko izungumziwe na wazee wa National Conference. Lakini kama kuna clarification kwa hii, ama chochote unataka kuuliza kwa yale nimesema, tuone watu wachache halafu twende nyumbani, tusipoteze wakati wenu wa kusoma hii ripoti. Muanze kutoka leo.

Kwanza, yule angetaka aulize ainue mkono, nichukue watu watatu niwajibu na halafu watatu wengine na tumalizie hapo. Ama si namna hiyo?

Audience: Ndivyo.

Com. Ratanya: Na akina mama msiachwe nyuma, hata nyinyi yule anataka kuuliza, hata kwa Kimeru, uuliza tu, tutasikia na tutajaribu kujibu. Niliona wa kwanza kabisa ni yule na yule anamfuata na huyu. Hebu tuone hawa kwanza. You say your name, because we are recording.

Alexander Mukindia: Mimi ninaitwa Alexander Mukindia, Chairman wa TEDA, Tigania East Development Association. Swali langu ni moja tu. Nyinyi watu wa commission huwa tunawapata hapa wakati tu mnakuja kama saa hii na mnatuambia tukisoma hii tunaweza kuirekebisha na kutuma Nairobi. Tutatuma akina nani? Ama mtakuja tena tuwatume ama tutatuma na Posta ame hawa wenye wametuachia ndio tutatuma walete?

John Ikundi: Kwa jina ninaitwa Johana Samwel Kikundi, nilikuwa na mapendekezo niliyokuwa nimefanya kulingana na ile ripoti ya kwanza. Sasa sijasikia kama kuna nafasi ya kutoa ile ripoti. Ndiyo nilikuwa ninataka kuuliza kama ningepeana, ile ripoti ya kwanza, isipokuwa hii ya leo.

Githia Mucheke: Mimi ni Githia Mucheke. Nilikuwa ninataka kujua hawa watu watakaa kwa ofisi kwa muda gani, hawa

elders, wakichagulia. Tuseme wote tu, ama watakuwa tofauti tofauti?

Com. Ratanya: Okay, hebu tuanze kwa ya kwanza. Ya kwanza imeulizwa na Alexander na angetaka kujua atatuma maoni yake ama comments kutokana na haya atasoma wapi. Pengine nilieleza na haukiueleza Bwana Alexander. Ukiwa na maoni yako, utaandika in writing na utampatia Coordinator wa district na halafu itakuja Nairobi. Hautakuwa na mambo ya kuja Nairobi, kufanya hiyo safari yote ama ku-post, pengine inaweza kupotelea njiani. We have got our office at the district level. Si hata committee tunayo? Tuna committee hapa na hiyo committee, kama hamwajui, pengine coordinator ata-introduce, lakini mnawajua isipokuwa Alexander hakuwa karibu. Njia ya kutuma, kama yule Muketha, unataka kuonyeshwa kule ofisi iko, kama hujui iko Maua, upeleke kwa coordinator na coordinator alete Nairobi. Akileta Nairobi, itaenda kwa National Conference. Okay? That is the way. Now, and it should be in writing. Put your comments in writing.

Number two, kuna Ikundi. Ikundi anasema kwamba alikuwa na maoni yake ama memorandum na wakati tulikuwa tunakusanya hii, Ikundi pengine hakuwa karibu, ama hakuwa ameandika. Kwa hivyo ningetaka kuambia Ikundi ile stage iliisha, stage ya hearing, hiyo iliisha, wala si kuuliza tena, hiyo iliisha lakini ukitaka kuleta haya maneno yako, usome hapo, ulinganishe na yale yako hapo kwa sababu tuko hapa sasa, tuko kwa hii draft sasa. Ungalie kwa hii draft, uangalie comments zako kama inalingana na ile ulikuwa unataka, vile unataka na halafu uandike hiyo report na utume kama vile nimekwambia Alexander; utume kwa coordinator na ije mpaka Nairobi.

Mr. Ikuundi: ----(not clear) There is the report about The People's Choice. I read the report and I wanted to compare my notes and give some submissions. It is as though from the guidelines you have given, it is as though we are not supposed to contribute anything toward the former report. That is what I was asking, not the initial stages of submissions.

Com. Ratanya: Out of the memoranda we collected and the views, verbal information and everything, out of all these we made this summary from the constituencies and out of that finally we came to Constitutional provisions in this draft. So if you did not bring your memorandum, is it?

Mr. Ikuundi: Nime-comment about ile report ya kwanza, ---? Mombasa.

Com. Ratanya: Now, you have commented about, you are talking about this one?

Mr. Ikuundi: Yes.

Com. Ratanya: Now, if you have made any comments on this one, and you would like to read this one and comment, infact they are more or less the same, because here we have only made a short report but all what is contained here is here. There is no much difference because if we are talking about the Presidency here, it is put into Constitutional language here in the draft. So, combine the information you have about this one and this one and then you report and give us the section you are

commenting on.

Githia hapa anataka kujua hawa watu wanakaa miaka mingapi. Katika Kenya tunajua Parliament yenyewe inakaa five years na National Council tunapendekeza four years. Kwa levels zingine, mpaka kwenda kwa village level, later tutakuwa na regulations ya Parliament.

Unajua kwa hii Constitution, the first thing we are going to do, I told you we can not do anything just in one day. Things will go by stages. The first thing we are going to do is to make the Government of Kenya and the Government is the President, Vice President, Prime Minister, Deputies and the Ministers and then the Parliament. Mnasikia hapo? One we have our Parliament, the leaders and the Parliament, the Parliament will then make rules to direct how to go about the other stages the Constitution has recommended. So, there will be other regulations made by the Parliament itself.

Right now we know it is five years for Parliament and it was five years for any Councillor in the past. So we might continue even village level, all the councillors might continue to be five years. Location, village, district and also the Member of Parliament at the National level, I mean at the National Assembly but we are going to be very clear on that one and this is why after enactment of this one, we are going to have a period for a kind of civic education to explain to the people the implications, what is going to happen, how we are going to avoid... or conducting elections, but this will be when we implement the new Constitution.

The Parliament will have already made some regulations. The Constitution only gives just an outline, the basic law lakini mengine yatafanywa na Parliament na hata kuna sheria itafanywa na districts, sheria ambayo inahusu district yenyewe. Nilikuwa ninawapatia mfano watu wa Maua na Lare, wanasema sasa Miraa itafanywa namna gani? Nikawaambia sasa tukifanya sheria ya Miraa in Kenya, mtu wa Coast hatasoma, hata hatasoma vile kunasemeka hapa. Mtu wa Kisumu hatajua ni kitu gani hiyo lakini tukija hapa Nyambene, tufanye sheria ya Miraa, si tutaelewa?

Audience: Ndiyo.

Com. Ratanya: Watu wa Kisumu kule wafanye sheria zao za samaki, si wale wataelewa?

Audience: Ndiyo.

Com. Ratanya: Sasa mkiletewa sheria za samaki hapa (Kimeru) Kwa hivyo that will be the law of the district na hata kuna sheria inahusu hata location. Location hii na ingine, saa ingine kuna mambo kuna mambo madogo madogo mnataka yawe yenu, na location ingine yawe yao, na hao watatengeneza hiyo sheria, hata hizo by-laws. Si ndiyo?

Audience: Ndiyo?

Com. Ratanya: Si unaona unajitawala kabisa? Yes. I think kwa years, ama duration, hiyo itaelezwa ama pengine tutaendelea kama vile Council ilikuwa inaakaa miaka tano, Mheshimiwa anakaa five kwa Constituency and so on.

Unajua, mambo mengi yale tunazungumza yako hapa. Ukienda kwa page 29, hapa Programme Officer amenionyesha hapa, mtaisoma utaangalia. Angalia page 29, this is establishment of National Land Commission, pale pale tulikuwa tu. Number 3 huko chini, before you get the word interpretation. Mmeona hapo? 237 (iii) down “Parliament shall enact a law to define the organization and powers of the Commission. Hii ni Commission ya land lakini Parliament, hata mambo mengine itafanya relevant laws kuhusu land, kuhusu kama ni elections, unajua Electoral Commission hata hiyo itabinduliwa, itakuwa na Mjumbe mwingine na hata sheria zile za Electoral Commission zitakuwa zingine na hizo zinafanywa na Parliament.

Role ya Parliament itaendelea kufanya sheria lakini hiyo sheria Parliament itafanya, ikihitilafiana na hii, ama iwe ni mbali na hii Constitution, ni ile niliwaambia itakuwa null and void, si ndiyo? Lakini wana hiyo nafasi ya kufanya sheria; National level, District level, itafanya sheria. So, kwa hii mambo yote tunauliza, Parliament itafanya regulations, itafanya laws, ambayo itaendesha mambo haya Constitution imesema. Kama Constitution inasema usimpague mtu yeyote, haisemi mambo mengine, sasa nani atafanya sheria ya kuonyesha mtu hawezi kubaguliwa? Si ni Parliament?

Audience: Ndiyo.

Com. Ratanya: Parliament itasema ukifanya hivi unabagua mtu na Katibahaitaki, ukifanya hivi unabagua mtu na Katibainakataa. Si ndiyo itafanya hiyo sheria na itaendelea? Okay.

Nimemaliza hayo maswali matatu, tuchukue mengine matatu halafu tumalizie hapo. Mnaona yale yote mnaniuliza yako hapo, ni yale maneno utajibu ukimaliza thirty days. Wakati huo utakuwa umejua kweli kweli na utauliza mambo ya muhimu, yale ambayo yataenda Nairobi. Hebu tuone mambo machache tu ya watu watatu tu halafu tumalize.

Mbogori Joseph: (Kimeru)

Karithia Menya: Thank you Bwana Chairman, my name is Karithia Menya and my question is based on budgetary measures of this Constitution. It is so good a Constitution but if you look at it it seems like it is going to be costly. How much have you considered about the budget? That is my question.

Peter Gichuru: My names are Peter Gichuru. Tulikuwa wale walikuwa wanaendesha kazi ya kufundisha Katibana hatukulipwa. Tatalipwa lini?

Com. Ratanya: Sasa ninaona ya kwamba tulikubaliana hii iwe mwisho na hayo maswali matatu tuyaangalie yakiwa pamoja. Ya kwanza Joseph Mng'ori ameuliza, hii Katibatutaisoma namna gani. Kwa hivyo umeuliza tutasoma namna gani, kama ni mtu ataenda pekee yake hivi ama mtakuwa kwa groups. Hebu nikurudishe nyuma kidogo. Wakati tulipokuja hapa kwa maoni, tulikuwa tumewaambia unaweza kuleta maoni yako ukiwa mwenyewe, uwe na memorandum yako, ama uje hapa uketi na useme mambo yako, wewe ukijiita kama ni Joseph. Si muliaambiwa namna hiyo? Hiyo ilikuwa njia moja. Mliambiwa mnaweza hata kuwa na group, kama ni a women group ama organization fulani kama KNUT, kama nini, kama wazee wa Njuri ama nini, na muje kama group, mpeane maoni yenu ama mulete hata maandishi kama memorandum.

Kwa hivyo hata sasa wakati wa kwenda kusoma hii, hatuwezi kulazimisha nyinyi ati muende mfanye masociety kama hayakuweco. Uende, kama unataka wewe mwenyewe na bibi yako na watoto wako, mketi, msome, mtasoma na mtafanya comments zenu. Kama mna group yenu, ile mlifanya wakati wa kupeana views, muende tu kwa hiyo group mlikuwa nayo ama organization yenu, mketi as an organization na muandike. So you can do it individually or in group, organized groups or anything. Si ni sawa sawa Joseph? Kwa hivyo hakuna kitu kinapingwa hapo. Hakuna lazima ya kusema ya kwamba muende mkae kwa kikundi. Unaweza kusoma pekee yako na uelewe na urudishe copy in writing ama in groups, in organized groups or whatever groups. Hata sasa hivi mkitaka ku-organize group ni juu yenu. Mkionana watu kama kumi museme (Kimeru).

There are areas like South Imenti where people were coming per sub-location. Hiyo ilikuwa mpango wao(Kimeru) Hiyo ni juu ya watu. I think you understand there. For thirty days you do whatever you want, you organize yourself to read and then you give your comments in writing to us.

Then the second one is about budgetary measures or provisions: hii mambo ya budget, actually haikuwa our mandate. Hata ukisoma this Act, it was not actually our mandate. Our main mandate ilikuwa ku-collect and collate the views from wananchi and then come out with Constitutional proposals, tufanye draft kama hii. Mambo ya cost, mambo ya budgeting na nini, nani anafanya budgeting katika Kenya kuona vile mipango itaendelea? Si ni Parliament?

Audience: Ndiyo.

Com. Ratanya: Parliament ndiyo itakuwa inaketi, inasema sasa Katibaimetuambia hivi na ilipitishwa na wananchi and that Katibais the People's Choice. So they will sit and then try to have a kind of law to know how to implement during their budgetary provisions. So, it was actually not our mandate in this Act to dwell on the budgeting but the main mandate was to collect and to collate the views and to come out with the draft; the draft that you have been given today to go and read for thirty days. So, the Government, after it has been chosen by the people of Kenya, will sit down and know how to go about implementing the Constitution provisions from the wananchi. Si hiyo ni sawa sawa umesikia?

Mr. Menya: Yes.

Com. Ratanya: I think that is clear. Kwa hivyo kwa hapo tunashukuru sana, tumefika mwisho...

Audience: (Speech not clear)

Com. Ratanya: Okay. Sorry. There was one last one here, ya Gichuru. Hii inasema ni Civic Education payment.

Audience: Ndiyo.

Com. Ratanya: Now, hapo nilipokuja hapa niliwaambia namna gani? We are not coming actually to complain ama kuleta views because we covered this section. This is the time we did the views and today we are strictly on the draft and the payment of civic educators is not a Constitutional issue. Is it? I mean, the civic education, is it appearing any where here as a constitutional provision. It is not.

Audience: (Mumming not clear)

Com. Ratanya: Lakini, I now you are shouting because you know it is not so. Sasa, vile ilivyo, niliwaambia kulikuwa na stage ya civic education. I think I mentioned that in my report. This report just covers the background, this is not the Constitution draft but this is just a report, where you find our names and other things. Our names will not find their way into the Constitution, haya mambo mengine inaeleza civic education will not be there but this is explaining the process, vile process ilianza na ikaendelea. We went through all that explanation mpaka pale tumekuja na kuwaletea draft.

Where I mentioned about civic education, niliguza pahali, nikasema stage moja ilikuwa civic education. Kwa hiyo civic education, si hiyo imetuleta hapa, tumekuja hapa kwa stage ya mwisho ya draft, lakini ningesema hapo ni kwamba last time tulikuwa na mpango wa civic education na vile ulikuwa inataka kupangwa in Kenya, the whole of Kenya ni kuwe na NGO's waje wafundishe, wazungu ama watu wengine wafundishe, zile NGO kubwa kubwa, nyinyi hamngepata nafasi na hao watu wangukuja na pesa zao, do you get me? Wangukuja na pesa na halafu kuanza kuwapatia watu, kama ni Mng'oria anapewa, kama ni pesa yule anapewa, mwingine anapewa huku, you know, wanaendelea na hii Act ilikuwa ya kwanza imeandikwa "the Commission shall facilitate and promote civic education" Hiyo ndiyo ilikuwa imeandikwa hapa kwanza kabisa na wakati huo Commission haingefanya civic education, ni hawa watu wangukuja na wafanye civic education. Lakini baadaye, ikaonekana kama watu wakija na hizo pesa nyingi yao, ambazo wangepatia kila mtu, pengine waende wakimwaga huku, nini nini, ikaonekana pengine Constitution haitakuwa People's Driven Constitution kwa sababu itaharibiwa na hawa watu wanaleta pesa, kwa sababu itakuwa mambo ya kipesa, mambo ya kulipa pesa na nini, na nini.

So, hii Act ikawa changed na Parliament yetu, wakaongeza kitu. Wakasema "the Commission shall conduct, promote and

facilitate.” Hata ukiangalia huku ndani, section 25 mpaka 27, karibu hapo. So, that word conduct means a lot, si ndiyo? Hiyo ndiyo ilitupa sisi kama Commission kufanya civic education. Kama si hiyo, hatungekuwa na sheria ya kufanya civic education. Sasa tukasema kama sheria imepinduliwa na tumeambiwa tufanye civic education, ndiyo tukasema hebu wananchi wenyewe wafanye na sisi tukakubali. Tukasema tuchague vikundi mbali mbali, tukachagua vikundi, nasikia kuna vikundi vya red cross, kuna women groups, wakati huo wengi walifanya vikundi vyao and they gave the names. Kuna hata teachers, retired teachers, kuna hata Njuri-Njeke niliona hapo, those are all groups na ika-appear everywhere in Kenya, wakafanya groups zao, vile wananchi wenyewe wafanye civic education lakini problem, tulipoenda kwa wale walikuwa wanataka kufanya wenyewe, wale ma tycoons, pengine NGO’s na wengine, wakataa kuleta hiyo pesa walikuwa wanataka kutumia. Mnasikia hapo?

I don’t want this one to be a dispute because we are not coming for this but let me explain to you. Kwa hivyo, tukasema hata ingawa hatuna pesa nyingi, the little money we have, tutatumia wananchi wenyewe wafanye, hata kama ni kujipeana wao wenyewe watumie pesa ambazo ziko na ni Serikali ilitupatia hizo pesa kidogo za kutumia kwa civic education. Donors hawakuja kutusaidia, walifanya zingine wao wenyewe, ninasikia kama ---? kama Catholic, walikuwa na pesa zao, wanafanya hao wenyewe na hiyo, I don’t want to talk about civic education ambayo ilikuwa inafanywa na watu wengine, ninasema hii ya commission ambayo mtu anauliza hakulipwa.

So, pesa zile zilikuja kwa coordinator, ninakumbuka katika Kenya, kila constituency ilipata 47,000/- na hiyo ilifanya na haikutosha. Inginge ikaja kidogo. Kwa hivyo pesa ya civic education haikutosha na ni kwa sababu commission haikuwa na hiyo pesa na mnaona problem kubwa ni kwamba donors hawakutuletea hiyo pesa. Tulitumia ile kidogo Serikali ya Kenya ilipeana na ndiyo ukaona madeni yalikuwa huko na hatukuwa na pesa za kulipa. Kwa hivyo do not blame the coordinator, yeye alifanya kazi yake na hesabu ilipofika kwa hawa, wakaona ni hesabu sawa sawa na hiyo mambo ikaaishia hapo. So, sina mambo ya kuzungumza ya civic education, nimewaeleza na ninataka kumalizia hapo.

Kile cha muhimu ni...

Speaker(s): Ule mfuko wa Serikali, waliofanya diversion, makosa yalifanyika hapa kwa sababu ----(not clear)

Com. Ratanya: Sasa niwaambie, hatukuja kuongea yale yalipita.

Speaker: Tunataka kuhakikisha vikundi vile vililipwa na tujue ----(not clear)

Com. Ratanya: Kwa hivyo hapo mimi sikuwa na hiyo ripoti ya kuja kuzungumza hiyo, nikizungumza hayo itakuwa makosa kwangu. I have to tell you the truth, I came only for this.

P.O. Solomon Anampiu: Asante sana Bwana Commissioner kwa kunipatia nafasi. Hebu tafadhali tusikize. Ile ambayo

ningetaka kusema ni ya kwamba kama Commissioner alivyosema, hatukupatiwa pesa ya kutosha kulipa for civic education. Ile pesa ambayo ilikuja ilitumwa kwa District coorditor. District coordinator Kimathi, how much did you receive for civic education. Forty seven thousand shillings kwanza?

Mr. Kimathi: First, I received forty-seven, second fifty and then forty. ----(clear)

Solomom Anampiu: Can you wait for a moment please. All we are saying is that ile pesa ambazo zilitumwa kwa district coordinator ya kulipa kwa civic education ilikuwa hizo ambazo ametaja. Yeye mwenyewe alituma ripoti ya kwamba pesa hazitoshi na akasema ya kwanza nina madeni haya, haya na haya ambayo ilifanyiwa kazi kulingana na vile wewe head office ulinieleza. Hiyo yote tunajua, tunayo, lakini mpaka wakati ule pesa itapatikana, siwezi kukwambia ati kesho tutamtumia district coordinator hii pesa na commission haikani ya kwamba kazi imefanyika. Imefanyika na imelipwa mpaka kiasi kile ambacho tumepata pesa ya kutosha.

Wakati moja ilifika ya kwamba tuongoje mpaka tupate pesa yote kabla ya kuanza kazi au tuendeleo na kazi, tutengeneze Constitution, tumalize. Pesa ikipatikana ilipwe na hivyo ndivyo tumefanya hii kazi. Hakuna jambo ambalo ninyi mnaosema hamjalipwa...hiyo yote imetumwa kwa ripoti kutoka kwa district coordinator na si juu yake sasa, si yeye ndiye mkosaji lakini hiyo yote ni financial matters ambayo Commission yoyote itaingilia hapo ndani. Hiyo ndiyo ningeweza kusema wakati huu.

Tukirudi kwa hii Constitution, ningetaka tusome ile ambayo inaitwa Bill of Rights, page 9...

Audience: (Murmurs)

Com. Ratanya: Kulingana na programme yetu, mimi nikimaliza na officers wetu ambao ninao hapa lazima niwapatie nafasi hata wapumue, waseme kitu kimoja. Sasa ni wakati wake kusema. Mmsikilize tu.

Solomon Anampiu: Ningetaka tutazame hii Constitution, inakupa wewe uwezo gani kama mtu binafsi. Maisha, inasema lazima mtu awe alive, yaani hakuna mtu kunyongwa tena, hakuna mtu kuchapwa viboko tena, inaonyeshwa wanawake wana rights gani, hiyo yote imeandikwa na watoto pia, imeandikwa kwa Constitution. Hiyo ndiyo mambo pengine tungeangalia tumepitisha au hatujaitengeneza vizuri ili hiyo itumwe kwa district representative na hao wengine waitengeneze sawa sawa.

Kwa hivyo mimi ningesema someni hii, mmalize kufanya report ili wale delegates waweze kuifanyia kazi wakati ule watakutana. Mungu awabariki na asanteni sana.

Com. Ratanya: To add to that one, unajua ile ya muhimu ni muelewe hii document and that is the most important. Kuna Commission ambayo imetengenezwa ya human rights na hiyo haikuwako. It is among the many Commissions we have recommended.

If you check on page 11, kuna the Commission of Human rights and Administrative Justice of course to uphold the Bill of rights.

Programme Officer amewakumbusha mambo ya the Bill of Rights, hatutazungumza everything here, we are giving you this document to go and read and comment but just to add to that one, there are various commissions and the Human Rights Commission is one of the very important Commissions and under that there will be the People's Protector ambao watu walikuwa wanauliza Ombudsman au mtu ambaye unampelekea malalamiko yako. Now we have recommended but we have given the title People's Protector; that will be under the human rights Commission and there are so many other Commissions. You will read here and you can even recommend more commissions if we have given a few, you can recommend others. We have the Judicial Service Commission, Ethics and Integrity Commission, National land Commission, I think I said much about the National Land Commission; we used to have a one man Commission, Commissioner of land but now we have recommended the National Land Commission and this will be among the Commissions we are going to have. The National Environmental Commission, Teachers Service Commission will continue but will have more powers and another one, the Salaries and Remuneratinn Commisssion. MsP will not just go pass a law to upgrade or give themselves salaries but there will be a Commission for all the salaries, zote za kila mtu, there will be that commission, Constitutional Commission, Commission on Human Rights as I have mentioned, then Public defender, I have told you and then the Police will have a Commission, not a Commissioner and so on.

All these things will be there and as you read you will really understand and make a lot of comments before the National Conference on 28th. Your comments will be taken, will be discussed and might be incorporated in the final draft and as I told you, by all means this is not the final draft, it is not the final draft, it is just the first draft we are giving you to comment, make corrections and have additions and then all your comments will be presented to the delegates in the national conference on 28th October 2002, which will continue for one month and then we continue later for Parliament to enact a new law and then we have a the new Constitution.

We have said a lot, we have asked questions, we have concluded, those who came late will get advantage by reading this and they will understand more. I would like to officially declare the session of Constitution of Kenya Review Commission sitting at the Tigania east Constituency officially closed. Thank you very much.

Speaker(s): Prayers. Mungu naye atusaidie. Prayers.

Pastor: (Prayer) *Baba, muumba wa mbingu na nchi, tuko mbele ya uso wako aduhuri ya leo. Tumekuja na kunyenyekea mbele ya uso wako Mtukufu. Tunatoa shukurani nyingi Baba wa mbinguni kwa vile umetuwezesha kufika mahali hapa. Tunajua wakati huu ni ule wakati tunatayarisha Katibayetu ya Kenya. Baba wa mbinguni tunaikabidhi mikonini mwako Bwana, makamishona ambao wako mbele yetu tunawakabidhi mikononi mwako*

