

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

Verbatim Report Of

**DISSEMINATION OF REPORT AND DRAFT BILL, MAKADAKA
CONSTITUENCY, HELD AT KALOLENI SOCIAL HALL**

ON

15TH OCTOBER 2002

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Present.

- | | | | |
|----|---------------|---|-----------------------------|
| 1. | Eunice Kamau | - | District Co-ordinator |
| 2. | Esther Walya | - | Programme Officer |
| 3. | Liz Kingi | - | Assistant Programme Officer |
| 4. | Janet Wangui | - | Verbatim Recorder |
| 5. | Regina Mwachi | - | District Coordinator |
| 6. | Lwanga Tabu | - | |

Meeting was called to order 10.45, with Eunice Kamau in the chair.

Eunice Kamau: We will start although there is no power but I am sure we will get to understand each other we will try to shout as much as possible so I will request every speaker whoever comes whether from our side or from your side, please make sure that you raise up your voice.

We were suppose to start at 10.00 a.m and now because time is moving and does not await for anyone, we better begin and I will ask somebody to volunteer and open the session with the word of prayer. Any person Mama utuongoze kwa maombi.

Jane Mwangi: Nitaomba.

Eunice Kamau: Okay.

Prayer by Jane Mwangi: Basi tusimame tuombe. Baba katika jina la Yesu Kristo tumekuja mbele zako Bwana tukikutukuza

na kukuabudu Mungu wetu ni kwa maana umetufikisha mpaka asubuhi ya leo. Asante Mungu wetu kwa maana kuwa na uhai tunagarimu mkono wako, tunakushukuru Bwana hata kwa ajili ya mukutano huu tumetengeneza ni kwa ajili ya Katiba yetu Bwana, tunakuomba Bwana upate kutuongoza kwa sababu mawazo yetu yanaweza kwenda kibinadamu, lakini tunakuuliza Bwana ututangulie mbele na utuongoze kwa njia inavyostahili Bwana. Tutakapomaliza Bwana bwana na tuelewane tutasema wewe ni Mungu, saidia Kenya yetu Bwana ni kwa mana tunaipenda sana, saidia Mungu wetu hata viongozi wanaotaka kutuongoza Bwana ni kwa maana usipowaongoza ni kama tu vile kitabu inasema mjengaji anafanya kazi ya bure ikiwa mkono wa Bwana haujaingia ndani, tunakuomba Bwana utuongoze kutoka mwanzo tutakapomaliza tutakumbuku kukuambia ni asante na ni katika jina la mwanao Yesu Kristo tumeomba na kuamini. Amen.

Eunice Kamau: Asante sana mama kabla hatujaendelea sijui kama kuna mtu yejote hasikii luga ya Kiingereza hapa. Tungependelea kutumia luga ya Kiingereza, mtu ainue mkono kama hasikii, lakini kama unaskia, tungewaomba tafadhalini kama unaskia utukubalie tukumia Kiingereza lakini kama husikii hata kidogo, tutajaribu kuongea ile kidogo tunajua. Lakini tungependelea kuongea luga ya Kiingereza. Kuna mtu yejote haifahamu hata kidogo.

Speaker: Ikiwa tunaweza kujua likini kuongea(Inaudible).

Eunice Kamau: Kwa hivyo kama unaskia ni vuzuri kwa ajili sisi tutaongea kwa Kiingereza unaskia, lakini saa ile unaongea unaweza kuongea kwa luga yejote, sawa sawa, okay.

Thank you very much and thank you for coming this session that we are going to have or in this sitting we are going to have three session or three parts one of the parts where we are going to introduce ourselves that is the programme, we are going to introduce ourselves and then tell you why we are gathered here today.

Then the other part we will be telling you how the whole process has been, until we have this document that is the draft constitution and then go through the major issues that are now new highlight them and that session might take almost about one hour and then the last session, or the last part of the programme would be where we will give you an opportunity to ask questions to give recommendation arising from the draft constitution, any omission or any correction you want. So that would be the business of the agender in our session today, so we begin with a self-introduction and we can start from there and we move on and then we end from this side.

John Obara: First thanks to the commission and the community of Makadara, my name is called John Obara I am the Chairman of the health centre of Makadara City Council. Thank you.

Eunice Kamau: Ongea ongea hiyo.....(Inaudible).

Albert Otieno: My name is Albert Otieno I live here at Kaloleni.

Joel Janim: I am Joel Janim in the voice of the youth.

Eunice Kamau: When you are speaking introducing yourself make sure you are audible loud enough don't think that we only want to record your voice.....(?) we want to hear how are you.

Jane Ndigo: My name is Jane Ndigo I am from Viwandani.

Joice Kanini Aburua: Jioce Kanini Waburua maendeleo ya wanawake, vice maendeleo ya wanawake Makadara division.

Beatrice Macii: Beatrice Macii kutoka Makuru Kayaba organization ya AMKA.

Joanes Arango: Joaness Arango from Kaloleni.

Lumumba Leonard: Lumumba Leonard from Kaloleni.

Nick Okoth: Nick Okoth Kaloleni.

Merabash Shibalasish: My name is Merabash Shibalasish the 3C's member Kamukunji constituency.

Elizabeth Nduko: Elizabeth Nduko from Kaloleni.

Zena Ali: Zena Ali Pumwani.

Eunice Kamau: Ongea kwa sauiti.

Jeniffer: Jeniffer.

Spaeker: Where you come from.

Jeniffer: From Limuru.

Eunice Kamau: Jeniffer who.

Jeniffer Wanjiku: Wanjiku.

Monica Mwambe: Monica Mwambe a committee member.

Jane Mwangi: I am Jane Mwangi a committee member.

Eunice Kamau:(Inaudible).

Erastus Odera: Erastus Odera from Kaloleni.

Antony Olwenya: Antony Olwenya from Kaloleni.

Peter Mutuku: Peter Mutuku from Kaloleni.

Reuben Adija: Reuben Adija Kaloleni.

Edwin Warambo: This is Edwin Warambo Kaloleni car wash.

David Kilonzo: I am David Kilonzo from Kaloleni.

George Morara Nyakundi: I am George Morara Nyakundi from Makongeni.

Alfred Nyamwea: I am Alfred Nyamwea from Starehe.

Mark Ouko: I am Mark Ouko from Kaloleni.

Ochieng Donald: I am Ochieng Donald from Makongeni.

Mark Musila: Mark Musila Chemichemi Organization.

Fanuel Mukobo: Fanuel Mukobo from Kaloleni.

Paul Amondo: Paul Amondo Kaloleni.

Wellington Ombewa: Wellington Ombewa Makongeni.

Josephat Kamau Kirwa: Josephat Kamau Kirwa from Keirugi sub location Mukuru-aini.

Alexander K. Gikonyo: Alexander K. Gikonyo South B, Our Lady Queen of Peace Justice peace.

Mark Gathito Gasheru: Mark Gathito Gacheru, I have been sent by our lady queen of peace Catholic Justice and Peace.

Martin Obogo: Martin Obogo from Kariobangi South.

Regina Mwachi: My name is Regina Mwachi from CKRC.

Easter Walya: My names are Easter Walya Constitution of Kenya Review Commission.

Liz Kingi: Liz Kingi from the commission.

Eunice Kamau: Eunice Kamau from Kamukunju, a Constitution Review Committee Member.

Janet Wango: Janet Wango from the commission.

Lwanga Tabu: Lwanga Tabu, District Coordinator.

Eunice Kamau: Thank you very much we are going to the next part of our programme where we are going to tell you the purpose of this session and then the next part should be the objectives of the review process and the structure of the process and Esther would be presenting that part. Esther.

Esther Walya: Goodmorning everybody.

Audience: Good morning.

Esther Walya: Now you realize as we sit here, the Constitution of Kenya Review Commission is having sittings throughout the country from the 7th to 18 of this month. We all have one purpose and the purpose is to finally table the draft bill that the commissioners come up with. But the reason why we are actually disseminating this draft bill, we would like to get some feed back from you depending on how much you have read or which chapters you concentrated on or you have read the whole draft bill.

We would like to get feedback from you, this is a session that will allow us to debate that draft bill, if there is anything that you left out as constituents of this constituency and it is not in the draft bill whether in detail or generally then you can give us some indication of that. If you would like any change is made or if you find that there is something that is not clear that leaves the draft Bill vague then we would also like to hear that from you.

But I would like to bring one thing to your attention, remember that we have the national constitution conference that comes after the debate of this draft bill and that is the only organ of the commission that has any mandate to amend that draft bill. So what we say here today is purposely to enrich this document but enrich it by taking these proposals to the national constitutional conference, they are the ones which would have the final mandate finally to change that draft bill.

What we are saying is that as a commission do not want to sit back and let anything be rejected out of ignorance. We would like as many Kenyans as possible to know exactly what is in there and give their own proposals because the thirty plus million citizens cannot go to the conference, but we would like them to give their input so that finally when we have a new constitution based on this draft bill nothing will have been left out because Kenyans were not aware of, clarifications were not made to them.

When the commission set out to work it had its own objective and we were mandated by an act of Parliament to go out to the people and make sure that we come up with the document that would guarantee peace and unity and integrity in this country.

We needed to go out and come up with a free and democratic system, based on the constitution that we will come up with. And in the same process we needed to recognize and demarcate those responsibilities among the state organs and specifically the executive, the judiciary and the legislature.

And you will notice according to the draft bill very many changes on, there is a major overhaul of all those three organs, the executive, the legislature and the judiciary.

And we also needed to promote people's participation in governance and that is why you see that the new draft bill is guided by a lot of people's participation in governance now. If you look into the latter chapters you will notice that we have elections from the village councils to the provincial councils, that involves the people directly.

Then there is provision for basic needs, I hope you have read your chapter on the bill of rights because a lot that touches on that what does the government owe us and what do we need to do for the government.

Then we also needed to strengthen national integrity and unity, those are just but some of the objectives that the commission was mandated to do according to the act.

The commission worked using or is going to achieve its objectives using five organs and among those organs are the commission, which we represent right now. Most of you have been involved either in civic education or otherwise in the process know that the constituency forum which was the second organ of the commission is the one that was mandated to represent the constituency through the constituency committees, which had representation across people with disabilities, different religious organizations and the proper representation of wananchi.

Then we are going to have third organ coming place in a few days time, we are going to have a national constitutional conference and is one of the other organ of the commission. That is the organ that is mandated to debate this document, they are going to discuss it and they have power to amend it depending on how they vote and finally they will adopt it as a constitution, which for it to be enacted into a new constitution must pass through one of the other organ and that is Parliament which referred to as national assembly. So the national assembly is the one that is finally going to pass draft bill into a new constitution, but incase the national constitutional conference does not agree it has 629 delegates. If they do not agree on all the issues that have been raised in voting form at the national constitutional conference, then we would have a referendum but probably you don't foresee that happening.

You have a breakdown of the national constitutional conference, I hope you have that with you and you will notice that several organizations have been represented, we have at the distribution of representations according to number, but at the bottom you notice that we have the commissioners of the constitutional of Kenya review commission. This will be ex-officio members will have no votes, so for any voting since they were in the process they will not vote.

Notice of interest is that all members of Parliament whether it is the current Parliament or the Parliament that would have if you do not go into elections with the new constitution, those members of Parliament are those who will Members of Parliament are those who will be sitting at the time of the national constitutional conference.

Now I would like to make a special mention on the district representatives those were three taken from each constituencies, sorry from each district and each district was given an allocation of three delegates who were chosen through the county council. Nairobi we have three delegates and I noticed that we are in the today we have atleast one of the delegates whom I can introduce to you right now since I am talking about the national conference.

Sallim Ibrahim is one of the delegates who was elected through the county council to represent Nairobi and a long with him I have given you also another piece of paper that indicates the delegates phone numbers.

So much about the objectives and the organs of the review commission, you have a draft bill there and I would like to give you a few some, a very short summary about howe the commission came up with that draft bill.

We designed a tool at the beginning of.....

Interjection Speaker: Can I ask a short question?

Esther Walya: Yes.

Interjection Speaker: Mtu anaweza ongeza kitu kwa hiyo draft kwa sababu unaenda tu vile iko?

Esther Walya: Sasa hii draft vile iko, sisi tutatoa maoni yetu hapa leo kuhusu ile kitu tumependelea kwa hiyo draft ama kwa ile hatujapendelea. Vile hatuwezi kufanya kwa hiki kikao ni kupindua chochote saa hii, sisi wenyewe tutafanya recording yetu tubebe ile maoni mko nayo tupeleke kwa commission ndio iende kwa national constitutional conference.

Lakini wale wako na uwezo wa kupindua kabisa anything kwa hiyo draft ni wale watakuwa kwa hii conference.

Speaker: Lakini hata sisi tunasema yote.

Esther Walya: Ile yote mnasema uwezo yao itabebwa na wale wanaenda huko kwa hii conference, hiyo maoni yote wataenda nayo kwa conference na watapatia Chairman wa hiyo conference atakuwa Professor Ghai na ni wao watajadiana na kuona ni viyi wanawenza kuchukua maoni yetu leo.

Otherwise the final amendment of that document rests with these delegates, but what we are saying is that you know that all Kenyans can enrich this document in various ways and that is why we are sitting here. We are here to enrich it with our proposals, our constructive criticisms, so finally when we come out with the draft bill agreed on and the NCC, it is enacted into Parliament with all our contribution. Is that clear.

Speaker: Yes.

Eunice Kamau: What we want is that give us time to go through and whenever you have a question please put it down so that you don't forget and then when we give you a chance to speak you can now give, you know take for clarification give your question or your recommendation, so that we can move on time. Otherwise if we keep on interrupting others will get lost on the way. Okay.

Speaker: nd there was something to do with delegates....

Eunice Kamau: Yes just wait until that time then you can give your comment on the delegates because our sister has said all

we want is your views and recommendation so that they can all go together. Continue Esther.

Esther Walya: Now in collecting, coming up with the draft bill, we collected views which formed the main data of that draft bill, but most of you will remember this small booklet which either came to you as Newspaper pool out or as a booklet. This was the main tool that was used by the commission to guide us through the various teams that run through that draft bill. It is a kind of questionare with a cheque leaf to touch on all the issues that required us to come up with a draft bill.

In this particular booklet, about 22 themes run through here those of you who read it and as you read the draft bill you will notice that these things are reflected there, but we went out and collected view to pretest this tool and you will remember that in March the commission visited Nairobi, part of Central Province and parts of the Rift Valley in order to make sure or rather to test and know whether wananchi would go along those themes here.

After pre-testing through those main pilot hearing we went back to the same tool and 21 more things were added in that particular theme, depending on those views that were initially given by wananchi in those three provinces.

Now, how did we collect our views, you remember that we had people who handed in written memoranda, we had people who had verbal views which were recorded and transcribed, we have various workshops where we had experts in various field, so all that finally contributed to all the views.

Finally when we had all the views all of them were put together and they were all coded in the collection stage.

Data entries screens and developed and according list was also developed based on those questions and issues we had in this red book.

Now you may notice that, we did not just put what received prominence during the public hearings, there are issues that may not have been heard through many constituencies but yet were of importance to our new constitution and may have been included there not just because, so you will notice that not all the themes receive as much prominence as others but there are cases where you have session that did not receive the majority views but are in the draft bill because of their importance to a new constitution.

Now latter own most of you new that the commission sat in Mombasa for one month and they sat there working under various teams and we had six different task forces and these were the constitutional process issues tax forces headed by Dr. Githu Muigai. Then we had a system of political system ideology and political party which was headed by Commissioner Kangu.

Then we had the organs and levels of governance headed by Dr. Maranga, we had fundamental rights and duties headed by Commissioner Nancy Baraza, then we national resources headed by Dr. Nunow. This was ideally suppose to put them into

group work so that they work at the same time and finally come up with the draft bill, but not that for them to finally come up with this draft bill, each of all these task forces presented their work to plenary each commissioner therefore knew exactly what each task force came up with.

There are issues that were voted on and they were agreed on unanimously and you will remember that the first document that we launched as a commission was the short report, which I recommend that you read along with the draft bill, because the short report gives you in narrative form, how we were able to achieve coming up with the draft bill and it will give you summaries of many of the issues that are in the draft bill, but of more important to read is of course the draft bill which covers the twenty chapters that we will look at today. And assuming that you have an idea of how we came up with the draft bill, I will go back to the chair so that she can continue with our session.

Eunice Kamau: Okay thank you very much. Thank you Esther the next part now that we enter is where we are going to look at the whole draft constitution the twenty chapters and as I mentioned earlier we are going to mention only the highlights the main or the new things in the constitution otherwise those other things that were there before, we will leave then I am sure you have read them in this draft document.

We have divided ourselves among the chapters; chapter one to five will be covered by Liz and this time I invite Liz to take us through chapters one to five. Liz.

Liz Kingi: Thank you very much my name is Liz Kingi and I am from the commission for those who have just come in. I will be taking you through the first five chapters, but I will concentrate on chapters three four and five.

Just to mention chapter three, that is on page four of your draft, there are some national goals values and principles that have been outlined there at length. This is something that you knew in this draft it was not there in the present constitution, it is outlining the national goals and the values and the principles that will guide whatever authority that is in place in carrying out its functions. By this I mean the executive, Parliament and the judiciary shall be guided by these goals and principles. I will invite you to read those at your own time.

At chapter four, which is dealing with citizenship, we are saying that every person who has been a citizen under this current constitution, will continue to be a citizen even when this constitution will be enacted.

We are also saying that there are three methods of acquiring citizenship, that is birth, registration and naturalization.

By birth if you are born and one of your parents is a Kenyan, we are saying that you will be a Kenyan citizen.

On citizenship by marriage we are saying if a foreigner marries a Kenyan citizen, that person will be entitled upon application to be

a Kenyan citizen, but that person needs to have been married for a period of not less than three years.

We are saying that even if there is a divorce that person does not lose his citizenship.

On a naturalization we are saying that is someone has been lawfully resident in Kenya for a continuous period of not less than 7 years, that person would be entitled to be naturalized as a Kenyan citizen upon registration.

Another new element in this draft is that it permits dual citizenship, we are saying that if you are a Kenyan and you acquire the citizenship of another country you need not to lose your Kenyan citizenship and anybody who has lost their Kenyan citizenship because dual citizenship had not been permitted, would be allowed under this new constitution to apply and regain the citizenship.

We are saying you can be deprived of your citizenship if you have gained it through unlawful means, if you had gained through fraud or misrepresentation or a concealment of a material fact you can lose that citizenship.

We are also saying that Parliament will also enact provisions so as to allow for a permanent residency status, so Parliament has a duty within one year to do that.

We are also creating a citizenship registration board, this is a new element which will be comprised of five to nine members and it will just concern itself with the issues relating to citizenship. Those members will be appointed by the President and will have approval of Parliament.

On chapter five, this is the bill of rights that is on page 6, you go to the bottom left you will find it, it is just there. This is a very core chapter in this constitution probably even the longest. This is a chapter dealing with the rights of an individual and the duties of the state. I will highlight the main elements since this is such a core chapter to an individual I will invite you to make sure you read this chapter after we leave.

The fundamental rights and freedom of an individual belong to each and every individual in Kenya and the main purpose of this chapter is to recognize and promote those rights. We want also to preserve the dignity of the individual and we are also saying that there are limitations to those rights, these rights are not absolute. There are certain limitations and you will find them in the draft as well.

So straight on to the rights, there is a right to life, the right to life exists and the death penalty has been abolished under this draft. There is also a right to equality where we are saying every person is equal before the law and has a right to equal protection under it, irrespective of any discrimination.

We are also saying there is freedom of discrimination and it has been outlined in details there you will see that there should be no discrimination on the grounds of rape, pregnancy, marital status, ethnic religion, aids, disability, religion, belief, language or birth.

We are saying that Parliament will also make more provisions to give effect to that article on discrimination.

We also have some new constitutional provisions with regard to women and the older members of this society, children, the family, persons with disability, these are new elements that were not there in the current constitution.

If I go back to the issue of women you will see that women, have been given a right to be equally treated with men. They have right to participate equally in the political spheres in the in the economic and social sphere as well. Because women have been granted the same dignity of the person as men. We are also saying that women and men have equal rights to inherit assets and control properties, this is a new element; women have got equal rights to control and inherit properties.

We are also saying that in regard to women, women have suffered a lot of discrimination on the grounds of customary law, but we are saying now, that any law or culture, custom or tradition that undermines the dignity of women is prohibited. Anything that is undermining the dignity of women shall not be permitted under this constitution because it undermines the equality of women.

On the older members of society, we are saying that they have rights to enjoy all the other freedom under the bill of rights, they are required also to participate fully in the affairs of the society. They are suppose to be free from all forms of discrimination, they are suppose to live with dignity and respect. They are also suppose to plan for their retirement and to share their knowledge and skills with others.

They are also entitled to reasonable care and assistance of the members of the family and the state as well.

On the issue of children which is on page 7, we are saying that children have been accorded a special place in this society and it is the duty of their parents to ensure they children live in a safe atmosphere of love and respect so that these children can fulfil their potential in life. There are also a number of other rights, which I will advice you to read that have been accorded to children. They have the right to their parental care, they have a right to free basic education, they are protected from discrimination, they have been protected from all forms exploitations and hazardous work, they have a right to adequate nutrition, shelter, basic health care and social services.

They have a right to be free from corporal punishment and forms of the, any forms of in cruel or inhuman treatment.

They have a right also not to take part in any hostility or armed conflict. So you can see that the children have been accorded special care under this constitution, which was also not there earlier.

And on the issue of family we are saying that the structure recognize the family as the natural fundamental unit of society. I am still on page seven, under this we are saying that everybody who is above the age of 18 years has a right to marry, which will consort among the parties and that person has a right also to found a family.

During marriage the parties have got equal rights and even upon the dissolution of that marriage they also have equal right that is something of note and that is something that is new under this constitution.

Persons of disability, this we saying is also new, this has been given some status here some rights and I will invite you to read through those rights.

On the issue of human dignity we are saying that everyone has an inherent dignity and the right to have that dignity respected and protected.

We also have some rights there, rights of liberty and rights not to be deprived of your freedom, arbitrarily or without just cause.

There are a number of other rights that are still, but we have retained in this draft these are like rights of slavery and rights not to be held in slavery, as you go through you will that some has been retained.

There is a new right to privacy which we are saying that nobody has a right to, everybody has a right not to have their home, person or their property searched or information relating to their personal affairs unnecessarily revealed.

On the freedom of religion we are saying everyone has the right to freedom of conscience religion, thoughts, belief and opinion and has a right to observe with others their religious practices, I will invite you to read that as well.

On the freedom of expression which has also been retained, what we have just expanded these rights to include the freedom of the press and the media.

Freedom to conduct academic research and scientific research. We are also saying that this right is limited infact because you are not to propagate war like activities or incitement you should not conduct any incitement to violence and that is freedom of your expression.

This is a new right also access to information, we are saying that every citizen now has a right access information held by the state and any information that is also held by another person and that is needful in protection of one persons right you can also go and access that information. The state also has an obligation as well to publish and publicize any important information affecting the life of the nation Parliament will also go ahead and enact provision that will give effect to that article.

Freedom of association has also been retained we are saying that nobody can be compelled to join association of any kind and that generally every person has a right to associate with others.

Freedom of assembly demonstration and the life has also been retained what we have changed now is that one will not be required to have a prior permission to assemble, if you want to assemble you can just go a head, you need not have any prior permission you can just go a head.

Political rights, we are saying that every citizen is free to make political choices which includes the right to form a political parties to participate in the activity of that political party to campaign to recruit members to even if you are interested in standing for office you have a right to go a head and stand or to be an office bearer in that political party.

Every person also has the right to be registered as a voter and to vote by way of secret ballot.

The freedom of movement has also been retained, everybody has a right to move within Kenya as a citizen freely and you can reside anywhere in the republic.

We have some new rights there for the refugees that have been who are fleeing from their countries where they fear that they would be prosecuted. They have right to remain in this country under this draft, provided that person has a well-founded fear of being persecuted in that country.

We also have new rights of freedom of trade and occupation, we are saying that everybody can choose their trade occupation freely or profession and they can practice those profession and those trade freely.

On property we are saying everybody has a right to acquire and own property, there aren't many changes that have been made to that. We are saying that nobody will be deprived of the property that they have unless with good reason. With good reason especially with regard to the public effect or if your property is required by the government for a public purpose the government can go a head and enquire that property.

If your property is so required you have a right to prompt payment of fair and adequate compensation for your property.

On the labour relation now I am on page 9, you will see that everybody has a right to fair remuneration to work in within reasonable working conditions and a right to strike.

We also have some basic rights that Kenyans really requested for these are the rights on health, education, housing, food water, sanitation these are the rights that ensure that you as an individual or citizen of Kenya live a decent life.

We have accorded basic rights to health and that means you have a right to help care services and for the women including the reproductive health care and we are saying that you cannot be refused the emergency treatment.

On education we are saying every person has a right to basic education and the government has a duty to implement a programme to ensure that every child gets basic primary education and now we are saying that this education will be provided free of charge and it shall be compulsory to every child such that no child can stay at home and be denied their basic rights to education, education will be free and shall be compulsory and you as a parent you have a duty to ensure that your children go to school.

On housing, they say every person has a right to have adequate housing and no person can be evicted from their house without an order of the court made under the relevant circumstances.

We are saying that with regard to food everybody has a right to be free from hunger, they are supposed to have adequate food and that food must be of adequate quality to ensure that everybody does not go hungry.

Water everybody has the right to water inadequate quantity and this water must be of satisfactory quality.

On sanitation, everyone has a right to a reasonable standard of sanitation and this includes the ability to dispose of the dead with decency.

On the environment, this is something, which is also new, there is now there will be constitutional right to have your environment safe for habitation and to have that environment protected for the present and the future generation.

We also have something new here which is the consumers right we are saying that consumers will have the right to goods and services of appropriate quality and if they consume goods and course the consumer some injury consumer has a right to adequate compensation for the loss that they have incurred.

On fair administration, we are saying that everybody should have the right to administrative action that is reasonable and procedurally fair. If you are going to need attention from some government offices and those people must treat you fairly, they must act reasonably and they must be quick in whatever they are doing in their service to you.

We also have some rights there that accrue to those have been arrested, that is still on page nine, we are saying everybody has a right there to remain silent to be informed on the charge or rather of the offense that been charged with. They should not be compelled to make any confession, except if you need to make a confession that confession needs to be made before a magistrate, that is something that is new in this constitution. We are also saying that if you are arrested you must also be taken to court within 48 hours you should not be held in the remand for a period longer than 48 hours before you have been taken to court.

We are also saying during trial you have a right to a fair trial, by this we mean you are presumed innocent until you are proven guilty. Most of these rights have been retained they are in the current constitution they have been retained. We are saying that you have to have adequate time and facilities to prepare your defence; you must be present during the trial. You have the right to choose an advocate as well and while you are being held in remand you also have some rights there you are not suppose to be treated in a manner that is not consistent with preserving your human dignity, you should not be subject to any discrimination, you are not suppose to be exploited or abused by the staff in the prison.

You have a right to accommodation and facilities that you know that is by the standard of decent clothing, housing, food, health, sanitation even when you are in prison please try to continue you still have them even when you are in prison. And you are only denied those right that are, you know that are inconsistence with you are being held with in prison but you still remain to be a human being to be treated so.

I am now on page 11 if you feel that any of the right you have have been entrenched or they have been violated or they have been denied or whatever has happened to you right if some have been violated, there are avenues to which you can go and complain we are creating two avenues here this is the commission on the human rights and administrative justice, we are saying you have a right to complain to them.

And if you are a person who is acting on your own interest you have *Locus Standi*, you can go ahead and complain if you are acting on behalf of another person you also have a right you can complain on behalf of that person, if you are a member of an association you can also have a right to complain.

Upon the receipt of such a complaint the commission on human right is going to investigate that complaint and he is going to provide appropriate redress for the violation (*end of tape*) your human rights the parliament also is suppose to come in and give jurisdiction also to the lower court not just the high court. The lower court will also have a jurisdiction to listen to those violations; this is something, which is also new. When a court receives such a complaint it can declare that your rights have been violated it can also go far to order compensation for the violation of those rights even if it is against the state or any other person it can order compensation and it can also give some orders of judicial review.

I will invite you also to go ahead to read the rights there on the interpretation of the bill of right. Every tribunal must promote the values of bill or rights of which we have just gone through, it can also consider the international law and it can also consider the foreign law when interpreting. I hope that will serve you well in terms of knowing what the first five chapters are of the draft constitution are talking about I will invite you to read especially again, you need to emphasize it, you need to know your rights as a Kenyan and this bill of rights is the one which is giving you all the information that you need especially to guarantee yourself a decent livelihood. Thank you very much.

Eunice Kamau: Thank you Liz for those ones who have just come late we are going through very briefly throughout the chapters, they are twenty chapters trying to highlight the new things in the constitution and we have also said that if you have any question, any comment, any recommendation please put them down after we have done the overview we will give you time to come and forward all the issues that you have as pertain to the new draft.

No I will handle chapter six, I mean the chapter six is a chapter that gives the citizens the right to make decisions regarding our country and in that chapter six it has three parts, the electoral system process, then there is the other part on the electoral commission and then about the political parties. Now on the electoral system and process one of the main issues that have been highlighted is that every citizen has a right to vote as long one is of age, that is 18 years and above and at the same time also people have a right to stand for election.

Then the other thing is that the election the constitution for the first time is ensuring that, election shall ensure fair representation of women and disability and minorities and how do you ensure that? The political parties shall ensure a third of those who are standing are women and also the minority and the disability are also represented.

Now the other thing is that you know that for along time we have been having ballot boxes black in colour, for the first time we are also going to have ballot boxes that are to be transparent, something that you can see and see how many votes are there. Then the other thing is that after the voters have casted their votes, the votes will be counted and recorded at the pooling station not transported elsewhere, that the citizens would witness the counting of the votes they have just casted not the agents only or the people standing.

Then the other thing is that about an opposed candidate incase it arises that there is a candidate un-opposed that candidate will not be declared the winner until the voters have gone and cast their votes and votes are counted and recorded. Then the other thing now is about the electoral commission, the establishment of the electoral commission which shall be independence, the independence is emphasize and one of the main faction of the electoral commission is continuous registration not registration a month and then stops for sometime but for the first time we are going to have continuous registration.

Then the other functions is the limitation of the constituencies not somebody just come in and say we want this number of constituencies but there should be limitation or how many constituencies that are there. Now on political parties for the first

time, the constitution has provided for the establishment of the political party fund that would be administered by the electoral commission and the political parties are entitled to financial support. At the same time, the political parties are suppose to be transparent and accountable and therefore they will be required to represent their books of account to the electoral commission.

Otherwise that can lead to deregistration, so this is to ensure that the public funds remember this political parties fund is coming from the central fund where there is taxation and other kind of fund and therefore it is public funds and also political parties would be entitled to collecting funds from their members and therefore those funds are public funds and we must now what is happening or the usage of the political fund.

The the other thing about, something interesting in the new constitution is that there is a restriction on holding of the political offices, for the first time the President and the public officials who are above the deputy secretary, would not be allowed to hold any political post, so the issue of the chairmen, the whatever, by the President and the public officials is now a gone case in the new constitution. So I have actually tried to give only the main highlight, otherwise there is a lot and a lot is actually what you know, what has been there before. So I will call my next speaker Tabu Lwanga to handle chapter seven and eight.

Speaker: May I ask one question?

Tabu Lwanga: No you will ask questions after we are going to give you time to ask questions just be patient I am going to be very brief. I am going to handle chapter seven, eight and ten. If the executive, the legislature and devolution of power.

On the executive, the structure of the new government will consist of the President and the vice President and the cabinet. In the cabinet we shall have the prime minister, two deputy prime ministers and 15 ministers. So the number of ministers is not limited by the constitution, you cannot have more ministers than 15. The new Parliament shall have two chambers, that are the national assembly and the national council. The national assembly shall have 300 members out of which 210 will be the usual members from the constituency and 90 shall be elected from the lists provided by the political parties, there was a confusion here people were saying that the 90 will be nominated, they will not be nominated, they will be elected but from the lists provided by political parties.

On the national council the national council shall have 100 members and 70 will come from the districts, each district will provide one member and the 30, the other 30 will be women and these women will represent the provinces every province in this country will provide four representatives and Nairobi shall provide two representatives that as far as the executive and the legislature is concerned. On the devolution of power, there are two basic principles that underlined this devolution and these are: to give powers of self governance to the people at O'level and enhance the participation of people and community in the exercise of the powers of the state. To facilitate decentralization of the central government powers and the location of central government, institutions and department a way from the capital territories to ensure equitable distribution of resources in all the provinces. The levels of the government will be four, we shall have the village, the location, the district and the provinces. The

district government will be the principle of devolution of powers. Before I wind up, I want to revisit the legislature, under the new constitution the electorate will have the right to recall a member of Parliament before the expiry of the term of Parliament. And this is the way it will be done, a petition can be initiated in writing by the electorate and it must be signed by 30% of the registered voters in that constituency, after that it will be forwarded to the speaker of the relevant chamber. From there the speaker will request the electoral commission to conduct a public enquiry against the subject MP and on the basis of the findings, they will either decide to have the MP recalled or not recalled. Thank you very much.

Eunice Kamau: Okay thank you very much Lwanga. Chapter nine will be handle by Liz.

Liz Kingi: Chapter nine is on page 23, I invite you go there with me, I will also be making reference to the church, titled the new legal system. I will be discussing the judicial and legal system, page 23. There have been a number of changes in the judicial system, we have outlined principals under which judicial powers will be exercise, this is something which is new and we are proposing that justice should be done to all irrespective of their social or economic status.

We are saying that another principle is that justice shall not be delayed, there should be adequate compensation awarded to any victim of wrong and that to another principle that would be taken into account, is that justice should be administered without undue regard to technicality or procedure especially and we are saying that the judiciary should also be involved in the promotion of reconciliation, mediation and even arbitration between the parties. We have known that justice system has been mainly adversarial and we are proposing that they should be involved also in the reconciliation and mediation of the party.

The judiciary should have regards to provisions of the constitution, they have also office which they swear to uphold the constitution, they also swear to serve the people and the republic of Kenya without any impartiality or any discrimination for that matter. And they are suppose to administer justice according to law, by that we mean the constitutional and all the other laws that come under it. They are suppose to deliver the higher standard of service and they are now newly bound by a leadership than integrity code which you will find at the back of your draft. At the back of your draft we have a number of schedules we have oath there, the territory, we have some transitional provision, I will invite you to read those as well they must be read together with the draft.

The judiciary is suppose to also ensure they are updated with the current development in the law, all the judicial officers must continue to educate themselves.

On the structure of the court, we have created a supreme court this is a new court which will be headed by chief justice and it would be comprised, of not more than 6 judges. This court has got some new jurisdiction; it can receive advisory opinion from the President and prepare them. It shall be listening to elections petitions arising from Presidential elections, it can deal with issue regarding the impeachment of the President and it also has appellate jurisdiction and other matters.

We also have the Supreme Court exercising some supervisory jurisdiction of all the other court, so it will supervise the lower court as well. We have the courts of appeal, we have the high court, and we have all the other ordinary lower courts, which have been retained in this draft. These courts will be listening to civil cases, criminal cases and they will also be having the ordinary appellate jurisdiction which they have been exercising from before, you all know that these court have been appellate courts. We also have some changes with regard to the appointment of judges, you will notice that if there is vacancy in the chief justice, the office of the chief justice, the most senior judge who sits in that court, with regard to the dates of appointment the first one to be appointed in that court will now be required to be appointed as the chief justice.

In the current constitution the President was not limited, he would still could appoint the chief justice form anywhere but now we are saying the senior most person who sits in that court is the one to occupy the senior most positions especially in the case of chief justice or the President or the court of appeal or the principle judge would be sitting at the high court, the most senior person would be the one to occupy the senior most position in those courts.

I am reading the section on page 24, on their qualification on judges we also have some new changes here, we are saying for you to be appointed as chief justice you must have 15 years of experience as a judge of the court of appeal, or in practice as an advocate or a full time lecturer in a recognized institutions. Before one is to be appointed as a judge in the first place you need to have practiced for seven years, but now we are expanding that we are saying that you need to have been an advocate for at least 15 years as we find that experience is vital

In the cases of the judge of a high court, you do not require so much experience as that you just require ten years experience, I am still on page 24 and if you also want to be a judge you must have 10 years experience as a magistrate or in practice as an advocate ore be a full time lecturer.

On the issue of tenure this is something that has been subject to so much debate, we are saying that we are reducing the tenure of the judges from 74 years to 65 years. We are saying that if you are a judge and you become 65 years of age you are required to retire, and that is mandatory. You may also retire if you reach 60, that you may you don't have to but if you reach 65 you must retire, but even if you reach that age 65 you can still be around in office for about six month so that you can wind up whatever you are doing so that the cases are not left hanging.

On the issue of removing a judge this is also a mechanism that has been created for the removal of a judge incase he is unable to perform the functions of office or if he has breached his code of conduct or if he has been incompetent or he has misbehaved there is a mechanism for removing the judge which I will advice you to read, there is that full mechanism which can be exercised there in the moving of the judge. May I just note that we have created some parallel Kadhi courts, there is a district court, there is a provincial Kadhi courts, there is a Kadhi court of appeal. These courts have a limited jurisdiction and they shall be

adjudicating over matters of Muslim law, which concerns the personal law of those Muslims. By that I mean matters like marriage, matters like divorce, matters like taxations shall be adjudicated upon by Kadhi courts, and they can have even now an appellate court. They have an appellate court there, which we are calling the Kadhi court of appeal. May I just note that this is not any new special thing that we have really created, the only thing we have created is now the Kadhi court of appeal everybody ordinarily have their personal law which apply to each and every individual if you were to be buried now you can be buried according to your African customary law or according to Christian law so there is nothing really special it only that we have created a hierarchy of courts for them.

We also have judicial service commission which is comprised of various people and we invite you to read the who constitute on page 25. On the legal system we are saying we have the Attorney General, in this new constitution we are proposing that the Attorney General is this time different of the current Attorney General he shall be holding a constitutional office, he would be appointed on the recommendation of the judicial service commission by the President and his appointment needs the approval of the national council that is the legislative house. We are also saying that his qualification for appointment are the same as those of a high court judge and that he would mainly be the principal adviser to the government.

We have created a separate office of the director of public prosecution under the current constitution the Attorney General has been doubling up as the advisor to the government and also in charge of all the public prosecution but we have created a separate office, constitutional office, known as the director of public prosecutions. This director can prosecute Parliament can also confer powers of prosecution on other authority so it is not the only sole prosecuting body, this is mainly because the way KACA went we are saying now other bodies can also prosecute.

This director also cannot withdraw a prosecution without the permission of the court, it has been the case whereby the AG could institute a prosecution and could also withdraw it without the permission of the court, but we are changing this and we are saying that he cannot withdraw without the permission of the court. We are also saying that the director of public prosecution does not need the consent of any person or authority that is a major change in the functions of that office. We have also constituted the office of the public defender that is on page 26, this is another constitutional office that will be dealing with providing legal advice and representations to persons who are unable to afford legal services. So we are saying if you have a case in court and you cannot afford a lawyer you will go and deal with this public defender and you will be the one to provide legal services for you.

Parliament will also provide, or makes some laws regarding those categories of persons who will qualify for that legal aid, it is not just anybody, any Tom, Dick and Harry can if you can not afford that is when you qualify. We also have the prerogative of mercy here, this is actually an executive power and vetting upon the President, speakers power to pardon you even if you have been sentenced, he can exercise those powers but what we are saying now is that he will have to consult with a number of other people there, he will not just do it by himself, he will consult with a number of other people there. I will invite you to read the

provision of judiciary as together with the 8th schedule, this is a schedule dealing with transitional mechanism and there are also some transitional mechanism that we are having for the judiciary. We are saying that upon the enactment of this constitution everybody who is a judge will continue to be a judge, but thereafter they will be required to file some document with leadership and integrity commission which is a new commission that has been enacted we are saying that if you have attained the age of 55 years you can choose to retire and for the purpose of calculating your benefit we will add five years so we will assume that you worked until 60 years and your benefits will be calculated as that. But if you choose not to retire you will be subject to some investigation, if you had some complaint against you pending, before some complaint body you will, the investigation shall continue and there a number of other things which I will advise you to read because my time is up. Thank you very much.

Eunice Kamau: Thank you Liz. Please remember as Liz is using the word we, this constitution is ours it's yours it's mine so and that is why we are wearing the yellow ribbons saying that it is mine, so don't refer it as yako ama inasema hii yenu, its mine its my constitution, its our constitution, so we continue chapters 11 to 15 would be handled by Janet Wangu.

Janet Wangu: Okay we can move over to page 28-chapter 11-titled land and property. I have to go through it briefly okay basically the chapter talked about many issues but one of them is ownership of land under article 233 we are saying all the lands in Kenya belongs to the people of Kenya collectively as communities and individuals, then it also goes a head say that only citizens of Kenya have the right to acquire any interest or right in land, you may want to read this to the provisions on citizenship to see who exactly has the right to acquire an interest in land. There is also said that non-citizens can only hold land on lease hold. Then land has been classified as public, community or private that is under article 234 then public land will constitute among others, roads, rivers, lakes, waterbodies and the territorial sea and seabed you may read that in more details.

Then community land will include all land that is held, managed or used by specific communities, land held under the trust land act and the land group representative's act. Then we may also look at article 235 which says that within two years of coming into force on this constitution Parliament shall enact a law to look into among others, consolidation of the existing land lords, they are very many land lords which should have the duty to harmonize them. To create provision of how the landless can be resettled, establishment of a land fund to enable Kenyans gain access to land on equitable basis among other things.

Then we will also talk about article 237, we have mentioned that land will be classified as public present or community so under article 237 we have establishment of national land commission, this is the body that will be vested with the public land, so all public land will be held under the national land commission.

Then we may move over to chapter 12, which is on page 29 the first column there at the bottom, it is special environment and natural resources then we may also mention that this is the very first time that environmental issues are being given such prominence in the constitution which is a very politic game, I think we may add. Then in this chapter every Kenyan has a duty to safeguard and enhance the environment so basically we are not going to be asking ourselves what the environment can do for

us, but what we can do for the environment. Then we have the establishment of a national environment management commission under article 240, which is on the second column which will have the mandate of general supervisor and coordination of all matter on the environment, examining land use part and advising the government on legislative and other measures on management of the environment.

Then we also look at article 241, which talks about enhancement of environmental rights and here we are saying that, a person can bring an action under this article even if the person can show that the acts a defendant has not caused that person any personal loss or injury, what basically this means is that, if you are somewhere and the environment is being harmed may be a forest somewhere the trees are being cut, you do not need to show personal loss or injury, you have been given the right to sue by the constitution. Previously we have had cases being knocked out from court on the basis that the plaintiff do not have locus they cannot show injury but the constitution has advised this issue and given any person locus, that is the right to sue for any harm on the environment.

Then we may move over to chapter 13 which is on public finance and revenue management that is the last column on page 29 and here we are saying under article 244, every imposition of a tax we will need the authority of an act of a Parliament. Then we have under article 245 we talked about the establishment of a consolidated fund, which will be mandated to old revenue and funds on behalf of the government. Then we may also look at article 246B that is on page 30 the first column at the bottom, which states that it is the prime minister duty to prepare estimates for each financial year to lay before Parliament. So we are saying prime minister has a role in preparation of the financial year estimates. We can also look at page 30, the same page on the power of the government to borrow, under article 249 that is the third column, we are saying that the government has the right to borrow but the Parliament has a role in it.

Then we may also look at the provisions on the central bank of Kenya, that is article 251 page 31, we are saying that the governor and the deputy governor and all members of the central bank of Kenya board will be appointed by the President with the approval of the national assembly. So here we are seeing the Parliament also has a role in the appointment of a chief officer that is the governor of the central bank and the others. We are also saying that the governor will also hold the office for a term of five years and can be reappointed for one further term only, so this means the governor can only serve for a maximum of 10 years that is if he is reappointed after the first term.

Then we are also saying that he may be removed from office by the President for the reasons that are set out in sub section six A to B you may read that for more details. Then we also talk about the office of the auditor general that is on the second column article 254, we are saying that the office of the Auditor General its functions have been split and some of those functions have been given to another office that we are calling the controller of budget, this will be a separate from the office of the Auditor General. Then their qualifications have been stated that is something new, previously we did have their qualifications stated and the Auditor General will need to be an accountant of not less than 15 years and will need to be a person of high

moral character and proven integrity. Then he shall also report to Parliament the report that he prepares will have to go to Parliament.

Then under article 255 we are saying that there is a procedure for the removal of the Auditor General and the reasons under which he can be removed, that is misconduct or incompetent or inability to perform the functions of his office due to infirmity of body and mind.

Then we shall move over to chapter 14, that is on page 32 the first column titled the public service and the first part of the chapter deals with public administration and we may talk about the public service commission which we are saying will be, it will consist of a chairperson, deputy and seven other members appointed by the President with the approval of the national council. And you may remember the national council is part of the legislature, so we are saying the legislature will have a role in the appointment of these offices of the public service commission. Then we are saying a member of this commission shall hold office for one term of five years and can be re-appointed for one further term.

Then we also have under article 260 we have their functions and power you may read that in more details. Then under article 261, that is the third column of page 32, we are saying that the power to create offices in the republic and the power to abolish such offices will be vested in the public service commission previously we have had a situation where the same power is vested in the public service commission and the President and this has brought conflict and both had been established in the constitution but here it is being clarified that the power to create offices in the republic and power to abolish such offices will be vested in the public service commission. Previously we have had a situation whereby the same power is vested in the public service commission and the President and this has brought conflict and both had been established in the constitution but here it is being clarified that the power to create offices will be vested in the public service commission only.

Then we can also look at part three which deals with the Kenya Police Service previously this was referred to as the Kenya Police Force but the part has been renamed Kenya Police Service to emphasize the role of the police is to serve. Then we can also talk about the appointment of the commissioner of Kenya Police, we are saying that he will be appointed by the President that is under article 266, the last column of page 32, he will be appointed by the President to the approval of Parliament for one term of ten years. So we are saying Parliament has a role in the appointment of the Commissioner of Police.

Then part three we can talk about the Kenya Correctional Services which basically deals about issues to do with prisons and persons in custody and the title of that chapter Kenya Correctional Services implies that, the role of prisons will be correction, correcting offenders. Then we can move over to the last chapter, chapter 15, that is defense forces and national securities. We are saying we will be having a national security council under article 272 which shall comprise of very many members, chief among them may be we can mention the President, the vice President, the prime minister, you can read more on that.

Also under article 273 we have the functions of the national security council, you may want to familiarize yourself with that more. Then we also have defense forces established under the constitution and we also have the establishment of a defense forces council, you may look at the members of that council that is under article 274. Basically I think I will stop there but I will ask you to read more so that you can be able to make concrete and constructive proposals. Thank you.

Eunice Kamau: Okay thank you the last chapter 16 to 20 will be handled by Esther.

Esther Walya: I am sorry you are very tired about listening but I am going to take just about 5 minutes to take you through those chapters. If you go to leadership and integrity, that is new and you might see it in the light of the Kenya and corruption authority or you might see it as what most employers will give us views. Now those are generally guidelines that are suppose to be followed by all the public officers, when we refer to the public officers we are talking of the President, the vice President, we are talking of MPs all those elected leaders and anybody who holds a public office and this has been extended to their families just to drive them in their public and private life. We are saying that they must be answerable to us as Kenyans. And we are saying the form of leadership that they provide should be guided by the leadership and integrity code, I will refer you to the fifth schedule on that one.

Now note that this actually reinforces the immorality of corruption and when we move on to chapter 17 we have several commissions there that have been constitutional commission and constitutional offices that are being established under the draft bill or proposed in the draft bill and this are supposed to give, these commissions are suppose to operate independently, they are to suppose to have no interference from any individual or from the government and we are saying that they must offer in impartial service and free service, they are suppose to educate wananchi on their own, they are suppose to make returns on their financial to the auditor general, they are suppose to twice a year make reports on their performance, activities and audits to Parliament. Now not wanting that these commissions are rather small, they must have commissioner between 3 to 10. More people have talked about the financial implication of the draft bill, but not that these has already been taken care of incases where we are saying if a commissioner had 20 members, we want to reduce it to 3 to 10 which is a good number.

All those who want those commission offices in those commissioners, should be less than 55 years old, and we are saying that they will serve a five-year's term so that we don't have somebody serving in a commission a bit forever. The new commissions include the human rights and administrative justice, ethnic and integrity which is suppose to take care or to make sure that, to enhance leadership and integrity among public officers and we have the constitution commission and the salary and remuneration commission, many of the Kenyans who are certain MPs stated increasing their salary to a certain number, I mean sorry to a certain amount.

MPs no longer have the mandate to sit down and increase their own salaries. Their salaries must be reviewed by the salaries and remunerations commission along with the salaries of other public officers. Now most people also propose that we have

commissions that deal with gender, children, minorities, complaint to the police and so on. Now notice the multiple role of human rights and administrative justice commission which includes all those roles.

Chapter 18 deals with a amendment of constitution now know that we are already worried that somebody might want to amend the constitution even when it is not a constitution yet it is only a draft bill, but precautions are being taken to make sure that these document remained intact as long as possible and we are saying that if the constitution must be amended, we must be consulted as Kenyans of the issues that especially deal with us. Especially under the chapter of bill of rights, we are saying that we must have $\frac{3}{4}$ of Parliament agree on any amendment, so we are not making it easy. Now remember that if you don't have a very good constitution or if you have a constitution that is amended so easily, probably it is too rigid or it is too open to misinterpretation. I will remind you that the Americans have had their constitution for over 200 years, but in those years they have had only 20 amendments. We Kenyans have had our current constitution for barely 30 yeas plus and we have already have 30 plus amendments as of now, so we would like to guard against the new constitution when it comes into an enactment, so that is is not manipulated easily.

Chapter 19 is not a very long chapter and it deals with what is referred to by the chapter as interpretation but you will notice this as simplify explanation of the definition of terms that are used in the constitution and one that I would like to draw your attention to is the public officer which gives a description to anybody serving in a public office and this chapter is suppose to guard against misuse of misinterpretation of any word that is used in the draft bill.

On chapter which I will just spend 2 minutes to explain as the one that give the transition of provision. Now remember we are saying that we are moving from the old constitution to the new constitution but we are saying we have changed so much in our political system in our legal system, that we cannot take it in one day, I refer you to the sixth schedule if you can look at it along with....

Sorry about the break, we are saying that we are moving from the old constitution to the new constitution, we would like some continuity in the governance of this country. We are not saying that because we have proposed a Prime Minister and Deputy Prime Minister, we have proposed Upper and a Lower house that if all these are not in place when the go when the constitution is enacted we just switch over the next day, we are saying there must be some smooth transition and we are saying that we want continuity as much as we want change. One thing you will notice is that the entire system be it the executive, the legislature or the judiciary has been reorganized and we are not saying that a supreme court is going to be there tomorrow as soon as we have Katiba Day. We are saying we would like Kenyans to appreciate that this is a change that requires a period of time and the sixth schedule gives you an outline of the kind of time that we need parliament to enact the various new changes that have been proposed in the current, in the draft bill.

I have noticed that this process of transition may involve some overlap, you may find that there are people who will still be

performing dual roles and to finally separate them we need time. So that chapter generally draws on that kind of cortex where we want to say that, you will find that concurrently the new and the old constitution might be in place at the same time, but with time as given by the sixth schedule then everything will be sorted out.

One thing I just want to mention to you about the entire draft bill is that you will notice that these draft bill is in very simple language, those of you who have tried to read the current constitution now, probably get impatient with it and put it a side, but that draft bill reflect which we hope would be enacted as the new constitution reflect very simple language which you and I can read you don't have to be a lawyer to understand it. And then note that one provision that we have is that it will be translated into Kiswahili and other Kenyan languages with time. I hope at that I will take this back to the chair where we can invite your comments, your proposals and your constructive criticism.

Eunice Kamau: To all the presenters thank you very much. Now the next part of our agenda is to give you and opportunity for those ones who have come late and we are really encouraged by the large turn out. We said that today session we are here to give you information about the new draft constitution and then we also give you an opportunity to give in your comments and incase you have the memorandum we are ready to take them whether they are a paragraph or many pages, you can forward them. Then we also earlier on reminded the members that in Nairobi, there is this sheet with three names, just incase if you feel that today forum has not given you enough opportunity to give your comment, there are three members who will be representing Nairobi in the National Constitution Conference and today we are blessed we have Salim with us. Please Salim stand and the telephone numbers are there you can actually call them any time and give them your comments.

Then the other thing is that, there is this sheet with 629 besides three you can see all the various institution or organization that will also be attending the national constitution conference, you can get in touch with them and one of them is the commissioner, if you have any issue to raise and you cannot get any of these people around mentioned in this sheet, the commissioners are available at anytime at Kencom House 2nd floor you walk in and give your comments they are ready to listen to you. But remember this forum is very important for this constitution constituency we are here to listen to you and because we want to follow certain order, please go to that desk if you want to speak and as you come here we will only give you three minutes. Write your name, the organization and then after you have given in your comments we will ask you to sign, because we are living in a world of transparency isn't it. So we will ask you to sign and then we will begin by that order, we will call people so that before one o'clock we want, we know you are busy people we want to build our economy we will give you time and will go to our national development.

So this time I will give to the first speaker, how can we go with this thing up, I think we should that one on top of that. Unfortunately today we don't have electricity so we have to improvise because we want to record your voice. No, we are getting the speaker.

Speaker:(Inaudible).

Eunice Kamau: So the first person to come, we have John Obare, so John continue and the rest come and put your name please.

John Obara: Well I have a comment on three lines; one I have a comment on page 45, freedom of expression, freedom of expression I think everybody is understanding me lakini naweza kuongea kwa Kiswahili. Freedom of expression ningepanda hivi kuongeza pale waweke in every station, in every city waweke open speech for expression. Expression the reporters must be Parliamentary reporters not newspaper reported, kwa sababu they are going to misquote whatever somebody mentioned in the open ground kwa hivyo ningependa that section kama wanaweza kubadilisha wewekea kila town pahali pa freedom of speech, mto akiongea reporter ambao wanachukua reports ni watu kutoka kwa bunge, watarudisha kwa cabinet post wachunge kama ni maneno mzuri wapeleke bungeni, hiyo ni section 45 we may have comment.

The other one ni freedom of trade, trade ndio pale watu wanaleta vitu hapa kwa sababu licensing they must also work according to license, the location of the business because most of the people are getting the license, they are coming to your door putting that business there wanaanza trading from that house then the following day there is a fight. So mimi ningependa kuwa freedom of trading waweke pale kuna license yake anasema, sio kuchukua license ya Gikomba na yeze anaenda town. Hiyo pia inaleta confusion katika Serikali ya Kenya na wananchi wa Kenya. Wananchi wa Kenya hawauzi kwa njia nzuri na wao pioa wanakosea wengine kwa biashara yao.

Ya mwisho land, according to freedom or the rights of land kuna wengine within the country ambao hawana mchanga and there is land. Such people if we have a freeland in Kenya and he is a Kenyan why don't they get a free land from that place and he is a Kenyan. Kwa hivyo hapo pia ningependa watu wapewe shamba wale ambao hawana shamba from the government. Hizo ndizo comments tatu ndio nilikuwa nataka kufanya correction. Kwanza nimefurahi sana na commission kwa sababu mumenita mara ya pili, nilikuwa hapa mara ya kwanza, so this is the second ndio maana nafanya correction pahali naona kuna makosa. Kuna human rights, rights za watu nimeona umeweka food na kila kitu lakini hakuna kazi, why don't you put a job because human rights there is job, there is water, there is house and also there is work because you cannot pay for a house if you are jobless.

I think the commission and wananchi that is the end of my comment.

(Clapping of hands from the audience).

Eunice Kamau: Asante sana John huyo mwengine ni Josephat Kamau, utuambie kule unatoka halafu uendeleee.

Josephat Kamau: Kazi nafanya hapa Nairobi katika mtaa wa Jericho. Jina langu ni Josephat Kamau Kerokiai, halafu kazi

nafanya hapa katika mtaa wa Jericho kazi ya juu kali. Sasa mimi nina mambo mingi na nataka kusema na nafikiri wananchi na constitution ya Katiba yote itashika hiyo mambo vizuri sana na itarakebisha pengine mambo kulingana na vile inatakikana.

Kwanza kabisa mambo yenye niliwa na haja sana ni mambo ya kuheshimu watu ambaa walikuwa wamepigana Mau Mua, walikuwa wanapigan yaani Mau Mau. Nchi yetu kulingana na vile naiona, shida zote ambazo ziko katika nchi hii yetu ambapo hata watu hawaelewi zinatokana na mambo mengine ambaa haikutimizwa na wale watu ambaa walikuwa wanafanya hii kazi.

Kwanza kunao watu kama Kimathi, Kimathi alishkwa huko Kamiti kama amefungwa mikono na hiyo ni sawa na kufunga nchi yetu kwa sababu yeeye alikuwa anapigania nchi ndio akauwawa na tangu wakati huo hatujapata mtu yeyote ambaye amesema Kimathi atolewe avuvuliwe vizuri na azikwe vizuri kama heshima ya uhuru wetu wakiwa na yule mwengine alishikwa kama ameinama ambaye anaitwa Hayaki Wahinga.

Kenyatta Day pia ningependa nayo ibadilishwe iitwe Mau Mau day, kwa sababu haikuwa ya Kenyatta peke yake. Haya tamasha za kitamaduni, kama watu wanaenda kufanya mambo yao ya kitamaduni kama tuseme ni kukula mali yao, kufanya mambo ingine ya kitamaduni hawafai kuingiliwa na polisi wowote ama kuharibiwa mambo yao kulingana na vile wanataka.

Njia za watu za kupita za miguu inaonekana wakati huu hizo njia ni kama hazina maana kwa watu, hizo njia zote zinfaa pia zifufuliwe, zitolewe ndio watu wakuwe wakipita peacefully.

Halafu pesa ya Kenya nayo tungependa iwekwe alama ya Mt. Kenya, kwa sababu mount Kenya ndio source ya energy katika nchi yetu. Nisome kwa Kikuyu hapa?

Speaker:(Inaudible).

Josephat Kamau: Katiba yetu ya Kenya ile tunatengeneza kwa wakati huu, ilindwe vizuri isije ikakue inabadilishwa na watu vile wanataka, tusema kama vile hii ingine ya zamani ingawa hatukuwa tunaielewa vizuri, lazima vile iko saa hii sio vile ilikuwa sasa hii tunatengeneza wakati huu tunataka ilindwe katika tuseme muda wa miaka kama kumi namna hii inasomewa wananchi ndio wananchi wanaelewa na kama kuna kitu pengine moja mpya wanataka kubadilisha wanabadilisha wote pamoja kama vile hii inatengenezwa na kila mtu.

Haya raia wote wa Kenya ni mtu yeyote ambaye amezaliwa Kenya na wazazi wake ambaye ni baba, babu na baba ya babu na ni wakenya wote halisi. Kwa mambo ya wanawake hawawezi kujulikana kabisa atakuwa raia wa wipi kwa sababu huyo ataolewa na atakuwa raia wa nchi ama mahali ameolewa.

Jeshi ya Kenya iwe na kikundi maalumu cha kuamua ni hatua gani itachukuliwa iwapo hatari yeyote ya usalama wa nchi

unaweza kutokea sio mambo hii yote ya kukanyagwa na Rais peke yake kama vile saa hii Rais ndiye amiri jeshi mkuu na ndiye mambo yote. Kikundi hiki kiwe na watu wenyewe ujusi mkubwa hata na uwezo hivi kwamba ikiwa kiongozi yeoyote hata Rais akianza kufanya mambo ya ujeuri ama udictator akitumia mamlaka ya nchi anashikwa na kushtakiwa katika mahakama ambaye hana uwezo dhidi yake. Mambo kama migomo hasira za vikundi zote nchini yawe yanashughulikiwa na kikundi hiki yakiwa yameshababishwa na kikundi hiki hata ile inaweza kuwa pengine imesababishwa na watu ambao wako na mamlaka makubwa kama ministers.

Rais na viongozi wengine wawe viongozi walioheshimika wala sio kila kitu ni chao kama vile mahakama, mashamba na hata sheria ati iko chini yao pia wao wawe chini ya sheria.

Haya kuchagua rais, mtu yeoyote ambaye ni Mkenya halisi anaweza kusimama kuchaguliwa kama Rais bila kuwa na pesa sosote kama vile ile pesa iliwekwa hapo hati itakuwa sasa mtu akitaka kuwa rais akuwe na elfu mia mbili na hamsini, ikuwe hakuna pesa mtu anaitishwa, wala kutoka familia ya matajiri. Bora awe na leadership principles, degree social should not determine leadership for this additional knowledge but not wisdom.

Kuwe na free public toilets mahali popote watu wanakusanyika na ziwe zinagaramiwa na kodi yenye inatolewa na wananchi. Serikali itengenezwange na vyama vyote, Serikali iwe inatengenezwa na vyama vyote ambavyovimechaguliwa na wananchi. Serikali itengenezwange na vyama vyote ambavyo vimechaliwa na wananchi kama tuseme hii ilikuweko ilikuwa ni chama cha KANU ambayo ilikuwa ianongoza sasa saa hii kuna vyama vingi, Serikali ile itakuweko ikiwe inaongozwa na kila chama yaani kila chama iwe na watu wakubwa hapo ndani yake.

Amiri za Kenya zimilikiwe na wakenya, amro za Kenya ziimilikiwa na wakenya pekee ambao ni raia wa Kenya likini wageni wakodishange kibiashara hatuwezi kuwachilia mashamba yetu kwa wageni. Mashamba ya kuwachiwa na wazazi ni ya wanaume kwa sababu wanawake wanaridhi za waume wao, mashamba yanagawanywa kulingana na wake wa mtu. Mkenya awe na haki ya kumiliki ardhi mahali popote nchini bila kuwa na kizuishi chochote. Mtu kama ameoa bibi hatakama ni kwa muda wa miaka mitano na bibi huyo ana watoto au hana, kama ako nao wawe ni wanaume au ni wanawake kisha afe, kish huyo bwanake afe hiyo ardhi na mali yote ya mtu huyo yawe ni ya bibi huyo na watoto wake, mtu yeoyote awe ndugu ya bwana, wa bibi ama awe mzazi akiumiza bibi wa mtoto wake, ama tuseme ndugu ya mtu aumize bibi ya...

Interjection Eunice Kamau:(inaudible).

Josephat Kamau:(?)ni peleke yote ni kidogo tu imebakia. Ama mtu yeoyote awe ni ndugu ya bwana, awe ni mzazi w....sorry mtu yeoyote awe ndugu ya bwana wa bibi au awe mzazi akiumiza bibi ya mtoto wake kwa kumkata ngozi, ama mfupa ama amuumize kwa njia yeoyote kwa kutumia kifaa atashtakiwa na kupewa hukumu kulingana na hatia ambayo amefanya. Mamlaka itakuwa kwa mwenye kuumizwa sio kwa mamlaka ya mzazi.

Ushahidi kortini uwe kweli, mtu amefanya au hajafanya. Tamaduni za mabila zote zilindwe na Katiba hata zile za kutahirisha wanawake. Dini zote ambayo hata Sadhai na zile za makabila mengine zilindwe na Katiba. Tuzingatie lugha ya Kiswahili hata katika runinga zete kwa vipindi zote za hapa nchini na hata bunge iwe ikiendashwa kwa lugha ya Kiswahili. Vikundi kama Gema, Kamatusa na vikundi zingine za makabila zote nchini zikubaliwe kiKatiba, zikubaliwe na Katiba. Soda *cia* Kenya muchanga wenyewe wanahudu vyuma na sehemu yetu ambayo iligunduliwa iko na petrol imilikiwe na Serikali yetu halisi ya taifa ya Kenya, wala sio wageni kama vile iko kwa wakati huu.

Eunice Kamau: Sasa nitamsimamisha ako na point nyingi sana, ukiwa na nyingi nitakuwa nakupatia karatasi uandike tafadhali uko tu na dakika mbili ndio upatie wale wengine nafasi. Nitakupatia.....

Josephat Kamau: Sikiza yote ungenipatia tu kidogo saa hii...

Eunice Kamau: Si wao najua inaenda kwa commission tafadhali.

Josephat Kamau: Inatosha na hii ingine pia ni ya maana.

(A lot of noise from the audience).

Eunice Kamau: Josephat Kamau(Inaudible). Okay sawa amekubali yule mwingine ni Salim tuelewane.

(A lot of noise from the audience)

Eunice Kamau: Okay okay, hebu sikilize, mkumbuke yale maoni yote unapatiana mpaka iende kwa commissioners, kwa hivyo hata kama hujayasema yote hapa tutakupatia vikaratasi uandike na itafika kule, usije ukawa na wasi wasi, utuamini tuko hapa kukutumikia ndio tuweze kupatia wale wengine nafasi. Salim emashaenda amepatiani memorandum yake haongei kwa hivyo ako hapa jina lake tumeliandika na tumechukua memorandum yake. Yule mwingine ni Justin Muteti dakika mbili tafadhali.

Justin Muteti: Thank you very much. My name is Justin Muteti I had already gone through this draft bill and I discovered that there is an issue of industrial relations. When I went through the draft bill I found that there is an omission of the security of employees. At the moment you will find many companies are closing down others are changing hands, staff are being retrenched and they are not compensated, the same interview you will find retrenchees are replaced by new staff and that company still does not perform well and I will suggest that incase of Receiver Managers who are appointed to run those companies by the judiciary, if a Receiver Manager runs down a company he should not be entitled to appointment of another company and I would request the commissioners to put or to address this issues such that if retrenchees or if staff are retrenched

they should be paid by the incoming employer because when you ask the incoming employer he will tell you staff are not treated as assets which is very wrong under that I would call it slavery in disguise.

In employment I would also request employers, especially the foreigners not be bought un-skilled labour like you find in Nairobi at the shops you will find shop attendants most of them are Indians from India that means these people next time they will import maids.

Chapter four dual citizenship I would also suggest that there should be no dual citizenship in Kenya because if you find somebody is a citizen in Kenya and he is also a citizen in of another country he will not put all his efforts in one country so he is not developing the, I mean he is not doing anything to enhance the economy. That is all I wanted to say, thank you very much.

Eunice Kamau: I thank you, the next person is Oscar.

Oscar Waruige: Hamjambo wananchi. Yangu I am Oscar Oderu Waruige and I am the chairman of NAC action group na zaidi ya hiyo I am a Pastor. Yangu kulingana na, when I go through the draft there are some other issues that I discovered which differed from the explanation. First I come to Kenyan currency, the portrait of Kenyan currency should be taken into account, the portrait, judicial department lacked the extension to regional court, East African Court at Arusha.

Judicial department has no connection to East African Community Court. State functions should be opened by national anthem and closed with the same national anthem. Description of Kenya Parliament lacks the extention to East Africa Assembly. Proceedings and judgement should be provided free on announcement of judgement to the person concerned in a case.

No money should be paid by a parent in criminal cases. Compensation of the victims released on appeals. Contracts awarded to foreign party which are not fully executed should be reviewed due to pave of corruption in Kenya of now.

Members of Parliament who resign from their elected post before the time he was elected, commits an offense and should be imprisoned for a certain period of time and sanctioned for similar time. Any elected post which arises vacant due to illness or death should be held by number two or number three in the election time to avoid necessary expenditure.

The external investment of Kenya should be liquidated that are existing and thereafter any investment locked outside will be approved through the Parliament. Any judgment turned otherwise by a layman in a court of law, the judge in question should be demoted or the victim awarded.

Finally the family issue in our society, man has not been given the position in his family because under human rights these are conflicting with the cultural values and keeps the society open to misdirection.

Second, the Kenyan flag should be described, should be given description. That is all I have.

Eunice Kamau: Thank you very much the next person is Otieno.

Otieno Mbuga: My names are Otieno Mbuga, aspiring Councillor for Kaloleni Ward in Rainbow Coalition ticket. Okay my question is in this draft proposal it does not give out the qualifications of a Presidential candidate. I am asking the representatives of the commissioners here that this draft constitution I have not seen.....

Eunice Kamau: Can we have our future Councillor speak up?

Otieno Mbuga: Okay my suggestions are the following; the chairperson of law society of Kenya should be the automatic President of Supreme Court.

And then second suggestion is, higher education in polytechnics and national universities should be free from charge and then after that all graduants should be guaranteed jobs automatic and provided by the law.

Thirdly all the vice Councillors in public universities should not be appointed by the President, but should forward their names to Parliamentary commission who then advices the President to appoint them.

Thirdly citizens who should be allowed to vote should be bellow 40 years of age, because somebody who is about 40 years of age does not have any future in our country because, yah that.

And the national identity card should not be the only description for anybody who is to take a voting card even somebody can use a birth certificate to take a voting card and vote. Thank you.

Eunice Kamau: Okay thank you very much Otieno. The other one is Charles Athembo, is it Athembo.

Charles Athembo: Okay my names are Charles Athembo, Kaloleni Youth. Now I have a few points here I wanted to raise especially to the commissioners. According to the draft constitution on page 32, on the Kenya Police Services, they mentioned something like the police should provide peacefull environment and also protection of the rights and freedom for everyone. Now I don't understand what rights do the police provide or what freedom should we have and what freedom should police give us, because sometimes you have freedom to walk at night and then the police come and haras you who has more freedom than the other, the police or the wananchi? They should elaborate when one commits a crime and you go to the police and tell them that so and so has committed a crime, the police ask you to give them something so that they can go and fetch the person who has done the crime, now where is the freedom here. Now, the commission should state clearly on which freedom do you

speak on or which freedom who has more freedom than the other, because if you elaborate that its freedom then how do we understand that the freedom is for the police or the freedom is for the wananchi.

The other thing which I wanted to talk about is on the renumeration of the MPs, the members of the Parliament and also the ministers. It is written here that it is the commission who are suppose to decide for their benefits and salaries, but these ministers or MPs it's we who employ them, it is we who has given the job, now how come that it is you who is now giving them more money rather then we to decide on how much they should receive. So therefore it is our opportunity to tell the commission or to tell the MPs and ministers that your benefits should be low it is should be here, or it should be higher than this rather than the commission because we don't know the connection between the commission and the government, the MPs and the Ministers or whoever. So for there salaries and their benefits to go up like now they are earning almost a million. Next time they are going to sit down and say now we earning over one million. How do they reach to that amount? That is what I had, thank you.

Eunice Kamau: Okay thank you, the next person is Mark Gatheru.

Mark Gathiru: My name is Mark Gathitu Gachero form justice and peace commission of South B Catholic Church. Now what I want to do is just to ask a few questions and comment on some of the things in the draft constitution.

I must first of all thank the commissioner, through their representatives here and their staff for a good draft which they have made. Now I had one question about the delegates, district delegates and one of them is Salim here, what I wanted to know is how they were selected, because we know how the commissioners were nominated and they have done a very good job, so we also want to know how our delegates who are going to this constitutional conference are and what was perhaps their criteria of their selection, because we don't want them, these 629 delegates to go and spoil the work which has already been done by the commissioners which we many people think that it was a very good job. That is one of the things that I wanted to say.

The other thing is about citizenship, it is said that husbands of Kenyan citizen can become a citizen after 3 years, if he is a foreigner. I think this can be abused, because some of the foreigners who want to come and stay in Kenya can just come and marry any girl, there are many girls who are married who can be married and then for other reasons and this can be abused, so we want it to be made alittle bit difficult so that perhaps the husband should have stayed for about ten years something like that, because we don't want it to be subject to abuse.

The other thing is about propotional representation about the additional 90 seats, I remember we also when we came to give our views here we had mentioned something about the electoral commission should ensure that all constituencies have equal population in order that all political parties have proportionate and equal voting rights in the house, this is something to do with that.

Now these seats, 90 seats I understand they will be selected, I don't know whether it is selected or people will elect these 90 people from list given by the political parties, will they be representing a constituency? Or if they will be members of the national council will they be representatives of the constituency or they will just be on their own.

Now about judges, there is something about the transition it is suggested or recommended that judges will be made to retire at 65 or they will just opt to retire. Now will there be a transition? Who will be working during this time when they have retired? I had a suggestion that instead of being made to retire they can be asked to resign all of them and then reapply a new, reapply so that they can be chosen, whoever is found good can be returned, those ones who will not be returned then they can be given their full benefits and go home.

Now my last comment is that I don't know how this will be taken by the commission but it about empowerment of famers, I am thinking very much about water and electricity to farmers because this is what is lacking now so that farmers can produce what they are suppose to produce and also marketing can be made easier for their product. Thank you very much.

Eunice Kamau: Thank you Mr. Gathitu, I will ask Esther to answer the issue of the delegate and Lwanga the issue of the 90 members, the 90 MPs.

Esther Walya: At the beginning of the session for those who were not there I talked about the national constitutional conference as one of the organs of the review commission. Mr. Gacheru's worries that how did we elect delegates as district representatives just incase we elected people who will go and spoil the quality of the draft bill. Now the district representatives' posts were actually advertised in the newspapers in three newspapers as stipulated by the constitution of Kenya review act. The adverts that were put asked Kenyans who qualified by virtue of being Kenyan and if you are able to speak both English and Kiswahili if you were of good conduct to apply. It did not limit you to any particular category of Kenyan, if you qualified in those terms you were suppose to pick nomination forms from your documentation centre. After filling in the forms, those forms required you to have a proposer somebody who knows you and who can propose you as quality material to be at the NCC and that proposer along with the seconder either of them was supposed to be a Councillor, a County Council Councillor.

Now note the roles of the Councillor in electing these delegates, they are actually empowered, the county council is empowered through the act to support the commission in various ways and it is in the review act it was not farfetched.

The Councillors formed the electoral college for electing these representatives and once you have filled what we called the form three you were suppose to return it to the Documentation Centre, then the commission was going to prepare what we call the form six which was going to give a summary of the details of the candidate, which was suppose to be availed to every Councillor three days before the elections, so that they get to know the kind of person that they are about to elect. Every

district representative was supposed to have 5 to 10 proposers from his own district. Now note that each district had done only slot of 3 representatives, this was regardless of whether you are in a constituency that has only 200 thousand people or 3 million people, so Nairobi of course might have disadvantaged by the fact that it has a big population but the idea was that we use the district also the definition that is given in Parliament, was Nairobi was a district.

The elections were by secret ballots Councillors were trained for a day so that they would be able to go elections without any chaos. Now those three representatives one of them was supposed to be elected under category A, and category A was supposed to ideally elect a woman so all the candidates in category A were women and one woman was elected. Category B you could have either elected a Councillor, or any other person who had applied be it a man or a woman or a Councillor but it was not a must for a Councillor to fill in the slot, I will tell you that in Nairobi I can confidently say that we have quality candidates, it is only that Nairobians were taken by surprise in terms of not by surprise really but they down played the advert that we put in the newspaper, such that many of them did not apply in time and most of them have come to ask us much later how did we choose the Salim and his colleagues they applied and we had an election where all the candidates came the 23 of them and had five minutes to brief the Councillors why they actually want to be at the National Constitutional Conference and from that brief that they gave to the Councillors and the details that the Councillors had they made up their mind of whom they were going to elect.

Now regarding the other categories you will notice that there are the religious organizations, professional bodies, women organization, trade unions, non governmental organizations, those categories had their own nominating panels. It was upon the religious organizations that through the Ufungamano initiative and sworn to meet and decide on their delegates, professional bodies also had to meet and decide on their own delegates and proposed or gave these names to the commission, we had nothing to do with that.

Members of Parliament are automatic; there are those who will be sitting MPs for their constituency and the nominated MPs at the time when the national constitutional conference takes place. Political parties were given one slot each and it was upon the secretary general of all the 41 political parties to decide on who would represent them at the national constitution conference. The commissioners also are already there at the commission so that was also an automatic slot, but note that the commissioners do not have voting power at the conference they are ex-officio delegates. I hope that is clear Mr. Gacheru. Thank you.

Eunice Kamau: Thank you.

Tabu Lwanga: There is somebody who has asked a question of the qualifications here on page 20 so I will not dwell on that. The next question was on the 90 members of the national assembly how they will be elected. What the constitution says, the draft constitution is that if 90 every political party will submit a list of nominees in every constituency to the electoral commission and when it comes to, when the elections have been held for the 210 MPs, all the votes will be totaled according to party

affiliation and the distribution of the district will be based on how many votes a parties has been able to get. So these people will not be nominated they oly be nominated by their party but the people will vote and the the party that gets the highest number of votes for the 210 MPs, is the one that will get the most of these 90 MPs, is that clear?

Mark Gathiru:(Inaudible) is it before the elections or after the elections?

Tabu Lwanga: During the election, infact this one is contained in I will refer you to where it is, it is contained in, just a minute. Yes look at article 107 Members of the national assembly article 6, it reads all the votes cast in the republic in a general election for constituency members of the national assembly, shall be totaled according to the party affiliation. And it is on that basis that these seats, will be distributed so the party that gets the highest number of votes will get the highest number of these 90 Members. But on the allocation of seats the next Parliament will determine or this Parliament if the bill is passed will determine on how it will be done, but people will vote, so it will be by elections, nomination will only be done by the parties, but the party that will get the least members will have to be voted for, is that clear? So it is not nomination as such people will have to vote and these people will be mandated by the electorate in the country.

Eunice Kamau: Thank you.

Mark Gathiru: After election we will have another election....

Tabu Lwanga: Not after election, that election that will be(Inaudible) elections.....(?).

Mark Gathiru: So they will go back to the polls.

Tabu Lwanga: They will go to the poll and(Inaudible).

Eunice Kamau: Okay thank you just, just one thing about todays newspaper from Esther.

Esther Walya: Let me mention to you that the delegates are not a secret they are going to be published in three Dailys and the Standard has begun today, so you can study all the people who represent the various organizations and the various provinces and all the siting MPs are there as it is now and all the nominated MPs, but not that lot would be subject to change, if there was a different Parliament by the time the national constitutional conference takes place.

Eunice Kamau: Okay the next person on the quee is Mwai Gakuya.

Mwai Gakuya: Hamjambo wenzangu.

Audience: Hatujambo.

Mwai Gakuya: Mimi nasimamia kitu cha Makadara MP niweze kuwakilisha kama mkinipa kura. Kitu cha kwanza ni ya kwamba katika human rights zile ziko katika constitution vile imeandikwa, ninaona kuna rights za watoto, rights za wanawake lakini sioni rights za wanaume.

Na pia ukiangalia katika hizo rights zenyewe, unapata hakuna rights za young turks, young generations the age between 18 and 40 to 50 years, those people are not in the constitution and according to my calculations wale watu wako katika hiyo age group between 18 and 50 ni karibu karibu millioni ishirini na watano kwa hivyo 25 million people are not represented in the constitution.

Pia kuna freedom ile inatakikana katika rights za wananchi wale wanaishi hapa na katika hao millioni ishirini na watano na ni wanaume na ndio wenyewe sana ndio bread winners katika family zile wanaisha nazo na katika hizo freedom za kuwa ati wewe una freedom ya kutembea, una freedom ya kufanya vile unataka, hauna freedom ya finance, hauna kazi wewe tu uko katika jobless conner kama wale wengine Kenya nzima utapata hakuna hizo freedoms haziko freedom kama hauna freedom kwa wallet yako.

Na nikiangalia katika hiyo constitution rights ya representation, vile wanasema boundaries ni kwa nini CKRC hawakuweza kuingiza rights za representatives ya watu si boundary, si boundary inatusimamia ni watu wanatusimamia, kwa hivyo tungependa zile rights za representatives ziingizwe katika constitution ya kwamba one man one vote, habari ya mashamba ati kuna shamba kubwa huko watu ni wadogo, kuna shamba ndogo hapo watu ni wengi kama ni Makadara ni elfu mia moja wagawanyishe tujue tutakuwa na MPs wangapi juu ukienda pahali pengine na huko mbele utapata watu ni elfu kumi MP mmoja na sasa tukiwa na MP mmoja katika watu elfu mia moja tutakuwa na MPs kumi hata nyinyi mkiangalia.

Katika nimination za MPs hao 90s ndio nilikuwa nikisema hawatakiwi wawe nominated. Kama ukiwa unataka kuenda katika Parliament, lazima uwe umechaguliwa na wananchi juu Parliament is the people's representation, people vote for you to be elected to that Parliament, nomination hiyo tutaanza kuchukua ma-brothers na ma-sisters na ma-friend na vitu kama hizo, kwa hivyo tujaribu ku-avoid ku-represent families ndio families ndio chanzo cha kujenga a nation, lakini tusipeleke karibu sana kuchukua wale watu tunajua ama wale watu wanatupendeza lakini tuwe tunasimamia.

Na katika rights za land, kila Mwaafrika katika Afrika nzima wacha Kenya hapa, kila Afrika tunajua ya kwamba nchi ni kubwa sana kila saa tunaambiya hii nchi haitoshi sisi ni wengi. Lakini tunajua pahali kama China kuna billion ya watu na Africa ni kubwa kuliko China na China ina watu wengi kuliko Afrika, mbona kuko hivi, kila Mwaafrika apewe hekari fulani ya kuweza kumiliki, ndio aweze kuwa ana maisha juu Afrika wote katika Africa nzima wanajua utajiri wao uko katika mchanga kwa hivyo

ukimnyima na unachukua mtu wa inje unampatia shamba juu ya kununua kwa pesa sasa ye ye ataenda wapi hawezi enda Ulaya kununua ama kupewa, hawezi enda Amerika kupewa itabidi apewe huku kwake.

Na katika hiyo, nafikiri nitafika hapo, hayo mengine wengine wataenda kuongea huko NCC mimi pia ni mmoja wa wale wanaelekea kwenda huko katika NCC na kama vile nimewaambia ninasimama MP Makadara na chama cha Umma. Asanteni.

Eunice Kamau: Asante sana Bwana Mwai. Yule mwengine ni Benard Owiti, Benard Owiti.

Benard Owiti: Majina yangu ni Benard Owiti vile mumesikia, langu nilikuwa na pendekero tu, kwa sababu sikuona hapa talking about the tenure of members of Parliament, na nafikiria commission tumekuwa na muda. My feeling was that any MP to serve for two term whether ni mzuri ama ni mmbaya so that we also have new brains coming in, kwa sababu unapata some areas they have MPs wanaserve even for 40 years and they are still the same same, wale wale. The same thing goes to even civic leadera hata kama ni mzuri namna gani a serve two terms mwengine aingie, nafikiri hivi itakuwa ni better because we keep on having these people all these years inatumiza and when we talk of corruption these are the same same people, same same dosage tunapata milk hatupati nyama so we have to change these tactics. So that is one recommendation ningependa kupatia the commission.

Nyingine ni about hii workers cooperative na hizi welfares. Kuna feelings that sometimes hizi shares zetu vile zinapelekwa katika hizi, the registered corporations hakuna security pesa zinapotea na nafikiria wangecome up na idea kusecure hizi pesa incase any institution inaanguka pesa ya watu iko intact, na hiyo sikuona kama imeguzwa hapo. Kwa hivyo ni hayo tu asanteni.

Eunice Kamau: Asante sana. Yule mwengine ni Maina Christopher.

Maina Christopher: Habari zenyu mimi ni coordinator we chama cha umma Makadara na yangu ni kusema ya kwanza nimefurahi sana na commissioners kusema ya kwamba party zote zikuwe zinapatiwa msaada ya kujisimamia, lakini sasa hapa kuna parties zingine tajiri hazitaki msaada, inafaa huu msaada upewe zile parties hazina pesa.

Imesemekana ya kwamba party itakuwa na kiwango ya msaada lakini sasa parties zile tajiri zinapewa msaada ya nini? Inafaa hizi party maskini. Pia manano ya supervision inafaa ianzie kwa party, kwa kanisa na kwa NGOs. Kuna makanisa wameshindwa kazi yao, ma NGOs wameshindwa kazi yao juu ukiangalia kama ni barabara yetu kumajaa watoto wanavuta gum na makanisa yako, kwa hivyo lazima ipewe rule of conduct iwe kama ni watoto kama hao kanisa liende mpaka kwa street kuwasomesha.

Ya pili ni juu ya hii Katiba inatengenezwa lazima raia wakuje wafanya vote wasema ndio ama hapana juu Katiba tumeambiwa ni yetu.

Ya tutu vitu kama KBC kutumiwa propaganda za kusifu watu fulani hiyo inafaa imalizwe, ikuwe KBC juu ni mali ya umma kazi itakuwa inafundisha watoto kama ni shule ama inatufundisha maneno ya ukulima ama tabia njema na maadili mazuri.

Inginge ni chief ama area police apewe madaraka kubwa ati ya kwamba yeze anaweza summon, commander wa Kenya army, ama Kenya navy saa ya clashes juu tunaona kama Likoni ama Molo chief alikuwa lakini wale ma-commander kama wa jeshi hawakusikia maneno yake na kama wangesikia jeshi ingetusaidia na hakungekuwa na umwagikaji wa damu.

Ya nne ni kuwa na freedom day, ama thanks giving day siku ya kutoa shukrani kama ya taifa na hii siku iwe tunafanya wakati tunapovuna ama wakati tunafurahia matunda yetu ya nchi. Asanteni.

Eunice Kamau: Asante Bwana Maina. Ule mwengine ni Joanas Arango.

Joanas Arango: Thank you. Now the first thing I would just want clarification from the gentleman on section 156, two on the dequalification of appointment of the President. It states that you are disqualified from appointment, no, you are disqualified from nomination as the President if you are an MP or proposed to be elected an MP.

Now the second thing is penalty for MPs, now under the draft it states that an MP will be summoned after failing to attend sittings for the last 8 sittings consecutively the previous, consecutive eight sittings. Now I feel that that is too much for an MP who should be presuing that as his full time duty and them after the eight consecutive weeks if the MP still can prove where he has been then the MP would still escape charges. So that place is so relaxed such that I believe MPs would be missing seven times and then they come the 8th and then they again miss the seven times and then they come the 8th time.

Eunice Kamau: Your recommendation.

Joanes Arango: So I propose that even five was even, we can put it to be five or even be two or anything but it should be reduced, my proposal is that it should be reduced and be made stiff. Now the second thing is quorum, now we find that in Parliament currently and infact the draft also states it that the quorum for Parliament is 30% and then if Parliament session is adjourned today because of lack of quorum, then the next time we still have lack of quorum, then we will always see Parliament still being adjourned for the lack of quorum. Now we want Parliament to adopt to for example the companies if there is adjournment for meeting for lack of quorum today, then the next meeting even if one shareholder attends in person or proxy then that meeting will continue, se we want if today Parliament is adjourned for lack of quorum, then the next sitting the issue of quorum should not arise.

The the third thing is on the oath of Vice President it is just somewhere towards the last part of the constitution, now it is line on line five. It states that the vice President taking an oath that I will serve, I as the Vice President will serve this nation to the best

of my judgement. Now I think that is a very subjective clause such that if the Vice President is to serve the public to the best of his judgement then I believe I don't know what the Vice President feels is to the best of judgement, I believe such terms should be avoided because they are vague, we should get better terms, better we use to the best of my ability something like that.

And then just lastly, we have always adopted so much the English statutes and just heard from the commissioners the panel they just talked about it briefly that the constitution will be made in Kiswahili with time. Now we propose that during this part of the review process, we want the constitution to be in Kiswahili at the this time of the review process not with time, because we find even in very many places like companies for example it as law that the Memorandum for example should be in the English language it is stated as one of the conditions that the memorandum should be, infact it is must be in the English language. So we are tired of the English law such that we want to adopt our own system so that everybody has the ability to access to the constitution and actually understand because if you cannot understand English then you should get an alternative. Thank you.

Eunice Kamau: Okay since we have a few speakers we will handle his questions at the last. The next speaker is Sammy Siera, Sammy.

Sammy Siera: Thank you I am Sammy Siera. I am going to...

Interjection Eunice Kamau: Speak up.

Sammy Siera: Okay, I have suggestions about the judiciary as we know all Kenyans have lost faith in judiciary, there in the draft report it was recommended that the judges of the supreme court should be new judges but in this draft constitution I am not seeing the recommendation in the schedule that these judges of the supreme court should be entirely new judges. So there is a possiblity that these other judges might be promoted to that supreme court. Otherwise I feel that the judiciary should be cleansed a more tougher lines should be taken against the judiciary, those people who are sitting as judges right now should be exposed to the standards of the new constitutions in that they should be made all of them to apply a fresh for their jobs. Those who do not meet the standard of that new constitution should not be taken as judges, they should be given the option of retirement that is the only way. Okay, so in that way they dictate of the citizens the judiciary will be returned. So experts had proposed that sharp shock should be done, I don't see the constitution going far in enough in addressing these issues. There should be that sharp shock, all the judges should be exposed to the standards of the new constitution.

About the police I don't see that the police commissioner should be appointed for atleast 10 years, it should be on a contractual basis if he does not perform his duties well then the President should have the obligation to sack him. So I don't see he should also be given a security of tenure.

About state house it is not in study of the constitution that it is the authority of the seat of the government of the republic of

Kenya, I want it to be that state house should be recognized in the constitution as a place of honour and a place of official functions of the head of state, where you can receive the Ambassadors and their credentials it is not described in the constitution.

Also the words of our national anthem are not described in the constitution, they should.

So and fourthly or fifth, Nairobi should be given a status, it is suggested that it should, in the subsidiary laws it should be given that status but I suggest that Nairobi should appear in the constitution as a capital city and it should have a governor. The Mayor should be concerned with other social activities and social services, but this Nairobi should be governed by a governor who has executive powers should be concerned about the security of Nairobi and how he should relate with the national government. So also I suggest that in the national council the Vice President should be the President of the Prisident of the national council because so far in the constitution we do not have very definitive functions or functions of the vice President in the new constitution. Thank you.

Eunice Kamau: Okay thank you very much Sammy. George Nyakundi.

George Nyakundi: Thank you very much I would like to contribute very much, I would like to contribute to this commission review, constitution commission review of Kenya. First I would like to propose that health sevices should be mandatory to all Kenyans free of charge, because this is where we have a big problem, we have so many of our brothers and sisters suffering outside there that they don't have health services provided to them, so that one should be mandatory and given free of charge to all Kenyans.

Two there is this thing that a woman should inherit it is not given to us how she should inherit, because once she is married she has to inherit from the man. Secondly, she also has to inherit from the father, so will she inherit two times double? What about the man? We will only iherit from your father so this person will have to they are given a lot of rights than men. So you should look at that.

Secondly we have this one, sometimes when an act was passed to be the law, it was to be given to President to sign on that act, then it is passed to be the law, so we would like to know that this act because if the predident does not want this act to become a law or that bill to be implemented he will just do a way on signing for that act, so we would like to be told how this act are going to become bills, so that the President if he has his own personal will that he will not sign for that act to become a law so that one should also be catered for. Because this is where we have a problem on which so many special acts or bills are not given mandatory to become laws, because a President has his own personal wishes.

Again there is, any person holding public office should be removed with immediate effect including the President he should not be left out because this is the person who has the biggest problem in the country, he is the problem causer in the country and he

is the person who most cases appoint corrupt people to the public places and hence we have a lot of problem in the country, so we cannot save the country if the President himself is corrupt. Again we will be having a lot of corrupt people holding public offices which will bring problems to the country, so we cannot save anything, this one also should be catered for.

Every Kenyan has a right for a job because without a job I think you have nothing. If you don't have a job, there is nothing you are doing therefore the country itself should prescribe jobs for its citizens. Again if there is no job atleast some fund should be raised for every citizen to be given inorder to do his own business. Or every Kenyan let's say if you are a Kenyan you must be given some funds to start you own business, for example in Kenya, we don't have such ideas, you just work hard to yourself you don't get anything sometimes if you don't have you don't have, that is why we have a lot of people in Kenya living under the poverty line. We have almost 30 million people living under the poverty line while we have 25 million living under the poverty line while 5 million are very very rich. So that one also should be looked into because that is how we can atleast give Kenya will be a country on which people will recognize and it's citizens.

Eunice Kamau: Please give your comments without elaborating.

George Nyakundi: Thank you. Refugees given a help to our country they have created a lot of dangers, so refugees given this, the country should look into that on how to keep refugees to Kenya for example if you can look at Kenya now, it has a lot of problems where we have have a lot of dangerous weapons flowinf into the country, so that one also has to be looked into. Voting is also the biggest problem, this one should be done for example if we have, we stay in Kaloleni we have around10 thoudsand people voting or registered in voting time we will have twenty, this also has to be looked into, in anycase those irregularities are noted, they should be looked into and therefore we will have people nominated in an orderly manner because this is where we have a big problem.

Again MPs should attend all Parliament session because that is why they are there, if they don't attend the citizens should loose confidence in that person and automatically we will call another election. Thank you.

Eunice Kamau: Okay thank you very much Nyakundi. The next person is James Nyang'iye.

James Nyang'iye: Okay thank you very much. My name are James Nyang'iye I would like to touch on something on page 9, concerning food and water. We Kenyans we have a lot of rivers and lakes, so ningependa this thing live in your memorandum that we should do irrigation for people to have more food in this country. Tukifanya irrigation hakuna mtu ataomba mwingine and that irrigation will creat jobs.

Number two page 32, Kenya police, this area is rotten you find a police entering in University where they do learning even colleges wana-enter huko wanapiga teargas and then they kill even students. I would like you people kuweka law ingine that

police line should not interfere with the learning of this country because wamekuwa drunk na power that they do anything. Imagine after paying school fees for your child up to University level unasaki tu polisi ameingia anaua mtoto for nothing, mtu yule hana hata bunduki. Again we don't have our right in this country, mimi I am innocent nikitembea hapa saa tatu saa nne usiku, polisi anasema ingia ujaze gari na all thieves are well known to them, so we don't have freedom of walking here. Instead of police ashike mtu yule guilty mwizi anashika innocent people like you, so we get problem na police line.

Number, lastly Parliamentarians: Parliamentarians they have forgotten wananchi, you are the ones who are electing these people, after electing them wakiingia huko wanacreate their own laws wakiongeza salaries, salary wanaongeza hawa salary tu, they don't bother about the wananchi, so mimi ningependa that Parliamentarians should look into the plight ya wananchi first, and then again they should be graduates an MPs should be graduate, President should be graduate, Councillor should be form four and above, because you cannot elect a Councillor yule hajui hata kuandika jina lake. So if the country is going to change we should say that such a Councillor a plan for area yake, he cannot, hata so many Councillors hawajui kuandika they don't know how to read and write hata Kizungu hawajui, so please that are put into consideration.

Last but no least I don't know whether this thing is a bit irrelevant, I am appealing to you that I am a retrenchee, I am a retreachee from government. I am appealing to you that these things should be revived because the payment was not good. We were retrenched and the retrenchment is not there in the code of regulations I don't know where they got that retrenchment from. My appealing all retrenchees be it private sector, be it government they should be reviewed so that walipwe vizuri. That is all I can say but I will contact you later, I will give you more details later in your office. Thank you.

Eunice Kamau: Okay thank you very much, the last person is Mr. Mutuka, who is that tell us your name.

Conzaka Mutuka: Okay thank your all of you, yangu ni machache. My names are Conzaka Mutuka na ningependa kuongea juu ya religions. Kuna makanisa ambayo unapata sheria yao contrary na sheria ya constitution, ningependa makanisa kama hayo yafutwe kutoka registrar of organizations. Kwa mfano mnapatka kanisa inasema mtu wao akiwa mgonjwa hawezi kupelekwa hospitali kanisa kama hiyo sidhani kama ni kanisa ambayo iko genuine.

Secondly juu ya dual citizenship, unapata mtu anaweza kuo mkenya ama mkenya aoe mtu wa inje. Ningependa kwamba ku-avoid abuse ya hii, mtu akioa na baadaye awachwe ili aendelee kuwa citizen, anyanganywe hiyo citizenship. Hayo ndio niko nayo na la mwisho ni kuwashukuru nyinyi nyote. Asanteni.

Eunice Kamau: Okay we have the last question.

Lwanga Tabu: There is somebody who asked a question on the disqualification of the President in relation to being a member of Parliament. I will explain to him in private. But for the audience, the President will not be a member of Parliament, he will be

elected directly, there is the clear demarcation of power between the executive and the legislature, so any member of Parliament will not be eligible for presidency, the President will be elected directly as a President you will just be a member of the executive. There is clear demarcation between the executive and the legislature because every action the President will be taking will have to be sanctioned and vetted by the Parliament and therefore in this draft constitution we propose that he should not be a member of Parliament. That is why if you are a member of Parliament you should not be eligible to be elected as a President. Thank you.

Eunice Kamau: So on behalf of the Constitution of Kenya Review Committee we really want to thank you most sincerely for availing yourself, living your jobs and your busy schedule and also for overwhelming participation we recognize your commitment in this very important document, please remember that, I have just been alarted that there is last person I had not seen on the list, it is better late than never, so let's have Peter Rachier. I am sory I had not seen you.

Peter Rachier:(Inaudible).

Eunice Kamau: Yah.

Peter Rachier: Okay thank you very much as you have heard I am Peter Rachier I have just come but I don't know what have been talked about, but there was one point that I really wanted to make. This is concerning the Members of Parliament, I think that the current Members of Parliament according to the current constitution, their time is almost part time job, we are made to understand that they can appear in Parliament only once they can make a technical appearance only once in a week. Now I think because they are being paid a lot of money and they are supposed to be in Parliament to represent the people's views and to debate the bills that are coming to Parliament I think it should be made in this new constitution that they attend Parliament on a full time basis, so that we avoid this problem of lack of quorums, and yet there are so many pending issues that they as our representatives are supposed to be dealing with. I think it should be made that they occupy those positions on a full time basis and if they fail, then the speaker of whatever person who is responsible should be able to reprimand them or give them some kind of punishment or even deduct some of their salaries. That is the only view that I wanted to add on.

Esther Walya: Let me just make a short clarifications. I would like to take you back to the role of a constitution, remember that the constitution only gives general principles that we will use as a guideline and therefore you do not expect as much detail, because it is not a piece of legislature, so lot's of the things probably that you have observed that are not in the constitution would be given attention in legislature.

And then somebody must have mistaken the constitution commission for being incharge of renumerations, the salary and remuneration commission will be completely independent and it would be the one that would be reviewing salaries of all public officers and these actually includes the MPs so you don't have to worry whether MPs or one commission is connected to MPs

and therefore may give them higher salaries, it would be responsible to all the public officer, therefore we would not be in any way favour MPs.

Then I would like to bring to your attention also something to do with the political parties and funding I can see the two gentlemen from Umma here, remember that the electoral commission is going to be incharge of political parties, there is going to be a fund that run and which will be equally given to the political parties but there requirement even to register a political party, if you know your political only exist in Majengo in Nairobi and cannot be found anywhere in Kaloleni in Mombasa or in Kisumu, then it does not qualify, it must be a national outfit and it must reflect, it must have some national outlook, it is not suppose to promote ethinicity or a certain religion or faction in any way. So political parties must comply with those qualification before they can even think of the funds, because that would be based, they don't get if the funds would be based whether they qualify in the first place.

And then lets remember that the President does not have absolute power and when your are thinking the President failing to pass a bill in Parliament, the President is suppose to be served with any bill passed by Parliament within seven days and within those seven days after he gets the bill he has only three alternatives, he can take to the supreme court if he has any question about the bill he can refer it back to parliament and the only other option he has is to assent to the bill and sign it.

So this president we are proposing in the draft bill does not have absolute power any more, probably you refer to the chapters that deal with the legislature and executive, on observation I feel that we are all getting very frantic about how quickly can we impeach a president, how quickly can we remove our MP when they don't observe the leadership and intergrity court.

Now note that what this draft bill does is that it makes an attempt to create some precedure and order in managing of public affairs. We are not going to make is so easy for your to remove your MP, we are not going to make it so easy for you to remove your president, but neither are we going to make it easy for public officers to fail to serve wananchi, so notice that there are cheques and balances as we try to get a new constitution. We are saying that you must recall your MP there are certain things that he must have note down for you to want to recall him. He will either have been labled with misconduct, either have gone insane therefore cannot properly represent you in parliament or probably deserted you and that there should be evidence to that.

So we are saying let every public officer be given a chance to serve but failure to which we think that they have not served let there be transparent precuder in which we can see them peacefully out of office. Thank you.

Eunice Kamau: We will encourage you to continue reading the draft constitution please read it again and again and later you will realize that some of your concerns are actually addressed in the constitution. I see a gentlemen there wanting to ask a question.

Alex Gikonyo: Unfortunately I did not have time to read this constitution, because I was told to come and represent people only the day before yesterday and I again had to look for this newspaper where I had kept them so I only started reading yesterday and I didn't finish. So but I wanted to find out from you whether there is anywhere in this constitution where the constitution it is discouraging people to be given handout during campaigns, is it here or is it anywhere in this constitution, because that is bribing and that is corruption so I want to find out whether there is anything in this constitution from you people.

Esther Walya: Gichugi.

Alex Gikonyo: My name is Alex Gikonyo

Esther Walya: So Mr. Gikonyo I refer you to read the chapter on the representation of the people, the one that handles the electoral process, you will notice that we propose a fair and free election that is devoid of any form of corruption and remember what we have proposed for the electoral commission is that it should be so independent from government that you cannot even link it to provincial administration and any corruption whether from candidates themselves or from the commission or from government itself, if it favours a certain candidate.

Then note that political parties are directly answerable to the electoral commission and any forms of misconduct and any disqualification is actually expounded on that chapter, but please remember that we have a month long to disseminate this draft bill. If you have any other responses arising from anything, something that you gotten enlightened about today please drop them at KENCOM House 2nd floor and we will be happy to go with them to the National Constitutional Conference.

Eunice Kamau: So she has referred you to pages 11, 12 and 13 it there and you will get the answer, remember we said that we have a representative from Nairobi, we have three people, Salim is here he is one of them, then there is that other paper with 629 delegates, we said you can also give your comment to the and some of them are the commissioners and we said you can get them at KENCOM House 2nd floor and the other thing we drew attention to today's Standard ,page five and six on the middle pages the list of delegates is coming, see who is here who is representing religious organization and so on. So you have all those forums please continue reading.

So thank you very much for sparing your time, for your participation, the Katiba is ours remember we have a duty and responsibility for making our country the best country as we found it. God bless you so much, continue discussing with other people atleast you are blessed you had an opportunity to come and continue dialogueing, we will encourage you start it with the family institution in this draft constitution the family institution is very important, discuss it with your family members, with your relatives, your neighbours, with your location and also in your constituency and especially the ones seeking the votes.

Now we end the session and I will call one person to close with a word of prayer.

Mwai: What are you going to do as the president have said we are going to election with the old constitution and now we are dealing with the new constitution, what are you going to do if he insists that we are going to use the old constitution. Thank you.

Eunice Kamau: The constitution is people so make a decision what are you going to do. Can we have somebody close with the word of prayer, any one person. Okay.

Pastor Oscar Waderu Waruinge: Let's go ahead and pray. My name is Pastor Oscar Waderu Waruinge, with Global Evangelism Ministry. Lets pray.

(Prayers) Our heavenly Father as we come before you this hour we thank you for the deliberations we have done in that bill, Father bless us as we continue with this assignment Father guide us against bad thought Almighty Father nurse us with every inspiration to stir up this progress in Jesus name we pray, Amen.

The meeting ended at 12.15 p.m.

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