

**CONSTITUTION OF KENYA REVIEW COMMISSION**

**(CKRC)**

**Verbatim Report Of**

**DISSEMINATION OF REPORT AND DRAFT BILL - MANDERA EAST  
CONSTITUENCY, HELD AT MANDERA COUNTY COUNCIL HALL**

**ON**

**DISSEMINATION OF REPORT AND DRAFT BILL – MANDERA EAST CONSTITUENCY HELD AT  
MANDERA COUNTY COUNCIL HALL ON 14<sup>TH</sup> OCTOBER, 2002.**

**Present**

1. Com. Ibrahim Lethome - in Chair

**Secretariat in Attendance:**

1. Hassan S. Mohammed - Programme Officer  
2. Halima Amran Adam - Verbatim Recorder

The meeting started at 9:45am with Com. Lethome in Chair.

**Mr. Olad:** Ningelipenda kwanza kuwajulisha wageni wetu ndio tuanze na maombi. Leo tuko na fursa kuu, kuwa na sisi Commissioner Ibrahim Lethome ni mwana Commissioner wa Tume ya Kurekebisha Katiba ya nchi ya Kenya, pia tuna Hassan Sheikh Programme Officer, Halima Amran Verbatim Recorder ndio walitutembelea kwa hayo machache ningelipenda kwanza tianza na maombi ndio tuanze mpango wetu wa leo, Sheikh Hussein karibu tafadhali.

**Sheikh Hussein:** *Bismillahi, Allahuma ma ajmal hatha jaman marhuman, waajal tafarukana mi baathihi tafarukan mahsuman, Allahuma lla tuahithna mina fufuan mina, Allahuma warfiqna bima tuhibuhu wartatha, wafaqna ala siratil mustaqim ya Rabil Alamin, Allahuma martana fataunaka kama martana, fatajiduna ala kama waantana ya Rabil ala min, wasala llahu wasalim ala sayidina Muhammed wa ala ali was abihi wasalaam. AMIN*

**Mr. Olad:** Asante sana Sheikh, tafadhali tukae hapa mbele, karibuni na mkae tafadhali. Commissioner vile tulivyopanga leo, kwanza kabisa tutakuwa na Dissemination Draft Constitution. Vile mnavyoyua Commission imeshaandika report na maoni ya wananchi na wameshaandika hii ni Draft Constitution na bado haijakuwa sheria. Kwa saa hii Commissioner Ibrahim ametutembelea ili atujulishe ni nini hii Constitution ama Katiba mpya hasa inaongea juu ya nini, baada ya hiyo ndio tutakuwa na fursa ya kuwapatia wananchi kuuliza maswali na tafadhali tukae kwa makini tusikilize ndio baada ya hiyo ndio tutaweza kuwa na fursa ya kuuliza maswali ama kutoa maoni yenu. Kwa hayo machache, Commissioner nafikiri watu wengi walielezwa mapema kwamba tutaanza saa nne na tutaanza mapema ili wengine pia washuhudie asante karibu.

**Com. Lethome:** *Bismillahi Alhamdullillah, Asalatu Wa salamu ala Sayidina Muhammed wa ala alihi wa as haibihi ajmain ama baath, Assalaam Aleikum War-Rahmatu-Llahi Wa Barakatuh.* Watu wa Mandera hata sauti ya kusema Wa aleikum salaam hakuna? Yaani ni kama hamtaki kutukaribisha, tumekuja sana Mandera mara nyingi si ndio? Alhamdullillah tunashukuru Mwenyezi Mungu Subhana Wataala yule ambaye ametupa nafasi hii ya kuweza kukutana na nyinyi tena, nafikiri

itakuwa ndio mara yangu ya tatu kukaa hapa kukutana na nyinyi. Hata watu wengi wanashangaa kwa nini nimependa Mandera sana, ni kwa sababu watu wa Mandera ni wakarimu ama nyinyi sio wa karimu, ndio sababu kila mara tunakuja hapa, hata nataka mwaka ujao pia nije hapa ama sivyo?

Kama alivyoeleza Olad, District Co-ordinator, lengo tu la kuja hapa leo ni kuja kuangalia mapendekezo ambayo tumeweza kuandika katika Katiba mpya au mswada wa Katiba mpya tunaita mswada yaani Draft Bill. Mnakumbuka safari yetu ya kwanza kabisa ilikuwa ni ya Civic education, kuwafundisha wananchi habari ya haki zao za kiraia. Baada ya hapo ikawa kuna safari nyingine ambayo pengine mimi sikuja wengine walikuja hapa, ilikuwa ni kuchukuwa maoni yenu, mlitoa maoni ama sivyo?

Sasa safari hii ni kuja kuwaonyesha matuna ya hayo maoni yenu, yaani yale maoni yote ambao mlitoa pamoja na wakenya wengine sehemu mbali mbali katika nchi. Yale mapendekezo yote waliopendekeza tumeyakusanya pamoja, tumeandika, tunataka yawekwe katika sheria mpya lakini kabla ya hapo kwa vile hii Katiba ni yenu, na hayo mapendekezo ni yenu sio yetu, ndio tumesema lazima tuje tuwaambie hivi ndivyo tumeweza kukusanya ama kupendekeza baada ya kuwasikiza watu wa Mandera na watu wa Kenya nzima. Hivi ndio tumependekeza ndio tumekuja na hiyo Draft tunataka kuipitia leo yote Inshaallah mchana mzima tutakuwa hapa lakini kabla ya hapo ningependa pia kuhakikisha juu ya reporti yetu, kwa sababu sheria ambayo ilitengeneza hii Commission imesema, tuandike reporti kuonyesha kazi tulifanya namna gani, halafu tuandike Draft kuonyesha maoni ya wananchi na mapendekezo ambao wangependa iwe katika Katiba mpya. Kwa hivyo bila kupoteza wakati, kwa sababu ninajua ni kazi ndefu, sehemu zingine imechukua siku nzima, na hapa natarajia pia itachukua siku nzima.

Ningependa tu tuangalie kwa ufupi sana hii report ambao tumeandika inazungumzia juu ya kitu gani, halafu tuingie katika Draft Constitution ambayo iko na Chapter ishirini kwa hivyo itachukuwa muda mrefu sana, ni kubwa msione hapa kwenye gazetti ikiwa ndogo, ile yangu ambayo niko nayo kwenye file ni kubwa zaidi, hii ndiyo Draft yenyewe.

Na tungependa pia kuwaambia kama kuna mtu ambaye ni kipofu a blind person ambaye anaweza kusoma Braille anaweza au mnaweza kumuelekeza kwa Verbatim Recorder wetu Halima ako na copies za hii Draft sehemu fulani ya Draft ambayo imeandikwa kwa Braille, yaani maandishi ambayo mtu ambayo ni kipofu anaweza kusoma. So, I know you are the Chairman of the persons with disability, if you know of anybody who can use Braille.

**Chairman:** Hakuna.

**Com. Lethome:** Hakuna Mandera mzima, okay. But anyway, we will leave you with a copy just in case....

**Chairman:** Kuna vipofu wengi lakini hawana wale ambao wamesoma.

**Com. Lethome:** Hawajasoma Braille, sasa Chairman that is a challenge to you Mr. Chairman. Kitu ambayo tuliangalia katika hii kazi na ndio tumeandika katika hii report, kuna baadhi ya misingi ambao tulikuwa tunaangalia. Kuna baadhi ya mambo

ambayo tulikuwa tunaangalia katika kufanya hii kazi yetu ambayo ilikuwa ni muhimu sana. Tungependa kuwaambia moja katika hayo mambo ni kuwa, tangu hapo mwanzo tuliambiwa this is a people driven process. Kuwa, ni kazi ambayo wananchi wanawekwa mbele, kwa hivyo katika hii kazi yetu yote tumetilia umuhimu sana, umuhimu ama maneno ambayo watu wamesema, hiyo ndiyo imekuwa muhimu sana na ndiyo utaona katika Draft yetu, tumeanza kwa kuzungumzia juu ya umuhimu wa raia, the peoples sovereignty, umuhimu wa wananchi.

Kitu cha pili ambacho tumezingatia ama tumetilia umuhimu, sitaki kutumia Kiswahili cha Coast, nikisema kuzingatia itakuwa matatizo, yaani ile ambayo tumepatia umuhimu sana ni kuwa tumetoa nafasi kwa wananchi kushiriki, hata leo kuja hapa ni kwa sababu tunataka bado kutoa nafasi mshiriki. Hata baada ya kuandika mapendekezo, bado tunataka tusikie mna maneno gani ambao mnataka kusema kuhusu yale ambayo tumependekeza kwa sababu hii ambayo tumeandika hapa sio sheria kwa hivyo hakuna haja ya kutupeleka kotini sawa ni kutuambia kuna sehemu fulani ambao mumewacha na sehemu ingine mungeongeza hamkuongeza kwa sababu haya ni mapendekezo sio sheria. Bado tunafanya kazi na Katiba ile ambayo tulipata 1963.

Kwa hivyo hii si sheria ni mapendekezo tu, tuko na baina ya sasa na tarehe ishirini na nane kuongeza au kupunguza, we can add or delete anything from this Draft Constitution, hiyo tumefahamu? *Somaxa?*

**Audience:** *Xa*

**Com. Lethome:** *Xa*, haya kitu kingine ni kuwa tulipokuwa tunafanya hii kazi kitu ilikuwa muhimu ni kuwa lazima tushirikishe watu wote na ndio sababu utaona katika vikao vyetu hakuna kusema sijui kina mama wasizungumze kwa sababu kulingana na mila ya watu wa Mandera kina mama hawazungumzi au watu ambao hawajiwezi persons with disability, hawafai kuzungumza au kikao hiki ni cha matajiri peke yake.

Nafikiri kama mlikuwa mnafatilia kazi vile tulikuwa tunafanya, tumetoa nafasi kwa kila mtu, kina mama tumewapatia nafasi, wazee, vijana hata watoto tumewapatia nafasi. Kwa sababu sheria imesema, it has to be all inclusive lazima ishirikishe watu wote, kwa sababu tunasema hata prisoners watu ambao wako jela, Nairobi tumetuma baadhi ya ma officer wetu kuenda kwa prisons kuweza kuchukua maoni yao, kwa sababu tajiri ni Mkenya, maskini ni Mkenya, mdogo ni Mkenya, mkubwa ni Mkenya, mama ni Mkenya mwanaume ni Mkenya. Ndiyo sababu tumesema lazima iwe all-inclusive, ikusanye watu wote wa Kenya.

Kitu kingine ambacho tumeangalia katika hii kazi yetu na mtaona katika hii reporti mkishapata nafasi ya kusoma ni kuwa tulilazimishwa au sheria ilikuwa ikitaka kutoka kwetu, tuhakikishe kuwa kuna amani, national peace and unity. Kuwe na amani katika nchi na umoja, isiwe baada ya sisi kutengeneza Katiba mpya, North Eastern iko peke yake, Coast iko peke yake, Eastern iko peke yake, Nairobi, Central ndiyo tumesema kitu muhimu ni kuwa baada ya kuandika hii Katiba mpya, tubaki kama nchi moja yenye amani. Na ndiyo utaona mapendekezo yetu mengi ama mapendekezo yetu yote imetilia umuhimu umoja wa nchi.

Nitawapatia mfano moja tu, watu walikuwa wanazungumzia sana habari ya majimbo si mlisikia watu wakisema habari ya majimbo, si mlisikia?

**Audience:** Ndio.

**Com. Lethome:** Unajua mimi siko kwenye classroom nataka tushirikiane mnasikia. Mmesikia habari ya majimbo?

**Audience:** Ndio

**Com. Lethome:** Kuna watu walikuwa wanasema tulipoenda Coast Province, wanasema tunataka jimbo letu na katika hili jimbo factory zote ambazo ziko kwenye hiyo jimbo ni zetu sisi. Wafanyi kazi wote lazima wawe kutoka sehemu yetu, sasa ndiyo tukawauliza watu wa Coast Province, hata Kenya Ports, ama Kilindini harbour ni yenu pia? Wakasema ndio ni yetu, haya na wasomali nao tutawapatia Port yao wapi? Iko box amesemaje box? Haya wengine wakasema watu wakae na kile kitu ambacho wako nacho, factory zile wako nazo wakae nazo, nikawaambia na watu wa North Eastern wako na factory ngapi? Mko na factory ngapi North Eastern?

**Audience:** Hatuna.

**Com. Lethome:** Hakuna hata moja, tukasema hii italeta watu kutengena, itaharibu umoja wa nchi na ndiyo utaona katika Draft yetu hauwezi kupata neno majimbo, hakuna mahali tumeweka majimbo, hakuna kabisa. Watu wengi walikuwa wanaongojea waone wanauliza mumetengeneza ya majimbo ama sio ya majimbo, hatujataja majimbo mahali popote kwa sababu tumejuwa italeta watu kutengana. Kwa sababu North Eastern wakipatiwa majimbo yao wataniangalia waseme Ibrahim wewe ni *math mathow*, ama wewe si msomali wewe si nywele nyepesi rudi kwenu huko, hiyo italeta umoja katika nchi?

**Audience:** Hapana.

**Com. Lethome:** Na mimi nitarudi kwetu huko kwa wa Masaai nikikuta woria yeyote huko, nitamwambia haya *inamari* toka enda kwenu ama sivyo?

**Audience:** ndio.

**Com. Lethome:** Italeta umoja hiyo?

**Audience:** Hapana.

**Com. Lethome:** Mjaluo nayo atafukuza watu kwao na mtu kama yule ataambiwa hauwezi kufanya kazi hapa rudi kwenu, hiyo italeta umoja katika nchi?

**Audience:** hapana.

**Com. Lethome:** Kwa hivyo tumeangalia mambo ya umoja na amani katika mambo yote ambayo tumeandika katika hiki ama

haya mapendekezo. Ukiangalia katika hii Draft ambayo tumeandika, kitu muhimu ni maoni ya watu na ndio sababu katika kila mahali ambapo tunaenda, tunawaonyesha watu kitu ambacho kinaitwa Constituency Report. Hii Constituency yenu inaitwaje?

**Audience:** Manderu East.

**Com. Lethome:** Yaani woria haujui constituency yako inaitwaje? Hii constituency inaitwaje? Manderu East, huyu ana wasi wasi hajajuwa, ni East inaitwa Manderu East. Tuko na reporti hapa, tumeandika hapa Manderu East Constituency, North Eastern Province – Constituency Interim Report. Hii baadaye mtapata nafasi kwa documentation centre, utakuta yale mapendekezo yote ambayo mlitoa ya iko hapa. Manderu East ina watu wangapi, utakuta hapa ndani, Manderu East ina ukubwa gani, iko hapa ndani yake. Ie economic activities za Manderu East utakuta ziko hapa zote, na nikikutolea tu mfano utaona kwa mfano mambo ya land tu, kuna mtu alisimama hapa akasema the Constitution should provide for communal land ownership in the area.

Tunataka Katiba ambayo itatambua umiliki wa ardhi ya community, kwa mfano kama ni community ya Murulle ama Gare, wako na land yao ya mifugo yao. Hayo ni maoni ambayo ilitolewa hapa sio mimi nilikuja nayo, kwa hivyo ukitaka kuangalia vile watu wa Manderu East walisema, hii reporti itakuwa katika documentation centre yenu kwa sababu kitu muhimu hapa ni maoni ya watu na sio maoni yetu sisi kama Commission. Kila mahali ninaenda ninaambia watu, ingekuwa ni maoni yetu, kungekuwa na haja ya kuja hapa Manderu? Tena barabara mbaya karibu tutumbukie kwenye lagha huko Rhamu, ingekuwa hatungekuja hapa tungekaa Nairobi lakini sheria imesema muende kwa watu, watu ndio wametoa maoni na hii Draft ni ya watu, nenda ukazungumze nao.

Kitu kingine ambao tulizingatia ni kuwa, kuna kitu ambacho kila mahali tumeenda Kenya mzima tumeona kuna tatizo moja, mambo ya usawa. Hakuna usawa kabisa, there is no equality na ninapozungumzia habari ya equality, kwanza toa kwenye akili yako equality between men and women. Ukiangalia hata baina ya wanaume peke yao, utakuta hakuna usawa, kwa mfano leo Sheikh ukienda kortini na mtu tajiri, unafikiri nani atashinda hiyo kesi, kwa sasa vile hali ilivyo?

**Audience:** Tajiri.

**Com. Lethome:** Most likely atakushinda, hakuna usawa. Utakuta kwa mfano uki-apply kupata loan na mtu mkubwa aki-apply kupata loan, who is likely to get the loan?

**Audience:** Tajiri.

**Com. Lethome:** Tajiri, haya kwa mfano wewe ni maskini lakini you have the leadership qualities na unataka kupigania kiti cha Ubunge, will you get that seat?

**Audience:** No.

**Com. Lethome:** Utakuta hakuna usawa, haya utakuta baina ya wanawake na wanaume pia hakuna usawa. Hakuna usawa

wanadhulumiwa, pamoja na dini pia tuna mipaka ya dini, utakuta tunasema, ah yule si mwanamke tu anasema kitu gani? Utakuta wanadhulumiwa kwa sababu ni mwanamke, sehemu nyingi za Kenya tumeenda kuna hilo tatizo au utakuta kwenye hall kama hii akiingia mtoto sasa hivi, utaona mama anasimama huko na fimbo, oroth toka, ama sivyo? Hakuna usawa, tunasahau kuwa mtoto ni Mkenya, au kwa mfano uskishikwa na polisi saa hizi, utafanyiwa kitu gani? Kwanza utaanza kupigwa saa hiyo hiyo, na tutasimama tunaangalia na tunasema si ni polisi anampiga, yaani tumempatia polisi haki ya kumpiga Mkenya bila hata makosa yeyote.

Na tumeambiwa sheria inasema, a person is innocent until proved guilty. Mtu hana hatia mpaka ithibitishwe kuwa ana hatia. Lakini utakuta polisi anakushika anaanza kukupiga moja kwa moja. Hauna hatia yeyote au ukishafungiwa jela inakuwa wewe si binaadamu tena, haupatiwi nafasi nzuri hata ya kuswali, ya kufanya ibada yako, mavazi, wale wafungwa wako jela wanavaa mavazi ya aina gani?

**Audience:** Shorts.

**Com. Lethome:** Unaweza kuswali na hiyo mavazi wako nayo?

**Audience:** Hapana.

**Com. Lethome:** Utakuta kuna hiyo hali ya kutokuwa na usawa. Na akishikwa mtu tajiri atapigwa kama vile mtu maskini anapigwa?

**Audience:** Hapana.

**Com. Lethome:** Hakuna usawa kwa hivyo Kenya nzima tumezunguka tumeona tatizo kubwa ambalo liko Kenya ni hakuna usawa. Na ndio utaona mtu akiwa tajiri, akikudhulumu anakuambia nenda mahali unataka ama sivyo wanasema hivo? Nenda mahali unataka, hiyo ndiyo lugha inayotumiwa.

Kwa hivyo tumejaribu kuangalia habari ya usawa na kitu kinachoitwa equity, equity ni uadilifu. Angalia kwa mfano mambo ya maendeleo, maendeleo ni vitu kama barabara, hospitali, skuli, factories na vitu vingine ambavyo wananchi wanahitaji. Unaweza kulinganisha kwa mfano Mandera District na Kiambu District, unaweza kulinganisha useme iko sawa?

**Audience:** Hapana.

**Com. Lethome:** Utakuta maendeleo pande moja imeendelea sana upande mwingine haijaendelea sana. Hakuna uadilifu, unakuta barabara ya lami North Eastern Province yote ni kilometer sita pale Garissa peke yake. Sehemu zingine unakuta kila barabara iko na lami, huo ni uadilifu kweli?

**Audience:** Hapana

**Com. Lethome:** Kwa hivyo sehemu nyingi na sio hapa peke yake, tumekwenda sehemu za Turkana sehemu za Pokot,

tumekuta kuwa wananchi wanalalamika wanasema, we don't have equitable development. Maendeleo haijafanywa sehemu zote sawa, kuna sehemu ambazo zinaangaliwa na sehemu zingine haziangaliwi, kwa hivyo katika kuandika mapendekezo yetu, tumeangalia sana hayo mambo inequitable development. Na pia unakuta hakuna uadilifu hata baina ya watu. Hata sheria iko lakini haifuatwi, sehemu nyingi tumeenda kwa mfano sehemu za Nyanza, unaambia mzee simama utoe maoni yako, maoni yake ya kwanza anasema ninataka sheria ambayo haitaruhusu msichana kuridhi ardhi ya baba yake. Ninamuuliza mzee unataka akaridhi wapi? Kwa bwana yake, na asipoolewa? Akasema hata serikali ya Kenya, imeweza kutenga ardhi ya wanyama, hizi National Parks, kwa hivyo hata msichana anaweza kupewa kwenye National Parks akae na wanyama. Huo ni uadilifu?

**Audience:** Hapana.

**Com. Lethome:** Yaani hicho ndicho kitu kikubwa wao wanashikilia. Unakuta sehemu zingine wanasema msichana haifai kuridhi kabisa, utakuta hiyo ni kumdhulumu mtoto wa kike haki yake ama wengine wanasema msichana hafai kusoma kabisa, utakuta hiyo ni kumdhulumu haki yake. Kitu kingine ambacho tumeona katika kutembea kwetu na tumezingatia ama tumetilia umuhimu katika Draft ni mambo ya haki za binaadamu, human rights. Haki za binaadamu nataka kuuliza tu swali mtu anijibu hapa, wewe ni binaadamu kwa sababu serikali imesema wewe ni binaadamu, ama ni binaadamu kwa sababu Mwenyezi Mungu amekupa ubinaadamu? Ni serikali imekupatia ama ni Mwenyezi Mungu?

**Audience:** Mwenyezi Mungu.

**Com. Lethome:** Kuna mtu anaweza kuchukua hiyo haki yako ya binaadamu?

**Audience:** Hapana.

**Com. Lethome:** Ndio utakuta katika hii Draft yetu, ile chapter ambayo ni kubwa sana ni chapter 5, chapter five inazungumzia habari ya human rights, kwa sababu bila ya binaadamu hakuna nchi, bila binaadamu hakuna serikali, bila binaadamu hakuna hata kiongozi. Ataongoza kitu gani, kama Kenya hakuna wakenya, kiongozi ataongoza nani?

**Audience:** Hakuna.

**Com. Lethome:** Kwa mfano Mandera kama hakuna watu wa Mandera, DO ataongoza watu gani?

**Audience:** Hakuna.

**Com. Lethome:** Kwa hivyo utakuta binaadamu ndio muhimu, kwa hivyo tumezingatia hapa haki za binaadamu. Utakuta tumeangalia haki zake akiwa mtoto, akiwa mtu mzima, akiwa mzee, akiwa mama, akiwa ni kijana, akiwa hata jela kwa sababu unapofungwa jela wewe ni binaadamu ama ni mnyama?

**Audience:** ni binaadamu.

**Com. Lethome:** Ni binaadamu kwa hivyo tumeangalia haki za binaadamu kila mahali, haki za binaadamu akiwa ni kiwete, haki za binaadamu akiwa ni kipofu kwa sababu ni binaadamu. Wao ni binaadamu pia tumeangalia hizo haki zote katika



kuandika mapendekezo ya Katiba mpya.

Kitu kingine ambacho tumeangalia na tumeona kila mahali Kenya watu wengi wanalalamika na hata mkoa kama huu, North Eastern Province, sehemu za Turkana na sehemu zingine ni mambo ya security, usalama. Kunaweza kuwa na maendeleo bila ya kuwa na usalama, haiwezekani hata hapa tunakaa saa hizi ni kwa sababu kuna usalama, kama hakuna usalama tungekaa hapa saa hizi?

**Audience:** Hawezi.

**Com. Lethome:** Hawezi ingekuwa saa hizi Rais anajificha kwake na mimi ninajificha kwangu hatuwezi kukaa hapa. Kwa hivyo, tunazingatia sana ama tumetilia umuhimu mambo ya security, utaona tumetoa wajibu, responsibility ya usalama kuhakikisha kuna usalama, tumeipatia serikali katika haya mapendekezo yetu. Kisha, kitu kingine ambacho tumeiangalia sana katika hii Katiba au mapendekezo haya ya Katiba, ni kuwa tunaweza kufanya kazi hii yote, pesa nyingi zimepotea, wakati mwingi imepotea kwa sababu saa mumekuja hapa wengine ninajua ni wafanyi biashara, wengine wameandikwa kazi, umeacha hizo kazi zako zote umekuja hapa kwa sababu umetilia umuhimu mambo ya Katiba, ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Sasa tufanye hii kazi yote halafu baadaye iwe ni hile kitu Waraabu wanaita, *hibrun alal waraqa* yaani ni wino kwenye karatasi, itatufaa kwa chochote?

**Audience:** hapana.

**Com. Lethome:** Maana yake ni hii, kuna haja ya kuwa na Katiba mzuri na haifatwi na mtu yeyote, kuna haja yeyote?

**Audience:** Hakuna.

**Com. Lethome:** Utaona tangu tupate uhuru miaka thelathini na tisa, tatizo letu kubwa sana sio ati hatuna sheria nzuri, sheria iko lakini haifatwi kuanzia yule mkubwa mpaka yule mdogo. Kwa mfano, iko sheria yeyote ambayo inasema wakenya waibe? Iko?

**Audience:** Hakuna.

**Com. Lethome:** Wa Kenya wanaiba ama hawaibi?

**Audience:** Wanaiba.

**Com. Lethome:** Kwa hivyo sheria imekuwa ni useless, mambo ya corruption, sheria imesema hakuna corruption, haituatwi imewekwa kando ndio unakuta tuna hayo maradhi ya corruption. Wallahi hata sheria ya Mwenyezi Mungu tumeambiwa hivyo, Qur'an, iko sheria kubwa kuliko Qur'an, iko?

**Audience:** Hapana.

**Com. Lethome:** Na kwa nini tuko na matatizo na tuko na Qur'an, Qur'antuko nayo si ndio Waislamu, kwa nini tuko na matatizo mengi?

**Audience:** Watu hawafuati.

**Com. Lethome:** Kufuata, hatufuati na mama ako na Qur'an yake amefunga na kitamba anaweka pale juu kwenye shelve yake ama sivyo, anatoa siku gani?

**Audience:** Ijumaa.

**Com. Lethome:** Ijumaa au mwezi wa Ramadhani peke yake ndiyo anatoa, Qur'an imeteremshwa ya kufuata siku moja peke yake, ikiwa sheria ya Mwenyezi Mungu pia ambayo ni perfect a hundred percentage perfect, usipofuata unapotea, hata sheria ya mwanadamu pia usipofuata, it is useless, haina kazi yeyote.

Kwa hivyo kuna kitu ambacho tunazungumzia ambacho tunaita Constitutionalism, kufuata Katiba. Hii kazi yote tunafanya ikiwa hatutafuata, haina faida yeyote, na hii mambo ya constitutionalism na kufuata sheria hakuna mtu ambayo anaweza kusema, sasa nitawalazimisha wakenya wafuate sheria, no. Sisi attitude yetu lazima ibadilike sasa. Na ndiyo tunasema mwisho kabisa katika hii reporti yetutumeandika, over to the people. Baada ya kuandika hii Katiba yote, baada ya kupoteza pesa nyingi sana za serikali ambazo ni nyinyi mumelipa kupitia kwa ushuru, tunasema over to you, hiyo Katiba mpya ili iweze kufanya kazi, lazima tubadilishe msimamo wetu kuhusu sheria. Tujue iko hapo sio karatasi tu iko hapo ifuatwe, kuanzia na yule mkubwa hadi yule mdogo.

Na ndiyo sababu katika Katiba hii mpya tumependekeza kuwe na nidhamu ya kulazimisha mpaka yule mkubwa kabisa, mpaka President wa nchi afuate katiba, asipofuata anachukuliwa hatua. Kiongozi yeyote asipofuata sheria, anachukuliwa hatua kwa sababu tumeona kuwa, na ni kulingana na maoni ya wananchi ikiwa sheria haitafuatwa haina maana yeyote, hakuna haja ya sisi kufanya hii kazi na hakuna mtu ambaye yuko juu ya sheria, watu wote wako chini ya sheria. Ndivyo tulivyopendekeza katika hii Katiba mpya.

Kitu kingine ukiangalia katika hii Katiba mpya ambayo wakenya wengi hawajui, wakenya wengi hawajui Katiba ya zamani kwa sababu;

Kwanza, Hatujaimiliki hii Katiba, watu wengi wanajua hii ilitengenezwa London Lancaster House, sio yetu.

Pili, Imeandikwa kwa lugha ambayo hata mimi wakili kuisoma inabidi wakati mwingine nitafute dictionary, hata viongozi ambao wanatakiwa wafuate hii sheria most of them pengine ukienda Bunge, pengine 25% of them ndio wamesoma hii sheria na hata hao 25% hawajai fahamu kwa sababu imeandikwa kwa lugha ambayo ni nguvu ama sivyo, mumeshajaribu kupitia muone? Ni lugha nguvu kwa hivyo tumesema hatutaki sheria ambayo ni nguvu, hoyo, Etho, tafadhali tusikizane hapa. Tumeandika kwa lugha ambayo inafahamika na kila mtu, lugha nyepesi, simple language ana tumesema pia sheria lazima ifasiriwe kwa lugha ya Kiswahili na kwa wale ambao hawawezi kusoma iandikwe pia kwa Braille kwa sababu ni vipofu, wao pia ni wakenya na wao

pia wanaweza kuwa viongozi, na wao wanahusika na hii sheria.

Kwa hivyo utaona tumependekeza kila mahali lugha zitakazo tumiwa katika hii sheria ni Kiingereza, Kiswahili na lugha ya Braille ambayo inatumiwa na vipofu, watu wasio ona na utaona pia tumependekeza hata katika Bunge kutumiwe lugha inayoitwa sign language. Mnajua sign language ambayo inatumiwa na watu ambao hawawezi kuzungumza wala kusikia, tumependekeza hivyo ili wananchi wote waweze kushiriki katika kuifahamu hii Katiba na kuifuata.

Kama nilivyowaambia, hiyo ni report ya kueleza tulifanya kazi namna gani na tulikuwa tunachukulia umuhimu mambo gani ni mambo gani ambao tulikuwa tunaangalia sana wakati wa kuandika mapendekezo ya Katiba mpya. Hiyo ni kwa ufupi tu sitaki kuingia katika tafsiri ya hii report, muhimu ni kuwa tuingie katika mapendekezo ya Katiba yenyewe.

Kama nilivyowaambia, hii Katiba mpya iko na sehemu ishirini na kama nilivyoanza kusema ni kuwa umuhimu mkubwa umepewa raia kwa sababu tumesema bila raia hakuna nchi, bila raia hakuna kiongozi, bila raia hakuna maendeleo. Kwa hivyo tumesema raia ndio muhimu katika hii Katiba mpya. Lakini kabla ya hapo tuliangalia pia katika hii Katiba na tukalinganisha na Katiba za watu wengine tukaona Katiba karibu za nchi karibu zote ziko na utangulizi ambao unaitwa Preamble.

Preamble ni utangulizi wa kueleza Philosophia ya nchi au philosophia ya watu kama vile wakenya ama waganda ama watu wa nchi nyingine. Ni mambo gani ambayo ni ya msingi katika hiyo nchi. Katiba yetu hii ya mwaka wa 63 ambayo tulipatiwa na mwingereza alipokuwa anawacha nchi hii, wale ambao wako nayo ama najua watu wengine hawana. Ukifungua tu kitu cha kwanza inasema, Kenya is a sovereign Republic, Kenya ni nchi ambayo inajitawala yenyewe, haijaleza ni watu aina gani wanaishi katika hiyo Kenya kama ni wanyama ama ni binaadamu ama ni miti, kama ni binaadamu ni binaadamu wa aina gani wanaishi katika hiyo nchi.

Ndiyo tukasema, tutafuata vile ambavyo Katiba za nchi nyingi zimeandikwa, Katiba lazima iwe na utangulizi ni kama vile mtu unakutana naye njiani hata kabla hajakuamkua, anakuitisha pengine anakudai pesa, unakutana naye anakuambia, lete pesa yangu, utamchukuliaje mtu kama huyo, utamchukuliaje mumekutana hata hakuna salamu anakuambia *ken walalo ken* utamchukuliaje mtu kama huyo? Utaona huyu mtu ...eh?

**Audience:** Labda ana chuki.

**Com. Lethome:** Labda ana chuki huyu mtu anataka vita na mimi kwanza simjui yeye ni nani, ametoka wapi anataka nini, kawaida binaadamu wanapokutana mnaamkuana, mnaulizana hali halafu unamwambie ile kitu yangu inawezekana sasa nipate, ndio tumesema lazima kuwe na utangulizi kila kitu, hata Kitabu yeyote ambao unaandika lazima kuwe na utangulizi.

Kwa hivyo, tumeweka Preamble na ningependa sasa kuwasomea ni kitu gani ambao tumeweka katika hiyo Preamble baada ya kuwasikiza wananchi, hatukutoa katika akili zetu, tumetoa katika maoni ya watu, sasa tusikizeni Preamble inasema nini,

utangulizi.

Imesema hivi, “we the people of Kenya aware of our ethnic, cultural and religious diversity and determined to live in peace and unity as one indivisible sovereign nation”. Hiyo ndio utangulizi, inaeleza hivi, sisi watu wa Kenya ambapo tunatambua kuwa tunatofauti za kikabila, sisi sote ni kabila moja, wakenya ni kabila moja?

**Audience:** Hapana.

**Com. Lethome:** Tuko na Wasomali, Wajaluo, wa Massai, wa Kikuyu, kabila hizo zote, wote ni wakenya. Pia mila zetu ni moja wakenya?

**Audience:** Hapana.

**Com. Lethome:** Kila mmoja ako na mila yake, ni mila gani nzuri sana Kenya? Ukiniuliza mimi nitakuambia ni ya wa Masaai, the best mila, the best culture ni ya wa Massai in Kenya utakubaliana na mimi?

**Audience:** Hapana.

**Com. Lethome:** Utasema ya Kisomali ama sivyo, ukienda Moyale wa borana watakuambia yao ndio mzuri, ukienda Kikuyu yao ndio mzuri, ukienda kwa wajaluo watakuambia yao ndio mzuri. Hizi ni mila zote za Kenya lazima zitambuliwe kwa hivyo tunatambuwa kuwa kila mmoja ako na mila yake. Religious diversity, dini zetu ni moja wakenya?

**Audience:** Hapana.

**Com. Lethome:** Mimi ni Muislamu kuna mwingine mkristo, kuna mwingine myahudi, kuna mwingine hana dini, kwa hivyo dini pia ni tofauti lakini hawa wote ni wakenya ama si wakenya?

**Audience:** Ni wakenya.

**Com. Lethome:** Kuna mbora kuliko mwingine?

**Audience:** Hakuna, kwa hivyo tunasema Katiba lazima itambue, unajua pengine hii Katiba yetu ya zamani imenyamaza ndio watu wengine wakabaguliwa, si kuna watu ambao wanabaguliwa katika hii nchi.

**Audience:** Ndio.

**Com. Lethome:** Inasemekana hii kabila hii hapana kaa huko kando na kuna kabila ambayo ni bora kuliko zingine. Hakuna kabila ambayo ni bora kuliko zingine na hii ni Mwenyezi Mungu aliumba hivyo, yeye mwenyewe ndio aliumba hivyo wakenya wawe kabila tofauti, tofauti. Kwa hivyo tunatambuwa au Katiba inatambua kuwa sisi ni kabila tofauti tofauti, mila tofauti, dini tofauti lakini sote ni wakenya tuishi katika nchi moja kwa amani kila mmoja afuate mila yake na utamaduni wake.

Kisha ya pili tunasema, “committed to nurturing and protecting the well-being of the individual, the family and the community

within our nation”. Tunafahamu kuwa katika hiyo nchi, kuna community na katika hiyo community, kwa mfano community ya wasomali, kuko na families ndani yake. Na katika hiyo family kuna individual, kuna mtu binafsi. Kwa mfano tuko na Muhammad, Muhammad ako na family yake na hiyo family iko katika community na lazima usalama au maslaha ya hiyo community na family na huyo individual, yaani mtu iangaliwe. Kwa hivyo hii Katiba yote kuanzia mwanzo mpaka mwisho lazima iangalie kila community, kila family na kila mtu.

Ya tatu, “recognizing the aspiration of our women and men for a Government based on the essential values of freedom, democracy, social justice and the rule of law”. Na pia tunatambuwa kuwa wakenya wote wanawake na wanaume, wako na tamaa au wanaangalia mbele kupata serikali ambayo imejengwa juu ya misingi ya uhuru, si tumepata uhuru Kenya, kwa hivyo tunataka serikali ambayo itatilia umuhimu uhuru wa kila mtu. Ambayo pia itazingatia au itatilia umuhimu democracia, maana yake nini, utawaliwe na mtu ambaye unataka, uongozwe na mtu ambaye unataka na uamue unataka kuongozwa vipi. Hiyo ndio democracia, na pia social justice, kuwe na uadilifu wa kijamii, social justice maana yake ni hii, kila mmoja anajitegemea mwenye uwezo na yule asiyekuwa na uwezo ni Mkenya ama si Mkenya?

**Audience:** Ni Mkenya.

**Com. Lethome:** Na Mwenyezi Mungu mwenyewe ndio ameumba hivyo. Sisi sote sio sawa, kuna wale ambao wana uwezo wa juu zaidi, kuna wale ambao wana uwezo wa kadiri kuna wale ambao hawana uwezo kabisa, ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Sasa tumesema hapa serikali lazima itambue iko na jukumu ya kuhakikisha yule ambaye hajiwezi, anaangaliwa, hiyo ndiyo tunaita social justice. Na pia kitu ambacho ni muhimu ni sheria, kwa sababu hata kuna mtu mmoja ameandika kitabu cha sheria akasema, *mujtamaa*, yaani society yeyote ambayo haina sheria, basi it is like the devils workshop, inakuwa ni kama workshop ya shetani. Kama hakuna sheria unaona hivi tumekaa sasa hivi, kina mama wamekaa hapo kwa utaratibu, nyinyi mmekaa hapa, sisi tumekaa hapa, ni kwa sababu kuna sheria inatuhukumu ndio tumekaa hivyo.

Barabarani unapoendesha gari yako kama hakuna sheria, hiyo gari yako hautaendesha kwa sababu wewe unasema una keep left na mimi ninasema nita keep right, hiyo barabara tutaweza kutumia? Na mwingine atasema mimi yangu nitaendesha across, barabara itatumika hiyo? Inaweza kutumika?

**Audience:** Haiwezi.

**Com. Lethome:** Kwa hivyo tunasema kuwa the rule of law, sheria ifuatwe kwa sababu bila sheria mama akiweka duka yake kwa vile hana nguvu atakuja mtu *hogweine* kama mimi anamwambie toka katika hii duka hii mali yote ni yangu. Itakuwa ni kama wanyama, survival for the fittest, yule mwenye nguvu ndio anaweza kuishi yule ambaye hana nguvu hawezi kuishi.

Kwa hivyo tunasema sote katika hii Katiba na katika sheria yetu yote, tuzingatie the rule of law, sheria ndio inahukumu kwa

hivyo sheria inamhifadhi mama, inamhifadhi mtu mdogo, mtu mkubwa, mzee, asiyejiweza, sheria ndio inamhifadhi. Hauwezi kwa mfano kwenda pale umkute na ile pikipiki yake umuambie waria kanyaga chini, wewe hauna nguvu unachukua hii, sheria inam-protect yeye, inamhifadhi yeye. Kwa hivyo tunasema lazima tuzingatia the rule of law.

Ya tatu ama ya nne, “exercising our sovereign and inalienable right to determine the form of governance of our country and having fully participated in the Constitution making process” Na pia sisi tunatambua kuwa sisi ni nchi ambayo inajitawala, hatutawaliwi na nchi nyingine, wala hatupokee amri kutoka katika nchi nyingine na hiyo haki yetu ya kujitawala au ya kuamua tunataka kutawaliwa vipi, hakuna mtu anaweza kuichukua wala hatuwezi kumpatia mtu mwingine wala hatuwezi kuiuza lakini kuna watu wengine wanauza hiyo haki, niwaambie vipi mnauza vipi? Hasa wakati kama huu, baina ya sasa na December watu wengi sana wanauza hiyo haki yao ya kujitawala, wanaambia jamaa unataka hii kura yangu, weka hapa *shan boqol* ukiweka hapa *shan boqol* ninakupatia kura. Umeuza haki yako ya kuamuwa unataka kutawaliwa vipi, kwa hivyo msiuze haki yenu ya kujitawala mnasikia, hiyo mambo ya shan boqol wachana nayo, hata akikutolea anapoteza haki yake bwana Rais, asante Rais.

Na pia tunasema tumeshiriki katika kutengeneza hii Katiba mpya na tumeichukulia kuwa hii Katiba sasa ndio sheria kuu ya nchi hii, huu ndio utangulizi. Mwisho wa huo utangulizi kila mahali tunapo kwenda tunasema pengine matatizo ambayo tumepata miaka thelathini na tisa ni kwa sababu katika hii sheria yetu tumemsahau kutaja Mwenyezi Mungu. Hakuna mahali Mungu ametajwa katika hii sheria, kuanzia hapa mwanzo mpaka mwisho hakuna mahali Mungu ametajwa hata moja. Ndio katika hii sheria mpya tumeishia kwa kusema katika ugangulizi, “God Bless Kenya”, Mwenyezi Mungu ibariki Kenya, *Allahuma Barik Kenya*. Pengine Inshallah tutapata mambo mazuri baada ya hapo kwa sababu tumemkumbuka Mwenyezi Mungu. Hii ni mambo mapya ambayo tumeweka katika mpya, hiyo ndio Preamble, utangulizi.

Kwa hivyo utangulizi hiyo ina maana kuwa kila kitu katika sheria hii, kuanzia ukurasa wa kwanza mpaka wa mwisho lazima izingatie utangulizi, lazima izingatie yale mambo yote ambayo tumesema hapa. Kwa mfano ukibaguliwa na mtu yeyote, aseme wewe woria hauna haki yeyote hapa, unakwenda kwenye Preamble unamwambia, sheria yenyewe inatambuwa kuwa katika hii nchi kuna Waria na kukona Jaluo na kuko na Mkikuyu, Masaai kila mtu, imetambuwa hiyo sheria. Ama mtu akubague aseme wewe ni Muislamu hauna haki hapa, unarudi kwenye Preamble unamwambie Preamble imetambuwa kuwa Kenya hakuna dini moja, kuna dini tofauti tofauti. Hiyo ndio umuhimu wa utangulizi ni philosophy, the guiding philosophy in the country ndio iko katika Preamble, tumefahamu hapo?

**Audience:** Ndio.

**Com. Lethome:** *Somaxa?*

**Audience:** *Xa*

**Com. Lethome:** Haya tuingie katika Chapter one, sehemu ya kwanza ya hii sheria. Sehemu ya kwanza ya hii sheria ambayo tumeita Chapter one, yote ambayo iko na Articles kuanzia article 1 mpaka article 5, imetilia umuhimu sana katika raia.

Tuchukueni mfano, Bunge tumelipatia uwezo wa kutengeneza sheria ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Nani wako katika Bunge? Nani wanakaa katika Bunge kutengeneza sheria? I want you to participate nataka tushirikiane?

**Audience:** MPs.

**Com. Lethome:** Members of Parliament, MPs, nani amewaweka Bunge?

**Audience:** Raia.

**Com. Lethome:** Sisi wenyewe, kama hamkupiga kura yenu, Shabaan Isaack angekuwa Bunge?

**Audience:** Hapana.

**Com. Lethome:** Kwa hivyo ile legislative authority, ile nguvu anazotumia kutengeneza sheria Bunge, nani amempatia hizo nguvu? Anafanya hiyo kazi on our behalf as the people kwa hivyo Katiba hapa imetambua kuwa the legislative authority is the people authority, tunampatia tu yule mbunge na ndio sababu hapa baadaye utaona tumesema, huyu ambaye tumempeleka huko kwa nguvu zetu akafanye kwa niaba yetu, asipofanya hiyo kazi, tuna-recall tunamrudisha hapa. Kwa mfano, mkimchagua Bunge akienda huko asifanye kazi yake, kuna kitu unaweza kumfanyia kuna hatua yote unaweza kumchukulia kwa sasa?

**Audience:** Hakuna.

**Com. Lethome:** Utamwambia wewe ngoja tu mwaka tano ikiisha utarudi kwetu hatutakupatia kura ama sivyo?

**Audience:** Ndio

**Com. Lethome:** Katikati ya mwaka tano kuna kitu unaweza kufanya?

**Audience:** hapana

**Com. Lethome:** Unakaa tu unapiga makofi akipita ama unamuomba *shan boqol* ama sivyo? Kwa hivyo tumesema, ili kumuonyesha kuwa yuko huko kwa uwezo wa wananchi asipofanya kazi, tumesema wananchi wana haki ya kumrudisha, kuna utaratibu ambao umewekwa hapa.

Executive, wale ambao wanasimamia serikali, hivi sasa executive ni President na anasaidiwa na cabinet Ministers. Leo hii nani amuweka President awe katika hicho kiti kikubwa, ni nani amemuweka?

**Audience:** Raia.

**Com. Lethome:** Ni kura ya mwananchi, ina maana kuwa the Executive authority ambayo yuko naye ni amepewa na wananchi,

he should exercise that authority on behalf of people. Lazima aitumie hiyo nguvu zake kwa niaba ya wananchi kulingana na sheria.

Cabinet Minister ili apate hiyo bendera yake, si lazima arudi kwenu achukue kura, bila kura yenu anaweza kuenda kupewa hiyo benderea?

**Audience:** Hapana.

**Com. Lethome:** Kwa hivyo executive authority is the authority of the people, ni nguvu za wananchi wenyewe lakini kwa vile kila mmoja hawezi ku-exercise tumepatia watu wachache waitumie kulingana na sheria.

Judiciary, judge amewekwa pale ili kuhumu watu wakiwa na makosa, nani amemuweka pale? Nani amemuweka pale?

**Audience:** Rais.

**Com. Lethome:** Kwa sasa kulingana na hii sheria amewekwa na Rais, ndio amemchagua akamuweka pale, na Rais nani alimpatia uwezo wa kuchagua judge?

**Audience:** Mwananchi.

**Com. Lethome:** Kwa hivyo utakuta the Legislative Authority, the Executive Authority, the Judicial Authority, is the authority of the people, mmefahamu hiyo?

**Audience:** Ndio.

**Com. Lethome:** Kwa hivyo utakuta hapa tumesema, kitu muhimu katika hii Katiba baada ya kuwasikiza wananchi na kuangalia matatizo mengi ambayo tuko nayo kama nchi, kitu muhimu ni kuwa mwananchi ndio apewe umuhimu kuliko kila kitu. Kwa sababu yeye ndio ametoa mamlaka ya Rais, mamlaka ya Parliament, mamlaka ya jaji, mamlaka ya kila kiongozi. Ni kwa sababu ya mwananchi ndio kiongozi yuko hapo, na ndiyo tunasema wao ni watumishi wa wananchi, na ndiyo unaona nchi zingine kama Tanzania hakuna neno Mheshimiwa, wanaita ndugu kwa sababu wao ni watumishi wa wananchi. Kitu kingine ambacho imewekwa umuhimu katika hiyo sehemu ya kwanza ni kuhifadhi Katiba, kuilinda Katiba na ndiyo tumesema katika hii Katiba mpya tumependekeza kuwa au wananchi wamependekeza kuwa hakuna mtu ambaye is above the law. Kila mahali tulikuwa tunaenda tunasema hatutaki hatutaki a President who is above the law, we don't want a leader who is above the law, tunataka kila mmoja afuate sheria.

Kwa hivyo utaona kila sehemu tumeandika kuwa hata President is subject to the law. Hata President, Prime Minister, Deputy Prime Ministers, Cabinet Ministers, Judge, kila mtu lazima afuate sheria, asipofuata tumeweka sehemu ya kumchukulia hatua. Kila mmoja atachukuliwa hatua ya kisheria, kisha tunaingia katika Chapter two, *sug walalo*.



Tumesema kuwa Kenya ni jamhuri, kuna tofauti baina ya kuwa Kenya ni Republic ama pengine inafuata nidhamu nyingine kama vile kingdom ama nidhamu nyingine ambazo zinafuatwa. Kuna umuhimu wa kutaja kuwa Kenya ni jamhuri kwa sababu isipokuwa jamhuri kuna nidhamu nyingine ambayo inafuatwa katika sehemu zingine. Kwa mfano kama Kenya ni ufalme na mimi ndiyo mfalme kwa sasa, nikishakufa ama nikiondoka nani anachukuwa?

**Audience:** Familia.

**Com. Lethome:** Mtoto wangu ndiye anachukua ama ndugu yangu ama mtu mwingine. Kama vile Malkia wa Uingereza akiondoka, tunajua mtoto wake ndiye atakayechukua. King Fahad wa Saudi Arabia akifa leo hii tunajua ni mmoja katika wale watoto wa King Saud ibn Abdul Aziz ndiyo atachukuwa, Kenya tuko hivo?

**Audience:** Hapana.

**Com. Lethome:** This is a Republic, na Republic ina nidhamu fulani ambayo inafuata ndio ikawa na umuhimu tutaje hapo kuwa Kenya ni Republic. Mipaka ya Kenya, katika hii Katiba, mipaka ya Kenya haijatajwa, katika Katiba mpya tumependekeza na wananchi wamependekeza kuwa territory ya Kenya lazima ijulikane ki-Katiba. Lazima iandikwe kwenye Katiba ndio utaona nyuma kabisa kuna namba nyingi sana wale watu ambao wamesomea kazi ya survey watajua hizo namba zinasema nini.

Kwa sababu isipokuwa katika Katiba mtu anaweza kuja akaibadilisha vile anavyotaka ndio sababu tumesema lazima iwekwe kwenye Katiba mpya, mipaka yote ya Kenya. Pia katika Katiba imetajwa both international na hata administrative boundaries pia ziko ndani yake.

Kitu kingine ambacho kimetajwa hapa ni kuwa tunajuwa hivi sasa ukimuuliza mtu yeyote which is the capital city of Kenya?

**Audience:** Nairobi.

**Com. Lethome:** Nairobi, iko wapi imeandikwa kuwa Nairobi ndio capital city? Imeandikwa wapi ama ulisikia tu? tumesoma tu kwa shule na tumesikia tu ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Kuanzia sasa ikipitishwa tunataka iwe kwenye Katiba, ikibadilishwa baadaye ibadilishwe kwenye Katiba, ikiwa siku nyingine Mandera ndiyo itakuwa capital, iandikwe Mandera is the capital of Kenya. Umuhimu wa kuandikwa kwenye Katiba ni kuwa haiwezi kubadilishwa na mtu ovyo ovyo, mpaka wananchi waulizwe ndiyo iweze kubadilishwa. Kwa hivyo katika Katiba mpya itaandikwa lugha pia, lugha rasmi ya Kenya ni Kizungu na lugha ya taifa ni Kiswahili na pia all official documents shall be made available in both languages.

Kama ni Passport itaandikwa kwa lugha mbili, kitambulisho kwa lugha mbili, Katiba kwa lugha mbili. Sheria zote za Kenya zitaandikwa kwa lugha mbili, Kiingereza na Kiswahili na kwa sababu ya wale watu ambao hawawezi kusoma hizo lugha mbili, itaandikwa kwa Braille, sasa mimi ninajua hapo wasomali wanaanza kusema na lugha yetu ya kisomali itupwe mbali? Na wa

Garre nao wanasema na yetu je ya Kigaree itupwe, na mimi pia ninasema na yangu ya kimaasai itupwe hapana. Tunasema hapa, the state shall respect and protect the diversity of language of the people of Kenya. Hizo lugha sio mimi nimeumba ni Mwenyezi Mungu ameumba ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Kwa hivyo lazima ziheshimiwe pia, kwa hivyo tunasema hapa serikali lazima i-respect, iheshimu kila lugha kwa hivyo kama ni lugha ya kisomali watu wasome, kama ni lugha ya kigarre watu wasome kama ni kimurulle watu wasome, iko lugha inaitwa kimurule? Hakuna ni kisomali pia.

Mas'ala ya dini ni sensitive sana kwa kiarabu wanasema *hasat jidda* yaani ni ukidarwa tu mambo ya dini saa hizi ukitaka kuchokoza watu wa Manderu wewe dara mambo ya Kiislamu, ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Ukidara tu mambo ya Waislamu umechokoza hapa Waislamu ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Ukitaka kuchokoza wa kristo wewe dara mambo ya dini yao, dini ni kitu muhimu sana kwa kila binaadamu. Na nchi ya Kenya kwa mfano saa hizi ukiulizwa Kenya ni nchi ya dini gani?

**Audience:** Wanasema ni ya kikristo

**Com. Lethome:** Wanasema ni ya kikristo, sasa kuanzia sasa hatutaki hiyo mambo wanasema, tunataka kuangalia Katiba inasema nini, hii Katiba is silent haikusema habari ya dini ama chochote. Kama kuna state religion kwa mfano ukienda Saudi Arabia kwa dini yake. Hakuna dini ambayo itaungwa mkono na serikali kama kwa mfano chombo cha serikali kama vile KBC inatoa nafasi ya matangazo ya kidini lazima dini zote ziwe sawa. Hakuna ingine inapewa kila siku, nyingine inapewa siku moja peke yake, zote ziwe sawa na kuna tofauti baina ya kusema there is no state religion na kusema Kenya is a secular state, hayo mambo mawili ni tofauti. Unaposema Kenya is a secular state, maana yake ni nini? Hakuna dini, *laa diniya* kwa Kiarabu tunasema hivyo, hakuna dini. Ni kweli kusema kuwa Kenya ni *laa diniya*?

**Audience:** Hapana

**Com. Lethome:** Kenya kuna dini, lakini hakuna state religion, hakuna dini ya taifa au ya serikali. "There is no state religion, ndio tunasema hapa there shall be no state religion, the state shall treat all religions equally" dini zote Kenya ni sawa. Watu wamedhulumika unakwenda mahali unataka kitambulisho ama kuhudumiwa katika ofisi kwa sababu jina lako ni Abdulrazak tu, hiyo tu Abdulraza imekuharibia mambo yako.

Kwa mfano mimi nimekwenda ku-apply Passport kwa sababu tu ya jina Ibrahim Osman, nikaambiwa wewe ni woria, ala sura yangu ni kama woria, lakini kwa sababu ya jina la Kiislamu unabaguliwa. Au mahali pengine unabaguliwa kwa sababu ya dini nyingine yeyote. Hatutaki watu wabaguliwe kwa sababu ya dini, all religions are equal, zote ziko sawa, kisha kuna kitu kingine hapa hivi, amesema state and religion shall be separate, mambo ya nchi mbao mambo ya dini mbali, mtu asitumie ofisi yake katika serikali kueneza dini yake, ama kutetea dini yake no. Lazima atofautishe baina ya dini na serikali.

Halafu kuna zile alama za kitaifa kama vile bendera, kuna kitu kama court of arms ile kirauni ya Kenya na vitu vingine, hizo ni alama za kutambulisha nchi. Ukienda mahali popote ukiona ile rangi, red, green, black unajua hii ni bendera ya Kenya. Ukiona ile simba mbili na ngao na jogoo kidogo katikati unajua hii ni alama ya Kenya, court of arms. Lakini watu wengi wamelalamika kuhusu ile jogoo kidogo iko katikati ya crown, wamelalamika wamesema ni alama ya nini?

**Audience:** KANU.

**Com. Lethome:**Watu wengi wamesema iondolewe ile lakini hiyo inategemea mapendekezo ya watu. Kwa hivyo sehemu Chapter one and two inazungumzia juu ya mambo hayo. Nitatoa nafasi ya maswali lakini tuendelee kwanza kidogo. Kuna mambo ambayo ni muhimu pia ambayo tunaita national goals, values and principles, kwa mfano unafungua duka, unapofungua duka lengo lako ni ni ya kufungua duka?

**Audience:** Kupata faida

**Com. Lethome:** Kupata faida ama sivyo? Kuna mtu anafungua biashara apate hasara?

**Audience:** Hapana

**Com. Lethome:** Labda mtu *majnun* mtu ambaye ni mwenda wazimu ndio atafungua duka apate hasara, kila mmoja anafungua duka. Haya unakwenda mtoni, kuna lengo gani ya kwenda mtoni?

**Audience:** Kuchota maji.

**Com. Lethome:** Kuchota, hakuna mtu anaenda mtoni kwa sababu ya mambo mengine ama pengine kutega samaki ama kufanya mambo mengine. Kwa hivyo kila kitu ambacho mtu anafanya kuna *hadaf*, kuna lengo fulani. Kwa hivyo na sisi kama nchi pia kuna lengo fulani ambayo tunataka kufikia ndio tunaziita national goals, kuna values and principles. Kuna mambo ambayo ni muhimu katika nchi, hiyo imewekwa katika Chapter three. Na kwa ufupi tu, katika malengo ya nchi yetu ya Kenya, kuna mtu anataka Kenya watu watengane kila sehemu iwe peke yake? Kuna mtu anataka hivyo?

**Audience:** Hapana.

**Com. Lethome:** Kuna wengine walikuwa wanasema hivyo, lakini walikuwa hawajui maana yake ni nini. Kwa hivyo tunasema hapa katika malengo ya nchi ni kuwa tuwe nchi ya umoja, national unity, tuweze kuhifadhi umoja wa nchi ya Kenya. Kitu cha pili, tuweze kutambua diversities, tofauti zetu. Tofauti ziko, hata Mwenyezi Mungu mwenyewe ametaja kwenye Qur'an, *waja' al nakum shu'uban waqabaila*, Mwenyezi Mungu mwenyewe ametaja, kwa hivyo sheria lazima itambue kuna tofauti. Na

hizo tofauti sio aibu la, kwa hivyo usione haya kusema mimi ni Mgarre ama mimi ni Msomali no, we have to be proud of that.

Unafikiri ni accident kuwa wewe ni Msomali, is it an accident?

**Audience:** Hapana.

**Com. Lethome:** Mwenyezi Mungu ametaka uwe hivyo, usione haya na mimi I am proud I am a Massai, Mwenyezi Mungu ametaka niwe hivyo ero ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Diversity lazima zitambuliwe, democracy pia itambuliwe katika nchi. Transparency and accountability hiyo ndio tatizo kubwa ambayo tuko nayo katika nchi kwa mfano mimi ni kiongozi katika Mandera District, serikali imetoa pesa za development imeniletea kwa kawaida wananchi wanajuwa ni pesa ngapi imeletwa ya development?

**Audience:** Hapana.

**Com. Lethome:** Imetumiwa vipi kuna mtu anajuwa?

**Audience:** Hapana.

**Com. Lethome:** Na ndio unakuta watu wamekosa imani na serikali ama na viongozi kwa sababu ya nini, leo hii mimi nikichaguliwa si unaona sina tumbo kubwa, nikichaguliwa saa hizi nisimamie kazi fulani ya serikali, nikianza kutoa tumbo mtasema nini? Msinifiche semeni wazi wazi, mtasema nini?

**Audience:** Amekula

**Com. Lethome:** Amekula si ndio?

**Audience:** Eh.

**Com. Lethome:** Amekula, hata kama ni zangu Mwenyezi Mungu amenipatia tu rizki yangu imetoka mahali ingine, mnasema amekula kwa sababu hatujui pesa zile za serikali unatumia namna gani. There is no transparency ama sivyo?

**Audience:** Yes.

**Com. Lethome:** Hakuna transparency ndio tunakosa imani kabisa. Na mpaka hivi sasa imeingia kwenye akili yetu. Kwa mfano tukimchagua yule Abbas Maalim, yule tumesoma nayo alikuwa mdogo hivi *amekuwa hog* weine sijui amekula wapi? Saa hizi tukimchaguwa halafu tuone bado anaendesha ile gari yake kidogo tunaanza kusema yule mjinga amepelekwa mahali ya kukula hajakula si ndio hivyo tunasema?

**Audience:** Ndio.

**Com. Lethome:** Kwa hivyo ni attitude imetuingia hiyo lazima tubadilishe hiyo mambo ya kukula. Unawekwa pale kwa niaba

ya wananchi and they should know what you are doing, lazima wajue vile unavyofanya, mumefahamu hiyo? Kwa hivyo katika malengo yetu katika sheria mpya kuwe na transparency and accountability. Ukija ukiulizwa kwa mfano wewe ni kiongozi fulani, pesa ulipewa ngapi za kutengeneza barabara yetu hapa ya Mandera, sema nipewa Million hamsini, mpaka sasa umetumia ngapi? You should be able to show, unaweka kwenye notice board, nimeletewa pesa fulani, nimetoa contract kwa mtu fulani, tumetumia kiasi fulani that is accountability and transparency. You are accountable to the people, lazima watu uwajulishe pesa zao unatumia namna gani. Kwa hivyo kama unatamani kuwa kiongozi under the new Constitution, mambo ya kukula na mambo ya kuficha ficha hakuna, we want transparency.

Kitu kingine mambo ya corruption, ufisadi ndiyo imeuwa nchi kabisa, kwa hivyo tunasema katika malengo yetu ya nchi ni kuwa tupigane na ufisadi na ufisadi tusingalie tu yule traffic policeman ule anakula pale shilingi tano, kuna wale wanakula millions up there. Kwa hivyo corruption kuanzia chini mpaka juu lazima iangaliwe hii ndiyo imemaliza nchi yetu.

Halafu uadilifu, mambo ya justice kila mmoja aweze kupewa haki yake. Mambo ya political parties and principles of democracy, leo hii mnaweza kusikia viongozi wa vyama vya kisiasa ana simama nasema habari ya democracy, ukirudi kwenye party yake unakuta ile party utafikiri ni yake binafsi. It is like his private property, ama sivyo? There is no democracy, ndiyo utakuta hapa mwisho lazima ikuwe na monitoring ya political parties kuhakikisha kuwa kuna democracy ndani ya political party. Kuna political party zingine tangu ilipoundwa mpaka sasa hawajafanya grassroots elections ama uchaguzi ya huko chini ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Unakuta wale ambao walikuwa viongozi miaka kumi iliyopita mpaka leo wao ndiyo viongozi, tusitaje yeyote tunasema tu vyama ya kisiasa hakuna shida. Kwa hivyo tumesema political parties lazima pia wazingatie democracy within the party itself hatuwezi kupata democracy nje bila democracy within the party. Tumewaeleza vile itakavyokuwa, na kuanzia sasa pia tumeeleza political parties zitakuwa zinapewa funds, kutakuwa na funding kwa sababu wananchi wengi wamesema hivyo, inakuwa hata katika kupigania viti, parties zote haziko sawa kwa sababu kuna parties zina nguvu na zingine hazina nguvu ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Kwa mfano leo tukitangaza tu anzeni kufanya campaign kuna parties zingine hata gari moja hakuna, gari moja itabidi waanze kuomba omba Sheikh gari yako ama ile piki piki yako tunaweza kutumia kufanya campaign ama sivyo? Na kuna wengine kila kitu wako nayo mpaka niliambiwa Elwak hata helicopter wako nayo ya kufanya campaign. Tunataka political parties zote ziwe sawa kutakuwa na fund, political party's fund. Lakini ili upate hizo fund, kuna code of conduct ambayo lazima ufuata kuna sheria za kufuata na moja katika hizo sheria ni kuwa kila political party lazima iwe democratic, lazima iwe inafuata democracia.

Kisha pia tunazingatia the role of civil society, hatuwezi kufanya kazi na serikali peke yake bila ya civil society kama vile NGOs kwa sababu NGOs huwa zinakuja, zinakuja kupigana na serikali?

**Audience:** hapana

**Com. Lethome:** No, imekuja kusaidiana na serikali katika kuwasaidia wananchi au kuwahudumia wananchi kwa hivyo we have to recognize the role of civil society, halafu pia tuzingatie haki za binaadamu na mtaona vile tumepanga mambo ya haki za binaadamu. Kisha kuna watu ambao ni marginalized, leo hii Kenya tukisema habari ya watu marginalized ambao wametengwa, ni watu gani?

**Audience:** Pastaralist

**Com. Lethome:** Ukisema pastoralists ni marginalized, watu wengine? Disabledni marginalized, women are marginalized people haki zao nyingi wananyimwa na ndiyo unaona leo katika Bunge ambao tuna watu mia mbili ishirini na mbili, how many women do we have there? Not more than six, unakuta kuwa kuna marginalization kwa hivyo katika lengo letu katika hii sheria mpya ni kuangalia kuwa hakuna mtu ambaye yuko marginalized au kama yuko marginalized kuwe na affirmative action ya kuweza kumleta mbela. Upande wa development kuna sehemu ambazo ni marginalized ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Mimi ninajuwa mtasema Mandera ni marginalized, lakini Mandera sio marginalized, enda sehemu zingine ndio utajuwa ni marginalized kweli, kuna sehemu mbaya kuliko Mandera, Masai land, Narok, Kajiado.. unajuwa kila mmoja anavuruta upande wake ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Mambo ya one third rule for women, kila chombo chochote ambacho kuna uwakilishaji kuwe na thuluthi moja iwe ni wanawake. Najua hapa ma Sheikh wataanza kusimama waanze kupiga vita waseme *maya* haiwezekani. Tunasema naam kwa sababu kuna sehemu pia ya dini, watazingatia dini yao, mama ukichaguliwa kuwa Councillor ina maana umetupa hiyo *hijab* yako?

**Audience:** Hapana.

**Com. Lethome:** Unafuata dini yako na pia unapigania haki za kina mama. Hata yule mama amejifinika mpaka *nin'kab* hakuna sheria inasema atoe *nin'kab* yake, sheria imehifadhi *nin'kab* yake lakini asipite mipaka ya dini. Kwa hivyo Shiekh wacha kina mama pia wafanye, hata katika siku za Mtume Muhammad (S.A.W.) si walikuwa wanapelekea *Mujahidin* chakula? Si walikuwa wanawapelekea, walikuwa wanasaidia *Jihad* kwa kupeleka chakula, hiyo ndiyo ilikuwa *Jihad* yao. Na wale walikuwa wanajeruhiwa wao si ndiyo walikuwa wanatengeneza, walikuwa wanapatia dawa, kwa hivyo sasa wacha waingie kwenye County Council, Parliament, watatengeneza chakula na pia watatengeneza wale wagonjwa wagonjwa huko Inshaallah kulingana na dini vile inavyotaka.

Mambo ya equitabl development, isiwe sehemu moja iko na development sehemu nyingine haina development. Halafu tuangalie

pia future generation, wajuwa taabu yetu ambayo tuko nayo katika nchi kama hii ni kuwa unakula leo haujali kesho wale watakuja kesho watapata nini, ndiyo unaona kwa mfano kama ni msitu miti inakatwa yote, wanasema wale watakuja shauri yao ama si ndio tabia yetu siku hizi?

**Audience:** Yes.

**Com. Lethome:** Mazingara inaharibiwa kwa sababu haujali wale ambao watakuja baadaye watakula nini, nitawapa mfano wa nchi moja ambao nimetembelea nimeona ajabu vile kiongozi alizungumza. Nchi yenyewe ni Libya, nimehudhuria kikao cha Bunge walipokuwa wanapitisha budget yao, Gaddafi ameangalia ile budget imeletwa na Minister wa Finance akaitupa, akamuambia sitaki nenda ukatengeneze ingine, akaulizwa kwanini ya Sayid Rais, akasema ni kwa sababu hii haiangalii vizazi vijavyo, akawaambia tulipochukuwa hii nchi, tulisema kuwa rasilmali yetu kubwa ni petroli, hatutaki income yeyote ya petroli itumiwe katika administration kwa hivyo tunataka miaka ya kumi ya kwanza tutumie only 30% kutoka kwa income ya petroli tutumie kwa administration, 70% development kwa sababu ya watu wale watakaokuja baadaye.

Tuko katika desert we have to reclaim the desert ile desert tuna badilisha inakuwa ardhi nzuri. Sasa miaka hii yote imepita bado ninaona ni 30% na alikuwa amepanga baada ya miaka kama thelathini hivi a hundred percentage inaingia kwa development, mambo ya administration wanatumia income nyingine kutoka kwa industries na mambo mengine. Gadaffi alitupa na walikuwa wamemuletea zile saviets ya kujifuta jasho kutoka Italy, made in Italy, anawaambia until when are we going to import this from Italy, can't we manufacture even paper for ourselves, akatupa, akawaambia wale Ministers wake, I don't care about myself, I might die tomorrow, I fear for the future generation, wale ambao watoto wanazaliwa leo, wale ambao bado wako skulini leo. Tukikata hii miti yote ya Mandera watumia kitu gani kwa hivyo tumesema moja katika guiding principle ni we have to take into consideration the interest of the future generation, kisha uhusiano wetu na nchi zingine za Africa na zinginezo, kwa hivyo utaona hapa kuwa tumeweka malengo yetu yanajulikana ni kitu gani, tunataka kufikia wapo.

Kisha kuna *wajib* wa mwananchi, mara nyingine unaweza kuenda mahali kama Nairobi unakuta imeandikwa, 'keep your city clean', kwanza ni safi siku hizi hiyo city, is it clean?

**Audience:** No.

**Com. Lethome:** Nani amesababisha hiyo uchafu, mimi ninajuwa watu watasema ni city Council ama sivyo? Si ndio utasema ni city Council, nani amesababisha hiyo uchafu?

**Audience:** Wananchi.

**Com. Lethome:** Wananchi, mimi na wewe. Unakwenda unakula chips uko ndani ya gari yako unakula chips ukishamaliza kula ile karatasi unatupa wapi? Ukikula ndizi unatupa wapi?

**Audience:** Kwa barabara.

**Com. Lethome:** Yaani hauna kule kuwajibika, ngoja tumalize hiyo kazi kidogo, kwa mfano ukiuliza mtu hapa wa Mandera kwa nini Mandera town ni chafu, utasema county Council ama sivyo?

**Audience:** Eh.

**Com. Lethome:** Unasahau kuwa hata wewe pia ume-contribute kwa sababu mama Halima wakati unatoa takataka nyumbani yako unaenda kumwaga hapo nje, umesaidia kuweka Mandera safi?

**Audience:** Hapana.

**Com. Lethome:** You have a duty also as a citizen ama unaposimamishwa na polisi, unajuwa gari yako ni mbovu na haina licence ama nini, badala ya kukubali uandikiwe makosa yako unatoa shilingi tano unampatia yule polisi, umelete ufasidi ama haujaleta ufasidi?

**Audience:** Umeleta.

**Com. Lethome:** Kwa hivyo unaposema the police officer is corrupt, you are the corrupt person namba one wewe, kama haukumapatia hangechukuwa. Kuna hadhithi moja inazungumzia habari ya *arashi wal murtashi* mwenye kutoa rushwa na mwenye kupokea rushwa, wote wawili dhambi yao ni sawa, wote wawili, *arashi wal murtashi*, wale wamesoma *fiqhi* ya Kiislamu inasema hivi ama sivyo? Kwa hivyo kila mmoja hapa tunajaribu kusema kuwa kila mwananchi, every citizen has a duty ya kwanza ili uweze kujuwa hiyo duty yako lazima ujijulishe Katiba, kwa hivyo ni wajibu wa kila mtu kuweza kusoma Katiba na kujua haki zako ndani yake na wajibu wako ndani yake. Lazima ujue haki zako na ndio mtu akija akitaka kuja kukudhulumu unamuambia no, hauwezi kupita hapa, hauna hiyo haki.

Mfano ambao ninauliza watu kila mahali, Sheikh saa hizi usiku mtu akibisha mlango, ukimuuliza, unauliza *wa'ayo* kwa kisomali ama unaulizaje?

**Audience:** *Ya waye?*

**Com. Lethome:** Akikuambia police officer unafanya nini?

**Audience:** Unafungua.

**Com. Lethome:** Unafungua haraka sana ama sivyo, akikuambia mimi ninataka kufanya search hapa kwa nyumba yako unafanya nini?

**Audience:** Unakubali.

**Com. Lethome:** Unamwambia haya haraka, unaambiwa wakina mama haya ondokeni, *dakso dakso* ondokeni ama sivyo haraka haraka?

**Audience:** Ndio.



**Com. Lethome:** Do you ever ask the police officer, “do you have a search warrant”?

**Audience:** Hapana.

**Com. Lethome:** Kwa sababu ya nini haujui haki yako ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Ni polisi ni polisi khalas, ni polisi ondokeni wakina mama wanaambiwa ondokeni apite. Hata kwanza haumuulizi jitambulishwe wewe ni nani hata akiwa na nguo ya raia. Unaangalia tu sura yake amenyolewa nywele kama polisi hakuna ndevu basi ni polisi, sura mbaya mbaya ni polisi hii ama sivyo? Ule wa kutisha tisha kwa sababu hacheki na watu. Haumuulizi can you identify yourself officer? Unapigwa kofi, ana haki ya kukupiga kofi?

**Audience:** Hapana.

**Com. Lethome:** He has no right to do that, akikufanya hivyo you can go to court, ukashtaki for assault, he has no right to search your house without a search warrant. Hana haki ya kukushika bila ya warrant of arrest isipokuwa kama anajaribu kuzuia uhalifu ambao utafanyika haraka. Mara nyingi hana haki ya kukushika, mara nyingi hana haki hata ya kukudara mwili wako, inatosha tu kukuambia Mr. so and so you are under arrest can you follow me to the police station? Inatosha bila hata kukushika lakini leo hii hata kama ni makosa kidogo, mikoni itakunjwa kunjwa iwekwe huko nyuma ama sivyo? Unashikwa surwali hapa juu unatembelea kwenye hewa juu. You don't know your rights, kwa hivyo ndio tumesema wananchi ili waweze kufanya kazi zao vizuri, kila mmoja ajue haki yake sawa, kwa hivyo kila mmoja ajijue haki yake, tuweze kuulinda Katiba na sheria.

Haki ya kupiga kura hiyo ni haki yako na ujue kuwa unapokosa kupiga kura au unapotumia kura yako vibaya umeza haki yako. That is your right, you cannot sell it to anybody and nobody can deny you that right, lakini leo hii watu wengine wanakosa hiyo haki. Ngoja tu tutaona mfano, kijana uko na card ya kupiga kura, nani hana hapa, iko mtu hana card ya kupiga kura? Nyote mko na card ya kupiga kura hapa?

**Audience:** sote tuko nayo.

**Com. Lethome:** Basi Alhamdulillah nyinyi mna bahati kuna sehemu zingine unakuta mtu anataka kupiga kura hana card ya kupiga kura ukiuliza ni kwanini, hana kitambulisho kwa nini hana kitambulisho, hana screening card, kwa nini hana screening card, wale wazee waku-verify hawaja verify kama yeye ni Mkenya. Kura zinafika, hawezi kupiga kura amenyimwa haki yake. Ndiyo tumesema katika hii Katiba serikali iweke sheria ya kuhakikisha kila Mkenya ako na document ya kumwezesha kupiga kura, that is a right it is not a priviledge, hiyo ni haki yako. Na hakuna mambo ya kubaguliwa sijui ako na screening card na huyo hana screening card, hii ni kabila ya mpaka lazima apatiwe screeing card.

Na mnajua kwanza hiyo screening card mumepewa na hakuna kwenye sheria mnajua hivyo?

**Audience:** Ndio.

**Com. Lethome:** Hakuna mahali iko kwenye sheria hakuna

**Audience:** Hiyo ni dhulma

**Com. Lethome:** Ilikuwa ni dhulma lakini Alhamdulillah imeondolewa hivi sasa tunaomba Mwenyezi Mungu isirudi tena kwa sababu inavunja haki zenu. Halafu pia mambo ya umoja tumezungumzia habari ya family life, ipewe umuhimu mambo ya democracy na mambo mengine mengi na tujue kila mwananchi ako na *wajib* kila mmoja ako *wajib* sio haki peke yake, kila mmoja ako na *wajib*.

Sasa tutaingia katika sehemu ambayo ni muhimu sana lakini kabla hatujaingia katika Chapter four mambo ya citizenship nataka kupumua kidogo kama kuna swali, swali iulizwe ninawapa dakika kumi ya kuuliza maswali kuhusu mambo ya Preamble, sovereignty of the people na mambo ya national goals, hizo Chapter tatu mtu yeyote ambaye ana maswali.

**Mr. Olad:** Yule anauliza swali anatakikana aseme jina yake na ndiyo ikue katika recording.

**Mohammed Okash:** Jina yangu ni Mohammed Okash, swali moja nilikuwa ninataka kuuliza ni ya kuwa kwa sheria mpya hii sasa mliweka ama tunaendelea kuweka ni kitu gani kinaweza kuonyesha kwamba mtu ni mwananchi wa Kenya, kama ana Passport na driving licence na ID card. Sasa ni gani muhimu ambayo mtu anaweza kuwa naye na ni gani anaweza kukosa?

**Mr. Olad:** Kuna mtu yeyote mwingine ambaye ako na maswali?

**Mohammed Ali:** Jina langu ni Mohammed Ali na swali yangu ni kuhusu, tuko na kipande kwa mfano na hiyo kipande inaandikwa Republic of Kenya na katika wale watu tumechagua ambao wanatuongoza, wanaitwa Government of Kenya ama wale watu wako na mamlaka ya kutawala sisi, hapa wananchi wa Mandera hasa hawajui serikali inafanya kazi gani na mambo ya kuandikwa Republic ya Kenya au wanabeba inafanya kazi gani? Ninataka Commissioner atufafanulie tofauti ya Government of Kenya and Republic of Kenya?

**Mohammed Okash:** Jina langu ni Mohammed Okash, Bwana Commissioner kuna lingine bado nimekumbuka tena. Sasa swali langu lingine ni kuwa tunajuwa ya kwamba birth certificates za hivi sasa ni tofauti na ile ya zamani ambayo ilikuwa inaonyesha ya kwamba wewe ni mzaliwa wa nchi hii, na ya sasa inaonyesha ya kwamba, you cannot claim to be a Kenyan citizen, sasa hiyo ni kusema ina maanisha nini na tulikuwa tunataka kujuwa tofauti ya hizo ili tupate ile ya zamani.

**Kulow:** Mimi ninaitwa Kulow, kwanza ninachukuwa hii nafasi kuwakaribisha nyinyi katika wilaya hasa katika hii makao haya ambayo tumekaa, swali langu litakuwa ni moja, kama tunaweza kuwa raia wa nchi nyingine kama vile Bula hawa huko, dual

citizenship ile tunaita, if it has been catered for in the Constitution.

**Hassan Osman Shabelo:** Bismillahi Rahmani Rahim, mimi ninaitwa Hassan Osman Shabelo, swali langu linahusu wakati wa jioni ambayo inateremshwa bendera ya serikali saa kumi na mbili unakuta hata kama uko mbali hivi, unasimamishwa na askari, unaambiwa simama na kwa kawaida mimi ninajuwa hauwezi kusimama kama uko hatua mia moja nje, uko na uhuru wa kutembea au kukaa chini lakini hapa naona hata ukitembea hatua mia mbili unasimamishwa unapigwa kofi, nilikuwa ninataka nijibiwe hilo.

**Mohammed Adan Maliche:** Jina langu ni Mohammed Adan Maliche sasa swali langu ya kwanza kwa nini polisi wanasimama border na kushika watu ambao wako na punda maskini wanabeba sukari na unga na mahindi ambayo ni chakula ya wananchi. Mbona polisi wanashika na kuchapa watu viboko, hiyo iko sheria ndani ya Katiba hiyo? Ninauliza hivyo.

**Abdiwahid Adan Abdullah:** Assallam aleikum, kwa majina naitwa Abdiwahid Adan Abdullah. Swali langu Bwana Commissioner ni moja tu, na hilo ni kama tuseme kwa mfano umetumwa kwa ofisi kwenda kupeleka karatasi yeyote ama u-sign ama uko na shida kwa ofisi fulani na yule officer akuambie hawezi kutengenezia hiyo document ama enda mahali unapotaka. Na sasa labda unapeleka malalamishi yako kwa mkubwa mwingine kama DC na wakutane na hakuna kitu watakufanyia, kuna sheria, kuna chochote ambacho ulifanya ili ustaki huyu mtu namna ingine kwa vile serikali yenyewe labda haiwezi ikachukuwa hatua na wewe unawacha tu nje.

**Hussein Barre Abdille:** Asante sana Bwana Olad kwakunipatia fursa hii. Mimi yangu ni machache sio mengi. Kwa hivyo mimi kwa majina naita Hussein Barre Abdille, mwenyekiti wa walemavu wilayani Mandera na North Eastern Chairman, katika mkoa mzima. Ningeomba kwa moyo mkunjufu nikiwa ninaongea kwa niaba ya walemavu, mimi ninasikia maumivu kidogo ninataka kutoka nje, ningependa kuwajulisha ya kwamba mtusaidie ya kwamba vile nilitoa maoni yangu hivi majuzi wakati mlikuwa hapa wale waliokuja, ningependa kuna shida nyingi sana katika walemavu ambao niliomba, yaani tuseme ya kwamba tunataka kitu kama vifaa vya kutembelea vya walemavu katika wilaya hamna na iongezwe kwa Katiba ya kwamba tungetaka kama motorbike automatic, magari automatic users, ambayo serikali ituletee kwa bei nafuu ili tusaidiwe na wale ambao hawawezi kununua, na tusema ma-organization ambazo zinahusika na katika mkoa mzima hakuna NGOs ambazo zinasaidia walemavu na kuhusika na walemavu peke yake katika wilaya mzima.

Hiyo ningeomba iongezwe kwa Katiba serikali itilie maanani na ningeomba ya kwamba kuna watu ambao kwa ujenzi wa taifa mfano kama mimi. Mimi nimeumia mpaka nimelemewa ninatembea na wheelchair na mimi ninachukuwa pension shilingi mia tano peke yake kwa mwezi na nilikuwa dereva wa serikali. Sijalipwa haki, nimelipwa shilingi elfu thelathini na nane peke yake. Hebu mkifikiria wenzangu ninauliza nyinyi, inaweza kusaidia mtu kama mimi amelemewa mpaka anatembea na wheelchair, yaani siongeei kwa niaba yangu peke yake, ninaongea kuna wengi wameumia wakiwa kwa ujenzi wa taifa mpaka wakalemewa ambao hatahawezi kutembea, wanatembea na wheelchair na nimeambiwa ile haki ambayo inapeanwa kwa Katiba ambayo

imewekwa ni shilingi elfu thelathini na nane, mtu kama mimi ambaye anatembea na magurudumu mpaka akalemewa.

Na wakati nilikuwa mfanyikazi wa serikali, serikali ilikuwa inanipenda ya kwamba kama mtu mfanyikazi wa serikali, dereva ambaye anatumwa mpaka Nairobi kwenda kuchukuwa wafanyikazi wa serikali nikiwa ninafanya kazi kwa Ministry of Health, kwa hivyo ningependa ya kwamba, ninazungumzia wale wanfanyikazi wa serikali ambao wameumia wamepatiwa kiwango kama hiyo na mtu amelemewa mpaka ako paralysed anatembea na wheelchair.

Kwa hivyo ningependa ya kwamba iwekwe kwa Katiba, hiyo msisahau ndugu yangu ninaomba. Ya tatu, ningependa ya kwamba kuna walemavu wengi wana watoto na hata hawezi kuwalipia school fees, ningependa ya kwamba serikali itilie maanani hawa watoto wao jinsi ambayo inaweza kuwekwa kwa Katiba, wafundishwe watoto wao.

Ya mwisho ningependa Bwana Commissioner maanake nimeongea mengi, ninaomba munisamehe na ningependa ya kwamba maneno yangu mtilie maanani ndugu yangu.

**Com. Lethome:** Chapter five inazungumzia habari ya haki za binaadamu na kuna sehemu special for people with disabilities soma kwanza.

**Mr. Olad.** Nafikiri wacha Commissioner ajibu haya then tutaendelea na mipango yetu kwa sababu tutakuwa na fursa leo jioni yote mpaka tumalize tuwe na maswali.

**Com. Lethome:** Kwanza kitu moja ambacho ningependa kuwaeleza ni kuwa hii ni Katiba, na Katiba ya nchi haiwezi kuandika kila neno nafikiri ingekuwa inaandika kila neno ingekuwa ni Katiba ambayo hata mtu hawezi kubeba pengine ingebidi kubeba na wheelbarrow ama gari ya punda, ikiwa itaandikwa kila kitu.

Kwa ufupi Constitution huwa inaandika zile broad principles, inatoa mwongozo halafu utakuta sehemu nyingi imesema Bunge lazima ipitishie sheria ya kuhakikisha jambo fulani limepatikana. Kwa hivyo usitarajie kuwa Bunge ama Katiba itaandika kila kitu, sijui wanfanyikazi wa serikali wakiumia walipwe kiasi fulani, no, itatoa broad principles kuwa mtu yeyote ambaye atakuwa ameumia kazini afanyiwe compensation. Details zake zitakuja kwenye pengine sheria zingine ambayo inahusiana na mambo ya labour na mambo mengine ambayo inahusiana na workmans' compensation. Kwa hivyo msitarajie kila jambo litakuwa katika Katiba, ngoja nirudi kujibu maswali moja baada ya nyingine nina maswali karibu sita.

La kwanza ni kuhusu mambo ya identification, ni document gani ambayo ukiwa nayo sasa unaweza kujitambulisha nayo kuwa ni Mkenya. Kwa sasa tunajuwa ukiwa na kitambulisho cha Kenya wewe ni Mkenya au passport, ni Mkenya, nchi zingine kama Tanzania, hata nchi nyingine kama vile Ghana na Nigeria tumekutana na watu kutoka huko, hawana vitambulisho. Passport tu inatosha kuonyesha kuwa mtu ni mwananchi wa nchi fulani au pengine document nyingine kama driving licence ama kitu

chochote ambacho kinatolewa na serikali.

Sisi katika hii Katiba mpya hatukuandika kuwa ni document gani ambayo ukiwa nayo wewe ni Mkenya lakini katika hii Chapter four ambayo nitasoma hivi sasa, tumeeleza nani Mkenya, ni mtu gani ambaye ni Mkenya kwa hivyo naomba msubiri Sheikh Mohammad Okash, tukisoma hii mambo ya citizenship utaona tumesema nini kuhusu nani Mkenya.

Kuhusu birth certificates, hilo swali ambalo umeuliza kuwa birth certificate sio ushahidi wa kuonyesha wewe ni Mkenya, hilo swali tumeeulizwa kila mahali. Swali ni hili, je ni birth certificate zote za Kenya mzima zinaandikwa hivyo ama ni za North Eastern peke yake? Nafikiri ni birth certificate zote, siku hizi zinaandikwa kuwa a birth certificate is not a guarantee of Kenyan citizenship, sababu ni kuwa birth certificate ni karatasi ya kuonyesha mahali mtoto amezaliwa. Sasa Kenya kuna watoto ambao wanazaliwa Kenya ambao sio wakenya?

**Audience:** Yes.

**Com. Lethome:** Yes, kwa mfano Balozi wa America anakaa hapa na mke wake akizaa mtoto wa Kenya atapewa birth certificate ya Kenya amekuwa ni Mkenya yeye?

**Audience:** Hapana.

**Com. Lethome:** Amekuwa si Mkenya. Mohammed Okash umetoka na mke wako mume kwenda Saudia Hija mke wako amejifungua huko, una haki ya birth certificate ya huko ama hauna? Amezaliwa hospitali fulani Madinatul Munawara, amekuwa ni Msaudi yeye? Kwa hivyo ndio utaona birth certificate ni ya kuonyesha mahali mtu amezaliwa. Ni kama vile death certificate inatolewa kuonyesha mahali mtu amefarikia, kwa hivyo kutakuwa tu na malalamishi ikiwa, kwa mfano ni wasomali peke yao wamepewa birth certificate kama hiyo, lakini kama ni wakenya wote wanapewa kama hiyo, nafikiri hakuna malalamishi yeyote.

Swali lingine ameniuliza hapa, tumesema kuwa Kenya ni Republic kuna tofauti gani baina ya Republic na Government. Hapa nafikiri unapozungumzia habari ya Republic unazungumzia habari ya nchi nzima. Nidhamu ambayo inafuatwa katika nchi ya Kenya ni nidhamu gani, ni ya kifalme ama ni ya Republic? Ndio tumesema hapa Kenya ni Republic na unapozungumzia habari ya Government, serikali unazungumzia juu ya chombo fulani katika hiyo Republic ambayo inaendesha nchi. The governing institutions of the country, zile ambazo zinafanya kazi ya kutawala katika nchi, hiyo ndiyo serikali kwa hivyo Republic ni kubwa kuliko Government, Government is just an institution within the Republic. Government ni ile ambayo mumechaguwa nyinyi, hii ndiyo itasimamia kuendesha nchi yetu, lakini Republic ni yote, kwenye mipaka. Wanyama wale wako katika hiyo nchi, wananchi wale wako katika hiyo nchi, nidhamu zote ambazo zinatumiwa katika nchi, that is the Republic of Kenya.

Kuhusu mambo ya dual citizenship, hilo swali sikujibu saa hizi utapata sasa hivi chini ya Chapter four, unasema unataka kuwa mwananchi wa Bula hawo na unataka kuwa mwananchi wa Mandera itakuwaje? Utaona sasa hivi.

Hassan Osman ameuliza kuhusu mambo ya bendera, sio bendera peke yake ni mambo mengi ambayo inafanyika unaambiwa lazima uheshimu kwa mfano unaambiwa heshimu crown ya Kenya, lakini ina maana usujudie hiyo crown, ina maana usujudu sasa kwa sababu ni crown umeambiwa uheshimu?

**Audience:** Hapana.

**Com. Lethome:** Kuna mipaka yake, heshima iko na mipaka yake. Kwa hivyo unaambiwa heshimu bendera ya Kenya, kuna mipaka yake, kwa hivyo ni juu ya serikali kueleemisha wananchi na hata hao polisi ambao wanapiga watu kwa sababu wanatembea kule kilometer moja na bendera inateremsha anampiga, aelemishwe pia huyo polisi mipaka ya hiyo heshima ya bendera, mipaka yake ni gani. Kwa mfano, mimi ninapita hapa hivi na mtu mgonjwa nimembeba ninamkibisha hospitali, nimeambiwa bendera ya Kenya inapoteremshwa nisimame, sasa hapo pia utaniambia nisimame, kuna mipaka ya heshima kwa hivyo hiyo mambo ya kupigwa kwa sababu ya bendera ni kwa sababu kwanza watu hawajui haki zao, pili hata huyo polisi hajui wajibu wake na mipaka yake.

Hiyo haiwezi kuandikwa kwenye Katiba, hizo details haziwezi kuingia katika Katiba, hiyo ni mambo ya sheria nyingine lakini the broad principles ni kuwa alama za nchi ziheshimiwe na haki ya mwananchi iheshimiwe. Polisi asivuke mipaka yake na mwananchi asivuke mipaka yake, kila jambo liko na mipaka yake, hata ibada iko na mipaka yake. Kwa mfano saum, unaambiwa funga mwezi wa ramadhani imengia funga ni wajib lakini umeambiwa ufunge mpaka usiku mzima mpaka siku ya pili usile chakula?

**Audience:** Hapana.

**Com. Lethome:** Unaambiwa kwanza ukifanya hivyo umeingia kwenye dhambi hata ibada iko na mipaka yake. Unaambiwa swali na baada ya swala *fantashiru fil ardhi*, toka katika ardhi ukatafute rizki ya Mwenyezi Mungu, ikiwa katika ibada kuna mipaka, katika kuheshimu serikali si pia lazima kuwe na mipaka, kila jambo lina mipaka yake.

Mohammed Abdow anauliza kuhusu polisi katika border wanapiga watu wakipita na chakula na punda hapo, hiyo ndio mambo lazima kuwe na polisi na lazima kuwe na mipaka. Kwa sababu kusipokuwa na mipaka, kutakuwa hakuna nidhamu na ndio leo tunaona nchi jirani yetu kuna matatizo mengi kwa sababu hakuna nidhamu lakini pia iwe na mipaka yake. Huyo polisi amewekwa pale kwa kazi gani, kusumbua watu wa punda wale wanaopita pale, leo hii mimi ninajuwa nikipita na lile gari langu kubwa la 'GK' atanisimamisha kweli? Atapiga salute kwanza afande, nipite, lakini wewe na punda yako unadhulumiwa ni kwa sababu hajui haki zako, anadhulumu haki zako na mimi pia anaona kama niko above the law, na ndio maana ya kusema pale mambo ya haki za binaadamu na usawa baina ya wananchi wote.

Kwa hivyo hausemi hatutaki polisi no, tunawaitaji polisi hatutaki border tunahitaji border, lakini kila mmoja ajue mipaka yake, asisumbue watu wambao wanapita kwa sababu ya chakula, jana mimi ninaenda border point, nimejikuta niko Somalia na Olad bila kujuwa, tuko Somalia bila ya kujuwa. Sasa hapo mtu angetushika uko aanze kusema mumevuka mipaka, hamna haki ya

kuvuka mipaka kila jambo liko na mipaka yake lazima izingatie mipaka yake.

Abdul Wahid anauliza kuhusu kwenda ofisini na kwa mfano unataka uhudumiwe, hauudhumiwi unaambiwa kwenda mahali unataka. Hiyo ndio lugha inayotumiwa kwa sababu ni kweli, kwa mfano kama mimi ni polisi officer OCS hapa, nikiudhulumu ama nikikataa kukuhudumia utanipeleka wapi, sasa utanipeleka wapi, iko mahali utanipeleka? Hakuna mahali, hata nikiwa the most junior officer, nitakudhulumu na nikuambie nenda mahali unataka, iko mahali utaenda? Hakuna mahali utaenda na ndio sababu chini ya Katiba mpya tumetengeneza ofisi ambayo tumeita the Public Protector, mlinzi wa wananchi kwa sababu kila mahali tumeenda watu wanalalamika about police brutality. Wananyanyazwa sana na polisi, sehemu zingine unakuta Chief amevuka mipaka ya kazi yake inakuwa ni kudhulumu wananchi, akitaka harambee kutoka kwako badala ya kuwa harambee ni khiari yako inakuwa ni lazima. Usipotoa hiyo, anakuja kuchukuwa mbuzi yako, imetokea hapa, kuna sehemu tunaambiwa wanachukuwa mpaka kuku ya wananchi wanaenda kuuza unaambiwa ni harambee kwa nguvu.

**Audience:** Hata hapa wanachukuwa mbuzi

**Com. Lethome:** Wanachukuwa mbuzi, hana haki ya kuchukuwa mbuzi, na utampeleka wapi? Iko mahali unampeleka? Ndio maana tunasema hii Katiba ilikuwa na kasoro kwa sababu haikutengeneza ofisi ya raia mahali wanaweza kuenda kulalamika. Ndio utakuta officer anafanya vile anataka hakuna mahali unaweza kumpeleka, lakini sasa tumesema kuna ofisi nchi zingine wanaita Ombudsman, Kenya tunaita Public Protector au Public Defender. Mlinzi wa raia, you can go and complain even against the President of the country, DO ama kama watakuwa ma-DO pia chini ya Katiba mpya, Chief, kiongozi yeyote unaweza kwenda kulalamika juu yake kuhusu ofisi kwa sababu tumesema authority ambayo imemuweka chief pale ama kiongozi yeyote imetoka kwa nani?

**Audience:** Raia.

**Com. Lethome:** Kwa raia, yuko pale kwa sababu ya raia, kama hawezi kuhudumia raia aondoke hatuna haja na yeye. Kwa hivyo tutaona katika sehemu ambayo inahusika na mambo ya executive tutaona tumeweka mipaka gani.

Hussein Barre, nataka usubiri Bwana Chairman mpaka tufike kwenye human rights, kuna section ambayo inazungumza juu ya watu wenye disability, tumeweka haki gani. Kuhusu hiyo mambo ya kulipwa na serikali, hiyo haiwezi kuingia kwenye Katiba, sisi hapa tumezungumza habari ya labour laws, serikali itengeneze labour laws nzuri, mambo ya compensation na nyingine itakuja chini yake hapo lakini hapa you will be covered under the human rights because ni haki yako ya kibinadaamu, ukiumia na ulikuwa unafanya kazi ya serikali ama unamfanyia mtu fulani kazi, huyu mtu aweze kukuangalia na pia utaona kuwa kuna mahali tumezungumzia habari ya social justice. Serikali iangalie wale ambao hawawezi kujiangalia, kwa hivyo you fall under that category, kwa hivyo fanya subra tukiingia Chapter Five utafurahi.

Citizenship chapter four mambo ya uraia, hiyo ninajuwa imesumbuwa watu wengi sana wa North Eastern ama sivyo, mambo ya uraia?

**Audience:** Ndio.

**Com. Lethonme:** Saa hii tukitembea mimi na wewe Nairobi Sheikh, nani atasimamishwa mimi ama wewe?

**Audience:** Mimi

**Com. Lethome:** Kwa nini utasimamishwa? Tuvae nguo sawa usivae inaitwaje ile kikoi, usifae kikoi na usivunge kilemba ya kisomali, uvae surwali kama mimi na wewe nani atasimamishwa?

**Audience:** Yeye.

**Com. Lethome:** Kwa nini?

**Audience:** Kwa sababu anakaa kama msomali.

**Com. Lethome:** Anakaa kama msomali, utaambiwa toa kitambulisho, wewe unatoka wapi? Unasema mimi ninatoka hapa Mandera, toa kitambulisho? Ukitoa kitambulisho unaambiwa toa screening card. Mimi nitaulizwa hiyo yote?

**Audience:** Hapana.

**Com. Lethome:** Kwa hivyo utakuwa sisi sote ni raia lakini tofauti tofauti, kuna first class na kuna second class sasa nyinyi sijui ni class gani?

**Audience:** Third class.

**Com. Lethome:** Haya tuangalie sasa tumependekeza nini kuhusu mambo ya uraia kwa sababu bila ya kujisikia kuwa wewe uko nyumbani hata hiyo mambo ya maendeleo ama patriotism kupenda nchi, uzalendo hauwezi kupenda. Ikiwa unaona kuwa uraia wako una shaka hata hauwezi kupenda ile nchi, unakaa tu pale kwa sababu hauna njia nyingine, ikipata nafasi nyingine you leave the country.

Mambo ya uraia, tumesema kuwa wananchi wote wa Kenya wako na haki sawa, na kama ni mambo ya priviledges lazima ziwe sawa kwa wananchi wote. Halafu tunaambiwa kuwa ikifika mambo ya duties and responsibilities, wananchi wote wako sawa, mambo ya Passport, kila mwananchi wa Kenya ana haki ya kupata Passport na documents nyingine yeyote ya kujitambulisha kuwa ni Mkenya. Usiende ukabembelezana uanza kutoa *shan boqol* ndio upate Passport, ni haki yako kama mwananchi wa Kenya kupata Passport, ni haki yako kupata kitambulisho, ni haki yako kupata document nyingine yeyote ya kukutambulisha wewe kuwa ni Mkenya, hiyo imewekwa kwenye Katiba. Unaweza kuwa mwananchi wa Kenya kwa njia gani:

1. Kwa kuzaliwa, unakuwa mwananchi wa Kenya kwa kuzaliwa. Every person born after coming into force of this Constitution is a citizen of Kenya, mtu yeyote ambaye atazaliwa baada ya Katiba hii kupitishwa, yeye ni Mkenya ikiwa wakati wa kuzaliwa mmoja kati ya wazazi wake alikuwa ni mwananchi wa Kenya. Kwa hivyo mama awe ni Mkenya baba si Mkenya, wewe ni Mkenya. Baba si Mkenya mama ni Mkenya, wewe ni Mkenya maadamu umezaliwa na



mmoja katika hawa ambao ni wakenya.

2. Na mtu yeyote ambaye ni Mkenya chini ya katiba hii hakuna mtu anaweza kukunyanganya uraia wako. Hakuna mtu ana haki kukunyanganya uraia wako.
3. Kuna namna nyingine ya kuwa Mkenya pia, namna ya ndoa. Sheria hii ambayo.. lakini msichana wa Kenya akitoka hapa ama kipatana na kijana kutoka huko, kutoka Marehan avuke hapa aje amuo, yule kijana hana haki ya kuwa Mkenya unakuta hapa kuna ubaguzi. Yaani mwanaume anaweza kupeana uraia, lakini mwanamke hawezi kupeana uraia. Hiyo imeondolewa sasa, mwanamke anaweza kumpa mtu wa nje uraia au mwanaume pia anaweza kufanya hivyo na watoto wao pia wanaweza kuwa hivyo. Kwa hivyo kijana ukioa msichana kutoka Somalia unaweza kumpa uraia na msichana wa Kenya akiolewa na kijana Msomali, ama Ethiopia, sudan ama sehemu nyingine, anaweza kumpatia uraia.
4. Kuna ile citizenship nyingine tunaita by naturalization, mtu ambaye anaishi Kenya kwa muda wa kuendelea yaani continuously, kwa muda ambao umezidi miaka saba, basi mtu kama huyo ana haki ya kuandikishwa kama Mkenya. Atume application apewe haki ya uraia. Details zake kuna watu wengine hawafai kupewa kuna wengine wanafaa kupewa, hiyo tunasema that is administrative, ni Bunge ipitishie sheria ya kuchunguza, huyu mtu atachunguzwa vipi ijulikane kwa nini anataka uraia wa Kenya, lakini ni haki yake baada ya kuishi Kenya kwa muda wa miaka saba kudai apewe uraia wa Kenya.
5. Kuna watu wengine ambao anazaliwa pengine mtoto mdogo hajafikisha miaka minane anapatikana katika territory ya Kenya, hajulikani ametoka wapi wazazi wake hawajulikani wako wapi, basi unaambiwa mtoto kama huyo ana haki pia ya kupewa uraia wa Kenya. That child will be presumed to be a Kenyan citizen, atachukuliwa kuwa ni raia wa Kenya, kwa sababu pia lazima tuangalie binaadamu halafu huyu ni mtoto mdogo amepotea hajulikani wazazi wako wapi, basi yule anafaa kupewa haki ya uraia wa Kenya.
6. Pia kuna watu wengine, Waislamu hawapatiwi hii nafasi lakini watu wengine wanakubaliwa kufanya ile kitu tunaita adoption. Unamchukuwa mtoto halafu unajandikisha kuwa ni mtoto wako, kwa Kiarabu tunaita *Attabanni*, mumefahamu hiyo? Unamchukuwa mtoto ambaye si wako unajandikisha kuwa ni wako, hasa watoto ambao ni mayatima, watoto ambao wako kwenye hizi children's homes, wanachukuliwa sana. Unaambiwa mtoto yeyote ambaye atakuwa adopted by a Kenyan citizen, yule mtoto pia anakuwa ni Mkenya, katika sheria ya Kiislamu hapa tumesema Muslims are exempted kwa sababu sheria ya Kiislamu, ma Sheikh wako hapa haikubaliwi kuchukuwa mtoto hivo, hata Mtume (S.A.W.) alipotaka kumchukuwa Seid, kumfanya mtoto wake alizuiwa akaambiwa hawezi kumchukuwa na kujandikisha awe mtoto wake, mwanzo alikuwa akimuita Seid Bin Muhammad, akaambiwa hapana, unaambiwa umuite kwa jina la baba yake na kama haujui basi ni ndugu zenu katika dini.
7. Tunaambiwa pia kuna mambo ya dual citizenship, kuna mtu ameuliza habari ya dual citizenship. Dual maana yake ni mbili, sheria hii ya Kenya haikubali, ukienda Britain upewe citizenship ya Britain umepoteza ya Kenya, labda uje vichocho vichocho sasa unaficha Passport moja. Lakini chini ya sheria mpya imekubaliwa sasa, dual citizenship imekubaliwa na kwa mfano unaweza kuwa citizen wa Somalia na wa Kenya, Ethiopia Kenya, America na Mkenya. Imeonekana kuna faida ndani yake na kuna madhara ndani yake lakini ni juu ya serikali kuangalia mambo ya

administration, hiyo ni mambo ya serikali lakini Katiba imetoa ruhusa, na imesemekana mtu yeyote ambaye amepoteza uraia wake wa Kenya kwa sasa, kwa sababu ya kuwa ana uraia wa nchi nyingine, sheria mpya ikipitishwa automatically anarudhishwa uraia wake wa Kenya. Kwa hivyo baada ya hapo unaweza kuwa na Passport mbili, mimi ninajuwa watu wengine wanasema kuna watu wengine watafanya uhalifu huko akimbilie huku, anafanya uhalifu hapa anakimbilia huko ama sivyo? Hiyo ni juu ya serikali kufanya hiyo kazi lakini ruksa imetolewa na Katiba na hii ni kwa sababu ya maoni ya wananchi wengin. Kuna watu ambao tumewabaguwa hapa ambao hawawezi kupewa dual citizenship, unaweza kutaka kuwa na Rais ambaye ni Mkenya na ni Msomali? Ama Rais ambaye ni Mkenya na ni America, tunataka awe na allegiance kwa nchi moja peke yake kwa hivyo ukiwa unapigania kiti cha uRais ama Prime Minister, hauna haki ya kuwa na dual citizenship, lazima uwe a Kenyan by birth na uko na citizenship moja peke yake.

Halafu mambo ya residence, tumesema hapa Article 26 wale ambao wako na hiyo documents, the following persons may enter and reside in Kenya so long as they comply with the conditions prescribed by Parliament governing entry and residence. Watu wafuatao wanaweza kuingia katika nchi ya Kenya bora tu wafuate masharti ambayo yamewekwa na sheria ya Bunge.

1. A former citizen, mtu ambaye hapo mwanzo alikuwa ni raia wa Kenya kisha pengine akapokonywa ama akapoteza uraia ako na haki.
2. A foreign wife or widow or foreign husband or widower of a citizen. Mume ama mke wa Mkenya au mjane wa Mkenya, mwanamke alikuwa ameolewa na Mkenya pengine kijana Mkenya amekwenda huko nje ameo mwanamke Mkenya halafu amefariki, yule mwanamke ana haki pia ya kuingia katika Kenya. Au mwanamke Mkenya ameenda akaolewa na bwana ambaye ni foreigner, huyo bwana pia ana haki ya kuingia Kenya, au mwanaume ambaye alikuwa ameo mwanamke Mkenya halafu yule mwanamke Mkenya akafariki pia huyo mwanaume ana haki ya kuingia Kenya.
3. A child of a citizen, mtoto wa Mkenya ako na hako.
4. Halafu mwisho wake inasema Parliament shall within one year of the coming into force of the Constitution, enact legislation governing the entry into and residence in Kenya of other categories of persons and providing for the status of permanent residence. Ni juu ya Bunge sasa kutengeneza sheria nyingine kuhusu wale watu wanaingia Kenya, wale watu wanaokuja kuishi Kenya, wale ambao wanataka permits za kuishi Kenya, hiyo yote itakuwa ni jukumu ya serikali ama ya Bunge kupitisha sheria kama hiyo.

Sasa tunaingia sehemu ambayo ni muhimu sana ambayo tunaita Bill of Rights, haki za binaadamu. Bill of Rights ni sehemu ambayo inasimamia haki za binaadamu na pia zimeitwa fundamental rights, haki za kimsingi. Kwa sababu ukiangalia mambo yote ambayo tunaizungumzia ikiwa haingalii haki za kimsingi hizo sheria hazina faida yeyote. Nchi ikiwa haiangalii haki za binaadamu, hiyo nchi haina faida yeyote ama haiwezi kuwa na maendeleo yeyote, ndio utakuta Chapter Five ndio Chapter kubwa kuliko chapter zote, infact imeanzia Article 29 mpaka Article 75, iko na Articles nyingi sana kwa sababu imeeleza juu ya haki za binaadamu.

Na hizo haki ambazo ni za kimsingi ambazo hakuna serikali inaweza kukunyanga kwa sababu haikukupatia haiwezi

kukunyanganya. Tumeweka wajibu wa kuhakikisha hizo haki zimepatikana juu ya serikali. Tatizo hivi sasa kwa mfano, watu wa North Eastern Province, utasikia kila mahali wanalalamika hatuna maji. Maji kwa binaadamu na kwa mifugo ni haki ya msingi ama sio haki ya msingi?

**Audience:** Ni haki ya msingi.

**Com. Lethome:** Kuna binaadambu anaweza kuishi bila maji ama chakula ama matibabu? Sasa ni juu ya nani kuhakikisha kuwa binaadambu anapata maji, anapata chakula anapata matibabu, ni wajibu wa nani? Yaani ni jukumu ya nani?

**Audience:** Serikali.

**Com. Lethome:** Ndio hapa chini ya Katiba tumeweka hiyo responsibility, yaani hiyo wajibu tumeweka juu ya serikali na ili kuhakikisha kuwa serikali imetekeleza huo wajibu wake, tumeweka pia mechanism ya enforcement. Enforcement mechanism, unawezaje kufuata hiyo haki yako. Kwa mfano, mfugaji ambaye yuko hapa Fino ama Arabia hana maji yake ya kunywa au ya mifugo yake, anaweza kuchukulia serikali hatua na kupeleka kotini ama kwa Commission ya Human Rights, kusema kuwa wako na hatia kwa sababu hawani timizi haki yangu ya msingi, ni haki yangu kunipatia maji.

Na inasikitisha, tulipotoka hapa Mandera mara ya mwisho tumekwenda mpaka Takaba, tumepitia Rhamu, kuna kijiji kidogo inaitwa Ola, halafu tumekwenda Banisa mpaka Takaba. Njiani, kuna kijiji kidogo tumekuta watu wanatuambia wanaletewa maji na tanker kwa wiki mara moja, kila family inapata litre ishirini kwa wiki moja, sasa nikaangalia hawa watu ni Waislamu kwanza, hiyo maji litre ishirini ni ya kutawatha ni ya kufua nguo, ya kuoga, ya kunywa ama ni ya mifugo? Saa hizi nikikupatia litre ishirini kwa wiki moja utafanya nini nayo? Huyu ni binaadamu, tumekwenda sehemu nyingine tunakuta watu wanapigana na wanyama kuzuia ile maji chafu imesimama barabarani, wanazuia wanyama wasiingie ndani yake kwanza wao wakunywe maji kama matope. Ni jukumu la nani kuhakikisha hawa watu wako na maji, sehemu nyingine unakuta nguruwe wa msituni wanaonga kwenye hiyo matope halafu unakuta mama anafukuza ndiyo aweze kuchota ile maji.

Yaani basic rights ya mwanadamu kama huyo amenyimwa kabisa. Takaba kuna wakati iliandikiwa kwenye magazetti, wale wanyama wanaitwa *Dhanyer* munajuwa *dhanyer* baboons, wamepigana na binaadamu kwa sababu ya shimo ya maji yaani binaadamu amefikia hicho kiwango anapigana na mnyama for survival kwa sababu ya maji, kwa sababu shimo ya maji ni moja peke yake. Whose responsibility to make sure that this human beings have water? Ni jukumu ya nani?

**Audience:** Ya serikali.

**Com. Lethome:** Ndio tumeweka hapa hizo basic rights, basic rights ni muhimu ajabu. Malalamishi yale yote yule bwana amelalamikia yote ungeangalia ni basic rights, fundamental rights, it is not a luxury anataka, ni zile haki yake kwa sababu yeye ni binaadambu anataka...

Article 30 inasema that the State shall observe, respect, protect and promote and fulfil the rights and freedoms in the bill of

rights. Shall observe, itaangalia kila kitu inapofanywa kwa mfano, serikali inataka kutengeneza hapa barabara, first thing, haki za kibinaadamu, wale binaadamu wanaishi mahali hapo wanahitaji hii barabara, itawadhuru namna gani. Serikali inataka kutengeneza factory hapa, the first thing to observe, wale wananchi wa hapo watafaidika namna gani, watadhurika namna gani.

Basic rights, respect wasivunje, they should not be in breach of basic rights, huyu binaadamu ndio ninaambiwa ameiba nimemshika mimi kama polisi, ni binaadamu ama si binaadamu, ninatakuwa nimuweke mahali aina gani huyu binaadamu ama amekuwa si binaadamu. Huyu binaadamu ako na dini yake, lazima niheshimu dini yake, basic rights lazima wa respect.

Protect, wafanye bidii kulinda haki ya huyo binaadamu, security ni haki ya kimsingi, serikali lazima ifanye bidii kuhakikisha kila mmoja ako na usalama. Promote kuendeleza kuzidisha, fulfil na kuhakikisha kuwa haki za kibinaadamu zinapatikana. Hebu tuangalie ni haki gani hizo za kibinaadamu.

Haki ya kuishi, serikali ndiyo imekupatia haki ya kuishi Sheikh, serikali ndio imekupatia uhai wako, who has given you your life, is it the Government, does the Government have the right to take it away from you? Kwa hivyo ni haki yako ya kimsingi to live because you are a human being, it is God given and nobody should take it away na ndiyo tumesema watu wamependekeza death penalty iondolewe. Mtu akiwa ahukumiwe kufungwa maisha asihukumiwe kuuawa iwachiwe Mwenyezi Mungu hiyo, hiyo ni mapendekezo ya watu wengi, death penalty iondolewe.

Equality, maadamu mimi ni Mkenya na wewe ni Mkenya, uwe tajiri, uwe ni mkubwa, we have to be treated equally, sheria lazima itulinde sawasawa. Tukiingia kotini sio judge anipendeleo mimi kwa sababu mimi ni mkubwa na akuonee wewe kwa sababu ni mdogo, na siku hizi unaambiwa 'mwenye nguvu mpishe' ama sivyo watu wanavyosema? Usipigane naye, anasema basi yule wachana naye tu, ana nguvu unamuondokea unaambiwa mbele ya sheria hakuna mkubwa, hakuna mdogo, hakuna kiongozo ama mwenye kutawaliwa. Watu wote ni sawa, every person is equal before the law.

Freedom from discrimination, hii ni muhimu sana sana, mambo ya kubaguliwa, kama screening card, hiyo ni ushahidi mkubwa sana wa kubaguluwa. Unabaguliwa tu kwa sababu wewe ni border tribe, hata nilikuwa ninauliza are Somalis the only people in the border? WaMasaai where I come from, tuko Tanzania na Kenya, wa Luo wako Kenya na Uganda, wa Bukusu wako Kenya na Uganda, to the extent that Moody Awori who is an Assistant Minister in Kenya, ndugu wake ni Minister wa Parliament ya Uganda, ako huku na huku, ako na screening card? That is pure discrimination, there are no two ways about it, kwa hivyo hapo tumesema ni haki yako kama binaadamu usibaguliwe, kwa hivyo mimi nikija hapa Mandera usinibague uanze kusema huyu ni *math mathau* no, that is discrimination. I should be treated equal like the Somalis and you should be treated also equal, usiambiwe ni nywele nyepesi uanze kudhulumiwa, hii ndiyo imeleta matatizo mengi Kenya.

Tukienda ku-apply for a job, usiniangalie kuwa mimi ni kabila fulani na wewe ni kabila fulani, we are all equal I should not be discriminated. Kwa hivyo tunaambiwa the state shall not unfairly discriminate directly or indirectly against anyone on one or more grounds including race, kwa sababu ya kabila yako unabaguliwa. Sex, wewe ni mwanamke unabaguliwa hauwezi kuridhi, hauna haki ya kumiliki mali, pregnancy kwa sababu huyu mama ni mja mzito unabaguliwa.

Marital status, huyu hajaoa afukuzwe hapa kwa sababu hajaoa, ni hatia kutooa, hata katika sheria ya dini unakuta wakati mwingine ni *sunna* sio lazima kuoa.

Ethnic or social origin, kwa sababu ya mahali umetoka unabaguliwa, kwa sababu ya rangi yako unabaguliwa, kwa sababu ya disability unabaguliwa. Nimekwenda Wajir msichana mmoja kiwete ananiambia, amekwenda kwa DO, alipoambiwa kuwa kuna msichana kiwete ambaye anatembea na crutches. Ako hapo nje akasema I have no time to see her, sina nafasi ya kumuona, ni Mkenya ama si Mkenya? Ni mwanadamu ama si mwanadamu? Kwa hivyo mambo ya discrimination on disability na hata nyinyi you are guilty of that. Majina yale ambayo munabandika watu ambao wana disabilities, kuna kijana tumemkuta mwalimu a primary school teacher anaitwa Gethow, anatuambia siku ilifika ya yeye kuoa, he had a problem getting a Somali girl to marry, hakuna mtu anakubali msichana yake akaolewe na kipofu, and he is very educated, more than me and you.

Hata wale wanamjuwa yule anaitwa, kuna mwalimu mmoja wa Garissa High School, he is a very intelligent boy, Siad hivi sasa amepewa nafasi ya kufanya Phd anywhere in the world. Have you been given that yourself? Even me I have not got that, unamshinda na nini, disability is not inability. Kwa hivyo ni kinyume cha sheria kumbagua mtu yeyote kwa sababu ya disability na leo tumebagua huyu bwana alipokuwa akiingia pale ilibidii abebwe juu, why? County Council haiwezi kuweka ramp pale hivi apite na gari yake mpaka hapa hivi. Sasa hizi tukimuambia teremka hapa kwenye viti hivi anaweza kuja kukaa hapo. We are discriminating against him, ni juu ya serikali kuhakikisha kuwa kuna facilities za kuwawezesha hata hawa watu wenye disabilities waweze kupata masomo. Wazazi nyumbani kuna wengine akiwa na mtoto ako na disability wageni wakija unamficha mtoto ama sivyo? Ama sivyo?

**Audience:** Kweli.

**Com. Lethome:** Unamficha huyu mtoto masikini huko, ni binaadamu ama si binaadambu?

**Audience:** Ni binaadambu.

**Com. Lethome:** Hawapelekwi skuli nimeuliza hapa kama kuna kipofu anajuwa kusoma Braille ananiambia hakuna na wako hapa vipofu, they have not been taken to school discrimination right from the home na majina ile ambayo wanaita kwanza wasomali unasikia wanaita *Omar farur*, wengine wanaitwa *turle* kwa sababu ako na kitu kwa mgongo ama sivyo? Na mwingine ako na macho moja mnamuitaje?

**Audience:** *Awar*

**Com. Lethome:** Mnajuwa wenyewe vile mnaita. That is discrimination, muwaite majina mazuri. Wasibaguliwe kwa sababu ya dini na mambo mengine yeyote ama lugha ama kwa sababu ya kuzaliwa, mtu amezaliwa mahali fulani asibaguliwe. Kwa hivyo hapo hiyo Article imepinga na imeharamisha mambo ya kubaguwa, mtu yeyote asibaguliwe.

Article 35 kuhusu wanawake hapa wanawake wako na haki sawa, women have the right to equal treatment with men including the right to equal opportunities in political, economic and social activities. Wapewe nafasi sawa, wazee mimi ninajuwa hata sisi

wazee wa Kiislamu ukiwa na watoto wawili, mmoja wa kike mmoja wa kiume, na kama hauna school fees ya kutosha inatosha mmoja which one will you take to school? Semeni bila kuogopa?

**Audience:** The boy.

**Com. Lethome:** kwa nini boy?

**Audience:** Atakuridhi kesho

**Com. Lethome:** Wangapi tunaona boys wanakuja kupiga wazazi wao wanaitisha pesa ya miraa anapiga wazazi? Wangapi tumeona wasichana wanasaidia family yao, wewe ndio Mwenyezi Mungu ujuwe ni nani atakusaidia, ogopeni Mwenyezi Mungu, hiyo ni kazi ya Mwenyezi Mungu bwana, kwa hivyo wapewe equal opportunities.

Kwanza Muislamu yeyote akibaguwa mtoto wakike ajuwe anapata dhambi kubwa sana, hakuna dini ambayo imepigania haki ya msichana kama dini ya Kiislamu. Mpaka Mtume (S.A.W.) anasema, '*yeyote ambaye atapewa watoto wawili wa kike ama zaidi afanye malezi yao vizuri mpaka wawe watu wazima awaoze, dhawabu yake ni nini, Al janna.*' Hiyo ndio inakuambia hivyo. Halafu hadithi nyingine inakuambia, '*twalabul elmu faridhatun ala kuli muslimin wa muslima*' kama riwaa inavyosema, wote wawili wana haki ya kutafuta elimu, kwa hivyo msibaguwe msirudi katika *jahiliya* ile ya kuzika watoto wa kike bwana walivyokuwa wakifanya Waarabu. Kwa hivyo sheria ya nchi imesema wapewe equal opportunities. Kuna wengine hapa wanasema sheria yetu ya Kiislamu inasema msichana aridhi nusu, hiyo imewekwa hapa imekubaliwa, lakini apewe haki yake hata hiyo nusu wengine hawapatiwi ama sivyo?

**Audience:** Ndio

**Com. Lethome:** Leo hii mzee akifa tu ngombe yote inasemekana ni ya nani? Ya kijana, msichana hapewi haki dhulma, that is discrimination, wapewe haki yao. Watu wazee, kuna mzee hapa amefikisha miaka sitini? Mzee akiinua mkono anataka kuzungumza anaambiwa yule ni mzee hakuna kitu anajuwa, that is discrimination, apewe haki. Kila mtu apewe haki yake wazee wapewe haki yao na vijana wapewe yao, unasikia Rais hata wewe ukifikisha miaka sitini upewe haki yako pia.

**Rais:** Miaka ngapi?

**Com. Lethome:** Sitini huyo ndio tunaita mzee. Watoto pia wapewe haki yao na katika haki ya watoto kuna haki moja ambao watoto wanadhulumiwa sana, unaweza kuwa tajiri lakini hakuna utajiri mkubwa ya kuachia mtoto wako kama elimu. Kwa hivyo elimu ndiyo kitu muhimu sana na ni haki ya mtoto, chini ya sheria mpya mtoto anaweza kudai hiyo haki na akupeleke kotini, mzee atasema lakini kama sina pesa ya kupeleka skuli, tumesema chini ya katiba mpya, free basic education. Elimu ya msingi ambayo ni ya bure, mimi ninajuwa hata sasa inasemekana ni ya bure, hakuna school fees lakini mtoto anakuja anakuambia inatakiwa vitabu ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Inatakiwa building fund, inatakiwa sijuit activity fees, inatakiwa nini, imekuwa hata zaidi ile ya zamani ama sivyo?

**Audience:** Yes.

**Com. Lethome:** Kwa hivyo tumesema ni juu ya serikali sasa kuhakikisha kuwa basic education kila mtoto anapata hiyo ni haki yake. Parental care, kuna watoto wengin unakuta ni chokora barabarani si kwa sababu hana wazazi ni kwa sababu the parents are not responsible hata Mandera nimeona sasa imeanza kuwa, ilikuwa hakuna zamani sasa imeanza kuwa.

Ni haki ya mtoto kuangaliwa na mzazi wake, ni amani Mwenyezi Mungu amekupatia kwa hivyo sheria inasema muangalie ni haki yake kama binaadamu aangaliwe. Haki ya mtoto pia akifanya makosa asifungiwe jela moja na watu wazima, anakwenda kuharibika, watoto wana koti zao special zinaitwa Juvenile Courts, na wanapopelekwa kwenye homes kuangaliwa wanakwenda kurekebishwa tabia sio kwenda kuharibiwa, wasifungwe pamoja na watu wazima. Kwa hivyo na mtoto tumesema hapa ni mtoto kuanzia chini mpaka miaka kumi na minane, huyo ndiyo mtoto, kwa hivyo Abdul wahid usianze kusema ati wewe ni child, wewe unaingia katika sehemu nyingine, wewe una haki nyingine. Haki ya family pia ni haki ya kibinaadamu iangaliwe.

Persons with disability, hebu tuangalie sheria inasema nini sasa. Article 39, persons with disability are entitled to enjoy all the rights and freedoms set out in the bill of rights, kama ni haki ya dini, haki ya watoto, haki ya kila kitu. Kila haki yako iko hapa and to participate as fully in the society as they are able, wapewe nafasi pia kushiriki kama ni Bunge wapewe nafasi, kwenye County Council, kwanza katika County Council hapa do we have any persons with disability?

**Audience:** Hakuna.

**Com. Lethome:** Ndiyo kwa sababu hakuna ramp pale hivi, kungekuwa na mmoja ana disability wangeweka ramp pale hivi. Kwa hivyo wapewe nafasi ya ku-participate na hawawezi ku-participate ikiwa mtoto anafichwa nyumbani, apelekwe skuli akasome, kuna skuli za vipofu, kuna skuli za watu wanaosoma sign language, kuna skuli za watoto wawe intergrated katika skuli hizi zingine. Wapewe nafasi ya kuchanganyikana na watoto wengine.

The state by legislation and policy measures recognize the right of persons with disability to respect and human dignity. Waheshimiwe na wachukuliwe kama binaadamu na pia communities, kama hapa hiyo mambo ya kuwaita *farur* sijui nani, watu wawe educated wawache kuwachukulia kama ni watu ambao si binaadamu, akija kwako anataka kuoia msichana wako umpatie haraka. Kwanza dini ya Kiislamu inasema nini kuhusu mtu ambaye una muoza mtoto wako? Inasema nini, '*man tarba' una dhinahum wakhulukahu fazau juhu*' ama sivyo, yule ambaye umeridhika na dini yake na tabia yake, muoze ama sivyo dini inavyosema, kuna ma Sheikh hapa, imesema habari ambaye umeridhika na mwili yake? Imesema dini yake na tabia yake.

Kwanza sisi Waislamu ndio tunatakiwa tuangalia haki za binaadamu kuliko watu wengine na disabilities tuangalie zaidi kuliko watu wengine. Halafu tunasahau kuwa, all of us are potentially persons with disability. Huyu alizaliwa akiwa na disability?

**Audience:** La.

**Com. Lethome:** Today he is disabled, waswahili wanasema, 'mwanadamu haishi kuumbwa maadamu yuko hai', kabla hauja kufa haujuwi kama mwili wako uko namna gani, pengine ukienda kufa utakuwa mkono moja hakuna, pengine utakuwa umekuwa kiwete unatembea na wheelchair, pengine utakuwa kipofu, pengine na pengine na pengine. Kwa hivyo disability inatakiwa kila mmoja wetu ajihusishe nayo sana kwa sababu each one of us is potentiall a person with disability.

Ninaweza kutoka hapa leo nina ability yangu kufika hapa Rhamu tunapinduka na gari, nakatwa miguu unasikia Commissioner Ibrahim anatembea na wheelchair, si ajabu hiyo, kwa hivyo haki za persons with disability tuziangalie sana.

Ensure that education institutions and facilities for disabled persons are as intergrated into society as a whole as is compatible with the interest of the disabled. Haya mambo ya kuwatenga ndio inaleta matatizo, skuli yao special wanasoma peke yao huko, the policy should be wanawekwa pamoja na wale wengine ambao hawana disabilities, wazoeane, waweze kuwachukulia kuwa ni binaadamu kama wao. Na utakuta wakati mwingine, mimi nilipokuwa Kenya School of Law, kuna kijana ambaye sasa ni wakili mkubwa Nairobi kipofu, tunafanya mitihani kwa kuandika makaratasi, yeye anafanya kwa Braille and he got the best marks in the class kuliko sisi wote, he is one of the best Advocates in Nairobi now na ni kipofu, haoni, hasikii.

Our first Vice Chair ambaye amefariki sasa, Dr. Oki Ooko Ombaka, blind and he was the most intelligent person in that Commission, most intelligent na ni kipofu. Anaweza kukuambia habari yote ile iko kwenye hii Katiba na haoni, pengine amesikiza tu, gazetti kila siku anasoma first thing in the morning kupitia kwenye internet Computer yake inamzungumzia, anaweza kufahamu ile yote inaendelea katika nchi and he was blind.

Kwa hivyo lazima wawe integrated into the society, hii mambo ya stigma, kuwa stigmatized ni kwa sababu wanapewa elimu yao kando. Sheria inasema sasa wawe integrated into the society. Ensure access to all places, waweze kufikia kila mahali, sehemu zingine unakwenda PC yuko kwenye gorofa ya nne na hakuna lifts ni ngazi, do you expect Mohammed to get to the PC? Atafika huko namna gani, labda umweke kwenye mgongo umbebe umfikishe huko kwa PC, ana haki ya kumuona PC ama hana haki?

**Audience:** Ana haki.

**Com. Lethome:** Kwa hivyo kila jengo ikijengwa tuwe tunafikiria wale watu wenye disability. Watu wa Telkom wakitengeneza zile boots zao za simu, wajuwe kuna watu hawawezi kufikia hapo mahali, kuwe na simu pia za watu wenye disabilities. Ma barabara zetu, choo, kwa mfano Mohammed ukimuambia aende ile choo ya kawaida ambayo mimi na wewe tunakwenda anaweza kutumia?

**Audience:** Hapana.



**Com. Lethome:** Kwingine lazima atembee kwa mikono yake na unakuta choo ni chafu, hakuna special facility yao, they must have access to everything, hiyo ndio sheria mpya ambayo imewekwa, kila mahali wapewe nafasi yao.

Encourage the development and use of sign language, Braille and other appropriate means of communication. Kipofu leo, mtu ambaye ni kipofu ama kiziwi tuseme mtu ambaye hasikii, anaweza kusikiliza news kwenye KBC, anaweza kusikiza news, na akifungulia TV? Ataona tu watu wakifanya mdomo hivi, anasikikia vile wanasema? Nchi zingine utakuta kando ya ile screen TV wameweka mtu an sign language kwa sababu ni Mkenya ana right ya kupata information kama vile mimi na wewe, awekewe sign language, document kama hizi ziweze kuandikwa na Braille, aweze kusoma kwa kupitia kwa Braille hata akiwa ni kipofu.

Remove from official usage in any language words that are demeaning, when applying to persons with disabilities and to require the same in private use of language. Lugha ambayo inawafanya wao wasikike kama kuwa si binaadamu hata lugha ya Kiswahili wale ambao wamesoma Kiswahili, kuna ile class ambayo tunaita K-V, inatumiwa kwa vitu ambavyo havina uhai, kiati – viatu, si ndio tunasema hivyo?

**Audience:** Ndio.

**Com. Lethome:** Kiti – Viti, ukifika kwa mtu kiwete, kiwete – viwete, kipofu – vipofu, angalia tumewaweka kwenye class ya vitu ambavyo havina uhai. Lugha kama hiyo imeambiwa sasa iondolewe na ndiyo maana katika kizungu sasa the language that is acceptable tunasema, hatusemi the disabled people, tunasema, persons with disability. We don't say the blind, we say persons with visual disability, mental disability, physical disability. Language that is acceptable, kwa hivyo hata nyinyi Wasomali anzeni kutafuta lugha ingine sasa ya kisomali.

Provide for the participation of disabled persons in decision making at all levels, wapewe nafasi pia ya kuingia katika kama ni Bunge, kama ni institutions zingine zote za serikali waweze kuhusishwa hapo. Halafu kuna ile nyingine habari ya material ya kutumia, the acquisition of materials and devices to enable the disabled to overcome constraints due to the disability. Serikali ihakikishe wana vyombo ambavyo vinawasaidia wao ku-overcome ile disability yao, anahitaji wheelchair, it should be available to him, he should have access sio iwe ni ghali. Ile wheelchair anakuambia an original one is not less than forty thousand Kenya shillings, how many people can afford to buy that. Akitaka ile motoriced kama ile ya Chairman, how much is that ile yako iko na engine?

**Audience:** Karibu elfu mia mbili.

**Com. Lethome:** Elfu mia mbili na unakuta the rich ones can afford, kwa mfano mtu kama Sammy Leshore ambaye ni MP ana moja ambayo akitaka kutembea, inamtembeza, akitaka kusimama, ana press switch inamsimamisha. Any movement anataka kufanya lakini anakuambia hiyo bei yake ni about 6 or 7 million Kenya shillings. How many persons with disability can afford that? Ni juu ya serikali kuhakikisha wanapata devices kama hizo.

Wallahi tumekwenda hapa Wajir, tumeingia ofisi ya msichana ana jaribu kusaidia wenzake wana disabilities, anakuambia shida ni kuwa unakuta mtu ana disability anatembea na crutches, tangu alipokuwa mtoto mdogo, ni hiyo hiyo crutch moja anaendelea kukuwa mkubwa, he is forced now to bend ili aweze kutumia hiyo crutch, hawezi ku-afford kununua crutch ingine. Yeye amekuwa mkubwa, ile crutch bado ni ndogo inabidi ainame sasa atembee nayo, it is the responsibility of the Government to do all that.

Tumefika kwenye ofisi yake tulikuwa na Halima, tunakuta mawe imerushwa ndani ya ofisi, tunauliza ni nani wamerusha, the children in the neighbourhood. They believe these are not human beings na ni wasomali wenzao lakini watoto, they have never accepted these people as part of the society, wanarusha mawe kwenye ofisi yao, it is Halima who was sweeping that office kutoa hiyo mawe. This is a society we are living in, we don't believe they are part of the society, ndio tunasema sasa sheria lazima iangalie haki zao, they are human beings.

Article 40, human dignity, freedom and security of persons, kila mmoja ana haki ya freedom. Mambo ya utumwa pia katika sheria mpya imeondolewa kabisa na mambo ya forced labour. Ukitaka kuniajiri kazi yako, usini lazimishe tusikizane, nikitaka nitafanya nisipotaka I am free you cannot force me to work for you. Mambo ya forced labour hakuna, mambo ya slavery, *adhon* si nyinyi ndiyo munaita *adhon*, hakuna mambo ya *adhon* katika sheria ni makosa. Hata sheria ya Kiislamu imekuja kumaliza hiyo mambo ya *adhon*.

**Speaker:** Wanasema ni *kufar*

**Com. Lethome:** *Adhon* ni *kufar*? Hata mimi kuna sehemu ingine ninaenda ninaitwa *adhon*, wanaita hivyo *adhon*, mtu ambaye sio msomali wanaita *adhon*. Haya mambo ya privacy, ni haki yako ya binaadamu kuwa siri yako ihifadhiwe kuna mambo ambayo hutaki binaadamu wengine wajuwe, hiyo ni haki yako kama binaadamu. Kwa mfano, unaweza kutaka mtu akukute kwenye bathroom? Ama chooni? That is your privacy it has to be respected as a human being. Unakuta mtu amewekwa kwenye cell, akitaka kwenda choo anapewa ndoo hapo na binaadamu wenzake wako hapo, hiyo ni kinyume na haki ya binaadamu.

Hata akiwa jela ni binaadamu ama si binaadamu? Apewe haki yake ya privacy. Unakuta kwa sababu una-suspectiwa kuwa wewe pengine umejiunga na kundi fulani, kila ukichukuwa simu unazungumza na hoyo, mama watoto nyumbani, kumbe simu yako imekuwa tapped. Hiyo ni infringement of your privacy, isipokuwa pengine kama serikali ina ushahidi ya kuona kuwa unahusika na mambo ambayo yataharibu nchi.

Ukikuta Posta barua yako imefunguliwa, how do you feel? That is your privacy pengine ni mama watoto amekuandikia ndani, amekuambia maneno tamu tamu ndani, unataka mtu mwingine angalie hiyo maneno? Hayo ni yako wewe na yeye ama mtu kukuingilia ndani ya nyumba yako, vile unaishi na familia yako, kuna mtu anataka hivyo? Kwa hivyo tumesema sheria ihifadhi

mambo ya privacy.

Mambo ya search pia, kwa mfano unapita kwenye barrier hapo, polisi anasimamisha gari, toka wewe, utafurahi kwa mfano polisi mwanaume anaanza kushika shika bibi yako kila mahali anafanya search, unakubali? That is your privacy, ni right kama wanataka kum-search alete polisi mwanamke am-search bibi yako sio mwanaume aje kushika shika bibi yake. Na si amvunjie heshima yake hata wewe mwanaume utakubali akushike shike kila mahali? Utakubali polisi akushike kila mahali?

**Audience:** Hapana.

**Com. Lethome:** That is your private right, privacy ni right yako iheshimiwe ni haki ya kimsingi. Freedom of religion, belief and opinion: Haki ya dini, kila mmoja ako na haki ya dini, imefika ijumaa Muislamu ana haki ya kupewa time aende aka swali, sio kuambiwa hapana, choose between your job and your religion. Ni haki yako sheria imekupatia, wengine wanasema mimi ni polisi ninataka kufuga ndevu zangu ni *sunna*, unaambiwa ondoa hiyo chafu, si ndio inasemekana hivyo?

**Audience:** Ndio.

**Com. Lethome:** Unaambiwa uondowe hiyo chafu, that is my religious right ama mwanamke Muislamu, kwa sababu anaenda katika ofisi fulani anaambiwa, toa hiyo *nikab*, hiyo ni haki yake ya dini, ama ili upigwe picha ya kitambulisho, unaambiwa utoe, ama sivyo mnaambiwa?

**Audience:** Ndio.

**Com. Lethome:** Atoe hiyo kitambaa, hiyo ni haki yake ya dini lazima iheshimiwe. Mtu akishafungwa jela, umewacha dini yako nje ama uko na dini yako pia? Wafungwa pia wapewe nafasi ya ku-practice dini yao, kama ni ramadhani wafunge wapewe nafasi na chakula ya kutosha, mahali ya kuswali. Siku hizi ninasikia kwenye cell, Alhamdulillah sijaingia, Mwenyezi Mungu apishe mbali nisiingie, nasikia hauwezi hata kuswali ukiwa ndani ya cell, uchafu wote iko huko ndani. Mavazi ile wanavaa jela hauwezi kutumia kuswali, hiyo ni haki yako ya dini lazima upewe, wasichana wana kwenda skuli, upande hii Alhamdulillah hakuna shida, pande za kwetu ana kwenda huko anaambiwa lazima avae ile nguo na ukipiga kelele unaambiwa toa msichana wako peleka ile skuli unataka. That is her religious right, avae nguo kulingana na sheria ya dini yake. Kwa hivyo tumesema hapo kila mmoja apewe haki yake ya dini.

Freedom of expression, haki ya kujieleza na hiyo haki ya kujieleza usizuiwe kusema vile unavyotaka bora tu isiwe ni propaganda ama kuchochea watu, lakini uko na haki ya kujieleza. Kama vile Rais zaa zingine husimama huko anapiga kelele anajieleza vile anavyojisikia yeye mwenyewe, hiyo ni haki yake unaweza kujieleza kwa maandashi au kwa kuzungumza.

**Interjection:** (inaudible by a mad man)

**Com. Lethome:** Inshaallah, hiyo ni haki yako badi tunaendelea mpaka jioni Inshaallah, ngoja utauliza, utapewa nafasi wacha nimalize hii halafu maswali halafu twende tuka swali.

Freedom of expression hiyo watu wana haki ya kutoa maoni yao, kila mmoja ana haki ya kutoa maoni yake na inaweza kuwa kwa maandishi au kwa njia nyingine yeyote. Access to information, kuna baadhi ya information ambayo iko na serikali wananchi wanataka kujuwa lakini hawawezi kujuwa na ndiyo mara nyingi utakuta wananchi wamekosa kuwa na imani na mambo ya Commissions. Unasikia kwa mfano watu wameuliwa Wagalla ama sivyo? Likoni, Mar kamali, Bura Karatasi na sehemu zingine, unaambiwa serikali imetengeneza Commission of inquiry ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Matokeo ya hiyo Commission of inquiry mnajuwa? That is information ambayo kila Mkenya anafaa kujuwa, kwa hivyo hapo tumesema ni haki ya kila mwananchi kupata access to information. Kwanza mnajuwa watu wa Mandera jana mlisikiza news usiku, mlisikiza? Wengine watakuambia hatukusikiza kwa sababu tunasikiza BBC au Radio Mogadishu kwa sababu KBC haifiki hapa ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Ndio unakuta information inafikia watu wengine na haifikii watu wengine. Mimi nina bahati nilikuwa na radio strong, nikafunguwa nikasikia Raila ame-resign kama Minister jana usiku na Ole Ntimama na wengine. Wengine hamjasikia, hamjapata hiyo habari, hiyo ni information ambao ni muhimu kwa mwananchi ama si muhimu?

**Audience:** Muhimu.

**Com. Lethome:** Unaweza kukaa hapa hivi haujui mambo imebadilika huko na uko hapa haujui. Kwa hivyo access to information ni haki ya kila mwanadamu aweze kujuwa, usiwewe bila kujuwa haki yako. Freedom of Association, Sheikh si uko na chama cha kisiasa, Sheikh uko na chama cha kisiasa ama sivyo? Ni chama yako ni gani?

**Sheikh:** Ni KANU

**Com. Lethome:** Sasa ni KANU, kuna mtu alikulazimisha kuingia, kuna mtu anaweza kukulazimisha kutoka? Na ukitaka kuunda ingine una haki ya kuunda yako mwenyewe. Hiyo ndio tunaita Freedom of Association, nina haki ya kujiunga na kikundi yeyote ambayo ninataka, hakuna mtu anaweza kukuja hapa aniambie hapana, jiunge na kikundi ingine. Every person has the right to freedom of Association, nita-decide nitaka kuenda upande gani na hiyo pia inaungana na ile ambayo inaitwa Freedom of Assembly, Demonstration, Picketing and Petition. Nina haki kwa mfano, watu wamejikusanya mahali fulani ama hapa hivi, kuna mtu alilazimishwa kuja hapa?

**Audience:** Hapana.

**Com. Lethome:** We had the freedom, Olad anapiga kelele huko kujeni mkutano, but at the end of the day, wewe ndiyo unaamua kama unataka kuja ama hautaki kuja ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Ukitaka kutoka hapa hakuna mtu atakuambia wewe polisi shika huyo anatoka no, freedom of assembly, au wakina mama wanataka kufanya mkutano yao, wanaambiwa lazima muende mkapate barua, permit hiyo ni kuingilia haki yako ya assembly, bora tu msivunje sheria kwa sababu kila uhuru uko na mkutano wake.

Walimu wana-demonstrate kwa sababu ya mshahara yao, wana haki ama hawana haki ya demonstrate? Peaceful demonstration ni haki yao bora tu wasivunje vunde maduka yetu, lakini wafanye demonstration waeleze wana malalamishi gani kwa serikali. Political rights kila mwananchi ako na freedom ya ku-make political choices, nataka kupigia kura mtu fulani, hiyo ni haki yangu.

Lakini ninasikia huku upande wa North Eastern wanawake hawana hiyo freedom ya kupiga kura mahali unataka, ama sivyo mama si ndio? Ninaambiwa mahali ingine ikifika wakati wa kura wanasema, unasikia tunapigia yule kijana ya clan fulani, ukikataa kupiga mimi ninakupatia talaka hiyo. Hiyo umeingilia haki ya mama ya political rights.

**Mama Habiba:** Ambia hawa

**Com. Lethome:** Mimi ninaambia hawa sasa, sheria imesema ako na haki yake ya kuamua anataka kupigia nani kura. Kuna wazee wengine nasikia anachukua ile kura yote ya clan yake ya wakina mama wote anaweka hapa, halafu siku ya kupiga kura anasema sasa mtapigia mtu fulani unasikia, lakini unasahau kuwa ile ni secret ballot akienda huko unajuwa mahali anaweka, ile alama, haujui na ni haki yake yule mama apige kura mahali anapotaka.

Kwa hivyo ni haki ya msingi ya kila mwanadamu kufanya political choices. Freedom of movement, si nikianza kutembea Nairobi unaniambia wewe waria rudi huko kwenu ama mimi ninatembea hapa Mandera unaniambia wewe Masaai rudi kwenu, I have the freedom of movement bora tu sijavunja sheria niko na haki ya kutembea mahali popote Kenya.

Freedom of residence, kwanza mko na ploti hapa hivi za kuuza, ninataka plot moja hapa nataka kujenga Mandera nikae, I have that right. Ukija Nairobi uko na haki ya kuishi, ukienda kwetu Narok, uko na haki ya kuishi huko, freedom of residence mahali popote Kenya. Na ndio maana tukasema majimbo italeti shida kwa sababu utaanza kuambiwa urudi kwenu, kwenu ni Kenya ndio sheria inavyosema hivyo. Kuna mambo ya refugees na mambo ya asylum.

Article 52, sio kupenda kwao kuwa wametoka katika nchi yao wamekimbia na wakikimbia kuja katika nchi nyingine, ni binaadamu ama si binaadamu?

**Audience:** Ni binaadamu.

**Com. Lethome:** Nimekwenda Dadaab watu wengi wanalalamika wanasema kuwa refugees wamekuja kuwa haribia mazingara yao halafu wanatoa mfano wa Mandera. Wanasema hapo ukiingia Mandera imekuwa desert sasa, imeharibiwa na nani? Nani wamekata miti yote huko?

**Audience:** Refugees.

**Com. Lethome:** Tunasema hivi wako na haki na wale ambao ni locals pia wako na haki, mazingara yao isiharibiwe. Kwa hivyo tumesema hapa ni juu ya serikali ikifikia muda wa mwaka mmoja watengeneze sheria ya kuangalia haki za refugees. Wawekwe sehemu, malalamishi kubwa ni kuwa wanawekwa katika sehemu ambayo haiwezi ku-support watu wengi, kwa mfano Kakuma kwa wa Turkana ni mahali kavu sana, North Eastern ni mahali kavu sana, kwa hivyo serikali iangalie mahali ambapo wanapewa haki zao kama binaadamu lakini hawadhuru wale watu ambao wanaishi katika sehemu kama hiyo.

Freedom of trade, waria unafanya kazi gani wewe? Unafanya kazi gani hakuna, Mzee unafanya kazi gani?

**Sheikh:** (inaudible)

**Com. Lethome:** Gari, dereva.

**Sheikh:** Unauliza mimi kazi gani.

**Com. Lethome:** Kazi, kazi gani? Haya Okash ni mfanyi biashara ama sivyo? Unafanya biashara Okash, kuna mtu alikulazimisha ufanye hiyo biashara, sasa mimi ninataka kuanzia leo usifanye hiyo biashara. Tutakosana, hiyo ni haki yake ama sivyo? Mama ana biashara yake ya kuuza maziwa ni haki yake kufanya hiyo kazi, mwingine anauza vitambaa kule sokono, ni haki yake, mwingine ni matatu, freedom of trade.

Hakuna mtu anaweza kukuingilia biashara yako, freedom of occupation, mmoja ni mwalimu, mwingine ni mfanyikazi aina nyingine, hiyo ni haki yake. Kila mmoja apewe haki ya kufanya kazi yake, hiyo ni haki ya kibinaadamu, lakini kuna wazazi wengine wanalazimisha watoto, ati mimi ni daktari lazima uwe dakatari wewe. Sio lazima awe daktari muachie akifika kiwango fulani aamue mwenyewe anataka kufanya kazi aina gani ni haki yake.

Property, ni haki ya kilani binaadamu kumiliki mali, na hiyo mali yako ukishamiliki ni juu ya serikali kuhifadhi hiyo mali yako. Hakuna mtu anaweza kuja kuchukuwa mali yako bila ya haki, kwa hivyo ni haki ya kila mwanadamu kumiliki mali bora tu isiwe ni mali ya haramu, usiende ukaibe useme nina haki chini ya sheria ya kumiliki mali, hata chini ya sheria ya Kiislamu una haki ya kumiliki mali vile unataka? Unaambiwa siku ya kiama kuna swali moja ambayo utaulizwa habari ya mali yako, '*ann malihi min ainak tasaba wa fi man am'fak*' ama sivyo? Amepata wapi mali yake na ametumia namna gani mali yake, kwa hivyo hapa sheria inasema ni haki yako kumiliki mali bora iwe ni mali ya halali na kutumia mali yako kwa njia ya halali, na je serikali ikitaka kutumia hiyo mali yako? Itatumia kwa nguvu, kwa mfano serikali inataka kutumia lorry yako kwa transport, Okash serikali inataka kutumia lorry yako kwa transport, wachukuwe kwa nguvu?

**Okash:** Hapana.

**Com. Lethome:** Lazima walipe msikizane, Okash tunataka lorry yako kubeba chakula ya relief, unalipisha kiasi fulani,

ukiridhika unakubali kama haukuridhika serikali haina haki ya kuchukuwa kwa nguvu. Ploti yangu hapa nimejenga mali yangu hiyo, siku-grab kwa County Council nimenunua haki yangu, serikali inataka kujenga skuli hapo, ikitaka kuchukuwa hiyo nafasi kuna kitu inatiwa compensation. Wanilipe kulingana na gharma ambayo nimeingia katika hiyo ploti yangu, wanilipe sio wachukuwe tu na mimi wanitupe nje, no. kwa hivyo ni haki ya kimsingi kuweza kuwa na mali, labour relations, mambo ya wafanyi kazi haki zao ziangaliwe hiyo ni Article 55.

Social security, wale ambao hawawezi kujiangalia kwa sababu pengine ya uzee ama ugonjwa, waangaliwe mambo ya health nyinyi Mandera hapa Alhamdulillah mna hospitali, si mna hospitali hapa, iko na madawa na ila kitu na madaktari. Kuna watu wengine unaambiwa akiwa mgonjwa mama akitaka kujifungua, anawekwa kwenye ngamia kwa sababu hakuna gari anapelekwa kilometer arobaini na ako na labour pain, ni haki ya kila mwananchi kupata matibabu karibu na yeye, mahali ambapo anaweza kupata matibabu kwa haraka.

Leo hii unaambiwa kwa mfano una emergency unampeleka mtu kwenye hospitali ya pesa, huyo mtu atatibiwa kwanza ama kwanza utaambiwa ulipe deposit, kwanza unaambiwa toa deposit hapa hivi, na ni emergency ndio tunaambiwa hapa, no person maybe refused emergency medical treatment, ikiwa ni hali ya emergency, kila mmoja ana haki ya kuangaliwa.

Mambo ya elimu, education every person has a right to a basic education including pre-primary, primary and secondary education. Hiyo ni haki na serikali ihakikishe kuwa kila mtoto anapata free and compulsory primary education, elimu ya msingi ni haki ya kila mtoto na kwa hivyo mzazi unaweza kushtakiwa ukikosa kumpeleka mtoto wako katika skuli ya primary.

Housing, hakuna binaadamu anaishi kwenye miti, hakuna binaadamu anaishi kwenye shimo kama mnyama, kila binaadamu anaishi kwenye nyumba. Ni juu ya serikali kuhakikisha kuwa kila mmoja amepata makazi, mahali pa kuishi.

Chakula, hakuna binaadamu anaweza kuishi bila chakula kwa hivyo mambo ya food security, kila mmoja ahakikishiwe kuwa anapata chakula, na sio chakula tu, chakula ambayo inakubalika na yule mtu. Kwa mfano wewe ni Muislamu nikuambie ninakuletea nyama ya nguruwe wakati uko na njaa, hiyo ni chakula? Ni chakula ya watu wengine lakini kwa Muislamu hiyo ni chakula? Sio chakula haikubaliki kulingana na mila ya Muislamu hiyo haikubaliki. Kwa watu wengine ni chakula kwako si chakula, kuna sehemu zingine kama wa China na watu wengine wanakula mbwa, kwao ni chakula kwetu ni chakula hiyo? Kwa hivyo tunasema chakula ambayo inakubalika, unaambiwa hapa ni chakula ambayo inakubalika.

Maji, kila mmoja aweze kupata maji na maji ambayo yanakubalika pia, kwa mfano Indian Ocean yote ni maji lakini ile maji unaweza kunywa, hauwezi kunywa kwa sababu haikubaliki ni maji ambayo yanafaa kutumiwa na binaadamu. Kwa hivyo ni jukumu la serikali baada ya kupitisha hii sheria kuhakikisha kila mmoja anapata maji.

Sanitation mambo ya usafi, mambo ya kuhakikisha kuwa mtu yuko katika mazingara masafi, mambo ya vyoo, sehemu zingine

unakwenda unakuta town kubwa lakini hakuna choo, hakuna sewage, hakuna mahali ya kuzika watu. Hospitali hakuna mahali ya kuhifadhi maiti, mambo haya yote ni haki ya kimsingi ya kila binaadamu kuweza kupata.

Environment, mazingara kuna watu wametuambia sijui ni Habaswein ama mahali gani, sijui ni chemical gani ambayo ilimuagwa mahali ika-sip wanyama walikuwa wana kunywa maji wanakufa, nyasi wakila wanakufa, mnakumbuka ni mahali gani hapo?

**Audience:** Hata hapa iko

**Com. Lethome:** Hata hapa iko unaona, ni juu ya serikali kuhakikisha kuwa mazingara haidhuru watu. Kwa mfano nije hapa mimi ni tajiri niweke factory ya simiti hapa, madhara yake ni kuwa baada ya mwezi moja ama miwili kila mmoja hapa atakuwa na Asma kwa sababu ya ile vumbi ya simiti. Kwa hivyo ni juu ya serikali kuhakikisha kuwa mazingara inahifadhiwa na kila mmoja anapata haki yake, au kwa mfano uko na ploti karibu na ploti yangu, unajenga nyumba yako hivi kwamba mimi sipate sunlight, sipate hewa, hiyo ni makosa, ni haki yangu kupata sunlight, mwangaza wa jua na hewa na serikali izuie mambo ya pollution.

Consumer rights, haki za watu wenye kutumia bidhaa, mfano ambao ninatoa kila mahali ni pakiti ya sigara, mumeshaangalia pakiti ya sigara kwa mfano Sportsman, what is very prominent on the packet of Sportsman, ni kitu gani ambayo inaonekana sana kwenye Pakiti ya Sportsman, rangi nyekundu halafu kuna nini?

**Audience:** Farasi.

**Com. Lethome:** Farasi ama sivyo? Halafu kuna kitu kingine kimeandikwa kidogo ambayo hauwezi kuona vizuri sana, ni nini hiyo imeandikwa hapo? Warning: cigarette smoking is harzedous to your health, si ndio? Kidogo. Advertisement ya sigara ukiangalia kwenye TV ama kwenye magazetti, ukivuta Sportsman unaweza kukimbia sana. Kweli mvutaji sigara anaweza kukimbia?

**Audience:** Hawezi.

**Com. Lethome:** Ama ukiwa mlevi sana unakunywa Guinness utakuwa na nguvu sana, utakuwa na sura nzuri, ukipita mahali wasichana wote wanakufuata wewe. Hiyo si ni kudanganya consumers, tunataka consumers wapewe haki yao, kama bidhaa ni mzuri, ni mzuri ni mzuri, wanaambiwa ni mzuri kama ni mbaya wanaambiwa ni mbaya inawadhuru. Na kuna advertisements zingine hata ukiwa umekaa wewe na watoto wako, ukionyeshwa kwenye TV huwezi kutaka kutizama ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Tuangalieni kwa mfano advertisement ile ya Trust condoms, unaweza kukaa hapo wewe na mama yako mnaangalia? Ama advertisement ya sabuni peke yake, hauwezi kukaa hapo wewe na mama yako muangalie. Kina mama wengine si makosa yao ni vile maumbile yao, jipake mafuta nzuri na nini ama sivyo? Unakuta ana kwenda kununua chemicals zingine akipaka inaharibu ngozi yake ama sivyo? Wengine anaenda kutaka nywele yake ikuwe mzuri anapaka anakuwa kipara



nywele yote inaanguka, kwa hivyo tunasema lazima watu wawe protected, serikali i-protect consumers, bidhaa viangaliwe viwe ni zenye kuwafaa watu.

Fair administration, utawala ambao ni wa uadilifu wa kuangalia watu, kisha kuna kitu kingine hapa, rights not to obey un-lawful instructions. Zamani unaambiwa wale watu walikuwa wanafanya kwa jeshi ama polisi, ukiambiwa shoot hata kama ni mama yako unafanya nini? Una shoot halafu unauliza baadaye, afande kwa nini nime-shoot? Fanya kitu fulani, unafanya kwanza halafu unauliza maswali baadaye, na kwanza katika sheria ya Kiislamu unaambiwa, *'la twa'ata li makhluqin fi ma'asiyatin halik'* ama sivyo? Hakuna kumtii binaadamu katika kum'asi Mwenyezi Mungu, hapa wame-capture kidogo hiyo ya Kiislamu, kidogo wamepata wanasema hapa, every person has the right not to obey un-lawful instructions, mkubwa wako afande amekuambia, nenda ile Bula iko pale piga kila mtu pale hivi, if it is un-lawful, una haki ya kusema no, siwezi kuenda huko.

Na hana haki ya kukuchukulia hatua kwa hivyo hakuna kutii amri ambayo ni kunyume na sheria you can disobey. Boss yako anakuambia fanya kitu fulani kama ni kinyume na sheria, you have the right to refuse lakini hapa mchunge msifutwe kazi bwana, you have to balance. Usianze kusema mimi nina fikiria this is un-lawful sifanyi, utapoteza kazi yako bure, you have to weigh it.

Access to courts, kila mmoja apewe haki ya kufikia mahakama. Mara nyingi utakuta mtu ako na haki yake, amedhulumiwa una muambie nenda kotini anafikiria, gharama, mbali, nitapoteza wakati wangu, potelea mbali ama sivyo? Mara nyingi watu wanasema hivyo potelea mbali kwa sababu the courts are not accessible hazifikwi. Hapa Mandera muko na koti?

**Audience:** Ndio.

**Com. Lethome:** Magistrate anaishi hapa ama anakuja?

**Audience:** Unangojea mwezi mmoja.

**Com. Lethome:** Unaongelea mwezi mmoja, na wazungu hao hao wanatuambia katika sheria, 'justice delayed is justice denied' haki ikicheleweshwa ni haki ambayo imepotezwa halafu unasema wanakuja baada ya mwezi mmoja, hapa katikati hakuna watu ambao wamedhulumiwa wanataka haki zao?

**Audience:** Wako.

**Com. Lethome:** Kwa hivyo tunasema access to courts, serikali ihakikishe kila mmoja anafikia mahakama. Na pia ziwe friendly to the people, mara nyingine unaenda kotini unaona mzee kama huyu akiwa huko nje anazungumza, mpele tu kotini ndio utaona vile anatetemeka huko, amewekwa kwenye ile sanduku pale anaanza kutetemeka, akiangalia tu judge amevaa ile wig na ile sura yake tu hivi anaanza kutetemeka ama sivyo? Ni kwa nini, court are not friendly, the language used in courts is not friendly ama sivyo? Ndiyo unaona lazima upelekee wakili kwa sababu ile mambo ya kotini hauwezani nayo. Ile lugha inatumiwa huko hauwezi kuifahamu, hauwezi kuifata, atmosphere yenyewe ni ya kikoloni kotini unaanza kutetemeka huko. Tushaona wazee wengi sana anatetemeka mpaka anaomba maji ya kunywa kotini, wengine wanaanguka. They have to be

accessible to the people.

Rights of arrested persons, mtu akishikwa ako na haki zake. Haki ya kunyamaza ni haki yako kwa mfano umeshikwa na polisi, una haki ya kusema sizungumzi mpaka kotini ndio nitasema, hana haki ya kukupiga sema waria. Wengine ukishikwa ukiwekwa huko kwenye cell, mambo gani inafanyika huko? Unafinywa ama sivyo? Unafinywa mpaka ulikuwa haujafanya makosa unasema nimefanya afande ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Mambo ya torture, ni makosa, ni kinyume cha sheria, yeah tuta-break for prayers, karibu tumalize hii halafu twende tuka swali. Unakuta mtu analazimishwa kusema kitu ambayo pengine hajafanya anakubali, kwa sababu ya mateso ile ambayo anapata kule. Ukipelekwa kotini kwa mfano unaambiwa, Muhammed Ibn Ibrahim? Yes Sir, ulipatikana na hatia ya kuwa na vitu vya uizi, ukisema hapana afande what happens? Rudisha rumande ama sivyo? Atarudishwa ama baada ya mwezi moja, kuna mtu anataka kurudi rumande, the effect is that you accept, hiyo ni dhulma ama si dhulma? Kila mtu apewe haki asikizwe vizuri kotini na 'every person is innocent until proved guilty'.

Hapa kwetu Kenya hivi sasa, 'a person is guilty until proved innocent'. Ukishikwa tu wewe ni mwizi mpaka koti ndiyo itaenda kuamuwa wewe sio mwizi, ushavunjwa vunjwa pengine meno nusu hakuna na ushavunjwa unaambiwa, ushahidi umekosekana ama sivyo? It is wrong, haki zingine kama vile haki za kidini, haki zingine za kibinaadamu, una haki kama hizo mpaka haki ya kutaka mawaidha ya kidini, hiyo ni haki yako ambayo unaweza kupata.

Fair trial, mambo ya kuhukumiwa, Article 69 tunasema every person should be presumed innocent until the contrary is proved. Huna hatia mpaka ithibitishwe kuwa una hatia, ujulishwe kuhusu haki yako na kitu kingine ambacho nimeruka hapa ni ile mambo ya mtu kuwekwa cell. Mara ile nyingine nilipokuja hapa kuna kijana mmoja alilalamika akasema kuna mtu amewekwa cell zaidi ya miaka miwili, mitatu nne, yuko cell tu bado hajahukumiwa, yuko remande bado. Mumesikia mambo kama hiyo? Mtu amewekwa remande miaka sita bado haja hukumiwa, ndiyo tumesema hapa ikifika within 48 hours mtu awe amepelekwa kotini kama ni weekend iwe siku ya kwanz aya kazi awe amefikishwa kotini, mtu asidhulumiwe kwa kuwekwa kwa muda mrefu na ndiyo tunasema koti ziwe karibu na watu.

Article 70 rights of persons held in custody, watu ambao wamefungiwa kama ni remande ama ni jela, watu kama hao wawe na haki zao na katika Katiba mpya tumeondoa neno prison kwa sababu prison imekuwa stigmatized, tumeziita, Correctional Services, ama Correctional Centre. Mahali ya kurekebisha tabia, lakini siku hizi mtu akienda jela kama alikuwa criminal mdogo akitoka huko amekuwa hard-core ama sivyo? Ndiyo unasikia kuna watu tunaita jailbirds' anatoka jela anakaa mwezi mmoja unasikia amerudi tena ama sivyo? Sababu huko kwanza badala ya kwenda kurekebisha tabia anakwenda kufundishwa kuwa hardcore zaidi, anaenda kukutana na wale criminals wakubwa zaidi anafundishwa namna ya kuiba vizuri zaidi. Na pia hata akishatoka jela anakuwa stigmatized, unasikia yule ametoka prison, kuna mtu anataka ku-deal na mtu ametoka prison? No,

kwa hivyo tumesema jina ibadilishwe iwe Correctional centre kwa hivyo mtu akitoka jela unasema yule ametoka kwenye correctional centre, ametoka kurekebisha tabia. Utaona hapo mbele prison tumeziita hivyo, kwa hivyo mtu ambaye ameshikwa haki zake za kibinaadamu ziangaliwe.

Mambo ya mavazi, decent clothing, wapewe mavazi ambayo ni ya heshima. Mahali pa kulala pa heshima, wafungwa wanalala wapi, nani anajuwa vile wanalala? Kwa simiti, binaadambu analalala kwenye simiti? Mambo ya afya yao iangaliwe, mumesikia watu wengi wamekufia jela kwa sababu afya yao haiangaliwi, we shall break just now for swala Inshallah.

Mambo ya elimu, wafundishwe elimu na kama wanafanya kazi huko walipwe. Mshahara ya wafungwa ndani huko kwa jela ni ngapi?

**Audience:** Ten cents.

**Com. Lethome:** Ten cents per day, kwa hivyo ukifungwa mwezi moja umepata mshahara ya kiasi gani? Three shillings, ukifungwa mwaka moja unapata thirty six shillings. Utatoka nayo itakupeleka wapi? Kuna haki pia ya dini kufuata dini yako hata ukiwa jela. Haki ya ku-communicate kuwasiliana na wakili wako, haki ya kuwasiliana na watu wengine ambao unataka wakusaidie kama vile ma Sheikh una haki ya kusema ninataka kukutana na Sheikh kama wewe ni mkristo una haki ya kukutana na kasisi wangu, una haki ya kukutana na family yako, close family including spouses.

Kama wewe ni mwanaume umefungwa jela una haki bibi yako akutembelee jela, kama wewe ni bibi umefungwa, mume wako ana haki ya kukutembelea. Taabu nyingi madhara mengi yametokea jela kwa sababu ya hii lakini bila shaka iko na mipaka yake sio kila siku sasa, itakuwa watu wanaona ni starehe kwenda jela sasa, ina mipaka yake. Kwa hivyo wana haki kama hizo na kutembelewa, mambo ya privacy, wana haki kama hiyo na mambo ya discipline huko jela, wana haki pia ya kusikizwa na wasidhulumiwe na wale wafungwa wengine au wasidhulumiwe na wale askari.

Na ina maana kuwa chini ya Katiba mpya askari wa prison lazima wafanyiwe training kwa sababu hivi sasa training yao nafikiri ni ya kupiga tu, wafanyiwe training upya waweze kuangalia haki za watu ambao wamefungwa.

Sasa kuna swali moja tumezungumzia habari ya haki za binaadamu za msingi, hizi ambazo ziko hapa na pengine zingine tutaongeza baadaye. Baada ya Conference au wakati wa Conference, swali langu ni hili, hizi haki zina mpaka ama hazina mpaka? Hakuna haki ambayo haina mpaka, every right has a limitation hata nyumbani kwako unapatia watoto wako haki ama sivyo? Wana haki ya kucheza, wana haki ya kukula chakula, wana haki ya kufanya kila kitu wanataka pale nyumbani lakini hizo haki zina mipaka ama hazina mipaka?

**Audience:** Zina mipaka.

**Com. Lethome:** Utakubali kwa mfano wakule chakula halafu wamwage, mwage huku nyumbani? Ama una kubali kwa

sababu umewaambia sasa mna haki ya kucheza waje wacheze na TV yako wanarushia mawe? wana haki hiyo? Haki iko na mipaka hata Mwenyezi Mungu anatupatia haki ya kukula chakula, si ametuambia *kulu washrabu wala tusrifu* mle chakula na munywe lakini musifanye *israf*. Kila haki iko na mipaka yake, hizi freedom zote na basic rights zote hizi, kila moja iko na mipaka yake. Kwa mfano tumesema freedom of movement, kwa hivyo hata mwizi tumpatie freedom ya kwenda kuiba mahali anataka, no. Ama mtu aende akafanye fujo mahali fulani, no.

Freedom of expression ya kuzungumza hiyo sasa tuna wachochea mimi ninakuja hapa ninawaambia nyinyi watu wa Garre, watu wa Murule wanajitayarisha kuja kuchukuwa ngombe yenu hapa hivi, nina haki kama hiyo?

**Audience:** Hapana.

**Com. Lethome:** Kwa hivyo kila haki iko na mipaka yake, haki tumesema hapa freedom of expression iko na mipaka yake, freedom of movement iko na mipaka yake, freedom of property ya kumiliki mali, haukuambiwa sasa uanze ku-grab ardhi yote ya Mandera no, upate kw anjia ya haki. Haukuambiwa pia utumie haki yako kunyanyasa watu wengine kwa mfano mimi nina haki ya freedom of expression, ninaenda nyumbani kwangu mimi ni jirani ya yule Bwana, nimenunua ile radio kubwa kabisa, speakers nimeelekeza kwa dirisha yake ya bedroom sasa, freedom I am enjoying my property Bwana nyumba ni yangu radio ni yangu ama sivyo? Sasa nina haki ya kumsumbia na yeye asilale, no. unaambiwa freedom yako inaishia mahali freedom ya mtu mwingine imeanzia.

Freedom of religion fanya mambo yako ya dini lakini usiingilie haki ya mtu mwingine, ana haki yeye na wewe una haki. Ndio kwa mfano hata katika angalia dini ya Kiislamu mimi ninafikiria hawa watu wamechukuwa kidogo kidogo, kwa mfano kusoma Qur'an si ni ibada? Si ndio ukiingia Msikitini si una haki ya kuchuwa msahafu Qur'an uanze kusoma ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Dini inasema nini akiingia mtu mwingine anaanza kuswali hapo pengine ana swali sunna yake hapo, dini inasema nini Sheikh tuambie?

**Sheikh:** Tupunguze sauti.

**Com. Lethome:** Tupunguze sauti, kwa sababu okay una haki ya kusoma Qur'ani ni ibada, unapata thawabu kumi kwa kila harufu moja. Amekuja mtu mwingine ana swali anataka kufanya *kushu'u* ameambiwa afanye *kushu'u* katika swala yake ama sivyo? Aweze ku-concentrate umeambiwa punguza sauti yako unapata haki yako, thawabu zako bado unaendelea kupata na haukuingilia haki yake ya kuswali na kufanya *kushu'u* nafikiri hawa watu wamechukuwa katika dini ya Kiislamu ndiyo ninasema inatakiwa mtu sasa aanze kuandika ni mambo mangapi ambayo imechukuliwa katika dini ya Kiislamu, utaona ni nyingi sana.

Kama hiyo haki yako isiingilie haki ya mwingine, haki yako isilete madhara kwa watu wengine kwa hivyo tumia haki yako lakini chungu haki za watu wengine. Haki yako ya freedom inachukuliwa wakati ukiiba, hata katika sheria ya Kiislamu inasema, damu

ya mtu yeyote ni haramu ama sivyo? Kumwaga damu ya mtu si ni haramu, binaadamu isipokuwa ukiua mtu mwingine tunasema *qisas* ama sivyo? Hiyo ni haki sasa, *ma'asum* wewe umekuwa sasa una *isma* kwa sababu wewe ni Muislamu damu yako isimwagwe lakini ukiiba damu itamwagwa, utauliwa. Nafikiri hawa watu wamechukuwa kidogo kidogo kutoka katika sheria ya Kiislamu.

Mwisho kabisa enforcement mechanisms, hizi haki zote ni za bure ikiwa haziwezi kulazimishwa ndiyo tumeweka system mbili ama mechanism mbili ya enforcement. Moja tunaita Judicial, judicial ni kuwa haki yako ya kimsingi ikivunjwa na mtu yeyote, hata mtu ambaye yuko katika serikali ama mtu wa kawaida unaweza kupitia kotini haki yako ya kimsingi ilazimishwe. Kwa mfano mtu ameingilia mali yangu, amenivunjia haki yangu ya kumiliki, nina haki ya kuenda kotini kulazimisha hiyo haki nirudishiwe. Serikali imevunja haki yangu ya kimsingi, nina haki ya kuenda kushtaki serikali kotini nirudishiwe haki yangu, hiyo ni njia moja ya kulazimisha haki za kimsingi.

Ya pili ndiyo tunaita halfside judicial ambaye ni nusu ya sheria. Tumetengeneza hapa Tume ambayo inaitwa, Human Rights Commission ni kazi yake kuhakikisha kuwa kila mmoja anapata haki yake na haki ya kimsingi ikivunjwa ni juu ya hiyo Commission kama ni serikali, kushtaki serikali, kama ni mwananchi mwingine kumchukulia hatua huyo mwananchi, kila mmoja apewe haki yake. Na ndiyo tunasema hata zile haki ambazo za kibinaadamu zimevunjwa hapo mwanzo kama vile haki ya watu waliuliwa Wagalla, that is Human Rights, wameuliwa bila sababu yeyote ama sivyo?

Ni juu ya Human Rights Commission ikishatengenezwa kuchunguza hizo haki na kuwalipa watu dhulma ambayo walifanyiwa, kwa hivyo tunaona hapa sio haki tu ambazo zimeandikwa lakini ni haki ambazo wanaweza ku-enforce ambazo unaweza kuzichukulia hatua, uzilamishe. Nafikiri tumefikia time ya swala, sasa ni saa saba bado dakika ishirini, tutavunja kikao lakini tumwachie Olad ndiyo atatueleza vile tutakavyo fanya.

**Mr. Olad:** Asante sana Commissioner Ibrahim Lethome, kwa wakati huu tumepanga kwamba wakati wa kurudi ili tumalize, kuna section muhimu sana zimebaki, watu wale wasiojuwa ni muhimu wajue kwamba kuna section inahusu devolution of power, vile serikali itafanywa kwa sababu nafikiri wengine wameanza kusikia kwamba Provincial Administration imeingiliwa hata system ya Councillors nafikiri itakuja kumalizika na new Constitution. Kwa hivyo mujue vile serikali itaundwa kutoka Village mpaka huko Nairobi, vile vile pia mujue shughuli za judicial, kusan Waislamu kuna sheria, kuna ile ingine kwa hivyo mrudi ili mpate kuelezwa na pia Executive, ni nini powers ya Rais na kadhalika kwa hivyo nafikiri ile kikao ile imebaki ni muhimu zaidi kuliko ile kikao yetu ya kwanza, ningelipenda sisi sote turudi. Tutaanza kikao yetu saa nane na nusu na kwa hivyo tuje kama saa nane na nusu ili tuanze kikao yetu ya mwisho na ile maswali unataka kuuliza ama maoni yako yote utatoa wakati hiyo.

Na kwa wakati huu tutaenda na ningelipenda kuona Committee wangu wa Constitutional Review na mimi pia nitasimamiwa na Sahara kwa kazi ile, ni mwana Committee kwa sababu ninaenda Takaba, kutakuwa na Commissioner Ahmed atatoka upande wa Bute na atakuja kulala leo Takaba ili tufanye launching kesho. Kwa hayo machache, na pia ningelipenda kujulisha

Headmaster wa Secondary nimeomba Commissioner Lethome na wale ambao wako na yeye, wapatie watoto wa Secondary leo jioni kutoka saa moja mpaka saa tatu, watapatia hutuba kuhusu hii Constitution, kwa hivyo tafadhali tembelea kwa guest house mchukue hawa mpele shule. Kwa hayo machache tafadhali tuhudhurie makao ya miwsho na tufanye bidii, asanteni sana na twende tufanye maombi.

**Com. Lethome:** Sasa asubuhi tuliweza kuangalia kuanzia sehemu ya kwanza, sura ya kwanza, Chapter one mpaka nafikiri tulimaliza ya tano. Sasa kabla hatujaingia Chapter Six, tungependa kujuwa kama kuna mtu ana swali lolote, nitawapatia muda wa dakika kumi kama kuna mtu ana swali kuhusiana na hizo Chapters ambazo tumeangalia, uliza swali kabla hatujaendelea bado tuko na sehemu nyingi sana hatujapitia, kwa hivyo kama kuna swali kuhusu, haya uliza sema jina lako na uliza swali.

**Abdi Qala Osman:** Jina langu ni Mtukufu Rais DP, Rais Abdi Qala Osman maga kuder Ibrahim Mohammed. Maneno, mimi ninauliza ninaongea kwanza first, kubedelisha sheria ya Katiba mwenye judgment nauliza mimi katika watu wangu kukuja katika District ya mandera ninauliza nyinyi siku ya leo mambo ya kuweka bendera kubedelisha kama nasikia kubedelisha bendera. Bendera yangu alama yake, bulugei, xithiga Somalia colanta tha Rabi boi, Mandera, Wajir, Garissa, Isiolo, Marsabit, Moyale sheria ya kubadilisha.

Agenda ingine mimi ninaongea mambo ya Bunge mpaka inabedelisha bendera na mimi sikubali mambo ya KANU, mambo ya kujenga sheria ya KANU mpaka naweka bendera.

**Com. Lethome:** Asante sana hayo mambo tutaangalia ya kubedelisha bendera na Bunge, asante. Kuna mtu mwingine kama hakuna tafadhali tuendeleo kwa sababu bado tuko na kazi nyingi sana na ninafikiri tutaendelea. Sasa nafikiri asubuhi tulipoanza kuzungumza, tuliona kuwa hii Katiba mpya au mapendekezo ya Katiba mpya umetilia sana mkazo kwa mamlaka ya wananchi, kuwa wananchi ndio wenye mamlaka. Kwa hivyo tukaona kuwa mamlaka yanayotumiwa na Bunge, legislative authority inatoka kwa wananchi. Executive authority inatoka kwa wananchi. Judicial authority inatoka kwa wananchi. Lakini tunajuwa kuwa haiwezekani, Rais sikiza nimekupatia nafasi ya kuzungumza na wewe nipatie nafasi sasa, tafadhali tuheshimiane.

**Abdi Qala Osman:** Okay sawa sawa.

**Com. Lethome:** Sasa tunajuwa kuwa haiwezekani watu milioni thelathini wote waweze kuingia katika Bunge au watu milioni thelathini wawe ndio katika executive au watu milioni thelathini wawe ndio katika judiciary. Tunajuwa kuwa tunachaguwa watu ambao wanakwenda kutuwakilisha huko, kwa hivyo Chapter six inazungumzia juu ya representation of the people, watu wanavyo wakilishwa, sote hatuwezi kuwa Bunge, sote hatuwezi kuwa ma judge, sisi wote hatuwezi kuwa Ministers ama hatuwezi kuwa Rais sisi wote kwa hivyo tunawakilishwa.

So, Chapter Six inazungumzia habari ya representation of the people na kwanza tunaangalia habari ya elections. The Electoral system and process, vile ambavyo uchaguzi unavyofanyika ni muhimu sana. Kwa sababu ni kupitia kwa uchaguzi ambapo

wananchi wanaweza kuwakilishwa na wale wanao wakilisha. Kwanza kabisa tunasema kuwa haki ya kupiga kura ni haki ya kila mwananchi kwa hivyo hakuna mtu anaweza kuja kukuzuia kama umetimiza masharti ya kupiga kura, ile tatizo tulizungunza asubuhi ni kuwa mtu anata kupiga kura lakini hana kitambulisho hana card ya kupiga kura kwa hivyo ni jukumu ya serikali kuhakikisha kuwa kila mmoja anapata nafasi ya kupiga kura, that is your right it is a fundamental right to vote, to decide who is going to be your leader who is going to exercise authority on your behalf.

Kisha imeweka nidhamu ya kupiga kura kwa siri na uchaguzi uwe ni wa uhuru na pia uwe na uadilifu ndani yake, isiwe kuna mambo ya rigging au mambo ya watu wengine wana nafasi zaidi kuliko watu wengine.

Kuhusu mambo ya uchaguzi, tunasema kuwa kutakuwa na Electoral Commission. Electoral Commission kazi yake itakuwa ni kusajili watu, continuous voters registration. Ukiwauliza wengi sasa kama amejiandikisha atakuambia hajajiandikisha, unaweza kujiandikisha sasa hivi, utaambiwa hapana imefungwa ama sivyo? Mpaka ifunguliwe ndiyo utaweza kujiandikisha, sasa tumesema kuanzia sasa voter registration lazima iwe ni ya kuendelea, continuous kwa sababu leo kuna watu wamefikisha miaka kumi na nane, kesho kuna watu wamefikisha huo umri, so it should be continuous, ndiyo sababu unakuta watu wengi hawapigi kura kwa sababu inafungwa, inafunguliwa. Kwa hivyo hakuna mambo ya kufunga ama kufunguliwa.

Kutakuwa na uchaguzi katika Parliament hivi sasa tunajuwa uchaguzi ni mara tatu, Parliamentary, Civic na Presidential si ndiyo ilivyo hivi sasa. Chini ya Katiba mpya kutakuwa na mabadiliko kidogo, kutakuwa na uchaguzi wa Parliament halafu kutakuwa na uchaguzi pia wa Councils, nazo zitakuwa zinaanzia kwenye Provincial Council, District Council, Locational Councils na Village Councils. Kwa hivyo uchaguzi inakwenda mpaka kwenye grassroots mpaka chini na baadaye tutaangalia hizo Councils ni kitu gani.

Hizo Councils zimewekwa ili kuleta utawala karibu na watu, these Councils have brought governance closer to the people kwa sababu sehemu nyingi tulipo kwenda malalamishi ya watu ni kuwa, utawala uko mbali sana na watu na utawala yaani watu kuweza kufikia kuna mambo mengi sana wanatakiwa wapitie waweze kufikia utawala. So people are not involved in decision-making, decisions that affect them directly do not involve them and they are not involved in making such decisions. Ndiyo maana tumeweka hizo Councils na tukiingia katika sehemu inayozungumzia habari ya devolution of power, kusambaza mamlaka tutaona hizo Councils vile zinavyofanya.

Ukiangalia Article 78 unaona ni nani ako na haki ya kupiga kura, mwananchi yeyote ambaye amefikisha umri wa mwaka kumi na nane ana haki ya kupiga kura. Article 78 Sub Article 2 inasema, administrative arrangements for the registration of voters and the conduct of elections shall not deny a citizen's right to vote and stand for elections and shall include a system of continuous registration. Kwa hivyo, ina maana kuwa utawala lazima uweke nidhamu ya kuhakikisha kila mmoja amepewa haki ya kupiga kura au kama amefikisha masharti pia ya kutaka kupigiwa kura, kila mmoja ana haki ya kutaka apigiwe kura.

Ni mtu gani ambaye ana haki ya kuwa registered kama mpiga kura. Article 79 inatuambia awe amefikisha umri wa miaka kumi na minane, awe ni mtu anayeishi katika nchi ya Kenya. Article B hapo inaeleza categories ya mtu ambaye anaishi Kenya, under Sub-Article 1B: 1, awe ameishi Kenya kwa muda ambao sio chini ya mwaka mmoja kabla ya uchaguzi. Kwa mfano, uchaguzi unafanywa December 2002, huyo mtu lazima awe alikuwa anaishi Kenya kwa muda wa mwaka mmoja ama zaidi kabla ya uchaguzi, ili kuzuia watu wengine ambao wanakuja tu kwa sababu ya kupiga kura halafu wanarudi anaenda zake.

Au under II, for a total period of not less than four years in the 8 years immediately preceding that date. Awe ameishi kwa muda wa miaka minne, ukichanganya muda ule ambaye ameishi kabla uchaguzi, ukihesabu miaka minane iliyopita basi awe ameishi kwa muda wa miaka minne. Yaani kwa ufupi ni mtu ambaye ameishi kwa muda mrefu katika nchi ana haki ya kupiga kura. Ukiangalia Article 80 inaeleza ni nani ambaye anaweza kuzuiwa kupiga kura, kuna wakati unaweza kufika mtu aambiwe kuwa hana haki ya kupiga kura. Unaambiwa mtu hana haki ya kupiga kura under Article 80 Sub-Article 1, mtu ambaye chini ya sheria ya Kenya amesemekana kuwa hana akili timamu, basi mtu kama huyo hana haki ya kupiga kura kwa sababu kura ni haki yako ya kuchaguwa mtawala na kama hauna akili timamu hauwezi kuchaguwa mtu anayefaa. Au mtu ambaye amepigwa marufuku kwa sababu ya sheria fulani ya Bunge, kwa sababu amekuwa na hatia inayohusiana na mambo ya elections, an Election offence mtu pengine amehusika na mambo ya rigging au mambo mengine yeyote yanahusiana na uchaguzi basi mtu kama hafai kupiga kura.

Mtu ambaye sheria imesema yeye ana hatia ameiba kura ya watu wengine.

**Speaker:** Mtu mwenye ako na kura mbili ....

**Com. Lethome:** Still that is an election offence, double registration because the law says you can only register once, you can only have one voters card, if you have two then that is an offence. Unaweza kushtakiwa na ukipatikana na hatia then you will be disqualified you cannot vote after that, kama tunasikia viongozi wengi, they are charged with an election offence lakini anaendelea tu hata anapigania kiti cha uBunge, it is happening now.

Article 81 tunaona baadhi ya majukumu ya Electoral Commission, unaambiwa kuwa itahakikisha kuwa nidhamu ya kupiga kura ni rahisi na inafahamika na kila mtu, hatutaki iwe complicated mpaka ukienda kupiga kura mpaka uulize mtu nipige kura namna gani, iwe simple and precise, mtu anaweza kujipigia kura bila kuuliza mtu mwingine. Ballot box iwe transparent, hivi sasa ballot box yetu rangi yake ni gani?

**Audience:** Black

**Com. Lethome:** It is pitch-black na wakikuja wanakuonyesha wanafanya hivi, is there anything in it? Si ndiyo wanainamisha hivi debe? Huko ndani unajuwa ile kitu iko? Hakuna mtu anajuwa iko na nini, kwa hivyo tunasema iwe transparent. Jana kama mliangalia uchaguzi ya Yugoslavia walikuwa wanaonyesha wale waliangalia CNN, kama glass kama hii ikitupwa mnaona vile inaanguka ndani, mnaona kura ngapi zimeanguka ndani so kuanzia sasa chini ya sheria mpya lazima iwe ni transparent.



Halafu mambo ya kuhesabu kura, 1997 mumepigia kura wapi? Polling station yako ilikuwa wapi Sheikh? Okay, nataka mtu alipigia kura hapa? Sheikh ulipigia wapi?

**Sheikh:** Mandra.

**Com. Lethome:** Mandra, where was the polling station?

**Sheikh:** (inaudible)

**Com. Lethome:** Okay just a minute, where did you cast your vote? Niambie ulipiga kura wapi wewe? Wapi Kalaleo, that was the polling station? Kura ilihesabiwa wapi?

**Audience:** Hapa.

**Com. Lethome:** Haya kwa hivyo ilibebwa kutoka Kala leo mpaka hapa, how many kilometres are those?

**Audience:** 18 miles

**Com. Lethome:** 18 miles okay, what happened in between Kalaleo and this place to the vote, sasa hapa tumezunguka Kenya tumeambiwa kuwa sometimes hizo kura njiani zinakufa au zinazaa meaning zinazidi au zinapunguwa, in between from the polling station, you are a returning officer unajuwa hiyo mambo to the counting station inapotea kati kati. Under the new laws counting inafanywa mahali kura inapigiwa, kama ni Kalaleo inahesabiwa hapo hapo, kama ni hapa inahisabiwa hapa hapa, that is according to the views of the people. So counting of votes will be at the polling station itself mnaonaje kuna uadilifu kidogo hiyo kura nyingi zinapotelea njiani.

**Electoral Commission:** chini ya sheria mpya Electoral Commission imepatiwa kazi nyingi sana. Imepatiwa kazi kuliko vile ilivyo hivi sasa, iko na kazi nyingi na more independent. Ukiangalia chini ya hii sheria the current Constitution utakuta kuwa tuna Electoral Commission ambayo iko na Commissioners between four and twenty one, not less than four and not more than twenty one members. All of them appointed by who?

**Audience:** The President.

**Com. Lethome:** The President of course nominated by different political partices, siku hizi kila political party inapeleka watu wake, lakini the final appointing authority ni nani, the President that power has been removed now from the President, he is not the final appointing power. Anachagulwia na President halafu anakuwa approved by Parliament kwa hivyo Parliament has the last say, hiyo ni kuwapatia more independence na wasiwe wanaelekea upande mmoja kwa sababu wanaweza kusema President ndiye ametuchaguwa, wanampendelea ama wanaweza kulaumiwa kama hivi sasa ukiuliza Mkenya yeyote kuhusu Electoral Commission of Kenya atakuambia inapendelea upande moja ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** Kwa sababu who picks the Chairman of the Electoral Commission, Samuel Kivuitu nani alimchaguwa?

**Audience:** The President.

**Com. Lethome:** And usually binaadamu ni binaadamu, leo hii nikikuchaguwa nikuambie ukae hapa, you will listen to me more than you will listen to the other people ama sivyo?

**Audience:** Ndio.

**Com. Lethome:** It is human nature, sasa tumeondoa hiyo kutoka huko kwa hivyo kutakuwa na Electoral Commission tunapunguza watu between eight and ten. Not less than eight not more than ten ndiyo watakuwa Commissioners wa Elections, na kutakuwa na mwenyekiti halafu tunaambiwa the Chairperson and the others members of the Commission shall be appointed by the President with the approval of the National Assembly. Na tunaambiwa yule ambaye atakuwa ni chairperson wa hiyo Electoral Commission na ninatumia Chairperson kwa nini tunatumia Chairperson?

**Audience:** Anaweza kuwa mwanaume au mwanamke

**Com. Lethome:** Yeah anaweza kuwa mwanaume au mwanamke ndiyo tunatumia Chairperson ndiyo kuonyesha kuwa lugha tunaotumia katika mapendekezo ya Katiba mpaya is what we call gender sensitive, you will not see anything like he/she and we have avoided that. Kwa sababu kwenye Katiba hii unakuta wanasema he halafu wanakuambia where there is he it also means she, that is the problem with English kama ingekuwa ni Kiswahili, Kiswahili haina he and she. Lakini katika hii Katiba mpya hakuna hiyo mambo ya he/she tunatumia person, chairperson ama a person.

Kwa hivyo mtu ambaye atakuwa chairperson wa Electoral Commission lazima awe ni mtu ambaye anaweza kushikilia ofisi ya jaji wa mahakama kuu. A person qualified to be a High Court Judge. Na mtu ambaye ni mbunge,

**Interjection:** (inaudible)

**Com. Lethome:** Sasa Rais tuheshimiane Bwana. Mtu hawezi kuchaguliwa kuwa member wa Commission ikiwa yeye ni mbunge, hawezi kuwa ni mbunge na pia ni member wa Electoral Commission na asiwe anashikilia ofisi nyingine yeyote katika jamhuri ya Kenya. Hebu tuangalie kazi za Electoral Commission, kazi ya Electoral Commission ni nini. Sheikh wewe ni returning officer hebu tuambie what are the functions now currently?

**Sheikh:** (inaudible)

**Com. Lethome:** But of course employed by whom? Hired by whom? By the Electoral Commission, the functions of the Electoral Commission does it include supervising political parties currently?

**Audience:** No.

**Com. Lethome:** No, determining the electoral constituency boundaries? No. Kuna mambo mengi ambayo yanafaa kuwa chini

ya Electoral Commission lakini hayako chini ya Electoral Commission. What about determining disputes?

**Sheikh:** Just on the ground.

**Com. Lethome:** Okay on the ground you can arrest, let us see now under the new Constitution tuangalie chini ya Katiba mpya kazi za Electoral Commission, Tume ya uchaguzi.

Kufanya registration ya voters na iwe continuous,

Mambo ya kuweka mipaka ya constituencies,

Kusimamia uchaguzi na kuhakikisha kuwa uchaguzi ni wa uhuru na uadilifu,

Na kusimamia political parties, supervision of political parties,

Kitu kingine management of political party's fund, hiyo ni mpya pia kwa sababu chini ya Katiba hii hakuna funds ya political party, kila party inajitegemea yenyewe. Ndio unakuta parties' zingine wana uwezo wa kufanya campaign, zingine hazina uwezo wa kufanya campaign. Sasa chini ya Katiba mpya there will be a fund called the political party's fund ya kusaidia kila chama itapatiwa kila chama pesa za kusaidia kufanya kazi zake. Sasa mimi ninajuwa Rais na watu wake wanasema sasa nitatengeneza political party yangu ndiyo nipewe pesa, even me I was thinking now that there is a fund,

**Interjection:** Ngoja, sasa sitataja jina nikitaja nakutia moto eh, wewe ngoja hata mimi nilikuwa ninafikira pengine niunde chama changu mimi na mke wangu halafu tupate pesa, si ni njia rahisi ya kupata pesa hii?

**Audience:** Ndio.

**Com. Lethome:** Lakini kuna masharti fulani ambayo lazima utimize.

Interjection: (inaudible)

**Com. Lethome:** Sasa waria, umekula nini lunch wewe?

**Rais:** (inaudible)

**Com. Lethome:** Basi nyamaza sasa please, nitakutoa nje.

**Rais:** Hapana.

**Com. Lethome:** Sio kila chama ambacho kitapewa pesa kuna masharti fulani ambao lazima itimize kwa mfano masharti moja ni kuwa it has to have a national outlook, for a political party to qualify to get a fund, it has to have a national outlook lazima iwe ni chama chaa kitaifa kisiwe ni chama chaa sehemu moja au ya kabila na nilikuwa ninafanyisha watu Elwak na Wajir exercise moja, nitawafanyisha sasa. Kila chama nataka muniambie kabila yake ni gani sawa? DP ni ya kabila gani?

**Audience:** Kikuyu.

**Com. Lethome:** NDP ilikuwa ya kabila gani?

**Audience:** Wajaluo.

**Com. Lethome:** Ford Kenya ni ya kabila gani?

**Audience:** Wa Luhya

**Com. Lethome:** Ford Asili ni ya watu gani?

**Audience:** Kikuyu.

**Com. Lethome:** Haya Saba Saba Asili?

**Audience:** Kikuyu

**Com. Lethome:** Ford People ni ya watu gani?

**Audience:** Kisii.

**Com. Lethome:** KANU ni ya watu gani? Semeni tu msione haya.

**Audience:** Kabila zote

**Com. Lethome:** MPP ni ya watu gani?

**Audience:** NFP

**Com. Lethome:** In other words ukiangalia vyama vyetu ambavyo viko hivi sasa ni vyama vya kikabila mostly, let us be fair ni KANU tu to some extent ambayo iko kila mahali. Zingine zote utakuta ni ya kikabila hata wanapopiga kura wanapiga kura kikabila, sasa ndiyo tunasema we want parties that have a national outlook, chama ambacho sio cha kabila moja ama cha region moja ndiyo wapate funding.

Kwa hivyo mimi na bibi yangu out, we cannot form that party hata tuki-form hatuwezi kupata funding. Halafu pia kuna tatizo lingine, kuna vyama vingine tangu wamefanyiwa registration mpaka leo, pengine miaka kumi au miaka saba hawajafanya any activity hata moja. Hakuna activity hata moja wamefanya ni briefcase tu mtu anatembea naye na certificate yake, I am registered my party is registered anangoja mtu akuje kunua hiyo chama. Chama kama hicho hakitapata funding kwa sababu tumeambiwa every year, kila mwaka lazima wafanye return.

Number one, aonyeshe activities mwaka mzima wamefanya kitu gani,

Number two, pesa ambazo wamepewa na Electoral Commission wametumia namna gani, most parties will be disqualified kwa sababu ya hiyo.

Hivi sasa tuko na over 42 registered parties kulingana na register ya Registrar of Society, sisi kama Commission tumewatumia

barua, kwanza tulitumia Registrar of Society barua tukamuambia atupatie list ya registered parties akaleta 42, kila moja na Secretary General wake. Sasa ikawa tunawaandikia barua tunawaalika wahudhurie ama watutumie delegates for the National Conference, half of them barua zimeambiwa return to sender, hakuna address.

They don't have an address, no office, hawajulikani wako mahali gani, yet they are registered. So most of these parties ni briefcase parties ni forty two kwenye register lakini hakuna. Therefore most of these zitaanguka tu njiani kwa sababu maoni ya wananchi wengi ni kuwa we continue allowing multi-partism vyama vingi vikubaliwe lakini vipunguzwe ni vingi sana. Sasa conditions zimewekwa chache sana ndiyo zita-qualify, very few will qualify for the funding.

Kazi nyingine ya Electoral Commission ikiwa kuna dispute zozote za mambo ya u uchaguzi ndiyo watahusika nazo, Mambo ya voter education, kuwafundisha watu haki za kupiga kura. Watu wengi hawajui maana ya kupiga kura hawajui haki zao za kupiga ni kazi ya Electoral Commission kuwafundisha watu na sio kungojea tu mpaka wakati wa uchaguzi, it has to be continuous pia, Mambo ya observation monitoring, evaluation of elections itakuwa ni kazi yao, Na kama nilivyosema mambo ya kuweka mipaka ya constituencies Article 86 inaonyesha hapo.

Tuingie kwenye vyama vya kisiasa tulipokuwa tukiangalia haki za kimsingi under political rights tulisema kila Mkenya ana haki ya kujiunga ama kufanya political choice yake, kuamua kisiasi anataka kuelekea wapi. Na kulingana na Article 50, kila mwananchi ana haki ya kutengeneza chama chake kwa hivyo Shiekh una haki ya kutengeneza chama chako cha kisiasa hakuna mtu anaweza kukuzuia, that is your political right a fundamental right hakuna mtu anaweza kukuzuia.

Ukisha tengeneza basi chama chako kikitimiza masharti you will be entitled to funding, utakuwa unapata funding ukitimiza yale masharti. Kuna tatizo lingine ambalo ukiangalia hivi sasa inatokea sana zinatokea sana na watu wengi wanalalamika sana, kwa mfano unakuta mtu pengine ni waziri wa nchi kisha yeye ni Secretary General wa chama fulani ama ni Rais wa nchi kisha ni Chairman wa political party fulani, wakati anapokwenda kuzungumzia watu wake as a Chairman of that political party anatumia vitu gani? Anatumia resources za state, let's face anatumia bodyguard anaye mchungu ni yule bodyguard ana chungu President wa nchi, ile gari anatumia ni Presidential vehicle ama sivyo?

Therefore you don't know when the President is talking as the Chairman of the party or the President of the state, head of state imechanganyika. Kwa hivyo utakuta resources za nchi zinatumiwa ku-promote political interest ya party fulani, it cuts across all the parties zote. Utamkuta kwa mfano mtu fulani ambaye ni Secretary General wa chama fulani ni waziri anapokwenda kuhutubia watu as a Secretary General of the party, bendera anaweka kando kwanza?

**Audience:** Hataa.

**Com. Lethome:** Anatembea na bendera hiyo hiyo, imeleta confusion kubwa sana chini ya Katiba mpya tunasema, no person

may use state resources to support any political party na ndiyo maana mwisho kabisa under Article 100 tumesema, the President mtu yeyote akishachaguliwa kuwa President, you have to forfeit your position in your political party. Ukichaguliwa cheo chochote, Deputy Secretary and above kwa mfano Deputy Secretary in a Ministry, the Permanent Secretary, Minister, Assistant Minister lazima uwache kiti chako cha chama ili usitumie rasil mali za nchi katika kusaidia chama chako. It is unfair ama mnaonaje? Kwa hivyo hauwezi kutumia.

Tuangalie sasa kazi ya political parties, ngoja tena niulize watu maswali magumu hapa kidogo, wewe Sheikh are you a member of political party?

**Sheikh:** Yes.

**Com. Lethome:** Which one?

**Sheikh:** KANU.

**Com. Lethome:** KANU, what are the functions of KANU, what does KANU do?

**Sheikh:** (inaudible)

**Com. Lethome:** It assists its member's okay two? It rules the country because it is the ruling party.

**Sheikh:** and a lot of things.

**Com. Lethome:** And a lot of things, I want you to be specific kuna mtu ambaye ni wa chama kingine, we just want to brain storm kidogo. Hakuna mtu wa chama kingine, mimi pia nina chama changu, it does not rule the country so one of the functions of my political party is:

1. To oppose the Government, that is one the functions, kinapinga serikali,
2. Tunafanya bidii kutukana wanachama wa kile chama kingine, that is one of the functions of my political party another functions is,
3. To discredit all what is done by the other parties,

That is what our parties do ama sivyo? Si ndiyo political parties inafanya sasa ukiangalia ni vujo tu either you are ruling or opposing hakuna kazi ingine that is the only specific function you can point out. Tuangalie habari ya developments kwa mfano tukiangalia mwaka mmoja uliopita, is there any development project by your party here in Mandera?

**Audience:** No.

**Com. Lethome:** No, even my party hakuna mambo ya development. Mambo ya civic education kuwafundisha raia haki zao za kiraia? Very little sasa ndiyo tunasema chini ya Katiba mpya, the functions of political parties have to be specified zijulikane unaunda chama chama ya kazi gani? Ijulikane kazi zake chini ya Katiba ndiyo mwaka ukiisha ukifanya return uonyeshe ni

activity gani ambazo umefanya, I think as Kenyans we need to know what political parties do ama sivyo?

**Audience:** Yes.

**Com. Lethome:** Yes, wakati ninajiunga na chama nijuwe hii chama kazi yake ni nini kama ni kupiga tu kelele na kurushia watu wengine mawe I want to know sawa. Ya kwanza tunaambiwa functions ya political party is to

- Mobilize public opinion on matters of national interest and foster national values and outlook. Kuweza kuwahimiza wananchi ili wawe na msimamo kuhusu mambo ya kitaifa kwa mfano mambo ya Constitution hivi sasa ni mambo ya taifa mzima kuna mambo mengine kama vile AIDS imekuwa declared a national disaster ni kazi ya political party pia ku-mobilize watu kuwajulisha wanachama wake wawe na msimamo fulani kuhusu jambo kama hilo la kitaifa. Kenya inaelekea wapi inatoka wapi, hiyo ni kazi ya political parties kuweza kuwajulisha hivyo.
- Bring together opinions and resources of people with similar views, interest or persuasion so as to guarantee development of the Republic. Mambo ya development pia, tunataka vyama vya kisiasa vihusike mambo ya development sio mambo ya kutukanana tu na kurusha mawe na ku-discredit wale wengine no. Provide the means through which the people participate in the political and Constitutional process and exercise their civil and political rights. Kuwawezesha watu waweze kupata haki zao za kisiasa, mambo ya kikatiba, haki zao kama wananchi wa Kenya na mambo mengine, kwa hivyo ni juu ya vyama vya kisiasa kufanya hayo mambo yote.
- It also uses its facilities to mediate between civil society and institutions of the state, ikiwa kumetokea matatizo baina ya wale ambao tunaita civil society kama NGOs na serikali kwa sababu NGOs ama civil society kazi yao ni kusaidiana na serikali. NGOs ama civil societies are not there to conflict ama to be in conflict with the Government but to supplement and compliment the Government katika kusaidia wananchi. Kukitokea dispute yeyote ni kazi ya political parties sio kwenda kuzidisha fitina ama kuwasha moto kujaribu kusuluhisha.
- Use its facilities to secure representation of the people in state institutions and offer them economic, political and social choices through the electoral process and bring public opinion to bear on the policies of the Government. Unapatia wananchi nafasi ya kuchaguwa wanavyotaka kutawaliwa na pia waweze kuwa na forum ya kukueleza wanataka serikali iendeshe shughuli vipi.
- Ensure that cohesion and discipline in the conduct of Government is maintained. Kuhakikisha kuwa serikali inavyo endeshwa inaendeshwa kwa nidhamu, hiyo ni kazi ya political parties.
- Hold the Government accountable to Parliament and the people, kuweza kuhakikisha kuwa serikali inawajibika kwa Bunge na kwa wananchi yaani serikali inapofanya kazi, inafanya kazi kwa kuwajibika injuwa iko na wajib kufanya kazi kama hiyo kwa sababu ya wananchi na Bunge.

H 9 inazungumzia habari ya kusajili vyama vya kisiasa, registration of political parties, nani ana register political parties sasa? Registrar of Society, sasa imetolewa hapo chini ya Katiba mpya itakuwa ni Electoral Commission ndiyo wanafanya registration na ukiangalia 90 inakuambia a party shall not be registered unless it has a national character kama nilivyowaambia iwe ni chama ambacho ni cha kitaifa sio cha sehemu moja ya nchi halafu pia iwe ni chama ambayo itahimiza umoja wa nchi. Ukiangalia hivi

sasa vyama vyetu vya kisiasa vinahimiza watu watengane ama sivyo? Ile mambo ya kutukanana na kutukana watu wengine, vyama vingine inaleta umoja ama watu kutengana?

**Audience:** Kutengana.

**Com. Lethome:** Kutengana kila moja anajuwa chama chake vile kinafanya kwa hivyo chini ya Katiba mpya tunataka vyama ambavyo vitahimiza watu wawe kitu kimoja, yaani national unity halafu pia kuwe na democratic principles of governance and to promote and practice democracy within the party through regular fair and free elections within the party.

Sasa utakuta kama mimi ni Chairman wa party yangu nikisimama siku zote itazungumzia habari ya democracy, ikifika kwa chama changu ninawaambia democracy kaa nje, this is my party nitafanya vile ninataka. Sasa chini ya Katiba mpya tunasema we want to see democracy even within the party, let's be fair unakuta chama tangu ilipoundwa mpaka sasa hawajafanya grassroot elections ama sivyo? Miaka miwili mitatu nne hakuna elections imefanywa ama chama hakuna rules zinafuatwa vile Chairman anasema ndiyo watu wote wanafuata hivyo ama sivyo? We want to see democracy even within political parties na hiyo ndiyo kazi ya Electoral Commission ku-supervise.

To promote and respect human rights and gender equality and equity. Kuna vyama vingine saa hizi ukuliza kuna wa mama wangapi katika National Executive Council yao, hoyo uko katika KANU wewe? Kuna wa mama wangapi katika National Executive Committee ya KANU? National seats zile za kitaifa iko na wamama wangapi?

**Mama Habiba:** Hakuna, sijawahi kusikia.

**Com. Lethome:** Haujawahi kusikia kwa sababu hakuna gender equity ama equality, hawaangalii hivyo.

**Audience:** Wakina mama bado hawajasikia.

**Com. Lethome:** Wakina mama bado kusikia, wamesikia sasa. Tunasema iheshimu haki za kibinaadamu kila chama lazima kiheshimu haki za binaadamu na kuwe na usawa baina ya wanawake na wanaume. Kisha kitu kingine ni kuwa chama hakiwezi kusajiliwa cha kisiasa ikiwa katika malengo yake sio kudumisha Katiba, tunataka kila chama kiwe kunaheshimu Katiba na sheria.

Pia ukiangalia Sub-Article 2 ya Article 90 wanakuambia the Electoral Commission shall not register a political party if that party is founded purely on religious, ikiwa ni chama cha kidini peke yake, linguistic ya kabila fulani, racial, ethnic yote mambo ya makabila ama wakina mama waseme tumeunda women democratic party of Kenya, haiwezi kuwa registered hiyo tumekata maya. Tumekataa hiyo haiwezi kuwa-registered hiyo ama chama ambacho kitakuwa kinahusika na mambo ya propaganda katika haya mambo yote haitakubalika.

Ukiangalia Sub-Article 2 inazungumzia habari ya violence fujo. Leo hii kwa mfano mimi nikiwa na mkutano wa chama changu hapa kawaida ni kuwa lazima nipatiwe security kwa nini? Vijana wa kutoka ile party ambayo sio yangu wanakuja kurusha



mawe hapa ama sivyo? Kwa hivyo utakuta every political party iko na team yake, wengine wanaitwa Taliban, wengine wanaita Mungiki, wengine wanaitwa Bagdad boys, wengine wanaitwa jeshi la mzee. Hiyo yote ni mambo ya violence, ukiangalia hata leo tunaongojea tu tusikia Nairobi sijui kumetokea nini kwa sababu ya mambo ya violence.

Political parties kila zikikutana lazima itoe fujo, juzi mumesikia Kakamega kuna mtu amekufa, just because political party moja imeenda kuzungumza na kuna watu wanaowapinga inakuwa lazima mawe irushwe na mapanga irushwe. Kwa hivyo tunasema

- (a) A political party shall not engage in or encourage violence or intimidation of its members supporters or opponents or any other persons. Chama kitakosa kiti chake ama kitakosa kusajiliwa ikiwa itakuwa kazi yake ni kuhimiza fujo violence, ama intimidation of its members hakuna democracy ndani ya chama, Chairman anakuambia ukifanya hivi I will kick you out of the party, hiyo ni intimidation mambo ya kutishana katika chama.
- (b) Establish or maintain a para-military milita or similar organization, hiyo mambo ya munguki, taliban, jeshi la mzee hiyo yote ni para-military ama militia jeshi ambazo hazina sheria yeyote. Chama chochote kikiwa na mambo kama hayo tutafutilia mbali.
- (c) A political party shall keep proper accounts and proper books and records of account in the form approved by the Auditor General. Utakuta vyama vingi hivi sasa pesa hazijulikani zinatumiwa vipi, lakini sasa kwa vile vyama vyote vitapewa pesa kutoka kwa political parties fund lazima waweke accounts yao vizuri kulingana na vile Auditor General atataka ziwekwe.

Article 92 inaoneysha ni wakati gani ambapo chama ambacho kimesajiliwa kinaweza kutolea kwenye register. Article 92 inazungumzia habari ya ile nilikuwa ninasema political parties fund ambayo itasimamiwa na Electoral Commission. Pesa za hiyo fund zitatoka kwenye budget ile budget ambayo inapitishwa na Bunge kila mwaka, on 3% of that budget itakuwa ni political parties fund, hiyo ndiyo source moja.

Na kulingana na mapendekezo ambayo yako hapa, chama pia kinaweza kupata pesa kutoka sehemu zingine kama vile subscriptions kutoka kwa members ama donations kutoka sehemu nyingine. Article 95 inkuambia ni kwa nini kuwe na fund ya kusaidia katika mambo ya elections na mambo ya administration ya hiyo political parties.

Article 96 inakueleza juu ya sehemu zingine ambazo wanaweza kupata hizo pesa. Article 97 inakuambia juu ya jukumu la supervision of political parties, Electoral Commission kusimamia vyama vya kisiasa. Article 98 party discipline hebu tuangalieni hiyo party discipline kidogo Article 98. The Constitution or Articles of Association of a political party shall contain provisions that ensure internal discipline consistent with the principles of democracy, justice and the rule of law. Kwa hivyo chama lazima kiwe na discipline ndani yake na kiwe na democracia ndani yake, na kiwe kinafuata sheria ndani yake na kupatia wanachama wake uhuru wa kuweza kuzungumza wakiwa Bunge ama nje ya Bunge.

Ukiangalia Article 98 Sub-Article 4, siku hizi kuna watu ambao unamchaguwa unampeleka Bunge kwa tikiti ya chama fulani,

akifika huko ana hama anaingia chama kingine ama hakuna watu wa aina hiyo? Wanapohama kutoka chama kimoja hadi kingine, do they consult the people who elected them?

**Audience:** No.

**Com. Lethome:** Haulizi inakuwa ni dhulma kwa wale ambao wamempigia kura kwa hivyo imesekana hapa a Member of Parliament or a local Council who resigns from the political party that sponsored that member's election loses the seat anapoteza kiti chake. Restriction on use of public resources Article 99 except as provided for in this Chapter a person whether or not a member of a political party shall not use public resources to promote the interest of a political party. Kwa mfano nimepewa gari na serikali nitumie kama Commissioner, halafu niwe ninatumia hiyo gari kueneza maslaha ya chama changu chini ya Katiba mpya ni makosa au mtu ameajiriwa yeye ni Agricultural officer ama kama Ambia yeye ni mtu wa Forest anatumia resources za department hiyo ya forestry kuweza kusimamia chama chake, ku-campaign anapigania chama chake. It is wrong na ndiyo chini ya Article 100 hata President ameambiwa akisha chaguliwa kuwa President kile kiti cha chama awachae naye.

So hii Katiba ikipita we will never have a President who is a Chairman of a political party, we will never have a Prime Minister who is an official of any political party. Tunataka kuwe na separation baina ya political party na mambo ya state. Kwa mfano leo hii wale ambao wameenda Kasarani like the President, has he gone there as the Head of State or Chairman of the party today?

**Audience:** Party Chairman

**Com. Lethome:** Party Chairman, kuna gari fulani special alitumia ama alitumia ile ya kawaida ya President?

**Audience:** Ile ya President.

**Com. Lethome:** These are the things, hii confusion ndiyo tunataka iondoke, today he is there somebody else will come in future tunataka yule atakayekuja asitumie haki ama mali ya nchi katika mambo ya chama.

Tunaingia katika Bunge, Parliament Chapter Seven. Tulipoanza kuzungumza tulisema kuwa the legislative authority lies with the people haki ya kuunda sheria ambayo tunapatia Bunge inatokana na wananchi wenyewe na tunajuwa kuwa wale ambao tunawachaguwa kwenda Bunge ni wawakilishi wa wananchi. Tunawapatia kazi ya kwenda huko Bunge ili kutuwakilisha sisi, ukiangalia hivi sasa chini ya sheria hii tuko na Bunge lakini powers nyingi ziko na President na ndiyo sababu tunasema system yetu ni Presidential kwa sababu powers nyingi ziko na President.

Chini ya Katiba mpya tumependekeza mamlaka nyingi iwe na Bunge kwa sababu Bunge ndiyo inawakilisha watu. Na Bunge inapofanya kitu ni vigumu kulaumiwa kuwa inapendelea upande mmoja kwa sababu wawakilishi wa watu wako huko wote ndiyo utaona chini ya Katiba mpya Parliament imepewa kazi nyingi sana especially mambo ya appointments. Appointments zile ambavyo zilikuwa zinafanywa na President nyingi sasa zimepelekwa Bunge hata zile chache zitafanywa na President lazima

zipitie Bunge for approval.

Kwa hivyo mamlaka ya ku-appoint kwa mfano mtu kama vile Commissioner of Police, High Court judges, Ambassadors, High Commissioners, Auditor General, Attorney General, chini ya Katiba hii all the Constitutional office bearers wanachaguliwa na President. Chini ya hii mamlaka hiyo imepelekwa Bunge na ukiangalia chini ya Katiba hii kuna sehemu ambayo inasema waziwazi kuna Article moja hapa, Article 25 chini ya Katiba hii ngoja nitawasomea muone where we went wrong or where we have been going wrong.

Anasema *“save in so far as maybe otherwise provided by this Constitution or by any other law, every person who holds office in the service of the Republic of Kenya shall hold that office during the pleasure of the President”* Mtu yeyote ambaye atachaguliwa kushikilia mamlaka yeyote katika Kenya atafanya hiyo kazi na kushikilia hiyo ofisi ikiwa inampendekeza Rais. Si ajabu unafutwa saa saba kama vile uliajiriwa kwenye taarifa ya habari ya saa saba kwa sababu you hold that office at the pleasure of the President, the moment you don't please him, you go. Hajaenda kinyume na sheria, ni sheria Article 25 iko hapa imempatia hayo mamlaka na ndiyo unakuta sasa most of the office bearers hao ambao wamechaguliwa na Rais wanakuwa sycophants, they will never talk the truth kwa sababu anaogopa anaweza kusema kitu fulani apoteze kazi yake. Ndiyo maana tumeona for fair Administration ili watu wafanye kazi wakijuwa they are only answerable to Parliament wachaguliwe from Parliament.

Kwa hivyo appointments kama Prime Minister, Deputy Prime Minister, Minister infact chini ya Katiba hata Vice President is at the mercy of the President ama sivyo? Amechaguliwa na President ndiyo hapa tumetoa huko tumesema Vice President achaguliwe directly by the people.

**Speaker:** Kama America.

**Com. Lethome:** He will be the running mate of the President sio anachaguliwa President tulikaa mwaka na nusu without a Vice President now we have no Vice President. Kuna Commission ambayo inaitwa Ethics and Integrity, ukiangalia Sub-Article 3 ya Article 103 utaona zile appointments zote ambazo lazima zifanywe na Bunge.

Sasa tunaingia katika kitu mpya kabisa ukiangalia Article 105 ni mambo mpya ilikuwa hakuna Kenya. Structure of Parliament, hivi sasa Bunge ambayo tuko nayo ni moja peke yake National Assembly, chini ya Katiba mpya kutakuwa na Bunge mara mbili. We shall have two houses of Parliament, ya kwanza itaitwa National Council which is the Upper House kama ile tulikuwa nayo zamani inaitwa Senate nchi zingine inaitwa Senate hapa tutaita National Council. Halafu ile Bunge ya kawaida tutaita National Assembly.

Composition ya National Council ambayo ni mpya, hii ni mpya sasa ilikuwa hatuijui hii itakuwa na watu mia moja, 70 watakuwa wamechaguliwa kutoka kila District, tuko na District 70 hivi sasa Kenya, kwa hivyo kila District itachaguwa mtu mmoja wa

kuenda kwenye National Council. Hizi viti thelathini ni za kina mama lakini watachaguliwa vipi na District ni 70?

**Speaker:** Wakina mama watachaguliwa katika District tena.

**Com. Lethome:** Sasa ni bahati yao wanaongezeka mkichaguwa wanapata kiti mara mbili hii ndiyo inaitwa affirmative action. Hii ni affirmative action kujaribu kuwaleta juu mpaka wafikie level moja na wazee katika representation. Sasa hebu tuangalie party seats watagawana namna gani, hatuwezi kusema ni District fulani ndiyo zitatoa wanawake peke yao kwanza Mandera itakataa, watasema maya sisi hatupeleki mwanamke ama sivyo?

**Mama Habiba:** Hawawezi

**Com. Lethome:** Hawawezi sasa tutawalazimisha.

**Mama Habiba:** While we are the majority voters.

**Com. Lethome:** I know, Rais..

**Interjections:** (inaudible)

**Com. Lethome:** Sasa kina mama, haya Rais asante sana. Thelathini tunasema kila Province, tuna Province ngapi Kenya?

**Audience:** Nane.

**Com. Lethome:** Toa Nairobi zinabaki ngapi?

**Audience:** Saba.

**Com. Lethome:** Kila moja ya hizi saba watapewa viti nne, every Province to produce four women. How many women are those? Twenty-eight the remaining two Nairobi that is how they will share the thirty seats. Kwa hivyo tutakuwa na watu mia moja, kwa hivyo kina mama sheria mpya ikipita aanza kupigania hiyo kiti ya National Council.

**Mama Habiba:** Asante sana.

**Com. Lethome:** Kuna watu wengine wanalalamika wanasema kuwa, it is very expensive. Kwa nini tuwe na Bunge mbili? ni kwa sababu ya kitu kinachoitwa checks and balances. Hivi sasa Bunge there is nobody watching over Parliament, hakuna mtu ambaye anauliza Parliament mnafanya nini, na ndiyo sababu walikaa in their wisdom or lack of it walipitisha mishahara yao bila kuuliza. Kuna mtu aliwauliza mishahara yao waliyopitisha? Walijipitishia mishahara yao, if we had a second house wangeweza kuwauliza ama ku-check ama bill hiyo kabla haijapita lazima ipitie kama imetoka kwa National Council lazima ipitie National Assembly ndiyo iende kwa Rais, kama imetoka National Assembly lazima ipitie National Council ndiyo iende kwa Rais so this one provides checks and balances.

Halafu interest za District zitakuwa zinapelekwa direct mbunge anapeleka interest ya constituency. Huyu muakilishi wa District

anapeleka interest ya District huko Bunge kwa hivyo kunakuwa na watu wanawakilishwa zaidi, watu wanakuwa na sauti zaidi, na kunakuwa na checks and balances ndiyo sababu tukasema kuwe na two houses even our Constitution ile ya 1963 ilikuwa nayo hiyo lakini wabunge wetu wali-dismantle within one year walikuwa wametupilia mbali hiyo ilikuwa hakuna wameondoa lakini ilikuwa na Senate.

National Assembly itakuwa vile vile ambavyo tuko nayo hivi sasa ya constituencies mia mbili na kumi labda pengine Electoral Commission ikiongeza zingine na kutakuwa na viti vya watu wanaoteuliwa, watu wengi wamelalamika 90 seats of nominated Members of Parliament. This is just a recommendation unaweza kuongeza ama kupunguza mkitaka tuwe na zaidi ya hiyo mtasema chini ya hiyo, hii ni ya kujaribu kuleta balances pia. Ni nani ambaye anaweza kuwa mbunge, sio kila mtu anaweza kuwa mbunge:

Awe ni mtu ambaye ni Mkenya hatutaki watu wa nje, waje waingia kati Bunge ya kwetu.

Awe amefikisha miaka thelathini na mitano kama anaingia kwenye National Council. Woria hauwezi kuingia kwenye National Council wewe haujafikisha thirty-five, wewe unaweza kuingia ingine inaitwa National Assembly ile ya Bunge unaweza umefikisha ishirini na moja? Wewe hakuna kitu wewe labda kura tu peke yake ndiyo unaweza kupiga. Kwa hivyo National Assembly twenty-one years, National Council thirty-five years.

Na mtu awe ame-qualify kuwa ni mtu mwenye kupiga kura,

Awe amefikisha at least Form four, hatutaki illiterate Bunge tunataka watu ambao wamesoma at least amefika Form four na amepita mtihani, tumesikia kuna mayor mmoja alienda akaa tu kwenye mtihani aliandika lakini he did not pass, lakini ako na certificate sasa ya Form four tunataka mtu at least awe na pass. Watu wengi walikuwa wanasema wawe graduates, maoni ya watu wengi ukiangalia hata yenu hapa tukiangalia pengine tunaweza kuona watu wanasema MP awe graduate lakini tumesema wacha awe Form four.

Awe anajua lugha ya Kiswahili na Kiingereza, wale ambao hawawezi uzungumza lugha kama hiyo kwa sababu ya ulemavu kama vile wale bubu aweze kujuwa sign language.

Na pia hivi sasa ukiangalia hakuna code of conduct ya leaders, tumeweka code of conduct of leaders.

Awe pia ni mtu ana *akhlak* ambayo inakubalika kuna watu wengine ni kiongozi lakini utafikirie tu ni a bandit ama ni kiongozi utafikiria kuwa ni mkora yaani he does not conduct himself as a leader kwa hivyo kutakuwa na code of conduct. Kwa hivyo ndiyo tunasema hapa he must have certifsified any moral or an ethical requirement prescribed by the Constitution or an Act of Parliament. Bunge lazima ipitishie, kuwe na moral conduct ya hawa watu wanaangaliwa.

Mtu mgani ambaye anazuiwa kuingia Bunge?

Tunasema mtu yeyote ambaye holds an elective or appointive office in the Republic other than a Member of Parliament. Ikiwa unashikilia kiti chochote ambako umechaguliwa au umeteuliwa katika nchi, basi hauna haki ya kupigania kiti cha uBunge, you resign from one if you want the other one. Na hii pia is line with the principle of one man one job, one woman one job, sio unakuta mtu ni mbunge na pia ni sijui ni Chairman wa Board gani, Chairman wa kitu gani, Director

usianze kuhesabu saa hizi watu watakasirika.

Awe na akili timamu kama hana akili timamu hana haki,

Akiwa ni mtu ambaye ni bankrupt, mnaitaje bankrupt kwa Kiswahili mufilis, amefilisika pia mtu kama huyo hana haki ya kupigania kiti cha uBunge,

Au awe ni mtu ambaye amefungwa kwa sababu ya jinahi yaani crime, amefanya makosa mtu kama huyo hawezi kukubaliwa kupigania kiti cha uBunge, he is disqualified,

Piapengine miaka kumi iliyopita kabla ya ule uchaguzi amekuwa ni mtu ambaye amefungwa kwa kifungo cha zaidi ya miaka mitatu basi mtu kama huyo pia amekuwa disqualified,

Au mtu ambaye ametolewa katika ofisi yeyote ya umma, a public office because of misconduct pengine alikuwa ni Chairman wa County Council zamani, amekula pesa ya Council ametolewa halafu anakuja anasimamia kiti cha uBunge tena mtu kama huyo hatutaki, mumetoa hapa amekula akipelekwa huko pia atakula. Kwa hivyo mtu kama huyo hatupawi, utakuta leo mtu amefukuzwa mahali fulani siku kidogo anasimama ni mbuga tunampatia kura anarudi kwenda kutuongoza huko.

Representation of women angalieni 109 tunaambiwa one third, thuluthi moja at least one third of the members of each house shall be women. Itahakikishwa kuwa wanachama thuluthi moja wa kila nyumba ya Bunge yaani National Council na National Assembly, one third of them are women. Tunataka kuwa na wakina mama zaidi katika Bunge, kwa hivyo wakina mama anzeni kujitayarisha kuingia Bunge.

Within three years of coming into force of this constitution Parliament shall enact a law to implement the requirements of clause one. Mtu anaweza kuuliza wataingia namna gani, National Assembly. National Council tumeona vile wataingia ama sivyo? Sasa tumeambiwa Bunge within three years itatengeneza sheria ya kuhakikisha kuwa hiyo one-third inapatikana. Election of Members of Parliament inaelezwa hapa chini ya 110, kitu muhimu hapo utaona kuwa kwa mfano hivi sasa tunajuwa uchaguzi mkuu utakuwa siku gani? When is the general election this year, does anybody know?

**Audience:** December.

**Com. Lethome:** December, which date tarehe ngapi hiyo

**Mama Habiba:** Kama ya zamani.

**Com. Lethome:** Kama ya zamani tu zamani ilikuwa tarehe ngapi hoyo? Ngoja 97 ilikuwa tarehe ngapi?

**Mama Habiba:** 29th.

**Com. Lethome:** 29<sup>th</sup> of December okay, this year when will it be?

**Audience:** (inaudible)

**Com. Lethome:** Are you guessing or you know?

**Audience:** Nobody knows.

**Com. Lethome:** Nobody knows that is the fact that is the answer I wanted, nobody knows itaamuliwa na mtu mmoja, ataamua ni siku gani tutafanya uchaguzi and that brings a lot of uncertainty, watu wanakaa kwenye giza hawajui.

**Interjection:** By a mad man.

**Com. Lethome:** Utakuta kuwa mambo ya tarehe ya Bunge haijulikani, Bunge mpya itanza lini na Bunge itakuwa dissolved siku gani hakuna mtu anayejuwa. Sasa chini ya Katiba mpya mapendekezo ni kuwa ijulikane.

**Interjection:** By the same mad man.

**Com. Lethome:** Sasa chini ya Katiba mpya watu wamependekeza kuwa tarehe iwe inajulikana, inajulikana ni siku fulani kwa mfano mnasema the first Tuesday ama the last Tuesday of December in the fifth year of the elections ama in the election year, watu wanajuwa hiyo Tuesday ile tarehe italingana na hiyo Tuesday ndiyo tarehe. Parliament iwe na time-table yake that is the thing ukiangalia hapa utaona iko I don't want to go through the details lakini hiyo imeandikwa yote hapo.

Mambo ya kuvunjwa Bunge tunajuwa kuwa kama sasa we are talking about the new constitution but we know that there is a cloud hanging up here, do you what that cloud is? Parliament might be dissolved before we hold the National Conference even now as I am talking to you, I have to keep on calling Nairobi ama kusikiza news kwa sababu chini ya sheria hii, the President has the powers hata kama ni mimi ningekuwa katika hicho kiti ninavunja Bunge saa zile ninataka because I have been given that power by the constitution na nitaitumia, nimepewa power niweze kuitumia. So, under the new constitution ukiangalia Article 111, utakuta kuwa Bunge haliwezi kuvunjwa na mtu inajivunja yeneywe.

Mishahara ya wabunge, tatizo kubwa sana wananchi kila mahali tulienda walikuwa wakilalamika kuhusu mishahara ya wabunge.

Article 121, Emoluments of Members of Parliament. Saa hizi kwa mfano nikikuambia, kuna Councillor yeyote hapa, iko Councillor hakuna, Sheikh wewe ni Councillor?

**Sheikh:** Hapana.

**Com. Lethome:** Okay, mahali unapofanya kazi mishahara ile unapewa ni wewe umeamua ama kuna mtu ameamua mishahara yako? Umeridhika na hiyo mishahara ama ungepewa nafasi ungejiongezea?

**Audience:** Ningejiongezea.

**Com. Lethome:** Let's face it, it is human nature saa hizi ukiniambia niko na njaa halafu uniwekee chakula hapa uniambie self service, nitaweka kidogo ama nyingi?

**Audience:** Kidogo.

**Com. Lethome:** Hapana utaweka nyingi, haya nikuambie sasa mimi ninakuandika kazi wewe sema mshahara ile unataka, utasema ngapi?

**Mama Habiba:** Mingi sana.

**Com. Lethome:** Mingi, wabunge tuliwapatia hiyo blank check amueni ile mshahara mnataka sasa why are you complaining wamejiwekea half a million, you should not complain, it is very much within the constitution unaona wao ndiyo wanapitisha sheria kwa hivyo hatukuwaambia ni sheria gani mnapitisha gani ambayo hamuwezi kupitisha kwa hivyo wakapitisha ya mshahara yao na binaadamu ni *hunguri* si ndiyo?

**Audience:** Eh.

**Com. Lethome:** Kila binaadamu ni hunguri ama hunguri weine ukitaka ni hunguri kubwa ndiyo wakapitisha mshahara kubwa chini ya Katiba mpya tunasema wabunge wasijiwekee mshahara hata President asijiwekee mshahara kuna Commission ambayo tutaita Salaries and Remuneration Commission, that will determine the salaries of Members of Parliament and other office bearers.

Kuna matatizo mengine ambayo yako chini ya hii Katiba kuhusu mambo ya Rais kupitisha sheria, tunajuwa sheria ikipita Bunge, ikipitia katika zile stages zote katika Bunge haiwezi kuwa sheria mpaka Rais aweke kidole chake, tunasema President ascent. Sasa hapa amewekewa control zaidi kuliko pale mwanzo, anaambiwa kuwa bill yeyote ikipita yule Speaker wa National Council ataipeleka within seven days kwa President ili aweke ascent yake, within seven days President anatakiwa afanye moja katika mambo matatu.

1. Ikiwa pengine anaona hakuridhika na ile sheria anataka consultation, ana consult the Supreme Court of Kenya for advice au
2. Anaweza kuirudisha hiyo bill au
3. Aipitishwe hiyo bill.

Kwa hivyo hakupewa nafasi ya kukaa tu vile anavyotaka, amepewa control pia ndiyo unaona within seven days anaweza kuipeleka kwa Supreme Court na Supreme Court within 14 days watakuwa wame mu-advise President afanye nini kuhusu hiyo Bill au atairudisha hiyo Bill kwa Speaker ipitiwe tena pengine kuna kitu ameona si sawa au atapitisha.

Ukiangalia Article 129 unaambiwa kuwa haki ya kuzungumzia Bunge ama ku-petition Bunge kama una malalamishi yeyote, kila mwananchi amepewa haki ya kuweza ku-petition Bunge yaani ni kama kuzungumzia Bunge kuwaambia kama kuna sheria fulani ambayo mungetaka ipitishwe.

The right of every person to petition Parliament to enact, amend or repeal any legislation if reserved, kila mtu ana haki kwa



mfano ukiona kuwa kuna sheria fulani ambayo inahitajika ipitishwe na Bunge, wewe kama mwananchi kwa kupitia kwa utaratibu fulani ambayo utawekwa na sheria unaweza ku-petition Bunge wapitishie sheria kama hiyo au waondowe sheria kama ile sheria ambayo imesumbuwa watu sana the indemnity Act. Sheria ambayo imezuia wale watu waliofanya dhulma ya kuwadhulumu watu kama vile Malkamari, Wagalla na sehemu zingine, sheria kama hiyo usingoje tu mpaka mbunge aweze ku-petition Bunge iweze kuondoa sheria kama hiyo hata mwananchi wa kawaida anaweza ku-petition Bunge.

Quorum ya Bunge hivi sasa quorum ya Bunge huwa ni ngapi, angalia Article 133, quorum ya Bunge hivi sasa ni ngapi, out of the 222 wakipatikana watu thalathini peke yake that is quorum kwa hivyo mimi na marafiki zangu Bunge kama tunataka kupitisha kitu fulani ambayo sio Katiba ama haiko kwenye Katiba ni sheria ya kawaida, I just need to call my thirty friends in Parliament tunapitisha hiyo, you have quorum thirty 210 thirty people what percentage is that? Ni percentage ndogo sana.

Kwa sasa tumesema the quorum shall be thirty percent sio thirty people. Official language ya Parliament itakuwa ni Kiswahili, Kiingereza na Sign Language, mambo ya voting in Parliament utaangalia Article 135, itakuwa ikipigwa vipi kura. Procedures za Bunge Article 136 mambo mengine kuhusu mambo ya Bunge inaendelea 137, 138, 139, 140 inazungumzia habari ya committees za Bunge. Nafikiri ni muhimu kuangalia hizo committees under Article 140:-

Kuna Committee on justice and constitutional affairs,

Committee on good governance and public participation, hiyo ni kuhusu utawala mwema na kushirikisha wananchi

Committee ya planning na budget kuweka mizania ya serikali ama ya nchi,

Committee ya security na mambo ya ulinzi,

Committee ya social, mambo ya maslaha ya kijamii na mambo ya uchumi,

Committee on Parliamentary business, shuguli za Bunge,

Committee on Foreign Affairs,

Public Accounts Committee na,

Public Investments Committee.

Halafu Sub-Article 3 inakueleza functions ya hizi standing committees itakuwa ni nini. Part five under Article 141 inakueleza mahali Bunge itakapokuwa na pia calender ya Bunge itakuwa ikifanya activities zake vipi, angalia Article 141. Article 142 ni muhimu sana dissolution and prorogation mambo ya kuvunja Bunge iko hapo sasa, 142, unaambiwa the term of the National Council is four year, National Assembly five years kama sasa vile ilivyo kwa hivyo wale ambao watachaguliwa kutoka kutoka kwa District wale sabini wataa huko kwa muda wa miaka ngapi? Minne, wale wanachaguliwa kwenye National Assembly from the constituencies, five years kama ilivyo hivi sasa.

Kwa hivyo kutakuwa na wakati ambapo National Council imetoka lakini, Parliament bado iko kwa muda wa mwaka mmoja. Yaani bado inabakisha muda wa mwaka mmoja. Halafu angalia Sub-Article 3 when at any time when Kenya is at war both houses may from time to time by resolution supported by the votes of not less than 65% of all the members of each house

extend their respective terms for not more than six months at a time.

Hivi sasa chini ya Katiba hii pia tumeelezwa Parliament can only be extended when Kenya is at war, mnakumbuka kuna wakati Mheshimiwa Kajwang alijaribu kulete bill ya kuongeza, akaambiwa kulingana na Katiba you can only extend Parliament when Kenya is at war, kwa hivyo the only option that you have here is to create war for Kenya ndiyo iwe extended. Na imeelezwa hapo inakuwa extended namna gani, the life of each house of Parliament shall not be extended under Clause 3 by more than twelve months, unaweza kuongeza miezi sita halafu miezi sita ingine basi, hakuna kuongeza tena.

Sub-Article 5 subject to this Article both houses of Parliament that is National Council na National Assembly shall stand prorogued angalia hapo tarehe ya mwisho ya Bunge, 30<sup>th</sup> November in every year and the next session shall commence on the 1<sup>st</sup> Tuesday of February in the next year. Tungekuwa chini ya hii Katiba sasa tungejuwa tarehe 30<sup>th</sup> November Bunge inavunjwa, chini ya Katiba mpya tutajuwa tunahesabu miaka mitano, ikifika miaka mitano hiyo November ya mwaka wa tano tarehe thelathini, you don't have to wait for anybody to dissolve Parliament, it dissolves itself kwa sababu iko na calender yake.

Bunge mpya tunajuwa ikifika the 1<sup>st</sup> Tuesday of February next year unaweza kukimbia kwenye calender na uangalie useme Bunge mpya itakuwa hapo siku hiyo. So it will be known haitakuwa ni siri ambayo watu hawajui.

Mambo ya no confidence motion yanaweza kupitishwa namna gani? Mambo ya freedom of speech under Article 144, mambo ya imunities ya wale ambao wako Bunge, halafu public access and participation wananchi wanawezaje kushiriki katika mambo ya Bunge. Mambo ya Parliamentary Service Commission under Article 147, ninajaribu kukimbia kwa sababu muda umeenda na mtajisomea wenyewe.

Kuna Article moja sikumbuki ni ipi, lakini inazungumzia kuhusu recalling a Member of Parliament how do you recall a Member of Parliament ikiwa pengine haukuridhika na yeye unawezaje kumuita arudi. Kuna Article moja hapo mtaangalia inaonyesha namna ya kumuita mbunge ikiwa wale waliyompigia kura yaani hawakuridhika na kazi yake na kuna sababu ambazo zimetolewa kuonyesha kuwa hafai kuendelea kuwa Bunge, that is Article 112, recall of a Member of Parliament under Article 112, unajuwa hii hata tulipokuwa tunawasikiza wananchi wakitoa haya maoni tuliona kuwa ikikosa kutumiwa vizuri it will be subject to abuse kwa sababu kwa mfano mimi na wewe tumepigania kiti cha ubunge halafu nimekushinda utanyamaza? Utanyamaza? Unafurahiya mimi nikikushinda bila shaka utatafuta kila njia ya kunitoa hata mimi ukinishinda silali nitahakikisha umetoka. Kwa hivyo nitatumia hiyo section, nitafanya fitina mpaka utolewe kwa hivyo tulisema lazima kuwe na safeguards kusiwe na ile kitu inaitwa kwa kizungu witch-hunting.

Sasa tumesema hapo lazima kuwe na sababu, sababu ya kwanza physical or mental incapacity rendering that member incapable of performing the functions of the office. Unaona kuwa akili yake au afya yake ya kimwili haimuruhusu kuendelea kufanya kazi hiyo kama mbunge, hiyo inakuwa ni sababu moja ya kumtoa mbunge.

Sababu ya pili, misconduct ambayo imeleta kuvunjia heshima ile ofisi kuna heshima fulani ambao tunataka waheshimiwa wabunge wawe nayo. Ikiwa tabia yake hailingani ya hiyo ofisi yake ni sababu nyingine ambao tunaweza kutumia kumwambia arudi kutafuta kura tena.

Ya tatu ambayo inatokea sana sana especially katika constituencies za mbali zile ambazo unajuwa wakubwa wote wanapenda kuishi wapi?

**Audience:** Nairobi.

**Com. Lethome:** Wote wanapenda Nairobi, hapendi kukaa huku wanapenda tu kuja huku wakati wa kutafuta kura ama sivyo? Ndiyo utaona saa zote wako huku akishapata kura unamuona baada ya miaka mingapi?

**Audience:** Tano.

**Com. Lethome:** Tano, kuna ingine Commissioners walienda, saa hiyo Commissioner wameenda ndiyo wabunge wamewafuata, wale wananchi wanatuambia asanteni sana mumetuletea mbunge wetu miaka tatu hatujamuona, tunaona tu kwenye magazeti hatujamuona which is true na amechaguliwa na wale wananchi. Kwa hivyo tumesema moja katika sababu za kutolewa ni persistent desertion of the electorate without reasonable cause, anapotea kabisa haonekani na hakuna sababu yeyote ya kupotea sasa hizo ndiyo sababu.

Kwa hivyo utaandika ikiwa wewe ndiye mlalamishi unalalamika mbunge wako unataka arudishwe, utaandika petition lakini petition yako bwana lazima i-signiwe na watu asili mia thelathini ya wale waliopiga kura pale. Kwa mfano unataka kumtoa Mbunge wa Mandera East utaandika petition yako kwa Speaker i-signiwe na 30% ya wale voters registered wa Mandera East wawe wame sign hapo. Hiyo ni kuzuia mtu pengine una marafiki zako hapa Mandera tu hivi watatu, wanne watano unawakusanya wanaweka signature tunataka 30% katika hiyo constituency ni nguvu itabidi uende Lafi, Fino Arabia, Kalaleo, Rhamu iko hapa ama Rhamu nje?

**Audience:** Rhamu iko nje.

**Com. Lethome:** Rhamu iko central, hizo sehemu zote itabidi uende ukatafute hizo signature, if you are really determined, tafuta hizo signature na unaenda unawasome tunataka kumtoa Mbunge wetu. Utaweka signature ama hauweki ukishapata hizo unapeleka kwa Speaker, Speaker akishapata hiyo within seven days atatuma Electoral Commission ikachunguze ni kweli ama si kweli. Mnasema kuwa afya yake haimruhusu kufanya kazi, wakachunguze, mnasema kuwa amepotea sana, achunguze. Halafu Electoral Commission ndiyo itarudi kwa Speaker na kumuambia ni kweli ama si kweli, ikiwa ni kweli ile kiti itatangazwa kuwa ile kiti ya Mandera East is vacant, sote tunaweza kupigania hiyo kiti sasa la sivyo atabaki pale pael.

Kumewekwa hiyo mechanism ya kuzuia witch-hunting watu wasianze kuchokozana kwa sababu yule mwenye kupoteza

ingekuwa mara moja anaanza kutafuta mwenzake na anafikiria namna ya kumtoa. Nafikiri kuna watu wanataka kwenda kuswali Al-asri ama vipi? Nataka kupumuwa kidogo ninawapa dakika kumi ya maswali, Hassan utanisaida ku-conduct questions. Kama kuna mtu ana maswali, mnaenda ama mtarudi?

**Audience:** Tutarudi.

**Com. Lethome:** Haya maswali saa kumi na robo. Ninaona muda umeenda sana sasa tuingie katika sehemu nyingine mkono mwingine wa serikali ambayo tunaita Executive kama tulivyotangulia kusema pia, their Executive authority imetokana na wananchi pia na hii ni sehemu muhimu sana kwa sababu hii ndiyo serikali sasa. Executive ndiyo serikali ambayo inaendesha mambo katika nchi, Bunge inatengeneza serikali, judiciary inaangilia kukiwa na disputes inaangalia sheria iko wapi ama uadilifu uko wapi, Executive ndiyo ambayo inatawala.

Kwa hivyo hiki ndiyo chombo kile ambacho kinatumwa katika kutawala na kutekeleza sheria katika nchi ndiyo maana imeitwa the Executive hiyo iko katika Chapter 8. Na under Article 149 tumeambiwa the National Executive of the Republic of Kenya itakuwa ni Rais, the President, Vice President and the Cabinet appointed under Article 151 kwa hivyo hii ndiyo itakuwa Cabinet ama hii ndiyo itakuwa National Executive.

Tunasema habari ya National Executive kwa sababu baadaye tutaona kutakuwa na Provincial Executive na District Executive. Kwa hivyo katika nchi chombo tawala cha nchi itakuwa ni Rais, Vice President na Cabinet, ukiangalia Article 151 inakuambia hiyo cabinet itakuwa imechaguliwa vipi. Article 150, kuna watu wengine tulipotengeneza hii Draft walianza kulalamika wakasema under the new constitution, the President is only ceremonial hana powers zozote sasa nataka muangalia hapa muone kama ni ceremonial. Ndiyo nguvu zake zimepunguzwa lakini it is not ceremonial lakini sio nyingi kama vile alivyokuwa nazo hapa, infact kuna mtu mmoja alisema, even the most piers person angepewa ile mamlaka ambayo Rais amepewa chini ya Katiba hii angetumia vibaya. Kwa sababu it is too much for an individual to have all those powers ndiyo zimepunguzwa lakini sio zote.

Ukaingalia under Article 150 utaona some of the authorities of the President;

(A.)

He is the Head of State,  
Commander in Chief of the Defence Forces,  
The Chairperson of the National Security Council and  
The Chairperson of the Defence Council.

(B.)

Is a symbol of unity of the nation and has responsibility to promote and enhance the unity of the nation,  
Safeguard the sovereignty of the Republic,

Promote and respect the diversity of the people and protect their human rights and fundamental freedoms and  
Shall uphold, safeguard and respect the constitution and the rule of law.

Ukiangalia hizo kazi zake zote ama kazi zile tumempatia under B hawezi kufanya hizo kazi vizuri akiwa Chairman wa political, hawezi kuleta unity katika nchi kwa sababu akisimama azungumze, utasema hii mambo ya KANU bwana hii siasa ya KANU anatuletea hapa ama sivyo? Kwa hivyo ndiyo tunataka awe above party politics because he is the symbol of unity and he cannot be the symbol of unity of the nation ikiwa yeye yuko katika chama kimoja kwa hivyo akishachaguliwa anatoka kwenye chama anakuwa anaangalia maslaha ya nchi nzima na ndiyo tunasema pia anatoka hata katika Bunge. He is not an MP kwa sababu akiwa MP ataangalia Baringo Central hata aangalia nchi nzima na tunataka aangalie nchi mzima ama ataangilia Gatundu ama Othaya ama Kajiado North ama Mwingi ama inaitwaje ile ingine, sio Bondo ile ingine ni ya Langata.

Kisha muhimu kabisa under Sub-Article 2, the powers of the President shall be exercised in accordance with the constitution and the laws. Ingawa amepewa haya mamlaka yote lakini there is something controlling him, the constitution and the rule of law meaning that you can challenge him ukiona kuwa anatumia mamlaka yake kinyume na sheria na kinyume na Katiba.

Article 151 the state functions of the President under Sub-Article 2, the President shall appoint and may in accordance with this constitution dismiss the Cabinet halafu unaambiwa hapa Cabinet consists of who, Prime Minister, two Deputy Prime Ministers, not more that fifteen Ministers, not more than fifteen Deputy Prime Ministers, not Assistant Ministers, Deputy Ministers. Kwa sababu kuna tofauti baina ya Assistant na Deputy when you are a Deputy, you deputize uko na powers uko na authority kuliko assistant na ile mambo ya kuwa Minister mmoja ako na Assistant wawili ama watatu hakuna. Minister mmoja one Assistant Minister na he will also appoint the judicial officers, any other public officer who the constitution requires the President to appoint subject to the applicable provisions of the constitution or legislation.

Kwa hivyo atachaguwa hawa wote kulingana na sheria vile inavyotaka. Kwa hivyo wale ambao wanasema bila ya kusoma hii kuwa the President is powerless under the new constitution ni makosa, tumempatia powers nyingi sana kitu muhimu ni kuwa authority yake lazima atumie kulingana na sheria kama ilivyosema Article 151 Sub-Article 1 & 2.

Sub-Article 3 with the prior consent of the Cabinet the President may appoint Commission of inquiry kama hiyo Commission ya kuangalia into devil worship, Likoni clashes, Molo clashes, kuna hizo Commissions of inquiry lakini it has to be with the approval of the cabinet. Find instruments of consent by Kenya to be bound by international agreement, kuna mikataba mengine ya kimataifa, international. Rais kabla haja bind Kenya ku-sign ile kwanza anashauriana na Cabinet.

Ukiangalia Sub-Article 5 tunaambiwa kuwa President pia anaweza kuteuwa watu wafuatao:

High Commissioners,

Ambassadors, and

Diplomatic or Consular representatives

With the approval of the National Assembly and dismiss them, kwa hivyo ataendelea kuwachaguwa kama vile anavyowachaguwa hivi sasa lakini with the approval of the National Assembly that is the difference.

Article 152 inaonyesha legislative functions of the President kuhusu mambo ya kutunga sheria, wakati Bunge inapounda sheria ako na kazi gani, President ako na function gani ama role gani katika kuunda sheria. Article 153 uamuzi wa Rais hivi sasa unaweza kusema Rais alisema, jana Rais alisema imekuwa ni sheria. Sasa hapa tumeambiwa a decision by the President under Article 153, a decision by the President under the authority of the constitution or any law shall be in writing and shall bear the signature of the President. Sio mambo ya kusema mzee alisema, onyesha iko wapi, it has to be in writing a lot of confusion are Raised because sometimes he just says something people take it as law, so his decision have to be in writing and signed by him.

Qualification ni wakati gani ambapo mtu anaweza kuwa ama kupigania kiti cha URais. Qualifications for elections as a President hapa wamesema tu awe na umri na miaka thelathini na tano, awe citizen wa Kenya, awe registered katika constituency as a voter. That is about all. Those are the only qualifications to be a President under the current constitution kwa hivyo ukifikisha miaka thelathini na tano na wewe ni Mkenya na uko na card, you can vie for the Presidency.

**Speaker:** (inaudible)

**Com. Lethome:** I am looking at the current now, hii ya zamani sasa ukija katika hii tumependekeza awe below 70-asiwe amefikisha 70. Awe kwanza citizen by birth, why have we said by birth? Why did we say citizen by birth, in this constitution tumesema be a citizen of Kenya basi, hapa tumesema a citizen by birth why? There is dual citizenship, there is citizen by marriage, citizenship by registration, naturalization. So he has to be a citizen by birth.

Number two has attained the age of 35 years but below the age of 70 years, why did we put below 70 years? Hamjui ni kwa nini?

**Audience:** (inaudible)

**Com. Lethome:** After 70 somebody might not be very capable of running the country, anyway this is the view from the people. The people felt that after the age of 70 wachia watu wengine waendeshe kazi hiyo after all all civil servants are required to retire at what age? Fifty-five and judicial officers? 74 ma judge isipokuwa siku hizi tumewakalia nguvu tumeweka 65 ndiyo wametupeleka kotini, they are complaining but if Kenyans decide it is 65, it will be 65 okay.

Is of high moral integrity and impeccable character, mtu mwenye *akhlak* nzuri mwenye tabia nzuri.

Holds a degree from a recognized university kwa hivyo our President in future under the new constitution will be graduate of recognized university.

Is nominated by a registered political party na jee kama anataka kuwa independent candidate? Anaweza kuwa, He is nominated as an independent candidate by at least 1,000 registered voters who shall include not less than one hundred registered voters from each Province. So you can either be a nominee of a political or an independent candidate kama hautaki chama chochote ni haki yako pia lakini upate signature ya watu elfu moja, not less than 1,000 registered voters. Halafu upate kati ya hao elfu moja upate at least signature 100 kutoka kila mkoa kwa hivyo Sheikh unaweza kusimama President in the next elections tukipitsha hii bora tu upate signature 1,000 na uhakikishe kila mkoa umepata mia moja mia moja. This is the new rule, we want a popular President not a President for one region or only five regions, for all the regions.

A person is not qualified for nominations as a presidential candidate if the person is under an oath of allegiance to a foreign state. Hapo imetoa watu wa dual citizenship, a person with dual citizenship has a allegiance to another state so he/she cannot qualify for presidential nominations.

You have to forfeit the other one ofcourse, it has to be only Kenyan. Your citizenship by birth that one you cannot forfeit so you can forfeit the acquired one. If let's say I am born in Kenya under the new constitution I have the right also to acquire the citizenship of Uganda. If I want to vie for the Presidency I have to forfeit ofcourse the Ugandan one because I am a Kenyan by birth, I cannot say I want to go and vie in Uganda because in Uganda I am not a citizen by birth, I will be a citizen by registration there not by birth.

**Speaker:** (inaudible)

**Com. Lethome:** He has to wait after he has been elected as a President, but he has to come from a political party or a private candidate those are two different issues. It is true we said that the President once elected under Article 100, look at Article 100, the President and public officials of and above the rank of deputy secretary shall not hold office in a political party once he has been elected as a President, he has to forfeit now, he has to forfeit his seat but when he is vying for the Presidency for example if today I want to become the President of Kenya, I will either be nominated by a political or I will be an independent candidate candidate and then fulfil the requirement.

But once I am elected now as the President I forfeit my position in the party do you understand that?

**Speaker:** (Inaudible)

**Com. Lethome:** Hidden in him I don't know what we can do about the hidden thing now okay, a person yes.

**Zahara:** Is he still going to be a Member of Parliament of a certain area?

**Com. Lethome:** No, once he is elected he will not be an MP, he will not be a Member of Parliament.

**Audience:** Then what happens to his constituency?

**Com. Lethome:** They will elect another one.

**Zahara:** (inaudible)

**Com. Lethome:** Yeah he is an MP that is why our President is the MP for Baringo Central and Kenyatta was the MP for Gatundu South. So a person is not qualified for nomination;-

If he is under an oath of allegiance to a foreign state ama number two or he is acting in any office in the public service, he has to resign. I think that is a requirement even now kama unafanya kazi yeyote ya umma unawacha kwanza halafu unapigania kiti.

Is a member of any constitutional Commission kama vile Commission zile ambazo tumeweka hapa hivi, Human rights Commission and the others.

He is a Member of Parliament, hauwezi kupigania,

He is a candidate for elections as a Member of Parliament.

Therefore you only vie as a President not as an MP, if let's say the next President comes from Wajir East, he/she will not vie for the Presidency an MP of Wajir East, he will vie for the seat as a President or a Vice President of Kenya. Kwa hivyo kuna mwingine atapigania hiyo kiti sio yeye, yeye anapigania kiti cha kitaifa sio cha constituency.

Even if he is elected he still not going to Parliament as an MP, he will just go there as a Head of State as a President, hii ni kwa sababu unakuta let's face it, mtu anachaguliwa as a President and he is a member of Parliament of a certain constituency, you will find that the people of that constituency have an advantage over all the other people kwa sababu their MP is the President of the country akitaka barabara unafikiri akimpigia Minister of Works kuna kitu atajibiwa, hakuna. So he has an added advantage and sometime it can also work on the contrary he has no time for his people also kwa sababu he is dealing with national matters that is why we have even recommended under the new constitution even Ministers watakuwa sio members of Parliament, they will be from outside Parliament tutaona baadaye.

Article 157 Presidential elections watachaguliwa vipi na ukiangalia Sub-Article 4, there is a new rule there of 50%, the candidate for president who receives more than 50% of all the votes cast in the election and who in addition receives a minimum of 20% of the votes cast in more than half of the Provinces shall be elected as the President. Currently what is the rule, hivi sasa mtu ni nani anashinda uchaguzi wa Rais? Apate 25% from five Provinces, sasa the rule is votes za Kenya nzima apate 50% kama Kenya mzima wamepiga kura elfu ishirini apate elfu kumi. On top of that tuko na Provinces nane apate 20% ya vote cast in four of the Provinces, nusu ya zile Province za Kenya that way we shall ensure that we have a popular President halafu mambo ya Article 5 ndiyo ile mambo ya run-off kama hakuna President ambaye amepata hiyo kutafanywa uchaguzi baina ya yule wa kwanza na yule wa pili, they will run again.



Term of office of a President ni kama sasa, five year one term renewable once kwa hivyo a maximum of ten years, two terms. Removal of President on grounds of incapacity under Article 162 if is resolved by one half of all the members of the National Assembly that the question of the physical or mental capacity of the President to discharge the functions of the office ought to be investigated and they so inform the Chief Justice, the Chief Justice shall within seven days of the resolution appoint a tribunal consisting of five persons qualified as medical practitioners under the laws of Kenya to investigate the matter. Isiwe tuko na Rais na pengine hana uwezo wa kuendesha ile kazi kuna namna ya kumuondoa Article 162 inaeleza ataondoa vipi lakini to avoid also witch-hunting to make sure there is no witch-hunting there are some safe guards there, lazima ipitie kwa Chief Justice na ipitie kwa watu ambao ni wataalmu wa kuangalia ni kweli hawezi kufanya hiyokazi ama anaweza.

Article 163 impeachment and removal of president by two thirds of the members of the National Assembly utaangalia hiyo. Office of the Vice President Article 165, there shall be a Vice President of Kenya each candidate in a presidential election shall nominate a person dully qualified for election as the President as a candidate of Vice President. Kwa hivyo kila Presidential candidate atakuwa na running mate wake and it must be a person qualified to be a President also, kwa hivyo age yake itakuwa ngapi? What will be the age? Between 35 and 70. Academic qualificatio, university degree and all the other qualifications ambayo tulisema, citizenship awe Kenyan by birth.

Then Article 167 inaeleza the functions of the Vice President, salaries and allowances of the President and Vice President kama vile tulisema wabunge hawana haki ya kujiamulia mshahara wao kuna Commission ambayo imeundwa na hii Katiba mpya ya kuangalia mshahara ya wabunge, pia mshahara ya President na Vice President itaangaliwa na hiyo Salaries and Remuneration Commission.

Article 169 Prime Minister, hii sasa ndiyo mpya tulikuwa hatuna. Article 170 Prime Minister yeye atakuwa ni kiongozi wa cabinet, Prime Minister is the leader of the cabinet and presides at meetings of the Cabinet na Cabinet tulisema ni, Prime Minister, two Deputy Prime Ministers, fifteen Ministers, fifteen Deputy Ministers. We are calling them Deputy Minister's now kwa sababu Assistant imekuwa hawana kazi yeyote.

Appointment of the Prime Minister is under Article 171 atachaguliwa vipi, sometimes he can be the leader of the majority political party and at time he can be the leader of a minority party in Parliament, inafahamika hiyo. Unaambiwa within seven days following the summoning of the National Assembly or whenever necessary to fill the vacancy in the office of the Prime Minister, the President shall propose to the Speaker of the National Assembly the appointment as Prime Minister of :

1.
  - (a) The Leader of the majority political party, ile chama ambayo imeshinda viti mingi inapatiwa hicho kiti or
  - (b) Coalition of parties represented in the National Assembly
2.
  - (a) The leader of the minority political party or

- (b) Coalition of parties represented in National Assembly if the leader of the majority party or coalition has been unable to command or retain the confidence of the National Assembly. Okay, tuseme kuna parties KANU, DP, NDP, Ford Kenya, Ford Asili, so KANU gets the majority in Parliament in the National Assembly so the Prime Minister will be the leader of that party in the National Assembly will be proposed by the President, if he/she cannot command then the President will propose the leader of the minority party or coalition of parties.
- (c) If neither person contemplated in paragraph a, or b, has been able to command or retain the confidence of the National Assembly, then any other member of the National Assembly who in the President's opinion maybe able to command or retain the confidence of the National Assembly.

Thus, we have all those options of who can become the Prime Minister, after appointment to the office of the Prime Minister for how long do you stay there, Article 172 a person whose appointment as Prime Minister has been confirmed by the National Assembly assumes office of the Prime Minister by swearing or affirming faithfulness to the people and the Republic of Kenya and obedience to the constitution in accordance with the fourth schedule before the Speaker and Members of Parliament. The term of office of Prime Minister continues until: -

- (a) The Prime Minister dies, resigns or is dismissed from office or
- (b) The next person appointed Prime Minister following a general election assumes office.

So it will depend on, the term of the office of the Prime Minister will be the term of office of the National Assembly which we said will be five years unless he dies earlier or he is removed or resigns before the end of five years.

Article 173 resignation of the Prime Minister how does he resign. Article 174 dismissal of Prime Minister very important who has the power or authority to dismiss the Prime Minister. If Parliament by a vote supported by a vote more than 50% of its members passes a motion of no confidence in the Prime Minister the President shall dismiss the Prime Minister and the other members of the Cabinet. So who dismisses here, is the President or the National Assembly?

**Audience:** The National Assembly.

**Com. Lethome:** It is the National Assembly here, President ana endorse tu the President may not dismiss the Prime Minister in any circumstances other than those contemplated in clause 1, reason we want him to feel secure we don't want him to be a physopant to the President, we want him to run the Government independent of the President. Then appointment of the Cabinet, here we have heard a lot of complaints watu wengi wamelalamika wanasema watu wanangangana wana campaign wapigiwe kura halafu mnawazuia kupata bendera, bendera mnawapatia watu wengine ambao hawajapigiwa kura why? There is an argument here, mkichagua mbunge wenu do you want him to serve you or to serve the whole of Kenya?

**Audience:** To serve us.

**Com. Lethome:** To serve you, people of that constituency now a Minister we are saying we only need fifteen who are they

supposed to serve is it their constituencies or the whole of Kenya?

**Audience:** The whole of Kenya.

**Com. Lethome:** Yes, if I am a Minister of Energy today, I am supposed to serve the whole of Kenya not Langata. If I am the Minister of Information and Broadcasting I am supposed to serve the whole country not only Lugari, so the argument is that we should have Ministers who do not have allegiance to any constituency but to the whole of Kenya.

Number two, we want technocrats, inasikitisha sana you know hii nchi tumeshapata kuwa na Waziri wa Afya ambaye he is a retired major in the Army do you know that?

**Audience:** Yes.

**Com. Lethome:** Who could not even speak in English, hakuweza hata kuzungumza na madaktari anapewa Wizara ya Afya. He was the Minister of Health, unakuta mtu pengine alikuwa ni businessman mahali fulani anachaguliwa, wewe wacha kusema majina ya watu anakfuwa yeye ni Waziri wa Afya. People are complaining about that, kama ni Waziri wa Fedha tunataka mtu ambaye amesomea kazi hiyo, Waziri wa Afya mtu amesomea kazi hiyo. Ni kama leo wewe tukupeleke uende ukasimamie ma Judge haujasomea sheria utaweza kweli? No, kwa hivyo tunataka technocrats so they will be sourced from outside. But this is just a recommendation wakenya wakiamua kwenye Conference hatutaki tunataka Ministers wachaguliwe from MPs it will be so, this are just recommendations after listening to Kenyans.

So the President shall appoint the remaining Members of the Cabinet in accordance with the recommendations of the Prime Minister and with the approval of majority of the members of National Assembly. If the National Assembly by a vote supported by a vote of more than 50% of its members passes a motion of no confidence in the member of the cabinet other than the Prime Minister, the President shall remove the member. Today who appoints Ministers chini ya hii Katiba?

**Audience:** The President.

**Com. Lethome:** The President, who sacks them?

**Audience:** The President.

**Com. Lethome:** Ndiyo Kenya ukichaguliwa kuwa Minsiter saa zote saa saba lazima usikize news. Jana mzee moja Elwak akasema nitakuwa msikitini nikiswali thuhur, utaambiwa na watu wako ukitoka msikitini pengine umefutwa ama imekuwa namna gani.

The President shall not appoint a Member of Parliament to the office of Minister or Deputy Minister kwa hivyo they will be outsiders, hawatakuwa Members of Parliament. Mimi ninajuwa watu wengine wanasema maajabu hii, this is change and change has to come. A person other than a Member of Parliament to the office of Deputy Prime Minister, pia Deputy Prime

Minister ambao tumesema ni wawili, they cannot be appointed as Cabinet Ministers. So you are either a Prime Minister, a Deputy Prime Minister those are two they will be Members of Parliament, but all the other fifteen Ministers will not be Members of Parliament. The Deputy Ministers will not also be Members of Parliament.

Then decisions, responsibilities and accountability of the Cabinet under Article 176 their functions and assignments Article 177, conduct of Members of the Cabinet under Article 178. Salaries and Allowances of the Prime Minister, the Deputy Prime Minister, Ministers and Deputy Ministers under Article 179 again we go back to the Commission, nobody will determine his/her own salary under the new constitution.

Permanent Secretaries under Article 181 watachaguliwa vipi, who appoints the permanent Secretaries today?

**Audience:** The President.

**Com. Lethome:** The President, whenever the Prime Minister, a Deputy Prime Minister or any other Minister is charged with the responsibility of a Government Ministry we shall exercise general direction and control over that Ministry. There is established the office of Permanent Secretary which is an office in the public service.

Offices of the Republic under Article 183 you can read that, I want us to go to the Judiciary, any questions on Parliament before we go to the Judiciary, we have to move very fast now, five minutes for questions while I take some water.

**Mama Zahara:** (inaudible)

**Com. Lethome:** This will be technocrats, people who qualify to be Ministers for example, we said here they have to be technocrats meaning they have to be trained in the relevant fields in the relevant ministries. For example, if you want a Minister of Health, we will look for somebody who is trained in medicine who can be there, that is now the work of the Prime Minister and National Assembly pardon.

**Mama Zahara:** How are they going to be selected?

**Com. Lethome:** Yeah, there will be interviews and applications, people will apply and they will be interviewed.

**Speaker:** (inaudible)

**Com. Lethome:** You will have to apply to Parliament, you will be vetted and interviewed by the time you become a Minister utakuwa umeshapitia stages mingi sana. Let's go to the Judiciary..

**Speaker:** How are Ministers dismissed and who dismisses them?

**Com. Lethome:** It is the President who sacks a Minister if the National Assembly decides that that Minister needs to be sacked. We have not considered the costing many Kenyans have said this new constitution will be very expensive but maybe

that is the price we have to pay for change to come in this country, it will not be considered to be.

Dismissal of the Ministers that is the question you are asking, we said this is a public office, it will be through the Public Service Commission, the dismissal I think it should be through that unless I am not very, because we are saying here except where there is a contrary provision in this constitution or in any other law, the power to appoint persons to hold or to act in the offices constituted for the Republic of Kenya to confirm appointments to exercise disciplinary control of a person holding or acting in such offices and to remove such persons from office shall vest in the Public Service Commission.

**Speaker:** (inaudible)

**Com. Lethome:** So before appointment who proposes his name, we said he is the leader of the majority party for example when a party is appointed, we have Members of Parliament you know for sure there is a leader of that party in Parliament so he will be appointed as the Prime Minister unless he does not command the respect or the confidence of the other members of National Assembly then he will not be appointed, he will go now to the other person, the leader of the minority party. So it will be known it will not be arbitrary, who is the leader of the majority party in Parliament.

**Speaker:** (inaudible)

**Com. Lethome:** Article 174 lets look at that, if Parliament by a vote supported by a vote of more than 50% of its members passes a motion of no confidence, in the Prime Minister the President shall dismiss the Prime Minister and the other members of the cabinet, so the Prime Minister goes with his cabinet. Article 174, lets go to the Judiciary.

Judiciary is the last arm of the Government we have looked at the Legislature, the Executive now we are looking at the Judiciary ambayo ndiyo sehemu ya serikali inayohusika na mambo ya kuangalia watu wakiteta haki zao kulingana na sheria. Hivi sasa what is the hierarchy of courts that we have juu kabisa which court do we have? Court of Appeal ndiyo kubwa, halafu High Court halafu chini yake tuna the Subordinate courts zile tunaita Magistrates' courts na Kadhi's court iko hapo chini ya hizo subordinate courts.

Under the new constitution, we have proposed that hierarchy begins from the Supreme Court that will be the highest court in the country. Under the Supreme Court there will be the Court of Appeal, under the Court of Appeal we will have the High Court then after the High Court we will have the Magistrate's Courts plus the Kadhis courts. The Supreme Court will be headed by a Chief Justice and he will be the head of the Judiciary, right now we have the Chief Justice who is the head of the Judiciary appointed by the President. A President will head the Court of Appeal, he will be called the President of the Court of Appeal that is under Article 190. Then the Court High Court will be headed by a Principle Judge, there will be a Principle Judge who will be the head of the High Court.

Then when we look at the jurisdiction of the Supreme Court, Supreme Court will have original jurisdiction, yaani kesi inaweza

kupelekwa kwa Supreme Court mara ya kwanza bila ya kuwa Appeal ikiwa inahusiana na advisory opinions requested by the President. Tuliona kuwa the President could refer some bills to the Supreme Court for advice, wampe ushauri kuhusu bills na mambo mengine yeyote yanahusiana na sheria ya nchi, so that will be the original jurisdiction of the Supreme Court of Kenya. Ikiwa kuna petition yeyote kuhusu elections za President zinapelekwa Supreme Court, ikiwa kuna issue yeyote ambayo inahusiana na impeachment of the President inapelekwa Supreme Court, ikiwa kuna jambo lolote ambalo mtu ana-challenge kuhusiana na Katiba unapeleka Supreme Court na pia itakuwa na appellate jurisdiction, itasikiza appeal ya kesi ambazo itakuwa imepelekwa huko kulingana na sheria itakayotengezwa na Bunge.

Court of Appeal ambayo itakuwa na ma judge wasiopunguwa kumi, jurisdiction yake itakuwa ni appeal from a decree, judgment, or an order from the High Court. Kesi ikitoka High Court inakwenda Court of Appeal. Na kesi ingine yeyote ambayo inaweza kuambiwa na sheria iweze kusikiza.

High Court ambayo itasimiwa na Principle Judge, jurisdiction yake itakuwa ni criminal and civil cases and any other jurisdiction appellate or original conferred on it by or under an Act of Parliament. Ni kama vile ilivyo sasa isipokuwa tu juu yake kutakuwa na koti zingine mbili, Court of Appeal na Supreme Court.

Appointment of judges, this is where we have a lot of problems because people believe that judges are not independent because of the way they are appointed. For example when there was a vacancy in the office of Chief Justice, who appointed the replacement of the Chief Justice Chesoni alipokufa who appointed the new Chief Justice?

**Audience:** The President.

**Com. Lethome:** From where was he appointed where was he working before that?

**Audience:** He was the Director of Public Prosecutions.

**Com. Lethome:** Yeah he was the Director of Public Prosecution, alikuwa Judge yeye before that, so we find that there is a small problem there and that is why I think many Kenyans were surprised by that appointment. Under the new constitution if there is a vacancy in the office of the Chief Justice, then the appointing authority will look at the senior most judge in the Supreme Court. If it is a vacancy in the office of President of the Court of Appeal again we go back to the Court of Appeal tunaangalia who is most senior there, anakuwa appointed as the Judge incharge of that Court. If there is a vacancy in the Principle who is incharge of the High Court, again we look at the senior most judge in the High Court.

Then the other judges of the Superior Court of records and the Chief Kadhi shall be appointed by the President acting in accordance with the advice of the Judicial Service Commission and with the approval of the National Council. So this is how the appointments will be done.

Qualification for judges under Article 195 Sub-Article 2 about the qualifications of judges of the Court of Appeal, High Court

judges Sub-Article 3 then tenure of office of judges this is where we have a little bit of a problem. Article 196 a judge and other judicial officers of the subordinate courts shall retire from office on attaining the age of 65 down from 74, that was the retirement age so Kadhi, ukifika 65 unatoka. You can retire also ukitaka voluntary at the age of 60.

On attaining the age of retirement a judge of the Superior Court of Record may continue in office for a period not exceeding six months in order to enable the judge to deliver judgment or perform any other functions in relation to proceedings that were commenced before the judge prior to attaining the age of retirement. For example, I am a judge of the High Court, I attain the age of 55 but I still have a lot of pending cases before me then I will be given a period of six months to clear those judgments.

Removal of office, how can a judge be removed under Article 197, he can be removed

- (a) Because of inability to perform the functions of the office;-
- (b) A breach of the code of conduct,
- (c) Incompetence and misconduct, nobody is above the law remember we said even the President is not above the law.

Article 199 the Kadhis Courts, I am sure this is an area of interest for many Muslims or for all Muslims. Now, tuko na Kadhis courts ambayo yote iko level moja ama sivyo? Ukichaguliwa Kadhi wewe ni Kadhi, utatoka ukiwa Kadhi unless you are lucky you become the Chief Kadhi and there is only one Chief Kadhi in Kenya.

Under the new constitution there will be three categories of Kadhi;-

1. There will be a Kadhi in charge of a District,
2. Senior Kadhi in charge of a Province then
3. The Chief Kadhi will be incharge of all the Kadhis' courts.

How many Kadhis courts do we have today? 17 in the whole of the country. Under this constitution under Article 66, how many do we have under Article 66 Kadhi? Under this old constitution Article 66 I read; 'there shall be a Chief Kadhi and such number not being less than three of other Kadhis as maybe prescribed by or under an Act of Parliament that is what it says here that Article infact there is only one Article talking about the Kadhis courts Article 66. So they are saying not less than three, yaani wasiwe chini ya watatu lakini tunajuwa mpaka sasa wako kumi na saba peke yake sehemu zingine ma Kadhi wako mbali sana wananchi na kuna Waislamu wengi sehemu hiyo kwa hivyo imesekana sasa wasiwe chini ya thelathini not less than thirty na wanaweza kuwa zaidi kulingana na vile Bunge itapitisha.

A Kadhi is empowered to hold a Kadhis court called District Kadhi kwa hivyo, yule ambaye tutamuweka kwenye District tutamuita District Kadhi na jurisdiction yake will be within that District only. Jurisdiction of Kadhis Courts watahusika na mambo gani ni kama vile hivi sasa tumepewa hapa chini ya Katiba ya zamani au ya sasa jurisdiction, the jurisdiction of the Kadhis court shall extend to the determination of questions of Muslims law relating to personal status, marriage, divorce or

inheritance in proceedings in which all the parties profess the Muslim religion.

Hii ndiyo Katiba ya sasa inasema hivyo, Sub-Article 5, there is no much difference in that under the new proposed Act ni mambo ya uridhi, mambo ya talaka, mambo ya nikah na mambo mengine ambayo yanatokana na hayo ikiwa wale watu wawili wako kotini ni Waislamu. Wameongezewa kazi nyingine hapa;

- (a) The determination of civil and commercial disputes between parties who are Muslims in the manner of a small claims court as by law. Ikiwa kwa mfano Waislamu wanadaiyana wana khiari wakitaka wanaweza kuenda kuhukumiwa na Kadhi kulingana na sheria ya Kiislamu ikiwa mnataka kama hamtaki you can go to the other courts.
- (b) Kazi nyingine kuna ile tunaita waqaf property kuna mali nyingi sana ambayo ni waqaf sehemu za Coast hasa kuna dispute nyingi sana ambazo zinatokana na hiyo mali ikiwa kuna dispute yeyote imetokana na waqaf property ni kazi ya Kadhi kwenda kuhukumu katika kazi kama hiyo.
- (c) Kitu kingine ambacho ma kadhi wamepewa walikuwa hawana ni Appeal, kwa mfano saa hizi ukienda mbele ya Kadhi huyu akikuhumu usiporidhika na hukumu yake appeal unapeleka wapi High Court ama sivyo? Na ukienda high court unaambiwa Islamic law is irrelevant here.

That is an abuse infact of Islamic law, umekwenda kwa Kadhi amekuhumu *Qala Allahu wa Qala Rasul* halafu unakwenda High Court unaambiwa that is irrelevant here. Kwa hivyo wamepewa Appellate jurisdiction, hebu tuangalie subject to the constitution an appeal lies as of right from a judgment, decree or order of a District Kadhis' court to the provincial Court. Kwa mfano Kadhi wa Mandera ikiwa amehukumu haukuridhika na hukumu yake, unakwenda Garissa kuna Provincial Senior Kadhi huko, Senior Kadhi anakusikiza appeal yako.

Halafu an appeal lies of rights from a judgement, decree or order of the Provincial Kadhis' Court to the kadhis court of Appeal kwa hivyo kutakuwa na Kadhis court of Appeal presided over by the Chief Kadhi and the two Senior kadhi. Kwa hivyo umepewa daraja mbili za appeal na kuna daraja nyingine ya mwisho kabisa, ikiwa hauku ridhika na hukmu ya Chief Kadhi katika Court of Appeal ya Kadhi unafanya nini, an Appeal from the Kadhi's court of Appeal lies to the Supreme Court only on appoint of Islamic law or an issue affecting the interpretation of the Constitution or any other constitutional issue.

Appeal imetoka kwa District Kadhi unapeleka wapi? Senior Kadhi at the Provincial level mumefahamu hiyo. Ikitoka kwa Province kama haukuridhika na hukumu yake unapeleka kwa Chief Kadhi na ma Kadhi wawili, kama haukuridhika kwa hukumu yake unapeleka kwa Supreme Court. But only on a point of Islamic law or on an issue affecting the interpretation of the constitution or any other constitutional issues.

For the purposes of hearing and deterring an appeal within his jurisdiction the Provincial Kadhis Courts and the Kadhis court



of appeal have all powers authority and jurisdiction in the court from which the appeal is brought. The Chief Kadhi shall in consultation with the Chief Justice kuna tatizo lingine hapa and maybe the kadhi will tell us this. Kadhi anapochaguliwa hapa anachaguliwa kwa sababu ako na elimu ya sheria ya Kiislamu, he is not a trained advocate or a trained judge or magistrate.

Anawekwa kwenye koti, he is supposed to apply Islamic laws but the procedures that he is supposed to follow is quite alien to him anaambiwa afuate kitu kimoja kinaitwa civil procedure na civil procedure katika ile degree aliyosomea hajasomea hii masomo na ile the law of evidence ya Kenya hajasomea, amewekwa hapo na anatakiwa afuate procedures ambazo sio za Kiislamu ndiyo unakuta kunakuwa na conflict katika Kadhis courts.

Na ukiangalia chini ya Katiba hii ya sasa nafikiri ni kadhis court Act Cap 11, the Chief Kadhi na Chief Justice wanatakiwa watengeneze rules of procedure is it not so, for use in the kadhis court mpaka sasa hawajatengeneza so kadhis wanatumia sheria ambayo hawajasomea kabisa, civil procedure ambayo wakati mwingine ni kinyume na sheria ya Kiislamu. Ndiyo tumesema hapa under the new constitution the Chief Kadhi in consultation with the Chief Justice and the Law Society of Kenya shall make rules of court for the practice and procedure to be followed by the kadhis courts.

Kwa hivyo kadhis under the new constitution kutakuwa na rules of procedure za Kiislamu ambazo mutakuwa mnafuata. Nani atamchaguwa kadhi? Shall be appointed by the Judicial Service Commission halafu the Chief Kadhi shall have the same status and priviledges and immunities as the High Court Judge, hivi sasa Chief Kadhi sio chochote sio lolote, ukiingia ofisi yake hata sijui ni kama ofisi ya nani. Ukiingia ofisi ya kadhi akiwa bahati sijui kadhi wenu wa hapa Mandera lakini kadhi wengine unaenda kumtembelea ofisi yake, amepewa kiti yake hapo karani yake yuko hapo na typewriter ile ya zamani ya kupiga kelele na wale washtakiwa wamekaa hapo na wale wengine wamengoja nje kwenye bench.

Kadhi akienda leave hakuna kusikizwa mpaka siku ile kadhi atakuja ama sivyo na hakuna heshima yeyote wanapewa infact mawakili wengine wanaita kangaroo court, ukienda kwa kadhi wanaita kangaroo courts ni kwa sababu ya vile ambavyo judiciary haijawapatia maana yeyote ndiyo tunasema chini ya Katiba mpya, Chief kadhi awe na status ya High Court Judge, Senior Kadhi status ya Chief magistrate, District Kadhi status ya District Magistrate.

Kwa hivyo kama District Magistrate hapa Mandera kuna priviledges fulani anapewa apatiwe na kadhi he is also a judicial officer like the District Magistrate. Haya kuna tatizo lingine, ramadhan si inakaribia sasa utasikia jina ya Chief Kadhi saa yote iko kwenye magazeti kwa nini, kwa sababu ya mwezi ama sivyo. Mtaanza kufunga siku gani, kuanzia sasa chini ya katiba mpya we want to separate hiyo position ya kuwa spokesperson ya Waislamu hiyo ni kazi *mukti* sio kazi ya Chief Kadhi.

Chief Kadhi is a judicial officer under the new constitution, judicial officer kazi yake ni kungoja kesi kotini anafanya ama kutoa advice kuhusiana na sheria ya Kiislamu. Mambo ya kutangaza mwezi ni siku gani, idd ni siku gani iwachiewe mukti, nchi nyingi kunakuwa na separation hiyo. Kadhi ni judge ama magistrate mambo ya kutanganza mwezi ipatiwe mukti ndiyo tunasema the

Chief Kadhi and other kadhis shall be full time judicial officers.

Qualifications for appointment of kadhis iko under Article 202. Inatakiwa mtu wa aina gani ili awe Kadhi? Of course lazima awe Muislamu na awe na zaidi ya umri wa miaka thelathini na mitano. Kadhi I don't know whether you qualify under that, you are out eh? no you cannot be appointed as a Chief Kadhi okay.

**Kadhi:** I qualify for that.

**Com. Lethome:** You qualify you can vie for that. Okay anaweza kuwa an advocate of the High Court of Kenya ambaye ame-practice kwa muda wa miaka kumi ako na hiyo experience na pia awe na qualification kutoka katika recognized university, awe anajuwa Muslim personal law. Hauwezi kumweka mtu awe Chief kadhi na hajuwi sheria ya Kiislamu au awe amepata decree ya sheria ya Kiislamu froma recognized university and has not less than ten years experience in the practice of Islamic law or this refers to you people Kadhis ambao muko holding offices now, if you have held that office for a similar period, a period of not less than ten years, you also qualify under the new constitution. How many years have you held now Kadhi?

**Kadhi:** Six years.

**Com. Lethome:** Six years, after four years you qualify. The qualification for appointment as a Kadhi or a Senior Kadhi is the same as the qualification for the appointment of the Chief kadhi except that the requisite number of years of experience shall be five years. So you can be a senior Kadhi or a Kadhi but not a Chief Kadhi until you attain the experience of ten years.

Kuna umuhimu hapa wa kuangalia Judicial Service Commission because this is the body that will appoint Judicial Officers. Who are the members of the Judicial Service Commission, currently under this current constitution we have:-

- The Chief Justice,
- Two Judges of the High Court appointed by the President,
- The Attorney General,
- The Chairman of the Public Service Commission.

Hawa ndio wana-form Judicial Service Commission all of them appointees of the President but under the new constitution for the independence of the Judiciary we have a wider or an enlarged Commission kwa sababu we shall have here a full time chairperson who is qualified to be appointed as a judge of the Supreme Court appointed by the President and approved by the National Council. A Muslim women to represent the Muslim community nominated by the National Muslim Organization, kitu kingine nimesahau hapa under the report, we expect under the new Kadhis Court Act a position to be created for a Muslim woman to seat in the Kadhis court to assist the kadhi for the purpose of the Muslim women.

Wazee wamelalamika wanasema hakuna sheria inakubali mwanamke kuwa Assistant Kadhi, na sisi tunaawambia hatujamchagua awe Assistant kadhi, tumechagua awe assistant to the Kadhi. Sio kama Secretary, Assistant to the Kadhi

usimteremsha sana kazi yake ni nini, kumsaidia kadhi katika mambo inayohusu wanawake wa Kiislamu na imeangaliwa ikaonekana ni kweli wanawake wengine kuna mambo wanataka kumuambia kadhi na hawawezi kwa sababu ya adabu za Kiislamu. Kuna mambo mengine inabidi afiche fiche hawezi kusema wazi wazi na sehemu nyingi mimi ninaambia watu ukienda kotini ni kama umeenda kwa daktari lazima useme ugonjwa yako mahali iko ndiyo upatiwe dawa ama sivyo. Hauwezi kusema daktari mimi ninaumwa na ile pahali ingine lazima usema ni pahali gani ama sivyo.

Sasa tumesema mwanamke wa Kiislamu atawekwa pale kumsaidia kadhi kuwasikiza wanawake wengine ama sivyo hoyo? Kuna mambo anaweza kumuambia mwanamke hawezi kumuambia mwanaume kadhi is that not true? Even me as an advocate sometimes Muslim women come to my office kwanza unaingia katika madhambi unajifungia kwenye room na mwanamke wa Kiislamu unaanza kumuuliza siri zake zote so that you can assist her halafu kuna mambo ingine hawezi kukuambia anataka kumuambia secretary wako huko, anakuambia nitaambia secretary akuambie. It is expected from the teachings of islam for a Muslim woman to behave like that ili haki zao zisipotee ndiyo tumesema kuwe na mwanamke ambaye atamsaidia kadhi kuwasikiza wanawake wa Kiislamu, hiyosi nzuri mama?

**Mama Habiba:** Sana.

**Com. Lethome:** Sasa, kwa hivyo kutakuwa na mwanamke wa Kiislamu pia katika Judicial Service Commission.

There will be a Muslim woman ambaye atakuwa amechaguliwa na organization ya Kiislamu.

Attorney General atakuwa kwenye Judicial Service Commission,

A Judge from the Supreme Court,

A Judge from the Court of Appeal,

A judge from the High Court,

The Chief Kadhi, so far we have how many Muslims? Two, hoping that the Attorney General will also be a Muslim watakuwa zaidi ama judge wa High Court atakuwa ni Muslim watakuwa zaidi lakini hapa tuna Chief Kadhi atakuwa amechaguliwa pia katika Judicial Service Commission.

Two magistrates, one of them must be a woman,

Two advocates one of them must be a woman, two law teachers one of them must be a woman,

Then a member nominated by the Council of legal education,

The Chairperson of the Public Service Commission,

Three lay persons, watu watatu ambao hawahusiki na mambo ya sheria watakuwa katika Judicial Service Commission.

Kazi yao ndiyo kuchaguwa ama ku-recommend to the President watu wale atachaguliwa kuwa judges ama judicial officers.

Attorney General under Article 208, Director of Public Prosecutions Article 209, Public Defender Article 210 nafikiri sasa nitaingia sehemu nyingine ambayo ni mpya devolution of power hii nafikiri mnataka kusikiza devolution of power, hii ni mpya

katika Katiba hii yetu, time imekwenda kabisa lakini nafikiri nitamaliza hii devolution of power.

Tatizo kubwa ambalo tumesikia kwa wananchi wengi ni kuwa serikali iko mbali sana na watu, governance is very far away from the people, we had to bring governance closer to the people kwa hivyo tumeanzia kwenye Village. We have established a Government at the Village level katika kijiji ile ambayo inasimamiwa na Sub Chief sasa itaitwa Village hakuna Sub chief atasimamia kutakuwa na Council ambayo itaitwa Village Council na wao ndio wataamua system ile ambayo wanataka kutawaliwa nayo.

Therefore at the Village level, ile ambayo tunaita sub-Location itaitwa Village na takuwa na Council, either Village elders ambao wataendelea ama watachaguliwa kupitia kwa uchaguzi. Hii sub Location yenu inaitwaje, hii hapa sasa mnaishi, waria hamjui?

**Audience:** Township.

**Com. Lethome:** Inaitwa Township, kuko na sub chief hapa si ndio? Sasa hiyo itaitwa Village na hakutakuwa na sub chief kutakuwa na Village Council itakuwa na watu wasio chini ya sita na wasio zidi watu kumi ambao watasimamia hiyo Council ndiyo watasimamia Village hiyo.

Tukitoka kwenye Village tunaingia kwenye Location ile ambayo inasimamiwa na chief, hiyo mnaitaje hapa, what is the Location here now, inaita pia Township Chief, tunakuwa na Location Council ambayo itakuwa na wawakilishi wawili kutoka katika kila Village kwa hivyo ikiwa kuna Village kama tatu hapa Township kila Village itatoa wakilishi wawili wataingia katika Location halafu Location haitawaliwa na chief kutakuwa na mtu anaitwa Location Administrator, I am looking at Article 216, 217 sasa, kwa hivyo position ya chief itachukuliwa na Location administration hivi sasa chief anachaguliwa na nani?

**Audience:** Rais.

**Com. Lethome:** Office of the President, chini ya Katiba mpya atachaguliwa na registered voters katika Location yake kwa hivyo we shall have elected Administrators at the Location level. Kwa hivyo ma Chief wote wataondoka kutakuwa na watu wa kuchaguliwa because we want people to have a say in the people who are running their affairs wale ambao wanawaongoza leo chief akiwakosea mnamfanya nini? Atakuambia haujanijweka hauwezi kunitoa, nimewekwa na office of the President ndiyo itanitoa ama siyoy? Tunataka wawe more responsible ama answerable to the people, watu ndiyo wamewaweka watu wanaweza kuwatoa.

Tuingie katika District Government sasa, mahali pana simamiwa na DC itasimamiwa na nani sasa, the legislative authority of the District is vested in the District Council. Kutakuwa na Council ingine tunaita District Council kwa hivyo kwanza mambo ya Councillors county Council hakuna. Mambo ya Provincial Administration hakuna what we have now is a District Council. Itachaguliwa vipi, the District Council consist of members directly elected by the registered voters of the District, watu wa Mandera District mtapiga kura kuchaguwa ni kina nani watawaongoza katika Mandera District, hiyo ndiyo District Council sio ile county Council ama provincial administration, it is a merger of the two now.

The District Council shall consist of not less than twenty or not more than thirty members kwa hivyo mtachaguwa watu ishirini au thelathini, wao ndiyo wataongoza kazi ya Mandera District. Itaongozwa na nani, hakuna cheo cha DC, tumeweka cheo cha District Administrator, yeye ndiyo atakuwa executive authority of the District atachaguliwa namna gani hivi sasa DC anachaguliwa na nani, office of the President. The District Administrator atachaguliwa directly by the registered voters of the District kwa hivyo we shall have elected leaders not appointed leaders. Anaweza kuondolewa namna gani, DC saa hizi mkitaka kumuondoa mnaifanya namna gani kama hamtaki mnataka kumuondoa? You cannot appoint him because you are not the appointing authority under the new constitution the District Administrator can be dismissed by the vote of an absolute majority of members of the District Council that is supported in a referendum by a majority of those voting in the referendum kwa hivyo wale wanaishi Mandera District wanaweza kupiga kura ya maoni halafu District Administrator aondolewe.

Tuingie katika Province, tumetoka sasa kwenye kijiji cha township na Location ya township, tumetoka Mandera tunaingia Garissa sasa.

**Speaker:** If I come from Mandera and I am the District Administrator ..... there will be no transfer

**Com. Lethome:** Hakuna transfer kwa sababu ya election and we shall have people working in their locality. Let's face it, North Eastern Province has been having a lot of problems of insecurity how was it taken care of? By bringing a local person since Mohamud Swaleh was brought here being a local person he know the place, he has the interest of the Province at heart he has taken care of insecurity so we expect a District Administrator who is a local person elected by the local people will be more effective. These are the views of the people, wakenya kila mahali tumeenda wamesema hivyo, these are recommendations ikiwa wananchi wataona kinyume na hivyo tutabadilisha. Ngoja tusikie swali moja na pale.

**Speaker:** (inaudible)

**Com. Lethome:** Okay, the District Administrator with the approval of the District Council shall appoint chief officers from persons who are not members of the District Council, these are people who are going to work with him in the office. These are the people we are calling the chief officers so he will appoint them from members who are not members of the District Council, for example if you are elected now to be in that Council you cannot also be elected to be a chief officer.

You cannot also be imposed from elsewhere to become a chief officer because today for example chief officers in the local authority where do they come from? Chief officer for example in Mandera county Council wanatoka wapi? He is a local person appointed by whom? By the Ministry of Local Authority in fact appointed from Nairobi not from here. So we want people now who will be appointed locally. We come now to the Province, mama ulikuwa na swali, Sahara.

**Mama Sahara:** I am seeing here you are promoting majimboism.

**Com. Lethome:** Here, no this is not majimboism, this is not majimboism this is what we call, no, we are talking about the national executive that is the national Government the central Government and you should read Articles that talk about the

inter-relation between all these administration, all these Government from the Locational Government, the District, the provincial how will they relate to each other, there is an Article on that and how do they relate to the central Government there will be an Article on that. This is purely on administration bringing governance closer to the people, majimbo is something different, majimbo wanakuambia you can only remain where you were born your original region you cannot be in any other region.

**Speaker:** (inaudible)

**Com. Lethome:** There must be, it cannot just be open like that but now the constitution cannot have everything here, I am sure there will be an Act of Parliament to take care of that just like today we have a local Government Act that deals with, who can be a Councillor, you can't find that in the constitution here. Who can be a PC, is not here in fact they are not mentioned anywhere here, the Provincial Administration.

Provincial Government Article 219, the legislative authority of the Province is vested in the Provincial Council not the Provincial Administration. Provincial Council will consist of two representative one of whom shall be a woman chosen by each District Council from among its members for example if you are talking of North Eastern Province how many Districts do we have in North Eastern Province?

**Audience:** Four.

**Com. Lethome:** Four, so each of them will produce how many, two. So how many shall we have to take to the Province? Eight. So Mandera will take two, Ijara two, Wajir two, Garissa two. They will go and seat at the provincial level. The provincial executive committee consist of the District Administrators, we said Mandera there will be a District Administrator, Garissa the same, Ijara the same, Wajir the same. These four will form a committee, that committee will be called the provincial executive committee, then the person incharge of the Province will be called a provincial Administrator not a PC, he will be a PA now who will appoint him? He will be appointed by the provincial Council on the nomination of the provincial executive committee from among its members.

So like North Eastern Province, we shall have eight of them from among them they will appoint one of them to be the Provincial Administrator. Then under part three that is Article 220, you will look at the powers of the District Government, what are the powers? Then you will have to go at Schedule 7 at the back of the document you will look at the list of all the functions of the District Government. One of them is development, planning within a District that will now be the function of the District Government. Mumeona hiyo 7<sup>th</sup> Schedule, we have the national Government list on top there, list one has you look at it? 7<sup>th</sup> Schedule powers of national and District Government okay.

Then when you look at list two, District Government list, mumeona hiyo? Hapo ndiyo kuna functions za District Government itafanya nini utaona it is different from majimbo kabisa. Mambo ya education, mambo ya implementation of development plan, provincial of other services like District planning, statistical services, District projects, identification, agricultural services, land

administration, land surveying, physical planning, trade development services. Utakuta hapa ni kazi ambayo inafanywa na county Council na provincial administration sasa, imekusanywa pamoja itapatiwa District Council. Mkisoma hiyo mtafahamu yote.

Article 226 about sharing of the national resources how are we going to share the national resources because they are resources which can be referred to as national resources for example if today we discover petroleum or oil in North Eastern Province, whose resource is that? Ni yenu hapana yenu ni ya nchi mzima bwana, so there has to be a formula on how that will be shared, tukisema ni ya North Eastern Province, hata North Eastern wanaweza kujitenga waseme sisi tunakuwa nchi nyingine sasa tuko na petroli yetu. That is a national resource something like Lake Victoria is it for the Luos or is national?

**Audience:** National.

**Com. Lethome:** The Port Kilindini harbour, is it for the Coastal ndiyo unaona hapa tofauti na majimbo. Majimbo watasema all the resources within the region belongs to the people of that region, that is majimboism kwa hivyo tunasema kuna national resources, there should be a formula on how to share the national resources. Wananchi wengine wasikose na wale the local also should get something.

Under Article 227, inter-Governmental relations. Mama Zahara inatakiwa usome hiyo uone kama kuna uhusiano baina ya the national Government and the District Government ama the regional Government. Article 229 the constitution expects that there will co-operation between the District Councils, each District Council will not operate in isolation of the other Councils.

Chapter 11, you will look at that about land. We have recognized now the issue of community land ownership or communal land ownership that has been recognized. Article 234, classification of land, 235 tenure of land, 236 protections of property and land. Mambo ya environment pia iko chini ya chapter 12, about protection of our forest, wildlife and other natural resources. There will be a Commission under Article 240, which will be called the National Environment Management Commission, which will supervise, and co-ordinate all matters relating to the environment.

The Kenya police under the new constitution will be called the Kenya Police Service; the Commissioner of Police will not be an appointee of the President as it is now but an appointee of the President with the approval of Parliament. Look at Article 264 and look at the functions of the police, hivi sasa tunaambiwa utumishi kwa wote but we see the services are contrary to utumishi kwa wote. Siku hizi unasema afadhali kukutana na mwizi njiani kuliko kukutana na polisi. Look at the functions of the police under Article 264 kutakuwa na Kenya Police Service under Article 265.

Appointment of the Commissioner of the Kenya Police Service shall be appointed by the President with the approval of Parliament for a term of ten years, hivi sasa Commissioner of Police does he have security of tenure? He holds that office at the pleasure of the President hata naye saa saba anaweza kuenda.

Angalia Article 267, Prisons tumebadilisha jina lake inaitwa Kenya Correctional Services, huduma za kubadilisha tabia to remove that stigma ya kuwa Prison iwe ni mahali pa kwenda kurekebisha tabia ya watu. The Primary object of the Kenya Correctional Service is to rehabilitate persons convicted of crime and facilitate the return of those persons to useful light in the community. Tunatarajia watu wakitoka jela, they become useful members of the society sio kuwa wanakuwa hardcore criminals.

Chapter 15 inazungumzia habari ya defence forces and the national security you can look at that. Article 272 kutakuwa na security Council ambayo itaitwa National security Council with the president seating there, the vice President, the Prime Minister, Minister incharge of defence, the Chief of the General Staff, the Army Commander, the Navy Commander, Air Force Commander, the Commissioner of Police, the Director of Kenya Correctional Services hiyo ndiyo ya Prison, Director of National Security Intelligence Services, the Chairperson of the relevant Parliamentary committee and the Attorney General. Hao ndiyo watakuwa National Security Council. Their functions under Article 273 I remember when we were in Elwak or Wajir, those people from the National Intelligence were seating but they did not want us to know they were seating there but I know they seat in every meeting we go to, and they were wondering under the new constitution where shall we be? And I think here they have been recognized that the Director of the National Security Intelligence will be a member of the National Security Council so they have been recognized under the new Constitution and they feel they have not been covered enough, there is always room for them to give in their recommendations.

But under the transitional mechanism inasemekana mtu yeyote ambaye ataona kuwa the department under which he or she served is not mentioned under the new constitution or it is abolished by the constitution then they are supposed to the Public Service Commission for re-deployment. That will be done under the transitional mechanism iko huku nyuma kabisa utaangalia utaona.

Under the transitional mechanism on coming on force of this new constitution kuna ofisi nyingine ambazo zitaenda automatically like the office of the Provincial Administration those ones will stand abolished under the new constitution and many others and re-deployment will be done by the Public Service Commission.

Under Chapter 16 we have leadership and integrity under that all leaders will be expected to abide by a code of conduct for leaders, you go against that then that will be a ground for dismissal from the office so we expect our leaders to conduct themselves in a certain manner. Then there are special Commissions that will be created under the new constitution, one very important is under Article 288, the Commission on Human Rights and Administrative Justice and if you look at the functions of that Commission, one of them if you look at Sub-Article 3, the functions of the Commission on human rights and administrative justice are you there? Sub-Article 3 look at Roman 7, shall take steps to secure appropriate redress where human rights have been violated. So this will also address the first human rights infringement like the Wagalla Massacres and the rest, somebody



can raise that and it is under that Commission that steps can be taken to redress that breach of human rights. There is something I want to read about the amendment of the constitution, Chapter 18, look at Chapter 18 Article 294. Who can amend the Constitution, right now this constitution will be a people's constitution, who can amend the peoples constitution, under this constitution who can amend the constitution? Parliament. What is the requirement? Two-thirds majority let us look at the requirement under the new constitution.

Article 294, this will be the last thing I am reading now, subject to the provisions of this constitution Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this constitution in accordance with the procedure laid down in this Article. So, even under this constitution Parliament can amend the constitution but it is subject to a procedure that you will just read now, an amendment of this constitution maybe initiated only by the introduction of a bill for the purpose in either house of Parliament that is the National Council or the National Assembly and when the bill is passed in its second and third reading in each house by not less than two-thirds majority of the total membership of that house, if it is in the National Council two thirds majority of a hundred or if it is in the National Assembly, two thirds majority of three hundred, it is 210 plus 90 unless it is amended.

It shall be presented to the President who shall give his assent to the bill and thereupon; the constitution shall stand amended in accordance with the terms of the bill. So that is how they can amend the constitution but not every part of the constitution can be amended by Parliament, as we shall see under Sub-Article 3.

- a. An amendment that seeks to make any change in the territory of Kenya,
- b. The sovereignty of the people,
- c. The Principles and values of the Republic as set out under Article 6 of the constitution,
- d. The bill of rights, when we were talking about the fundamental rights of human being.

The structures values and principles of devolution are set out in Chapter ten of the constitution when we were talking about the Village Council, the District Council, the provincial Council, if anybody seeks to change those, the citizenship as laid down for example if somebody wants to change the issue of dual citizenship or citizenship by marriage or by birth, or the provisions of this article, then we must have a referendum, it can only be amended through a referendum. Shall also require retification by the people in a referendum before the bill making provision of such amendments is presented to the President for assent.

Let me explain it in a simpler way, Parliament under Article 294 can amend the constitution but there are some areas Parliament cannot amend, it can only refer to the people for example if Parliament seeks to amend the territories of Kenya for example the boundary between Somali and Kenya if Parliament wants to change that it has to seek the views of the people. it has to be through a referendum or anything to do with the bills of rights for example we have said under the bill of rights, it is the right of every Kenyan or every citizen to own property, if Parliament wants to change that, that we don't have the freedom to own property, then they have to seek the views of the people. if they want to change anything to do with the sovereignty of people

that Kenyans are free, they Government themselves, they can only do that by seeking the opinion of the people through a referendum, is it clear? Kupitia kwa kura ya maoni.

Kwa hivyo, the powers of Parliament to amend the constitution here have been reduced they can only amend some sections but the very important ones cannot be amended without referring to the people of Kenya through a referendum and there has to be a certificate of compliance under Article 296 I think you can read all that. Chapter 19 talks about interpretation of the constitution and then Chapter 20 which is the last one is the transitional and consequential provisions because until this constitution is fully implemented there will be that transitional period as we are implementing it face by face there some things that will happen. So read Chapter 20 to see what those transitional mechanisms are.

Nafikiri nitakomea hapo kama kuna mtu ana swali unaweza kuuliza, it is already six at seven we are going to another place to address a school. Anybody with a question? Okay what you are supposed to do now kwa kumalizia ni kuwa haya ni mapendekezo watu wengine wanafikiria kuwa hii ni sheria sasa imepitishwa kwa hivyo ili kuisimamisha lazima mtu aende kotini, hakuna haja ya kwenda kotini, if there is something you feel has been left out, this is just a recommendation and according to the Act under which we are operating, the Constitution of Kenya Review Act Cap 3A of the Laws of Kenya, tumepewa muda kuanzia sasa mpaka tarehe ishirini na nane ku-debate na kama tuna recommendation zingine zozote kufikisha hizo recommendation kwa Constitution Commission na maoni yako yatachukuliwa and that is why we have come with the Verbatim Recorder, she is recording everything as you ask question she is recording and she is taking notes, ndiyo tukirudi huko tunaangalia nini malalamishi ya watu au mapendekezo ya watu ni sehemu gani ambayo tumewacha, ni sehemu gani ambayo tumeangalia vizuri.

Kwa hivyo these are just recommendations. This is just a Draft and until it is taken through the National Constitutional Conference and until Parliament looks at it, it is nothing but just recommendations, mume Fahamu hiyo? The constitution that is in force is still this one ya 1963 ndiyo bado tunaitumia sasa and if Parliament is dissolved before we hold the conference, then we shall go to the polls under the current constitution because we cannot go under this one unless we go through the conference. Kwa hivyo una nafasi ya kutoa maoni yako, pendekeza, lalamika you don't have to take us to court, hakuna haja utapoteza pesa yako bure and we shall not obey the court orders tutaendelea na kazi kwa sababu we have immunity under the Act.

Kwa hivyo kama kuna mapendekezo yeyote kama kuna mtu ambaye anaona amedarwa vibaya ni hii constitution alete mapendekezo yake yatasikizwa sawa?

**Speaker:** (inaudible)

**Com. Lethome:** In Uganda it works, we have borrowed experiences from other countries and it has worked in other countries.

**Speaker:** (inaudible)

**Com. Lethome:** You know people don't accept change very readily but change is bound to come but let me tell you what will go into the new constitution is what Kenyans will agree upon because we have representatives from all over the country who are delegate to the conference and they are the ones who are going to determine what is going into the new constitution. These are just recommendations it is only after the conference that you can say yes, I know what will be in the new constitution, it is the delegates who are going to fight it out for one month at Bomas of Kenya whatever they come up with, that is what will go into the new constitution infact Parliament will just be a rubber stamping. It will just be a formality to take it to Parliament because even all the Members of Parliament will be in the conference. All the 222 Members of Parliament are delegates to the conference and that is why I am saying if Parliament is dissolved before we hold the conference we shall not hold the conference because we shall not have Members of Parliament.

If it is not dissolved before 28<sup>th</sup> then we shall have the conference kwa hivyo muendelee kujadiliana wazee wakati mnakaa kwenye ma baraza yenu na kina mama wakati mnakaa kwenye baraza yenu, keep on debating.

**Speaker:** (inaudible)

**Com. Lethome:** Yeah, that is why we are wearing the yellow ribbon, the reason is that they said what we have recommended here on the judiciary is very drastic, so they felt that they wanted an order to bar us, yaani to stop us from discussing anything to do with the Judiciary. We should not touch the judiciary and believe you me, we cannot have a constitution without the judiciary because it is one of the arms of the Government and if you have been reading the papers, what we have recommended here on the Judiciary is exactly what the people of Kenya have told us even after the case was filed in court the Commission was forced now to look into the evidence, what the people had said and we have 1,800 pages of the views of Kenyans on the Judiciary only.

So all these is based on the recommendations of the people and if you say that anybody who has been affected by this new constitution should go to court it means Parliament has to go to court, the Provincial Administration has to go to court, all the Councillors have to go to court because they have been affected here, the Prisons have also to go to court kwa sababu we have even changing the name to Correctional Services not freedom and are we going to have a review process, we will not have a review process so I think it was wrong I am not saying that because I am a Commissioner, we have the protection of the Act of Parliament that constituted the Commission but I think it was wrong for them to go there because tomorrow Parliament might also go to court and you cannot be a judge (end of side A) but they are exercising their freedom of expression. It is their democratic right but that is why you have seen they went to court, they gave us orders, we defied the orders, we are still going on with our work, we are in contempt of court but we know they cannot take us anywhere infact we are enjoying it.

**Speaker:** (inaudible)

**Com. Lethome:** That is why we are enjoying it, we know they cannot take us anywhere infact if they have to take people to jail for contempt, they will be forced to take 30 million people to jail for contempt because Kenyans are debating.

