

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

Verbatim Report Of

**DISSEMINATION OF REPORT AND DRAFT BILL, BARINGO CENTRAL
CONSTITUENCY, HELD AT KABARNET COUNTY HALL**

ON

15TH OCTOBER 2002

**DISSEMINATION OF REPORT AND DRAFT BILL, BARINGO CENTRAL CONSTITUENCY, HELD AT
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Present:

1. Com. Isaack Lenaola.

Secretariat Staff in Attendance

1. Elijah Korir - District Coordinator.
2. Robert Gitonga - Assistant Programme Officer.
3. Emmah Kamunga - Verbatim Recorder.

The meeting started at 10.35 a.m.

Speaker: Basi tuombe.

Prayer: Pastor: Baba Mwenyezi Mungu tunakuja mbele yako asubuhi ya leo, tukikushukuru Mwenyezi Mungu kwa kutuandalia makao kama haya. Ni asante Baba, kwa kutuongoza kutoka nyumbani mpaka tunafika hapa tukuwa salama salamini. Asante kwa kuleta wageni wetu ambao tulikuwa tunatarajia, ili Baba tuweze kupata nafasi ya kujadiliana kuhusu matokeo ya yale ambaye tulikuwa tumekuja kuzungumzia hapa ya sheria. Mungu wetu wa binguni tunajua ya kwamba kwa kila jambo katika ulimwengu, ni wewe ndiye wa kwanza halafu yale yote ambayo tunataka kuzungumzia yanafuata. Mungu ni asante kwa viongozi, asante kwa wananchi wale ambao wamewasili na wale ambao wataongea Mungu utupatie nafasi tuweze kuzungumzia huu mjadala kwa ajili ya mapenzi yako. Ni asante Mwenyezi Mungu maana utaenda kutenda maajabu siku ya leo, yale yote ambayo tutapanga Mungu, tupange yale ambayo umetupangilia Mwenyezi Mungu. Baba ni asante ninaomba wakati huu tunapoanza kikao hiki uanze pamoja nasi na umalize pamoja nasi, Mungu tunaomba ili uongozi wako iweze kuonekana.

Baba tunaomba Serikali hii ya Kenya, na tunaomba Commission hii ya Yash Pal Ghai Mwenyezi Mungu ili Baba wakamilishe hii kazi ambayo walianza wakiwa salama Mwenyezi Mungu, Baba tunaomba na tunatarajia yote yatakamilika kulingana na mapenzi yako mara nimekabidhi yote mikononi mwako katika jina la Yesu Kristo aliye mkombozi wetu. Amen.

Elijah Korir: Asante sana Pastor, nafikiri kama mjuavyo mlisoma kwenye magazeti, na nafikiri pia vile tumesoma kwenye advertisement ambazo tumefanya, siku ya leo mmejua ni siku ambayo commission ina-launch ama kwa kirasmi inaleta ripoti yake, ya ile kazi ambayo imefanya pamoja na draft constitution, pamoja na repoti ya constituency yetu ya Baringo Central. Kwa hivyo hiyo ndio kazi hasa tunafanya siku ya leo, hizi documents sio mara ya kwanza kuletwa hapa katika constituency yetu lakini tumekuwa nazo katika library yetu pale kwenye ofisi yetu ambayo iko katika ofisi ya DC. Kwa hivyo kama kuna mtu ambaye angetaka kusoma zinapatikana katika documentation centre yetu ambayo iko kwenye afisi ya DC. Tuko na documents tatu, ya kwanza ni the draft constitution, Katiba ambayo bado haijapitishwa na ndio iko kwa mfano huu ambao mnaona hapa hivi.

Pia tarehe mbili mwezi huu ilikuwa imechapishwa katika gazeti ya Nation, so tuko na copies ambazo sio nyingi, ni chache kabisa. Lakini kama unataka kusoma unaweza kuja kusoma katika afisi yetu. Vile vile tuko na document ambayo tume launch leo pia ni the report of the constitution of Kenya Review Commission that is the short version ambayo ina-summarize ile kazi ambayo commission ilikuwa ikifanya tangu tuanzishe kazi yetu. Kwa hivyo pia documents hiyo zime-launch na ni ripoti ambayo inaelezea jinsi commission imefanya mpaka tukapata draft constitution.

Vile vile tuko na ripoti ya constituency yetu kuhusu yale ambayo tuliongea juu yake wakati commissioners walipokuja hapa nafikiri mwezi wa sita kuchukua maoni ya wananchi wa Baringo Central. Sasa tuko na constituency reports ambazo ni summary ya kazi ile ilifanyika hapa Kabarnet katika hii Hall, pia katika Marigards na Mochongoi, kwa hivyo hiyo ndio kazi ambayo tumekuja kujadiliana nayo siku ya leo.

So kabla sijaendelea mbele tuko na ma-officers wetu ambao wametoka Nairobi kuja kusaidia kwa hii kazi hii ya launching na kwa upande wangu wa kushoto ni Commissioner Isaac Lenaola ambaye pia ni mmoja wa Ma-commissioners kutoka Rift Valley na ndio amekuja kusaidia katika launching ya hii report. Tutakuwa na Commissioner ambaye atatuambia yale ambayo ni mapya katika Katiba hii mpya na yale ambayo nafikiri yanaguzia sana upande wetu kama watu wa Baringo Central especially kuhusu ripoti ya constituency yetu, so baada ya hayo kama kuna maswali kama kuna mtu ambaye angetaka kujibiwa swali mmoja ama lingine atapewa nafasi. So the first part of it will be to go through the(Inaudible) what is new, yale ambayo yamejadiliwa katika ripoti na pia katika draft constitution, constituency report, baada ya hayo tunauliza maswali kwa yale ambayo tungetaka tujue saidi.

Halafu pia Bwana Commissioner ningependa ku-introduce ya committee yangu ambao wako hapa, kwa upande wa kushoto tuko na Francis Latelambu yeye 3C's member wetu mmoja. Kuna members wengine, lakini wako busy sana kama Bwana

Hosea ni member mmoja,(Inaudible) ni member mwingine lakini tuko na show activities ambazo zimeendelea katika Kabarnet na wako buisya sana katika hizo functions.

Pia nimepata ripoti nimepigwa simu na member mmoja kutoka Muchongoi amesema hawataweza kufika kwa sababu ya shughuli zingine ambazo ako nazo. Lakini wale ambao wako karibu hapa tumetaraji wanaweza kuja baadaye leo.

So, nitakupea nafasi hii Bwani Commissioner you take over maybe you will introduce your team from Nairobi, the secretariat and then we will get draft bill, wellcome Commissioner.

(Clapping of hands from the audience).

Com. Isaac Lenaola: Asante Bwana Coordinator. Jambo la kwanza ningependa kuwajulisheni wafanyikazi wa Tume ambao nimekuja nao, wa kwanza ni Emma Kaaga ambaye kazi yake ni kunasa sauti kutumia hichi chombo. Wa pili ni Robert Gitonga, ambaye ni recorder na Programme Officer katika Tume.

Jambo la pili sijui kama Coordinator tuko na extra copies za hii draft kwa ofisi.

Elijah Korir: Ziko kidogo.

Com. Isaac Lenaola: Nafikiri wacha atutumie chache maanake itakuwa vigumu kuendelea na mikutano bila nyinyi kuwa na hii draft, kwa hivyo pengine ungetumana ziletwe halafu nakizungumza atleast wanafanya reference juu ya hii draft maanake itakuwa vigumu. Kwa hivyo pengine kama unaweza, patia wale Wazee wawili kwanza hii, halafu Gitonga uko na mmoja shika hii, na nyinyi mnaweza atleast you can share two, two while I start the rest are coming possibly shika hii. Bring at least ten or twenty copies.

Elijah Korir: Twenty copies from the office.

Com. Isaac Lenaola: Asante wakileta hizo, hapa tuko na copy moja tu. Sawa, nafikiri kama mko wawili mki-share itakuwa vizuri maanake zingine zinakuja. Jambo la tatu mnakumbuka kwamba, wenzangu Dr. Mosonik, shall we have order please, tafadhali I am proceeding with the meeting, shall we have order, I am conversing ni nyinyi mnapiga kelele katika..

Wenzangu Mosonik Arap Korir, Alice Yano mimi mwenyewe, Professor Ogendo tumekuwa kwa hii constituency mara nyingine, iwe hapa, iwe Marigad ama Mochongoi na tuliwahidi kwamba baada ya sisi kuandika draft constitution, tutarudi hapa hapa Baringo Central na kuwaletea ripoti yenu vile mlizungumza. Na sasa niko na furaha kuwaambieni kwamba hii ndio ripoti yenu ya Baringo Central constituency mambo yote mliyoyasema iwe ni Mochongoi, iwe ni Marigad ama Kabarnet yote ndio hii

hapa mmeambiwa kwamba itakuwa kwa documentation centre, mkitaka kuona reference kama mambo yako yalishikwa vizuri itakuwa hapa.

Jambo lingine, ni kwamba tulisema kwamba tutarudi hapa hapa tena, na kuwaambieni kwamba baada ya kuandika ripoti hii yenu ya Baringo, na constituency zingine katika Kenya, tutatoa National Report, Ripoti ya Kitaifa. Ripoti ya Kitaifa iko na 36,000 thousand pages, kwa hivyo kama ningekuja nayo, mimi si mrefu sana ingekuwa inanifunika hapa maanake ni kubwa sana. Kwa hivyo tukafanya hivi, tukai-summarize into a short version of the report of the commission in a format ambayo inasomeka bila ma-story mingi, so all the issues zimekuwa reduced kwa hii inaitwa people's choice.

Jambo la tatu, baada ya hii national report kuandikwa tukaandika draft bill ya Katiba, kwa hivyo tukachukua mambo ya Baringo Central, mambo ya National tukai-condence into what is called the draft constitution. Na hii ni proposals za commission, si kama Biblia ama quoran kwamba huwezi kutoa neno moja ama huwezi kuongeza, hii ni draft. Kwa hivo leo baada ya nyinyi tuzungumza, ikiwa kuna mtu ambaye hapendi jambo fulani hapa, mtaniambia kwamba mimi sipendi jambo hili kwa maana ABCD, ama mimi napenda hii napenda sana msijaribu kutoa hiyo, kwa hviyo hii ni proposal si final.

Jambo la kuendelea ni kwamba, katika hii repoti yenu ya Baringo Central, kuna mambo fulani ambayo mlisema ni lazima yaingie kwa Katiba, na kazi yangu leo ni kuwaambieni je, ni mambo gani tulitoa hapa Baringo Central na tukaweka katika hii draft constitution, kama kuna jambo tumeliacha uko na huru kuniambia kwamba kwa nini jambo hili halikuandikwa na nitakueleza kama niko na jibu, kama sina jibu nitakuambia sina jibu, tumeelewana mpaka hapo? Tumelewana? Sawa?

Haya, jambo la kwanza mlisema mngetaka Wilaya kama Baringo ipate special consideration kwa mambo ya maendeleo. District which are marginalized in terms of developments should have special places in the constitutions. So what have said about marginalization of some districts and some areas, maanake maendeleo tangu independence si sawa katika kila Wilaya, kuna Wilaya zingine ambazo zimepata maendeleo chungu nzima kuna wilaya zingine maendeleo yake haijakuwa sawa na zingine na mngutaka usawa wa Wilaya kwa maendeleo, kwa hivyo wale wako na draft fungue page five na ukiangalia hii document kabla hatujaendelea pages ziko pale juu page five halafu kando utakuta namba one mpaka namba two ninety nine.

So nikisema article I am referring to the ile first namba either 15, or 16, or 17 halafu chini yake kuna either one, two, three or ABCD, so nikisema article 14, sub article 11 na-refer kwa hiyo page ya left, left ya page five sub article 11, nitaishoma. The republic shall ensure the fullest participation of women, the disable and marginalized communities and citizen of society in the political, social and economic life of the country. Kwamba ni sharti Serikali ya jamhuri ya Kenya ione kwamba watu wote wa Kenya wawe na nafasi ya kuungana kwa mambo ya maendeleo ya kijamii, ya kisiasa na kiuchumi. Kwa hivyo, kila MKenya apewe nafasi ya kujumuika na wenzake kwa haya mambo matatu, ki-jamii social, economic kiuchumi, political kisiasa. Kwa hivyo usawa wa nchi utaanza na hayo.

Sub article 15 pale chini, hapo tu chini 14, 15 “the republic shall promote equitable development recognize and enhance the role of science and technology, eliminate disparities in development to enriches the country and sector of society.” Ni jukumu la Serikali kuona kwamba kuna usawa wa maendeleo katika nchi kwama kusiwe na wilaya zingine ambazo maendeleo yao ni ya hali ya juu sana na zingine ni za chini. Kwa mfano, si vizuri kwamba Wilaya ya Turkana watu wafe njaa na ni wa Kenya na wengine katika Kenya pia wako na chakula mpaka wanatupa, maanake maendeleo ya Turkana ni chini na wilaya zingine ni kubwa, kwa hivyo usawa wa maendeleo katika nchi ni jukumu la Serikali kwa hii Katiba.

Jambo lingine, hapo juu kidogo article 14 “the republic shall be committed to social justice and through appropriate policies and measures providing Kenyans the basic needs of food, shelter, clean water, sanitation, education, health, a clean environment and security,” ni jukumu la Serikali kuona kwamba wananchi wa Kenya wanapata nafasi ya kuwa na chakula, malazi, maji, masoma na afya njema, na baadaye nitarudia hayo nikija kuzungumza juu ya haki za kibinadamu. Lakini kwa sasa nimesema kwamba maendeleo ni maisha ya mtu, ni jukumu la Serikali kuona kwamba haya mambo wananchi wa Kenya hupata kihalali kihaki. Just distribute two persons one copy so that they can share, pale anza na hapo wale ndio hawana na hapa pia na huku, wacha apeane ndio tuende pamoja okay, hapa juu na huku juu, karibia ndio upeane moja usiende pale nyuma.

Haya sawa, sawa sawa okay asante wale wengine wakija pia wapate nafasi ya ku-share, ndugu yangu, those guys didn't want, don't finish.

Elijah Korir: Excuse me you have just stood there na sioni haja ya kuwapea na mko wanne.....(Inaudible).

Com. Isaac Lenaola: Two, so nyinyi mkae wawili manake copies zinakuja zingine lakini. Haya tuendeleo, ndugu zangu tundelee, ningependa kuendelea sawa, tuendeleo tuko page five, okay tuendeleo tafadhali. Page five article 18, sub article 18 second column column ya pili 18, inasema hivi, at least, “sasa tunapiga simu councilor ama tunafanya mkutano?” Haya article sub article 18 at least once every year the president shall report to parliament and the nation all the measures taken and progress achieved in the realizing these goals values and principles. Kila mara moja kwa mwaka kwa hii Katiba Rais wa nchi ni sharti aende bunge awambie wabunge kwamba nimefanya haya na haya kuhusu haya mambo ya maendeleo kila mwaka. Ili kwamba kwa mfano, kama Wilaya ya Turkana imebaki kuwa nyuma kila mwaka, bunge itasema kwa nini wa Turkana hawapati nafasi ya kupata maendeleo na hii tumeweka kama jukumu ya Rais wa nchi.

Haya tuende page namba eleven, article 76 last column and page 11 inasema kwamba the electoral system is based on the right of all citizens to vote and to stand for elections to legislative and executive bodies, hapo chini sub article six elections shall ensure fair representation of women, the disable and minorities, tunasema nini, katika kila kura, lazima kuwe na nafasi kwanza ya wanawake, pili ya wale mavu na tatu makabila ndogo ndogo. Niwape mfano tu, kwa nini tumeseme makabila ndogo ndogo, manake Kenya tuko na makabila na ukisema kwamba hamna makabila Kenya ni uongo mtupu, maanake tuko na makabila na tungenda kwamba hata makabila ndogo ndogo wapate nafasi ya kuwa na viongozi mahali pao.

Kwa mfano, kuna watu wanaitwa Elmolo wanaishi huko Lake Turkana mnawajua hao watu, kwa sensus ya juzi walikuwa watu karibu elfu mbili, two thousand kabila nzima la wa Kenya, hata wakifanya nini samaki yao imepigia kura Lake Turkana hakuna siku atapata mjumbe kuwakilisha manake hawana watu. Manake Leisami constituency Marsabit mahali wanaishi kuna Warendile, kuna Wasamburu na kuna Waborana na kuna wa Elmolo, na hakuna siku Msamburu atampigia Elmolo kura manake ni watu wachache na tunasema hivi makabila kama hayo wawe na nafasi pia ya kuchangia uongozi wa nchi, si makabila kubwa peke yao, pia makabila ndogo ndogo.

Article 86 page number 12 article 86 column number three column ya tatu, inazungumza juu ya delimitation of constituencies. Vile constituencies zingekatwa na inasema hivi sub article two in demarcating the boundaries of constituencies the electoral commission shall consult with all interested persons. Sub article two B take account of population density and B the B1 population trends means of communications, geographical features, community of interest and boundaries of certain areas. Kwa nini nasema hivi, maanake miaka iliyopita watu husema kwamba constituencies zigauliwe kulingana na idadi ya watu peke yake, na ukiangalia rekodi ya Baringo sasa kama ingekuwa mnagawa constituency in terms of population it means Baringo district ingekuwa na one and three quarter constituencies. Kwa hivyo mjumbe wa Baringo angekuwa mjumbe kutoka huko juu Baringo East, kutoka Koloa mahali tulikuwa jusi na mkutano wa peace mpaka hapa. Kutoka huko mpaka juu mpaka Wamahia imewezekana ni mjumbe mmoja kutumikia watu area hii yote peke yake tukasema hivi, tusingalie idadi ya peke yake, maanake Wilaya zingine Mjumbe anaweza zinguka within two days ameona kila mtu, wilaya zingine even if you give him helicopter ngapi atafikia kila mtu kwa sababu kuna mahali helicopter haiwezi ku-land, kuna milima hapa Baringo helicopter hawezi kuland lakini watu huishi pale, tukasema hivi tusingalie idadi ya watu peke yake, tuangalie pia means of communication utafikia aje watu wako.

Pili, mambo ya geographia hawa wenzangu walishtuka sana kuona kwamba ukifika Kabarnet si barabara ya lami straight hivi unaenda manake kuna milima, na lazima watu pia wafikiwe na mjumbe wao, kwa hivyo tusingalie kwamba tu ni idadi ya watu. Mfano mingine hi hii, province kama central province ni province nzima iko na watu wengi. Turkana district ni district ni district mzima lakini haina watu wengi, lakini Central province ukiingiza ndani ya Turkana district itaingia Turkana mara kumi. Central province is ten times less than Turkana district huwezi akasema kwamba kwa hivyo basi kwa vile basi Turkana ni kubwa wacha iwe na mjumbe mmoja lakini kwa vile Central tumekuwa na watu wengi iwe na wajumbe mia moja. Kila MKenya ako na haki ya kuwa na waakilishi bungeni, tunasema hivi hapa kwamba basi tusingalie idadi peke yake tuangalie pia hali ya nchi ambapo tunatoa constituency.

Article 213 page number 26, article 213 sub article F paragraph three ile column number three, column three sub article F pale juu. "Ensure equitable sharing of national and local resources throughout Kenya with special provisions for marginal areas." Tukigawa rasilimali za nchi, tukigawa national cake tuangalie hali ya wilaya ambazo hazina maendeleo, na tuwape special consideration.

Pale chini number four same paragraph same column number four the national and devolved government shall ensure the participation of communities in decisions relating to the exportation of national resources in their areas and the preservation of the environment. Mambo ya, tafadhali mkutano ikiwa nzuri tungefurahi, tafadhali Kipchumba I think you are now disturbing the meeting you are engaging the conversation on the floor, I have no business being here.

Elijah Korir: Ningependa tu ku-make clarification hapa ya kwamba hatuna copies mingi ya hii draft tunaomba tusaidiane three people can read.

Com. Isaac Lenaola: Tu-share tu-share, then I am going to read nitawasomea na ku-translate kwa hivyo sio lazima uwe nayo sasa. Asante. Article four inasema kwamba kwa mambo ya maendeleo na utumizi wa rasilmali wacha tuulizwe kama wa Kenya vile hiyo mali inatumika, kwa mfano hakuna sababu kwamba kama kuna madini Melrose katika Baringo Central wenye area hiyo hawaulizwi, mngpenda tutumie hii resources namna gani na hao ndio wenye wanakalia hiyo resource.

Article number 226 page 27 column two, page 26 column two article 226 districts shall be entitled to a substantial share of the national revenue from local resources and for the location of a fixed percentage to the communities in whose areas the resources are generated. Kukiwa na mali ya asili katika wilaya, hatuoni sababu gani hizi kutolewa na kupelekwa Nairobi na wenyewe hapo hawapati kiwango fulani ya hiyo mali ya asili. Na hatuoni pia sababu gani kwamba watu ambao wanaishi pale mahali resource inatoka hawapati kitu chochote kutoka kwa hiyo resource. Mfano gani uko hapa Baringo, tuone sasa Lake Baringo kuna resource wa Wazungu wanakuja, ama Lake Bogoria hakuna sababu kwamba hizo fedha zinapita hapa zinaenda Nairobi halafu baadaye 5% ama 25% inarudi hapa, tunasema kwamba let the bigger percentage ibaki hapa na ingine iende itumike kwa mali ya national. Na pia kuna watu huishi pale, tunasema kwamba a percentage to the communities in whose areas the resources ara generating wale ambao wako pale wapate some percentage iwasaidie kwa maendeleo.

Mimi natoka Samburu na mnajua kwamba tuko na Samburu national park. Na Wazungu wanakuja huko hata siku hizi nasikia kuna lioness inapenda oryx na Wazungu wanaingia ndege kuja kuona hii lioness na hii oryx na hiyo fedha haikai, Samburu inaenda pia Nairobi halafu baadaye tutatumiwe inaitwa local government transfer fund in Nairobi kwa wilaya, na kuna Wasumburu wanaishi hapo karibu na park na mnyama hajui kwamba hii ni park na hii ni mahali watu wanaishi inamangamanga kati ya park na groups za watu. Kama hawa walikuwa wanaua hao simba, kuna fedha inaingia kwa park? Ndio tunasema hivi hawa watu wanaishi karibu na park, pia hao wapate nafasi ya kupata some percentage kwa mana pia wao huchunga hao wanyama, isiwapite tu wakiona na hao ndio wachungaji hata nyinyi mkileta mtu kuchunga ng'ombe yako utamlipa kitu kidogo ya kuchunga mali yako. Tunasema hivi wachungaji wa rasilmali za nchi wapewe nafasi ya kupata percentage yao kidogo.

Jambo la mwisho kuhusu hayo nilikuwa nazungunza, page 29, last paragraph paragraph four sub article C, "ensure equitable sharing of national and local resources through all the republic taking into account the special provisions for marginal area."

Nimesema ya kwamba ni lazima kwa maendeleo kuna wilaya zipewe special consideration manake wilaya kama Baringo sasa si sawa na Wilaya zingine na hata Baringo kwenyewe ndani kuna disparity kati ya watu wa Baringo East na watu wa Baringo Central, watu wa Baringo North na watu wa Baringo East. Kwa hivyo tuangalie areas ambazo zinataka maendeleo zaidi tuwape special costarations. Na je, kwa fedha za Serikali, mngesema kuhusu wilaya ambazo zingependa kuwa na maendeleo zaidi ya zingine.

Article 225 page 27, 225 is column number two column two sub article three C, column number two page 27 inasema hivi, grants zile fedha zinapewa kwa districts grants zile grants kutoka kwa Serikali shall include equalization grants paid to marginal areas, fedha za kuzoanisha maendeleo ili kwamba some areas zizikuwe mbele sana na zingine ziwe nyuma zaidi equalization usawa wa mandeleo basi, nitafunga hiyo chapter niende chapter two.

Baringo Central mlisema kwamba, mngependa Katiba mpya ya Kenya iwe ndio sheria kuu zaidi nchini na kila mKenya awe chini ya sheria ya Katiba, hayo mlisema Mchongoi, hayao mlisema hapa kwa hii hall, hayo mlisema Marigat. Na je kwa hii Katiba tumesemaje juu ya ukuu wa kiKatiba. Page number four page number four article one column one, all sovereign authority belongs to the people of Kenya and may exercise only in accordance with the constitution, ukuu wa nchi uwe kwa watu wa Kenya chini ya hii Katiba. Sub article two pale chini same line, "the constitution is the supreme law and binds all authorities and persons throughout the republic." Katiba iwe sheria kuu nchini na kila mKenya awe chini ya hii Katiba.

Jambo la pili, mlisema hapa Baringo Central mlizungumza sana juu ya vyama vya kisiasa political parties, na mlisema mngependa kwamba vyama vya kisiasa vipewe masharti fulani ya kiKatiba, wapewe njia fulani ya kufanya mambo yao ili democracia idumu ndani ya vyama vya kisiasa, kwa hivyo page number 12 paragraph number four ile ya conner kabisa paragraph four article 87, that right to form a political party. Tuliangalia ripoti yenu na mlisema hivi kwamba vyama vya kisiasa katika Kenya ni vingi sana. Na mngependa hii namba ikuwe reduced iwe tatu infact you said the number should be atmost three. Na sababu ilikuwa kwamba tumekuwa na vyama vingi vya kisiasa sasa na nafikiri tangu last week mmeona kwamba ukitaka kuhama kwa kingine unahama kwa maramoja hakuna ya ceremony kubwa unahama tu, manake kuna vyama ambavyo nina float vile ambavyo ni vya briefcase, ukitaka kesho kuchukua moja mimi natakata yangu kesho naenda tu Nairobi na nabeba yangu, mkasema mngependa vyama viwe vitatu. Lakini tukaona ya kwamba kwa sheria kiKatiba ni makosa kuniambia mimi kwamba ni sharti niingie vyama vitatu tu peke yake, manake haki yangu ya kuwa kwa chama chochote ni haki ya Katiba, kwa hivyo siwezi kusema hapa kwamba tuwe na vyama vitatu nitakuwa un-constitutional(Inaudible) tukasema nini?

Article 87, any citizen may form a political party wewe fungua ukitaka lakini tuwe ni masharti ya registration ya vyama, article number 89 pale chini tu kidogo registration of political parties, next page, page 13 article 90 page 13 next page, tumesema qualification ya registration. Tumejua siku hizi ukitaka kufungua chama cha kisiasa unaenda kwa registrar of society unasema kwamba nataka kufungua party yangu, na unafunguliwa manake ni kama kufungua welfare society, ni kama kufungua burial society it is a very simple process. Tukasema hivi wacha hiyo process ya ku-register party ikuwe strict, ndio kila mtu asikuwe

akifungua party akitaka tukasema nini, the party must promote and up hold national unity. Kama chama chako ni cha briefcase kama hii yangu basi sio ya national unity kwa sababu ni yako peke yako na wewe si nation.

So first principle you must have a national outfit, pale chini sub article two the commission shall not register a party if that party if founded purely on religious linguistic racial, ethnic, sex, cooperatives or regional basis. Tunasema nini hapa? Tunasema kwamba hatutaki vyama vya kisiasa ambavyo programme yao ni kwa mfano ni ya ki-religion peke yake. Mimi ni Mu-Anglican na sasa je kanisa la Anglican ikifungua chama chake kinaitwa the National Anglican Party of Kenya. Itakuwa kanisa tena ama ni siasa. Ama National Catholic Party of Kenya, hatupendi chama ambacho hakina national outlook. Ama akina mama sasa wakiamua kwamba wamefinywa na wanaume kwa vyama vya kisiasa hawana viti wangependa chama cha akina mama waseme chama cha akina mama cha Kenya, kitakuwa chama cha maana ama chama cha kivita tukasema kwamba chama lazima kiwe national outlook.

Haya mkasema hivi pia kwa Baringo Central, the constitution should provide for public funding of political parties, as long as such parties have a membership of atleast 650 members and those who have fewer members should not be funded. Kwamba mngenda vyama vya kisiasa ipate pesa ya shughuli zao kiKatiba.

Article number 93 paragraph two, there is established a fund to be known as the political parties fund. Ku-fund vyama vya kisiasa, lakini si hati sasa kwa vile tumesema fungua chama na kuna fedha timu la mKenya sasa ako na nafasi ya kukimbia kufungua chama chake aongoje fedha za hii fund, haiwezekani.

Article 95, purposes of the funds money is allocated to a party shall be used only:-

- a) To cover the election expenses of the party.
- b) Organization by the party or civic education in democracy.

Halafu chini, sub article two, the monies shall not be used to pay mishahara, fees, rewards or any other benefits to a member or supporter of the party. Tume-limit dhidi ya kutumia hizi fedha kwa hivyo huwezi kuja kufungua party yako ambacho wewe ndio chairman, bibi yako ndio secretary mtoto wako ndio treasurer halafu uncle yako ndio member, ninasema mimi niko na chama nipatieni fedha, halafu ukipewa unajilipa mishahara wewe mwenyewe, umelipa mama, umelipa mtoto, umelipa uncle yako, we are restricting the use ya hii pesa to only election expences. Na je hizi fedha nani ata-supervise vile hutumika? Kwa hii Katiba electoral commission itakuwa ndio ina-manage hii funds na kuna system ya party's fund ambayo kuiba pesa ya party ni ngumu sana kwa hii Katiba, kwa hivyo msio gope kwamba kwa vile tumeweka party's fund hapa itakuliwa, itamaliza kwa hii tumeweka a very strict rules ya kumange hiyo funds.

Hebu tuone Serikali ambayo mngenda tuwe nayo. Article number 213, page number 26, mngenda kuwa na Serikali ya

aina gani? Hapa Baringo mlisema hivi the constitution should provide for a decentralized government, mungependa Serikali ambayo si ya central, mungependa Serikali ya karibu na si nyinyi peke yenu mlisema hivyo. WaKenya wengi walisema kwamba hawapendi Serikali ambayo ni ya mbali, Serikali ya Nairobi. Na mimi nilikuwa napeana mfano moja kuonyesha hiyo example. Hivi sasa wilaya ya Kajiado iko province gani? Rift Valley, Loitokitok iko wapi?

Speaker:(Inaudible).

Com. Isaac Lenaola: Wilaya gani? Ya Kajiado, Loitokitok no border ya Kenya na Tanzania na DO wa Loitokitok PC wake ako wapi?

Speaker: Nakuru.

Com. Isaac Lenaola: Huyu DO kutoka Loitokitok anakuja Emali, Sultan Hamud, Nairobi, Naivasha, Gilgil mpaka hapa, ku-report kwa nani?

Speaker: Kwa PC wake.

Com. Isaac Lenaola: Ama Lokichogio iko province gani?

Speaker:(Inaudible).

Com. Isaac Lenaola: Na PC ako wapi? DO Lokichogio, Lodwar, Lwakichar, Kitale, Eldoret, Timboroa, Total hata total unapita mpaka wapi? Maanake Serikali iko mbali na nani? Na yeye, na akitaka kupata passport, iko wapi passport?

Speaker: Nairobi.

Com. Isaac Lenaola: Nairobi, anaambiwa ah Bwana, hebu rudi Lokichogio leta birth certificate ya baba yako, mpaka wapi? Lokichogio, anapata ya babake na anakuja tena mpaka wapi? Nairobi, anaambiwa ah, tulisahau leta ya mamako sasa. Anafanya nini tena?

Speaker: Anarudi.

Com. Isaac Lenaola: Mpaka Lokichogio manake Serikali ni Serikali ya mbali na je kama passport ingekuwa Lodwar iko shida gani? Tukasema hivi mungependa Serikali ambayo kila kitu iko karibu na sisi, mfano mwingine kuna wazee hapa ambao wameenda retire wanakula pension si ni kweli? Pension inapatikana wapi? Nairobi, kwa hivyo Mzee anatoka Lokichogio ama

huko Kendu Bay mpaka Nairobi kutafuta pension (*end of side A*). Fanya kazi Kabarnet ama Kendu Bay, he has never gone to Nairobi na wengi kwanza kutoka Samburu wengi wamekufa na magari Nairobi kwa sababu hawajawahi enda Nairobi maisha yao, tangu andikwe 55 amekaa Maralal peke yake na mara anaambiwa file iko Nairobi kwendu kufuatilia upate pension, Mzee hajaona magari maisha yake hajui traffic lights, tukasema hivi Serikali iwe Serikali ya karibu.

Article number 215 page 26 powers are devolved to the following levels:-

- a) Village.
- b) Location.
- c) District.
- d) Province.

Tuwe na Serikali ya mashinani hapo chini kabisa na village si kijiji vile tunajua, village kwa hii Katiba tukiangalia article number 231 page 28 inasema hivi, village means(Inaudible) page 28 article 231 first column. Village means the area of a sublocation kwa hivyo si kijiji vile tunajua sasa. Serikali ya village kwa hii Katiba ni Serikali ya sub location, the next level ya Serikali ni location manake nikiwaambia hivi hapa Baringo, mlisema hamtaki division, hamuoni maana ya kuwa na chief na DO na DC, mlisema hivi tuwe na chief katika location ama mkubwa wa location na ana-report directly kwa mkubwa wa district, tukasema hivi kwamba tuwe na sub location Serikali hapo, tuwe na Serikali ya location na Serikali kubwa iwe katika district.

Kwa hivyo article 218 paragraph four there is established a district government Serikali ya wilaya. Halafu, mkauliza hii mambo, mkubwa wa Wilaya hivi sasa ni District Commissioner, na mkasema mngenda district commissioner, akuwe anachaguliwa moja ka moja na wananchi wa hiyo district, iko hapo kwa ripoti yenu si mimi nilisema, ni nyinyi mlisema. Mlisema kuwe na district commissioner ambaye tunamchagua manake tunamjua.

Article 218 four-hapo hapo tu the district administrator is elected directly by the voters of the district. Nyinyi wenyewe mtampigia kura moja kwa moja mkuu wa wilaya, halafu kama mtampigia kura nani atafuta kazi? Maanake sasa hamuwezi kumfuta kazi, jana nilikuwa naambia DC wa Baringo rafiki yangu, ni rafiki yangu sana tangu zamani, nikamwambia sasa hapa msifikiri ni mimi nimesema mtolewe kazi, ni wanachi wa Baringo wenyewe si mimi Bwana, mimi sikuwa hapa lakini nikauliza na kutoa hao ma-DC, ma-DO nani atawatoa?

Article 218 six-hapo chini kidogo tu, the district administrators can be dismissed by the votes of an absolute majority of members of the council that is supported in referendum by majority of those voting in the referendum. Wacha council iseme kwamba huyu DA ama DC ni mkora tumtoe, lakini hawakumpigia kura, kwa hivyo hiyo dismissal yao ikuje tena kwa wananchi waseme kwamba kweli huyu amakuwa mtu kombokombo kwa hivyo tumtoe kazi manake kura ilikuwa ni ya nani? Ya wananchi.

Haya next article 27 page 27 article 220 na mkiangalia by the way siingii ndani ya haya mambo napitia juu juu manake mko na hii document halafu baadaye kama kuna neno ambayo sijaendeleza vizuri uko na haki ya kuniuliza swali baadaye lakini siingii kindani manake nikiingia kindani mtakaa hapa mpaka saa kumi na mbili jioni, kwa hivyo nawaeleza kuju juu vile mlisema vile imeingia halafu mtaniuliza swali baadaye.

220, district government is the principle level of devolution of powers, nguvu za Serikali ziwe katika wilaya, hapana province ama Nairobi ama mahala pengine inje kwa district, kila kitu kiwe katika district kama ni paspoti, birth certificate, land name it, hiyo ni task ya district. Na je kama ni district Nairobi je ama municipality kama Kabarnet tuite nini? Article 222 Nairobi as the status of the capital territory and shall be managed in accordance with an act of parliament. Wacha Nairobi ikuwe mahali capital ya nchi isikuwe sawa na Kisumu City, mnajua Kisumu City siku hizi pia ni City. So, Kisumu City na Nairobi sasa ni sawa, ama Mombasa iwe sawa na capital territory tunasema kwamba capital ya nchi iwe na special status. Kisumu City iwe na status yake, Mombasa hivyo hivyo. Na hapo chini a city or municipality have the status of a district, kwa hivyo Kabarnet ni municipality still it is. Kwa hii Katiba Kabarnet ni qualified as a district, Baringo ni district ndio lakini pia Kabarnet ikuwe kama district. Na je towns kama Marigads ama mahala pengine, town and urban centres have the status of a location, wacha town iwe sawa na locations.

Na ukiangalia article next ile page 26 locational government 217 itakuambia nani atakuwa member wa locational council article 218 nani atakuwa member wa district council. Na niliwaambia article 218, district council huchaguliwa moja kwa moja kila mtu huchaguliwa moja kwa moja. Kwa hivyo, wale district councilors watakuwa elected directly by voter wa hiyo district, kama haingii vizuri tutapata nafasi baadaye ya kurudia.

Jambo lingine, mlisema kwamba mngenda ofisi ya Attorney General isikuwa sawa na ile ya prosecutor, mnajua kwamba hivi sasa tuna ile director of public prosecution mnasikia hiyo, Mrs. Unita Kidula. Kuna solicitor general mna Julias Kandia nafikiri anatoka Baringo na kuna Attorney General mwenyewe Amos Wako na hii nguvu yote iko chini ya nani? Attorney General, kwa hivyo Kandie ni mdogo wa Amos Wako, Kidula ni mdogo wa Amos Wako. Kwa hivyo Attorney General is both the presecutor, ni wakili na ni advicer wa Government, mkasema nyinyi watu wa Baringo Central hizo ofisi zikuwe split, kuwe na mtu wa presecution na kuwe na mtu wa adviser wa Government.

Article 208, page number 25 column number four sub article four, the Attorney General is the principle legal adviser to the national government, wacha kazi yake ikuwe ku-advice Serikali ya national kwa mambo ya sheria, kwa mfano mikataba katika Kenya na nchi zingine national international agreements ikuwe kazi ya Attorney General mambo kuhusu Serikali ya national ikuwe na Attorney General. Mambo kuhusu Serikali ya national ikuwe ni Attorney General kisheria lakini asikuwe adviser na pia anakuja anakuwa prosecutor kortini.

Article 209, the office of director of public prosecution is established. Kwa hivyo awe prosecutor ni mtu Fulani different na Attorney General awe ni mtu mwingine separate.

Haya, tuingie ile mambo ambayo ni bunge mambo ya polls mnajua nasikia pengine bunge karibu tuvunje kwa hivyo tusikie kwa hii draft yetu tumesema nini juu ya bunge. Article 101 page number 14, hapa Baringo mlisema hivi, mngenda kuwa na two houses of parliaments a Lower house and an Upper house article 105 column three on page 14 tumesema hivi sisi there shall be two houses of parliament:-

- a) An Upper House called the national council.
- b) A Lower House called the national assembly.

Na nyinyi nyote wa Baringo mlisema kwamba you are very categorical and you are the only constituency which said that there should be a senate with persons from the district level, most other Kenyans were saying lets have a senate elected from the constituency but you were very categorical Baringo Central. There must be a senate elected from the district level. Tukasema that we agreed with you that article 106-hapo chini, elections for the national council shall be held for 70 members on the basis of single member constituencies. 70 members from 70 districts exactly as you had proposed, 70 members from 70 district each senator one district, lakini by the way msinipigie makofi hii ilikuwa proposal yenu, (*Clapping of hands from the audience*), this was your proposal lakini baada ya ku-discuss kama experts tukaona it made a lot of science that is why tukaweka vile mlisema.

Lakini tukaongeza jambo moja, kwamba hivi sasa tukisema kwamba kila district one senator, we shall never get a woman coming from the district tuseme ukweli, tusidanganyane mambo ya wanawake hakuna district Kenya ita-elect mwanamke akuwe senator(?) katika nchi ya Kenya sasa, kweli ama uongo? Sema ukweli.

Audience: Ni kweli.

Com. Isaac Lenaola: Ni kweli hawezi hawezi mama kama huyu akisimama hata kama ni mchochari namna gani Baringo district atakuwa senator wenu, maanake mtasema ni mama. Tukasema hivi sub article two, 30 seats for women on 90-member constituency from the provinces and Nairobi, tukawapa kila province wanawake wangapi?

Speaker: Wanne.

Com. Isaac Lenaola: Wanne kila province Nairobi wanawake wawili, manake tulidiscuss tukaona kwamba if you have an upper house senate iko na wanaume 70 tupu haitakuwa fair kwa akina mama and yet tulisema kwamba wapigania viti na wanaume direct, watahondwa kila district, niwape mfano, Mzee mmoja wa kwetu alisema kwamba bibi yangu kweli ni kiongozi

lakini akichaguliwa kuwa kuwa MP yeye atakaa nyumbani na mimi nakaa bunge kwa niaba yake. Ijapokuwa amachaguliwa wacha mama aongee wapi? Nyumbani,(Inaudible) bwanake ambaye amechaguliwa akae kwa niaba yake wapi? Bunge, kwa hivyo tuko na shida juu ya akina mama nikasema hivi tuwape nafasi hii sasa, baadaye nchi ikikoma kwamba tunaweza wao kura basi tutaweze kutoa hii kiti bunge.

Haya, mambo ya national assembly the Lower House, tumesema kwamba Lower ibaki vile iko sasa 210 constituencies lakini, tukasema kwamba tupatiane viti tisini, 90 seats, hivi ni kama zile za nomination lakini tumewaachia wanawake, disabled, vijana na makabila madogo madogo kama wale Elmolo, wale ambao tunajua hata wakienda kwa kura they will never get any vote kutoka constituency. Tukawawachia hao hizo 90 seats, ili kila MKenya aone kwamba katika bunge wako na representative wao, iwe ni wanawake, iwe ni vijana, iwe ni walemavu ama makabila ndogo ndogo, kila mtu aone kwamba pale katika bunge tuko na watu wetu watatuangalia maslahi yetu.

Hapa Baringo mkasema tena hivi mngenda kwamba bunge ndio ikuwe nyumba ya ku-approve appointments ambazo president mkuu hufanya. President akisha nominate mtu wacha bunge ifanye nini? I-approve. Kwa hivyo article 103 inazungumza hiyo page too inazungumza juu ya approval of appointments by parliament na katika article 103-kuna hizo ma ofisi ya ku-approved. Prime minister, deputy prime minister, ma-ambassador, ma-PAs, ma-miniter, and so on zote ziko hapo katika article 106.

Pia mkasema hivi, mngenda kwamba fedha za Serikali zikuwe approved na parliament zile zinatunika kwa hivyo article 104 huzungumzia juu ya approval of expenditure of government monies by parliament. Halafu, this will be interesting kwa wale ambao wangenda, unataka ku kuwa MP, lakini unaogopa ku-resign kwa kazi yako. And page 15 article one 108 sub article three inasema hivi, “a person who is disqualified in terms of clause 2A maybe a candidated for election of member of parliament but if elected may not assume office as MP, until the person has resigned from that office or being gradually absent from office.”

Ni kusema nini unajua kuna watu ambao wengenda kusimama kwa kura lakini wanasema nikiacha kazi yangu halafu nishindwe kwa kura, nitaenda wapi? Tukasema hivi, wewe chukua leave, kwenda campaign uka-campaign, uka-campaign the day unashindwa unafanya nini? Go back to your job, ukishinda what do you do?

Audience:(Inaudible).

Com. Isaac Lenaola: Direct na kwenda kuwa MP, (*Clapping*). Ndio sasa kuna viongozi ambao wako na uongozi kweli lakini uoga manake tumesema kwamba unaweza kuwa MP at 21 years na kuna vijana ambao ni wakali sana 21 years, lakini ako na mtoto mmoja ako nursery ako na bibi ambaye ako college na kweli anaweza kuwa MP mzuri lakini anasema sasa niki-resign hawa watakula nini, na pengine you will have been the best MP for the constituencies.

National council yaani ile upper house senate, people from 35 years and above, watu kama hasa mimi tumefika mimi na Elijah

tume-qualify mwaka huu kukuwa senator kwa hii Katiba, hatukujitokea hapana ni nyinyi. Na pia sisi tuko na watoto, na je kama ungewacha kazi halafu uende upigiwe kura ushindwe unaweza ukasema kwamba ni provision can give everybody an equal chance ku-contest kuwa MP.

Jambo lingine, kuna wajumbe ambao wanachaguliwa kwa tikiti ya chama cha KANU, kwa elections, baada ya miaka miwili anasema nini? Anasema mimi siko KANU tena hiyo chama sijui, mimi niko sijui chama gani ingine na contract yako ni wa watu waliokuchagua go to parliament and represent us on the party ticket of this party, na hajauliza kama atahama ama asihame. Kwa hivyo article 111 page 15 column number two, “the office of member of parliament becomes vacant at G if the member leaves the party for which the member stood as a candidate for election to parliament to join another party for he remains parliament as and independent member,” milango ya defections kwa hii draft tumefunga, uki-defect basi you resign from parliament go back tafuta kura ingine kwa hiyo party yako umependa sasa. Kama hufurahii party yako ulikuwa imekupeleka bunge hama kwa ile party ingine nenda kwa electorate upigiwe kura a fresh lakini mguu moja hapa na ingine hapa hii draft imekataa.

Na je, kuna wajumbe ambao wakichaguliwa kwa hii miaka mitano, hawafanyi kazi yao ya bunge, hawaonekani kwa constituency ama ni watu ambao ni wa idle kwa mambo yao ya uongozi tuwafanye nini?

Article 112 hapo page number 15, a member may be recalled from that office on any of the following grounds:-

- a) Physical or mental incapacity that renders the members incapable of performing the functions of the office, ikiwa mjumbe amekuwa mgonjwa sana mpaka hafanyi kazi tena katika bunge, basi ni vizuri arudishwe mwingine apewe nafasi manake sio makosa yake, lakini kama hawezi kazi basi arudishwe.
- b) Jambo la pili misconduct likely to bring hatred, ridicule, contempt or deception to the office. Ikiwa mbunge amekuwa mtu wa idle, mambo yake si ya mtu kiongozi basi pia yeye akuwe recalled.
- c) Persistent desertion of the electorate without reasonable cause. Ikiwa mjumbe amewacha watu wake harudi constituency bile sababu nzuri ya kuwaidi basi pia arudi atolewe. Jana nikiwa Nyahururu niliwapa watu wa huko mfano mmoja, wakati mmoja Moyale constituency kulikuwa na mjumbe alichaguliwa, this is a true story not, ile ya kusema ilikuwa hapana, this is a true story. Huyu mjumbe alikuja na campaign akasema mkinipigia kura nitafanya hii na kile haya na mengi, wakaona kwamba kweli huyu mtu ni mtu ambaye ni kiongozi, alipotangazwa kwa hall kama hii ya county council kwamba mshindi wa kiti cha ubunge cha moyale ni fulani. Akasema asanteni sana kwa kunichagua basi mimi naenda huko Nairobi halafu bai bai tutaonana, hawakufikiri kwamba ni bai bai ya leo peke yake, walifikiri ni bai bai kwamba anaenda atarudi basi kutangazwa nitarudi tena ku..., alipotea five years familia yake akawachukua akawapeleka Mombasa, yeye mwenyewe akahama mpaka Mombasa barabara ya Isiolo hajaona tena maisha yake kwa miaka mingapi?

Speaker: Mitano.

Com. Isaac Lenaola: Tukasema hivi mtu kama huyu si within five years angekuwa na njia ya kumngoa, hajarudi huko, haoni mtu wa kutoka huko na anakula mishahara kama mjumbe wa huku. Tukasema kwamba huyo he deserves unqualified to be recalled na mwingine awekwe katika hicho kiti. Lakini pia, hatupendi kwamba mimi kama simpendi mjumbe wangu ama alinishinda kwa kura basi itakuwa kazi rahisi kumng'oa tu kwa mana simpendi, lazima kuwe na sababu nzuri ya kumng'oa mjumbe kabla ya miaka mitano.

Article 112 three, mkitaka kumtoa mbunge katika kiti chaka kabla ya miaka mitano, asilimia thelathini ya wapiga kura wa huku, lazima wa-petition speaker wa bunge, 30% si rahisi na pia si ngumu. Baada ya hapo, kutakuwa na inquiry public enquiry kila mtu mwenye complain juu ya mjumbe toa maoni baada ya hapo basi kama ni kweli huyu mtu ni mlaghai, ni mtoro haonekani aonekani hasikiki basi atatolewa. Kama ni siasa ya kutaka kumtoa mjumbe manake hatupendi basi mnaambiwa hiyo si sababu nzuri, mjumbe keti kwa kiti chako, kwa hivyo kuna njia na si rahisi na pia kuna njia na si ngumu.

Haya, Serikali, presidency, prime minister hii draft inasema aje, executive authority ya Serikali page number 19 article 149, the national executive of the republic of Kenya comprises the president, the vice president and the cabinet. Uongozi wa Serikali kuu utakuwa chini ya rais wa nchi, makamu wa rais wa nchi na baraza la mawaziri. Na kwa hii draft nguvu za rais ni zipi? Article 150, the president is the Head of State, Mkuu wa nchi, yeye ndiye commander in chief of the defense forces na mtaona hapa tumesema kwamba si armed force, ni defense forces maanake armed ni kama it's very violent. It is very militant kusema kwamba, armed forces ni defense maanake kazi ya hizi forces si ni kudefend sisi, kutoka watu wa inje na pia wa ndani, lakini sio ati armed.. kwa hivyo hapa sisi tumesema kwamba they are called the armed force na mkuu wa defense ni nani? Ni president. Pia, atakuwa mwenyekiti wa National Security Council, kamati kuu ya usalama wa nchi mwenyekiti wake atakuwa rais wa nchi. Atakuwa pia chairperson of the defense council, national Security Council inakuwa yote hii security ya nchi defense ni ile ya jeshi, navy na airforce. B, is a symbol of the unity of the nation yeye ndio atakuwa akimuangalia kwa mambo ya nchi ya Kenya.

Article 151, the president atafungua bunge na kufunga bunge halafu sub article three with this column number three sub article two, the president shall appoint and dismiss:-

- a) The cabinet, mwenye kuunda na kuvunja cabinet ni president lakini nitawaonyesha pale chini under what conditions vile atavunja cabinet.
- b) The cabinet is the prime minister, two deputies and not more than 15 ministers , prime ministers, deputy prime ministers na ministers kumi na tano, kwa sababu gani tunasema 15, maanake kusema ukweli sasa hivi tuko na cabinet ministers 27 watu ishirina na saba na kuna ministries zingine ambazo hazina sababu kuwako hapo. Kwa mfano ministry of

vocational training, ministry incharge of politechniques ingeingia ndani ya ministry of education. So we are saying kuwe na cabinet mmoja treamed na kila ministry inakuwa hivyo ndani ya hiyo cabinet. Haya pale chini president ata-appoint judicial officers majaji.

- c) The president may appoint commissions of enquiry with the cabinet. B, sign instruments of consent by Kenya to be bound by internationa agreement, mambo ya nchi ya za kigeni, hizi agreements za nchi za kigeni ni shughuli ya Raisi kuweka kidole juu kwa niaba ya watu wa Kenya.
- d) After consultation with cabinet and the national defense council, the president may declare a state of emergency. D, declare war, kwa vile yeye ndio mwenye kiti wa chama cha kitaifa cha usalama, then he must be the person to say kutakuwa na vita ama emergency lakini, si yeye peke yake, ata-consult na hiyo defense councils na pia na cabinet.
- e) The president may appoint persons to represent the republic as high commissioners and ambassadors that is very clear sio? Kazi ya president.
- f) Receive foreign diplomatic and consuller representatives wale watu ambao ambassadour kutoka nchi zingine ata wa-receive.
- g) Seek opinions from a supreme court on any matter that is really interested legal.
- h) Pardon or reprieve offenders kama sasa vile mtu alifanya jusi tarehe kumi kuwa-release wale ambao petty criminals that is really kiseria ni kazi wa rais wa nchi.

152 the president may deciate a proposed legislation. Pia tunampa rais nguvu kupeleka hoja katika bunge kuhusu mambo fulani ya nchi. Rais pia article 152 three, ndiye hu-sign sheria zote za nchi baada ya bunge kupitisha rais ndio mtu wa mwisho kutia sahihi kwamba imekuwa sheria za nchi. Anybody saying that hii draft imetoa nguvu za rais na kupeleka kwa prime minister basi haelewi sana vitu tuviandikavyo, hizi nguvu zote si ni executive.

Haya tuende prime minister, no kabla kuenda kwa prime minister nani atastahili kuwa rais wa nchi, article 156, a president a person is qualified for nomination as presidential candidate if the person: -

- a) Ni MKenya.
- b) Ako na 35 years but bellow 70, 35 to 70. Lakini there is a catch here inakubaliwa kwamba ukiwa 70 years you can stand for presidency umeelewa hiyo? So you can stand when you are seventy-lakini ukiwa 71 inakufungia. Na ujue kwamba ukichakua term ya kwanza at 70 five years with 75, then you are lucky to get a second chance mpaka ukuwe 80, ukifika 80 no one can be president in this country under this constitution. No mtauliza swali baadaye.
- c) He is of high moral integrity and impacable characters.
- d) Holds a degree from a recognized university, uwe na degree kutoka university yeyote.

Haya, article 160 page number 20, the president shall hold office for a term not exceeding five years, beginning from the date of assumption of office. And B two a person shall not hold the office as the president for more than two terms of five years so hiyo ni kama sawa na sheria ya sasa, two five year terms ili mtu akuwe president.

161, no criminal proceeding may be instituted or constituted against in any court against the president or a person performing the functions of that office. And B, no civil proceedings hatuwezi kubali kwamba mtu akiwa president kila mtu ambaye ako na complaint kigodo juu ya kuku ama juu ya shamba unakipeleka president kortini hati amechukua shamba langu sijui Moshongoi hatuwezi kubali hiyo kwa hii.

Haya article 165 page 21 mambo ya vice president each candidate in a presidential election shall nominate the person duly qualified for election as the president as a candidate for vice president, hii ni ile inaitwa running mate, kama unataka kuwa president ni sharti uwe na mtu mwingine ambaye ana-qualify kuwa president akuwe vice president wako. Kwa hivyo tuna-elect president na vice president kwa kura moja, hapana separate, kura ya president na vice president wanaingia pamoja.

Nani prime minister article 170, the prime minister is the leader of the cabinet and presides at meetings of the cabinet. Tumegawa nguvu ya rais kwa hii sababu ni mengi, rais ni mkuu wa nchi kwa jumla kwa hii draft, Mkuu wa Serikali, head of government atakuwa prime minister lakini mwenye ku-appoint prime minister ni nani? President maanake mkuu wa nchi ndio ana-appoint prime minister mkuu wa Serikali, ana-appoint mkuu wa sheria, chief justice mkuu wa itifaki ya sheria, so that mkuu wa nchi ndio ana-appoint hawa ambao ni heads of the three armed of government.

Article number 171 inasema vile nimesema sasa juu ya appointment.

Article 172 watu wanasema kwamba ni kwa nini prime minister, asikuwe na term ya office dakika moja tu (*End of tape I*). Kwa hii draft hati prime minister mbona yeye hana terms ya office article 172 page number 22, the term of office of the prime minister continues: -

- a) Until the prime minister dies, amekufa.
- b) Resigns, ame-resign.
- c) Or is dismissed from office, kama amefuzwa katika ofisini.
- d) Ama B, until the next person appointed prime minister following a general election assumes office, baada ya miaka mingapi?

Audience: Mitano.

Com. Isaac Lenaola: Mwingine akiingia ofisi baada ya miaka mitano basi his term is ending so actually the prime minister has less security under this draft than the president manake after one term anaweza kwenda. Mambo ya cabinet nafikiri hii ilileta controversy kubwa sana Kenya article number 175 the president shall appoint the cabinet in accordance with the recommendations of prime minister and with approval of the majority of the members of the national assembly Lower House,

president ana-appoint Lower House ina-approve lakini kwa hii draft cabinet si members wa parliament kwa sababu gani, tuliambiwa na waKenya kwamba hawangependa mawaziri ambao pia ni wabunge kwa sababu ya wafanyikazi ya mawasiri kikamilifu ama kazi ya wabunge kikamilifu, wangependa mtu awe waziri basi akiwa waziri, kama ni MP akuwe MP na mimi napeana mifano nzuri sana. Ministry of foreign affairs, kazi yake sana ni wapi? Inje kwa hivyo hayuko bunge, hayuko constituency, hayuko ofisi ako wapi? Manake kazi yake ni inje. Kwa hivyo bunge inalia kwamba minister hayuko katika bunge, constituency wanalia kwamba mjumbe yuko wapi?

Audience:(Inaudible).

Com. Isaac Lenaola: Na ofisi yake pia wanasema minister hayuko so, wenye kufanya kazi ni wengine si yeye. Kama amekuwa basi ni mjumbe wa mahali fulani basi akuwe bunge fulltime, ama akuwe inje basi akuwe minister of foreign affairs, so waKenya wamesema kwamba wangependa sana kila mtu afanye kazi yake eight to five. Hapana saa moja mpaka saa tano ako wapi, ako ofisi, sasa nane mpaka saa tisa ako bunge, saa kumi na mbili mpaka cocktail hata mtu mwenyewe energy yake inaweza kuisha. Kwa hivyo, kwa hii draft tumeona ya kwamba bunge na cabinet zikuwe separate.

Haya, halafu jambo lingine tuliambiwa na waKenya kwamba wangependa ministers wakuwe professionals kwa hiyo ofisi. Kwamba tusikuwe na wakili ambaye ni waziri wa agriculture, ama tusiwe na daktari ambaye ni Attorney General. Kila mtu akuwe na ofisi yake according to your qualifications. (*Clapping*).

Haya mambo ya haki za kibinadam, haki za WaKenya kama WaKenya, article 29 page number six. Kuna haki ambazo tuko nazo manake sisi ni bin adam, haki ambazo hatupewi na mtu, haki ambazo tunapewa na Mungu manake sisi ni wanawake ki Biblia ki Quoran, haki ambazo hatupewi na Serikali wala mtu yeyote mwingine, haki zetu kama wanaadam na ndio hizi. Kwa mfano article 32 page number six, “everyone has the right to life, haki ya kuishi hii hatupewi na Serikali ama hatupewi na nchi, tunapewa manake sisi ni bin adam. Na hapo chini the death penalty is abolished kwa sababu gani? Kidini na pia siku hizi ki-sheria. Hakuna Katiba ambayo inakubali kwamba watu wauwawe maanake wameua.

Na pili wakati mwingine makoti hufanya makosa na mtu ametumiwa kunyongwa na hana hatia, itakuwa ni makosa mtu kunyongwa na pengine jambo hilo hakulifanya, tukasema kwamba kila mtu apewe nafasi ya kuishi hata kama amefanya makosa. Kwa hivyo hichi kifo kiondolewe katika sheria zetu. Akina mama mtafurahi kusikia kwamba kwa hii Katiba tumewakumbuka hatujasahau kwa hivyo article 35 page number six women have the right to equal treatment with men. Akina mama waangaliwa na usawa na wanaume, wazee hawapendi hiyo sana lakini iko katika hii draft, na ukweli ni kwamba akina mama hatuungalii vizuri wakati mwingine.

Haya wazee pia nyinyi mfurahi kwamba nimewakumbuka article 36 older members of the society are entitled(Inaudible) all the rights, wazee wako na haki sawa katika hii Katiba hata akisha kuwe wazee kupita miaka fulani.

Next page page number seven article 37 haki za watoto, na hapa kuna mambo mawili ambayo wazee hamtapenda likini tumeandika hapa. La kwanza all children whether born within or outside wedlock are equal before the law. Mtoto awe amezaliwa ndani ya ndoa ama inje ya ndoa awe na haki sawa katika hii sheria. Sub article four wale watu ambao kazi yao ni kuhama hama na kuzaa ovyo ovyo, na hawachungi watoto tunasema hivi, “a child mother and father whether married to each other or not have an equal duty to protect and provide for the child”. Iwe kwamba umezaa inje, huyo mtoto ni wa nani? Ni wako. Umezaa ndani ni wa nani? Ni wako na utamchungu sawa na yule ambaye ako ndani ya nyumba, hii itafunga, manake mtoto haku-apply kuzaliwa, haku-apply kwamba unizae ndani ya ndoa, haku-apply kwamba mzae inje ya ndoa ni wewe na yule mama mliagana kwamba mambo yenu ya matamu matamu mtafurahia akizaliwa ni kazi ya watu wangapi?

Audience: Wawili.

Com. Isaac Lenaola: Wawili, kwa sababu gani? Sub article three a child best interest are of paramount importance in every matter concerning the child ni haki ya mtoto ndio mana zaidi si haki yako mzee si haki yako mama ni haki ya huyo mtoto.

Article number 38, haki ya kuwa na jamii tumeliweka hapa, mchumba atafurahi kusikia hii maanake amesema haya mambo miaka mingi sasa tumewawekea kwa article 39. Persons with the disability are entitled to enjoy all the rights and freedoms set out in this bill of rights and participate as fully in society as abled. Watu walemavu wapewe mahala pao wa uongozi mambo ya kijamii wawe na haki sawa na wale ambao si walemavu.

Na jambo lingine sub article E, encourage the development and use of sign language, Braille and other means of communication. Kwamba wale ambao wahasikii lugha yao ile ya mkono iongezwe, watu ambao hawajui kusome, wale ambao ni blind pia wao wawe na haki sawa na wengine kusoma na sisi kama tume tumechapisha hii draft constitution na ripoti kwa lugha ya watu ambao hawaoni, na ndio ripoti yao wakitaka wako nayo. (*Clappings*).

Haya page number eight, samahani page number nine, article 55 mambo ya wafanya kazi, everyone has the right to:-

- a) Mishahara mzuri.
- b) Mahali pazuri pa kufanya kazi.
- c) Haki ya kuungana katika union.
- d) Waalimu wangepurahi kusikia manake hii draft imewapatia haki ya kuenda kwa strike, hiyo ni ya walimu.

Haya article 57, haki ya kuwa na afya njema, article 58 haki ya kuwa na elimu ya bure na ya lazima kwa pre na primary school. 59 haki ya kuwa na nyumba, 60 haki ya chakula, 61 haki ya maji.

Halafu article number 68 page number nine haki ya wafungwa na hapo inasema kwamba ukishikwa kwa makosa Fulani ni sharti uende kotini within 48 hours, kama hauendi basi uachilie, that is standard katika shiria nyingi za nchi zingine. Na hapa kuna swali sasa na kuna haki nyingi katika hii document ambazo unaziangalia. Kuna njia gani ya kuona kwamba hizi haki zikichukukiwa unapeleka complaint wapi? Kwa sababu sasa hizi haki ziko lakini hakuna mechanism ya ku-complain, kwa mfano polisi akiweka wewe kwa rumande for two weeks bila kupelekwa kotini uta-complain kwa nani, utaenda wapi sasa hivi, hakuna. Huwezi enda kwa OCDP na OCS si ni polisi, ama kwa ule mkubwa kwa province, polisi ni polisi, tukasema hivi hapa. Article 73 page number 11, a person listed in this article has the right to complain to the commission on human rights or to approach a court of competent jurisdiction alledging that the right has been denied violated, infringed or threatened.

Tumeunda tume ya human rights ili kwamba kama kuna complaint juu ya haki zako basi waweza kuenda piga complaint na hiyo ofisi ya human right iko katika page number, page 35 article 288 the commission on human rights shall consist of the chairperson, human rights commissioner and the peoples protector huyu ndiye tunaita ombudsman kazi yake katika kila wilaya kuna ofisi ya complaints kwamba haki zangu zimedhulumiwa, haki yangu imechukuliwa nifanyie jambo ku-address hayo mambo kwa hivyo huyu ombudsman atakuwa na afisi katika kila wilaya nchini Kenya. Na je, (*Clappings*).

Na je, kama ungependa kuenda kotini na huna fedha za wakili nani atakuwa wakili wako? Page number 26 article number 210 page 26 first column on the left, there is establish the office of the public defender, sub article four, the public defender shall provide legal advise and representation to persons who are unable to afford legal services, kwa sababu gani? (*Clapping of hands*). Kwa sababu mini ni Wakili na mnasema mara mingi oh, Mawakili ni wezi wa kimataifa, hawaendi kotini wananyanyasa sisi, tukasema hivi wacha kuwe wakili ambaye hamtamplipa ndururu, kazi yake ni kukupatia advise na kuenda kotini kwa niaba yako ili kwamba haki zako usiseme kwamba sina wakili sielewi lugha ya sheria kwa hivyo kuna wakili hapa ambaye ni wabure na sisi ambao wakulipwa biashara inaanza kupotea kutoka hii sasa inaonekana. (*Clapps*).

Haya kwa hivyo kama haki zako zinanyanyaswa kuna njia mbili za kuona kwamba hizo haki zinakuwa addressed kwa hii draft constitution. Nikimalizia hii Katiba ni ya nani? Page number two preambulu utangulizi wa hii Katiba inasema nini, “we the people of Kenya”, sisi watu wa Kenya manake haya mambo yote imeandika hakuandika kwa maoni yetu kama wanatume wala kwa kitu kama mawakili tulikuja kwenu tukauliza mngpenda Katiba ya haina gani? Na ripoti inaonyesha kwamba, mambo mliyasema hapa imewaonyesha vile ameingia wapi? Hapa, manake hii Katiba ni ya watu wa Kenya na jee hi Katiba ni ya sasa, ni ya jama ama ni ya kesho, last line. “We do adopt, enact and give to ourselves and to our future generations this constitution”, Katiba ya sasa na Katiba ya wale ambao watakuja, vizazi ambavyo havijazaliwa. Kwa hivyo tukisoma hii Katiba tusome tu tusiangalie kwa minaajili ya sasa kwamba kwangu kuna nini ambayo itanifurahisha hapa, fikiria wale ambao hawako sasa, hali yao itakuwa namna gani chini ya hii Katiba.

Jambo lingine hapo chini “God bless Kenya” Mungu ibariki nani? Kenya, kwa hivyo kwa hii Katiba twajiweka chini ya Mungu kwanza tukajifungia sisi wenyewe na wale ambao wanakuja miaka na miaka.

Jambo la mwisho kabisa, je tuliwaambia kwamba baada ya kuandika draft constitution tutaiteta hapa hapa tena tuichambue tuone kama ni sawa ama si sawa hilo tumelifanya kama tume, tumetimiza ahadi yetu kama tutarudi hapa hapa na hii draft Constitution. Baada ya hapa kutakuwa na kikao cha taifa National Conference kimepangwa kuwa tarehe ishirini na nane mwezi huu. Kila siku kwa mwezi mzima mpaka hii draft ikuwe approved na hiyo national conference. National conference iko na wajumbe wote wa parliament, iko na kila wilaya watu wangapi, watatu, iko na wanawake, walemavu, watu wa makanisa, wahindi, waislamu wote wako katika hiyo national conference, na kazi yao ni kuketi chini kila siku kuiangalia paragraph by paragraph na kuona kama ni sawa ama si sawa.

Lakini mnajua kwamba Mzee amesema kwamba kuna uwezekano kwamba bunge utavunjwa wakati wowote na hiyo ni haki ya Rais kwa Katiba ya sasa. Manake inasema kwamba the president may dissolve parliament at any time. Ni haki yake kisheria, anaweza vunja bunge wakati wowote na je, akivunja kabla ya tarehe 28 what happens kwa hii kazi? What will happen ni kwamba hii kazi itasimama manake bila wabunge hakuna nini, National Conference kwa hivyo tuta-suspend kazi mpaka bunge lingine lije watunge sheria ingine mpya ya kuunda hii tume halafu kutoka hapo tuingize na kazi ya kufunga na kumaliza kazi ya hii draft. Tumetumia mpaka sasa shillingi billioni mbili kwa hii kaz. Na kama tume, tungependa kuwa hii kazi ni jukumu imalizwe kabla ya uchaguzi. (*Clapping*).

Muda wa WaKenya, muda wenu mrefu, umetumiwa, wengi wenyu mnatumia pesa zenu binafsi wacha ya Serikali kwa hii kazi ilikuwa ni kazi nzuri na ni baraka kwa nchi hii kwamba hii kazi ishe kwa usalama na uzuri na kwa mapenzi watu wa Kenya. Kwa hivyo mtuombe, mjiombe tuambeane kwamba hii kazi isikuwe kazi ya bure. Asanteni sana.

(Clapping of hands from the audience).

Elijah Korir: Asante sana Bwana Commissioner nafikiri wakati ambayo tumeingia wakati huu ni kupokea maoni yenu ama-reactions zenu kulingana na contribution ya commissioner. Kwa hivyo nafasi hii ningependa kuwapea wale ambao wana maswali madogo ama kuchangia machangio madogo ili commissioner aweze kutujibu kwa hivyo anybody who is ready, kuna mwenye ako tayari.

Com. Isaac Lenaola: Ningependa, asante Bwana coordinator, ningependa kwamba tuchukue maswali tano kwanza, na kila mtu chukua nafasi yako kuzungumza mambo mawili, maswali mawili ama comments mbili ndio kila mtu apate nafasi ya kuzungumza kabla hatujafunga, kwa hivyo tuanze na nani?

Elijah Korir: Nimeona Kipchumba ame-raise mkono, wa pili ni mzee huyo, pia okay hao halafu Bwana Kasea.

Com. Isaac Lenaola: Kipchumba, please come down.

Elijah Korir: Ningependa labda Harold Kipchumba.

Harold Kipchumba: Katika utangulizi kuna sehemu ambayo inazungumza juu ya kutambua msemayo ya wanawake na wanaume katika uundaji wa Serikali ile, ningependekeza ya kwamba badala ya kusema wanawake au wanaume, ingalikuwa watu wa nchi ya Kenya ili kwamba watoto wawe sehemu hiyo kwa mana watoto watawaachiliwa inje. That therefore, to read recognizing the aspirations of the people for a government based on essential values badala ya huo utafauti. (*Clapping*).

Com. Isaac Lenaola: Comments first.

Ezakiel Chemulul: Kama ni ku-make a comment peke yake. Thank you for your briefing, inaonekana your briefing the two things before I go into this one. First.

Interjection Com. Isaac Lenaola: Your name.

Ezakiel Kipkebut: Jina Ezakiel Kipkebut Chemelul. Sasa, I said I noted two things from your speech, it seems as you talked was somehow civic education on this issue. Another thing which I noted, was since the chairman or you are trying to defend the new constitution before we react, however so we I do not know can I go in now...

Interjection Com. Isaac Lenaola:(Inaudible).

Ezakiel Kipkebut: Now, I will go into this, the new constitution draft has we read from this time which you have given us up to this evening may not be enough because some of the people were just seeing this document this time. It contains a lot of information which should be have been given more days, the other time you were three days you were here Marigat and Muchungui but this time the thing is here and we would be like to be given more time but you have only set a side today at Kabarnet. Mine I will speak, the new constitution....

Interjection Com. Isaac Lenaola:(Inaudible) you have two comments the most important you may give us.....(Inaudible) since there is no time.....(Inaudible).

Ezakiel Kipkebut: But I would like this sitting to hear.

Com. Isaac Lenaola:(Inaudible).

Ezakiel Kipkebut: Eh.

Com. Isaac Lenaola: Speak two more.....(Inaudible) that one which has.....(Inaudible).

Ezakiel Kipkebut: Iko na national days, I may take one minute in every area. According to the new Constitution, you have scrapped Kenyatta Day and Moi Day and replaced it with enactment of this new constitution. This one in a nation we need to give a national day, it must have a meaning may be a certain event which is very important. For example, this Kenyatta Day is the remembrance of heroes of Kenya who sacrificed their lives they suffered for us to get independence sasa you find now....

Interjection Com. Isaac Lenaola: Make a proposal, make a proposal.

Ezakiel Kipkebut: Proposal, we retain that one, but this one which you have proposed maybe the chairman Yash Pal Ghai Commission, that to be given an holiday before it takes of(Inaudible).

Interjection Com. Isaac Lenaola:(Inaudible) don't argue just say the proposal, just proposals.

Ezakiel Kipkebut: Sasa mimi ni nakata hiyo ingine sawa Kenyatta Day should be retained okay. (*Murmering from the audience*).

Com. Isaac Lenaola: You have(Inaudible).

Ezakiel Kipkebut:(Inaudible) Kenyatta Day day be called heroes day 20th of October, it can be put together, hii ingine ya Yash Pal Ghai away.

Haya, niende ingine scraping of provincial administration is objected totally. I will give reasons. Replacing it with local administration I remember

Interjection Com. Isaac Lenaola: Unajua kwa draft tulikuwa tumesema kwamba(Inaudible).

Ezakiel Kipkebut: Provincial administration I object it, the other time when we presented we gave out federal government, halafu we did not objected the structure or provincial administration as hati hatukuwa na assistant chief na chief or DC hatukusema namna hiyo if it was said somewhere else, hatukusema.

Ezakiel Kipkebut: Land property and ownership, it proves as if it was not addressed properly. Although it is there it has not gone into, there were some lands community lands which was reserved as a government forestry or some people were being displaced or some areas was used for public utilities like schools and hospitals. So that you find the owners have not been

compensated for they have been referred as squatters, so this new constitution should have addressed that area properly and if possible the communities be compensated.

Com. Isaac Lenaola: Say the last one.

Ezakiel Kipkebut: Iko ya mwisho hii penalty abolition of penalty, hii ya death. Mimi naona that area needs again commission to review. Eh, I suggest sababu it will create more wajambazi or killings kwa sababu wanajua wakienda kotini watawachwa, sasa you will find mtu is robbing you akate wewe halafu akienda kotini anawachwa, eh. Na niko na ingine ama uchukue tu eh.

Alex Kipsang Chelimo: Kwa jina naitwa Alex Kipsang Chelimo.

Elijah Korir: Alex.

Alex Kipsang Chelimo: Chelimo.

Eliza Korir: Chelimo.

Alex Kipsang Chelimo: Bwana Commissioner kwanza nashukuru sana kwa sababu kama ingewezekana hii, new Constitution ikuwe completed before the next general election. Kwa sababu imeamulika kila mahali ukiangalia mambo ya disables imekuwa well reflected that is we are very happy what we have for the disabled.

Kwanza, kabisa ningependa kuwaambia wale ambao watachaguliwa ku-represent this district wakienda huko watoe lookwarms zote zenye zko kwa hii draft. Hii ni draft haijakuwa final kwa hivyo wachunguze kabisa, kama hii sehemu ya Bwana Commissioner tukienda chapter 148 page number 14, 108 sub section two B, that a person is disqualified from being a member of parliament if that person is of unsound mind, I think we should be, that point it should be medically certified that that person is of unsound mind, this I said because the public may think that I am of un-sound mind and yet I am able so we need to look into that point clearly.

Another area Mr. Commissioner is of members of national council that is 106, you have given women a lot of opportunities a lot of favour. I want that sub section three A is saying four women representing it's province. B is two women representing Nairobi, say number C now, two disabled representing the disabled people in the province. Mr. Commissioner we were not given civic education properly this district, I was one of the committee members appointed latter on but we were not able to execute our duties properly. And now I apologize to the disabled of this district because I was not able to represent them properly. Now, I call upon those who are going to be represented, I mean those who are going to represent us in the National Conference, please do something. *(Clappings)*.

Domnic Ole Kateiya: Langu ni kumsihi...

Interjection Com. Isaac Lenaola: Jina lako.

Domnic Ole Kateiya: Jina langu ni Domnic Ole Kateiya, langu ni kumsihi Rais Moi twende uchaguzini na Katiba mpya hilo ndilo ombi langu.

La pili, ni kwamba unajua sisi wengine kama tungezaliwa kabla uhuru, tungepigania uhuru wa nchi hii. Lakini sasa tumejitolea kupigania Katiba mpya. *(Clapping)*. Tumejitolea kwa roho yetu yote, moyo wetu wote na mwili wetu wote. Jana kuna mgombezi mmoja wa urais, ambaye amesema hivyo lakini hakusema ya kwamba atatetea Katiba ya kwa roho na moyo na mwili wake, alisema atatetea utuezi wake peke yake.

La pili, ni kwamba tumesikia juu ya minorities na tunataka tupewe tofauti minorities ni akina nani na marginalized communities ni kina nani. Kwa sababu tukiweka tu kusema minorities na commissioner umetupatia mfano wa Elmolo kuna wengine na tukiweka tu kwa karatasi kila mmoja atasema wao ni marginalized kama district sasa, kila mmoja sasa tunaona ya kwamba wakati huu sasa wakati Moi anapoondoka katika ushukani kila mmoja anasema hawaja-benefit. Kila district hata wale ambao walikuwa wamepata maendeleo. Sasa tulikuwa tunataka utueleze kamali marginalized hasa katika district hii, marginalized communities ama minorities ni akina nani tujue, ili tukienda tuna uhakika ya kwamba tutapata kitu.

Haya, lingine ni kwamba kabila la Kenya tungetaka Katiba hii makabila yote ya Kenya iandikwe ni kina nani na wanatoka wapi. Kwa sababu unajua rais ambaye atakuja atasoma Katiba na atajua makabila ambayo yako katika Kenya na WaKenya wengine wajue makabila ambayo yako katika Kenya. Kwa sababu kuna wengine ambao hawajui wengine wako, wanafikiri ni wao tu katika Kenya hii. Na unajua ya kwamba makabila makubwa yamemeza makabila madogo, hasa mfano katika district hii, ninapokuja mini ni mtu wa Echamis', sasa hapa tunaona ya kwamba Wakalenjin ama watugen wame-dominate kazi wao ndio wako, ofisini lugha ni Tugen, mini nikija na sisikii naongeleshwa Tugen sasa unaona ya kwamba sasa hizo haki zangu zote nimenyanganywa na hao makabila makubwa. Sasa ninasema ya kwamba hao makabila wajulikane ni akina nani katika Kenya wanaishi wapi ili wakaweze eh.

Lingine ni kwamba tunaunga mkono provincial administration iwe abolished hiyo ni kawaida wao wamenyanyasa watu wamemaliza demokrasia katika nchi hii kila kitu tunataka wawe abolished kabisa. Unakuta ya kwamba hii district kwa mfano natolea mfano wa district hii, DC mwenye analetwa ni mwenye anapendwa na mtu mmoja fulanin mwenye ana nguvu. *(Clapping from the audience)*.

Wengine kama mifano na nampenda sana kumpongeza mwenye alikuwa amepigwa transfer katika district hii, Ibrahim Maalim,

alikuwa DC ambaye sisi wote kama watu wa Baringo tulikuwa tunampenda, aliimarisha hali ya usalama aliimarisha kila kitu lakini kwa sababu mtu fulani mwenye ana nguvu hamtaki, akaondolewa. (*Clapping*). Hata tunasema ya kwamba hao watu tuwachague lakini kuna shida hapo, tukisema ya kwamba tunachagua hawa district administrators sasa sisi makabila madogo tutaishi bila kupata huyu district administrator, kwa hao makabila makubwa ndio watapata na huyu district administrator sasa nina-propose kusema nafikiri sisi wote tuangalia namna tutafanya. Ah asante sana.

Samson Kipserem Cherop: Basi mimi naitwa Samson Kipserem Cherop.

Com. Isaac Lenaola: Nani.

Samson Kipserem Cherop: Cherop, kwanza nataka nisema ya kwamba sisi wananchi wote wa Kenya pamoja na viongozi wetu tushirikiane pamoja tupitishie Katiba hii ndio ili wakati tutakapoenda kupiga kura tutumie hii Constitution. Langu tu, ningependa kuguzia mambo ya jinsia, nilikuwa nikiangalia vile mambo inaendelea hasa kuhusu mambo ya appointment of judges, Kadhis na hiyo yote. Niliangalia kwamba kama section 197 sub-section number three that three of other persons should experience in public affairs atleast one of whom shall be a woman. You go to the other one, 204 sub section that is H, two magistrate one of whom shall be a woman elected by magistrate. You see everywhere at least two one, a woman another area a woman, Kadhi a woman this one a woman.

Now, imagine that, tukiangalia mambo ya judiciary we go as per the merit kama vile wametangaza hapa, kwa hivyo tukitafuta two of them wale wako qualified tuseme Mrs. Onyango, Mrs. Otieno and then those two are more qualified na mwingine je, mwingine je tukipata at least one of them Mrs. Wambui, so it means that we shall have three ladies being appointed as magistrates or wale wako kwa judiciary kwa hivyo my suggestion, is we look for a term that fix in there ile isiwe one of them should be a woman nini kitu kama hicho kwa hivyo naonelea tutafute luhga safi ile inaweza kuingia hapo.

Com. Isaac Lenaola: Kipchumba, I think it will make sence the preamble kiKatiba lazima ikuwe inclusive ya kila MKenya na kama kuna mahali preamble imewacha MKenya fulani basi ni jukumu letu kuona kwamba kila mKenya ameingizwa ndani, you are right I think I agree with you.

Mambo ya rafiki yangu wa kutoka Mochongoi, kazi yangu leo si ku-defend hii draft, kwa Kiingereza kuna tofauti kati ya ku-defend na ku-explain. What I was doing today was explaining, mimi ni mmoja wa wale waliondika hii kitu wewe hukuwako, kwa hivyo nikisema kwamba sababu ya kuandika hii ni hii I am not defending, I am only doing what? Explaining kwa sababu kuna sentensi hungelewa unless I say why did we do this, kwa hivyo don't attempt to what is the word I should use, usijaribu kuni-accuse kwa mambo ambayo sijafanya mimi? Mambo ya civic education yes civic education is continues in this process, hakuna siku tumesema kwamba kwa hii kazi ya Katiba tume-qualify in civic education, never! And civic education about the constitution is for life so if you accuse me of doing civic education I stand guilty as charged.

Jambo la tatu, muda wa ku-discuss ni kweli kwamba muda ni mdogo, makosa sio ya tume. Mara ya kwanza nnakumbuka tulikuwa tumepewa 60 days ku-discuss hii draft, bunge ikapitisha sheria in August mwaka huu huu, kwamba hiyo 60 days ikuwe reduced to how many days? 30 days, kwa hivyo makosa sio yetu kama tume, makosa ni ya bungu waulize wabunge why they reduced it from 60 to 30 days.

National days, article 11-page number four, Bwana amesema kwamba tu-marge Moi Day and Kenyatta Day into Hereos Day. And before I go further, what date do you want it to be? 10th October or 20th October?

Ezakiel Kipkebut: 20th October.

Com. Isaac Lenaola: 20th October, thank you very much. Mambo ya Katiba Day kwa sababu gani tuliweka hapa? Maanake Katiba ya kwanza ya Kenya ni ile ya Muingereza tulipewa 1963 1st of June, hiyo ni Madaraka Day. Katiba ya pili Kenya become a republic on 12th of December Jamhuri Day. The third Katiba ya Kenya, kama itapitishwa itakuwa gani? It is the second republic in Kenya, kwa maoni yetu ilikuwa kwamba ni vizuri kuweka siku ya hii Katiba,(Inaudible) lakini Ezakiel amesema kwamba hapendi hayo ni maoni mazuri tutayachukua.

Mambo ya provincial administration that was a very hot issue in the commission, manake 85% ya WaKenya, walituambia scrap the provincial administration, 85%. (*Clapping*). Tukaambiwa replace that administration na watu ambao ni elected na hata sasa one of the most difficult issues for us to address as a commission ni hii mambo ya replacement ya adiministration na hii ingine under this constitution, it a very expensive process na pia provincial administration is so entrenched in the country kuitoa ni kazi ngumu sana. Kwa hivyo don't think that we are looking at it lightly it is a very serious issues na we are addressing, infact kusema ukweli tumeform tena a committee ndani ya tume, kuangalia tena kindani hii mambo ya provincial administration na mmoja wa hao (*end of side A tape II*). Hakuna Katiba ya hii millennium ya century hii ambaye ingekubali(Inaudible) it is outdated, it is barbaric. Niwape mifano mdogo, katika kamiti hakuna MKenya amenyongwa tangu wale watu wa Coup nineteen eithty what? Eighty two, kuna watu wamekaa kwa hivyo ambao wamekaa kamiti twenty years wakiongoja kufanya nini? Kwa hivyo unaona tu mind ya kunyonga ndio ile uko hapa na pia wenye kunyonga hao watu si wenzetu hao pia akili yao siku hizi si nzuri. Kusema ukweli ninge-suggest this is my personal view, anybody suggesting that we continue with the death penalty is totally mistaken. Hata kwa kibibilia that bible says don't do what?

Audience: Kill.

Com. Isaac Lenaola: Don't kill, halafu wewe unasema kwamba sheria iseme kwamba nenda ukamuue mtu. Si vizuri.

Mambo ya land and property na mambo yale ya public lands tume-address article 235 page number 28, the last paragraph

tunasema kwamba “let parliament establish a mechanism within two years for the review of all grants or reposition of government or other public land to establish their propriety and legality and to determine whether or not such grants or reposition should be revoked”. All land ya public ama government, ambaye ilipeanua kwa njia ambayo si halali tunasema let there be a review kama ilikuwa ya grabbing ifanye nini? Ikuwe revoked so this is here iko ndani.

Haya mambo ya ndugu yangu Chelimo, kwamba we should qualify article 108 B I agree with you kusema sound minds fullstop there must be a mechanism for saying kweli wewe ni wazimu ama unajifanya ama unafanyiwa, lazima tujue kama ni sawa.

Mambo ya wanawake wacha sasa nizungumze kama mimi mwenyewe, I am speaking not as a commissioner, I am speaking as Isaac Lenaola, Advocate. Kwa hii Katiba kusema ukweli tumeweka wanawake mahali pengi sana na ni vizuri kwa sababu gani? Kwa sababu wana nafasi ambayo tutawapa lakini sometimes kwa vile tumeandika there is too much woman here woman there, woman here, woman there. Now, speaking as a commissioner speaking as Isaac Lenaola Commissioner, this Katiba needs to be address fully, to address the issues quite quite deeply. Kwa hivyo kama kuna mahali tumeandika nyingi sana tutai-reframe. I think I like the way Chilimo says, andika kwa njia ambayo is not just woman, woman, woman kwa njia ambayo ni attractive mnajua women are attractive na hatutaki kwamba hii Katiba isikuwe attractive kwa wanawake so I agree with him totally.

Kateiya who is minority and who is marginalized? Let me promise to do this tuta-defination, kwa hii Katiba who should be listed as marginalized, kwa list yetu ya commission we have 15 districts which are listed as marginalized districts and Baringo is one of them. Then we have minorities, one of the biggest problems we had in listing minorities is that kila mtu anasema yeye ni minority hata Wakikuyu wanasema kwamba in the last 24 years Kikuyu’s been have marginalized. Now if you start by saying Kikuyus are marginalized then, who is not marginalized hakuna sio? So what we have done we are preparing a list of communities we consider to be minorities maanake kuna, na mmoja yao ni Elmolo wengine ni Echamusi so we shall make a list of communities we call minorities wengine ni Wanubi, mnajua Wanubi wale wa Kibera pia wako Baringo. Wako hapa hapa wako Ravine, Wanubi wako hapa wako na majengo hapa, kuna watu wengine ambao ni small community tunawajua so we want to make a list.

Jambo lingine we had a problem defining tribes in this constitution mimi ni mmoja yao ambao walisema kwamba mambo ya ukabila tumalize by saying who are the tribes of Kenya tuandike hapa. Manake sasa ukiangalia kwa ile list ya census tunasikia sijui oh tribes tribes halafu pale mwisho wameandika others, which tribe in Kenya is called others. (*Laughter from the audience*). Kunayo kweli? Hamna, so tungependa kwamba hao others wakuwe difined ni nani hao, ili.....(*Clapping*). Ndio tukiandika hapa Katiba tunasema kwamba wanaKenya they formed the following tribes bla bla bla bla(?) mambo ya others ni mbaya.

Mambo ya administration tumeshazungumzia. Mambo ya minority katika district hebu tuangalie article number 230 page 27 the

last column, we are saying that parliament shall enact laws to help stream line mambo ya district halafu inasema hivi may require devolved governments to have rooms and mechanisms for the protection of the minorities and promotion of their rights and interest. Kila wilaya ikuwe na sheria fulani ya kuona kwamba minorities wako na nini, haki zao pia kwa uongozi, so for example in Baringo, najua siku hizi Emachamus wanalia sana kwamba wanafinywa na Tugen, tunasema kwamba basi wacha kama Baringo ni ya Tugen basi hiyo council iweke rules bila ya ku-manage hii minority yao na samaki yao huko lake Baringo ama namna gani? Bas, kwa hivyo iko ndani.

Appointments, Cherop, I think it is the same language that Chelimo is using, too much women in the constitution maybe, we can tuandike kwa njia ambayo haiwezi kuonyesha as if the whole constitution is about women, so I agree with Chelimo kwamba we should work have some different language, tuelewe kwamba hii si final document, everthing we are going to say here will form the changes tutafanya kwa hii document. Kwa hivyo kama kuna jambo ambalo mnafikiri tufanye change, tell me, mimi sitakataa maneno hapa, hii sio Bibilia ama Quran hii ni draft imeandikwa draft. Kwa mfano ukiangalia page number 45, Chalimo I am following your point about children, I mean Kipchumba page 45 tumegawa kazi ya Serikali kuu na Serikali ya wilaya what the national government can do, what the district can do.

Ukiangalia hapo, hamjasema page 45 and 46 last column mambo ya central government na district government hakuna mahali children's services iko. Tuliweka children kwa Katiba yenyewe lakini hatukuandika who should do children's services hatukuandika it is just kila mtu kwa commission mzima until somebody told me in Nanyuki so if you think kuna mambo ambayo tumewacha hapa tell us hii haiendi kwa Mungu inapelekwa National Conference itengenezwe, tumeelewana?

Haya maswali mengine matano.

Eliza Korir: Upandu huu(Inaudible) jina ndugu yangu.

Peter Keitany: Okay, my name is Peter Keitany. Mostly, I want to make some comments may be one or two recommendations. After listening the preview you have given us I can say this document although there is still a rough draft, it is a good it is better than the old one, let me say that. And I am impressed about the cheques and balances which I have been given very well. I want to say it is balanced and its people have been given a lot of say in this constitution. Very big to say infact, and the only thing I want to note is that there is a creation of a lot of institutions and a lot of rights which to implement will be very very costly to the tax payers.

So, I wonder, sijui hii Katiba tutapata wapi pesa ya kutengeneza ili kila kitu ifanyike. Tumesikia wakili ambaye ni ya bure mnajua wakili ni kali sana na, mambo nyingine ya bure masoma ya bure, vita ya bure. Sijui will we afford in this third world, tutaweza kweli kwa nchi maskini kama Kenya kama hatuwezi kulipa hata walimu ambao wanafanya kazi, tutapata wapi ya kulipa wakili ya bure? So, shida yangu ni hiyo kwamba hii Katiba ni kali sana and it may not be realistic because we have no

money to do it pengine Mungu atusaidie tupate pesa kwanza. Infact to improve the economy that is the priority number one. Tutengeneze uchumi kwanza tupate pesa na tuwe na uwezo wa kutengeneza hii Katiba ni tamu sana lakini si rahisi kuweka chini.

It is okay, the other issue is about recalling MPs, I was feeling that kuita wabunge nyumbani, it is a provision which may be misused so unless, wale ambao wanafanya uchungu we have got a very good, very independent inquiry ili wafanye haki kwa sababu mtu anaweza kutumia hiyo kuangusha mtu. So, that one I don't know, but it has to be very very independent that thing has to be very very independent otherwise it can be misused like others.

And then the other issue is about I want to make one comment kwamba this system, there is no system which is perfect, I did some political science, I started some systems of the world hakuna ile perfect. So nilikuwa nataka tu nisema kwamba wa Kenya let them go to the conference when they are composed, when they are sober, watengeneze na waleta there is no perfect things hata mkilia hii ni hivi, hi ni hivi mwisho hakuna ile perfect. Because let me give an example, parliament parliamentary system dictatorship of parliament. Presidential system is the dictatorship of the president, federal sytem is the dictatorship of the regionalism and there is also some mixed system zile wamekutanisha zingine.

So democracy is the dictatorship of the people, (*laughter from the audience*). So all sytems of the world are full of dictatorship. Mtu lazima akalie mwingine, there is no way you can avoid, so nilikuwa nasema tu kwamba let us not argue so much about the Katiba hii imekuja si mbaya sana, let them go through, wengine wata-revise baadaye. (*Clapps*).

Councilor Kosgey: Basi, kwa jina naitwa councilor Kosgey kutoka Kabarnet municipal council. Kwanza ninatoa pongezi kwa wafanyi kazi wa constitution wa kufanya hii kazi yao yalikuwa muda mfupi yangu ninasema shukrani. Kwanza ningepomba Serikali yetu tukufu ya kwamba constitution hii mpya ifanyiwe na election pamoja. Na ile ya zamani ikae kwa sababu kuna vitu zinafanyiwa renewal kama tunafanya kukua hii mpya, kama hiyo mambo ya administration ya provincial, ningepomba tena kwa unyenyekevu ya kwamba tunahitaji Serikali ya majimbo ambayo atakuwa na governor kwa provincial level. Na tena vile vile atakuwa anachunga maslahi ya corruption kutoka huko mbele mpaka hapa chini, kwa sababu kuna wengine wanasemakana hati 5% ilikuwa imekatzwa kwa maneno ya federal government 85% kwa Kenya, lakini ukifika pahali pengine unakuta watu kwishafanya hiyo federal government zamani unakuta wanafanya business peke yao hakuna mtu hata ya kutoka pahali pengine unafanya business. Hawa wanaendesha kazi yao peke yao, kwa hivyo mimi naomba Serikali ya majimbo irudishwe kwa sababu itachunga maslahi ya wale wachache.

Vile vile kwa nini tunasema tunataka Prime Minister, Deputy Prime Minister mimi nilikuwa seminar huko Jerumani zamani niliona hii maneno ya prime minister ama deputy prime minister inaenda pamoja na majimbo. Kwa nini hapa Kenya inakuwa nusu nusu hawana, kama wanataka kukaa kama zamani akae lakini kama anakuwa na majimbo kidogo kidogo ya prime minister na deputy prime minister haiwezekani. Vile vile mambo ya chief ama DC hati kufanyiwa kura hiyo sio mzuri ningepomba

chief tu peke yake apangiwe laini kama zamani wakati wa zamani na maneno ya DC ifanywe na Serikali hiyo tofauti kwa sababu tukichanganya kazi ya Serikali na ya DC na raia, itakuwa kitu kama siasa na hiyo itakuwa mbaya.

Na la mwisho, ningependa tena sheria ile inalinda hata hiyo watoto, kama mtu akiweka mwanamke mimba kama nyinyi mnasema namna hiyo, achunge mtoto huyo mpaka anakuwa kumi na nane wakichunga na mama. Kwa sababu kama tukisema tu ni juu ya wazazi ama ni juu ya baba nafikiri hiyo haitakuwa mzuri lakini anazaliwe kusomesha. Kwa hivyo mimi naomba hiyo ichunguzwe mpaka anakuwa mtu mzima.

Mwisho, ningependa tena sheria ile inachunga maneno ya mazingira kwa sababu hii nchi inakuwa desert. Na vile vile sheria ile inachunga maji, siku hizi mtu anaweza kujifungia maji hata kwa mtoni anasema maji yangu hakuna njia ya kupita. Asanteni.

(Clapping from the audience).

Daniel Toroitich: Mimi ni councilor Daniel Toroitich kutoka Lawanwak Baringo county council. Vile mimi nimesikiliza kwa makini hii Katiba si complete, iko itilabu kubwa sana, hata mimi nashanga Pal Ghai akisema ati mwezi wa kumi na mbili itakuwa complete sijui ni Katiba gani hii. Hii kwa kusema kweli, haidhuru mimi nasema watunga sheria ni wavunja sheria labda tu hutumiwa kwa siku chache halafu wataalamu wengine waanze kazi pia. Hii si complete Bwana mkubwa, inahitaji nafasi ya kutosha mzunguke namna hiyo katika taifa nzima la Kenya na baadaye mtapelekwa kwa wataalamu katika headquarter Nairobi. Halafu wachambue pia halafu wakati wanaweka sahihi, iwekwe sahihi kitu ambao ni complete, hii si complete. *(Noise from the audience)*. Ndio mimi nasema chache tu. Moja ni Kenyatta Day hiyo ni moja, Kenyatta Day, mimi nataka ikae, mimi nasema Kenyatta Day peke yake ikae, ndio ni hiyo tu ndio.

Enock Kiptaiwa: My names are Enock Kiptaiwa.

Com. Isaac Lenaola: Nani.

Enock Kiptaiwa: Enock.

Com. Isaac Lenaola: Nani.

Enock Kiptaiwa: Kiptaiwa. I would like to make some few observations. One is, I think the role of the Upper and Lower house the cabinet is not I mean the role of the Upper and the Lower house is not defined, I don't know whether it is clear but, according to me I think it is not so clear.

Then, when you come to the nomination of the those who are to go to the Lower House, women have been involved but the youth who comprised of the 60% of the population I think they have been marginalized. So, I think as much as we say the

disabled and the women should be involved I also think the youths at least we should have one or two youths represented here. I think that is my observation.

Francis Chesang: Kwa jina ni Francis Chesang.

Com. Isaac Lenaola:(Inaudible).

Francis Chesang: Jina langu ni Francis Chesang nilikuwa nataka kuchangia hoja juu ya watoto ingawaje mwanzangu ametaja hapo anasema right to life, everyone has the right to life. Lakini katika sheria hii kwa watoto hawzi chungu mtoto yule hajazaliwa kwa sababu mama akisha kuwa na mimba ya mwezi mbili Y inaanza, na tumesikia cases mara kwa mara ya kutoa mimba na nini na nini, kwa hivyo nilikuwa napendelea hata hiyo haiwezi kuchunga, hii sheria haiwezi kuchunga hajazaliwa, bora amekuwa na Y, yah. (*Clappings*).

Na ingine ni juu ya corruption, ingawaje nimekuwa nimeangalia hiyo, ingekuwa namna ya ku-investigate corruption wale wanakuwa corrupted, corruption that is second point.

Audience:(Inaudible).

Francis Chesang: Ningependelea kama mtu anapatikana amefanya hilo kosa iwe na percentage kidogo ya kuongeza ile alichukua ya kurudisha. Asante.

Com. Isaac Lenaola: Asante sana, I think Bwana Keteiny akisema kwamba kila system katika dunia lazima iwe na measure ya u-dictator si hiyo ni kweli? Na hii Katiba tulijaribu kuona kwamba tuko na balance, hakuna mtu ambaye ako nguvu zaidi, ya mwingine kwa hivyo bunge inakuwa checked na president anakuwa checked, prime minister wanakuwa checked, majaji wanakuwa checked kila mtu kwa hii Katiba ako na mahali ya ku-check huwezi kuenda tu bla bla bila ku-consult mwingine kwa nimejaribu kupeana mifano hakuna u-dictator.

Mambo ya recall ya MPs, kuita MPs nyumba nilisema kwamba 30% ya voters ndio watapetition. Na kupata 30% ya voters si kazi raisi, imajine sasa Baringo Central mko na voters forty nine thousand, 30% ni kama ngapi? About thirteen thousand, imagine effort ya mtu mmoja kuzunguka Baringo Central kutengeneza signatures na vipande ya watu elfu kumi na tatu ni kazi, kwa tumeona kwamba tumefanya raisi na pia ni ngumu isikue to raisi na pia isikuwe ngumu sana kwa hivyo kama kweli uko serious unataka mjumbe atoke kazi basi tafuta hawa voters', kwa hivyo ni kazi ngumu pia ni raisi so I think that is the most reasonable way of putting it.

Councillor Kosgey ah yes the most important question. Tunaweza ku-implement hii Katiba bila fedha? Haiwezekani, tumesema

hivi kama tume, if we have Serikali ambayo efficient na fedha hatutumiwa kiholela holela hiyo fedha ingetosha ku-manage hii transition. (*Clapping*). Na tumeweka systems here ambazo kuchukua ile fedha ya Serikali ni kazi ngumu kwa hii Katiba, so on that ground alone tumeweza ku-implement hii constitution.

Jambo la pili tumesema hivi, maanake sisi si watalamu wa fedha na matumizi ya fedha, tutafute wataalamu. Kwa hivyo kable ya Monday next week tutapata ripoti ya watalamu ambao wataketi na kusoma hii Katiba, waangalia sheria za Kenya, kuangalia income Kenya na kuona kwamba it is possible to implement at this cost, ama it so unrealistic hakuna fedha ya ku-implement hii constitution kwa hivyo hiyo jambo la cash tumelichukua sisi wenyewe, kuona kwamba is it affordable for this country kuwa na Katiba kama hii. Lakini kumbuka tulielezwa na sheria ya kwamba nendeni mkaulize WaKenya wangetaka uongozi na Serikali ya haina gani.

Jambo la kwanza, kwanza, jambo la pili kwetu kama wataalamu, can we afford vile ametuambia tufanye? Kwa hivyo kuna maswali mawili hapa na sasa hivi tumewaeleza vile mlisema vile tumeandika lakini jambo la pili ni hii tunaweza ku-afford ama hatuwezi? So that system is being done even as we speak.

Mambo ya Serikali ya majimbo unajua hii Katiba ni ya majimbo lakini hatukusema hivyo na majimbo bana kubwa kwamba this is the majimbo constitution. Majimbo ni kwamba Serikali ije wapi? Hapa kwetu, then it is majimbo na tujitawale kutoka wapi? That is majimbo, resource zetu zikuwe wapi?

Audience:(Inaudible).

Com. Isaac Lenaola: Mali yetu ibaki wapi, iko majimbo kuliko hiyo?

Audience:(Inaudible).

Com. Isaac Lenaola: Halafu kuna resources ambazo ni za province majimbo ya councilor Kosgey ile ya province yeye anapenda ile ya ma-province na mini ni majimbo who is to a district. Majimbo ya province tumesema nini article number 219 “inasema the legislative authority of the province is vested in the provincial council”. Kwa hivyo kutakuwa na counter ya wapi? Ya province. B, the council in the province shall consist of two district councilors from every district, kila wilaya inapeleka delegates wangapi?

Audience: Wawili.

Com. Isaac Lenaola: Wa ingie kwa wapi, kwa province. Haya, nani mkubwa wa province article 219 four, the provincial administrator is the executive authority of the province, si hiyo ni governor wa councilor Kosgey ako wapi?

Audience:(Inaudible).

Com. Isaac Lenaola: Majimbo imejaa hapo Mzee. Haya, mambo ya kuwa na kutomu-elect district administrator ama kutomu-elect assistant chief hayo ni maoni nachukua kwamba chief akuwe elected lakini district commissioner asikuwe, haya ni maoni nitachukua.

Mambo ya environment tumeweka mambo chungu nzima hapa mambo ya environment. Article 239 chapter 12 ya hii Katiba page number 29 inazungumzia juu ya environment mambo ya maji, mambo ya forest, mambo ya shrines zile maji tunaabudu mahali maforest, mahali tunabudia Mungu wa kunyumbani zimejaa hapo Mzee kwa hivyo hiyo tumeweka ndani.

Mambo ya watoto, hao watu ambao wanafunga wasichana wetu mimba na hachukui jukumu wa kuwatunza article 37, sub article four page seven, a child mother and father whether married to each other or not has an equal duty to protect and provide for the child. Baba na mama wa mtoto kama wameona ama hawajaoana ni jukumu lao kumtunza na kumlea huyo mtoto, kwa hivyo Mzee hayo umayasema tumeyajaza.

Councilor Toroitich mambo ya kuwa document sio complete unajua mimi ni wakili na ukiniambia si complete tell me what is lacking, uniambie....(*Clapping of hands from the audience*). Utaniambia kwamba vile Kipchumba alisema kwamba kuna jambo hapa ambalo tungependa uweke ama kuna jambo tulisema kama Baringo Central kwa hii ripoti na ni kwa sababu gani hamkuweka. Lakini kuniambia kwamba si kamili na ukamilifu hujaniambia haujanisaidia. Tumesema hivi kwamba kuna muda kati ya sasa na mwisho wa mwezi huu, ikiwa una jambo ambalo umeliona kwa hii draft ambayo si sawa ama halijaingia, ama limeachwa uko na haki kwenda kwa huyu coordinator, kwenda kwa hao wanakamati na kuwaambia hamjaweka jambo kama hii. Kama zile mambo za councilor Kosgey kwamba sioni majimbo mimi hapa, kwa hivyo kwake si complete lakini namwambia majimbo yajaa, kwa hivyo jambo kama hili ni vizuri kuniambia kwamba why is this thing not here mambo kama hayo.

Mambo ya kuwa na Kenyatta Day, na ibaki kwa national days hayo maoni nitayachukua. Mambo ya kuwa na muda wa kutosha kuzungusha hii document kwa wananchi, nafikiri nizungumza mara ya kwanza kwamba si ya tume. Mara ya kwanza tuliambiwa ni miezi mingapi?

Audience:(Inaudible).

Com. Isaac Lenaola: Wa-Kenya wazungumze kivyao waangalie hii ni sawa ama si sawa lakini bunge ika-reduce from two months to how many months? One month, kwa hivyo councilor Toroitich makosa si yangu si ya Professor Ghai waulize wabunge manake kura ilikuwa yenu kuwapeleka bunge.

Enock, ni kweli kwamba ukiangalia hii document huwezi kusoma maramoja na kusema kwamba kazi ya Lower house ni hii, na kazi ya Upper house ni hii, manake katika whole document utasikia mahali inasema kwamba the national assembly itafanya hivi ile lower house, ama national council itafanya hivi. Kwa hivyo unless you read the whole document huwezi kujua kazi yao ni gani ndio separate na gani sio separate, what I can promise we are going to do hapa nyuma, page number 47 sijui kama mko na hii document actions to be taken by parliament, hamna hiyo, action to be taken by parliament. I think you don't have that, kuna document hape tumeandika actions to be taken by parliament I think it is there. What we want to do first kuwasaidia ni kugawa manake parliament is both houses, not this house to do this this house to do that. We can give you a schedule inasema kwamba kazi ya Lower house ni hii, kazi ya Upper house ni hii, nafikiri itawasaidia kuelewa document vizuri. I promise we will do that.

Mambo ya vijana, I have nothing useful to add I agree with you kwamba vijana pia katika hii nomination maybe we should make it more clear kwamba kwa ile 96, vijana wawe na seats fulani infact I will recal we discuss that at length, I am surprised that we still find it getting there but I will take it up.

Corruption Bwana Chesang, nitakurefer to article number 14 sub article six page number five, the republic shall take effective measures to eradicate all forms of corruption ni jukumu la Serikali kuona kwamba ufisadi umengolewa Kenya. Kwa sababu gani? Ni aibu kwamba Kenya, kwa dunia nzima ni number three kwa corruption. Ni aibu, number ngapi?

Audience: Three.

Com. Isaac Lenaola: In the entire world not in Africa, in Africa the only country imeshinda sisi kwa corruption ni nani?

Audience: Naigeria.

Com. Isaac Lenaola: Nigeria, so hakuna sheria kama hii ya Katiba ambayo ni lazima iwe na njia ya kuona kwamba ufisadi ingolewa Kenya manake ni aibu.

Jambo la poli article 289 ni page number 35 kuna commission inaitwa kwa hii draft ethics and integrity commission na kazi yake page 36 mmoja yake ni: -

1. Put in place measures aimed at the prevention of corruption. Kuweka mbinu kuona kwamba hamna ufisadi Kenya.
2. Investigate instances of corruption. Kufanya nini? Ku-investigate mambo ya corruption, kwa hivyo tunaweka mambo ya corruption hapa pia ichukue jambo la kucheza nayo.

Halafu, katika schedule number page 45 kuna leadership and integrity code of conduct, ukishakuwa kiongozi wa haina yeyote lazima u-sign hii code of conduct mmoja ni kusema kwamba you must declare your wealth, utuambie hii mali yako ulitoa wapi?

(Clapping). Kwa sababu ukiwa na Mercedes kumi, lorry tatu, nyumba ishirini, utatueleza na mishahara yako ilikuwa 40 thousand, ulitoa wapi hizo, maanake hatutaki kwetu ambao ni wafisadi pia wawe nini, viongozi, kwa hivyo kwa hii Katiba tumefinya hiyo laini kwamba wafisadi wakae nyumbani wakule mali yao wasiongoze sisi.

Mambo ya watoto ambao hawajazaliwa, mnajua ilikuwa jambo la kutatanisha sana kwetu kama tume. Tulipata memorandum kutoka makundi fulani nchi hii, kwamba wanawake wapewe haki ya kumtoa mtoto kabla ya miezi tisa, wakatuambia tuandika hiyo kama nini, haki ya kibinadam katika hii Katiba. Tukasema kama tume article number 32 page number six, everyone has the right to life, ukisema everyone ina-include nani?

Audience:(Inaudible)

Com. Isaac Lenaola: Yule ambaye ako tumboni, everyone has the right to life, no, no, hilo ni jambo kuna njia ya ku-handle, mama akikua-ready kupata mtoto kuna njia ya ku-handle hiyo baadhi lakini we are saying katika hii everyone has the right to? Wakili ya hawa watoto ni hii Katiba, manake life starts when? At conception unaanza kuwa mtu sio ukizaliwa, unapokuwa nini? Conceived. Kabla ya kuwa conceived hakuna mtu baada ya conception kumekuwa na mKenya ambaye hata kama kuna census ungeesabiwa, kwa hivyo we are saying everyone has the right to life and that covers wale watoto ambao hawajazaliwa. Imefika saa saba na nusu ningependa kuchukua maswali mengine matano halafu tufunge.

Elijah Korir: Nafikiri tutaenda upande huu tutampatia mwalimu Bwana Isaiah halafu, *(end of tape II)*.

Wilson Wanome: Thank you for having come so that we give our recommendations or amendments of the constitution. Actually today is not a day to discuss to give proposals but amendments but mine is the preamble, the preamble in the constitution is very vague. It should be very very comprehensive to match with the sovereign state of this country. And I propose that, it reads like this that we the people of sovereign state of Kenya in order to form a more comprehensive, cohesive nation establish peace justice insure domestic transcurity, provide for defense promote general welfare and secure the presence of liberty to ourselves to odain and establish this constitution for the republic of Kenya as we the citizens of Kenya not the CRC. So here in the preamble it has so many English words that means very little.

Like committed to naturing and protecting the whole being of an individual and the family and the community, those are that is too long a sentense carrying very little meaning.

Another point is, I will be very brief that the date of enactment of the constitution which is the Katiba Day, proposed here is not relevant instead we should have a day called the National Elections Day, which should coinside with elections date here. But the Katiba Day was in favour of the CKRC. The National elections day which is a public holiday and in chapter two ten three, it should state like this....

Interjection Isaac Lenaola:(Inaudible).

Wilson Wanome: Chapter two ten three article three.....

Interjection Isaac Lenaola:(Inaudible).

Wilson Wanome: Yeah.

Isaac Lenaola:(Inaudible).

Wilson Wanome: The state shall treat all religions equally but, I am adding except devil worship religion. (*Clappings*). It should go down to records that, devil worship religion is not to be considered by the state, but in the draft it was not covered, so we wonder why it was not covered.

Wilson Wanome: Devil worship region should not be treated equally by the state. In chapter three six this is about measures to eradicate corruption, I am adding corruptions and bribery; bribery is left out in that situation. (*Clappings*)

Chapter three 15m if you have a document you can be very fast. We should desist from acts of corruption bribery graft and state property corruption alone has go very little meaning in the English language, it is an action of two empty tins knocking one another but not the real act. But here we are talking about people doing the real job of stealing the state coopers, so desist from the action of corruption, bribery, graft and theft of state property that is chapter 315M.

I am now on chapter five 69 I am adding R at the end an additional into that chapter to be added. Penalty of any thief be equivalent to the amount involved, if a thief has stolen fifty cents and that the judge sentence him to one year and a thief steals one million mathematical he should go for one million divided by fifty cent number of years. (*Clapping*) Because in the previous constitution, a thief for ten cents use to go for seven years and a thief of a million, and you know we have thieves of millions of in Kenya, they don't even go even for one day.

Speaker:(Inaudible).

Wilson Wanome: Chapter five 32 two on murderers, I think we are making our own constitution, we are not making an international constitution here, anybody who murders and even the Bible says do not murder in the commandment but does not continue by saying go to the penalty but the penalty in the Bible hell but for the constitution is you murder if you will not go to the gallows then you will be in prison for life a way from the normal people.

Isaac Lenaola: I think.....(Inaudible).

Wilson Wanome: If it is not murder it is life imprisonment, a way from the normal people but not God's free you murder and you are just loitering around there. *(Laughter from the audience)*.

Chapter six 98 four a Member of parliament or local council who resigns from the political parties that sponsored the members elections loses the seat automatically and thereof at the same time.

Chapter six, one hundred, the president as a member of an official party retains his position but public officials and heads of parastatals and NGOs shall not hold office in the political party but in the constitution the draft constitution says, the president should not be a member and official of a party. I think there he will be a toothless head of that county he is a President and does not belong to a party then he has no command, he should be a president as well as an official of his party so that we know the direction he is talking us to.

Chapter seven 118 two..

Interjection Isaac Lenaola:(Inaudible).

Wilson Wanome: Sorry I did not hear Sir.

Isaac Lenaola: Then make your last point.

Wilson Wanome: I ask for one minute. In the house there are very many communities, standing communities another one should be added in chapter seven 142J it would be J anti-corruption committee should be a house studying committee and corruption committee should be added to the yeah. Thank you.

Isaac Lenaola: Okay.

Isaiah Cherutich: My names are Isaiah Cherutich, yes a journalist by profession at the same time Chairman Ford People Baringo Central. **(Clappings)**. Most of us here, actually did not see the old constitution, we are only aware of this one which is with us. And as people normally say better the devil you know than the angle you have not seen, so this constitution I am here to present the views that what I know, what I have seen is better than what I don't know and what I always heard of so what I am seeing here it favours wananchi. This is public oriented and I would like to say that, because civic education haikufanyika Baringo Central or Baringo in general, I am suggesting that one day will not be enough for us to discuss this draft constitution,

we should have been given at least two days so that we can cover ground which was not covered at that time. I think that is it.

Isaac Lenaola:(Inaudible). Kaa chini kidogo.

Charles Boen: I am Charles Boen a retired teacher. I have about three questions to ask.

Isaac Lenaola: State them one by one.

Charles Boen: One, in our old constitution it states very clearly that in every five years we should have a general election but there is no definite date when such elections are supposed to be conducted, does the present constitution say so?

Two, you are now going round in the country to hear from the people about the draft of the new constitution and it is the prerogative of the President who is the head of state of this country to dissolve parliament, when parliament is dissolve now today, where will the Commissioners go and where will the new constitution go? Does it mean that you will continue in your offices receiving further information about the constitution or you stay until the next Government is formed.

Lastly, we have been reading in the newspapers even today everybody here among us has a newspaper, there is structure every political party is talking about the presidency, the prime minister, the vice president where in the old constitution do these offices stand, if they ignore the new constitution. Thank you. (*Clapping of hands*).

Isaac Lenaola:(Inaudible).

Chesang Patrick: Asante sana Bwana Commissioner kwa majina ni Chesang Patrick. Yangu tu ni sehemu mbili ambayo ningependa kuguzia, ni hiyo ni sehemu ya elimu.

Isaac Lenaola:(Inaudible).

Chesang Patric: Ya education actually, yeah you will find that in this draft you have stated that education in primary schools should be free. But in real sense what we need to clarify in that constitution because actually it is not free as per my knowledge. Mtaona ya kwamba yale malipo watoto wanalipa kutoka nursery wakati huu imefanya watoto wengi kuwacha shule ama kutohudhuria shule so ningependa kama ni free, yaandikwe ni free na Serikali igarامية mahitaji ya wanafunzi kama vitabu na kadhalika. (*Clappings*).

Jambo lingine ambalo ningependa kuguzia utaona kwa central government kuna majeshi tofauti tofauti ile inajulikana kama Majeshi mpaka askari, askari wote. Lakini hii sehemu ya majeshi ya watu binafsi kama Taliban, Mungiki sijui nini itaenda

upande gani? Sasa those others should be outloaned. Asante sana Bwana Commissioner. (*Clapping of hands*).

Isaac Lenaola:(Inaudible).

Ruth Chebor: Basi asante sana Bwana Commissioner nimekuwa nikisikiliza reactions baada ya Commissioner kusoma draft. Kwa majina ni Mrs. Chebor na niligundua ya kwamba we are making the same points as the draft it is only that we don't understand it. For this reason, I would want to request after when the new constitution is ready it has to be passed into primary syllabuses for teaching the pupils, pupils rights from the primary level to the University, so that we don't come to a whole like this and begin to contradict the draft or the constitution. Thank you. (*Clapping of hands*).

Isaac Lenaola: Thank you very much, let me be abit fast. Bwana Wahome thank you for your proposals kwa preamble we have it so we shall take it. Mambo ya election elections day, tulikuwa na shida mambo ya elections to have a specific date kwa sababu gani? Infact tulikuwa tume-propose mara ya kwanza tuwe na elections kila mwezi wiki ya kwanza Juma nne mwezi wa nane baada ya miaka mingapi? Mitano, the problem is this, ukiangalia election systems katika hii draft, suppose the president asipate kura fifty percent ya national vote na kura ya 20% kwa four provinces, we are saying wafanye nini? Waende run off second election sio.

Number one na number two warudie kura baada ya wiki mbili. By that time, out of five years si muda umeisha, so five years itaanza at some point na ata-serve five years after August some days after August ingekuwa vigumu kutafuta date specific. So, what we said ni kwamba elections ifanywe 45 days before the five years end under this draft. Do you know why? So that on the last day of the fifth year the president can hand over, Prime Minister ana-handover na MPs wana-handover na ma-councilor wanahand over so kila mtu serves how many years? Five years exactly. Not five years plus that is why we could not get a date for election in this draft it was abit difficult for we debated it.

Mambo ya devil worship, sasa how do you say that you have the right of worship and then you must only worship God, in a document like this. Suppose I don't want to worship your God, Wahindi wanaabudu nani?

Audience: Ng'ombe.

Isaac Lenaola: Ng'ombe kama Mungu, Wakristo wako na Mungu wao. Kuna watu kama Richard Leakey hawana Mungu na hao pia wako na haki katika hii Katiba sivyo? Si they have the same rights? So we had a very big problem, by the way Bwana Wahome that issue we debated for five hours, how to frame mambo ya devil worship kwa hii Katiba tukashindwa ku-agree. So what we suggested is this, kuwe na system ya registration ya makanisa ambayo ni very very strict, usije hapa ukatuambia kwamba your church is called the church of sijui nini lakini huku ndani mnaworship nani? Shetani, so we want to make a strict system ya registration ili tu-manage makanisa. Na pia kwamba nisiamke tu kesho nifungue kanisa yangu, called

the church of God and money, na unapewa liscence so we have proposed kwamba registration ya makanisa na ma-sect iwe very very strict na mtu akikuwa kwamba tunajua unakula watoto wale wana-sucrifise watoto then we shall register you and lock you up, so we cannot put that in the constitution lakini kwa sheria tutaweka rules za ku-manage the whole question on religion.

Mambo ya.....(Inaudible) in my understanding kwa Kiingereza Mwalimu, I don't know may be you are a teacher of English but to me all the words like bribery, graft, theft of public money is equal to one thing:- corruption. So that if we put the word corruption here it is infact safer to have it open ended that to close it kusema only graft, bribery and theft is corruption, leave it open as what? Corruption, so I prefer this in this draft.

Mambo ya penalties, Katiba cannot penalties. That is left to legislation, sheria inasema penalty itakuwa nini? Kwa mfano, hivi sasa kwa sheria ya anti-nacotics ukipatikana na bangi ya shillingi elfu hamsini fine ni yako ni marangapi ya hiyo pesa? Tatu, so you are suppose to pay a final one hundred and fifty. Ukiwa na cocain, let me give you an example kwa sababu this is something which one time nilikuwa natetea mtu mmoja alikuwa amepatikana mnajua mawakili tunatetea mikoro, na kila haina ya mtu sasa yule mtu nilikuwa namtetea alikuwa amepatikana na bangi ya worth 13 million, cocain worth 13 million. Tukafanya kesi tukashindwa jama yangu alipigwa fine ya 39 million three time the amount of the cocain. So, the same thing kama ni corruption siku hizi sheria ni kwamba you must return the money you have taken from the corruption plus unapelekwa jela, so your suggestion is let the law say, mtu corrupt alipe marangapi? Mara tatu ya hiyo pesa ambayo ameiba na pia awekwe korokoroni kwa hivyo I agree with your suggestion but let it be in law not in the constitution.

Mambo ya defection, I think nilizungumza mambo ya defection I think Mwalimu you were not here, nilizungumza sana mambo ya defection nakiri kurudia tu, article number 111 page 15 inasema hivi. "The office of member of parliament becomes vacant if the member leaves the party for which the member stood as a candidate for election to parliament". It is very clear here. Uki-defect unafanya nini? Unahora tunesemanga hivyo kwa ile Kiingereza ya sheng.

President and head of the party, maoni ya WaKenya ilikuwa hivi, president as the symbol of the nation should not be partisan. Kenyans were very categorical kwamba we said here in the constitution kwamba function mmoja ya president ni kuwa the president is the symbol of the unity of the nation, umoja wa nani? Wa nchi manake why they are called parties is the because they are what? They are partisan, hawana that is why you cannot have parties agreeing unless they have a crisis otherwise wanapigananga sivyo? They fight because kila mtu ako na party yake and we want the president to be above the party as the symbol of the unity of the nation, but if you think otherwise I will take your proposal.

Standing committee and parliament the ant-corruption committee yes we will take it I think that is a suggestion.

Mambo ya Bwana Cherotich need more time to discuss I think I have this much more than once. Mambo ya date election Bwana Boen nafikiri, I said that we have a big debate and we find it difficult to entrench a specific date kwa Katiba when

parliament is dissolved today, as it may well have been while we are here, what do we do? I think I said this, we will pack up and go home. If parliament is dissolved today we have no business being in office the reason being the term of office of this commission is supposed to end tarehe tatu mwezi wa kwanza mwaka ujao, if parliament is dissolved today it means kwamba national conference ku-discuss hii draft tarehe 28 haitafanyika, it means that therefore, hata hakuna bunge ya kupitisha hii draft vile iko manake mnajua baada ya national conference hii draft inaenda wapi?

Audience: Kwa bunge.

Isaac Lenaola: Kwa bunge idhinishwe ikuwe Katiba, kwa hivyo kama hakuna bunge basi hakuna national conference na hakuna bunge ya kupitisha hii document, so two things can happen, one hii kazi inapita sewage, inaenda milele na milele, ama bunge la kumi likirudi baada ya elections itawabidi kama watakubali wapitisha sheria nyingine tena ya kuliunda hili tume afresh. Okay, whether with the same Commissioners or others. Maanake mimi sasa kama mimi mwenyewe 3rd of January mimi na hand over kila kitu kwa secretary wa tume, gari hiyo patrol inarudi, document za Serikali zinarudi, allowances zangu, my interest zinarudi I go back to my practice. And until a new sheria calls us back we have no further business in this work. And the risk is this, suppose hiyo bunge haioni sababu ya kuwa na Katiba mpya watapitisha kweli?

Audience: Hawawezi.

Isaac Lenaola: Niwape example, President wa Zambia anaitwa Chiluba, alipokuwa anataka kutoa Rais Kaunda alisema kwamba my agenda is that I will give you a new constitution in my first term of office. Chiluba akapatiwa kura zaidi akangoa ule Mzee wa kitamba nyeupe Kaunda akafungua tume kama hii lakini alipokalia kiti wa urais under the old constitution akaona ni tamu sana. Kwa hivyo alifanya nini, ali-frastrate commission after five years no document, second term akasema because the draft is almost ready give me a second term under the old constitution, akapewa alipoulizwa mbona hausukumi hiki kitu ikwishe akasema mnajua wakati huo nilikuwa opposition sasa niko Serikali why should I have a new constitution? So we have no guarantee kwamba the new parliament will have interest in this draft, maanake ukiingia kiti na una utamu wake ungependa huo utamu uzidi, kwa hivyo those Bwana Boen, are the options left for this process and for this commission.

Jambo la tatu mnasikia kwamba watu wanasema wewe utakuwa president, mimi nitakuwa prime minister, wewe utakuwa vice president, wewe utakuwa deputy prime minister je Katiba ya sasa iko na prime minister?

Audience: Hakuna.

Isaac Lenaola: Je Katiba ya sasa iko na deputy prime minister?

Audience: Hapana.

Isaac Lenaola: Kwa hivyo wanayasema wanasisia and this is a free adviser as a lawyer mimi sielewi hiyo structure wataunda namna gani bila hii Katiba.

Haya Bwana Chesang, mambo ya elimu. Article 58 two-inasema hivi, “the government shall institute a programme to implement the right of every child to free and compulsory primary education”. Serikali ni lazima itoe programme kuona kwamba elimu ya bure na ya lazima, kwa pre-primary na primary level itakuweko. Kwa hivyo, kuhusu mambo ya school fees na mambo vitabu itakuwa katika hiyo programme but once the Katiba says must be there, then the government has no choice but to follow the Katiba and implement that programme kwa vitabu, science equipment scheme irudi mambo kama hayo, so that is already secured by article 58 two.

Speaker: Kama haina pesa?

Isaac Lenaola: Kama haina pesa it has no business being in Government kama haiwezi ku-comply na Katiba yake yenyewe.

Mambo ya jeshi, nasikia kuna Bagdad Boys, nasikia kuna jeshi la Mzee, nasikia kuna Chinkororo, hiyo ni lingine pia. Article 274 sub article one, “no one may raise a defense force or military or paramilitary organization except by or under the authority of an act of parliament.” Kwamba itakuwa ni makosa wewe kuwa na jeshi lako na kuliita jeshi la Bagdad manake Bagdad sio Serikali ya Kenya, so that question is unanswered by article 274 no one can have an army under this constitution.

Mambo ya Madam Chebor, we have proposed kwa hii draft that is, we are saying an act of parliament the leading top why we are saying act of parliament manake wakati mwingine kutakuwa na watu ambao wangetaka kuwa na polisi ile ya community katika kila district, so we are saying let parliament approve any such parliamentary force within the district but we are saying lazima ikuwa na sheria you don't just wake up in the morning na kusema jeshi la Wasamburu kwa sababu mimi ni Msamburu, nafikiri si vizuri.

Mambo ya Katiba kufungwa tume-recommend kwa hii repoti kwamba Katiba ifunzwe katika subject ya civics and government kwa primary school na secondary school ili kila MKenya awe na elimu na habari kuhusu haki zake, uongozi wake na jukumu yake kama mwana-Kenya maanake hii Katiba pia iko na duties ya mwanaKenya, duty yako ni gani kama mwanaKenya na mmoja ni kwamba lazima upige kura katika kila miaka mitano kwa hivyo tume-suggest kwamba kuwe na system ya kufunza Katiba katika kila shule zote katika Kenya.

Nikimalizia manake bado naenda Kabartonjo na Chemolingot nafikiri mtanisamehe imefika saa nane wacha tufunge mkutano kama kuna mambo maswali mengine ambao mngependa kuzileta kabla 28th utawapa hii committee yenu na coordinator na tuta-include kwa ile proposal yenu.

Jambo la mwisho kabisa ningependa kuwashukuru sana watu wa Baringo manake mmumekuja kwa wingi, maswali yenu makali matamu na pia nimetoka hapa nikiwa na moyo mzuri kwamba tuko na support hii kazi ikwishe kabla ya election nimewashukuru sana Mungu awabariki. (*Clapping of hands*).

Elijah Korir: Asante sana Bwana Commissioner Isaac Lenaola nafikiri(Inaudible) miongoni mwa maswali wa leo na kabla sija...excuse me, just wait tutafunga na maombi tutapea nafasi councilor Cherambus aseme moja kwa commissioner halafu tufunge.

Councilor Cherambus: Basi ni asante Bwana Coordinator. Bwana Commissioner ningetaka kuchukua nafasi kwa niaba ya kamati wa central kukushukuru kwa kuchukua nafasi. Na ningetaka kusema tunashukuru yule mtu alikua-appoint ambaye wewe ni mzaliwa wetu wa Rift Valley, siongei ukabila lakini ningetaka kusema asante sana kwa sababu una roho ya kufundisha sisi na kukaa karibu nasi. Bwana Commissioner asante kuwa wazi katika kukuja kulaunch hii draft bill yetu hasa yetu ya central na ningetaka kusema asante wale pengine district hii ni yetu yote, tutatembea Kabartonjo kukufuata kuona ya kwamba umepata support ya kutosha katika district yetu.

Ningetaka kushukuru pia watu wetu wa Baringo kwa kukua sincere kwa commissioner wetu. Yale yote umetaja nafikiri masahisho yote ambayo umeweza kuweka mbele naamini commissioner atachukua na watajaribu kuweka vile tunataka. Ningetaka tu Bwana commissioner kwamba kwa ile delegates it is our prayer that hii draft iendelee na ifike mmalize kwa wakati nzuri na tunaomba kwamba bunge isivunjwe mpaka tumalize hii kazi ili tuwe na Katiba ya kuchunga watu wetu.

Ningetaka tu kuwaheshima kusema wale watatu tumechagua katika district hii, Bwana Commissioner kwamba uwezo kupata nafasi kama mwakilizi wetu kutunza hawa watatu na ningependa kuchukua nafasi ku-introduce hawa pengine uone, umeona kwa majina lakini physically ungepata nafasi kuona. Wale three members Madama ako upande ule, wale three members ambao wataagiza sisi tumejaribu ku-nickname hawa ni kaiti. Hawa ndio members wetu.

Speaker: Naftali ameomba ruhusa.

Councilor Cherambus: Naftali ameomba ruhusa kutoka North, Bwana Cheruyot na Mzee Jariwa tuko hapa mama upande ule kutoka Chemse wale wamezungumza mengi na tunakuomba uwatunze.

Isaac Lenaola: Kutoka leo hawa ni wangu. (*Clappings*).

Councilor Cherambus: Kabisa. Ningetaka kuchukua nafasi pia kupongeza Coordinator wetu Bwana Elijah wamekusaidia

ingewa kazi ilikuwa ngumu. Kazi ile kamati walikuwa naye wengi wao ni wanasisa national figures hawakuweza ku-ground kukuja ground sana. Lakini I am happy to say we have a document ambayo hata ilipita kataka kamati yako na mliona ni ya muhimu. People wa criticizing kwamba hata watu wa central wengi kamati hawajasoma na that is not the case, that is not the case. Ile kitu hapa ilatunza sisi so ningetaka kukushukuru na kunipa nafasi kwa hivyo nashukuru coordinator wetu, he is an active man na hata wakati utatunza hao kamati watatu ongeza naye tunza vizuri, najua hakukua na gari haukua na chochote lakini ali-make sure ya kwamba ameingia kila constituency na amejaribu kuleta Katiba kuwa karibu.

Yangu tu ya mwisho, ni kuungana na Madam kwamba Katiba baada ya kupitishwa iwe policy ya nchi yetu, iwe policy educational ingie kwa mashule, institutes zote, ili hatuna hii mambo ya kusema civic, hii civic karibu ilete fujo, karibu ilete taabu kwa sababu wana-Kenya wote ni duni. Hakuna mtu amesomeshwa juu ya hii kitu, ile old sheria ile ya zamani hakuna wana-Kenya, hakuna watu wengi wanajua, pengine nyinyi tu provincial pengine lawyers na watu wachache. So, ningetaka kusema ile kitu wakati itaenda through ije kwa experts, ije down to the people watu wasome pole pole wakati ikifika kila mwana-Kenya anajua sheria kwa fingers zake hata atendewa makosa anawesa ku-point kuzitaja. So, bwana Commissioner tembea vizuri, rudi Baringo ni nyumbani kwako, Rift Valley ni nyumbani. Yale yote umechukua, siri Bwana commissioner ni kwamba hatujivuni lakini ningetaka kusema ile itatoka district hii ni ile itachunga wanaKenya to be sincere, yale yote hao wametaja hata ile kabila yetu ndogo ndogo itoke hapa na ionekane ni akina nani.

Thank you very much you have been asking like us katika hiyo kamati so ningetaka kuchukua nafasi kukushukuru binafsi, secretariat, utusaidie ili watoto wetu wapate nafasi hizi kama watu wengine. Thank you very much. **(Clappings).**

So, wananchi wa Baringo shikilia hawa watu wetu watatu warudi na tunaamini tunaombea Serikali kabisa, Mtukufu Rais Baba wetu, asivunje hii kitu mpaka tupate Katiba mpya. Asante sana. **(Clapping).**

Elijah Korir: Okay tutakuwa tunapea Pastor atuombee ilitufunge mkutano wetu, tusimameni.

Prayer by Pastor: Basi na tuombe. Mungu wetu ni asante kwa wakati huu pia tumefika tangu tuanze mkutano huu umekuwa pamoja nasi, umesikia majadiliano yetu. Na Baba wetu wa binguni maombi ya watu wa Baringo Central ya kuwa hii Katiba iweze kutoka kabla hatujaenda election, Mungu na pia uweze kuzungumza na wale ambao ni viongozi wetu wa Serikali. Baba wa mbinguni ninaombea wao ma-commissioners wakiondoka kuelekea North Baringo, Baba uweze kuwaongoza mpaka wafike huko wakiwa salama. Na kila mmoja wetu mwenyezi Mungu uweze kutuongoza mpaka tufike nyumbani tukiwa salama. Mungu ni asante maana tumeona mkono wako. Baba tunaombea Katiba hii, yale yote ambaye itaandikwa ni ile inakutukuza Mwenyezi Mungu na ile sio inaenda kinyuma na sheria zako Mwenyezi Mungu. Baba nimeomba nikikabidhi kila jambo mkononi mwako, katika jina la Yesu Kristo aliye mkombozi wetu. Amen.

The meeting ended at 4.30 p.m.

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