

**CONSTITUTION OF KENYA COMMISSION**

**(CKRC)**

**Verbatim Report Of**

**DISSEMINATION OF REPORT & DRAFT BILL,**

**BOMET CONSTITUENCY, AT BOMET COUNTY COUNCIL**

**ON**

**TUESDAY, 8<sup>TH</sup> OCTOBER 2002**

**CONSTITUTION OF KENYA REVIEW COMMISSION**

**DISSEMINATION OF REPORT & DRAFT BILL OF BOMET CONST. HELD AT BOMET COUNTY  
COUNCIL ON 08.10.2002**

**Present:**

Com. Mosonik arap Korir

**Secretarial in Attendance**

- |                    |                        |
|--------------------|------------------------|
| 1. Mary Kanyiha    | - Program Officer      |
| 1. Zipporah Wambua | - Verbatim Recorder    |
| 1. David Cheruiyot | - District Coordinator |

**The meeting started at 10.25 a.m. with Com. Mosonik arap Korir as the Chair.**

**David Cheruiyot:** I would like to take this opportunity to welcome you all to this very important function that is the launching of the draft review. Before we proceed, may I kindly request if there is any pastor who can lead us in a word of prayer so that we start with a word of prayer.

**Pastor:** Tombe. Baba wetu aliyekuwa nasi siku ya leo. Twakushukuru kwa sababu umetuleta hapa kujadili jambo hili la sheria au Constitution. Twakushukuru kwa sababu umetupatia usalama Hata wakati huu, au tukiendelea, utatubariki, utatusadia ili tukuje kuelewa mambo mengi kwa haraka, ili tuweze kuenda haraka kwa jambo hili ambalo liko kwa siku ya leo. Baba wetu wa bingu ni, twakushukuru kwa sababu ulimleta commissioner hapa kutoka mbali na wale watu au wageni wengine ambao wametoka mbali. Twakushukuru kwa sababu umetuleta hapa kwa usalama. Eh Baba wetu wabinguni, tunapoanza mkutano huu, utusaidie na utubariki kwa sababu naomba hayo yote katika jina la Yesu, Mwokozi wetu.

**David Cheruiyot:** Okay, now we are going to start and all of you are welcome. I will ask our official is from Bureti,

commissioner, program officers you are highly welcomed. As the program goes this way, the first part of the program is registration, which is going on. Most of you have registered. The second is the opening prayer which has been done. Introduction and purpose of the dissemination forum. Objectives of the entire process and structure of the process. Then process and steps leading to draft report and overview of the draft bill, that is chapter by chapter, highlighting and forum discussions, Debate question and answer and Lastly ending prayer.

The two parts of the program, i.e registration, opening prayer and the third part I am going to handle, I am David Cheruiyot, district coordinator, CKRC, Bomet district. Actually, most of you who are in this hall have participated since the start of the review process, you attended several civic education, you have also given out your views and now that your views have been somehow been used in preparing the commissions report and the draft bill. Now that we have the draft bill already with us, the purpose of this meeting is for us to launch officially the commission's report and the draft bill.

On page two, each and every Kenyan citizen should be in a position to discuss what is entailed in each and every chapter of the draft bill. The discussion or debate on this chapters is to prepare us for recommendations to be handed over to the National Constitution conference and as most of you are aware, the National Constitutional process will start on 28<sup>th</sup> of this month until probably 28th. We are now going to launch it out and to encourage all the participation of the public to debate on it, come with their own recommendations if there is any chapter or any clause which they want it to be removed or modified to meet their needs. We shall then recommend for that view and if you recommend the chapter then it will be amended under the discussion of National Conference.

**Mary Kanyiha:** It is also in chapter five and under part (b), we had miscellaneous items, freedom of speech and safety, powers, privileges and dignity. The public access and manfiction and parliamentary service commission. That is a sensitive chapter, please read it so that you that you aware of rights in future.

Chapter eight covers the president, what we call government of the president. It defines the principle of the effective policy and the structure of national identity.

Part two talks about the president and vice president. The duties and authority of president is also defined. The state functions that the president is supposed to carry out, the decisions of the president, the section of presiding powers, the right to hold elections and signing of president, qualifications of president and vice president is all defined here, what type of a person should be elected as a president. Procedures\ curtailment represents elections, how soon after the election does the president assume the office. That is well covered here. For how long will the president serve in the office. The protection of president and vice whether in office or leaving office. Whether the president can be sued by all means. It is all defined here. Does the parliament has power impeachment, or to remove a president from office. What happens when there is a vacancy in the office of the president for whichever reason.

It also going to talk about the office of the vice president. What happens when there is a vacancy in the office of the vice president, the functions of the vice president. The new Constitution defines the functions of a vice president. Then Salary and allowances of president and vice president so chapter eight basically covers the president and the vice president .

Part three of that chapter, covers the powers as we have in the draft, of the prime minister. Many Kenyans expressed the desire to have the office of a prime minister and the commission just put the Kenyans views here and the prime minister. This part explains how the prime minister will be appointed, for how long he can serve or his term in office, what happens when we want to refer him or how he is impeached from office, the procedures.

We are also going to talk about the Cabinet, the decision on the responsibility and accountability of cabinet, who appoints the members of cabinet, those are the minister, what exactly are they supposed to do, who allocates the office to them, how are they supposed to behave that is the conduct of members of the cabinet, what about their salary and allowances. The absence of vice president, prime ministers, deputy prime minister, ministers and deputy ministers from the republic. Before those people were not there for whatever reason. How does the country move or how does the government continues. It also focuses on the permanent secretary and the oath of a condition of ministers and permanent secretaries. This is basically the act that runs their affairs of the state. That is the cabinet and the permanent secretaries.

Chapter nine covers judiciary in the judicial and legal system. Initially are the judges and the courts. That is the judicial system. That is what is covered by chapter nine, the judicial system. The judicial powers, the powers of the judges, the independence of the judiciary, the supreme court. This is an indication which many Kenyans expressed their desire to have, that is the supreme court. The general jurisdiction of this court, what gave it a tendency at the supreme court level. The supervision of jurisdiction of the supreme court, the court of appeal, the jurisdiction of the court of appeal, what cases go to the court of appeal, the appointment of judges who actually appoints the judges. For how long will the judges serve, that is the tenure of judges. How do you remove them from office for whatever reason and the Kadhi's court, this are the courts that deal with different issues, what about their jurisdiction, who appoints the Kadhis to their Kadhi court. What about the qualification for a Kadhi court, what pay roll does one have.

Judicial service commission, the functions of the judicial service commission, the appointment and removal of Kadhi's judicial officer. If a judge is required to be removed from office, the draft explains the procedure it will use regarding the salaries and retirement benefit of the officers of the judiciary. There is a part talking about the legal system. This covers Attorney general, the director of public prosecution, public defender and the honorary of mandate. It explains the different offices and functions that those specific officers are supposed to do. Then we have small part there, part three, the profession of law. This is the area that covers the lawyer. Please read for yourself and you will get to know what the Constitution the draft is recommending.

Chapter ten, we have the devolution of powers if they would basically bring in the powers of the government closer to the people. This was also another area which was highly commended by the Kenyans, that the powers of the government should not be inside Nairobi or where ever, this should be brought closer to the people. And this particular chapter covers the general principle of the devolution of powers, the organization, how the powers are used if brought closer to the people. The level of government. We have the village government, this is government at the village level, we have the government at location level and we have the government at the district and provincial level. This is what is recommended in the draft that these are the various levels we shall have so that the powers of the government are brought closer to the people.

Part three, covers the powers of devolved government and it is a governmental relation. This defines the powers of the district government functions, the provincial government, the urban government, survey or devolved authorities, financial arrangements, commission and local government, finance of natural resources. How are the natural resources going to be shared out. intergovernmental relations, organization against foreign investment office on National level and both levels, corporation with district councils and District, Provision for the commission and interpretation. This particular area directs the replaces if you like, what we have now the provincial administration. Provincial administration should be left with a problem a closer sort of government which is closer to the people and that is what I have gone through, to the various levels of government.

Chapter eleven, talks about land and property. This covers land policy frame work, ownership of land as expressed by the Kenyans to the commissioners, the application of land; whether land is going to be free hold, clan hold or state and all that is covered. The tenure of land, protection of property and land and the establishment of national land commission and how you understand those various aspects or the interpretation. This particular chapter was very complicated to many people because as you are aware we had mentioned the misuse of land, so please read it so that you get what the draft Constitution is recommending as far as ownership of land is in law courts can come in.

Chapter twelve talks about environment and natural resources. In other issue of environmental protection, the natural environment management commission, the enforcement of the environmental rights and environmental expression. As you are aware we have heard cases where Kenyans are crying out when pieces forests are being cut off and may be allocated to individuals. And the rivers are getting chocked in that way, we have plastic papers flying all over the place and the Kenyans say if we are not careful as Kenyans to protect our environment. You we can not retrieve it but we can destroy. So this chapter covers the environment and also the natural resources, the rain the rivers, the forests and all those other gifts of nature.

Chapter 13, deals with public finance and revenue management. It is a fairly long chapter as we can see, but it mainly cover the principles of objects of public finance and revenue management, how the government is supposed to manage the revenue that is collected from all the Kenyans, how taxes should be imposed, the consolidated fund, the management of that fund is withdrawn from the consolidated fund, financial year estimate charged on the consolidated fund. The funds government will borrow or lend,

public rent, central bank of Kenya, functions of the central bank, the controller of budget, auditor general, removal from office of comptroller accounts and audit economic and social aspect. This would be an interesting chapter for Kenyans to read so that you know what the government is expected to do with the money they collect from you and me.

Chapter 14, covers the public service and the public administration. It talks about the values and principles in administration generally, public service commission, powers and functions of the public service commission, establishment of offices, appointment of public officers and protection of public officers.

Part two of that chapter deals with the Kenya Police service .you will notice that the people Constitution proposes for the change of police force. Now they are called Kenya police service. That sector gives 15 process objectives, the establishment of the Kenya police service, the appointment of the commissioner of the Kenya police service.

Part three, gives he correctional services. These are the jails and the rehabilitation homes. What are the principles and objectives? The establishment of the Kenyan correctional services. These are the laidouts. The commission thought that they should not be called jails or whatever else they have been calling them but they should be used for corrections because once the person is in there he should come out a better person. It should be a correction center or the jails should be giving correctional services. Appointment of the director of the Kenya correctional services. Part four is like a petition. There is a petition so that you understand what the chapter talks about

Chapter fifteen deals with principles and objects of defense and national security. It talks about the establishment of the national Security Council, functions of the national Security Council, the defense forces and the commanding officer. That chapter deals with our armed forces, you will get appointed with what exactly you reported for the defense officer.

That chapter sixteen deals with leadership and integrity. Application of chapter and responsibilities of the office. That is a interjection for an office and that chapter talks the responsibilities of that office. The leadership and integrity office.

Chapter seventeen deals the Constitution commissioning. This are the commissions which are established other than the Constitutioning. The principles applicable in the incorporation of in formation, confirmation, devolution and the general functions containing the removal from office from officer with this commission. The funding of these commissions, the annual and other reports that this commissions are going to establish, section contributonal commission, commission of human rights and administrative justice, ethics and integrity commission, Constitution commission and Constitutional holiday. These are special Constitutional commissions, which were suggested by the Kenyans to be included in the Constitution.

Chapter eighteen covers the amendment of the Constitution. The commissioner at the beginning explained the process; the commission went through in the making of this Constitution. So this chapter is addressing the issue of amendment. How should

the Constitution be amended? It covers Constitutional amendments and particular aspect of the Constitution can be amended by parliament and the certificate of compliance. Please read this chapter keenly because we have involved in the Constitutional making so that it is written there that you know how the Constitution you have gone the process of reading can or should be amended.

Chapter nineteen deals specifically with interpretations. The interpretation arose that you have to understand the areas that are covered.

Finally chapter twenty, talks about transitional and consequential provision. This is the action by parliament and transitional and consequential provision. That basically reports the various chapters are covered by this draft Constitution but all the other pages contain the details. So read the other pages so that you get the details of what we have gone through. Thank you.

We shall go to another area, which is not as boring as what we have been through. Commissioner Mosonik will highlight the relevant conceptual practical and philosophical difference between the existing Constitution or the Constitution under which are operating and the suggested or the draft Constitution. Thank you.

**Com Mosonik:** May be before, I was told something, Kenyans are from age 37. Can you open page 37, and the second column from the right, the bottom, i.e. the first schedule, my colleague had mentioned that the territory of the republic of Kenya is returning to the Constitution and the boundary of the republic of Kenya are occupied for the first time. You remember the problems we had with the shifters about the boundary of Somalia, sometimes there are invasions on Lokitoktok, and sometimes they are quarrels on lake Victoria regarding the allocation of boundaries. The boundaries of Kenya with Uganda in particular are also sometimes, with Tanzania. Because by looking at the first schedule you will be able to tell exactly what is the land and sea and air territory by Kenya. Actually this schedule is talking about Kenya Uganda territory. It is continuous, Kenya Sudan, Kenya Ethiopia, Kenya Somalia, territorial stream and economic boundary up to page 41. It is a draft to the understanding of our territory and please look at schedule number one. On page 41 to the right we have the present schedule, which is on the provinces and districts of Kenya. The provinces are listed and the boundaries are limited and the districts that are in that province, Nairobi being a province and also one district and Riftvalley with 18 and so on. Those are the official districts that are in Kenya right now and I think they are about ten they end from page 42.

On page 41, there are the national symbols of Kenya, national flag, the anthem, the coat of arms. The public seal of Kenya are as prescribed in 3<sup>rd</sup> schedule, and going all the way down to page 44 to the (*inaudible*) it has all the other..... Now page number 44 please, the fourth schedule, is the one about leadership and integrity code of conduct. And that is very important one. Read pages 44 to 45 taking for example that some one who has a public office must not earn much from more than two public offices. Public officers should not be rendered however from holding shares in the private sector, a public officer can not maintain or accompanied upon a car out side Kenya. The speaker and the national speaker shall declare their assets and

liability. The person to be elected as a president and vice president shall not begin to perform the functions of office unless he or she has declared the assets and liability. Then an account shall be opened for those assets and liabilities and the information there has to be accurately given otherwise it is an offense. For example you can punish him and so on, the general conduct office but also the conduct of that person in relationship to the issue of corruption.

The issue of corruption is covered there and also the idea that when you are in office you are in office for the purpose of your immediate family and immediate relatives and you may have to declare your wealth so that it is seen that you are not initiating bad records for private bodies.

Also the powers for the national and district government. My colleague has mentioned that that is supposed to be a different office. Anybody say that there was, if military system, or we Majimbo eventually the commission has recommended that there is no state with a mere level of revolution of government. On page 46 at the bottom, page number two, district government. What the district is supposed to own and on top of the page, what the national government is supposed to do. The nature of the page that comprise with what role of the national government and the district government are supposed to know. Now the tendency of what has not been worked out in the draft bill is proposed that commission will enact the judicial if there will be a need for those people of parliament and other levels. We expect our delegates are representatives meaning the three from the district but also the MP and any other to be ready because there may certain changes in the national level which we think we should be doing in the district or locally, lower or higher. And we should actually think that we it should our be happy on responsibility.

I would like to draw your attention to pages 46 to 47. Let me highlight some of those issues. These are the Constitutional and consequential provision. They were provisions to determine a referendum but these are what need to be done in order for review for requisition. And we propose that all the services we propose will yield next year. Now we go to right, duties and progress for the public meaning whatever has been the responsibility for Kenya before this internationally shall continue. We talk about existing laws and they are to continue and let them be consistent in the new Constitution in which every report ought to be revived and then we are talking about the elections. Can we please look at the election page 46, we can see the new election, it says number one, in the event that the first election that is the 1997, are held after the coming report of this Constitution that election it shall be held within 60 days of the coming to force of this Constitution.

The next one on top of the right hand corner of page 46, this one should be the beginning, it says on page 46, at the top line. What we call the entry into force of this Constitution has held office for two or more terms, as president is not eligible of this;

- (a) Ban from election as president as vice president or as vice president or prime minister.
- (b) Is not eligible to be elected to cover the state prime minister, minister, deputy minister or MPs.

For whoever will be president for more than two terms before the coming to force for the new Constitution will vie again for vice president, prime minister, deputy prime minister, for minister, for deputy minister and for the MP.



The next, involves number five, any person who would otherwise have been qualified to stand for elections but for provision of this Constitution is eligible to stand as a candidate in the first election held under the Constitution. The new Constitution showed many things including showing age of a candidate of a president is, qualification in academic and others, but we are proposing here is that this rule shall not apply this particular time. If you are a candidate who is slightly older than 70, they can stand but when he is MP he can stand, the other is issue, is about that qualification is that but we are saying they have been compromise other for now. Around this time, which are not graduates and are qualified otherwise for this time they can stand.

I would like you to pay attention to these transitional conditions. By the issue of the commission, the political rallies, the issue of revolution after the appointment of the commission shall have to comprise with provision of the leaders position and when the Constitution comes in force, one is to declare wealth and so on and so forth must be done within 60 days of enacting the bill for this Constitution. On the coming into force of this Constitution, there is no place for administration comprising sub chief, chief, DOs, DCs and PCs commonly known as provincial administration shall be done. So to mention by employees that the Kenya with the provincial administration. All public officers under the provincial administration shall report to the public service commission for re-deployment. Kutafuta kibarua mzuri.

Now there is something about the judiciary at the bottom of page 47. I am not going to talk about that because we have been called to a hearing tomorrow to talk about the judiciary when the courts have said we should not. It goes back into parliament. So I am not preaching it, but please at what it says about the judiciary.

Lets go to the right part of the page, the second part. Death penalty shall now be outlawed. Any sentence of death pass by any court, before the report of the Constitution and which is no longer the service of an appeal shall on the final report of this Constitution, be committed to a sentence of life imprisonment under parliamentary rights, it is declared that every body has a right to life and nobody can be put to death. So we have abolished death sentence and all those people who are waiting to be harmed with a needle will automatically have their attention not completed in life imprisonment. Then the power of commission can take off heed. So any body committed to life imprisonment but the reverends office can .....

Number three, every process of corporal punishment charged before the coming into force of this Constitution is remitted and shall not be carried out. For anybody a live is supposed to come to office but they don't have do that anymore. The final thing on the rights.....

Number sixteen, the permission of the boundary and the shall within six months of the coming into force of this Constitution on the petition of any person or on all should:-

- (a) Investigate all forms of human rights and duties by any person before the coming into operation of this Constitution, it shall be any violence of human rights before this Constitution it will therefore look to this disputes of the commission of human rights where we can give them what they take them or the commission itself.

(b) Then it will investigate the process of civil strife, including mother tongue, tribal clashes and genital or women circumcision.

(c) Make recommendations regarding:-

1. The Constitution of human rights.
2. The amount of contribution to issues.
3. Reconciliation
4. Preparation and preparation means paying that contribution.

Ownership of land. Upon ownership report of this Constitution, non-citizens will not have the right to own any land in Kenya or lease for longer than 99 years. Some of the land, I remember is being leased upto 999 years. If there are any of them who own and they are going according to this provisions they must go where they come from. That is common in Kenya that you would want to determine to make recommendation top access on whether you agree on what publications or suggestions you make.

How the new Constitution will highlight elements of differences between the old and the new Constitution. It is supposed to be on section conception, practices and so on when we were doing civic education, they used to use the current Constitution to compare and say how does that one stop me from carrying this. And you combine with the Constitution of 1963, what of this one. If you have been looking at it in terms of each chapter but also in terms of the chapter and we are talking about, I think it is chapter seventeen, you can check later. The previous one is page 13 of the new chapter. Therefore all the chapters have an international. And in the old Constitution including what my colleague told you and he can determine what a preamble, which was not there before. The question is you and me in the preamble. We are talking about the new Constitution.

Second you agree on the arrangement of the chapter because somehow the way they are arranged are well framed and understood. Any of the problems with chapter two is of the executive then followed by parliament and then the judiciary. Here it is a bit reserved that is parliament and then we go to employment and then the initial and then things like that. Under employment it is supposed to be covered in the new Constitution the people driven of this Constitution. The first one carrying *Inaudible*. The member of parliament group is supposed to be improvisation for them to be having orientation of the people. Then if those people you think are good, the citizenship should be in the confirmation. They are automatically regarded a Kenyan. A Kenyan who has not *Inaudible* will have to be *Inaudible* and above all, husband can not be a Kenyan and if this is not the case, the husband of a Kenyan citizen named automatically and a Kenyan citizen and another thing which you would like to note is that there is most will be citizens.

A lot of people are saying that he is also a leader and bothering American citizens are citizens of Kenya. While we were in Mount Elgon the people of North Eastern also they said they are on the border of the Sabao... and it is said that it is responsibility of the government to provide the rights and if there is a need then it is their duty to prove that they don't have the money. There should be a responsibility of the government to provide bills of rights has a responsibility to create provision for those rights to be informed. Then they should be two houses for parliament, at independence or there were two houses, upper

house or lower House of Representatives.

Now there will be two houses, national council and then the national assembly chamber house. Also in the election process, upto now we are we will have elections, it is called first at the post, whoever has the majority even if it is a small majority, he is automatically an MP or whatever. But now there is provision also or another way of electing people called proportional representation. Which may be I will not go to now, it will be tackled later. The provision for independent candidate. No candidate of the party or to defend the candidate of Kenya because that was a party that independent candidates can move on, on the voting and then there are not supposed to look for that including that they have gone a general election and are following the Constitution and are having also democracy gifted roles and are not having judges and they are not conducting rallies during elections. But also there is supposed to be some money to be paid to political parties what she called the political parties fund. It can be boosted in a particular way.

Another thing, the president will be eager and he may want to discuss whether after the elections the problem is a ceremonial problem or an executive problem. This was not there in the old in old Constitution and be MP, will no longer decide on their own calendar and a body called emuneration and salaries commission to deal with this. Then there is a right to recall MP, what they are supposed to do and when they disappear from the Constitution for a very long time, we have a right to recall them.

In such rule again, there is a new..10% abolished, but most important is that the 10% is 50% so we are saying the person who left 20% and then 20% is half or more of the constituency.

Part three, number one and number two is going grass root MPs will not be registered because they start contemplating in Nairobi and forget their constituencies. They should concentrate on being MP and the ministers will be a person to appointed outside the parliament or professional. Later, the president can be impeached and the prime minister can be thrown out through a vote of no confidence.

There is now devolved government which is not there in the present Constitution and which was there in the independence Constitution and the devolution in the independence Constitution was to be recognized for provinces or regions. This one is suggesting the main powers should be given back to people, the provincial administrators. There will be a supreme court. We were asked what is this Constitutional court that the Supreme Court will be also in court. Then think about judges. The kadhi court is strengthened, the administration to be, will have to be absorbed into the *inaudible* so that they are not there and then the police are supposed to be more responsible, be more intelligent, be more responsive into kadhi, there issues of environment and there issues of land.

One of the issues of land, and which was called Akiwumi commission, land is a Kenyan property. But in general land is that public land, communal land, but before the coming into force of this Constitution, parliament shall enact laws from the

Constitution of Kenya and build the right establishment. The review of all land or repossession of government, public land will be establish the right and validity and determine whether or not that land or distribution should be repossessed and then there is even a statement of role playing progression of land in the coast, north eastern and Rift valley province provided whether arise.

**David Cheruiyot:** Thank you very much commissioner for that wonderful presentation. Now we are at the stage of forum discussion, debate, questions and answers. But now before the floor for the participants recommendations on page.

**Mary Kanyiha:** We are expecting any questions that you may have. We shall try to answer them and as quickly as you can, we shall also allow your consultation because you have left the draft or review should be included or should not be included if you are going to, give those views that you think you want to be included. Remember also we have got 30 days to do this exercise you have representatives from the district who will going to the national conference at the end of this month. You should give them even as we have left like we have issued what you did further. You need to give those views to your representatives; you should be free to do that. So we shall take the questions, don't take too long so that we are able to take as many questions as possible and we request that whoever has a question to come up here so that we are able to record those who will assist some of us who have catered for so we are ready to take any observations any questions, any comments, anything you feel you need to say about this draft. Karibu.

**David Cheruiyot:** I would like to tell you indeed welcome to question, answer session. You are free to use any language that you can best understand so that we don't refuse others their right to ask their questions or recommendation. I would also like to ask the three elected district representatives to the national conference to be with us here. If you are with us please stand up. Over there we have councilor Alexander Kipngetch Chepkwony and here Caroline Cherotich Ruto. Councilor Chepkwony is coming from Bomet Constituency, Caroline is from Chebalungu and Mr. Joel Kipyegon Sang is representing Sotik Constituency but he is not with us. *Ngo mache chi koteb tebut anan komwa ng'alion, ko ngot ko mamagase English anan Kiswahili kochamdayat koteb. Ak komwa kainet.*

**Arap Turgut:** *Ane kekuron kipsenge arap Turgut. Amenye kokwet ab Chepngaina. Ko ng'aliot nekamache ko ngalio ne kigaa sire besio. Ngalek cheba Katiba, kemache Katiba ne lel. Makibaisien Katiba ne yos. Makibuche kot ak keweche saratik kobwa ko.*

**David Cheruiyot:** We are going to interpret and as we wait for Caroline, the old man is saying we would like the new Constitution to be passed, we can not use the current as is clearly indicated that when you sweep the house, you can not bring back the same produce to the same house you have just swept.

**Arap Turgut:** *Angalal Ana kayam?*

**David Cheruiyot:** endelea.

**Arap Turgut:** *kit ne mi ko kit ne mache emani ko mache indab kagile kakichop ngalek ab Katiba kemache Katiba che lelach che matun kililen ba kenyisiek bogalisiek amakitikin amda emani.*

**Caroline:** inaudible because the new Constitution its state can protect the young citizens.

**Arap Turgut:** *kou nan ii alalen mchang' che kimwae, kimache kele kit age tugul kemache ki age tugul komiten komie, kimache kalyet kimache chamyet. Makimache chi ne itu ne kakilewen a si ko nyokowek teget, ko teget ko kakakile ngochandit ne Makimwae.*

**Caroline:** We don't want to elect someone and then he disappoints us.

**Arap Turgut:** *Anchu lagok che megench kotelelyo ingunon, mami sukul, lagok kotelelyo, kanetik mami sukul, kotelelyo sigik ne arageny ne ki kwange ko non ko makemache ke ketyi ke komaso kogeny. Kit ne kagemwa kemache kikochi kinywan. Amun nda ngete boiyot kwandab lagok, ak angal lagok alenji aibwa kit ne kigile ak akachi safarit akenge kumyandanikan ne matakiga chi kolelen ne lagok. Bamomgo ko kaberberindet.*

**Caroline:** We want the government to implement the pending teachers salary as they had come into agreement.

**Arap Turgut:** *ko matinye che chang kobaten chon niton. Ingotaretech Jehova ak ke konech chito ne tun kileweni ko lewen emet, Mami chito ne kimutu asi kenyokele oini chichi, leweni emet kouon kibire imbiret. Kagoyam chon. Alelen kon goi.*

**Caroline:** I don't have much to Say. We want leaders to be elected not imposed on us.

**Arap Turgut:** *Kautien ng'aliot akenge. Bwana gentlemen Kimache kou kirwagik kemache kelewen, kou yon kileweni wabunge. Imuche chito kobur en ngecheret kotai ko mekongen kole kikile.*

**Caroline:** We want to elect our chiefs because some people and take their appointment for granted.

**Arap Turgut:** *Ogo inoni kileweni kowa bunge ko kagi le konyek ab emani ko kemache kirwagindet ne ba yoton konai, makimache kereben chi kinyin. Kokoit wanyanyi che nyo koalda koret ab chito. Kateno chon.*

**Caroline:** We want the chief to be elected by the people and not to take things from the people.

**Arap Turgut:** *makobur ba kome ngecheret.*

**David Koskei:** I am David Koskei, representing the disabled, Bomet. Having heard what the commissioner has said concerning the draft Constitution, I would like to say that 10% of the population of Kenya is made up disabled and as far as chapter seven of the draft Constitution is concerned, I feel that the women have been taken care of in the parliament.

I would like to suggest that being the disabled of 10% of the population of Kenya, they should also have some representation in parliament. At least we should have some few representing the disable, which is nominated also by the disable, regulation.

Thank you.

**Chelule:** I would like to say that the commission of Kenya 10%, David Koskei, I would like to explain that the population is composed of 10% of disabled. I think that is untrue. It is not correct; it is not even 1%. I think this business of disable has been forward long. I think we should sort and I realize this is not going to be less than one percent not even half a percent no even quarter of a percent, so I would like to challenge you that on what schedule were you saying that. Where did you get your statistics?

I have got one comment as far as this Constitution is concerned. It is about the representation of women I think it is on page five. If you read the principle that one third of the elective post should be reserved for women and also appointed by posts. If we speak of an elective post that it should be reserved for women then that is no longer politics. Politics is competitive and no elective post should be reserved for women. They should fight it out. Now one third of the posts is actually ladies. Look at the MPs they are about 210. If we had 70, just imagine 70. My point is this, elective posts are competitive, we have got to fight it out and in any case I think there more women voters than men. Why, if they want even a big portion of the reserved. They should even go and convince women to vote for them.

My point is, I think this should be discussed the part that they should not be like that. Only women are out, they go and compete along with men and that is that.

**Mary Kanyiha:** Thank you very much. Please lets respect each others views because he is entitled to his own views and you are entitled to your own views. Please lets respect each other's views.

**Richard Mibei:** My name is Richard arap Mibei and I have my few contributions. First of all I would like to thank the commissioners for the good Constitution, which should be represented before the next general election.

However, I have some few amendments that would be made like that of the representation of women or receiving 30% and at the same time the contribution of the draft bill I am going to say women should be treated equally as men. It now a bit contradicting itself in the sense. Actually we should not reserve. The Constitution should not be discriminative but should say let the reserved post for women be one third and at the same time the women should be treated equally as men.

Another correction is about the people worship. There is a section, which says there is freedom of worship. I feel you should have included that there is no freedom of devil worship. Thank you.

**Nelson Rono:** Thank you very much the commissioner and all the today's participants. My names are Nelson Rono, from Bomet constituency. As per the Constitution, I would like to congratulate Professor Ghai, for producing a very excellent work that can assist most of the Kenyans who normally have been frustrated by the current Constitution, say that there should be freedom of expression. Whenever some people assemble themselves just to discuss something for example the development of their place, they are being told there is no license security and yet, they are the people who yield from a certain particular place. So on my opinion I would like to Say that the new draft Constitution should be implemented immediately and we will go to the election with this new draft Constitution. It will not be good for the Constitution not be used during this coming general election yet alot of money a lot of public funds have been used in drafting it and you we were expecting to use at this moment when we are going for the coming general election. Thank you.

**Wilson Sossion:** Thankyou very much, my names are Wilson Session, executive secretary, KNUT, Bomet from Bomet constituency. I would wish at this juncture to salute the work that has been done though with a lot of difficulty in all the hectic work that is done the Ghai commission for coming up with a wonderful draft Constitution that can give Kenyans a lot of hopes and success in day to day life in the near future. I would like to say more sections are very appealing to us.

I would like to query in line with my day today activity. The section on labour relation assembly or manifestation is highly welcomed. We have a life history, you are all aware what is happening at the moment and before I just stop here, the suppression of people's right can dipress the society and this provisions that are here we do welcome with a lot appreciation.

Public education. The whole section that you have, section1,2,3, I do agree but let us basically look at section four that every person has the right to establish and maintain at their own expense independent educational institutions that need standard laid down in legislation. If you look at what has been happening in the education press in Kenya. We have been longing to amply in the society. The establishment of this school has attracted the children of well to do families and elites of this society. No wonder even the teacher's strike is going deep to two weeks because the people who are supposed to address this issue have actually established some of the best schools that they put their own children.

We are more concerned here with the public child in that public school. Those poor families who make a larger population of this society, I feel section four if it implemented in total will actually contravene section 1, 2 and 3. That every body has a right to basic education including pre primary and secondary. I would propose an amendment in this section that the establishment of institutions by private individuals be restricted only to upper levels probably secondary and tertiary, but the primary level, we must have the government and the public running all the school and all the institutions so that when we get to public schools, we talk about lack of facilities. We have developed our citizen, people like Dr. Mosonik etc, which is one of us if we have got to do. If we have allowed section four, it will take us out of this school and we are supposed to join and integrated for the rest of the public for the rest of children. I believe if we address ourselves to section four, the area will really have several.

On other issues; Other sections we are also happy with the fact the Teachers service commission secretaries shall be vetted. Their appointment shall be vetted by parliament because we want an efficient system and probably other commissions in this solution. Salaries and enumeration commission we also welcome this because it is not logic when an individual in this nation is earning one billion today while another citizen in the nation is earning 2000, that is too bad and we believe there could be security of resources and salaries will not enhance sickness in the day today.

On other sections, I would also say that the devolution of power to the community is highly welcomed. The remnant of the colonial administration same page with the provincial administration reflecting at the moment in the society and one of the president here will wish all leaders in those areas to be elected so that they stand accountable to the citizens. We also welcoming the scrubbing of the provincial administration. It will become a good way of the government that has been in place and we have actually gone back to some form of colonialism and we believe in if elected we shall have a more vibrant and focused society.

On this Constitution, you have given a section on transition and consequential provision. I don't know whether you gave this as stop come nature incase you don't achieve and sent this Constitution before we go to next general election. We insist strongly that parliament's life to be extended so that this Constitution can be entrenched. And in the Bible it says you can not put new wine in an old wine's tin it can not work which beliefs this Constitution if entrenched we can begin a better society on a very good note. Therefore we call upon the commission to do all what it can to appeal to parliament to ensure that Kenyans actually go to the next elections under the new Constitution and we shall make this nation for the good of every one and for the children and the generations to come. Thank you.

**Mosonik Bernard:** I am Mosonik Bernard from Longisa area. I would like to make general comments. First of all may I repeat general comments. I would like to congratulate very much the Ghai commission for coming up with a draft that is more petition than the old Constitution.

Point number two, is that I would like to talk about time or rather to be given more time to look at the draft so that we can exemplary comments so that we can avoid repetition.

Point number three is that our views should be taken.

Point number four that I would like to say about is that there should willingness for people of Kenya to change from old habits and accommodate new changes in the society today. Just as my friend has said old wine's tin don't accommodate new wine.

Another point is that we should have two seminars for the conduct of all offices, other offices that has been mentioned in the new draft. There should be two seminars which must be financed and our worry is if there is no enough finance and some of our



people, they say so that they can make their draft null and void, so I would like to appeal to the international community to finance this so that we can have good benefit for this views otherwise there will be some people who would like to make this Constitutional draft that has been made, to be null and void.

Another thing is that there should be civic education to continue and it should be financed.

Another point is that, this is a question now; we have got two councils, district council and the national council. I am sure the national assembly will have all seating in Nairobi but I wonder where will National conference be held and will they get financed to make that go through.

I am coming to specific comments and that one will be on the draft bill. Page 26. if you look at page 26, there are the levels of government and the level of government there is the village location, district and the provincial so I wonder in page number three where it says the people will decide on the system of government. I wonder how they are going to decide. But what system is that mentioned in number three.

Another thing is that there is that there is no qualification for the administrators for the lower level and probably the location level. There is no qualification there. What is the qualification in the village government? What qualification is required? In the same point, I would like to say that there should be a provision on the national government. There should be a policy guideline that should guide the village government, location, and the district government. They had taken a half of those qualifications, so that they can follow the guideline to help them plan and again I wonder there how in the village government how are they going to enforce their moves in case of a particular issue that is arising in that village and then they find if there is an offender, where are they going to get the set up, how are they going to handle the issue, there is no clear guide how that the levels of government will be formed.

I am coming to the appointment the commission. That is page 32 especially the police service. Article number 3 (a) says the qualification of the commissioner of police should have a degree in order to be appointed. My comment is there should be serving officers appointed by one and my comment is there should be serving officers appointed by these commissioners. They may not have a degree but in their position, they help you academically until they attain a particular level as a commission of police.

Another thing is for the prime minister and cabinet page 22 article 171 to 6 (a) and (b). This is where by the president is one who is supposed to appoint a prime minister and taken to parliament for approval. So there are some steps that are being called. The bad one that is going to get one third and when parliament gives that person it brings in another person. If parliament rebukes that one again in the second round, the president now dissolves parliament that is very serious according to me. It is going to use a lot of resources in this country unfairly because to hold an election it is very expensive so instead of doing that,

dissolving parliament, those people who have been appointed in the first one, the second one if he doesn't qualify, the second one if he doesn't qualify, we look at the priority order of the day, the one with more in the first case is supposed to be given instead of dissolving parliament and putting a lot of troubles and problems in our nation.

The last one is freedom of worship, article 44. Freedom of worship, in freedom of worship we are now catering freedom of life. There is what we call evil worship and God worship where by people call it the kind of worship where there is disagreement. Rituals are in human beings vocabulary. There should be freedom of worship and therefore freedom of life can come in to our country where by some people will be, dissatisfied so I think that all the rituals must give us action of rituals we should write an article so that they tell us what sort of rituals. How are they performing their rituals? If it proves and if it happens that your ritual involves human sacrifice then there will be no freedom. There should not be such freedom of worship. Thank you very much.

**Livingstone Rotich:** This representation to it was very good. My name is Livingstone Rotich. I work for NGO. Bwana chairman, I would like to thank the commission and the chairman that I am totally happy. So we would like to support you because if now Parliament dissolves, so I guess most of you will support the commission particularly throughout the whole process.

On the draft. There complains here in Bomet that what is in the draft came from professor Ghai particularly appointment of visitors from professional for the exercise, bwana chairman, it was in this meeting, infact I have a copy of my representation and I said that through out many times if at all there equal representatives that are militants and therefore the government and nobody will get state house for Harambee of the president and it will be said there is sort imbalance. So ministers should not be pampered long. Lets start from professor Ghai. Those who claim if they want to consult they can we can rule them out.

On scrapping of provincial administration, we also started because it is not that the feelings of oppression by the government. Before when you criticize the government, they tend to sit down for a long time. So we had suggested that provincial administration to be scrapped and to be replaced elective post and I think majority of Kenyans will come up. It is not commissions view. It is views of Kenya. if you notice that it is not quite a blessing to those are in positions right would like to set a squad for changes to continue but it is not good for a the nation. Bwana chairman I am happy about today's program, I am happy about what has come out from the commission, we are saying that parliament is not going to be dissolve with current system.

**Priscilla Tesot:** Nafikiri nitaongea lugha. Thank you very much our commissioners for coming to launch this draft. My name Priscilla Tesot, chairlady maendeleo ya wanawake. *Ko netai amache amwa kongoi aen baisiet nekiyai professor Yash pal Ghai ak teamit nyin kotagai komang' Draft ne kararan neuniton.*

**Caroline:** First of all I would like to congratulate professor Yash pal Ghai and his team for the work they have done until we

now have the draft with us.

**Priscilla Tesot:** *Angen ale ki baisiet ne wo ako kiyai ak komang en kasarta ne kiyamgei.*

**Caroline:** it was a result had work and that is why we have the draft Constitution in good time.

**Priscilla Tesot:** *Kongoi en preamble ne kararan ne kimaketinye en tai ako inguni kigasegei amun kitinye.*

**Caroline:** The preamble is excellent. It actually reflects what the whole Constitution contains.

**Priscilla Tesot:** *ko amache ateteaji kamastab chepyosok en ng'aliot ab one third ne ba representation. Akere ko koyamgei.*

**Caroline:** I would like to offer my support on affirmative action and I wish to support one-third reserved position for women.

**Priscilla Tesot:** *Ngandan kingalalen ngalek ab equality ko en kebeberta age ko women are unique saome time mi boisionik che mamuche koyai because mi taboo che ta koyeten kwanyikyok inei ko mabarchigei ak men.*

**Caroline:** Though we talk about equality, men are more favoured by our customs more than women.

**Priscilla Tesot:** *Ako chepyosok any ko faithful amun birchin ichek murenik komie, they vote for men.*

**Caroline:** And they have always been faithful, they vote for men. We have been faithful to our men we support them.

**Priscilla Tesot:** *So nyalu kowa kou ole kogesirta one third of representation kobunji chepyosok.*

**Caroline:** We support the one third representation for women.

**Priscilla Tesot:** *Ko ngalio age ko ngalio ab corporal punishment.* Another point is for corporal punishment.

**Caroline:** Another point is on corporal punishment

**Priscilla Tesot:** *Mising ko en kebebertab lagok..*

**Caroline:** Especially with children.

**Priscilla Tesot:** *Mangen any lakwet ab muafrika ole kimuche kigachita discipline ngot koa ma corporal punishment.*

**Caroline:** I don't know how an African child can be disciplined other than corporal punishment.

**Priscilla Tesot:** *Amun akere kowui ki mut lakwet ne mingin ke ng'alaji kityo kor igere ko ketyingei makosa ne kokoyai abakora abakora. Lakini ye kigachi kergonget ab kirokto igere ko walaksei.*

**Caroline:** Counseling does not really help the corporal punishment better.

**Priscilla Tesot:** *So mache kitage reke bishan yon.*

**Caroline:** May be we should look into that issue.

**Priscilla Tesot:** *Ko ng'aliot ake ko ne ba death sentence.life imprisonment amun imuche ko mi chito ne kabar ingo ko kabare intentionally anan ko katiyo tuguk che mengechen ko gor ko kakwa sobondob inonin. Ng'adan kagirat inonin kenyisiek ab sobenyin, ko takobuse isine, ta kosobe, ko kwagere ale amune si maik eye for an eye.*

**Caroline:** I don't know why somebody who kills another person should not also be killed because if you don't value another's life, then your life should not also be valued.

**Priscilla Tesot:** *Kachon che katinye. Thank you.*

**Caroline:** That's all.

**Pastor Joseph Langat:** I am pastor Joseph Langat from African Inland Church, Bomet. Well I would like first to congratulate the commission for having come up with this Constitution. I am saying that one thing that I have observed here about freedom of worship. I would like to thank the commission for having given that freedom of worship, but again I would like to say they should have also been something to protect the worship because in any way there has to be order in worship. Like if you let me are coming up and claiming to be pastors some of them street preachers, before that they had a lot of problems because some them as they come up, let many people have come to lose their value thing because some of them are con men. They come up and cheat wanainchi that they will be praying for them may be to get healed and after they are prayed for some of them are claiming to have money.

And for this I would like to say that they will also protect the worship because..,like when we come again like in the worship in evening meeting have to minimize like now we have students need to go to school and we pray every time we have evening caesures from morning to evening and I have to see that again for those who would want to have rest in the night. So for me I also believe that to be sort of protected and again people have said devil worship also can come in. That is why devil worshipers have come in because there is freedom of worship, which again is also putting us in chaos which bring in cobwebs in the country.

Another thing is about the death sentence. I would, like to thank you because the duty to life imprisonment personally I feel to be good because still one has to kill. If he dies he will not have even known that he had done something wrong. And I think what you want is the change in character. That man to change his character and also he also may give his life to Christ which brings a difference in his life, because if he dies then if he will have repented he definitely was a Christian, no that is not enough. So you leave him so that he can change his character. And though he may not come to work for his family but still he will have time when until he dies. Thank you.

**David Sang:** My name is councilor David Sang from Bomet municipal council. I would like to start with a general comment by giving many thanks to the Ghai commission for coming up with the results of the compound reviews which were given the people.

My specific area, I would like to call your attention to, is the two houses of parliament. The National council and National assembly. As to my estimation this two houses are very expensive given the nature of our economy, therefore, we should do away with the national council and remain with the National assembly as usual. That also, I think the National council will also be duplicating the work of the National assembly because the two houses will be representing the same same wanainchi and therefore that is why I think one house is adequate for that purpose.

Another area is the particular article that says ministers should not MPs, I think they should be. The problem of appointing people who are non MPs to become ministers since the MPs can do that work, because if we appoint ministers and assistant ministers who are not members of the National assembly still they will be required to seat in the National assembly to answer members questions. So in a way they will still be MPs and yet they have not been elected by people and therefore that is why I think ministers and assistant ministers should be MPs only that they should be limited in number. They should not be more than 15 and the minister has got to have one assistant minister.

Finally it has been suggested that the police commissioner should be a graduate who is correct and I hope you wrote that. But the police who work underneath should also be very competent for the work. Therefore instead of training them for the usual six months, I believe first of all that the minimum qualification for one to apply to be trained as a policeman should be raised to a reasonable level, at the same time the duration of the training should be increased from six months to one complete years and the syllabus should also include such things as, human rights and basic law. Because majority of the policemen we have, don't know the a, b, c, d of our laws. They keep breaking them instead of defending them. They also don't understand many issues pertaining to human rights and therefore at least in their training, it should be included and government decisions pertaining to this review process. Education should be raised so that you understand what the new syllabus contains. Thank you very much.

**Kiprono Soi:** Thank you very much Mr. commissioner. I wanted to make a few remarks about the draft you have given us. My names are Kiprono Soi from Bomet constituency.

The point I wanted to talk about on the family, section 3 of chapter five. From it says a person of 18 years should marry. My proposal is, it should be reduced from 18 to 16 years considering the life spans of the current generation so that people can marry early because they will not live for long and sometimes die.

Another point is on the side of the enumeration of the MPs. That is chapter 7 section one. I was wondering about this

commission which will be appointed to look into the benefit and allowances of MPs. Who will appoint this commissioners and these commissioners will be answerable to who. According to me if they will answerable to the MP, they will do all the good to please the MPs by giving them a lot of allowances and salary than what is given in the current time.

Another point I have to talk about is the Khadhi's court. Khadhi's court is more of Islamic sharia. So I was also proposing we should have Christian courts, because Muslims have been favored by the fact that they have Khadhi's court because most of the things they do sometimes are not holding their leader Khadhis nor Christians. So we should also have Christian courts, which will be handling the cases of Christians since around 80% of the populations are Christians.

Another point is in Chapter 8, qualification for election as the president. We have been given in section one (b) that president should be of at least 35 years of age. This thing should be reduced to around 30 years because only considering the life span of the current population. Thank you very much.

**Donald Omuga:** I would like to thank the commission. I would like to commend on the work they have done and for organizing such dissemination exercise. I am Donald Omuga from this town.

I would like just to comment on the appointment of the prime minister. I think my colleague has said that the ministers should be MPs. Due to the reason he was saying that they will not be questionable of their accountability and responsibility, then they are not members of that parliament. So I suggest that either of them, may be the deputy minister or the minister should be an MP while the deputy minister can be appointed as having suggested in the draft Constitution. Only that Thank you.

**William Boinet:** My names are William Boinet from Bomet Secondary. May I speak in my mother tongue?

*Angalalen ngalek ab imbar. Ko en ngalek ab imbar...(interruption).... Kamwa ale angalalen ngalek ab imbarenik ko en ngalek ab imbarenik ko en kesisiek ab imbarenik ko kikobwa kesisiek missing ine ko kesisiek che teben kap DO ak kap DC ak kisipto kora ko ba Principal magistrate en ehek en ng'alek ab imbarenik.*

**Caroline:** I am talking about land issues we have land Cases, handled by or that are pending in DO's or DC's office so every thing here should be rectified.

**William Boinet:** *Ingomiten any kotini kewech kobwa senior Magistrate. Ko ingo mi yet kora kewe konyokoit gaa. Koger bichoton kobendi agoi kobek bik che irwakyindos twan ak koseretyo lagok ko notet I gere kityo kou ole kikeger en kokwatunwek kegere kele kaigai. Nda kiname boisiek chon teben kap DO ak kotar boyot ab kokwet ineken ak keger kit ne kigachin.*

**Caroline:** The cases are taken upto principal magistrate and later back home and all this take longer period such that the

people on the case may die before it is solved. He prefers that the cases be handled by the location elders.

**William Boinet:** *Amun boiyondoni eb ko kwet ko ne ingen tuguk tugul ako chito ne kanyol kotar kesit notet. Okot nda kibendi high kot ko chichotet ne tareako ba iman inendet.*

**Caroline:** It might mean that the village elder knows more about the land issue that the people at the high court are not conversant with such land issues therefore village elders is suppose to give the other residence a report.

**William Boinet:** *Kora ng'alechu ba imbarenik koime bik ab Kenya amun ingeba in gunon ng'alek ab land registration ko makingen beit amakingen kele tos kikisirtechin siling ata amun kitebenin rabinik che kakitebenin ngo Katiptem ngo ka sosom ngo konom ko meteben chi amun kilen jin kityo kigesir.*

**Caroline:** As per those land regulations, there is no define changes and each person is only asked the money the office demanded. So what he is saying is that there should a fixed amount because at times they are told 20,000 and another time they are told 30,000 so there is confusion.

**William Boinet:** *ko amun anyun kokechob Constitution ne lel ko amun kimakinyoru alak kasarta kemwa kit ne unoni ton, kesome commissioners ak Ghai koger kondeiwech asi kobit kechop beit ne ba imbarenik amun mi bik che kibananok che maimuche koliban kotebie kityo kotindo imbaret ama ne nyin imbaret.*

**Caroline:** I did not have an opportunity to present my views and I say that my view should be considered.

**William Boinet:** *Kongoi missing amache alenji kongoi kityo en baisiet ne kikoyai*

**Rosa Tapnyobi:** *Awae kongoi en okwek. Amwae kongoi en okwek en yu amun kokewal ne ki kuren Katiba.*

**Caroline:** Thank you very much for the work that you have done. I am happy because you have finished the new Constitution.

**Rosa Tapnyobi:** *Oko ng'aliot na mwae kogerge ak nikamwae chichi kano. Kigesertye akoba imbarenik. Kikerebenech.*

**Caroline:** What I am going to talk about is land issues.

**Rosa Tapnyobi:** *Oeh, kigurenenon kainet Rosa neba kirugi arap Torkoti. Ko ne mi kibandet ko Tapnyobi. Ne ba kirugi arap Torkoti. Akonok aionon. Akonu noba kibandet ii. Amwae kongoi amun kageger en yoton amwachini Jehova kikisaa akoba n g'aliondoni ko aka ingen Jehova betuni.*

**Caroline:** We prayed for this Constitution, and now we have the draft as a result of our prayer.

**Rosa Tapnyobi:** *Koin kikoimech bik ab survey. Pwane bik ab survey ak kopyei imbarenikyok puch ako bwane bichoton komangen yebachite, matebe kole atile imbaraani bang'o imbarani.*

**Caroline:** We have instances where surveyors just come and invade your land and survey, they don't know the boundaries

but they just survey.

**Rosa Tapnyobi:** *Manyokotebenen bik cheba imbarenik.*

**Caroline:** They don't consult the owners of the land that is when they are demarcating them.

**Rosa Tapnyobi:** *Kopyechinot choronok si koalde icheket.*

**Caroline:** We have cases where by there plots in town and surveyors will just have plots divided among their friends while the residents are left out.

**Rosa Tapnyobi:** *koamwa kouno. Amwae kongoi en Ngatutik ko ko taretech Jehova. Ingoberur bichuchok ak koik imanda kipkoi.*

**Caroline:** God bless you.

**Benson Rono:** Thank you very much bwana commissioner who just came from Nairobi. First of all, I would like to thank God very much for guiding you and the chairman until you have come up with a wonderful document which I believe will assist the Kenyans to prosper too.

I have very few comments to make today. My names are Benson Rono from Kembu location, Bomet constituency. I have a feeling on the fair trial, section 69 where the law allows the suspects to be tried within 48 hours, but there is the problem with some people who are not amenable. We have people who are reminded for about three years, waiting or awaiting documents from the Attorney General and may be later on they are acquitted and deported from the station. I feel that if police feel that they still have got things to do or documents to be availed from the Attorney General, the suspect should be left free until they feel they are ready to try the suspect and they can arrest or hang rather than having somebody in remand for a very long time. These people have very tricky thing which they usually take a suspect every two weeks for a case to be mentioned only not trial so you can say that one is still not fair to have one for more than two or three years just in remand and later on is submitted and there is no compensation and there is nothing. If somebody has to be in remand for more than three months he or she should be compensated for that.

Our land report is not very clear, that is why so many cases or you can see even the old ladies who were here they complained that they have a lot of problems with the cases of the land just because our courts are very hard to access. I think something has to be done to make it possible to access rather than taking people round, taking the public here and there.

Another thing is on registration of voters, and I don't think the requirement of being with ID, normally the ID card is the only requirement for voters' registration and I feel that a lot of voter's are left out because they have not obtained the ID. I feel that some other documents like leaving certificates for students, birth certificates and some other reliable documents to be used to



obtain voter's card for voting. Another thing is that registration of voters should be a continuous process.

On the extension of parliament, which I will also support that we have this document before the current elections which is supposed to be done at the end of the year. So that it is better for us to wait or persevere for three months or even five months for this document to be ready for us to use it in the election rather than going to the election and we wait for another five years with the old Constitution which it appears it can suppress the Kenyans. So we feel that we have this Constitution ready if it has to be if the government has to be extended it is better to extend them.

On the Christians courts which the colleagues have mentioned, I also supported it because initially we have a customary kind of law which also assists the local people to solve their problem but I want to say that the customary law, it appears is no longer applicable, no longer respected by the generation we have now. And I believe if it possible Christianity court to replace the customary law may be it will assist the local people.

Lastly, I would like to urge the three members who will represent us in the National Constitutional conference to try and attend so many public forums which due to this going through the Constitution so that they will have people, from the district on the Constitution on the amendments or its other changes rather than waiting until they go to Nairobi. They might take their own things or they might go there when other people are free. So they should get our views as much as possible so that they will be truly our representatives. Thank you very much.

**Mr Yegon:** My name is Yegon from Bomet Constituency. First of all I would like to thank the chairman of this commission, Professor Yash Pal Ghai for the work they have done for Kenyans. All Kenyans have provided their views in this Constitution. I have got some few suggestions to make. Article 49, the question of health still need to be said, Kenyans are having problems when it comes to health. For example, I would like if it is possible a law to be made to include that there should be no discrimination when offering medical facilities for example when we are having emergencies, you find some other people being taken to other hospitals, lets say black people taken to other hospitals and white people taken to other hospitals. I would to make that contribution that there should no discrimination whatsoever.

Number two in the question health is that there should be subsidies from the government in serious cases e.g. heart cases. Us Kenyans we are poor and sometimes we are told a relative is suffering from a heart disease and we are suppose to be contributing money and organizing harambees so that we cater for the huge bill which had incurred so I would like the government to subsidies in that.

In the side of professionals. There are no laws that pertain professional and the way I see is that professionals play a central role in our economy. First a law should be introduced such that that should keep strict rules when you come to malpractices, you find that professionals here in Kenya sometimes do malpractices so that should be ruled so that if professionals should be

chased away and for example engineers when it comes to valuing our roads they give fake reports that the road is good while there is no road. And for another case accountants, may they specified reports may be by being influenced by directors so I would like laws to made to show that these people should be chased away if t hey do malpractices.

Another point is the police. The police should be professionals, they should actually be proffessional because right now when it comes to some cases which are unique in the Kenyan economy like in the computer firms the police can not under take bribes in the education because they are not provided for. Also I support that person who said that the minimum rate for the police should be raised. These graduates should be employed as policemen. Thank you very much.

**Caroline Ruto:** Thank you very much for this day. My name is Caroline Ruto and I am one of the district representatives. Let me assure you that when we are there we shall ensure that what is good for us shall be retained but right now we are praying for our leaders that this exercise patience and caution whatever he says. Sometime you have a whole leader say that a commission has taken four billion shillings is a shame it has taken, we have taken our time to teach women, the old and the young until they came with suggestions so for you to just come and remove something that has taken four billion shillings is very irresponsible. So we are pleading with our leaders that we want a new Constitution before the next general elections.

**David Cheruiyot:** I would also like to make this announcement that we only have two more chances so that we bring this session into closure. I would like to tell Mr. Chepkwony who is also the district representative in the National Constitutional conference should have some representation.

**Keter:** My name is John Keter from Bomet location, Bomet constituency. I would like to thank the commissioners. Kitu nitasema ni upande ya appointment ya judges. Judges haifai kuwa political appointees kwa sababu ukifanya mtu wa kuamua kesi awe political appointees, atafanya kazi yake na uwoga. Hiyo uwoga itatokea sana halafu tunalaumu upande wa judiciary.

Inginde the review commissioner should not be political appointees, haijasemwa kwamba nani atafanya hii kazi yake na those are the political appointees.

Kitu kingine ni upande wa land tribunals. Land tribunals inatakiwa wazee wale wanaelewa kilugha ya sheria. Si watu illiterate people halafu kesho unasukia tunaenda kwa kotini kwa sababu hawa hawajui ni nini. Wanajua kuamua tu ya kijiji. Thank you very much.

**Christopher:** Thank you very much commissioners for the task you have made until such a time you have provided us with a draft bill for the Constitution of Kenya.

First of all I must thank you for going through many challenges including politicians who are trying to cripple your work and

more from your fellow commissioners. I am sorry to say so because some have also made an effort of trying to sabotage the process.

Again I would like to point out that the people who are trying to take you to court are trying to take all the Kenyans, 30,000,000 million Kenyans to court and that is very unfair indeed. We are longing to have the new Constitution in Kenya, so that it goes to the elections with the new Constitution. We are very sorry that it has been said that we are going to go the elections with the old Constitution of which I feel that we go to the general elections with the new Constitution, even if it means prolonging the life of parliament to cater for this process so that we go to the election with the new Constitution.

Commissioner, I would like to point out on the trend of the draft mostly on the side of the councils. Since I am councillor. I didn't say my name. I am councillor Christopher Bor, Bomet county council. Let me touch the local council, I can see here they have talked about the locational government, the district government and the provincial government. Here I would like you to elaborate on this because here it is not mention, things like remuneration of this people, how these people are going to be elected and how they are going to form their councils. Are you going to scab the councils, which appear in chapter 225 all together or not?

And another thing, lastly I would like to say that don't keep on moving by things, the Constitutional review process before it has come out for us to discuss and like people who are contradicting or criticizing the site, the resident for the kitchen before it has been brought to the table to be served. Thank you very much commissioner.

**David Cheruiyot:** I don't know whether Mr. Kitur has anything to say because I would like to give to Mr chepkwony.

**Kitur:** commissioner, I only want to say thank you for the draft which has come out . I would like to represent the disabled. What I can only say is that we should have a representation so that the people with disability should be represented so that they may air views and their problems. What the Constitution says about the disabled is actually good. It's only that we are not enjoying equal rights. I can only say that this can be represented better so that they can enjoy equal rights with other people. Thankyou.

**David Cheruiyot:** I am going to give Father, but just one point.

**Father Christopher:** I am father Christopher Cheruiyot Rotich. Mine is only to thank the commissioners and those people who have participated in drafting this Constitution. I would like to give my appreciation on behalf of catholic, because they have been following the new draft and the thing which is also came out is that this is going to give the light to the Kenyans. My statement is that the new Constitution is going to strip out force catering the power to the Kenyans. What I don't know whether it is true. I think its views if there is any genuine or about it. Otherwise we are very satisfied for people who have done this and

for media that has been made active. So we thank you very much and may God bless you.

**Kitur:** I think there is something which I left out. When I heard somebody trying to challenge the percentage of the disable would select arithmetic for those who have same problem. It is that the support even whichever percentage should be represented because even if the shepherd himself left 99 sheep and look for one which was lost then I think that percentage should be represented. May I add that let us go to the general election with the new Constitution. Thank you very much.

**David Cheruiyot:** We are going to give to councilor Chepkwony, just and to give his comment briefly and we give to pastor to close with a word of prayer.

**Cllr. Alexander Chepkwony:** I am councilor Alexander Chepkwony from Bomet. I am one of the representative of the Constitutional conference. I would like to thank you commissioners for coming down to Bomet this day to greet the people of Bomet and to take their views and you also have been able to highlight on certain areas of the new draft which in my opinion is a organ of what 30, 000,000 million Kenyans have been waiting for in the institution of this commission.

We have spent as a country billion of shillings on this process and at this stage we want to say we have a way forward towards what our Kenyans need. I think most areas that were said were covered but I also want to team with people with disability that they should be given their right to parliament. I remember I was the chairman of this council some years back, I use to attend the cultural farewell forum and we had come up with our draft Constitution that that would take care of the local authorities in the country and be it because we are also suggesting that the people with disabilities would be given at least a place in parliament. So in the allocation of one third of women representative into parliament which also talked about this thing in our draft Constitution and if there is that allocation for the same people with disabilities, they need to be represented even in parliament and other very important National forums. Even if it is 1% like somebody was saying that percentage must state whether its one or ten, they are kenyan citizens. Thank you very much.

**Com. Mosonik:** I want to thank Bomet people for their patience, their attention given and their contribution during the question and answer session. We have taken those notes; we have recorded everything and their some many issues you have said. The issue of the women, the issue of the disable, the issue of freedom of worship and whether that includes worshipping *Inaudible* the issue of the right of professionals like teachers and others. The issue of dissolving the parliament stand for the president for the Kiswahili say bunge itavunjana wakati wowote na hatuna uwezo lakini iko kwa Katiba. Lakini kwa Katiba hii mpya hiyo hakuna. Tunainua kabisa na tunase ma parliamentitakaa miaka mitano, tulisema siku ile tutaambiwa, siku ile bunge itavujwa lakini tukasema *Inaudible* tunaweza kuvunja parliament. Wakati huu tunashukuru Mungu tuombe asivunjwe lakini hatuna shida zingine. Chochote kinaweza kufanyika kwaajili tulisema Katiba.

Regarding *Inaudible*. naturally lugha ya..... Ndio hiyo Katiba mpya. That is the wish of the

commission.....which upto now Katiba mpya pengine ni .....*Inaudible*.....and the leader of the official opposition na honourable Mwai Kibaki amsema the new Constitution shall be enacted by the next government Kwa hivyo whatever the case lakini hiyo ni.kwa sasa.

The road we have taken as a reflection of the debate that you are expected to conduct in your constituency forum for the next thirty days. We know that that Constitution report is already published in the media. There are so many district coordinators and they should tell us where they are available. Lakini sasa kile mumunatakiwa kufanya kwanza ni kusoma ile draft, musome kwa makini. Secondly mujadiliane Kama mutakubaliana na nini. Kitu cha tatu ni ku kubaliana kama constituency sasa kwa vile kwa sasa munaweza kuwa maoni moja na mwingine awe na maoni mbili, na hiyo mutapewa wakilishi wa district kwa exchange the idea and proposal or views,na baada ya kufanya tunatakiwa kujadiliana na district zingine lakii tutakuwa na forum. Tutakuwa na watu

Tutaona ya kwamba tuna mambo mengine ambayo yyangeendelea kwingine. Halafu mwingine anasema...*inaudible*....

Kuna swali ingine ambayo ina wahuu kama ardhi. Lakini watu pale Mathare ni nini. Yao ni hawking. Kwa hivyo tutajiuliza, kitu gani inatuhusu ku liko hawa wengine. We will give them to our district representatives. We wish them good Constitutional making. Could you please continue leaving with this kind of manner and when we meet some other time you are welcome. Kama hii kitu wacha nisiseme, halafu tutajadiliana na *Inaudible*. Kwa niaba ya mwenzangu Mary, tunawashukuru. Thankyou.

**David Cheruiyot:** I would also like to thank from CKRC headquarters, for getting the opportunity to come to Bomet district. May I thank them so much. Before I came pastor Rotich was going to close with a word of prayer. Let me tell them that tomorrow we shall be launching, the draft bill with commission at Sigor high school Hall, so let this advertisement to other members of the public. May I take this time to call Father Rotich to close with a word of prayer.

**Father Rotich:** In the name of the father, the son and the holy spirit, thank you for this day, we thank you for this exercise, we thank you for the commissioners who have come. You have guided us all through this day. You know, the draft and its importance continue giving all of us this day we thankyou for what you have done in our lives and in our country. May you give us this more strength as we conclude this day, lead us Lord and guide us. Even for the work which is there tomorrow and the .....(*Inaudible*)..we commend it in to your hands. We pray all this in the name of the Father, the Son and the Holy Spirit Amen.

**David Cheruiyot:** I forgot to inform members of the public that we are to draw a work plan concerning the dissemination of the draft up to the location and even including the village level. May I also remind the three district delegates that they are supposed to be in district forums so that they cover deeply from the members of the public. Thankyou.

The meeting ended at 5 P.M.

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