

**CONSTITUTION OF KENYA REVIEW COMMISSION**

**(CKRC)**

**Verbatim Report of**

**DISSEMINATION OF REPORT & DRAFT BILL, ELDORET NORTH  
CONTITUENCY - T.A.C. (CENTRAL PRIMALRY SCHOOL)**

**ON**

**18<sup>TH</sup> OCTOBER, 2002**

**DISSEMINATION OF REPORT AND DRAFT BILL – ELDORET NORTH CONSTITUENCY HELD AT  
T.A.C. (CENTRAL PRIMARY SCHOOL ON 18<sup>TH</sup> OCTOBER 2002.**

**Present**

1. Salome W. Muigai - Commissioner

**Secretariat Staff in Attendance**

2. Gilbert Bor - District Coordinator
3. Dan Juma - Assistant Programme Officer
4. Asenath Kanga - Verbatim Recorder.

The meeting was called to order at **11.15 a.m.** with **Commissioner Salome Muigai** in the chair.

**Gilbert Bor (District Coordinator):** Kabla hatujaanza tuanze na maombi. Vile mnaona pale kwa ukuta umeelezwa kwamba uzime mobile kwa hivyo kama uko na mobile tafadhali uzime. Ukiangalia upande huu unaona imeandikwa silence ni kusema kwamba mkutano huu ni kama darasa. Naomba kwamba tuheshimu hiyo habari ya silence ili kila mtu aweze kusikika na kusikia kwa mkutano. Kurgat maombi.

**Mr. Kurgat: Prayer:** Kwa jina la Baba, la Mwana na la Roho Mtakatifu. Mungu Mwenyezi tunakushukuru kwa siku ya leo, tunakushukuru kwa wageni, tunakushukuru kwa wote ambao wamekuja kutoa maoni yao. Mungu mwenyezi utuongoze ili mambo yaende vizuri, yale mambo yote tutakayesema yatuwezeshe kuyapendi nchi hii kwa haki na amani. Tuanomba haya kwa jina la Yesu mkombozi wetu. Kwa jina la Baba, la Mwanza na la Roho Mtakatifu. Amen.

**Gilbert Bor:** Asante sana Bwana Kurgat. Commissioner nitachukua nafasi hii sasa ku-introduce members wa 3C's Eldoret North. Tafadhali msimame ili tuwajue. Hawa watu watatu ni Bwana Kurgat, Fatuma Sietenei kutoka upande wa Kidero, Bwana Paul Tanui kutoka upande wa Bartoi na Bwana Paul Kurgat kutoka upande wa Jua Kali. Wote ni watu kumi lakini wengine bado wanakuja. Asanteni.

Vile vile tuko na wale ambao walifanya Civic Education Eldoret hapa pia tunawakaribisha. Mjitambue wenyewe na mtujijulishe jina na kazi gani ulifanya.

**Robert Suiyot:** Commissioner na wote ambao wamekuja hapa, hamjambo. Kwa majina ni Robert Suiyot mimi ni Civic Educator katika Eldoret North upande wa Tarba, Muinde Location. Asanteni.

**Richard Kimtai:** Madam Commissioner, kwa majina naitwa Richard Kimtai nilikuwa mmoja wa Civic Educators, Eldoret North, Soi Division upande wa Loga Location.

**Mathayo Oranjo:** Madam Commissioner, jina langu ni Mathayo Oranjo, Civic Educator katika NCCCK.

**Juliana Nahumicha:** Naitwa Juliana Nahumicha kutoka Catholic Church.

**Gilbert Bor:** Haya, Asanteni sana. Kuna wengi ambao walihusika ambao wanakuja. Vile vile tuko na mmoja wa District Delegates ambaye anawakilisha Wilaya yet katika National Constitutional Conference tafadhali njoo ujitambue kwa watu ambao unaenda kuwakilisha.

**Emmy Kiprop:** Hamjambo, kwa majina naitwa Emmy Kipsoi Kiprop. Nilichaguliwa mama wa kuwakilisha kama District Delegate kuwakilisha akina mama na nafikiri nikisimama hata saa hii pia nitakuwa ninaakilisha vijana.

**Gilbert Bor:** Asante sana Emmy. Sasa Madam Commissioner ningependa kukupea nafasi kuanza mkutano wa leo na uendelee.

**Com. Salome Muigai:** Asante sana Bwana Bor, wananchi wa kikao cha Bunge cha Eldoret Kaskasini. Hamjambo?

Nina furaha kubwa kwa niamba ya Tume ya Marekebisho ya Katiba ya Kenya na Mwenyekiti wangu Professor Yash Pal Ghai kwa ndio naona kuna wasome wengi nataka kutambua Mwenyekiti wangu, mtu mmoja wa wasomi, wakati yenye hayuko kwa hii habari ya kutengeneza Katiba yeye ni Mwalimu wa Chuo Kikuu Indonesia na anafundisha law. Na kwa niaba yake na niamba ya Wanatume wenzangu ningetaka kuwakaribisha kwenye kikao hiki.

Kwanza ningetaka kuwajulisha wenye tumekuja nao na pengine ningetaka kuwambia wajitambulisho ndio tusikia sauti yao.

**Dan Juma:** Majina yangu kamili ni Dan Juma. My work will be to take notes. Thank you.

**Asenath Kanga:** Hamjambo? Kwa majina naitwa Asenath Kanga na nitakuwa nina-recordi kila kitu yenye mtakuwa mnasena. Asenteni Sana.

**Com. Salome Muigai:** Asante na mimi mwenyewe naita Salome Wairimu Muigai na ninafuraha kubwa kuwakaribisha leo.

Kazi yetu ya Tume hasa ilikuwa kazi yenye ninaweza kugawanya kwenye njia tatu. Kazi yetu ya kwanza ilikuwa kuja kwa kila kikao cha Bunge na kuchukua maoni yenu na hiyo kazi tulifanya pamoja na wengine wenu. Halafu ilikuwa ni kazi yetu na jukumu yetu kuchukua haya habari yote tulipatiwa na tuitengeneza ikawa ripoti na kutengeneza reporti moja ndefu yenye volume tatu lakini bado hatujamaliza hiyo kabisa kabisa kuwa fair. Lakini tumetengeneza reporti fupi yenye kuleta maoni ya kila mtu yenye tulipatiwa kwa hii ingine na hiyo reporti ilikuwa kwa nakala za gazeti kama kwa Kiingereza tuliita “The Peoples Choice” pengine mliona kwa gazeti na ilikuwa pia kwa Kiswahili nakala inayoitwa “Chaguo la Wananchi”.

Tulikuwa pia na reporti kutekeleza mswada kwa kuomba kubadilishwa kwa Katibi, hiyo mswada yaani, Draft Bill ndio yenye tutayozungumzia leo na lengo la kuja leo kwangu ni ku-launch. Ku-launch ni kufanya nini?

**Speaker:** Kuzindua.

**Com. Salome Muigai:** Kuzindua. Haya, ndio Kiswahili hicho. Basi lengo letu leo ni kuzindua lakini kabla hatujazindua lazima tufikirie tutafanya nini. Tafadhali chukueni wenye mmefika na tuketi ili tuwe pamoja.

Nitangoja wenye wanakuja ili tuanze pamoja. Tafadhali ikiwa umeketi pahali kuna mwenzako mwenye analo na kuna mwingine mwenye hana wawili wape moja watumia pamoja. Kama kuna kiti bure ambacho hakijatumika tafadhali mpe mwenye hana kiti.

Wenye wamekuja nyuma mmekaribishwa kwa niaba ya Tume ya Merekebisho ya Katiba ya Kenya. Tulikuwa tumetambua majina yetu tukasema mimi ni Salome Wairimu Muigai na tumeandamana upande wangu wa kushoto na Bwana Juma kutoka kwa Tume ofisini ya Nairobi na pia tuna Bi. Asenath Kangu mwenye atakuwa aki-recordi mambo yenye tunazungumza moja kwa moja.

Ningetaka tukubaliane lugha gani tunaakikisha inatuwezesha kuwasiliana vilivyo. Mngetaka tuzingumze Kiswahili ama mngetaka tuzungumza..., kuna lugha tatu yenye tunaweza kuchagua. Kuna Kiswahili, kuna Kiiingereza na kuna .... Lugha gani yenye tutatumia? Kiingereza? Kuna mtu mmoja wetu mwenye haelewi Kiingereza hata kidogo kwenye hii chumba ama mwenye anaelewa tu Kiingereza? Haya, watu wangapi wangetaka tuzungumze Kiswahili, tafadhali inua mkoni kama ungetaka tuzungumze

Kiswahili na usiogope. Basi, kwa ajili wewe ungetaka tuzungumze Kiswahili tutazungumza Kiswahili. Kuna mtu mwenye

haelewi Kiswahili? Anybody who does not understand Kiswahili at all? Any Kenya who has been to school and does not understand Kiswahili? I thought Kiswahili was a compulsory subject in the 8-4-4. Anybody here who went to school before the mfumo wa 8-4-4? You do not understand Kiswahili at all? Are you a Kenyan? And you don't understand Kiswahili. The reason I am saying this is that a Kiswahili speaker might not understand English at all but all of us who are English speakers we understand some Kiswahili it is only that we will be better in English than we are in Kiswahili but we all who speak English also speak some kind of Swahili, it is the degree that differs. Whereas there is someone who understand Kiswahili and does not understand English at all so even if that person is just one, I would still want to use that language with your permission.

So can I revert back to our national language and speak Swahili?

**Audience:** Yes.

**Com. Salome Muigai:** Okay, some of the parts of course we will be mixing, it is very difficult to talk about a Constitution in just Kiswahili we might even try in some of the phrases need to look for our own mother tongue. Is there a mother tongue? Okay, we will look into that also, this is a time of reasoning together because we are making our Constitution and it is time to look at everything whether in mother tongue and researching whether there is a mother tongue and whether there is another tongue.

Kwa hivyo ningetaka kurudia kuzungumza kwa lugha ya Kiswahili tena nisema kuwa ningetaka kufanya-introduction. Ni kufanya utangulizi tu kwenye hii Constitution. Hatuwezi kuisoma neno kwa neno. Tungetaka kuomba tafadhali mobiles zizimwe mostly because we are recording directly and we are going to interfere with our recording more than anything else.

Kazi yangu ni ya ku-introuce this document kwanza hatuwezi kuizungumzia neno kwa neno kwani ni document ndefu lakini nitawaomba tukishamaliza tupate nafasi ya watu kusoma.

Tafadhali huyo angeketi hapo na wewe uingie hapo nyumba at time it is difficult for some of us to go through between rows it becomes a major handicap rather than the availability of a disability. Thank you very much.

Kwa hivyo tutasema tunaanza, ningetaka kidogo kuwaeleza vile tulivyoona tulipoenda kuzungumzia wananchi juu ya urekebishaji wa Katiba. Kila pahali tulienda kulikuwa na mambo yenye kubadilisha Katiba lakini pia tulipoenda kama upande wa mipaka mwingine kulikuwa na mambo yenye ilikuwa ya muhimu kwa jamii moja kuliko vile ilivyokuwa muhimu kwa jamii nyingine. Kwa hivyo tutakapoendelea kuzungumzia hii Katiba nitaeleza kwa nini tulichukua chaguo moja badala ya mengine. Kila pahali yenye tulienda watu walikubaliana kuwa Katiba tulionayo sasa haina utangulizi yaani haina preamble na tukakubaliana kuwa yenye tutatengeneza hii mpya itakuwa na preamble. Kwa hivyo ukiangalia ukurasa wa pili, utapata kuna preamble ama utangulizi.

Preamble yetu kwanza inatutambua ni akina nani wenye kutengeneza Katiba hii na inasema ni nani?

**Audience:** We the people of Kenya.

**Com. Salome Muigai:** Ni sisi wananchi ama watu wa Kenya. Pia inaendelea kusema, tukifahamu wingi wa tofauti zetu za nini? Tukifahamu wingi wa tofauti zetu za kikabila na nini tena.

**Audience:** Kitamaduni.

**Com. Salome Muigai:** Kitamaduni na kidini na kuijidhaminia kuishi kwa amani, kwa umoja kama taifa moja huru lisilofanya nini? Lisilogawika, tukijitolea kulea na kufanya nini? Na kulinda masilahi ya kila mmoja na ya nini nyingine?

**Audience:** Ya jamii.

**Com. Salome Muigai:** Ya jamii, ya jamaa. Familia ni nini? Ni jamaa ama ni jamii? Familia ni jamaa na community ni nini? Ni jamii?

Kwa hivyo tukijitolea kulea na kulinda masilahi ya kila mmoja, familia na jamii katika nini?

**Speaker:** Taifa letu.

**Com. Salome Muigai:** Katika taifa letu. Tukitambua matumaini ya nani?

**Audience:** Ya wanawake.

**Com. Salome Muigai:** Ya wanawake na nani? Na wanaume wetu, ya kuwa na serikali ambayo imejengwa katika musingi muhimu inayodhamini nini?

**Audience:** Uhuru.

**Com. Salome Muigai:** Uhuru na nini tena?

**Audience:** Democrasia.

**Com. Salome Muigai:** Democrasia na nini tena? Na haki ya kijamii na utawala wa sheria.

Tukitekeleza haki yetu isiyotengeka ya nini? Ya uhuru ili kutambua aina ya utawala wa nchi yetu na tukiwa tumeshiriki kikamilifu katika nini? Katika utaratibu wa kutengeneza ama kuunda katiba. Tunaifanya nini? Tunaikubali na tunafanya nini tena? Tunaifanya sheria na tunaitoa kwa nani?

**Audience:** Kwetu.

**Com. Salome Muigai:** Kwetu wenyewe na kwa nani mwingine?

**Audience:** Na vizazi vijavyo.

**Com. Salome Muigai:** Na vizazi vijavyo vya nani?

**Audience:** Vyetu.

**Com. Salome Muigai:** Vyetu na nini yenye tunatoa.

**Audience:** Katiba.

**Com. Salome Muigai:** Katiba hii. Na tonaomba Aibariki Mungu afanye nini? Alibariki Kenya. Kwa hivyo hii Katiba imetengenezwa na nani? Na sisi na tunaipa nani?

**Speaker:** Tunajipa wenyewe.

**Com. Salome Muigai:** Tunajipatia sisi wenyewe na tunawapa nani? Vizazi vijavyo. There are implications ya hiyo utangulizi kwa hivyo tafadhali tuchukulie vyema maanani kwani hiyo utanguliza utaeleza kila chenye tutaandika baada ya hivyo.

Kwa hivyo tukiangalia sura ya kwanza tunazungumzia uhuru wa wananchi na ukuu wa Katiba, tumesema kuwa wananchi, sovereignty of the people. Uhuru wa wananchi tunasema kuwa, mamlaka yote ya uhuru ni ya nani? Ni ya wananchi wa Kenya na yanaweza kutekelezwa tu kulingana na nini? Na katiba. Hio iko kwa katika ukurasa wa nne, uhuru wa wananchi.

Jambo la pili inaeleza kuwa wananchi watatekeleza uwezo wao wa uhuru kwa njia ya moja kwa moja, what does that mean? Directly. Au kupitia kwawakilishi wao watakaoteuliwa kwa njia gani? Ya democrasia. Kwa hivyo inaendelea pia kueleza habari ya uhuru wa wananchi. Halafu nambari ya pili inaeleza juu ya ukuu wa nini? Ukuu wa Katiba.

Ungetazama kwenye ukurasa ndio pahali yenye tutakuwa tukifanyia mazungumzo mengi lakini wakati mwingine tutakuwa kama wa bibilia, wale watu wenye hawajuhi kusoma Bible watakuwa na shida kusoma hii Katiba kwani tutakuwa tukiangalia hapa na kuenda kwenye vipengele tofauti kwenye, si Bible hata Quran imeandikwa kwa sura, sivyo? Kwa hivyo hii Katiba imeandikwa sura tutakuwa tukiangalia sehemu moja na nyingine.

Sura ile ya kwanza, jambo la pili ni ukuu ni wa Katiba na inasema hivi mwanzoni. Kenya imejengwa katika msingi ya ukuu wa Katiba na utawala wa sheria na itakuwa kwa mjibu wa Katiba. Who would like to read the first one in English, what does it say?

It says, Kenya is founded on the supremacy of the Constitution and the rule of law, it shall govern in accordance with what? With the Constitution so that is what we are saying in very many words in Kiswahili. I think this group would be more comfortable in English than Kiswahili but on the other hand I am afraid of leaving anybody behind. I am really afraid ya kumwacha yule aliyesema haelewi. Kwa hivyo, I will try my best to mix the two languages.

Hio sura ya kwanza inzungumzia uhuru wa wananchi, ukuu wa Katiba pia inazungumzia utekelezaji wa Katiba na hio ni nini kwa Kiingereza? Is what?

**Speaker:** The enforcement of the Constitution.

**Com. Salome Muigai:** The enforcement of the Constitution.

Number nne ni kufanya nini? Kulinda Katiba, Katiba ina haja ya kulindwa?

**Audience:** Ndio.

**Com. Salome Muigai:** Kwa sababu?

**Speaker:** Watu wengine wanaweza kuiharibu.

**Com. Salome Muigai:** Inaweza kuharibiwa. Inaweza kuharibiwa kwa hivyo ina haja ya kulinda hiyo ni kweli kabisa.

Halafu nafasi ya tano inazungumzia juu ya sheria za Kenya, yaani sheria za Kenya zitatoka wapi? Sheria ya tano ya Kenya itatoka kwenye Katibia yenye tunazungumzia si hivyo? Pahali gani pengine tunatoa sheria? Wapi wasomi wa sheria hapa? La students, where do we get laws.



**Audience:** Parliament.

**Com. Salome Muigai:** Parliament, Bunge letu linaweza kuunda sheria zingine. Where else? Customary law inaweza kukubalika na pia wakati mwingine za kidini, si hivyo? Kama zile sheria za dini ya Kiislamu na pia common law, sheria za mazoezi zenye kila mtu anatumia. Kuna sheria zingine hazijaandikwa chini lakini pia sisi zote tunajua ni sheria. For example, ni shida sana kuvunja sheria yenye inasema usimtukane mtu, lakini ukimtukana mtu kila mtu anajua umefanya nini? Umefanya mambo mbaya. Kwa hivyo kuna hizi sheria zote zenye zitatumika kwenye hii jamhuri yetu.

Sura ya pili inazungumzia kuwa Kenya ni nini?

**Audience:** Republic.

**Com. Salome Muigai:** Republic ni nini?

**Audience:** Jamhuri.

**Com. Salome Muigai:** Ni jamhuri, na zungumzia kuwa Kenya itatangazwa kuwa jamhuri.

Nafasi ya pili yake, tutakubaliana...tafadhali kama kuna matatizo nieleze ili tuweze kuelewana zote. What is the problem? Because we are having another meeting down there and much as I would like to open the floor to my meeting. We need to come to a common understanding, what do you need to address? Is it the issue of language here? What is the problem? Ladies, I would like to hear your problems because you don't get many chances to be asked what our problems are. Kuna nini? We go on? Okay, that is okay.

Tunazungumzia habari ya jamhuri tuko kwa sura ya pili na nimesema kuwa swali la kwanza tunazumzia juu ya kutangaza Kenya kuwa jamhuri.

Ya pili inatuzungumzia juu ya eneo la Kenya. Nilizungumzia jamhuri lazima iwe kwenye map tunaweza kuonyeshana, this Jamhuri is within this boundaries. So that is the other point that I pointed on part seven, the territory.

Part eight inazungumzia mjii wetu mkuu na mji wetu au makao yetu makuu ni wapi? Ni Nairobi

Ya tisa inazungumzia lugha zetu rasmi na tunasema lugha zetu rasmi ni gani? Ni pili kuna nini na nini? Kuna Kiswahili na Kiingereza lakini pia tuna lugh ya taifa na hilo ni gani?

**Audience:** Kiswahili.

**Com. Salome Muigai:** Kwa hivyo kuna haja ya kutambua hivyo na kuweza kueleweka na kushauriana na kuwasiliana kwenye hiyo lugha.

Halafu ningetaka kumtambua Mwalimu wangu Bwana Bartulai uje wakati nakosa kuwa Commissioner nakuwa Mwanafunzi. Karibu sana Mwalimu, Bwana Bartulai amenifundisha kwenye Standard Five katika Township School, kwa hivyo Kiingereza kile kizuri na Kiswahili ni chake na kile kibaya ni changu. (*Laughter*) Karibu sana Mwalimu.

Tunazungimzia habari ya lugha kwani tuko kwenye sura ya pili ya maandishi yetu na tunaangalia lugha zetu na tunasema kuwa tuna lugha mbili rasmi, Kiswahili na Kiingereza lakini pia tuna lugha ya Kiswahili yenye tunaweka maanani kama lugha ya taifa. Nitabaini pia tumetambua lugha ya Ishara, tumesema sign language itakuwa pia lugha ya kuweza kufundishwa na kueleweka kwani pia itakuwa lugha yenye inatumika Bunge, kuwa lugha za kirasmi ya Bunge zitakuwa tatu, Kiswahili, Kiingereza na lugha ya Ishara, kwa ajili ya wenzetu wenye hawatunii masikio kusikia lakini wanatumia macho yao.

Tumesema pia kwa maandishi yetu ingawa tutaandika kwa maandishi rasmi kwa Kiswahili na Kiingereza, tutajaribu sana mara nyingi nyingi kuandika kwa lugha ya Braille pia ili kuwahuzisha wenzetu wenye hawaoni kwani hii Katiba mpya yawalete waKenya wote kuwa Jamhuri na taifa ngapi?

**Audience:** Moja.

**Com. Salome Muigai:** Tumezungimzia pia habari ya taifa na dini na tumesema kuwa Kenya sio taifa la kidini lakini ni taifa linalotambua dini na kila dini itapatiwa usawa moja na nyingine na pia watu wengine wanatuuliza, kama tuna usawa moja kwa nini dini ya Kiislamu imepatia koti zake, mahakama yake lakini sio za Kiikriso. Naeleza kuwa wa historia watatueleza zaidi lakini wakati tulipokuwa tunakubaliana habari ya uhuru wetu mnakumbuka kuwa kwenye Mkoa wa Pwani kulikuwa nafasi moja ya maili ngapi? Kumi yenye ilikuwa sio pamoja na Kenya, ilikuwa na mali ya nini?

**Audience:** Sultan.

**Com. Salome Muigai:** Sultan wa wapi?

**Audience:** Wa Zanzibar.

**Com. Salome Muigai:** Wa Zanzibar kwa hivyo makubaliano ya Kenya na Sultan ili tupate hicho kitengo hicho kuwa ni

pamoja na Kenya ilikuwa kuwa Waislamu watakubalishwa mahakama yenye itafanya sheria za kibifasi yaani, personal law inayohusu kuoa, kuolewa, talaka, urithi, kufa, kuzikwa, vitu kama hivyo. Sasa hiyo ndio contract of that agreement, we are still honouring that because it was a commitment. Sasa sio habari ya kidini tena, ni makubaliano yenye tulifanya ndio Kenya ikuwe nchi moja. Wakati mwingine tukitaka kufanya watu wawe pamoja, there is a cost and unless you have to decide whether the cost is enough for what you are getting back and I think there was one time when there was an agreement to create a united Kenya that was to be agreed upon.

Halafu tuna alama za taifa, alama zetu za taifa ni kama nini?

**Audience:** Bendera.

**Com. Salome Muigai:** Bendera yetu. Nini tena?

**Audience:** Wimbo wa taifa.

**Com. Salome Muigai:** Wimbo wa taifa. Wangapi wanajua wimbo wa taifa? Kwa Kiswahili ama kwa Kiingereza? Yote, okay that is good. Walikuwa wawili, wangapi wanajua wimbo wa taifa? Mnajua mimi ni mwalimu huenda nikauliza kila mtu asimame hapa aimbe lakini ni vibaya leo Mwalimu wangu ameingia. Unajua hata ukiwa na miaka ngapi, mwalimu wako akiingia unasikia umekuwa mwanafunzi kidogo. Kwa hivyo kwa ajili ya Mwalimu wangu sitawauliza muimbe huo wimbo lakini hiyo ni moja ya ishara zetu za kutueleza sisi kama nini? Kama taifa na nini? Na Jamhuri.

Tumezungumzia lugha la taifa na bendera na nini tena?

**Audience:** Court of arms.

**Com. Salome Muigai:** Si, sikii, hiyo ni nini? Koti ya mkono? (*Laughter*) Court of Arms nimeambiwa na wasomi wenye kujua Kiswahili hua inaitwa nembo. Halafu nini tena, ishara nyingine ni nini?

**Audience:** Muhuri.

**Com. Salome Muigai:** Ni muhuri wa nini? Muhuri wa taifa. Halafu pia kwenye hi Katiba mpya tumesema wale wenye watakaowapatia wadhifa wa kutuongaza tutawapa kiapo ama nini? Matamko ya dhati.

Halafu mwishowe tumezungumzia habari ya siku za taifa. Mmekuwa na maswali mengi kwa hivyo nitayajibu kabla sijaulizwa. Kuwa tumeona mmeondoa Kenyatta Day, mmeondoa Moi Dai mmebakisha tu siku ya Madaraka na shikuku ya Jamhuri na pia

tumependekeza siku ya Katiba. Kwa nini mlifanya hivyo? Kuna watu wengi walitoa maoni kuwa hizo siku ziondolewe zenye majina ya watu lakini hata zaidi ya hayo kwenye Katiba iliyoko sasa hata kabla hatujaguza hii mpya, tumesema kuwa tutakuwa na Rais kwa miaka mingapi mwisho?

**Audience:** Kumi.

**Com. Salome Muigai:** Miaka kumi yaani mihula miwili ya miaka tano kila mmoja, kwa hivyo ni miaka kumi. Kwa hivyo katika usoni, miaka mingine hamsini zijazo na wengi wetu kama hatutakufa kwa ajala huenda tukawa bado tuko hai, inshalla. Miaka mengine hamsini hijayo tutakuwa tumepata Rais wangapi at least?

**Audience:** Watano.

**Com. Salome Muigai:** Watano ama moja ama mwingine asiporudishwa mara ya pili tunaweza kuwa na Rais kutoka watano mpaka kumi. Sasa tukiwapa kila mtu siku yake itakuwa shida, sijui tutafanya uchaguzi aje kusema Salome akiwa Rais tutampa siku lakini Nahumicha akiwa Rais hatumpi siku yake ndio kwani tulisema kuwa kwanza fikiria hali isiyolingana na mtu yenye inaweza kuweka siku zetu za taifa, kama siku ya Madaraka, itabaki siku ya Madaraka miaka yote, si hivyo? Siku ya Jamhuri itabaki hivyo. Tukianzisha Katiba mpya, siku ya Katiba itabaki siku ya Katiba. Sasa nitataka maoni yenu lakini nilikuwa nafikiri ni vizuri kufafanua pale.

Tukienda kwa sura ya tatu, inaeleza nini?

**Audience:** Malengo.

**Com. Salome Muigai:** Inaeleza malengo ya taifa na nini? Maadili na kanuni. Malengo, maadili na kanuni. Hayo malengo yanaonyesha dhamana zetu, our values na ningetaka kusoma machache tu kwani ni mengi.

Ningetaka kuanza na malengo ya taifa, ni nambari ya kwanza. Malengo ya taifa, maadili na kanuni zilizomo katika sura hii zinahusu mamlaka ya nchi yaani, the Executive, Bunge yaani Parliament, Mahakama, nini hiyo?

**Audience:** Judiciary.

**Com. Salome Muigai:** Judiciary, tawala za Wilaya na vyombo vingine vya serikali na viongozi, raia, miungani ya kibinafsi pahali ambapo chombo kimoja kinatumia na kuifafanua katiba au sheria nyingineo, hiyo ni (a). (b) kinatumia, kinaunda na kutekeleza maamuzi ya nini? Policy? Sera. Neno sera linatoka kwa siasa kama vile neno policy linatoka kwa nini? Kwa politics. Naona watu wanashida na kiswahili kabisa.

These are our values, I would like to explain this because it is very very important that these are our values, they are our? As well as values they are what? It is written there, my good teacher who allowed me to present the draft you are looking at the table. We have gone back to Kiswahili so read it. Stop looking so out of the whole thing, now we are in English mode. So we are looking at our what? We are looking at our goals, our values and our principles.

So let us look at the three of them and we are saying that these goals and principles apply to who of what? They apply to the executive, to the Legislature, to the Judiciary and even to the District Governance as well as what?

**Speaker:** All of us.

**Com. Salome Muigai:** Exactly. That if we are going to amend all of us in our implementation of whatever constitutional value we agree on. So lets look at them and see what they are.

Ya kwanza ni kuwa jamhuri itaguza umoja wa taifa na kuendeleza hali ya kujitolea kwa raia wake kwa mwito wa nini? Wa taifa. What is that in English?

It says, the republic shall promote national unity and develop the commitment of its what? It citizens to the spirit of nation unity. (iii). The republic shall recognise the diversity of its people and promote culture in its communities.

So we are going to recognised this because in our preamble we said that we are aware of our diversity in culture then we are going to make sure that we nature this diversity. However, look at what we had first, is the fact that while naturing this different diversities we are going to remain what? A nation and we are going to remain united or divided? We are going to remain united.

Then it says that the republic shall ensure open and transparent government and the accountability of what? State officials and public authorities and so on and so on. There are many values that we expounding in this chapter.

But I would like to read number...ningetaka kusoma kipande cha kumi na moja before I finish with them. Ningetaka kusoma kipengela cha kumi na moja, asante sana na inasema hivi. Nitasoma kwa Kiingereza. The republic shall ensure the fullest participation of who?

**Audience:** Women.

**Com. Salome Muigai:** The women and who else?

**Audience:** The disabled.

**Com. Salome Muigai:** The disabled and the marginalized communities and the rest of the society in the political, social and economic life of the country. Those are our principles, those are our values and those are our what?

**Speaker:** Our goals

**Com. Salome Muigai:** Our goals. The following one ama ya pili inasema, Serikali itatekeleza kanuni kuwa theluthi moja ya wanachama wa vyombo vyote vinavyofanyiwa uchaguzi na uteuzi ni nini?

**Audience:** Ni wanawake.

**Com. Salome Muigai:** Ni wanawake. Number four says, the State shall and you know when you say shall, what do you mean?

**Audience:** ...must

**Com. Salome Muigai:** Sio choice wakati inakupendekeza unahaja na saa ile haipendezi unafanya nini? Unawacha. Hii inasema the State shall impliment the principle that one third of the members of all elective and appointive bodies shall be women.

Ningetaka pia kuzungumzia, kipengele cha kumi na tatu chenye kinasema hivi. The republic shall recognize the special responsibilities that the State, society and parents owe to our children and shall ensure their material and moral wellbeing. Those are three of the values that I am looking into but nitaomba msome hiyo sura mpaka mwisho ndio tuelewe zingine zenye mmefikiria.

Pia kwenye hiyo sura tuna wajibu wa wa raia and that is what? Duties of a citizen, what are the duties of a citizen, they have been numerated there. Imeelezwa kwa kinaganaga ili tuelewe vilivyo. Sitawasomea wajibu kwani wajibu usipousoma na usipoujua, ignorance is not a defence, kwa hivyo kila mtu anasoma wajibu wake. Ningetake tuangalie sura ya nne.

Sura ye nne inazungumzia uraia, inazungumzia habari ya kanuni za jumla kuhusu uraia, pia inazungumzia kudumisha uraia uliopo, kama wewe ni raia tayara unahitaji kufanya nini ndio udumishe nini? Uraia wako or how to retain your citizenship. Then it talks about, kupata uraia kama tayari huna na inazungumzia pia juu ya uraia wa kuzaliwa na uraia wa nini tena? Uraia wa kuo na kuolewa (ndoa), Kisha inazungumzia pia habari ya watoto wanaopatikana Kenya na watoto wachanga. Hii maana yake ni

kuwa, mtoto yoyote akipatikana Kenya, akionekana kama ana miaka nane, kwa nini tunasema akiwa na miaka nane? Tunasema akionekana kama ana, seemingly eight. Kwa nini tunatumia hiyo neno, sio kusema akiwa miaka nane? Kwani akiwa anapatitakana na hajulikani wazazi, hajulikani ni nani, atajijua yeye mwenyewe ana miaka ngapi? La, kwa hivyo mtoto akionekana ana miaka nane na hajulikani alikotoka ama hatumwelewi pahali anaenda, tutamfanya awe Mkenya, atapata uraia. Watu wengi wanatuuliza, miaka nane ina maana gani? Nasema, kuna kipengele kingine chenye tutasema kuwa elimu itakuwa ya lazima na ya bure, kwa hivyo mtoto wa miaka nane bado tunaweza kumweka kwenye shule.

Kwa hivyo mtoto wa miaka nane bado tunaweza kumweka kwenye nini? Kwenye shule. Kwa hivyo mtoto wa miaka nane mwenye anaweza kuenda shule tutamtambua kuwa Mkenya. Akiwa na miaka kumi na tano basi atatueleza yeye ni nani na alitoka wapi? In the English version watu walikuwa wameita founding lakini tukasema hiyo ni lugha, a founding language is laboratory language na kwa hii Katiba kuna pahali pengine tunaona tumekataa kabisa lugha yenye kuleta sifa ya mtu yeyote chini. Iwe sifa ya kuleta mtu aliyena ulemavu chini, imekataliwa na Katiba. Iwe ni sifa ya kuleta akina mama chini, imekataliwa ndani ya Katiba. Hasa utamaduni wetu tunasema, tunaukubali tu mwenye haugagui mtu yoyote, wenye kubagua mtu yeyote, utakuwa umegeuka nini? Katiba na tunasema Katiba ndio sheria ile iliyokuu. Kwa hivyo yote yenye kugeuka Katiba haiwezekani kutekelezwa.

Tumezungumzia hii neno kwenye Kiswahili inaandikwa uraia maradufu ingawa mimi sio msomi wa Kiswahili. Hatukusema tunataka raia maradufu, tulisema tunataka raia wa nchi mbili, maradufu ni multiple. That is it. Vile tunasema ni dual citizenship. Hiyo watu wengi wametuuliza kwa nini mliweka hiyo. Tulipoenda kwenye jamii zetu wenye wakukaa mpakani tuliambiwa kuwa wanahitaji kuenda na kurudi kwenye nchi zile zingine ndi waweze kujisitiri. Kama jamii zetu za Kimaasai walisema, wakati wa kiangazi wanavuka kuenda nchi ya jirani ya Tanzania ili mifugo yao ifanye nini? Isife, kwa hivyo wanataka kuwa sisi tukiwa Wakenya tusiende Tanzania tutakuwa tumeua uchumu wao na maisha yao. Kwa hivyo, hiyo ilikuwa jamii moja ya Kimaasai. Jamii zingine zipi zenye kukaa mpakani kwenye kuwa kwa nchi mbili? Which other communities live along our boundaries?

**Audience:** Somali.

**Com. Salome Muigai:** The Somali, they had the same argument that during drought season, they have to cross borders to go to the other places to nature and nourish their livestock and then come back when things are better. Any other communities?

**Audience:** The Sebeyi.

**Com. Salome Muigai:** The Sebeyi, Pokot, Teso, Samia, Luo, Turkana, Kuria, Bukusu. Eh, Nahumicha why are aren't you leaving us when there is famine is on this side we cross the boundary. So those are the communities, hii ilikuwa concern ya jamii zenye kuishi huko, kwa hivyo tumesema hii Katiba mpya inakubalisha Mwanakenya kuwa raia wa nchi yetu na raia wa nchi

nyingine mradi tu asiwe raia wa nchi isiyo rafiki ya Kenya.

Pia tumezungumzia habari ya kuanzishwa uraia, tumezungumzia habari ya uraia wa uzazi kabla mtu hajazaliwa. Kama baba amekufa kama mtoto hajazaliwa, huyo mtoto atapatiwa uraia yenye angepatiwa kama wazazi wake wote wangukuwa hai. Tumezungumzia pia makao kwa ajili wanaweza kukaa na uwezo wa Bunge juu ya uraia na pia tumaanzisha almashauri ya kusajili uraia. Kwenye Katiba yetu iliyoko sasa, mwanamme akimwoa bibi mgeni anaweza kumridhisha bibi yake uraia lakini mwanamke Mkenya akiolewa na mtu asiye Mkenya hawezi kumridhisha bwana wake uraia wala watoto wake na hii kwani nilisema tutaendelea kwa sura hiyo ingine inasema, una uhuru kutoka kubaguliwa kwa maana tuliona kama hapo kuna kubaguliwa. Kwa hivyo tumetoa na kusema mtu yoyote anayezaliwa na mzazi mmoja akiwa Mkenya, huyo mtoto anahaki ya kuwa Mkenya na Mkenya yoyote akioa ama akiolewa anaweza kumridhisha mumewe ama mukewe uraia wa Kenya baada ya miaka tatu.

Sura ya tano inazungumzia sheria za haki. Tumesema habari ya haki za kimsingi na uhuru, tumezungumzia ni wajibu wa serikali kuendeleza haki na uhuru, tumezungumzia habari ya mipaka ya haki, yaani hakuna haki yenye haina nini? Kikomo, kila haki inakikomo chake. Kwa mfano, unaweza kuwa na haki ya kutembea na kuenda pahali popote utakapo lakini ukivunja hiyo sheria yenye kukupa hiyo haki nayo sheria inatatiza hizo haki zako.

Tunazungumzia pia habari ya haki ya kuishi, the right to life na kwa ajili ya haki ya uai yenye hakuna mtu mwenye kumpatia mwingine. Watu wengi sana walituomba tuondoe adhabu ya kifo na hii Katiba imeondoa adhabu ya kifo, ama imependekeza. Haya mambo yote ni mapendekezo tuelewane ndio bado tunaita draft. Na hii draft itaenda kuzungumzia na wale delegates wenye tumeona hapa. Nitaeleza kidogo juu ya hiyo.

Tumezungumzia haki ya usawa, equality before the law na ningetaka kueleza kidogo hapa. When we say that we are equal, we don't mean we are the same. There is a major difference between being equal and being the same. When I say that a Kalenjin and a Luo are equal, do I mean they are the same? No. Do they have the same language, do they eat the same food, do they have the same culture? But are they equal? Yes. So when we say that men and women are equal also we don't mean they are the same, we just mean that each has the same rights. If one has a right to life, the other one has a right to life na hizi haki zote zenye zimetajwa hapa.

The right to equality, right to all manner of things. Kila mtu ana hizo haki lakini hatusemi watu wamekuwa the-same. Tukisema watu wenye ulemavu are equal to people without disability, are we saying they are the same? No, if you have two children and one has a disability and the other one has no disability and we say they don't have equal rights to education, what do we mean? We mean that we are going to give them both education and we are going to put that extra that is needed for the child with a disability to ensure that they also have to access equality in education. So we are saying, its only after we have respected the



right to equality that we look at equity. Because that child with a disability will need some special intervention and that is equity now, giving them what they need in order to get what they equally deserve. Do you understand me? Because these are principles we have got to understand well otherwise it worries us, there is a concern. How can we say people are equal, does that mean that they are the same?

You hear people many times say that, kwa sasa vile akina mama na akina baba tumetoshana hakuna haja ya kumfungulia mlango ya gari, no. Hukunifungulia kwa hivyo hatukutoshana, ulinivunguliwa kwani, although we are equal we are not the same.

That is why we have different roles. So there is a right to equality and you can read what the provision says.

Then we have the freedom from what? From discrimination on whatever level, you should not be discriminated against because you are what? can you read such provisions. The State shall not unfairly discriminate directly or indirectly against anyone on any unworthy grounds including race, sex, pregnancy, marital status, ethnic or social origins, colour, age na zingine nyingi zenye hakiko kwenye kwenye hiyo utaratibu. No discrimination on any ground, so you have freedom from discrimination.

Kuna haki za makundi tofauti yenye imeadhirika hapo mbeleni, kwa hivyo hii Katiba mpya inaoneshana haki za wanawake. Pia kuna hazi za wazee katika jamii. Tumesema ni wajibu wa mzee akiwa kijana ajiwekee mali yake na ajiangalie mwenyewe akishakuwa mzee. Lakini asipoweza kufanya hivi ni wajibu wa taifa kuwatazama wazee wetu na ahadi zingine zilizonyingi. Wakati mwingine wazee sana hekima zao zimetolewa ndio tunawaondosha katika hali ya kuishi, si hivyo? Na kwa sasa lazima kwa hii Katiba mpya tuwatafutie nafasi yao ya kushiriki kwenye maisha ya kila siku.

Tuna haki za jamii na tuna haki za watoto, tuna haki za familia na tuna haki za walemavu ama watu wasiojiweza lakini watu hawapendi ilo matamko hata kidogo, ati wasiojiweza. Wangetaka kuitwa watu wenye ulemavu, kwani ni mtu kwanza halafu ulemavu unakuwa wa pili.

Pia tumezungumzia habari ya heshima za binadamu yaani. Heshima za binadamu ni nini?

**Audience:** Human dignity.

**Com. Salome Muigai:** Human dignity. Tumezungumzia pia uhuru na usalama wa mtu, tumezungumzia uhuru wa kutofanywa mtumwa ama kufanywa nini? Ama kufanywa sulubu ama topoa. You should not be made into a slave, you should not be forced to work without pay and you should not be forced to labour. Kuna right to privacy, kabla mtu hajaingia nyumba yako atachukua masharti yenye Katiba imeweka ili wewe uwe na haki ya faraga.

Kuna uhuru wa dini, imani na maoni, kuna uhuru wa kutoa maoni, kuna uhuru wa kuyachapisha hayo maoni sharti moja tu usiwe maoni yako ni ya kutatiza jamii, ni ya kuleta chuki ama ni ya kuleta kutoelewana kati ya jamii moja na nyingine ama kati ya mtu

moja na mwingine.

Kuna uhuru wa kushirikiana, kuna uhuru wa kufanya mkutano, maandamano, kuchochea mgomo na una uhuru wa malalamiko, inaweza kuwa malalamiko yako. Kuna uhuru wa haki za kisiasa. Uhuru wa kuenda utakako na kufanya nini? na kuishi au kukaa huko. Kuna uhuru wa wakimbizi na pia kuna uhuru wa bishara na kazi za nini? Za ujizi.

Kuna uhuru wa kuwa na mali, uhusiano wa kikazi, usalama wa kijamii na uhuru wa afya na nini tena?

**Audience:** Elimu.

**Com. Salome Muigai:** Elimu, nyumba ama makao, chakula, maji safi, usafi na nini tena? Na mazingira. Jambo mpya kuhusu mazingira nilisema kila mmoja kwenye Katiba hii ataweza kuenda mahakamani kusema mazingira yeke inaharibiwa. Kila mtu ana uhuru wa kuenda mahakamani kuyalinda mazingira yake kwa ajili yetu na kwa ajili ya nani mwengine?

**Audience:** Vizazi vijazo.

**Com. Salome Muigai:** Kwa ajili ya vizazi vijavyo.

Kuna uhuru wa lugha za kitamaduni, unaweza kuzungumza lugha yako ya kitamaduni lakini uhuru wako unaishia wapi? Uhuru wako unaishia pahali uhuru wa mwenzako inapoanza. Yaani nikisema nina uhuru wa kuzungumza lugha ya baba na ni kweli nina uhuru, nianze kuzungumza lugha hiyo na mimi nazungumzia mambo ya public na wengine hawaelewi, sasa uhuru wangu umepita mipaka ya nini? Ya watu wele wengine, si hivyo? Kwa hivyo uhuru wangu unakomea pale uhuru wako utafanya nini? Unaaanzia.

Kuna uhuru wa haki za wateja, utawala wa haki, haki ya kutofuata maagizo yasio halali. Hiyo ina maan gani? Hiyo mara nyingi sasa imeletwa kutokana na janga lililolipata Rwanda na makabila zingine na Ugoslavia. Pahali watu wameuwa wakiulizwa wakiletwa mahakamani wanasema kuwa walikuwa wanafuata nini? Walikuwa wanafuata amri. Sasa wameambiwa huwezi kufuata amri ikiwa hiyo amri isiyo halali na ukifuata hutajitetea kwa kusema ulikuwa ukifuata amri.

Kuna uhuru wa kufikia mahakama na kuna haki ya watu wanaotiwa nguvuni. Watu wengi walitueleza kwamba unaweza kutiwa nguvuni utakaa wiki mbili kabla hujaletwa kwenye mahamakama na hujaachiliwa. Kwa hivyo sasa tumeweka masaa fulani ndio mtu anatakiwa kukaa kwenye mahakama na ikizidi hiyo lazima aachiliwe.

Pia kuna uhuru wa kufanyiwa mashtaka ya haki na ya muda. You have a right to a fair trial but timely trial also. If you are going to get a fair trial after 5 years of remand then can that be fair? No, so we are talking about time frame here as part of the

fairness of the trial.

Kuna pia haki ya watu waliokizuizini na pia wakati wa hatari haki zetu zingine zinaondolewa kwa muda, si hivyo? Unasikia kuna curfew lazima uwe nyumbani saa ngapi na time, si hivyo? Lazima ufanye jambo moja au lingine. Kwa hivyo wakati wa hatari t.

...umeandalia kwa kirefu ili tuone utafanyika vipi na utafupishwa vipi ili watu wawe na haki na uhuru wao. Pia matumizi ya sheria yetu ya haki na tumeunda kikundi ama Tume ya kuangalia haki zako na utawala venye unataka. There will be a place where you can take your complaints when you feel that your rights and your freedom have been abused, misused or used against you.

Tumeuliza mahakama kuwa na mamlaka ya kulinda hizi haki. You can go to court also kusema haki zako zimefanywa nini? Zimekeukwa

Kuna jambo moja ningetaka kusema kabla hatujaondoka kwenye hiyo sura na tutakubaliana vile tutafanya mtu mwingine mwenye itafanya Katiba yetu ya mkutano huu. Mtu mwenye ataendelea kutatiza recording zetu kwa kuwa na mobile tutamfanya nini? Haki zake gani zenye tutampokonya kwani hafuati sheria zetu.

**Audience:** Ataenda nje.

**Com. Salome Muigai:** Ataenda nje ama tutachukua mobile, tufanya nini nayo? Tumpatie mwenye hana. (*Laughter*).

Kuna jambo moja yenye ningetaka kutazama kwa upangilio wa sura. Mnaona sura ya haki ni sura ya ngapi?

**Audience:** Ya tano.

**Com. Salome Muigai:** Ya tano na kwa pahali ya wajibu wa raia ni sura ya ngapi? Duties of the citizen are on which chapter?

**Audience:** Chapter four.

**Com. Salome Muigai:** Chapter four, so what are we saying about rights and responsibilities, which one comes first according to this, mpangilio wenye uko hapa. Lipi linakuja kwanza?

**Audience:** Kazi kwanza.

**Com. Salome Muigai:** Yes, our duties come before our rights. Yes because we don't do what is right, you don't have to

enjoy our rights. So we have deliberately on this document put the duties before the rights.

Basi sasa sura hizo za kwanza tano zenye tulikuwa tunataka tuangalie kwa urefu hizi zingine tutapitia kwa ufupi zaidi kwani hii Katiba in sura ishirini na sasa tuko kwa sura ya ngapi? Ya tano, bado tuna ngapi zimebaki?

**Audience:** Kumi na tano.

**Com. Salome Muigai:** Kumi na tano na zingine tuna vipengele kwa hivyo tutaanza kwa kuenda kazi kidogo.

Sura ya sita ni juu ya uwakilishi wa watu. Sehemu ya kwanza ni utaratibu na upigaji wa kura, inazungumzia juu ya kanuni za jumla, inazungumzia pia juu ya uchaguzi, inazungumzia haki ya kupiga kura, sifa za mtu kusajiriwa na kutostahili kufanya nini? Kusajiliwa. Zinaeleza juu ya kupiga kura na zinaeleza pia juu ya ugombeaji bila kupingwa.

Ningetaka kuzungumzia maneno mawili tu kwa kirefu kidogo juu ya hiki kipengele na ya kwanza ni juu ya mpango wa kupiga kura. Wakati huu tunapiga kura yenye inadhiwa first through the votes, yule wa kwanza kupitia kwenye voti ndio mwenye anashinda. Yaani kupiga kura mtu mwenye atapata kura nying zaidi ndio mshindi. Tulipoluwa tukienda kupata maoni, watu wengi walitueleza juu ya maeneo ya ubunge na tulikuwa na malalamiko nyingi sana. Watu wenye wanatoka pahali yenye watu wengi, densely populated walituambia kuwa kikao cha kupigia kura ama cha Kibunge kiandaliwe kwa kadili ya nini? Ya wingi wa watu na tusifikirie jambo lingine isipokuwa wingi wa watu. Tulipoenda Uashi Ngishu, tuliambiwa Trans Nzoia, Murang'a na pahali pote penye watu wengu, Vihiga na pahali kama hapo.

Tulipoenda kwenye makao yenye watu wachache kama Marakwet na Turkana, North Eastern, Wajia, Mandera, Kajiado. Walituambia mkienda kutengeneza habari ya vikao vya Bunge mfikirie tu, eneo kwani maeneo yetu ni marefu sana. Unaweza kuenda mile mia tano ukijaribu kuona Mbunge wako kwa hivyo msifikirie wingi wa watu kamwe, mfikirie tu eneo. Waliotuambia tuangalia eneo walikuwa watu wa wapi? Wakenya na waliotuambia tuangalie wingi wa watu walikuwa watu wa wapi? Wa Kenya. Na sisi tulikuwa Tume ya nani, ya watu.

Sasa tumepata hayo mambo mawili tumependekeza hivi, kuwa tuwe na utaratibu tulionayo hapa lakini tuchanganye na utaratibu mwingine. Utaratibu wa kusema kuwa kama hapa Eldoret North ni chama kipi kilichokikubwa kuliko zile zingine?

**Audience:** KANU.

**Com. Salome Muigai:** Ninakiuka haki zenu za maoni. Nataka wananchi wenye kupiga kura hapa kwani nyinyi mmetoka sehemu mbali mbali. Ni chama kipi kilichokikubwa? Ziko sawa, gani na gani basi ni sawa? KANU na...

**Speaker:** KANU na NAK.

**Com. Salome Muigai:** Tuache NAK hatujapigia NAK kura bado. Ni KANU na DP. Haya, sasa tunasema hivi, mpiga kura ukija utapiga kura mara mbili, utapigia Mbunge wako mwenye unataka na utapigia chama. Utapiga kura ngapi? Mbili. Sasa kura ya Bunge yoyote atakayepata kura zile nyingi ataenda Bunge lakini kura ya chama unaweza kumpigia Mbunge wako na chama chake ama unaweza kusema, mimi nampenda fulani tunajua ni mtu mzuri lakini hicho chama chake sikipendi. Kwa hivyo naenda kupiga kura moja kwa Mjumbe na kura ya chama kwa chama tofauti.

Hizi kura zikiwekwa pamoja kile chama chenye kura nyingi zaidi kitapata viti vingine vya ziada. Hii itafanya nini? Itakubalisha wale watu jamii ya wadogo wapate Mjumbe wao lakini vile watu wengi pia watapata Wajumbe zaidi ndio waweze kuwa balanced.

Jambo lingine la hizi kura za ziada ndio inaweza watu wengine wa ziada ambao ni nominated MPs, si nominated, kila chama wakati wa kuleta candidates wao wataleta pia majina ya watu wao kusema kukipata viti vingine ishirini watu wetu ni fulani na fulani na fulani. Na watakuwa wanapigia kura kwenye chama juu ya majina hay, they will be elected and they will come from the party. Jambo la kwanza la hii ni kufanya usawa wa vote.

Ya pili ni kuwa ile jamii kubwa ikishapata Mjumbe wao inaweza pia kwenye hiyo wilaya ama kwenye hiyo eneo kuhusisha vikundi vingine vya watu walivyo wadogo na wangetaka kulete kwenye utawala. Kwa mfano ikiwa ni Eldoret North, Mjumbe wa leo ametoka wapi na anaitwa nani?

**Audience:** Ruto.

**Com. Salome Muigai:** Ni wa jamii gani?

**Audience:** Kalenjin.

**Com. Salome Muigai:** Ya Kalenji na Eldoret North kuna makabila mengine gani? Kuna Kikuyu, Luo, Luhya, Wahindi. Kwa hivyo KANU ikipata viti vingine vitatu kwa ajili wa wingi wa kura zao wana nafasi sasa ya kusema vile tumeshapata Mbunge kutoka jamii ya Kalenjin hiki kiti kimoja tunapatia jamii ya Wahindi kwani ni ndogo kabisa lakini inashirikisha uchumu wa eneo letu. Hiki kiti kingine tunaweza kupatia mtaalam kwani sisi watu wa Eldoret North ni wakulima si hivyo? Na watu wenye tumepata kwenye Bunge ni wanasisia na hakuna mtaalam wa kilimo. Kwa hivyo kura yetu moja ama kiti chetu kimoja tutapatia nani? Mtaalam wa kilimo ndio basi tukianza kuchangia Bunge alete utaalim katika mijadala ya kilimo.

Kwa hivyo hivi viti vitaleta wataalam, vitaleta jamii ndogo, vitaleta akina mama na pia tumaweza kusema tumepata nchi nzima

kama tusema KANU, tumepata watu wote wasio na ulemavu. Kwa hivyo kama tuna kiti cha ziada tunaweza kuleta mlemavu mmoja hapa au wawili.

In other words, mtu akiangalia Bunge letu lenye litakuja kwenye hii Katiba tungetaka aone sura ya Kenya. The people of Kenya. If we have are men and women in Kenya our Parliament will have men and women. If we have small communities like Ogiek in Kenya we should use this strategy to bring them to Parliament. So that is the whole idea for the 90 seats.

The other question is, why are we saying that half of these seats should be given to women. Because we have said in our values that any elective group much have what number of women?

**Audience:** A third.

**Com. Salome Muigai:** A third. If we took all men then the Bunge will not be constitutionally balanced. So we are looking for ways of ensuring that when our Parliament for the first time it is reflecting the face of Kenya and it is meeting the constitutional needs. Hiyo ndio lengo la kwanza lenye ni kipya kwenye hii mapendekezo ya Katiba. Lakini ni kuwa zamani tulisema kuwa mtu akiwa hajapingwa basi eneo lake halikupiga kura, lakini kwa ajili sasa kila chama kitahitaji kuhesabu kura zake za pamoja ni lazima hata pahali yenye hakuna upingamizi kupigwe kura. Ni hayo mawili ndio nilikuwa nataka kueleza.

Tuende kwa sehemu ya pili yenye kuzungumza habari ya Tume ya Uchaguzi, vile itakavyoundwa, majukumu yake, wafanyikazi wake na mipaka ya maeneo ya Bunge. Mambo mawili ningetaka kusema juu ya hili Tume. Kwanza tumepungua Wanatume, tumesema kuwa hili Tume litakuwa na Wanatume wasiopungua wanane na wasiozidi kumi ili iwe Tume ndogo yenye inaweza kufanya kazi zake vilivyo. Ikihitaji watu wengi zaidi iajiri watu wake so that there is ....not a big Commission.

Neno la pili ni kuwa tumeiongeza jukumu nyingine moja. Tumesema kuwa Tume ya uchaguzi ndio yenye inafuata mambo ya kisiasa na vile tunavyofanya kazi zao wakati wa uchaguzi. Kwa hivyo tumeita kazi ya ku-register na de-register vyama vya kisiasa kwani hao ndio kuona vyama vya siasa vyenye nidhamu na vyenye hazina nidhamu. Kwa hivyo badala ya hao kuenda kushtaki hizo vyama kwa mtu mwingine hao wenyewe watakuwa na jukumu ya kusajirisha ama kutosajirisha vyama vya kisiasa.

Sehemu ya tatu inazungumzia habari ya vyama vya kisiasa na inasema haki ya kuunda chama cha kisiasa, wajibu, utajirishi, sifa ya chama kusajiriwa, hali ya shirika, usajirishi, kufungwa na mambo mengi ya vyama vya siasa. Jambo moja tu ningetaka kuzungumzia juu ya jambo la vyama vya viasa zingine mtasoma. Tumesema vyama vya siasa vipatiwe fedha za uma kwani malalamiko mengi imekuwa kuwa vyama vya siasa hazitoshani na uwanja wa kuchezea hiyo kandanda wanaocheza haukosawa kamwe. Watu wengine walituambia kuwa vyama vingine vinakuwa uwanja umeunika sana upande wao wa kupigia mpira wao upande ule umeenda moja kwa moja kwenye goal ya vyama vile vingine kwani uwanja haujasawawishwa hata kidogo.

Kwa hivyo tumesema vyama vipatiwe pesa za uma lakini je, kuna masharti yoyote? Ndio. Sharti ya kwanza, lazima hicho chama kiwe kimepata 3% of the national vote. Kwa hivyo tukisema hivyo wakati huu tuna vyama vingapi? Hamsini na zaidi, sivyo? Lakini tukiweka kwa hii kichungi cha 3% of the vote zote zitabaki? La na tena vyama vyenye vinataka pesa za uma lazima vionekane pia ni vyama vya kitaifa. Hatutaki kupatia vyama vya kikabila mali ya uma kwa hivyo hii pia ndio nafasi yenye itafanya chama chenye kiko na watu pengine kutoka Central Province na kuna viti vingine vya ziada venye tulizungumzia badala ya kuchagua mtu wa Central Province kutoka central Mjumbe ndio ionekane zina sura ya kitaifa. Haya ndio mambo yenye tumejaribu kuweka kujaribu kusawawishana mambo ya vyama vya kisiasa. Haya mambo mawili tu ndio yenye nitazungumzia zingine tafadhali mtasoma kwani hii ni sura yenye mambo mengi.

Sura ya saba, mkikubali nitakunywa maji ingawa zitampa kila mtu. Sura ya saba inazungumzia sheria. Sehemu ya kwanza inazungumzia habari ya Bunge, habari ya kuundwa kwa Bunge, wajibu wa Bunge, kuharishwa na uteuzi wa Bunge, idhini ya matumizi ya fedha ta Bunge yaani Bunge na jukumu zake. Halafu sehemu ya pili inazungumzia muhundo na wanachama wa Bunge. Kwa Bunge ya jumla ningetaka kusema hivi, kuwa Bunge linalopendekezwa kwa hii Katiba ni Bunge lenye litakuwa na vikao viwili. Kutakuwa na kikao kile cha Bunge cha kawaida ya watu wenye wamechaguliwa, lakini pia tutakuwa na kikao kingine tunaita Baraza la Taifa. Hili baraza itakuwa na Mjumbe mmoja kutoka kwa kila Wilaya, hiyo itatupa Wajumbe wangapi? Sabini hivi ama karibu na sabini. Tutakuwa na viti vingine thelathini vyenye tumependekeza zitakuwa za akina mama.

Mwanzo mwanzo kutakuwa shida kubwa kufikiria ukiuliza Uashingishu watupe Mjumbe mmoja kuwa mama. Nafikiri ni Wilaya ngapi zenye zitatupa mama. Ukiuliza tu Mjumbe mmoja kutoka kwa Wilaya nafasi ya kupata mama ni kubwa? Si kubwa sana.

Kwa hivyo tumesema kila Wilaya itatupa Mjumbe mmoja halafu kila mkoa itatupa akina mama wane, halafu Nairobi watakua wawili. Kwa hivyo hiki kikao kitakuwa na Wabunge mia moja sabini waliotoka kila Wilaya na akina mama wanne kutoka kwa kila Mkoa. Hii kazi ile kubwa yenye hiki kikao ni kuwa check and balance ya Bunge kwani tumeipa Bunge madaraka mengi, tumesema Bunge itawasiliana na vyama na Rais wakati wa kuchagua watu yake kama kuchagua Mahakimu atawasiliana na Bunge akichagua watu wengi na mambo mengi atawasiliana na Bunge. Lakini pia Bunge inaweza kuwa na uhuru iliona kikomo, kwa hivyo naye Baraza la Kitaifa itakuwapo kupunguza kazi ya Bunge, checks and balances within the division of power.

Sehemu ya tatu inazungumzia maofisa na wasimamizi na watenda wengine kwenye kikao hivi viwili vya Bunge, na sehemu ya nne inazungumzia sheria na utaratibu wa Bunge.

Sehemu ya tano ya sura hiyo ni kikao na ratiba ya Bunge na tuliambiwa kika pahali kuwa ratiba ya Bunge itengenezewe wapi, na Bunge lenyewe. Parliamentary callender should be the responsibility of Parliament itself. So this tries to put in strategy on how this can be fabricated.

Sehemu ya nne tumeelezwa uhuru wa kuzungumza wa Wabunge, uwezo wa fadhila na kinga. Protection of the immunity of the parliamentarians na ways of involving the public in the parliamentary debate. Vile tutashirikisha uma na kushirikishwa kwenye kazi za Bunge. Pia tumeweka Tume ya uduma za Bunge kwenye katiba. The Parliamentary Service Commission has been entrenched in the new Constitution.

Sura ya nane inazungumzia mamlaka ya nchi, the Executive, inazungumzia sehemu ya kwanza kanuni na mifumo ya mamlaka ya taifa. Sehemu ya pili inazungumzia habari ya Rais na makamu wake.

Ningetaka tuzungumzie kidogo habari sana sana ya kifungo cha kazi za Rais kwani kuna tunasipoweleka na watu wengi wanasema Raisi hana mamlaka tena na hii ndio ukweli kabisa. Lakini kabla ya hayo ningetaka kuzungumzia kwamba Rais ama mtu yoyote atakayesimama kuwa Rais atasimama na mwenzake na huyo mwenzake atakuwa running mate. Wote watachaguliwa moja kwa moja na wananchi na akishachaguliwa huyo mwenzake atakuwa makamu wa Rais na huyo makamu Rais atashikilia Urais wakari Rais hayuko.

Majukumu ya Rais wa taifa ni kipengele cha 111, Rais atazungumzia uvumbizi wa kila bunge na ilivyochaguliwa kulingana na ibada ya 141. Rais pia atakuwa na kikao maalum cha Bunge mara moja kwa mwaka kulingana na ibada ya 14. Ibadia 14 inasema Rais kila mwaka ataeleza taifa tuko mahali gani kwenye kipengele ya sura ya tano, haki za uhuru kwa wananchi. Nafasi hiyo ya pili inasema anaweza kurudia Bunge wakati mwingine wowote na anaweza kulivunja Bunge tu katika hali iliyotajwa kwenye ukurasa ya arubaine na mbili. Kwa hivyo haya mambo mengine mtayasoma baadaye.

Rais atateuwa na pengine kwa mjibu wa Katiba (b), anaweza kuteuwa na kutimua lakini kwa utaratibu wa Katiba. Anaweza akawaajiri, Waziri Mkuu ambaye atakuwa ndiye kiongozi wa chama cha siasa. Inazungumza pia kuungwa mkoni na watu wengi bungeni na manaibu wawili wa Waziri Mkuu ndio itakuwa kazi ya Rais kuwateuwa zaidi ya Mawaziri wangapi? Kumi na tano na wasaidizi wao kumi na tano pia. Pia Rais atateuwa maafisa wa mahakama, afisi yoyote ya uma ambayo katibu inataka Raisi amteuwe. Majukumi zingine nyingi mpaka mwisho wa hiyo ukurasa. Ningetaka tafadhali kila mtu awe na nafasi ya kusoma.

### **(Interjection)**

Can we have Emmy? Could you please pick up the paper of their lists so that everybody don't just come and go.

Hiyo ya ziada ni kuwa, there will be dialogue, there will be consultation, with certain groups of people or certain institutions. We had created avenues of more consultation so that more people are involved in whatever it is that we are doing in this country.

Ya tatu ni juu ya waziri mkuu na baraza la mawaziri nimeeleza kuwa tayari tutakuwa na Waziri Mkuu atakuwa na Manaibu



wawili. Watachaguliwa kutoka Bunge, kutoka kwa chama chenye Wabunge wengi zaidi. Baraza la Mawaziri itatolewa nje ya Bunge kwa sababu hizi. Tumesema na wananchi kuwa Mbunge wao akichaguliwa kuwa Waziri hamwoni tena mpaka siku ile yeye na Rais wataenda kutembelea constituency hiyo. Pia wananchi walisema kuwa wakati mwingi Wabunge wengi wanaogopa kuwatetea kwani bado wanangoja kuteuliwa Mawaziri, kwa hivyo wanakosa kufanya jukumu yao hasa wakiwa wametoka kwenye chama tawala kwani wanangoja kuteuliwa, kwa sababu kila siku unasema hiyo babarabara wakati mwingine hautapata kuteuliwa. Kwa hivyo Mbunge anakosa kuwakilisha watu wake vilivyo.

Jambo lingine lenye watu walitumbia ni kuwa kuna watu wengi Kenya pia wenye kutaka kazi, kwa hivyo kila mtu mmoja apate kazi moja. Lingine, watu walikuwa na mambo mengi ya kusema juu ya hili jambo. Wakisema kuwa Wabunge ... (nimesahau neno lingine lakini nikikumbuka nitawaeleza, wacha niendeleo na habari ya Baraza la Mawaziri. Wengine walisema kuwa wanataka Waziri wenye ni wataalam, professionals. Mtu akiwa Waziri wa Elimu lazima awe Mwalimu, akiwa Waziri wa Afya lazima awe Daktari, akiwa Waziri wa Kilimo lazima awe Mkulima ama Agricultural Profession, awe yeye ni Veterinary ama nini. Waziri wa Defence awe ni Askari ama anapata ofisi hiyo. Kwa hivyo watu wengi walisema wangetaka utalam uletwe katika kutimiza ama kuendeleza Wizara hizo. Nafikiri nitamalizia hapo juu ya Waziri Mkuu na Baraza lake la Mawaziri.

Sura ya tisa ni mfumo wa Mahakama na sheria. Sehemu ya kwanza inazungumzia juu mfumo wa Mahakama. Kile chenye ningetaka kueleza hapa tumeyajua habari ya wenzetu wa Mahakama, uhuru wa Mahakama, Mahakama ya Juu. Ni kuwa mependekeza tuwe na Mahakama ya juu yaani Supreme Court na hii itakuwa na kazi mbili. Ya kwanza ndio itakuwa koti ya Kikatiba, mtu yoyote akiwa na shida na Katiba ataenda kwenye Supreme Court kuuliza habari ya Katiba.

Pia Rais anaweza kuomba Supreme Court kuangalia habari ya Katiba. Halafu tutakuwa na Mahakama hizi zingine kama Mahakama ya Juu, Mahakama ya Rufani, Mahakama Kuu yaani High Court na itakuwa tumeeleza juu ya utaratibu wa kuteuwa Mahakimu, sifa anayestahili kuteuliwa, awamu ya Ma-Judge ofisini, kuondolewa ofisini, Mahakama ndogo na pia tumezungumzia Mahakama ya Kadhi. Mbeleni tulikuwa na Mahakama ya Kadhi kwenye kiwango kimoja sasa tumeifanya Mahakama ya Kadhi kuwa viwango tofauti.

Sehemu ya pili inazungumzia juu ya mfumo wa sheria. Tumeambiwa na wananchi wengi kuwa Attorney General anakazi isiyofahamika, mara moja yeye ni Mbunge, mara ya pili yeye ni Mawaziri kwani anakaa kwenye Cabinet, mara ya tatu yeye ni Mshauri Mkuu wa serikali kisheria, mara nyingine yeye ni Mshataki Mkuu na hii mambo yamekuwa mengi sana machanganyiko kwenye ofisi moja na ofisi moja. Kwa hivyo hii ofisi tumeigawanya mara mbili, kutakuwa na ofisi, hata akiambiwa kuwa yeye ndio Mkuu wa Sheria, yeye ni Mwanasheria Mkuu kwani hakuna mtu mkuu kuliko sheria. Kwa hivyo tumeigawanya ofisi ya Mwanasheria Mkuu na ile ya Mkurugenzi wa Mashtaka ya Uma ili tuwe na ofisi mbili.

Tumependekeza pia ili wa Uma, the Public Defender. Hii naye kazi yake ni kuangalia pahali gani haki zako zimekeukwa. Na tumezungumzia pia habari ya uwezo wa kuhurumia na nani atayehusishwa.

Sehemu ya tatu ni taaluma ya sheria na hiyo itakuwa ndio mwisho wa hiyo sura ya tisa.

Sura ya kumi inazungumzia juu ya uvungazaji na usambazaji wa madaraka yaani devolution. Hii ni nafasi ndefu kabisa ina ukurasa tofauti. Ningetaka tujue maneno mawili ama matatu juu ya vile tuliambiwa na watu. Wananchi walituambia kuwa serikali ya Nairobi iko mbali sana nao wangependa serikali ya karibu na sasa tumependekeza kuwa kutakuwa na serikali la kila kijiji, kutakuwa na serikali katika kata lakini ile serikali kubwa ya watu yenye iko karibu nao itakuwa Serikali ya Wilaya. Hii Serikali ya Wilaya itakuwa na Bunge lake na itakuwa na sheria zake zenye kuhusu hiyo wilaya. Kwa mfano, ikiwa serikali ni ya Uashi Ngishu mambo ya muhimu ya Uashi Ngishu itakuwa nini? Kilimo, lakini serikali ya Wilaya ya Kajiado mambo ya kwanza yake itakuwa ufugaji. Kwa hivyo kila serikali itakuwa na nafasi yake ya kuweka maanani ama kiwe kibao mbele mambo yake ya muhimu yenye itakuwa na tafauti.

Pia kutakuwa na Serikali ya Mkoa lakini Serikali ya Mkoa kazi yake itakuwa ya coordination na coordination ni kufanya nini? Kusimamia ndio ku-coordinate.

**Speaker:** Kuunganisha.

**Com. Salome Muigai:** Kuunganisha, itakuwa kuunganisha Wilaya moja na nyingine. Kwa mfano ikiwa watu wa Wilaya ya Uashi Ngishu wana mahindi wasijua la kufanya nayo vile ilivyonyingi. Watu wa Kajiado wamekuwa na ukame hawana chakula, basi itakuwa kazi ya Serikali ya Mkoa kutafuta soko Kajiado ndio wanunue mahindi ya Uashi Ngishu. Nao pia watu wa Uashi Ngishu mara nying ufugaji wao ni wa ngombe wa maziwa kwa hivyo hawana ngombe nyingi za nyama hata akizaliwa wanauza ama wanachinja. Kwa hivyo wakati mengine hiyo Serikali ya Mkoa itaweza kuwafatutia wafugaji wa Kajiado soko la nyama katika Uashi Ngishu na mambo kama hayo.

Bunge la Wilaya litachaguliwa kwenye Wilaya lakini itafuatilia Katiba yaani kila mara mmekubaliana Katiba lazima zije mpaka wilayani.

Sura ya kumi na tatu inazungumzia juu ya fedha za uma, ile kodi zinatoshwa na vile mambo yote serikali inaipotumia, nani mwenye kuidhinisha pesa zipi, wakati gani. Mambo mawili ningetaka kusema juu ya matumizi ya fedha.

Ya kwanza, hakuna mtu atakayekubaliwa kukosa kulipa kodi, no exception. Lakini kukiwa ni lazima mtu asilipe kodi lazima baada ya muda fulani mtoza kodi aeleze Bunge ni watu wangapi na akina nani wenye waliokolewa wasilipe kodi, kwa sababu gani na ilikuwa ni kodi ya pesa ngapi. Ndio akisema tulimpatia Salome alete gari bila kulipa kodi kwani alikuwa na ulemavu, watu wa Uashi Ngishu watasema sisi tumemjua Salome tangu alipozaliwa, tangu huko Township, hiyo ni kweli ama hiyo ni uongo kwani habari itakuwa wazi kwa kila mtu kuyaona. Hiyo ni jambo la kwanza.

Jambo la pili ni kuwa, tumeliunganisha na kuunganisha malipo ya kodi na hudumu zenye watu wanapata. There is a linkage between the taxation and the services that are supplied. Hayo tu ndio mambo mawili yenye nilikuwa nataka kueleza kwenye hiyo sura ya kumi na tatu.

Sura ya kumi na mne ni juu ya Huduma za Uma yaani public service. Tumeangalia tena Public Service Commission ama Tume ya Huduma ya Uma, tumeyapa mamlaka na wajibu wao, tumeleta uteuzi wa maafisa nani atakayechaguliwa na atakuwa amehitimu aje.

Sehemu ya pili yenye ni pia huduma ya Polisi ya Kenya, hii yenye tutachagua mkiuliza maswali yote tuliyoko nayo kuhusu polising, habari ya kuajiri, ni nani mwenye anaajiriwa. Na hivi Tume zote kila mmoja itakuwa nafasi ya kutoa repoti yake kwa Bunge zingine mara moja kwa mwaka, zingine mara mbili ama mara tatu kwa mwaka kulingana na kazi zao.

Sehemu ya tatu ni juu ya huduma ya Kenya ya Kurekebisha Tabia. Kwa hivyo kuna Tume ya Huduma ya uma, kuna Huduma ya Polisi wa Kenya na pia kuna Huduma ya Kenya ya kurekebisha tabia yaani prison.

Sura ya kumi na tano ni juu ya Kikosi Cha Ulinzi wa Usalama wa Taifa. Hiki kikosi Mwanakiti wake atakuwa Rais wa taifa. Kwa hivyo hii pia ni mamlaka mapya kwa Rais na pia tukisoma hayo tutasikia ni nani mwenye atakuwa kwenye hizi baraza, atachaguliwaje ama ataapishwa vipi ofisi yake. Kila pahali yenye tumeweka utaratibu wa kuajiri pia tumeweka utaratibu wa kufuta.

Sura ya kumi ni sita ni Uongozi na uaminifu. Wanakenya wengi walituambiwa kuwa haitoshi kuwa mtu amehitimu masomo ingawa tungetaka wenye kutuongoza wawe na masomo kiasi fulani pia ni lazima wawe watu waminifu, tabia zao pia zichunguzwe. Kwa hivyo tumeweka Tume yenye itachunguza tabia na maadili ya mtu yoyote atakayetaka kusimama kuwa kiongozi wa nchi hii ama wa Jamhuri.

Sura ya kumi na saba ni Tume zenye tumeanzisha Kikatabi, sijui kama tulizungumzia kwenye utangulizi ama pahali fulani yaani itakuwa taifa lenye kufuata sheria. (Na mnasikia vile itakuwa na shida? Sheria moja tu tuliofikiria kwenye hii jamhuri ndogo yenye iko kwenye hiki chumba ndio mnaona pia tunashida ya kuifuata hiyo sheria yetu).

Sura ya kumi na saba inaeleza juu ya Tume zenye tumeanzishwa Kikatiba kwanza tumeeleza kwa jumla, tume Zitaanzishwa vipi, watu gani wataweza kuketi kwenye Tume, Tume zinamajukumu gani, Tume zinawajibu gani, Tume zitapatiwa fedha kutoka wapi? Kila tume yenye imeanzishwa ya Kikatiba. Halafu tumezungumzia Tume zingine lakini Tume zenye hatujawaeleza habari yake ni kama Tume rasmi ya Katiba. Kuna tume yenye tutaipatia kazi kwa miaka mitano tu, baada ya miaka mitano lazima iwe imetuwezesha sheria zote kubadilishwa kuandamana na Katiba mpya, baada ya miaka tano haipati nafasi nyingine ya kuendelea.

Tume ya Kuajiri Walimu pia tumeweka kwenye Constitution. Na tumeanzisha Tume ya Mishahara na malipo yenye itaangalia mishahara ya wafanyikazi wote wa uma kuanzia kwa Rais mpaka kwa yule mwingine aliwe kiwango kingine chochote ili kuhakikisha kuwa mtu mmoja...(tuliomba tafadhali funga mobile kwa wenye wamekuja wamechelewa). Hii Tume ya mishahara na malipo litahakikisha mtu moja hapati shilingi milioni tano na mwingine kupata shilingi mia tano na wakienda kununua mali ya uchumi wanauziwa bei moja. Watu wengi walilalamika habari ya mishahara na tukaomba hiyo si kazi yenye inaweza kufanywa kwa muda mfupi kwa hivyo badala ya sisi kuanzisha...

**(Interjection)...**

**Mzee:** Watoke nje.

**Com. Salome Muigai:** Mzee amazungumza tafadhali funga hiyo mobile ama usikiliza ukiwa nje ukimaliza tafadhali uje tena.

Hiyo Tume ya Mishahara basi nimezungumzia. Kutakuwa na Tume ya Uadilifu na Uamini hii ndio tume itakayochunguza kila mtu mwenye kutaka kusimamia cheo chochote cha uongozi. Tume ya haki za binadamu na haki za kiutawala ndio nilisema mbeleni kuwa itakuwa Tume ya kuangalia matakwa yasio ya kamwe, ya haki na huru. Itakuwa na nafasi moja ya kuangalia haki za kijinsia yaani gender issues, itakuwa na Mwanatume mwenye atakuwa anaangalia mambo ya watoto, itakuwa na Mwanatume mwenye kuangalia haki za watu wenye ulemavu.

Niliulizwa jana kwa sababu gani hakuna haki za wanatume. Haki zote zilizobaki baada ya za walemavu, wanawake na watoto, hizo zingine zote zenye ziko kwa Katiba yetu ni za akina nani?

**Audience:** Wanaume.

**Com. Salome Muigai:** Sura ya kumi na nane inaeleza juu ya badilisho la Katiba na badilisho la Bunge na haki ya utivu. Hiyo ni sura yenye kila mtu inambidi kusoma kuangalia matakwa yake.

Sura ya kumi na tisa ni ufafanuzi ya mambo yenye tumezungumzia yaani transition. When we say this what do we mean? Kitu chenye nimejifunza kwenye utaratibu huu ni kuwa sheria inakikomo chake, kuna mambo mengine yenye unatakiwa ufanye ile sheria inakurusu.

Kwanza watu wengi walituambia hii uhuru wa kuamini na kuabudu ni lazima tuseme ni lazima tuseme ni kuabudu ama kuamini Mungu wala sio shetani. Lakini kisheria ukisema kuabudu Mungu lazima ufafanue Mungu ni nani. Ukisema mtu asiabudu shetani, lazima ufafanue shetani ni nani. Na tulikuwa na shida kubwa sana kufafanua kuwa Mungu ni nani na shetani ni nani. Kwa hivyo vile tulifanya ni kuacha uhuru wa kuabudu lakini tukasema sheria za Bunge zenye ndio sheria tekelezi na pia sera,

policies zitaweza kueleza vitu gani zenye hatuwezi kufanya kwenye huo uhuru wa kuabudu. Basi ndizo pengine zitatolea mazoezi yenye watu wengi walitupa ya kuonyeshana kuwa pengine mtu anaabudu Mungu.

Sura ya ishirini, kanuni za mpito na matokeo ni kuonyeshana ile utaratibu wa kugeuza kutoka kwa hii Katiba tulio nayo kuenda kwa Katiba mpya ili pasiwe pengo na pasiwe mtu kudhulumiwa ama kusia kuwa masilahi yake hayakuwekwa mahanani. Kwa hivyo hiyo sura inaongezea mambo yenye tunataka kuangalia wakati huu wa kipindi kifupi. Kuna mambo yenye iko kwa hii Katiba yenye haitafanyika kwa mwaka moja ama miwili ama mitatu ama mnne, lenye itachukua pengine miaka tano. Kwa hivyo hiyo sura inaonyeshana vitu gani viko katika transition time na mwishowe pale nitaongezea mambo mengine kama kiapo yenye tulizungumzia, kama map ya Kenya na mambo mengi kama hayo.

Kwa hayo mengi kwani haikuwa machache nataka kuwashukuru kwa kusikiliza habari ya safari hii ndefu ya Katiba ya Kenya. Asanteni sana. (*Applause*)

Sasa kuna watu wenye walikuwa na maswali na nitasema kuwa nitachukua maswali wakati wa mwanzo ama katikati. Vile nitafanya nitampa hiki kipasa sauti, nitampa mwenzangu Juma ili nipate nafasi ya kupunzisha sauti yangu halafu nitachukua maswali kutoka kwa watu kumi hivi. Utauliza swali lako nami nitaliandika chini halafu badala ya watu kumi kuuliza ama watu saba ama watu fulani nitayajibu hayo maswali kwa pamoja.

Ningetaka tafadhali mniulize maswali ya ufafanuzi peke yake yaani clarification points, msiniulize Bunge likivunjwa kesho tutafanya nini? Your guess is as good as mine. Kwa hivyo mniulize mambo yenye ninaweza kujibu ama uweze wa kujibu.

**(Interjection)**

**Moses Keter:** Excuse me please. You know we have our land problems in this area and ...

**Com. Salome Muigai:** Nilisema nitampa Juma, just one moment. Let me explain how we are going to do it. I am going to give the mic to Juma to be the Chair and people are going to raise up their hands and I would want you to come in front here because we don't have a mic that can move. Utakuja hapa, utazungumzia kwenye mic na pia tutaandika majina yako ili wakati tutakapoleta maswala haya kwa Tume ikuwa na watu wenye waliuliza pia. Mr. Juma please take up this chairmanship.

**(Interjection)**

**Moses Keter:** You skipped chapter 11.

**Com. Salome Muigai:** Oh, I did, I don't talk about it, sorry thanks. I am sorry how could I not. Chapter 11.

Sura ya kumi na moja inazungumzia habari ya ardhi na mali. Kila pahali yenye tulienda kulikuwa na shida za ardhi na mashamba

lakini kuna mambo matatu yeye hii Katiba mpya imependekeza.

La kwanza ni kuwa ardhi yote ya Kenya ni ya watu wa Kenya, tumeiondoa kuwa ardhi ya jamhuri, ardhi ya serikali na tukasema ardhi ni ya watu wa Kenya. Tukasema ardhi itamilikiwa kwa njia tatu, kutakuwa na ardhi ya kibinafsi na tutakuwa na ardhi ya jamii (community) na tutakuwa na ardhi ya uma, kwa hivyo ardhi itamilikiwa kwa njia tatu.

Jambo la tatu lenye ningetaka kueleza juu ya ardhi ni kuwa shida zenye tulikuwa zilikuwa nyingi na hatungeweza kutatua kwa miezi mitatu au mnne yenye tulikuwa nao ya kutengeneza huu mswada. Kwa hivyo pia tumeweka Tume ya ulinzi wa mali katika haki. Hiyo Tume ndio yenye itachunguza, tumeiweka kwa Katiba so that it is entrenched in the Constitution na kazi yeke itakuwa kuchunguza shida zilizoko za ardhi na makao. Na itakuwa ikiendelea lakini hii, tofauti yake pengine ile iliyoko ni kuwa itahitajika kutoa repoti yake kwa Bunge and by extension kwa kila moja wetu mara tatu kwa mwaka.

Halafu la ziada ni kuwa tumesema mambo mengi yatakuwa yakitolewa kwa Bunge, kwa hivyo nayo Bunge tumesema kuwa miswada na majadiliano yao itachukuliwa na vyombo vya habari moja kwa moja ili wakati wanaposikia hizo repoti sisi kama wananchi tusipate moja kwa moja.

Asante.

**Dan Juma:** Asante sana Commission for that very good presentation. We will have 10 questions from those who want to ask questions. I will give this opportunity to the Coordinator to take the first 10 questions.

**Gilbert Bor:** Basi watu ambao wanataka kuuliza maswali hii ni nafasi yenu na mmesikia vile tumeelezwa na Commissioner kwa ile draft ni hali ya kujaribu kuelewa kila sehemu ya hiyo draft na mambo mengi mtasoma kwa hiyo draft. Kwa hivyo maswali tunatarajia iwe ni maswali ya mambo ambayo hauelewi katika hiyo draft na kama ni recommendation ingefaa iwe in summary na baadaye uandike iende Nairobi ili iweze kujadiliwa katika National Conference.

**Com. Salome Muigai:** Let me explain what happens from here. Nilisema kuwa kazi yetu ya kwanza ilikuwa kuchukua maoni kutoka kwenu halafu tuifanye kuwa report na reporti hizo ziko hapa halafu jambo moja yenye nilisema ni kuwa, tumetengeneza hata reporti ya kila kikao cha Bunge. Kwa hivyo kama unataka kujua watu wa Eldoret ya Kaskasini walituambia nini, ukienda kwa ofisi ya Coordinator utapata hiyo reporti ya kutoka hapa kikao hiki.

Mkondo wa pili tukitoka hapa baada ya kutengeneza huu mswada na ripoti hizi ni kuja kuwarudishia hii mswada, what I have just done ili msikie kama vile the delagete from the back amesema kuwa sisi tulieleza sana shida za ardhi na haujazungumzia. Yaani uangalie kama mambo yenye mlituambia yameingizwa kwenye mswada. Hii mswada inatakiwa kufanyiwa debate na nyinyi, mnaweza kuzungumza na mtu mmoja, unaweza kuzungumza na watu kumi, ukiwa una kikundi chako, tafadhali

wapelekee hii habari uliojua leo ndio mzungumzie. Mkiona kuna mambo yenye ungetaka kubadilisha ama ungetaka kuongeza mtaandika halafu mtawapa watu wenye watawakilisha kwenye kikao cha taifa. Kikao cha Taifa cha kuzungumzia hii Katiba itafanyika tarehe ishirini na nani na kutakuwa na wakilishi watatu kutoka kwa kila Wilaya na tungetaka wakilishi wenu wasimame ili mwaone tena kuna wengine wamekuja hapa wamechelewa. Tafadhali mnetaja majina?

**Moses Keter:** Moses Keter.

**Emmy Kiprop:** Emmy Kipsoi Kiprop.

**Com. Salome Muigai:** Moses Keter na Emmy Kiprop. Kuna mwingine mwenye hayuko leo ni nani?

**Gilber Bor:** Julius Sietenei.

**Com. Salome Muigai:** Julius Sietenei. Hawa ndio wa kutoka Wilaya hii lakini Wilaya ya Uashi Ngishu ina wakilishi wengine wawili wa ziada waliochaguliwa na NGO Council kuna Samuel Tororei kutoka Moi University Medical School na kuna mama mmoja mwenye sijafahamu jina lake.

**Gilbert Bor:** Mrs Hellen Yego.

**Com. Salome Muigai:** Mrs Yego has withdrawn basi akina mama kuna nafasi nyingine side ya NGO Council, kwa hivyo mnawakilishi tano badala ya watatu. Kwa hivyo ukiwa una jambo lenye ungetaka igeuzwe kwa Katiba ama liongezwe, watu wa kueleza ni hao. Mtaandika, mnaweza kuwazungumzia moja kwa moja kama mnawajua ama hamwajuhi, mtaandika mlete kwenye ofisi ya Coordinator yenye iko kwa Kenya National Library hapa Eldoret. Mmepolekee naya atakusanya pamoja na atawapa file wakija ile waje na maoni yenu sio maoni yao wenyewe pekee, pia hao wana maoni yao kwa ajili hao ni Wakenya na ni wananchi kwenye hii Wilaya. Lakini kazi yao kubwa ni kuleta maoni yenu. Kwa hivyo tafadhali mkitoka kama nyinyi mko at the University make your meeting again discuss the issues and bring them to the Coordinators office so that your concerns are brought to the National Constitutional Conference that starts on the 28<sup>th</sup> of this month. Is that understood? Mmeelewa jambo hilo.

Haya je, what happens after that? Kama watu wakikubaliana hiyo Katiba kwenye hicho kikao itapelekwa Bunge na Bunge kazi yake ni kuidhinisha tu iwe Katiba, wanaweza kuikubali yote ama waikatae yote lakini Bunge halijakubaliwa kuenda kufanya marekebisho, hawakubaliwa kuongeza ama kutoa wanaweza kukubali yote ama waikatae yote. Lakini pia Wabunge wote watakuwa kwenye hiki kikao cha taifa. Kwa hivyo pia hao hawa wakiwa na mambo yenye wanataka kuongeza, wataongezea kule.

Watu wakiwa wamekubaliana mambo mengine na hawajakubaliana mambo yale mengine kutafanyika nini? Kukiwa kuna mambo moja ama mawili yenye haijakubalika, itaenda kwa kura ya maoni, itaenda kwa referendum. Hiyo referendum matokeo yake na ile mambo yenye ilikubalika hiyo itapelekwa Bunge pamoja ndio iwe ndio Katiba ile mpya ya Kenya. Sasa tuko tayari kwa maswali ya ufafanuzi.

**Gilbert Bor:** Utaratibu ni kwamba tutachukua watu kumi halafu watakuja hapa mbele, mmoja atauliza swali halafu pia ujiandikishe hapa, mama anaweka recordi ya wale watu ambao wanauliza maswali. Kwa hivyo 1,2,3,4,5,6,7,8,9,10, face the Commissioner and the audience, utauliza swali halafu unapeana microphone kwa the next person na unajiandikisha.

## QUESTIONS

**David Omolo:** Asante sana Commissioner.

**Com. Salome Muigai:** Jina kwanza?

**David Omolo:** Jina ni David Omolo. Swali langu la kwangu ni juu ya serikali ya location, village and provincial government. Jambo lile mimi naona ya kuamba itakuwa mpya kwa generational .....iko yake, kwa hivyo ningependa maelezo zaidi juu ya vile itaundwa. Halafu swali la pili ni kwamba, vile umesoma ya kwamba President hatakuwa mwanachama wa Parliament wala mwanachama wa cabinet je baada yake kuchaguliwa kutatokea Mbunge mwingine au yeye ndiye atakuwa Mbunge wa sehemu yake?

**Wilson Kimaina:** Asante sana Madam Commissioners ambao wamefanya kazi kwa njia nzuri nawapongeza kwa kazi hii nzuri. Kwa hivyo swali langu.

**Com. Salome Muigai:** Jinal lako.

**Wilson Kimaina:** Jina langu ni Wilson Kimani. Ningeliza juu ya hali ya kubadilishwa, lakini nimeelewa hapo. Swali lingine ambalo ningetaka kuuliza, je wageni wale wageni ambao wanarithi arthi katika Kenya, kwa mfano kulikuwa na shamba lingine upande wa East Africa Turning. Niliona watu walijua na haikutaka watu wanunue kwa sababu ardhi hiyo ilionekana ilikuwa ya watu wa Kenya. Walikuwa watu wa jamii ya Kerio ambao ni wakila ya Nandi, hiyo ingekuwa ardhi yao haingewapasa kununua, kwa sababu ilikuwa imemilikiwa hapo mbeleni na wageni.

Swali lingine la pili mimi nauliza juu ya uraia. Mmesema kwamba uraia kama sasa Wamaasai, Turkana au Waborana ambao wanakaa mpakani wanajamii ya nchi ingine na nchi yetu hapa kama Wasomali. Je, uraia huu itakuwaje sasa watu kama wa Asia ambao ni wafanyi biashara wakati tulipata uhuru walikuwa wana uraia wa Uingereza na wengine wakawa raia katika



Kenya. Basi hata hao wanaweza kuwa na uraia wa Uingereza na waendeleo kuwa raia wa Kenya.

Swali lingine nilikuwa nauliza, nilikuwa nauliza Ma-Judge au Mahakama mmesema Judge astaafu akiwa na miaka 65, hapa ningependelea iongezwe kuwa sabini.

Kubadilisha Katiba isiwachiwe Bunge peke yake, lazima maoni ya wananchi itafutwe, waulizwe wananchi kama Katiba tunao ibadilishwe ama hapana. Nafikiri swali langu lingine lipo lakini singeendelea kwa sababu ya nafasi. Asante.

**Com. Salome Muigai:** Sasa ningetaka kuona tafadhali maoni yenye ungetaka ya mabadiliko umpatie coordinator. Yale maswali yenye tutauliza iwe ni maswali ya kufanya tuelewe zaidi vile hii mswada inavyosema. It will take time kwani tukianza kutoa maoni pia, tena na itabidi kukaa hapa mpaka saa kumi na mbili kama vile tulivyofanya wakati wa maoni.

**Juliana Nahumicha:** Naitwa Juliana Nahumicha kupitia C.J.P.C. Eldoret Diocese. Asante Commissioner wetu kwa kazi nzuri Kenya imefanya kuhusu wananchi. Swali langu ni kwamba, tumeambiwa kwamba kulingana na hiyo draft President na vice wake watachaguliwa lakini atafanya namna gani ndio achaguliwe kwa mfano ninaona kwamba nchi hii itaendelea au itatuwekwa katika Katiba kwamba party to propose na pengine wananchi wa-nominate because wakati tunachagua huyu mtu na tunasema yeye ndiye amechaguliwa na kuwa President and if you don't have any alternative it looks like may be that Presidency is only for the few individuals but not for the whole country people will be trying to nominate one.

Swali la pili ni kwamba, wakati tumeona kwamba hii Katiba ikiisha kutakuwa na matarajio au itaendelea kuwa katika mashule. Will it be part of the school curriculum so that we may not go back and become the Wanjiru's of the last milenium or will it be in schools from Primary education upto University so that when one comes forward you know exactly what you need to do at what time and the right time.

Kuhusu kwa mfano, vile tuliambiwa kwamba kulingana na 15, wanatakiwa Mbunge moja wa ziada achaguliwa kuwa mama, are we saying that women are not going to be MPs or what is happening?

Last, this is a challenge to Kenyans today we are making a Constitution and there is a big strike going on. So that, anyone who comes in the next Constitution review, the government should look into it within 3 days if not 7 days so that we don't have a strike taking almost the whole month children are suffering when only 2 or 3 people are enjoying the country's wealth. Thank you.

**Anthony Simiyu:** My names are Anthony Simiyu. I am not understanding how the draft has privilege to higher education in terms of finance and appointment of university officials. I am referring to University that includes high education, you will find that the Vice Chancellors, Lecturers, these people cannot perform their duties independently because there is somebody

somewhere who appointed them. So they are turned into sycophants, how has this draft addressed that issue?

**Victoria Mambo:** Asante sana Bi. Commissioner na watu wote ambao wamefika hapa. Ninamaswali mengi lakini nafikiria nitauliza tu swali moja.

**Com. Salome Muigai:** Utuambie jina lako?

**Victoria Mambo:** Kwa jina naitwa Victoria Mambo.

Swali langu la kwanza ni kuhusu hii maneno ya wanawake ambao umesema one third of the parliamentarians should be women. Ningetaka kujua kama hii Katiba itakuwa implemented soon ama hii maneno ya one third ya wanawake kuenda Bunge watafanyiwa appointment. Hiyo ndio swali langu la kwanza lakini nina maswali mengi sitauliza saa hii vile wakati ni mfupi. Asante.

**Philip Nzei:** Mimi naitwa Philip Nzei. Shukrani kwa makaratasi hii ya Commission ya Kurekebisha Katiba for giving Kenyans a chance to conglomerate in making the Constitution. The first question is on citizenship where we talk about dual citizenship, to be a citizen of Kenya and a citizen and of any other country that is a friend, we know that in the international system, countries can never remain friends, so what will happen to someone who is a citizen of another country then diplomatic relations are cut, how will that happen?

The second question is on the issue of discrimination, this is talking about people should not be discriminated especially on that aspect of age, sex and all that. We know when it comes to even in areas of jobs and all that, a person is told, we don't want a person who is not 35 years of age, that is discrimination, it means that this person is discriminated. I want to know how that has been taken care of because that is part of discrimination in terms of age. The draft says, the President should not be less than 35 years, that is discrimination in itself.

Then the other one on the issue of the death penalty, I will draw some reference to the Bible because I am a Christian. Even the Bible itself gives some threat that if you fail to abide with this law and this law there is some very serious penalty of burning eternally. So I think if we abolish the death penalty here. There are some people to them life on earth is not that much important, they will be committing crimes because they know they will wouldn't be committed to death at all. The death penalty actually affects people's attitude from committing a lot of crime because when you abolish death penalty, you have heard people saying ....(Inaudible) and then also when the Constitution of Kenya says this, they are ready to reduce the morals of people. People will be staying in jail forever.

The most important aspect, another part of my question. We are having the abolision of the Provincial Administration, or rather

we are having the restructuring. What I thought is that, the Provincial Administration is okay, the current structure does not need a lot of structuring. I have written a memorandum and I hope these issues will come up.

The whole issue is, we know the caliber of the people who have been elected to such positions, the crop of Councillors we have in the local areas and we have the same people holding the District Councils and all that and how will that address that, actually in going to achieve these policies with all these elections we have in the location, district and all that. If we allow it from January to January we will be doing the elections. So we realize that on that issue of making the ...when someone is withdrawn or dead from the Councils, we will have re-election again. Tutakuwa na re-election nearly every month and so everybody who is being elected or all these Councils that need elected members, then we might have a lot of incompetence because if somebody is to be elected or when Kenyans election system is that we elect those with materials then we will not elect the marginalized groups. So those people who have property they are going to be elected in those Councils and most of them they don't know anything about administration and most of those things.

Thank you.

**John Ombaka:** Thank you so much, my name is Ombaka Otieno John. I have a few questions to raise first of all I want to talk about the issue of women rights. Now in the Constitution there is the plight of women 'third of we have heard of appointments or elected as members are women. If we have government protecting women rights, in my understanding, a provision that states this, what is the Constitution is doing is discriminate against women because it is telling us that we have some rights secluded to the women then we have human rights that have to be shared by the men as the head of the society. So that is one of my points.

Again it was not my intention to explain all this because we already have a right up about the Provincial Administration. Now, I would want you to clarify whether the intention of the government to abolish this or to restructure it because from your explanation and from my own understanding of the task is that it is being abolished. But it says that there will be elected councils. There will be a structure that will be coordinating this elective system so that we have a coordinated effort from the national to the lowest level. I seem not to understand that because the Constitution says, we are going to abolish but in your explanation, you said that we are going to have coordinating roles, I don't know where this comes from because it is not stated here.

**Kipkirui Arap Menjo:** Asante sana Madam Commissioner na watu wale ambao wako hapa siku ya leo. Jina ni Kipkirui arap Menjo. Langu ni kuhusu ile idadi ya wale watakuwa nominated from the constituencies waende Parliament. Tumeona idadi ya wale watakuwa nominated watakuwa wengi sana na tayari kama mmefanya devolution of powers from the Central Government to the Local Authorities, sion haja ya wengi waende huko juu na kazi kubwa iko upande huu.

Naona wengi wataenda juu na kazi nyingi ambayo inatakiwa iko kwa Local Authority ambapo kuna shida vile imetajwa pengine mmesikia kwamba ingekuwa bora kuwe na watu ambao ni technocrats wasaidie Local Authority to strengthen the work ambayo inatakiwa kuliko waende huko juu to duplicate the roles of the MPs sababu kama tayari MPs wameingia huko hakuna haja ya kuwa na wengine naona idadi nyingi, watachukua pesa nyingi ya serikali tena na tunajaribu ku-reduce ile gharama na expenses ya watu ambao wanajaa huko na hakuna kazi wanafanya.

Tena njia ya kuchagua mtu moja kwa district mimi naona hapo italeta kazi ambayo itafanya watu kutojua wanachagua mtu wa aina gani ita eneza corruption. Bado lazima mtu alete fedha akizunguka area hiyo yote na unapata anaingia tena hapo. Lets find a way kama ni Councillor amechaguliwa tuone huyo Councillor kazi yake ni namna gani afanyi kazi yake vizuri kwa sababu from the entire district, I am worried we are going back to the same track.

Pengine ningependa tu nipongeze Tume hili kwa kazi mzuri ambayo imefanya kukusanya maoni ya wananchi na mimi nashangaa kwa nini wale walikuwa wanafika juu wale wa Judiciary. I mean the legal profession na ninaona kazi yao imetengenezwa vizuri hata kuraisisha kazi zao. Kwa sababu mara nyingi wakienda kotini halafu mtu amepewa 'chai' aweze kushinda kesi kwa sababu ya ukora ambayo imefanyika na yeye ni lawyer mzuri alifanya kazi mzuri lakini sababu ya mambo vile inaenda mrama, his credibility is eroded lakini vile mambo imetengenezwa na vile imekuwa hapa, mimi naona hii proposal is good for everybody hata lawyers wenyewe wanatoa mhuri na client sasa hatakuwa akirushwa upande huu na upande ule kwa sababu mara wanawaambia hebu ongea na Judge vizuri, hebu ongea na lawyer vizuri. Hii imekuwa shida, kwa hayo machache naona mambo yote yangu vile inawezekana.

**Professor Tirop:** Mimi kwa majina naitwa Professor Tirop (*Laughter*) mimi ni mkaaji wa Eldoret hapa hapa, I do business. Kwanza nashukuru nawapa pongezi wale vijana wangu ambao walishugulika kwa mambo haya yote ya kukusanya habari kutoka Kenya nzima, kutoka kona mpaka kona. Kwa hivyo nawashukuru, nawapongeza pamoja na mama, kwa sababu wewe ni mama umefanya kazi mzuri sana.

Wananchi wangu au wanafunzi wangu, hii kazi yenu hii wengi walifikiri ni kazi kidogo sana hata hivyo wengine walioko nyumbani huko Eldoret lakini labda kama ingekuwa Mungu hangekua mbele yako au ya hawa hawangeweza kutoboa. Nikiongea namna hiyo, mimi naongea juu yangu, kuna swali mimi nataka kuuliza. (*Laughter*)

Jinsi mimi nataka kuuliza hawa watoto wangu, kama vile mimi ni mzee, sisi wazee kutoka sehemu mbali mbali tumekuwa na mambo moja hapa, ile tumeona. Vijana wetu wanakuwa na shida sana, mmesema nini juu ya vijana wetu, hii imekuwa ni shida sana. Anaoa bibi leo na kuja na bibi ndani ya nyumba kwa wiki moja kesho unasikia huyo kijana hana bibi, mmesema nini juu ya hiyo. Kwa sababu hiyo ni shida kubwa sana. Kwa sababu mimi ninafurahi, tunafurahi na mama, tunafikiri kijana yetu amepata bibi na baadaye unasikia yule alikuwa na Mmalaya tu sasa itakuwaje bibi na ni malaya. Mlisema nini juu ya hiyo sheria, lazima kuwe na sheria ya kulinda huyo mtoto wa mwenyewe. Lazima kuwe na sheria ambayo inalinda hii ya kuoa

asubuhi na jioni hana bibi. Lazima hiyo kitu ya muhimu ya kulinda msichana na mtoto wa mwenyewe halafu hapana komboa komboa nyumba kama shetani.

Langu la pili nikimalizia, mmesemaji juu ya vijana wa vijiji kutoka vijana wanaume na wasichana mwenyewe hawana heshima na akina baba zoa, hawana heshima na mambo zoa, mlisema nini juu ya hiyo sheria.

La tatu, katika nchi ya Kenya kwa jumla mlisema nini juu ya sheria ya mavazi ya Kiafrika na mavazi ya kigeni na wakoloni mamboleo. Tumepata aibu, tumepata mavazi mengine ambayo yametuletea aibu hata tumekosa mahali pa kuinginza macho zetu, imefanya karibu tuanguke kwa shimo. Hii ni aibu kubwa kwa Mwafrika, mlisema nini juu ya hiyo.

Basi nafikiri vijana kama nyinyi vijana wanaume ndio mnapendelea hiyo mavazi basi nataka kuuliza mzee mwingine halafu ajue ni kitu gani tutawaambia. Lakini kwa hivyo ni aibu angalia msichana wangu huyu, amevaa ngua ambayo inametameta. (*Laughter*), mimi nikiwa baba ni nini sijui juu ya huyu mtoto sababu mimi ndio nilimzaa. Si nilimzaa? Baba hajui nini, baba ni kipofu. Kwa hivyo hili ndio katika mila za Kiafrika lazima tupate mavazi ya kustahili mwanaume, msichana au mwanamke hata kama wageni wa kutoka nchi za mbali watasama this is for Kenyans. Hii ni aibu kubwa bwana. Kila siku tunakosana na Wasomali hapa kwetu juu ya mavazi lakini mavazi zingine nusu nusu ni fupi ni mavazi gani?

**Com. Salome Muigai:** Asante sana Mzee.

**Christopher Odida:** Asante sana Bi Commissioner. Kwa majina mimi Christopher Odida. I want to ask a question in relation to fundamental rights of a Kenyan. Kenyans have had a problem which arise from poor planning and governance, for example you find that young Kenyans who are capable are not potentially exploited, that is I mean when you find someone goes to school and reach the current level defined by the government under its policy and then he or she ends up back at home. I think it is high time the Constitution state how these people's potentiality are going to be achieved. The Constitution should protect and should nature the achievement of the potentiality of Kenyans, this one I am asking whether the draft has in another defination or in another way, have talked of how the Kenyans especially young ones are going to mandated if not a social welfare then compulsory way of achieving income after striving and achieve the high maximum level of education. I would like to know whether it has give provision for that.

**Com. Salome Muigai:** I think that was the tenth one.

**Gilbert Bor:** No, this is the tenth one.

**Joseph Musinga:** My names are Joseph Musinga and actually my worry is implementation of public interest infact there is confusion in the draft. In fact I want to know the provision in the draft and the moderation in the councils from the village, to the

provincial Councils. For instance in Parliament requires moderation by the Speaker whether they decided to moderate the debate and come up with other goals or achieve goals but in what we have seen is not clear. I don't see that moderation, so I want to know the provision on that because even if it is to contribute to what the act says from the to the national level. Thank you.

**Com. Salome Muigai:** Thank you very much for your questions it show a lot of people are listening very carefully. I would like also to say that after this I will take 5 more questions and I would like to close this issue because the whole idea about this issue is not to hold the debate here, we could never do that. The whole idea is to introduce, to launch the draft and then you go out and create other avenues to allow those who get to debate. So even in my reaction to the question, I will deal with the questions that are asking for points of clarification and not the other things that we may not be able to address in detail.

The first question from David Omolo actually it is related to the last one, it is about the question of the governance at the local level and most of these will be done by the Parliament. But as far as is possible that is why we were not rigid. Hatukuwa tukitaka kusema ile serikali ya kata ama ya kijiji lazima ifanane kabisa kabisa na ile ye Bunge lakini maajirio yake, they are the same kuwa kutakuwa na coordinator ama tutakuwa na mshirikisha mwenye ni independent sio kunungunika mwenye ataweza kuita hiyo mkutano. Ama chama kikipatikana kilitengenezwa ilo baraza itengeneza ile sudi itachagua maofisa wake mwenye atakuwa akituita, mwenye atakuwa katiba, ndiye anaita mikutano na huyu ndio mwenye atakuwa mwenyekiti. Wengine wanafikiria kuwa na mwenyekiti wa kila mara na wengine watafikiria tutakuwa na wenye ofisi wa mzunguko kuwa atakuwa mwenyekiti kwa muda fulani lakini the module is still the parliamentary module ndio haitakubalisha the debate at all those levels.

Anauliza pia kama President atakuwa Mbunge, Rais hatakuwa Mbunge La.

Wilson Kimaina anauliza habari ya wageni wenye wanapata shamba, sikuelewa kabisa kama ni wageni vile Katiba hii imesema mgeni mwenye kuja Kenya atanunua ardhi kwa lease. On lease basis. Lakini Mkenya atanunua land yenye ni freehold. Kwa hivyo hiyo ndio tofauti ya mgeni na asiyemgeni. Nafikiri mzee aliendelea kusema habari ya wageni wenye walinunua shamba ya turning, hakusema wageni wenye passport tofauti, ni wageni wenye si wa jamii ya Kalenjini. Hiyo mzee sina information ya kutosha ya kuweza kueleza hiyo kulifanyika vipi na Katiba haiangalii pahali pamoja tu, Katiba haiwezi kuzungumzia juu ya kikao cha turning. Inaweza kuzungumzia ardhi ya kitaifa, kwa hivyo hii Katiba haijzungumzia juu ya mambo hayo.

Muindi akiwa India na Kenya ama Kenya, United Kingdom na Kenya ni marafiki anaweza kuwa mwananchi wa nchi hizo zote mbili, that is what dual citizenship means. Si Waganda na Wakenya na Watanzania na Wakenya peke yao.

Hakimu awe na miaka sabini, watu wengi walitupa maoni kuwa hakimu akiwa na miaka sabini wakati mwingine hata sikizi kesi ingine ameshaanza kuchoka kabisa. Tunamwona wakati mengine, sitaki kusema analala kwani niko kwa record lakini miaka sabini anakuwa amechoka na kama Judge wanasikia tumewafanya mawakili wengine wangapi? Sabini na watatu. Kwa hivyo

vyo vikuu bado vinachana vijana wenye kutaka kazi kwa hivyo tukisema vijana wetu wanataka kazi na tuseme mtu mwingine akianza kufanya kazi akiwa na miaka ishirini na tatu, mna-graduate mkiwa na miaka mingapi? Kumi na tisa? You are getting younger and younger, how old are most of the graduates? 24. Sasa 24 ukianza kufanya kazi uko na miaka ishirini na tano mpaka utakapokuwa una miaka sabini, umekuwa ukifanya kazi miaka mingapi? Hamsini na tano na miaka hamsini na tano, vijana wangapi watakuwa wamesoma kwenye Chuo Kikuu.

**Audience:** Ni wengi.

**Com. Salome Muigai:** Ni wengi kwa hivyo tunanafasi ya kuwapa vijana hao pia kwani ni Wakenya nafasi ya kuhudumia taifa hili. Lakini pia mzee ikiwa hiyo ni maoni yako mpe delegate wako alete kwenye mkutano wa kitaifa, kutakuwa na mawakili, kutakuwa na Ma-judge, kutakuwa na kila mtu na kila mtu atajadiliana tuone tutakubaliana lipi.

Ammendment ya Constitution isifanywe na Bunge, sijui kama umesoma Katiba vile imesema lakini ikiwa hiyo pia ni maoni lete kwenye mkutano.

Juliana Nahumicha, umesema kuwa Rais na makamu wake watachaguliwa moja kwa moja na wewe unataka kuwa chama to propose na wananchi wa-nominate. Hiyo itakuwa procedure yake ni very complex. Sijui tutawezaje ati chama kime-propose na wananchi to nominate kwa hiyo proposal. Sasa chama kikiseme kinataka Salome na sisi tuna-nominate nani? Salome huyo pia?

**Juliana Nahumicha:** My intention was, pengine chama to nominate watu wawili au watatu hivi.

**Com. Salome Muigai:** Okay, kwa hivyo kuwe na watu wengi. Lakini wakati huu wa Katiba mpya mtu anaweza kutokea akiwa independent na watu waseme huyu ndio atakuwa Rais mradi tu wananchi wakubali kumpigia kura. Kwa hivyo mwishowe ni kura yako na yangu yenye inafanya mtu kuwa hapo si pahali gani alitoka, kama alitoka kwa alikuwa proposed na chama ama na nani. Mkimkataa kwa kura yeye hatakuwa Rais ama mkimkubali kwa kura yeye ndiye mwenye atakuwa Rais wetu.

Umependekeza kuwa Katiba ifundishwe kwenye shule na tuna viwango tofauti vya kielimu ya nchi hii ili watu wasirudi kutojua habari ya Katiba yao. Umeniuliza kwa nini Wabunge wa ziada wawe ndio wawe ndio akina mama? Hatujakataza kila mama kusimama, tunasema Wabunge wa kusimama wasimame wanawake na wanaume lakini tukiangalia historia tumeona hata wakisimama mwishoni akina mama wengine wakiwa nafasi yenye wamepata kuchaguliwa wakati uliyopita na ndio tukawapa nafasi ya pili ya huu Ubunge wa ziada. Si badala ya kuchaguliwa ni baada ya kutochaguliwa.

Anthony Simiyu anauliza juu ya higher education. Sifikirii kama tulifikiria higher education as special category but we have

talked about appointments generally for all public offices including the universities. We are trying to make them independent, we are trying to make different organization or different people be involved in appointments so that we can be able to get the best that we have in the land.

Victoria anauliza wanawake one third in Parliament ni ya nini? Ni ya wakati hii Katiba itakapokubaliwa kuwa ndio Katiba ndio iko mkononi mwetu, mkononi wetu ilikuwa kazi ya kuifikisha pale tumeifikisha na pia kazi ya ku-organize kikao cha taifa. Wakikubali hii idhinishwe kuwa Katiba, kikao cha kwanza cha Bunge chenye itakuwa imechaguliwa na hii Katiba mpya ni lazima iwe theluthi moja akina mama.

Philip Nzei anauliza juu ya hii kusema mtu anaweza kuwa na uraia mara mbili kwa nchi mradi tu ni ya nchi nyingine zenye rafiki ya Kenya, je urafiki ukiisha unapoteza uraia wake. Nimeona hujasoma vile vyote venye tumesema juu ya hii na ni shida sana tena kuzungumzia kwa kinaga naga juu ya Katiba kama hujapata nafasi ya kuisoma. Inaeleza kuwa ukipoteza uraia wa nchi ingine na wewe mbeleni umeweza kuwa na uraia wa Kenya ni lazima tumkubalishe kurudia uraia wako wa Kenya. Kama ulikuwa haujaupoteza kwa makosa yako wewe mwenyewe kama ni hali yenye huwezi kusibabisha kwake basi utapata nafasi ya kurejea uraia wako wa Kenya.

Unasema kuna kubaguliwa juu ya kuwa kijana ama nini, mmeangalia hicho kipengele? Have you looked at that? This matter becomes difficult when you have not looked at it. Because one of the areas we should not be discriminated for is age. But having said that, we are also asking, when you say that President cannot be under 35 years old we are discriminating against the youth. It is the same thing when you tell us that a President must be a graduate then you are discriminating against the people who are not graduates. If you start that we can never stop, so we have got to accept that even without discrimination clause there are other aspects that must need certain calibre of people. If you say if I want to be a teacher, I must have done education, you are discriminating against the law students, where does this stop?

Death penalty, you have said that by removing death penalty, tukiondoa adhabu ya kifo watu wengi watafanya makoso. Sijui kama kuna any scientific research that shows that death penalty deter people from doing certain things. We have had death penalty for a long time on robbery with violence and it seems to be even increasing more, so I don't know I would like to seek assistance on this so that we debate on some data. Otherwise at present I am not able to qualitatively comment on the relationship between abolishing of this sentence and the proliferation of crime.

Qualitative leadership, tukisema tukifanya hivi tutaona hivi tukifanya hivi. For every proposal kuna madhara yake kwa hivyo tunahitaji kufanya proposal na tuweze kuunda sheria zingine tekelezi zenye zita-minimize madhara ya hii na hii, lakini kusema tukisema watu wachaguliwe ni wale watu-rich tu watachaguliwa, that is not enough lazima tupendekeze. Kwa hivyo ningependa kusikia mapendekezo yako ya kuwezesha kila mtu kuhusika kwa utawala uliomzuri.



Ombaka anashida na hii one third ya wanawake, anasema tunawabagua kwa kusema ati lazima wapatiwe haki hizi na zile ni kama tunawaondoa kwenye utaratibu wa binadamu. Hii inakuja kwa ajili ya past history, we are not making a Constitution in a vacuum, we have a historical background. Tunasema kila mtu anaweza kusimama na atachaguliwa kwa Bunge, watu wanaenda kwa Bunge na tunaona out of 210 Wajumbe wenye wamechaguliwa kuna akina mama wangapi wenye wamechaguliwa without nomination?

**Audience:** They are only 4.

**Com. Salome Muigai:** Wanne. Kwa hivyo it is historical, this is scientific data yenye tunafanya nayo kazi na tukasema when you say everybody has equal chances. I think it was Japheson mwenye alisema “there is nothing as an equal as treating people who are not equal equally”. Kama ukisema sisi, kila mtu ukisema atoke mkimbie mfike sokoni hutaki kujua kama Salome anaweza kukimbia ama nini ama my friend here, tume-treat everybody equally, equal is not the same. I went to accesement ya kusema kuwa, pengine treating me equally means doing a lot of analysis to see what needs to be added or equity to bring me to equal. So I don’t think tukisema theluthi moja ya akina mama tunawabagua, infact we think we are going the complete opposite of that. That it is affirmative action to ensure that they have another turn to be able to participate in decision making in the land.

Provincial Administration na Provincial Council, I think Ombaka has a confusion about Provincial Administration which is still abolished or re-invented in the new Constitution and Provincial Councils. Provincial Councils is part of the new governance from the village to the location, to the district and then the council is at the provincial level. So it is bit different from the Provincial Administration. I must also say that Provincial Administration, everywhere we went wananchi walitumbia “we don’t want Provincial Administration”. Tumewaomba Provincial Administration watuletee maoni yao wenyewe na hawakutuletea, so in the absence of this...

**(Interjection)**

**Ombaka:** Wameleta.

**Com. Salome Muigai:** Wakati huu, sasa? Sasa hii mkileta sasa lazima mpatie delegates iende kwenye National Conference because during the time when we were collecting the views, we kept on asking Provincial Administion please can you give us your own contribution so that we can make a balanced decision and we didn’t get it. This time give it to Tororei and Emmy to take to the National Conference.

Menjo has a problem with all these nominations going to the top, we should have them at the local level. There is still a provision for that even in the history because it will be moduled, the district Councils will be moduled on Parliament. So there will also be level for including the technocrats there also. But we are also saying that a lot of policies are not argued from a

professional point of view they are often argued from a political point of view, what is the formula, what is workable and what is technical. So that is why we would like to see more technocrats at the political level having some technocrats rather than politicians.

Yes, Kennedy was proposing that people wanted an Upper House and a Lower House although we are not calling them these same names. People said that much as we say the Parliament should approve these appointments, Parliament should approved that we should not also create a control policy of a Parliament where nobody has any checks and balance in place. So we need to divide the powers of Parliament so that another group of people can say, wait a minute can Parliament look at that again.

Professor Tirop, mzee anauliza habari ya hawa watoto wetu wenye kuoana asubuhi na kuachana jioni, nafikiri mzee mara nyingi wanaoana jioni lakini tumewekelea umuhimu wa parents na familia kwenye Katiba. Kwa hivyo utampata mjukuu moja akusomee uone imesema nini, ukiona kuna mambo ya ziada yenye ungetaka tuongeze tafadhali pata mjukuu moja akuandikie iletwe kwa Bwana Bor na tutapeleka kwenye mkutano ya taifa.

Shida yako ya mavazi, hatujasema kuhusu mavazi vipi lakini tumesema habari ya mavazi ya kitamaduni na mavazi ya kizungu. Sisi Wakenya wengi tumeenda kwenye mavazi ya Kizungu mpaka ukivaa vazi la Kiafrika unaonekana you are the exception na hao pia ni wanaume na wanawake. Tukiwa tunataka kurudia hii jambo tafadhali weka kama mswada uletwe kwenye kikao cha taifa tutalizungumzia tena.

Christopher anazungumzia habari ya uajilifu wa vijana, waajiriwe ama wapatiwe pesa za kuwaangalia na kuwawezesha kuishi. Tumeweka kwenye Katiba shida ya kuanza kufikiria habari ya conference because I don't want us to discuss complaints because you have not had time to read it. In this new Constitution kila mtu ana haki ya social welfare kama hajiwezi kabisa kabisa, kwa hivyo akiwa kijana ama asiwe kijana atapata hiyo nafasi lakini sana kwa vijana ndio unasikia tunawekea wakfu mtu moja akiwa na kazi moja ili kazi zingine ziwe-released kwa ajilifu wa vijana, ndio tunasema watu wengine wakatizwe miaka. Miaka kumi ikikatizwa kwa retirement ya watu ina-create a lot of jobs within that time.

Pia kuna pahali pengi tumezungumzia habari ya corruption, ikipungua tutapata pesa za kuenda polytechnic tutaweka vitu kama factories na mambo mengine kama hayo inawezesha vijana kupata kazi.

Joseph anauliza habari ya participation ya serikali za Wilaya na mimi nilizungumzia pamoja na ile ya kwanza.

Asante. Ningetaka sasa kuchukua maswali mengine matano baada ya hiyo tutafunga hiki kikao. Ameinua mkono, Affirmative Action moja kwake. 1,2,3,4,5,6.

Tungeanza tafadhali?

**Pastor John Akuno:** Thank you Commissioner, I thank the participants. I am Pastor Akuno, I am very much happy with the new Constitution draft. The only thing that I would like to add...

**Interjection:**

**Com. Salome Muigai:** What is your name?

**Pastor John Akuno:** Pastor John Akuna. In the provision of Chapter 5, other rights, Kenyan rights to get education. My problem there is not any provision in the new draft as per what is going on in the country because as I was reading chapter 5 about points raised on standard of education, there is a kind of infringe whereby even the Minister who would be appointed by the cabinet would mess up education in future like what is happening today. There is no any provision to give up ability as parents and students to punish or not just to punish but to take necessary measures. Like right now the parents if there would have been a provision whether to take the Minister to court or the government to any court then we would have been able to save the whole situation. Would the new draft provide such a provision to help in future problems on the education system? Thank you.

**Ezekia Mororo:** Thank you Chairperson of the Commission and all the colleagues who are here. I want to point one or two questions.

**Com. Salome Muigai:** Jina lako?

**Ezekia Mororo:** My names are Mororo Ezekia. The first question I want to ask is about the Provincial Administration and the District Administration about to be abolished and where will those people go?

Two, we know very well that in the current universities we produce graduates in Public Administrations students, where will these people go or they will go to the village to seek support from those communities where they come from.

Number three, I will propose that we can use a system which is used in South Africa where those people who get employment you are given a certain period, you go and work for 10 years after that period has ended somebody can be employed. Instead most people take rather... like for example even if some people were retrenched the system which was used was very unpopular. It was very unpopular because somebody who is having 22 years was retrenched and somebody of 50 years remained in the office. Therefore, I am appealing to the Constitutional Review Commission to take that issue seriously because some of us who are going to leave the university, we are going to the job market but we want to be assured where we are getting in. Therefore, I hope whatever I have said will be given a lot of consideration. Asante.

**Zephania Muia:** My name is Zephania Muia. I have got two questions. The first one concerns the government's power to borrow. I would like to know whether does the draft, the new Constitution would ensure that there is room and the amount to be borrowed by the government. If the government fails to pay back the money who are going to be put on receivership as a loan and more so when this has not be addressed properly.

The second one is political parties, you have said that all political parties should have at least 3% of the votes. How does the draft ensure that the money given to these parties is not going to be used by the officials of the party and not their parties.

**Benjamin Bii:** My names are Benjamin Bii. Niko na maswali mawili hapa kuhusu watoto, nimeona kwamba Katiba imefafanua kuhusu haki ya watoto nafikiri kuna mambo machache ambao ningependa niulize katika adhara hii. Kwanza Katiba kweli imetoa haki ya mtoto na kufafanua lakini tunajua ya kwamba Kenya kumekua na kuzoea au tabia ya kuandika mambo na kusema mambo lakini kufanyika inakuwa ni ngumu. Tumempatia mtoto haki nyingi sana na ile hali nikikuwa natarajia kwamba Katiba ifafanue kuhusu exposure ya hawa watoto wetu. Tuna vipindi katika televisheni, tuna mambo mengi katika vitabu na tunapoendelea kuwapa hawa watoto nafasi ama uhuru je, kesho tukipata watoto wetu wanafanya mambo ambao haistahili kama ushoga na mambo mengine ya kutumia madawa ya kulevia, Katiba itasimamia mambo kama hayo namna gani? Kwa sababu shida kuu lakini juu ya mtoto na ningesema muanze na wajibu na tumeona haya mambo yote yamesemwa, yameandikwa lakini haijaweza kufanyika. Kwa hivyo ninatarajia kwamba Katiba ingetoa njia maalum ya kuweza kuhakisha kwamba mambo haya yanafanyika kweli.

Jambo la pili, kuhusiana na mtoto naona kwamba Katiba hii imependelea tu pengine watoto ambao wako jijini ama watoto ambao wanaweza kuwa na wazazi, wa kubebwa na gari kutoka nyumbani mpaka shuleni. Lakini ukiangalia sana katika nchi yetu wakati huu hasa mabarabarani mtaani, unakuta ya kwamba kuna takataka ya kila aina, chupa ya pombe, mabaki ya sigari, pengine hata mabaki ya madawa ya kulevya, condom inatupwa kila mahali na hakuna kitu ambayo imeshugulikia hao watoto wetu au watoto hawa wanaotembea kwa miguu. Je usalama ya hawa watoto imechungwa kiviipi katika Katiba ya sasa. Kwa sababu natarajia Katiba ingawa ilete rights ya watoto, ilete hata rights ya ku-protect hawa watoto si tu kusema ...lakini nilikuwa nataka hata ku-compell may be kama ni Local Authority, Village Councils. Tuwe na mfano ile inahusu mahali watu wanaishi, kuwe na njia ya ku-dispose hizi vitu in a very safe yetu kwa sababu tunaangalia huyo mtoto. Sasa sana Madam Commissioner mambo ya condom tunapopita kila pahali imechapakaa, watoto wa 3 years ama wale wa Standard One na Nursery wanapuuliza kama balloon, Katiba isema jambo kuhusu mambo hayo. Asante sana.

**Eunice Kamara:** Madam Commissioner, thank you very much for this opportunity. I will begin by appreciating the work of the Constitutional Review Commission, I do understand...

**Com. Salome Muigai:** Your name?

**Eunice Kamara:** My name is Eunice Kamara. We do understand that you are working under very strenuous conditions with a lot of oppositions here and there but despite of all these you have worked quite hard and on our hands we do have a draft Constitution. We really do appreciate the work of the Commission.

However, I want to begin by stating that the panacea or the solution to greater problems lies far beyond the Constitutional review, indeed our problems lie even beyond new faces in State House. I say this because the best of Constitutions can be flouted, if a Constitution is not followed, it is something that is a mere piece of paper. Indeed, we have a Constitution in place that protects us as citizens but we remain oppressed because people do not follow this Constitution. So that for me the priority would have been to look for ways of making the Constitution a functional code of ethics, something that can work, something that can be implemented and I am really wondering what the Commission is doing about making sure that the new Constitution will not be just like the previous one we had.

Somebody reminds me that Britain operates without a Constitution for quite some time which means that a Constitution is irrelevant if we don't have morality. And what we say here is that, unless we make the Constitution a functional code of ethics, new generations of Kenyans will continue to inherit corrupt ways of life and the Constitution will be an irrelevant document. With what I have said notwithstanding I would want to make the following comments on the draft Constitution.

Chapter 5 or article 35 of Chapter 5, Item 5. The State shall

- (a) Protect women and their rights taking into account their unique status. I am not quite impressed about the indication of a special protection of women, because through out history women have been treated as a special category of human beings. We don't want to be treated as special human beings, we are just human beings. (*Applause*) So that we prefer attention as human beings. We do understand that people have constantly stated that women are equal human beings without saying they are equal to men and therefore oppressing women, but we really do not want a situation where women are favoured at the expense of men. We want a situation where both men and women are treated equally so that we would have preferred the statement to read "protect men and women or protect women and men".
- (b) Provide reasonable facilities and opportunities to enhance the welfare of women. What about the welfare of men, our sons, fathers, brothers, husbands, we want their welfare addressed as well so that the Constitution is not to address the welfare of one group of people at the expense of others. We do understand the background against which this Constitution is written. We know that women have suffered, we have suffered a lot of oppression just because we are women but this is not a situation we would want to overrule and explain that form of oppression with another. Considering that a Constitution is a document that runs for long, it is not for today and tomorrow. We want to think beyond today, to think of a situation where the same Constitution can apply even when women have become dominant and the welfare of men is at stake.

Madam Chairperson, I would also want to refer you to the general chapter of rights. It is very well stated but as somebody has just said, it is easier said than done. When we speak of the rights of children for example. Within our current Constitution, the one that is operating children have a lot of rights but those rights are not history. Children continue to be engaged in hard labour, women continue to be sexually abused, children continue to be mistreated, children continue without security, women continue without security, men continue without security yet the document explains. And if you take us back to the issue of what this Constitution will do for us in terms of ensuring that, it is was not just a mere piece of paper but a functional code of ethics.

If we go to the article 38 on the family, the family has to be respected and protected by the State, very good but what are we talking about when we say the family, what is the family in Kenya? Are we talking about the single parent, are we talking about the homosexual family, are we sure we want the homosexual family protected? Are we talking about the polygamous family, exactly what are we talking about? This has not been clarified.

We talked about freedom of religion in article 44, people are free to express their religion, their beliefs and their opinions on part two. 38 (ii) talks about the rights of individuals to “manifest any religion or belief through worship, observance, practice or teaching”. Exactly what is a religion, right now we have Mongiki, claiming to be a religion, are we going to let them continue with their practices because we are following the Constitution? The Constitution says, they should be free to express their religion, they should be free to practice their teaching, exactly what are we saying? It will be quite essential for us to be clear on what is a religion and what is not a religion and is clear for us to understand that even claiming rights it is possible for people to infringe on other peoples rights and the line between expressing your own rights and infringing on other peoples rights is at times very very slim.

**(Interjection).**

**Com. Salome Muigai:** Madam, you should be brief because we have had very few women speakers but I would like you to put that in writing because you are giving us suggestions than proposals. Then can you please put them in writing and give them to him. The only thing I want from this group is points of clarification, so that we can table the same and say that these ones can go. Let me also say for everybody, we are not going to look at this document and amend the same, the next amendment is going to be done at the National Conference.

So please write them properly and give them to Mr. Bor to give to the delegates so that they are brought to the floor of the debate at the National Conference. However, having said that if you have any points of clarification I am going to take them but please be brief.

**Eunice Kamara:** Well sorry for that, I think we had gone out a bit so we didn't hear that clarification. But I would also want

the Commissioners to think seriously about the idea of trimming the Presidents powers. I think this is another area where we are asking too harshly because of the background. We are leaving in a situation where the President has excess powers and these powers have been used against people. But there are situations where the President can have power and use that power to indeed protect people.

**Com. Salome Muigai:** That point is taken Mum go on.

**Eunice Kamara:** Finally, we are talking about the power of Parliament to amend. Some of us get skeptical about Parliament because we know it as rather corrupt and can do things just for their own advantage. Thank you Madam Chair.

**Com. Salome Muigai:** Thank you very much Mum. Somebody wants to propose the issue of parliament so that we can be able to get all those issues out. Sorry there is one more person, go on?

**Paul Mwanyenze (Sign language) through translator:** Good Afternoon Everbody.

**Com. Salome Muigai:** Good Afternoon.

**Paul Mwanyenze:** My names are Paul Mwanyenze. I am from Eldoret North Constituency. I would like to thank Madam Commissioner for giving us form one provision about the Constitution which is good.

**Com. Salome Muigai:** Thank you.

**Paul Mwanyenze:** I have about two questions. In hospitals we have so many doctors yet the deaf people are not as expected because of complication especially our ladies who are pregnant. In fact all of us have difficulties and we need somebody to assist us in hospitals. If you want to tell a doctor that I suffer from stomach ulcers, he will give you some other medicine because of lack of communication which may end up complicating my life. Some of ...which lead to death. And even the nurses cannot even understand our pregnant ladies to address their needs. I understand they instead just wait but later on she will not get the medicine.

Secondly, we are not getting access to higher education because sign language is not considered in many able bodied schools. I have never seen a lecturer who lectures through sign langua so, how can a deaf person go to the University? Thank you very much. (*Applause*).

**Com. Salome Muigai:** Thank you very much. I would like to go back to Pastor Akuno's question on Chapter 5 on education and how to deal with the kind of situation that we have now. I think what we also need to appreciate is that the

Constitution has to be read in totality. What we do when we get it, if I am a woman I look at the rights of women, if I have a disability I look on the rights of the disabled and if I am a young person or if I am a child I look at the rights of the child. But there are things that we all know that are common to all of us. So there are things that will be covered in other sections of the Constitution that are application for youth along with what we are talking about. For example, the labour relations, there is a chapter on labour relations and the question that we are having right now is a labour relation question. So when we are looking at the right to education, you look at the labour relations and see what has been said. Ukiona pia chenye tunependekeza imepungua tafadhali tueleze ungetaka nini pengine la ziada lifanywe.

Ezerkiel anauliza habari ya Provincial Administration tena, hatuwaondoi tunataka tu wawe na mahamisho. Tumependekeza wahamisho kwenye idara zingine za serikali kwani ukiwa wewe ni administrator ama ni mtawala si lazima wewe uende ukawe DC. Wao wote kama Assistant Secretary, PS's hiyo yote ni laini ya public administration offices. We need to think more widely about how to use our human resources. We need to get out of the box so that we can be more creative because we are at a point of transition and if you are afraid of changes, generally people having the status quo and sometimes the status quo does not work for all of us. I think it is important that we allow for changes because new opportunities are only created when there is a change of one sort or the other.

Period of working to be assured and the issue of retrenchment and assurance of jobs. That goes with the right to work. So agains there are different provisions. Different sections of the Constitution proposals deal with different things. So I feel you have some hard time to read it and read it very comprehensively. It is difficult to just take one thing out of content and put a lot of questions around it, because they are big reports even as you have cover it you will think, what about this and you will remember that that was taken care of in another section.

Zephania Maina, government power to borrow. I would also like to point out that a Constitution is a broad principle, it cannot be detailed on everything. It gives the broad principles and then inform the laws that are enacted in Parliament and those laws are also supposed to inform the policies that are stated or ascertained which are the instruments that are used to actually impliment this Constitution. So there are different levels and we can't have all the details in the Constitution.

Political parties and ensuring that the money doesn't go to officials. Again that cannot be looked after in a Constitution, we have to start up with act of Parliament that enact laws that will protect the monies that have been released for political parties.

Benjamin, habari ya haki za watoto na shida za implementation. The question of Constitution making and constitutionalism which is being the people who observe Constitution. Hiyo ni wajibu wa kila Mkenya. Angalia hapa tumesema neno moja tu, tuweke mobile off na mmeona vile tumekuwa na shida juu ya hiyo. Kwa hivyo sisi wenyewe Wakenya, we need to recreate ourselves and somebody can create a people through a paper, the paper can give guidelines but the spirit of following that paper for our own good lies with each one of us individually and as collectively as a nation.



Eunice had many points and again Eunice had a problem with creating the Constitution and the Constitutionalism, that I have thought through and the portion talking about ...and that I think one of the things this Constitution has done. Ni kuenda kwa watu watoe maoni wajue kwanza Katiba ni kitu gani kuwa Katiba imetengenezwa, imetengenezwa na watu wenyewe, inaweza kulindwa na watu wenyewe, watu wenyewe wanaweza kupitisha Katiba yao. Kwa mfano, ukienda kwenye nchi kama Uganda, Uganda wameanza hizi serikali za mashinani. Kwa hivyo watu wa Uganda wakiingia kwa matatu ijae halafu aingie mwingine, wale watu waliokwa hiyo matatu wanaweza kujiunga na ikawa koti na wakafikiria vile wanamfanya mwenye ameingia matato yenye imejaa na vile watafanya na dereva kusimamisha kubeba watu wa ziada. Kwa hivyo hii ni awareness, it is just letting people know how much power they hold on determining their own population. Before we had the kitiba which was good but how many people have seen the old Constitution by now, in this room? Watu wangapi wameona hii Katiba yenye iko wakati huu, inua mkono vizuri? With all the awareness and with all the coordination that has happened only half of the people in this room have seen Katiba. How many people in this room have got at least form four education. Nani hasa ana elimu ya Form Four na zaidi? Raise up your hands, kama umefika Form Four hata kama ulipata kifika tu ama ulingoja mthani lakini ulisoma Form Four mpaka mwezi wa sita. Look, we are a very education group and half of us have never seen the Constitution. Hii Constitution ya leo wangapi watakubali kutoiona baada ya mieze sita ikishatokea? How many people will be satisfied not to see this new Constitution if it was agreed today, six months after it has been accepted. How many people would be happy not to have seen it in six months? How many people bought papers that they don't buy Sunday Nation or Wednesday when they heard that the Katiba was on the nation? So you see, it is this awareness.

Eunice you are asking me what has this Katiba done? Just by going to the people and making people know that they are asking assistance in creating a Constitution and implementing a Constitution, that has been the greatest thing that this Katiba has done. It is not just the paper, it is not just the product, it is just not the end, it is the means towards that end that has made a lot of awareness. So I don't think any Kenyan will ever be the same again, there is no way we can go back to being Wanjikus after this.

You say that women should not be dealt with as a special category, that is a proposal, so I should not be handling it at all. But I would also like to share with you that women came in their numbers to tell us there must be something on this Constitution that talks about us women. They said, asikuwaka na lake halipo. Katiba yenye kusema sisi wote, kila mtu, communities inawacha wanawake nyuma. A good example is what the American say that democracy, how do they define it, what is democracy?

**Audience:** A government of the people, by the people, for the people.

**Com. Salome Muigai:** Is the rule of the people, by the people, for the people. How many years did Americans stay before it even gave women a vote? Many years lakini bado haijasema it is the rule of women and men or for women and men. They wouldn't have come in the first house thinking the people are all there. So we are trying to learn from history as I said we are

not making our Constitution in a vacuum, so we are learning from past and we are using it to make sure that this Constitution moves us a step further in the direction of ensuring popular participation of all Kenyans in decisions that affect them directly or indirectly.

So you asked a question whether family and whether it includes polygamous family, single parent family, that one it does. Whether we have homosexual family, we have not seen them and nobody has come to tell us they have a homosexual family that they would like to protect, so when we are thing of the family, we are thinking of the families that are already in existence.

I also want to say that, you said you have a concerns about our Parliament and that one we have also devided Parliament into two houses so that there can be checks and balances on each other.

Lastly I would like to answer Paul, Paul we are very alive to the problems of the community of the deaf in this country and that is why we have recorgnised the sign language as one of the official languages of Kenya. Sign language has been accepted as in use in the Parliament, which is the August House of the nation. It means that it is one of our official languages. And we have asked in other places that Parliament will or shall enact laws that are going to see the naturing and the support of our mother tongue and our languages. They are going to facilitate the growth of our own ethnic languages and as well as the growth of sign language and Braille writing in this country.

Last but not least I would like to say that, what we have done today is just the tip of the iceberg. This debate has got to be continued wherever you go and ensure that you read the Constitution in totality and discuss it as one document rather than just bits and pieces and with those very many words, I would like to thank you very much. (*Applause*)

**Gilbert Bor:** Thank you Madam Commissioner and in keeping with what you have just said about the debate going on, I want to emphasize to the people here, Eldoret North and University that we have been given the draft Constitution officially today by the Commission and now it is our duty to go to our places or our locations and our constituencies so that we can carry on the debate so that we can come up with the recommendations that we will take to the National Conference so that we can enable the people who did not come here to get what we have got today.

In keeping with that, I would like to make the following announcements. We have produced a programme for the location to give our contributions in the following programme.

Moi's Bridge Location will have a meeting like this on Monday 21<sup>st</sup> October, 2002 at the Chiefs Camp. The same Monday, we will have a similar meeting in Kiplome Location and I am glad the Councillor for Kiplome is here. Please help the Commission by organizing your people so that we come and disseminate the draft Constitution there and the people of Kiplome can discuss it and make a few more recommendations.

On 22<sup>nd</sup> October 2002, Tuesday, the people of Kiplagar Location will converge at Nei, Councillor you are there?

**Councillor:** Yes.

**Gilbert:** Boisaka, yes to receive the draft Constitution and discuss it. The same 22<sup>nd</sup>, the people of Kipsomba location and Councillor Mary you are there, will meet at Kiplela to receive the draft Constitution and discuss it.

On 22<sup>nd</sup> October the same day, the people of Kibulgenye Location will meet at Kidiwa Primary School for the same purposes.

On 23<sup>rd</sup> October, 2002 Siriwa Location, Sirikwa Location and Seriaro will meet at Sirikwa and on the same 23<sup>rd</sup> October 2002, Soi Location will meet at Simame.

Madam Commissioner, one of our delegates is the Councillor for Soi Location. We will release the programme in his place before we go for the National Conference. Yes Councillor Metet. On the 24<sup>th</sup>, October people of Barsombe location will meet at Lwambo.

Turbo Division we shall have 4 meetings on 21<sup>st</sup> October 2002. Amagui, Lusero, Lugoya and Lenginye Location will meet at Jua Kali Centre.

On 22<sup>nd</sup>, the people of Turbo around Turbo South, Junction and Kasavey will meet at the road junction know locally as Kipsiombo. On 23<sup>rd</sup> Lenginye Location will meet at Lawile and on the 24<sup>th</sup>, Saviembe Location will meet at Maji Nne Chief's Camp and the chief there is present here. That is the announcement for the whole programme how it should go. Moi University is expected to arrange their own programme and discuss the draft and bring your recommendations.

Madam Commissioner I want the District Delegates to stand again so that we can introduce them to the people who came late.

Councillor Keter, is one of the three of the five district delegates who are going to represent us at the National Conference, infact he has just received a letter to report in Nairobi on the 22<sup>nd</sup> in preparation for the National Conference. I would like also with your permission to simamisha Councillors, this is the first time we have had Councillors in this dissemination exercise. We didn't have them in East or South. So those are some of the Councillors of Wareng County Council who have been working with us in this exercise and with their help we have been able to complete the hearings. They have also helped us a lot in civic education and I would like to meet with you after this so that we can plan how to work together for the programme that we have announced. With that, I want to say, thank you very much for all of you who have participated and I want to announce that our office, the Commission's office in Uashin Ngishu is situated at the Kenya National Library Service. So anytime you have anything to ask or to deliver to the Commission feel free to bring it to the Kenya Nationa Library Service. It is a public

library, it is always open and we welcome you and receive your recommendations to take to the head office.

Thank you very much, unless the Commissioner has anything else ya mwisho ningetaka kuomba mtu mmoja na mara hii itakuwa ni mama kutoa maombi ya kufunga huu mkutano.

Thank you very much hiyo ni recommendation ya kwanza, memorandum ya kwanza ambayo tutapeleka, tutapatia delegates waende nayo wakati huo. Asante sana.

**Com. Salome Muigai:** I would like to thank you very much, I was very worried that we were not going to have many people today, so I would like to specifically thank the university very much for bringing the students and also their lecturers who accompanied them. I would also like to thank the women and men of good will who are here today I know you all had something to do. But you have realized that you can go to the garden today and tomorrow but the Constitution is a historical moment. We are very very appreciative of the support that you have given it all along. I would like to say that I would have been very disappointed not to have enough of a crowd in my hometown, when we compare figures, I would have been very sad if this wasn't a full room.

So I would like to also like to apologise to people who did not get good seats but I was happy that there were enough people to fill all the seats and keep on debating it. This is your Constitution, it is your life, it is our life. Each one of us has a stake in the Constitution let it not be done for any one of us. This is a historical moment for our children and our grandchildren when they will be writing their history they will come and say, wewe ulisema ulikuwa kwa hiyo meeting, walisemaje, hebu kumbuka. Because these are important things that are not going to go away, they are very important. So please take part in it so that we cannot only for ourselves make a better Kenya but a better one for our children. Thank you very much and God bless you. (*Applause*)

**Councillor Keter:** Commissioner some of us who came late did not hear your names.

**Com. Salome Muigai:** My name is Salome Wairimu Muigai.

**Gilbert Bor:** I had said that I was going to call a lady to pray. So let one lady come forward and when she is coming I want to inform this meeting that one of the Commissioners is from Moi University. You are aware that the Commission has two Commissioners from Moi University? Are you aware?

**Audience:** No.

**Gilbert Bor:** Dr. Kangu is a lecturer at Moi University and Dr. Nunow is also a lecturer at Moi University. They are both

