

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

Verbatim Report of

**DISSEMINATION OF REPORT & DRAFT BILL, MOGOTIO
CONSTITUENCY HELD AT MOGOTIO COMMUNITY MILK DAIRY**

ON

16TH OCTOBER, 2002



DISSEMINATION OF REPORT & DRAFT BILL MOGOTIO CONSTITUENCY, HELD AT MOGOTIO
COMMUNITY MILK DAIRY ON 16TH OCTOBER 2002

Present:

Wycliffe Owade - PO Acting on behalf of Com. Dr. Adede.

Secretariat In Attendance

1. Esther Mugo - Assistant Programme Officer
2. Alice Thuo - Verbatim Recorder.
3. Paul Tukong - District Coordinator

The meeting started at 12.40 p.m.

Paul Tukong (District Coordinator): Nitamuomba Pastor Sally (inaudible) atufungulie kwa maombi.

Pastor Sally: Kwa hivyo kama uko na kofia tafadhali utoe umheshimu Mungu. Natuombe pamoja. Mungu Baba katika jina la yesu Kristo tuko mbele zako alasiri ya leo, mfalme wa Wafalme na Mungu uliyeumba mbingu na nchi. Tunakushukuru alasiri ya leo kwa sababu umetupenda hata umetujali mpaka tumekuja mbele zako alasiri ya leo. Asante Mungu wetu kwa sababu ya kila mpango ambao uko mbele yetu siku ya leo. Tunakushukuru kwa sababu wewe ni Mungu wa mipango, na hata Bwana umejua siku ya leo ya kwamba tumekusanyika mahali hapa katika Mogotio, kwa hivyo tunakushukuru kwa kila jambo ambalo liko mbele yetu. Tunasema ni asante kwa sababu jinsi vile umetujali na hata umetuongoza katika nchi yetu ya Kenya mpaka umbali huu Bwana tunasimama mbele zako. Asante hata kwa sababu ya siku ya leo, tumekusanyika mahali hapa kwa lengo na hata kwa ajili ya Katiba ya nchi ya Kenya. Kwa hivyo tunakushukuru Mungu wetu kwa sababu utatuelekeza na hata utatufanikisha tuendele kulingana na mapenzi yako. Asante kwa kila mmoja ambaye ameketi siku ya leo na asante kwa kila mmoja ambaye ako na neno la kusema siku ya leo. Kwa hivyo Mungu wetu tunaomba Roho Mtakatifu akapate kutuongoza katika hali zote na hata kwa maneno yote ambayo tunaenda kuongea siku ya leo iwe ni ya kwamba inapendekeza na hata Bwana iwe ni ya kutusaidia katika nchi yetu. Kwa hivyo Mungu wetu tunaomba ya kwamba utuongoze na utulinde katika hali zote. Naomba hayo yote nikiamini katika jina la Yesu aliye Mwokozi wetu. Amen.

Speaker: Asante, basi kwa sasa nitamualika mshirikishi ama coordinator wa tume ya kurekebisha Katiba ya Kenya katika wilaya ya Koibatek Bwana Paul Tukong ili atujulishe wageni mashuhuri na wageni kutoka hapa karibu, na wale wengine wote ambao wamewahi kufika hapa siku ya leo. Nampenda kuchukua nafasi hii, karibu Bwana Tukong.

Paul Tukong: Bwana Wycliff Awade ambaye yeye anawakilisha commissioner Dr. Adede kutoka CKRC headquarters

Nairobi na wale wote wanaandamana pamoja, DO wetu wa Mogotio, members wa constitution commission, the committee ya Mogotio, na wana constituency, the Civic Education Providers ambao wako siku ya leo, viongozi wengine wa tabaka mbali mbali wa eneo la hapa, wamama, mabibi na mabwana hamjambo? Hamjambo? Leo ni siku kubwa sana katika eneo la uwakilishi Bungeni la Mogotio kwa sababu tume ya kurekebisha Katiba kwamba wako na sisi kwa kazi ambayo bado tutaeleza nyinyi. Na kabla ya hiyo, pengine itakuwa jambo la busara na jambo la hekima, niwaonyeshe nyinyi wale ambao tunakuwa tukifanya kazi pamoja kwa mnajili ya Katiba mpya.

Basi ningeomba committee members ambao wako hapa tafadhali wasimame tupate kuwajulisha nyinyi committee members, wengine mngokuja mbele kidogo hapa, tafadhali kujeni mbele. Wanatume ambao tumekuwa tukiwasaidia nao ni kumi, wa kwanza akiwa ni mbunge wa area hii ambaye ametuma apology kama hatakua na sisi. Wa pili tuko na Bwana Charles Cheruiyot ambaye pia hayuko na sisi amesema ametuma apology. Basi na wale wako hapa tuko kwa upande ule mwingine ni Bwana Fredrick, makofi tafadhali. Bwana _____ ni commission member na anatoka area ya _____ (inaudible) anayefuata ni Councillor _____ ambaye ni chairman ya county council ya Koibatek _____ (inaudible), of course mnajua anatoka upande gani, na mama ambaye amesimama ni councilor pia Councillor Pauline Korir, huyo ni committee member na ametoka upande wa _____, makofi tafadhali. Tuko na wengine ambao hawako na sisi, bwana _____ Langat pia anatoka _____ (inaudible) amesema hatakua na sisi lakini alikuwa amesema anaweza ingia.

Ningetaka kutambua na hasa wale wengine pengine _____ ni wale ambao wamechaguliwa kuwakilisha Koibatek katika mkutano mkubwa wa Kitaifa wa Katiba ambao utafanywa kule Nairobi kuanzia tarehe 28. Walichaguliwa wiki ile nyingine kule 17 mwezi 9 kule Eldama Ravine na nipongezi kwao, tafadhali mkuje hapa mbele. Kuja hapa mbele, ni watatu walichaguliwa na hawa, hawa watawakilisha Koibatek District. Mkiona gazeti la jana la standard, majina hayo yako. Huyu ambaye ako karibu na mimi ni Bwana David Kimaiyo Kigen ni councilor wa upande wa Koibatek. Halafu hapa ni Kipingo, Charles Kipingo, anafanya kazi kule hospitalini lakini anatoka hapa hapa tu karibu na sisi, area hii ya _____ (inaudible). Wengi wamekuwa wakiniuliza Chepto Sally ni nani, ni huyo, makofi tafadhali. Yeye anatoka upande wa _____ (inaudible) akiwa yeye ni _____ makofi kwake tafadhali.

Siwezi kuwasahau wale ambao tumekuwa tukifanya kazi pamoja wakiwa waalimu wa Katiba wakizunguka eneo hili letu la Mogotio mpaka hata kule Eldama Ravine wakifanya maneno ya civic education, na wamefanya kazi mzuri sana. Wana _____ wengine wale wako hapo msimame tafadhali, naweza kuona Otoy, yes, civic division providers wale wako. Na pia Bwana Otoy Biwot, pia ametusaidia upande wa _____ (inaudible) kule _____ (inaudible). Asante.

Wageni wetu kabla hatujaendelea sana ningetaka kumualika DO wetu aje awakaribishe wageni ili tupate kuendelea na programme yetu. Bwana D.O. tafadhali. Tukaribishe bwana D.O. (*clapping*) Halafu sasa atujulishe wageni kwa sababu wageni walitangulia offisini kwake.

D.O. Moranga: Asante Bwana Tukong ambaye ni district coordinator wa Constitutional review committee. Watu wa Mogotio, yangu yatakuwa machache sana kwa sababu si baraza yangu. Nimekuja tu as a matter of courtesy ya kuonyesha kwamba sisi katika office ya Rais tunaungana na watu wa constituency kuona kwamba hii maneno inaenda vizuri hapa Mogotio.

Kwa hivyo leo sio wakati wa speeches sio wakati wa kuongea mambo mengi, ni wakati tu wa kufanya kazi ile imetuleta hapa. Hamjakuja kukaa ndio msikize hotuba ya DO, mmekuja tuu kwa mambo ya Katiba. Si ni kweli? Kwa hivyo ni kweli imepangwa, nimewaleta na ninataka niwaache na nyinyi, nimewaambia wanaweza kuongea Kiingereza, waongee Kiswahili, au kwa lugha ya mama kama wanaweza kuelewana mnaweza ongea kwa sababu kile kitu cha mhimu ni kuona kwamba mmelewana ama mmelewa ni nini wamekuja kufanya. Si ni kweli? Wakiwa ni wageni wachukuwe tu kama wageni, mkiwa na maneno wapeleke tu pole pole may be after 20 minutes mtakuwa mmelewana muongee vile wanataka na nyinyi muwaambie vile mnataka. Kwa hivyo haitakuwa ni ya upande moja itakuwa mnawaambia, mnajibu, mnawauliza, mnajibiana, kwa hivyo ni discussion. Sio mtihani, ni kitu tu mnaongea hapa.

Kwa hivyo yangu ni machache sana, ni kuonyesha ya kwamba tuko pamoja katika tutengeneze Katiba upya. Mimi nikiwa DO, office yangu ama office ya DC ama office ya PC, ama office ya Chief, Ni office moja mnataka kuongea juu yake? Ama hamjalewa tena wanasema MaDC na MaPC, na maDO na machief waende nyumbani, mmesikia hiyo? Yaani kusema mimi niende nyumba? Machief, na DC na nani, kwa hivyo, hapa hakuna kukalia mtu, unaongea siyo? Kama ni kweli mnataka hiyo office iondolewe mna? Mnasema. Saa za mchana mimi naweza wacha office nikae nisikie ni nini mlisema. Na waseme wengine saa hii wanakutana mahali pengine, kuendelea kuongea juu ya hii maneno.

Halafu wale watatu wa Koibatek wakienda Nairobi, sio kwenda kustarehe lakini kwenda kupeleka maoni yenu, yaongewe kwa urefu. Kwa hivyo hakuna hapa ati mnaweza kuogopa ati chief ako pale, hata DO alikuwa hapo, ati police, hapana, hii ni mambo ya kuongea kwa uwazi bila uoga na hakuna mtu atakuuliza ni kwa nini ulisema hii. Hapana, hiyo ni haki yako. Kwa hivyo mtu asikushitue hati kwa nini ulienda kusema hii, hapana, mimi nikiwa hapa nitakataa hiyo. Wewe sema yote, Wee sema yote yako, hiyo ni haki yako, inaitwa Constitutional right ya kusema vile ungetaka iwe. Pengine ile moja tu nitasema kwa watu wa Mogotio, ____ (inaudible) hii tutakuwa na Kenyatta day, tarehe 20th, hiyo sherehe tutafanyia hapa Mogotio, nafikiria tutafanyia hapa kwa huu uwaja, ndio hatutaenda mbali sana ndio watu waweze kuja, kwa hivyo tukutane hapa tusome hotuba ya Kenyatta Day, tuendele. Kwa hivyo mimi nataka kuintroduce wale wageni ambao wametoka head office ama office kuu ya Katiba. Tafadhali mkuje tu hapa mbele muonekane niwajulishe ndio niwaache na watu wa Mogotio mjadiliane, tafadhali.

Mseme wazee first ama wamama? Ladies first? Hata mambo ya Katiba? Sawa ladies? Equality, Sawa, hiyo ni haki yako na tutafanya vile umesema. Kwa hivyo wacha tuanzie huyu madam, yeye atusemee na nyinyi msikie vile anasema. Si ni kweli? Si ni vizuri kusikia vile anasema? Msikie sauti yake, wamama siku hizi wako na sauti. Wache tusikie sauti ya mama.

Esther Mugo: Hamjambo? Kwa majina naitwa Esther Mugo kutoka Nairobi.

Alice Thuo: Habari zenu? Kwa majina naitwa Alice Thuo kutoka Nairobi.

D.O. : Mmesikia kweli? Wanaonekana ni kama hawakusikia. Anaitwa Alice Thuo. Sawa? Hawa wanafanya kazi Nairobi na office kuu ya mambo ya Katiba, halafu tuko na ... ni mzee ama ni kijana ama ni mwanaume?

Wycliff Owade: Mwanaume. Habari zenu: Hamjambo tena. Kwa jina naitwa Wycliff Owade, nafanya pamoja na hao, na hapa nimekuja kwa niamba ya commissioner Dr. Adede. Asanteni sana.

D.O: Hiyo nikusema hivi, huyu mwanaume ndio atakuwa mkubwa kwa huu mkutano wa Mogotio. Ni kweli? Hawa wataandika maneno yote halafu wakirudi kwa office wataenda kwa computer waseme watu wa Mogotio wamesema hii, wamekubaliana na hii, wameongeza hii, au wamekataa vitu vyote ama wamekubali vitu vyote. Sawa? Kwa hivyo ako mwanaume mmoja, wamama wawili. Na ndio anakaa katikati kuona iko amani. Kipsang endelea.

Tukong: Basi makofi kwa bwana DO, hiyo ni kazi ambayo ni nzuri sana. Basi kwa wakati huu tukiwaletea kazi ambayo imetukusanyisha hapa ni kwamba leo tarehe kumi na sita tuko hapa Mogotio, hii ni programme moja kati ya zile zingine. Kuanzia week iliopita, commissioners wamekuwa nje, wamekuwa wakitembelea maeneo ya uwakilishi Bungeni kote nchini Kenya. Na leo tuko hapa, kesho tuko Eldama Ravine na programme inaisha tarehe 18 kote nchini Kenya. Asubuhi nimepatia nyinyi Constitution draft ambayo mko nayo na ninajua ya kwamba hiyo draft ambayo mko nayo, ndicho kitu ambacho tutatumia siku ya leo. Nikirudi nyuma kidogo, nataka kuwashukuru nyinyi wale wote ambao mlipeana maoni yenu wakati tume ya kurekebisha Katiba walipotembelea eneo la uwakilishi Bungeni Mogotio. Nakumbuka sana ilikuwa mwezi wa saba tarehe tano, basi kuanzia hapo, commissioners walienda kule Mombasa, wakaenda wakaweka pamoja maoni yenu yote na wakaweka katika draft ambayo tayari imetolewa. Kazi ambayo iko basi, kazi ya leo basi ni kuangalia hiyo draft, na hiyo it shall be taken through ama tutapelekwa kuangalia hiyo na Bwana Awade. Kwa sababu najua saa imeenda sana nataka kukaribisha bwana Awade ili tupate kuanza kazi yetu. Asante.

Wycliff Awade: Basi hamjambo tena wananchi? Nitaanzia kushukuru nyinyi wote ambao mmepata nafasi ili mkuje hapa siku ya leo ili tujadiliane kuhusu mambo haya ya Katiba. Katiba ni jambo umhimu sana katika maisha ya binadamu na vile coordinator amenena, mwezi wa saba mlitoa maoni, sisi tukakaa huko Nairobi natukachukua hayo maoni pande zote za nchi hii ya Kenya halafu tukaandika report, kutoka kwa hiyo report tuko na hiyo draft bill ama mswada wa Katiba. Na ninadhani nyinyi nyote mko na hizo copies. Na ningependa tuende hivi, tuko na twenty chapters hapo na tutaanza kuanzia chapter one mpaka mwisho. Kwa hivyo nimeomba mnisamehe na mniruhusu nikae chini saa ile tunajadiliana. Mmekubali? Asanteni sana.

Ya pili ni kuomba msamaha tumechelewa, tulikuwa na shida ya gari huko Kureisoi, lakini tumefika. Sasa asanteni sana, naomba mtulie ili tujadiliane na msikie sawa sawa yale maneno yako ili tusiwe na mambo kusema chini chini, mambo kama DO amesema lazima isemwe watu wote wakati wa mchana. Si ndivyo? Haya, Asante, Sasa naomba nikae chini halafu tuanze.

Okay sasa, tuangalie page 2 kwa hiyo pull out – hiyo gazetti mko nayo, uangalie hiyo page 2, nitaongea na Kizungu na Kiswahili kidogo kidogo. Tuko pamoja? Page 2 imeandikwa hapo,

Preamble. Preamble, yaani foundation ama mwelekeo wa hii Katiba yetu, tujue Katiba ni nini ama nini iko ndani ya Katiba. Hii Katiba inahusiana na mambo kama gani? Sasa huu ndio mwanzo mwanzo ya hii Katiba na nitasema hivi kwa kiswahili- Preamble – yaani utangulizi, na inasema hivi: Sisi wananchi wa Kenya tukifahamu wingi wa sauti zetu za kikabila, utamaduni na kidini na tukidhamiria kuishi kwa amani na umoja kama taifa moja huru lisilo gawika, tukijitolea kulea na kulida masilahi ya kila mmoja, familia na jamii katika taifa letu tukitambua matumaini ya wanawake na wanaume wetu, ya kuwa na Serikali ambayo imejengwa katika misingi muhimu inayodhamini uhuru, democrasia, haki ya kijamii, na utawala wa sheria; tukitekeleza haki yetu isiotendeka ya uhuru ili kuamua aina ya utawala wa nchi yetu na tukiwa tumeshiriki kikamilifu katika utaratibu wa kuandaa Katiba. Tunaikumbali, tunaifanya sheria, na tunaitoa kwetu wenyewe na kwa vizazi vyetu vijavyo Katiba hii. Mungu ibariki Kenya. Sasa huo ndio mwanzo wa hii Katiba yetu. Tuko pamoja?

I want now to take you to page 4 chapter one na imeandikwa hapo: Sovereignty of the people and supremacy of the Constitution. Nataka kujua nini mamlaka ya Katiba, inatoka kwa watu gani? Na imeandikwa hapo, Sovereignty of the people and supremacy of the Constitution. Nitasoma kwa kiswahili, bado article one one. Mamlaka yote ya uhuru ni ya wananchi wa Kenya na yanaweza kutekelezwa tu kulingana na Katiba. Tuko pamoja? Mamlaka haya ya Katiba ni ya wananchi wa Kenya, ni nyinyi wenyewe Wanakenya. Sasa nyinyi wananchi tumepatia viongozi katika sehemu mamlaka.

Halafu tusome hapo NO. 3, article one No. 3. Mamlaka ya uhuru wa wananchi yamegawanywa kwa njia tofauti miongoni mwa kwanza (a) Bunge, ambamo wananchi wameweka imani ya mamlaka ya kisheria ya jamhuri ili yatekelezwe kwa mujibu wa sura ya saba. (b) Mamlaka ya nchi ambamo wananchi wameweka amana ya mamlaka ya kutawala ya jamhuri ili yatekelezwe kwa mujibu ya sura ya nane. (c) Mahakama – Mahakama na mahakama zingine ____ (inaudible) pendelea ambazo kwazo wananchi wamepewa amana ya mamlaka ya kimahakama ili yatekelezwe kwa mujibu ya sura ya sita. (d) Tume za kikatiba na afisi ambazo zimeundwa na sura ya kumi na saba, na kwingineko katika Katiba ambazo kwazo wananchi wamepewa amani ya kulinda na kujenga jamhuri ya kikatiba ambayo inaweza kupatikana kutokana na utekelezaji wa vyombo vilivyo vyenye majukumu na uwezo vilivyowekwa na Katiba.

Halafu ile ya mwisho ni ile inasema, haki ya kutekeleza uhuru haitatolewa kwa mtu yeyote, vikundi, wala tabaka, na hakuna mtu atakaye jitwika yeye mwenyewe au atakaye tkeleza mamlaka yoyote ya nchi ambayo hayatokani na Katiba. Na saa hiyo ndio sovereignty of the people and supremacy of the Constitution na tuna two codes. Sasa tumejua ya kwamba mamlaka yote inatoka kwa nyinyi wananchi wa Kenya. Tuko pamoja? Alright.

Now we go to chapter 2 which is about the republic. We want to know what the republic is all about. Katiba inasema nini kuhusu republic ama jamhuri. Inasema hivi: Article 6 (1) Inasema hivi: Kenya ni jamhuri iliyo uhuru. (2) Jamhuri ya Kenya

imejengwa katika msingi ya kijamhuri ya utawala mwema kupitia demokrasia ya vyama vingi, utawala shirikishi, uwazi na uajibikaji, utengenezaji wa madaraka, haki za binadamu, uhuru wa kimsingi na utawala wa sheria. Sasa hiyo ndio inaongea juu ya jamhuri. Sisi tungependa kusema, hii Kenya ni ya watu wote, na ni Wakenya wote. Hiyo ni ukweli ama urongo? Kenya ni watu wote na hata tukipata hata saa hii, tukienda kwa uchaguzi mpya, hata kwa Serikali mpya, Katiba inasema hivi, Kenya ni wananchi wote wa Kenya. Kila upande wa Kenya, Kenya ni ya watu wote wa Kenya, na Jamhuri na ni jamhuri iliyo uhuru. Kwa hivyo nyinyi wananchi ndio mko na hiyo mamlaka ya Katiba na ndio mumepatia hiyo Katiba mamlaka. Tuko pamoja?

Sasa nataka twende chapter 3 which is National goals, values and principles. But just before that, perhaps I could say something about the National Bill, and as the DO told you and the District Coordinator, this is just a draft, huu ni mswada tu, hii si Katiba, ni mswada tu. Tuko pamoja? Kwa hivyo tutasoma hii, the purpose yetu hapa, kama mtu anafikiria hiyo si sawa sawa, una haki ya kusema. Tumeelewana hapo vizuri?

Sasa tuangalie hiyo page 4 article 13, imeandikwa national days. Na nitasoma hivi, that is article 13 – siku za taifa: Siku zifuatavyo zitazingatiwa kama sikukuu ya taifa, (a) June 1, sikukuu ya madaraka, (b) December 12 – sikukuu ya jamhuri, (c) Siku ya Katiba kufanywa kuwa sheria – itaitwa sikukuu ya Katiba. – hivyo ni siku tatu lakini tuko na siku zile tunaita kama public holidays, hizo zitabaki. Sasa hapo mtasikia vizuri mkiwa na swali ama any comments, mtaleta baadaye. Hiyo chapter 3 national goals, values and principles, tuko pamoja?

Malengo ya taifa, maadili na kanuni, tunataka kujua hii Katiba inasema nini katika hayo malengo ya taifa, maadili na kanuni kwa viongozi na wananchi wa Kenya, na nitasoma kwa Kiswahili. Malengo ya taifa, maadili na kanuni, article 14 (1) Malengo ya taifa, maadiri na kanuni zilizomo katika sura hii zinahusu mamlaka ya nchi, Bunge, mahakama, utawala wa wilayani na vyombo vingine vya Serikali na viongozi. Raia na miungano wa kibinafsi pale ambapo vyombo imojawapo ni hivyo. Hivyo mnaweza kusoma lakini lengo kubwa hapa ni ku-understand kwamba kiongozi yeyote na kwa kila raia yeyote razima kuwa kuna malengo, maadili na kanuni. Tuko pamoja? Hapo mnaweza kusoma.

Sasa twende kwa article 16 that is page 5 – duties of a citizen. Not chapter 15, article 15 (25) Kwa kiswahili, wajibu wa raia, in other words, inasema hivi: hata ingawa kuna Katiba, hata ingawa tutaongea kuhusu maneno ya Rais, ya wananchi wa Kenya, ni wajibu wenu nyinyi Wakenya mjue ya kwamba mko na role ya kuplay, mko na wajibu kama raia kuwasaidia nchi hii ya Kenya.

Si tu kwamba sasa Katiba iko, lakini bado naangalia tu vile mambo inaendelea. Tuko pamoja? Mko na wajibu kama wananchi wa Kenya na sheria inasema hivi: Article 15 (1) Ili kutimiza malengo ya kitaifa, maadili na kanuni, raia wote wana wajibu wa (a) kujifahamisha kuhusu masharti ya Katiba na kudumisha maadili na malengo yake. (b) Kutetea na kuulinda Katiba na sheria. (c) Kutekeleza haki yao ya kidemokrasia kwa kupiga kura na kushiriki katika namna zingine kwa shughuli za kisiasa – kwa kupiga kura, hiyo ni maneno mhimu sana. (d) Kushiriki Katika kazi ukiwemo ujenzi wa familia ili kujikimu na kulinda masilahi

yao na familia zao kwa manufaa ya jumla na kuchangia katika maendeleo ya taifa. (e) Kukuza uwezo wao kadri wanavyoweza kupitia (inaudible) maarifa, kuendelea na masomo na utunzaji wa usitadi. (f) Kuchangia masilahi na maendeleo ya jamii wanapoishi (g) Kujitahidi kukuza umoja wa kitaifa na kuishi kwa amani na wengine. (h) Kuendeleza udemokrasia na utawala wa sheria au (i) kuendeleza maisha ya kifamilia na kusema kwa heshima katika mikitaba ya familia. (j) Kulinda na kutunza mali ya uma ili isiharibiwe wala kutumiwa vibaya. (k) Kulinda mazingira na kuhifadhi mali ya asili. (m) Kushirikiana na vyombo vyo kutekeleza sheria ili kudumisha amani na sheria. (n) Kujiepusha na vitendo vya ufisadi (n) Kuelewa na kukuza nafasi ya Kenya katika jamii ya kitaifa. Kwa hivyo majikumu yaliyoelimishwa katika kifungu moja, yanayohusu pia pale inapobidi wale wasio kuwa raia. Sasa hiyo ni wajibu wa raia. Tuko pamoja?

Twenda kwa uraia, yaani citizenship that is chapter 4 – uraia. Tunataka kujua, hii maneno ya uraia, Katiba mpya inasema nini? Na nitasoma kwa Kiswahili kwa kifupi tu. Article 15 (1) inasema hivi, kanuni za kijumla kuhusu uraia – isipokuwa pale ambapo Katiba inaweka mashariti tofauti, raia wote wa Kenya (a) Wana haki sawa ya kupata haki, (inaudible) na faida za uraia. (b) Wana kiwango sawa cha wajibu na majukumu ya uraia na (c) wana haki sawa ya kupata passport ya Kenya na kupata haki yeyote ile ya kitaburisho inayotolewa na Serikali kwa uraia. Halafu tunataka kuona zile classifications or acquisitions of citizenship na tuko na three categories. Kupata uraia – hapo article 18 – uraia unaweza kupatikana kwa njia ya (a) kuzaliwa – yaani uraia wa Kenya. (b) Kusajilishwa na (c) kuandikishwa. Halafu inasema nini? Article 19 (1) uraia kwa kuzaliwa – citizenship by birth. Kila mtu aliyezaliwa baada ya utekelezaji wa Katiba atakuwa raia wa Kenya ikiwa wakati wa tarehe ya kuzaliwa mtu huyo mama ama baba yake ni raia wa Kenya. Tuko pamoja? (2) Mtu aliye raia wa Kenya kuambatana na (inaudible) hii hawezi kupokonywa uraia wake – yaani tuko na citizenship by marriage – uraia na ndoa. Article 21 – Katiba mpya inasema hivi: Mtu aliyefunga ndoa na raia wa Kenya kwa kipindi kisichopungua miaka mitatu ana haki ya kusajilishwa kama raia wa Kenya akituma ombi. Pili uraia haupotei kwa njia ya ndoa ama wakati wa talaka. Hizo ni recommendations zenu.

Halafu kuna ule uraia kwa kuandikishwa, article 21 – mtu aliyekuwa mkazi wa Kenya kisheria kwa mfululizo kwa kipindi kisichopungua miaka saba na ambaye anatosheleza masharti yaliyotolewa na sheria ya Bunge, anaweza kutuma ombi la kuwa raia wa Kenya kwa kuandikishwa. Tuko pamoja?

Halafu tuna ile sheria ya uraia, kuhusu watoto wanaopatikana Kenya na watoto wa kupanga. Tuko pamoja? Article 22 (1) inasema hivi:- mtoto anayepatikana Kenya ambaye yuko chini ya umri wa miaka minane ambaye wazazi wake hawajulikani atachukuliwa kuwa raia wa Kenya akiwa chini ya umri wa miaka minane. Pili mtoto aliye na umri wa chini ya miaka kumi na nane ambaye anaishi na raia wa Kenya ana haki ya kuwa raia wa Kenya anapotuma ombi.

Uraia mara dufu, yaani dual citizenship – wakati tulipotembelea katika constituencies zote za nchi ya Kenya tulipata kama wale ndugu zetu Turkana, Somali, Rendile, na kila mahali na walikuwa na maoni tofauti tofauti kuhusu uraia mara dufu. Na ninataka nisome hivi: Article 23 (1) inasema uraia mara dufu unaruhusiwa chini ya sheria ya Kenya. (2) Mtu anayepoteza uraia wa

Kenya kwa ajili ya kupata uraia wa nchi nyingine, wa kabla ya kutekelezwa kwa Katiba hii ana haki ya kufajiliwa kama raia wa Kenya anapotuma ombi lake. (3) Mtu anayepoteza uraia wa Kenya kwa ajili ya kupata uraia wa nchi nyingine anapowacha uraia wa ile nyingine atakuwa na haki ya kurudia uraia wake wa Kenya ambao aliyo uraia mwanzoni. Hiyo tumeelewana vizuri?

Halafu twende kwa article 24 – Kuachishwa uraia – mtu atapokonywa uraia wa Kenya ikiwa tu ameupata uraia huu kwa udanganyifu, (inaudible) uwango, kuficha kwa hoja mhimu, ama kwa njia nyinginezo kinyume cha sheria. Sasa hiyo pia inahusu hiyo. Hizo zingine mnaweza kusoma.

I want now to take you to chapter 5 – the bill of rights - That is page 6 – the bill of rights, yaani sheria ya haki. Halafu ningependa kusema hivi, ni muhimu kwa nyinyi wananchi wa Kenya hasa kama saa hii ambayo tunaingia kwa uchaguzi na kwa hiyo Serikali mpya, mjue kwamba ni haki zetu, sisi raia ni muhimu tujue haki zetu ni nini katika Katiba. Tuko pamoja? Sasa sheria inasema nini? The bill of rights? Sheria ya haki. Na nitasoma kwa kiswahili. That is article 29 (1) Sheria ya haki ndio nguzo ya mzingi ya Serikali ya kidemokrasia na ni muundo wa ukubalifu wa maswala ya kijamii, kiuchumi na kitamaduni. (2) Madhumuni ya kutambua na kulinda haki za binadamu ni kuhifadhi hati ya utu, ya watu binafsi, ya jamii, na (inaudible) vipawa vya binadamu wote.

Sasa haki na uhuru ule ulitolewa katika sheria za haki ni hizi. (a) ni wa kila mtu na hautolewi na Serikali. (b) Hauwachwi nje, haki nyinginezo ambazo hazikutajwa moja kwa moja katika sura hii na (c) unahusika tu katika (inaudible) ulitolewa katika sheria hii. Na ningependa tena kuongeza kwamba itakuwa Katiba inasema kwamba Serikali lazima ilinde hiyo haki ya wananchi kwa njia zozote. Tuko pamoja?

Sasa hizi zingine mtasoma lakini ningetaka kupeleka nyinyi kwa vikundi vingine ambayo hii Katiba imetaja. Na taka kwanza nianze na article 32 the same page 15 haki ya kuishi – nataka kujua sheria ya sasa inasema nini – haki ya kuishi 32 (1) Kila mtu ana haki ya kuishi kwa nchi hii ya Kenya (2) Hukumu ya kifo imefutuliwa mbali – hilo ni pendekezo letu – hukumu ya kifo imefutuliwa mbali. Article 33 inasema – Kila mtu yuko sawa mbele ya sheria na ana haki sawa ya kulindwa na usawa wa mafanikio ya sheria. (2) Usawa unajumulisha kufurahia kikamilifu usawa na wa haki zote na uhuru wote. Uhuru kutokana na ubaguzi – baado iko article 34 – Serikali haitabagua kwa maonefu ya moja kwa moja ama kwa njia isio kuwa dhahiri kwa mtu yeyote kwa sababu moja au zaidi pamoja na jamii, jinsi, muja mzito, ndoa, kabila, ama hali ya kitabaka. rangi, umri, ulemavu, dini, dhamira, imani, utamaduni, lugha ama kuzaliwa. Tuko pamoja?

Haya twende kwa akina mama ama wanawake – article 35 – Nakumbuka hii ilikuwa ni maoni ya wananchi wa Kenya na tumejaribu kusamarize hapa. Sasa Katiba mpya inasema hivi kuhusu wanawake article 35 (10) Wanawake wana haki ya kutendewa sawa na wanaume, pamoja na haki ya kupata fursa sawa katika siasa, uchumi, na shughuli za kijamii. (2) Wanawake wana haki ya kupewa hadhi ya utu sawa kama ile inayopewa wanaume. (3) Wanawake na wanaume wana haki

sawa za kurithi, kupata nafasi ya kupata na kudhibiti mali. (4) Sheria, utamaduni, desturi ama mila zozote zinazorotesha hadhi ya utu, ustawi na maslahi ama hali ya wanawake zimepigwa marufuku. (5) Serikali italeta wanawake na haki zao, kwa zingatia hali zao maalum na jukumu lao la kuwa mama katika jamii. No. (d) itapewa vifaa vinavyotosheleza na fursa ya kwendeleza masilahi ya wanawake ili kuwawezesha kufikia upeo wa vipawa vyao na maendeleo.

Halafu tuna wazee katika jamii, katiba mpya inasema hata hawa wazee wana heshima, wana akili, na hiyo akili yao lazima tu-respect, na lazima pia Serikali ilinde maisha ya wazee. Na inasema hivi article 36 (1) Wazee katika jamii wana haki ya kwendelea kufurahia haki zote na uhuru kama ilivyofafanuliwa katika sheria ya haki pamoja na haki ya (a) kushiriki kikamilifu katika shughuli za kijamii. (b) Kufuatilia maendeleo yao kibinafsi. (c) Kuwa uhuru kutokana na aina zote za ubaguzi, unyanyasaji dhuluma ___ (d) Kuishi kwa heshima na utu na (e) Kubaki na uhuru wao. Zingine mnaweza kusoma lakini kitu mhimu ni kwamba Serikali lazima ilinde wazee kwa maisha yao yote. Hiyo sasa Katiba mpya imeweka.

Article 37 (1) Watoto wana nafasi maalum katika jamii – ni jukumu la wazazi wao, na nitarudia ni jukumu la wazazi wao, ukoo, jamii na Serikali kuwalea, kuwalinda na kuwaelemisha ili waweze kuendelea katika mazingira salama na katika hali ya furaha, upendo, heshima, na maelewano na waweze kutimiza upeo wa vipawa vyao katika hali zote, kimwili, kiakili, na kiroho kwa manufaa yao wenyewe na jamii kwa jumla. Kwa hivyo hata hii ni Katiba mpya, inalinda watoto na mwende nyinyi nyote msome hizo, because Katiba mpya inapendekeza nini kuhusu watoto.

Tuende kwa familia article 38 (1) page 7 familia – nitasoma kwa kifupi – article 38 (1) Serikali itambue familia kuwa ndio msingi wa umoja wa kijamii na ndio msingi muhimu wa taratibu za kijamii. (2) Familia inasitahili heshima na ulinzi wa Serikali. (3) Kila mtu mwenye angalao umri wa miaka 18 nitarudia, Kila mtu mwenye anga lao umri wa miaka 18 (a) ana haki ya kuoana au kuolewa kulingana na makubaliano. *End of side A*

Ama wana haki sawa katika ndoa wakati wa kuoana kwao na katika kuvunja ndoa yao. Tuko pamoja?

Basi twende kwa walemavu article 39 – walemavu, Katiba mpya inalinda pia walemavu na inasema hivi kwa kifupi – walemavu wana haki ya kufurahia haki zote na uhuru wote uliotajwa katika mswada huu wa sheria na kushiriki kikamilifu katika jamii kama wengine. Na hata mtaweza kusoma hiyo mjue sheria inasema nini kuhusu walemavu.

Nataka kwenda kwa article 44 (1) the same page 7 article 44 (1) Uhuru wa dini, imani na maoni, sheria inasema nini? Katiba inasema hivi: article 44 (1) Kila mtu ana haki ya uhuru wa dhamira, mawazo, imani na maoni. Hapo pia unaweza kusoma ujue inasema nini. Haya twende kwa page 8 tuko na page 8 article 45 – freedom of expression and above there we have publication of opinion and down there we have access to information, and then up there we have freedom of association. Are we together? We have freedom of expression, publication of opinion, access to information, and freedom of association. What it simply says, is that we as the people of Kenya should have access to any information, Are we together? We the people

of Kenya should have access to any information, be it newspapers, be it bulletins in the radio, be it channels to the television.

Hakuna mtu ama hakuna vyombo vyoyote vile vya habari ambavyo vitajificha kitu, kila kitu kiwe kibaya ama kizuri, kitakuwa wazi. Tuko pamoja? Halafu wannachi ndio wataamua tuingie ama tufuate njia gani. Na mna haki kufuata hiyo. Tuko pamoja?

Sasa Katiba inasema kila mtu ana uhuru kupita tuseme kuuliza kwa habari yeyote ama kuuliza maneno yeyote ambayo iko na shida kwa kila chombo katika nchi yetu ya Kenya. Tena kwa bill of association inasema ya kwamba kila Mkenya ana haki kujiunga na association yeyote, ikiwa ni chama cha kisiasa, ikiwa ni any welfare group, ama association ingine, mna uhuru kuingia kwa hiyo na hilo uhuru lazima ilindwa na Katiba. Tuko pamoja? Kwa hivyo sasa hiyo ndio maana ya freedom of association, freedom of expression, na publication of opinion.

I want now to take you to page 9, page 9 is talking of other freedoms which the state is required by law to give to the people of Kenya and I will just want to read them, other details you will get on your own. Nitasoma kwa Kiswahili, inasema hivi, kwanza article (56) tuko na social security, yaani usalama wa kijamii, tuko pamoja? Serikali lazima iangalie hiyo na ilinde usalama wa kijamii. Halafu tuko kwa article 67 on health, afya, inasema hivi: kila mtu ana haki ya afya inayojumuisha haki ya huduma za afya ikiwa ni pamoja na utowaji wa huduma za afya za uzazi. Tuko pamoja? Hakuna mtu atakayenyimwa matibabu ya dharura.

Halafu twende kwa elimu, education inasema hivi: kila mtu ana haki ya kupata elimu ya kimsingi inayojumuisha elimu ya kabla ya msingi, elimu ya mzingi na ya upili. Halafu tuende kwa nyumba – housing, 59 (1) inasema hivi – kila mtu ana haki ya kuwa na nyumba ya kukaa article 60 – chakula: - inasema hivi, kila mtu ana haki ya kutokumbwa na jaa na kuweza kupata chakula cha kutosha na bora na kukubaliwa kitamaduni. Tuko pamoja?

Halafu maji, 61 – kila mtu ana haki ya kupata maji ya kutosha na bora.

No. 62 – Usafi, kila mtu ana haki ya usafi inayotosheleza ikiwa ni pamoja na uwezo wa kuwazika watu kwa njia ya heshima.

Article 63 – Mazingira: - kila mtu ana haki ya mazingira yaliyo salama kwa maisha na afya. Zingine tutasoma tukienda kwa ile chapter ya mazingira. Kwa hivyo hivyo ndio umuhimu tusome kabla hatujamaliza hiyo bill of rights nataka tusome hiyo article 64 (1)

Article 64 (1) Haki za wateja yaani consumer rights – ni vizuri nyinyi wananchi wa Kenya mjue rights zenu kama wateja na inasema hivi – Wateja wana haki ya (a) kupata vifaa na huduma zinazofaa. (b) Kupata habari inayowafaa ili waweza kunufaika kikamilifu kutokana na bidhaa na huduma. (c) Kulindwa afya yao, usalama, na masilahi yao ya kiuchumi. (d) Kulipwa fidia kwa makosa yanayosababisha hasara au majeraha. (2) Wanaotoa huduma watajitahidi kutafuta ushauri kutoka kwa wateja na vyama vya wateja kuhusiana na maswala yanaouwathiri. Tuko pamoja? Sasa hizo ndizo za wateja, ili nyinyi kama wananchi

wa Kenya mjue haki zenu kama wateja mlindwe.

I want now to take you to page 10 article 70 – rights of persons held in custody. Yes, the coordinator is reminding me mtakuwa na saa ile ya kuuliza maswali, sasa saa ile tunaongea ili tuende haraka haraka, mna mark tu pahali mko na maneno. Hiyo ni sawa? Ili tuende haraka haraka badala ya kuuliza maswali saa hizi. Tuko pamoja? Very good.

Sasa tuende kwa article 71 – rights of persons held in custody. Clause (1) Haki za watu walio kizuizini. Inasema hivi, watu wote walio kizuizini chini ya sheria wawe wamehukumiwa au la wataendelea kuwa na haki zao chini ya Katiba isipokuwa haki hiyo iwe haimbatani na uhalisi wa kuwa kizuizini. Tuko pamoja? Sasa hizo zingine mnaweza kusoma baadaye.

I want now to take you to chapter 6: representation of the the people, I will just read to highlight you on your right as a Kenyan so that you are aware of what the new Constitution is saying about the bill of rights. Therefore it will only be logical to follow it with the representation of people which is on page 11. Sitasoma zote but I will just highlight the main issues ili mjue hasa wakati huu wa uchaguzi, mjue juhudi zenu, ama wajibu wenu kama raia wa Kenya ni nini. Na tusome hiyo the rights to vote – article 78 (1) Just down there, inasema hivi – Haki ya kupiga kura, article 78 (1) Raia mwenye umri wa miaka 18 na zaidi ana haki ya kupiga kura. Tuko pamoja? That is you go to page 20 then we have qualifications for registration as a voter: that is article 79 (1) Raia anastahili kusajiliwa kama mpiga kura kwa uchaguzi, kama kufikia siku ya maombi ya usajili raia huyo. (a) Ana umri wa miaka 18 na zaidi. (b) Kuwa kawaida amekuwa mkazi katika jamhuri (c) Kwa muda usiopungua mwaka mmoja kabla ya siku hiyo (2) Kuwa jumla ya kipindi kisichokuwa chini ya miaka nne katika jumla ya miaka minane kabla ya siku hiyo. (c) Kwa muda wa vipindi vinavyolingana na muda usiopungua miezi mitano kwa mwaka kabla ya siku hiyo. (d) Kwa kawaida amekuwa mkazi kwenye eneo Bunge ambapo ombi la usajili lilipofanywa au (e) Ameajiriwa kazi, anaendesha biashara au ameminiki ardhi kihalali au nyumba ya kukaa kwenye eneo Bunge hilo. Tuko pamoja?

I want to take you to article 81 – na ni mhimu sana msikilize hiyo, article 81 Katiba mpya inasema nini? Inasema hivi – katika kila uchaguzi, tume ya uchaguzi itahakikisha kuwa (a) utaratibu wa uchaguzi ni mwepesi na rahisi. Tuko pamoja? (b) Sanduku la kura nangavu (c) Kura zinahesabiwa, zinaorodheshwa na kutangazwa na msimamishi kwenye kituo cha kupiga kura. Tuko pamoja? Kitatangazwa hapo hapo siku ya mchana huyo. Tuko pamoja? Wazi wazi, hakuna hii maneno ya kupeleka mahali, hapo hapo tu, tuko pamoja? Basi sasa hii ndio inaongea juu ya uchaguzi ama kuwa voter..

Halafu tuna hiyo tume ya uchaguzi ambayo tutasoma baadaye lakini ningependa kusema hivi, majukumu ya tume ya uchaguzi that is article 84 (1) tujue sasa kwa Katiba mpya, majukumu ya tume ya uchaguzi zitakuwa ni nini. Tume ya uchaguzi ina wajibu wa (a) Usajili wa kuendelea wa wapiga kura. (b) Kuweka mipaka ya maeneo Bunge (c) uwendeaji usimamizi kwa uchaguzi na kura za maoni. (d) Uendelezaji wa uchaguzi na kura za maoni, uhuru na zenye usawa, (e) Usimamizi wa niaba ya kisiasa. (f) Usimamizi wa mfuko wa fedha za kisiasa. (g) Usuhulisaji wa ubishi wa uchaguzi (h) Uendelezaji wa elimu ya raia, na utamaduni wa demokrasia na (i) Kusaidia katika uchunguzi, ufuatilizaji na (inaudible) wa uchaguzi.

Halafu hapo tuna vyama vya kisiasa, that is article 87 – mnaweza kusoma lakini nitasoma

Kwa ufupi haki ya kuunda chama cha kisiasa. That is on page 12 article 87 – Kwa mujibu wa (inaudible) hamsini raia yeyote ana haki ya kuunda chama cha kisiasa. Pili chama cha kisiasa kina haki ya msaada wa kifedha kutoka kwa Serikali kuwa mzingi ulioangizwa na sheria ya Bunge. Tuko pamoja? (3) Hakuna mtu atakayetumia rasli mali za taifa kusaidia chama cha kisiasa. (4) Bunge litahidhinisha sheria inayoangiza masharti kwa vyama vya kisiasa. Yaani kwa hii Katiba mpya tuna zile streamlining ama tuna zile kanuni ama sera ambazo zitalinda hivi vyama vya kisiasa. Si tu kwamba kuna wengine ambao wana chama cha kisiasa lakini ni ya ile tunaita briefcase, ile mfuko tu, but ni personal tu na wanafanya vile wanavyotaka, na hata ukitaka kujua maneno ya pesa ilitumika namna gani huwezi kujua na wewe ndiye mwanachama wa chama hiki. Hiyo ni kweli ama apana? Sasa mnasema mambo mengi imeenda vibaya sana katika chama cha kisiasa na lazima tuweke discipline ili chama ya kisiasa kifanye kazi sawa sawa na hizi zitakuwa kwa vyama vyote vya kisiasa. Tume ya uchaguzi itakuwa na jukumu kulinda hivi vyama vya kisiasa kwa vile wanaendesha shughuli zao. Tuko pamoja?

Iwe ni mfuko wa vyama vya kisiasa, fedha zingine za vyama vya kisiasa, iwe ni masumuni ya mfuko, iwe ni huduma mingi ya vyama vya kisiasa, iwe nidamu ya chama, hizo zote tume ya uchaguzi itaangalia. And I want you to look at article 98 tujue inasema nini, page 13, article 98 nidhamu ya chama, tuone inasema nini katika Katiba hii.

98 (1) Katiba au idara za ushirikiano za chama cha kisiasa zitakuwa na masharti yatakayohakikisha kuweco kuwa nidhamu chamani na yanayoambatana na kanuni za kidemokrasia, haki, na uongozi wa Kisheria, ili chama cha kisiasa hakitamuaadhibu mBunge wa chama kwa sababu ya jambo alilosema Bungeni katika utumiaji wa fadhila za uhuru wa kutoa maoni Bungeni. (3) Chama cha kisiasa kitatekeleza shughuli zake kwa njia inayoendeleza demokrasia na njia za amani. Kwa hivyo hiyo ni kuhusu chama cha kisiasa.

I want now to take you to chapter 7 which is Parliament yaani Bunge. Mjue Katiba mpya inasema nini kuhusu Bunge. Sasa nitaongea kwa kizungu kidogo halafu ni require marafiki wangu kunisaidia kuiteprete kwa kiswahili. Hiyo ni sawa?

Now, when we were crossing the constituencies within the republic of Kenya, we have got 210 constituencies in Kenya. Kenyans kept on giving us their views on how they want the structure of the new Parliament to look like. So people gave us various views and out of those various views we came up with the following: In the new Constitution, we are recommending the following: that Parliament be made of two houses. Are we together? Parliament be made of two houses:- the first house which is known as the upper house will be known as the National Council – baraza la kimataifa.

(2) The lower house will be known as National Assembly yaani ile kama ile Bunge ya kisasa.

Now what is the composition of the National Council? The composition of the National Council is as follows: National

Council will be composed of 100 Members of Parliament. Are we together. It will be composed of a 100 Members of Parliament. How will this one be done? We have got 68 districts in this country of Kenya, now 68 districts it means each district will have a representative to the National Council. If we have 68 districts it means we shall have 68 Members of Parliament. Are we together? Now, the other two to make it 70 will be representatives from Nairobi; in other words Nairobi is classified as a district just like any other district in Kenya. Are we together? So that will make the total to how many? 70. How many are remaining? 30, so what we are saying, we have 70 districts in Kenya including Nairobi we are saying of the 70, 68 will have 68 representatives and the other two will represent Nairobi. Right?

The other 30, the new Constitution recommends *tupatie akina mama*. Are we together? So *akina mama watakuwa na 30* people katika hilo Bunge la kimataifa, yaani National Council. Are we together on the National Council? If you have any problem or clarification you can raise later. Let us now go to the lower house, ama ile Bunge ya kawaida ya 210, tunasema hivi:- The current structure of the current Parliament will remain. We shall have 210 Members of Parliament as they are now representing various 210 constituencies in the republic of Kenya. So the 210 will remain but we have others.

We have added another main group of Parliamentarians to the members of the National Assembly. These members will be 90, I want to make it very clearly now in broad daylight, these 90 members are not nominated at all. Let me make this one very clear, these 90 members are not nominated at all, these members will be elected directly but what will happen is this, let me finish. As we were going all over the Kenya collecting views of Kenyans in all the 210 constituencies in this country, there were other groups of Kenyans which felt that their interests are not adequately reflected in Parliament. They said their views, their interests are not reflected. *WaBunge wakiingia huko ni mambo yao tu na kulala, sasa hawa walisema wao pia inatakikana mambo yao iwe wazi wazi na wao wenyewe wawe represented kwa Bunge*. So, who are these groups of people? These were:

- (1) Persons with disability – they felt that they need to be represented in Parliament.
- (2) *Vijana* – the youth, the youth felt that they also need to be represented in Parliament.
- (3) Marginalized areas – marginalized areas in our country also felt that its time, these include the ethnic minority. *Kuna makabila mengine kukiwa saa ile ya kupiga kura hawawezi kushida kwa sababu ni wachache*. So they also felt *wangukuwa represented kwa Bunge*. So these are the categories of people who were crying.

So for the sake of democracy, the new Constitution is saying why don't this Parliament be representative of every section in this republic of Kenya. Now how are they going to be elected? The condition is as follows: all the registered political parties in this country, be they 100 or 90 or whatever, all the registered political parties in this country shall submit a list of 90 people to the Electoral Commission of Kenya one year before they elections. Are we together? All the political parties in Kenya, be it Kanu, DP or whatever, they shall submit a list of 90 people to the Electoral Commission of Kenya one year before the elections. What will happen? There are very many tough condition to be fulfilled before that list is accepted. (1) That on the priority list we shall see on the top, we have the disabled, the youth, *akina mama*, marginalized areas, ethnic minority going down. It is only these people who will appear in that list of 90.

Now I'm going to the most difficult part where I'm requesting you to listen very carefully. How will this be done? (1) Every political party has submitted the list of 90 candidates to the Electoral Commission of Kenya. During the election day, wakati wa kura you people of Kenya will vote twice, are we together? Normally when you vote on a normal election day, somebody might say no, me I'm just interested in the candidate, so I'm voting for the candidate not the party, or somebody can say no, I'm just interested in voting for the party and not the candidate. But this time we want you to exercise full democracy, we want you to cast your votes twice, you will vote for a party and you will vote for a candidate. Are we together?

Now why are you voting twice? We want you to vote twice for several reasons. (1) You are voting for the candidate as the way you normally do but you are voting for the political party so that at the end of the elections the number of votes a political party gets, will determine the number of seats which are being allocated on those 90 people. Let me come again, for example, KANU as a party, KANU submit a list of 90 people, with disabled, the youth, marginalized areas and all others. Once KANU has done that, this is the election day, KANU will compete with other political parties, as they compete the total number of votes will be counted, isn't it? So the total number of votes KANU gets for example, if KANU gets 10% of the total votes in the whole country, we shall give it 10% of that 90. So 10% of that 90 is how many? Nine, so it means we are giving KANU 9 seats among the 90. But if KANU sweeps all the seats by getting a 100% of 90, we are giving KANU all the 90 seats but there are conditions which must be fulfilled. A political party is not just going to favour a particular ethnic group or a particular community, that list must have a national outlook, that list must have the disabled, the youth, the marginalized communities, in priority.

So that is the simple way. So it is not like it is a nominated member, yes, political parties will have to select, but during the voting day, you wananchi _____ (inaudible) of Kenya will have to vote directly, and whatever you vote for the political party, that percentage will be used against the total number of seats. Are we together now? I know you may not, some are still not understanding. I want to summarize Parliament as follows: The new Constitution is saying, Parliament will be composed of two houses, we shall have the National Council, baraza la kimataifa and it will compose of a 100 members, we have 68 districts plus 2 of Nairobi that is 70 districts, So we shall have 70 representatives in the National Council. The rest which are 30 we are reserving to women.

Then we have the National Assembly which is the current Parliament. In the National Assembly we are saying we shall have the 210 constituency Members of Parliament, but in addition to that we shall have 90 which is spread among the youth, the disabled, the ethnic minority, so that each group on the list is dominated by various groups of this country, and these shall be presented to the Electoral Commission one year before. During the election day, wananchi of Kenya will be called upon to vote twice, you vote for the candidate and you vote for the party. So the more votes the political party you are getting, the more number of seats you get out of the 90 seats. Are we together? So that is the position of this new Constitution. Some people have been saying that this is a very expensive exercise for Parliament. That may be true but in our position as a commission we

are saying, with proper management of resources in this country, this country is rich enough to maintain these number of people because at the end of the day each member in Parliament will represent all the views in this republic of Kenya. So that is in a nutshell what it is all about.

Having said that I want now to take you to devolution. Na ningependa tusome pamoja hii devolution inasema nini. If you have seen the page on devolution just _____it is page 26, devolution of power, that is chapter 10, page 26. Let us go to chapter 26 ili tusikie hii maneno ya devolution inasema nini. Devolution I would simply say it means bringing power or development closer to the people, that is in simple language. And I want also to say there are three points which the commission came up with. Having gone around all the constituencies in this republic of Kenya, wananchi felt that they are not participating fully in the services of the Government. Therefore they want to participate directly and actively in the Government.

So what the new Constitution says, there are three main objectives of devolution: (1) to bring development closer to the people of Kenya (2) to have equity in the distribution of resources (3) to have increased participation of Kenyan people in the management of their own affairs. Are we together? So let us read article 216 on page 26 which reads, levels of Government – powers are devolved to the following levels: (a) the village, (b) location (c) district and (d) province. What have we to say about village Government? Article 216 (1) The village decides whether the village council is constituted by village elders on two elections. (2) The village councils shall contain no less than 6 members and no more than 10 members. (3) The village decides on the system of village Government including the role of the village council. Are we together?

Then we have article 217 locational Government: It reads, the locational council consists of two representatives one of whom shall be a woman elected by each village council or among its members. (2) The locational administrator will be an Executive authority of the location. (3) The locational administrator shall be elected by the registered voters of the location. Are we together?

Then let us go to district Government. Article 218 (1) The legislative authority of the district is vested in the district council. (2) the district council consists of members directly elected by the registered voters of the district. Directly elected. That member who will represent you at the first Parliament, at that matter of council. He is directly elected by the registered voters of the district. The district council shall consist of not less than 20 or more than 30 members. (3) the district administrator is the Executive authority of the district. (4) The district administrator is elected directly by the registered voters of the district. (5) the district administrator with the approval of the district council appoints chief officers from persons who are not members of the district council. (6) The district administrator can be dismissed by the vote of an absolute majority of members of the district council but is support in a referendum by majority of those voting the referendum.

Provincial Government: - 219 (1) The Legislative authority of the province is vested in the provincial council, (2) The provincial council consists of two representatives one of them who can be a woman chosen by the provincial council among its

members. (3) The provincial Executive committee consists of districts administrators. (4) The provincial administrator is the Executive authority of the province and (5) the provincial administrator is appointed as provincial council on the nomination and provision of the Executive committee or among its members.

I want to make a very brief summary, we are bringing development closer to the people of Kenya. This was the cry of Kenyans that development and services need to be closer to them and they need to make decisions of services which are being given to them. Are we together? And therefore the new Constitution is saying, out of the views of Kenyans, and this is not a view from outside the country, it's the views of the Kenyan people, they are saying: (1) in the new structure, we shall have what we call the village Government. In the village Government, members of that village will elect two village councils. Are we together? Members of that village shall elect the village council directly. Now, the village council will have the overall head who is elected directly by the people in that village. Are we together?

Now from the village council and the village Government, we go to the locational Government, locational Government will be composed of various village councils within the location. Are we together? Various village council will form the locational Government. In other words, these village in that location, it will be represented directly by the representatives from villages. Are we together? At the locational level we have a locational administrator, who is elected directly by the people of that location. Are we together?

Then we go to the district Government *end of tape 1*

Then the locational councils to constitute what we call the district Government and the head of it will be the district administrator who shall be elected directly by the people in that district. Having said that, some people may be have been wondering machief wataenda wapi? Masubchief wataenda wapi, maDC na Maprovincial commissioner? Nataka kusema hivi, Constitution of Kenya Review Commission haiachishi kazi mtu yeyote kwa Serikali, awe chief ama sub chief. Nataka kusema hii na hiyo ijulikane wazi, chief na sub-chief, kazi yenu bado mtakuwa. Ile mshahara itakuwa ile ile, ile promotion, ile rank yenu, itakuwa, right? Lakini tunasema kwa location kwa Katiba mpya, yule local administrator atachaguliwa direct na wananchi, hakuna maana ya mtu kuwa appointed hapo awe chief, atachaguliwa direct kwa village direct. Yule atakuwa kama DC ama District Administrator, sasa ni mtu wenu kutoka wilaya hii, nyinyi ndio mtachagua. Lakini wale wamekuwa kama chief ama DO ama DC ama PC, their employer inaitwa public service commission na Katiba inatoa hatua kali ama inatoa provision hawa hawatapoteza kazi yao, watabaki na ule mshahara ule ule, rank yao itabaki, isipokuwa watafanya kazi zingine, lakini term yao na condition yao ya service nakazi yao, are we together? Isipokuwa hiyo rank ya chief na sub chief hiyo tumeondoa but they shall remain employees of the Government of Kenya.

So the public service commission, the Constitution says they must they must continue to retain these people in the public service giving them terms and conditions of service, good salaries, appointments are required, promotions as it is required but then the only difference is now they are going to do other duties. Are we together? But in various levels, nyinyi wananchi ndio

mtachagua wale viongozi. Councillors watambaki as you are aware various locations were merged, I don't know whether it was merged here in Mogotio. What we are saying, we shall have councilors from the locations and these councilors will represent you at the district council, so they will be members for district council but they will also be voted directly. Where we have the mayor, huyo mayor pia hatakuwa directly elected by the people. Are we together? So I hope that one is clear about the chief, and the sub chief, I hope now it is clear. But the new Constitution is not stripping them of their jobs, they will maintain in their jobs but they will do it at the Public Service Commission directly them.

Now having said that, I want us now to go to representation where we were, just to make some points, I want to take you to page 15 article 112, are we together? Page 15 article 112, inasema hivi, Recall of a member of Parliament, na inasema hivi, subject to this article where electorate of any constituency have the right to recall their member of Parliament before the expiry of the term of Parliament. What this means is that, in the new Constitution we are recommending some Members of Parliament once you wananchi of Kenya hold them they are not performing right and they are not performing according according to your expectations you don't have to wait until the 5 years elapse. You as the voters of Kenya have a right to terminate his duties, you have a right to dismiss him from the job because that is help he or she prepare because of you. Isn't it? Therefore if she/he is failing to perform you have a right hata kama ni mwaka moja ataachishwa kazi na nyinyi wananchi wa Kenya, halafu tuchague mwingine. Sasa hiyo ndio Katiba inasema.

I want to make another clarification on page 14, if you look there members of the National Council, article 106 part B inasema hivi: Thirty seats will be reserved for women candidates, on (inaudible) member constituencies representing provinces in Nairobi. Ningependa kusema hivi: Hizo 30 seats katika Bunge la kimataifa ambayo reserved kwa wakina mama, we are saying that we have got 8 provinces in Kenya. Hiyo in ukweli? Of the 8 provinces, we are saying 7 provinces shall have 4 women representatives each, and they will be directly elected by the people in that province. Are we together? So, 4 x 7 comes to 28, are we okay? Then the rest which is No. 8, which are two, will represent Nairobi being the capital city and that is about the composition of that.

Now having said that, before I finish with Parliament, I would like to say something which you will read later that Parliament has been given a lot of power. From now on in the new Constitution all public appointments will be approved by Parliament. The new Constitution recommends that, because Parliament is the representative of the people and therefore if a public officer misbehaves, he needs to deal with the members of the public. If he is not performing well, Parliament will have the power to approve or terminate his duties as a public officer. Are we together? Be he an ambassador, a permanent secretary or any public office but Parliament will have the power to approve his appointment or to disapprove. Are we together?

Having said that I want us now to go to the Executive. And for your information for the two houses of Parliament the National Council will operate on a term of four years and the normal Parliament we have shall retain the five years. Are we together? And therefore we are saying even at the village council, locational council, district council, will only be there for 5 years, but

remember you can also recall the ministers. Hao viongozi katika zile location wakifanya fujo, hawafanyi kazi sawa sawa, nyinyi wananchi mtaachisha hao kazi.

Can we now go to page 19 you have chapter 8 which is the Executive. The Executive chapter 8, are you there? Ningependa msikilize kabisa kabisa kabisa ili mkiwa na maoni, mtatoa baadaye kwa sababu hapo sasa, hapa sasa ndio mambo yote. Are we together? Now it reads:- article 148 – principles of Executive authority. The powers of the Executive; the exercise of the wellbeing and benefit of the people and the republic of Kenya. Ukiwa kiongozi wa taifa hili, unafanya hiyo kwa sababu umepatiwa mamlaka na wananchi wa Kenya. Are we together? Now what is the structure of the national Executive? Again as we were going all over this country, wananchi of Kenya felt that in this particular time of our political life of Kenya, it is important, in order to allay fears of who will be the next President of this country, who will be the ruling party of this country? Who will be the leaders of this country? the new Constitution is saying, can we have a balance? Can we have equality before the law? So that in the new Constitution we don't care whoever will be the new President. Are we together? Because with the devolution with the village council, the locational council, the district council, with the two houses of Parliament and Parliament having their power, we don't care whoever will be the President of this country any more. Are we together? So that whoever is the candidate or the President, whatever tribe, whatever religion he comes from, all Kenyans are equal, and let there be what we call a level playing ground.

So against all that, the views of Kenyans, the following were given to the review team on the President of the republic of Kenya and it reads article 160 nitasoma, The authority of the President – The President of Kenya in the new Constitution says, He shall be the head of state, commander in chief of the defence forces, the chairperson of the national security council and the chairperson of the defence council. Are we together? (b) He or she will be a symbol of the unity of the nation and has responsibility to promote and enhance the unity of the nation with the regard to the sovereignty of the republic, promote and respect the diversity of the people, and protect the human rights and fundamental freedoms and (c) shall uphold, safeguard and respect the Constitution and the rule of law. (2) The powers of the President shall be exercised in accordance with the Constitution and the law.

Let us read now the state functions of President, article 151, inasema nini? The President shall address the opening of his newly elected Parliament in accordance with article 141, he shall address a special seating of Parliament ones each year. (c) He may address Parliament at any other time and (d) he may dissolve Parliament only that circumstances contemplated in article 142 which you can read. Then again they are saying the President shall appoint the following people:- the cabinet consisting of a prime minister, two Deputy Prime Ministers and then we are also recommending not more than 15 ministers, but I will talk about this later. And then not more than 15 deputy ministers, judicial officers and any other public officer who the Constitution requires the President to appoint. And then with the prior consent of the cabinet, the President may appoint commissions of enquiry or (b) sign instruments of consent by Kenya to be bound by the international agreements. Then (4) After consultation with the cabinet and the national defence council, the President may (a) declare a state of emergency and (b) declare war. (5)

The President may appoint persons to represent the republic as high commissioners, ambassadors, all diplomatic or consular representatives with the approval of the national assembly and may also dismiss them. (b) Receive foreign diplomatic and consular representatives (c) He can advise the superiors of the supreme court on any matter concerning the interpretation to Constitution, (d) pardon or reprieve offenders and reduce times. (e) In consultation the prime minister confer honors in the name men of the people of the republic of Kenya. So these are some of the functions of the President. Down there we have the registrative council, which you can read on your own so that it is important for you to people of Kenya to know that the President of Kenya will not be a ceremonial President. He will be an Executive President and will remain the head of state. Are we together? With that, those are the functions of the President of the republic of Kenya.

I want now to take you to page 20 article 155. In the new Constitution we have recommended the following:- the election of the President shall be direct by adult suffrage through secret ballot, the way it is done now and it shall be conducted in accordance with these terms and with an act of Parliament with regulating Presidential elections. (2) An election the President shall be held, what I wanted to say here is the new Constitution is recommending that the people of Kenya should know the date of elections at all times. Are we together? The date of election of the President of Kenya shall be known at all times. So the new Constitution has gone ahead and is saying every second Tuesday in August, after every 5th year shall be the date of Presidential elections. Are we together? Here it says, just read there No. 2 (a) Just excuse me for a minute? Haya twendelee hapo article 155 page 20, inasema hivi kwa Katiba mpya uchaguzi wa Rais wa jamhuri ya Kenya tarehe iko kwa Katiba. Kwa hivyo saa ile mnaanza kama ile miaka mitano ya kawaida, Katiba inaandikwa tu hapo kwamba tarehe fulani mwezi fulani tuko na uchaguzi wa Rais wa Jamhuri ya Kenya. Na inasema hivi: kila jumanne mwezi wa august baada ya miaka mitano ndio tutakua na uchaguzi wa Rais wa jamhuri ya Kenya. Are we together? So let it be very clear so that is what the new Constitution its recommending if you agree with it.

Halafu kuna zile tunaita qualifications for election as President, article 156, we shall read together, 156 (1) A person is qualified for nomination as a Presidential candidate if the person (a) is a citizen of Kenya by birth. (b) Has attained the age of 35 years but below the age of 70 years. (c) Is of high moral integrity and impecable character. (d) Hold a degree from a recognized university and (e) he is nominated by a registered by a registered political party or (f) he is nominated an independent candidate by at least 1000 registered voters who shall include not less than 100 registered voters from each province. Are we together? So to those are the qualifications for election of the President.

One may ask, in the next election, honourable Mwai Kibaki is almost, he is in now 70 years, isn't it? And Simon Nyachai 69, so ~~therefore~~ ~~therefore~~ ile Katiba mpya yote sasa ni chafu. Hapana. Hiyo Katiba ya sasa, ndio inaendesha sisi kwa Katiba mpya. Are we together? Na lazima ichukue muda ndio hiyo Katiba mpya iwe sawasawa. Are we together? Therefore we are saying, for a Presidential candidates who are 70 years now, they are allowed to contest for this current election, but in the next election, we are not going to allow

anybody who is 70 years and above. Because we want to serve the interests of all Kenyans. So if you have any views on that, you can Raise it later. That is about the qualifications of the President of the republic of Kenya. I would you like now to read the rest on your own but one thing I want to say on page 21 on the office of the vice President, office ya makamu wa Rais inasema kwa Katiba mpya, kuanzia saa ile ya uchaguzi, mtu yeyote akiwa anaenda kusimamia kama Rais wa Jamhuri ya Kenya, lazima atangaze wazi wazi kwamba makamu wake Rais atakuwa nani. Wananchi wa Kenya wajue makamu wangu wa Rais ambaye atakuwa running mate wangu atakuwa nani. Halafu akishachaguliwa kama Rais wa Kenya, huyu ambaye alitangaza, ndio lazima kwa sheria atakuwa makamu wa Rais. Are we together? So that is what the new Constitution says, that the vice President who is the running mate will automatically become the vice President of the republic of Kenya. Na wananchi wa Kenya ili to avoid hizi confusion, ya kujua nani atakuwa makamu wa Rais, nani atakuwa nani, wacha wananchi ili maneno iwe wazi wazi kuanzia mwanzo mwanzo ili akiuda Serikali tujue makamu wa Rais ni nani. Are we together?

Now having said that, I want to go the Prime Minister, that is page 21, article 170, Prime minister ni waziri mkuu na hiki kiti ni mpya ambacho the new Constitution imerecommend kulingana na maoni ya wananchi wa Kenya. Now I said the President of the republic shall remain the head of state and will be an Executive President. However, he will have somebody to assist him run the Government and this person is called the Prime Minister. He will assist the President in running the Government, so the President will be the head of state and the prime minister will be the head of? Government. He will also be the head of cabinet.

What we are saying there in that chapter is that, the prime minister will be appointed by the President and I want you to listen very carefully. The President has got the Executive power to appoint the prime minister. Are we together? But in this new Constitution there is another condition. That the President has got no free choice, we are to giving Parliament power. What we are saying, whereas the President has got the Executive authority to appoint the prime minister, the prime minister must come, must be the leader of the majority party in Parliament. For example KANU or DP, they may have the majority party in Parliament. Whoever is the leader of the majority party is in Parliament will become the prime Minister. He has got no otherwise, he has to help the President in running the Government and the President has got no otherwise, the President has to choose the leader of the majority party in Parliament to be the head of Government. Are we together?

And then we are saying the President shall appoint cabinet ministers, but with the recommendation of the Prime Minister, in which the prime minister will recommend people to be ministers. Right? But then again we are saying Parliament has to approve who will be the minister. So it is not just something. Parliament is the representative of the people. Isn't it? Therefore we are giving Parliament power that the President shall appoint the ministers but they will have to be approved by Parliament. Parliament shall have power.

Then I'm coming to another area which I know you are very concerned about it. There is this concern about ministers not being members of Parliament. It is a radical view, it is a radical proposal, we have taken. Why have we said that ministers should not be members of Parliament? If you go over the data analysis, of the views of Kenyans as were collecting it, Kenyans had got some observations that ministers tend to be so busy and therefore the attendance to their constituents becomes very

difficult. Even accessing them in their offices in Nairobi is a very big problem. That is one. (2) that some ministers are ministers but they don't deserve those positions. They are not qualified for those positions, for example you may be minister for education or minister for health but you have not qualified for that job. Is there a way we can remove them from that normal politics and just confine them in the offices to serve the wananchi of Kenya? Are we getting the point? So that is why we are saying, can we have technocrats as ministers? For example the minister for health, I have no problem with Professor Sam Ongeru, because he is a medical doctor. Isn't it? And he understands what the ministry of health is all about. If he is addressing international conference, professor Ongeru will do it very adequately. Are we together? So we are calling for people like professor Ongeru but being members of Parliament. Let them be there as technocrats, professional people with merit, to serve the people when the wananchi go there they are able to serve their needs. Are we together?

And again we are recommending we don't need to have too many many seats in Kenya. Let us have not more than 15 ministers. Deputy ministers were also recommended. Let us not have more than 15 deputy ministers. Apart from the Prime Minister, there are two deputies who are helping him and these are two deputy prime ministers. Now in Parliament the deputy ministers will seat in Parliament through out, there is nothing like lack of quorum in Parliament. They will seat in Parliament permanently. Are we together? But the ministers shall now come when there are important bills to be discussed, otherwise they should be in those offices serving wananchi of Kenya. Are you getting the point? So that is about the ministers, and their appointments Parliament shall approve. Even dismissing them, when the President has got the power to dismiss the prime minister but he can only dismiss him with the approval of Parliament. Are we together?

Again we are saying we have what we call coalition party. Juzi tulikuwa na NDP na KANU but you know in the Constitution that was not provided for. In the new Constitution we are saying pengine hatutaenda tukuwe na chama ambacho kinazidi kupinga chama kingine. Right? So the new Constitution is saying in case of lack of a majority party, the new Constitution allows for various parties to have a coalition. They don't merge as such but they have a coalition in Parliament. That coalition they have may give them the majority over others. Are we together? And that coalition therefore, the leader of that coalition in case of lack of leader of majority party, in case of the leader of a coalition, the leader of coalition shall become the Prime Minister. Are we together?

And again we are saying there are these people we call minority party like the one of honourable George Anyona, Kenya Social Congress, the new Constitution is saying in democracy even the people of minority we need to recognize. Even the people with minority in Parliament we need to recognize. So from now on the leader of minority party will also have some special protection, special privileges, attending state functions, and he has got also a right to address the nation on various issues (*laughter*). Are we together? So that we are also saying, in case there is no leader of a majority party, in case there is no leader of a coalition party, in case the leader of the minority party enjoys the confidence of the majority in Parliament, that leader can become the prime minister. Because what we are saying, a time can reach in the Parliament when the leader of the majority party does not enjoy the confidence of Parliamentarians. You know it can happen? And then they say now you want

to kick you away or even the leader of the coalition party, he doesn't have, its at that juncture the Constitution gives the President power to appoint any member of Parliament who enjoys the majority of the confidence in Parliament to avoid any anarchy in Parliament. Are we together? That person can then become the prime minister.

So I think I have given a brief on who the Prime Minister is but the major duties of the prime minister will be as follows: that is on page 21, article 170, I want you to understand the major functions, the prime minister is the leader of the cabinet and presides at meetings of the cabinet. (2) The Prime Minister and the other members of the cabinet exercise Executive authority within the republic by (a) developing and implementing national budget and policy. (b) Preparing and initiating Government legislation for introduction in Parliament, page 22 (c) implementing and ___ in act of Parliament. (d) Coordinating the functions of ministries and departments, and (e) performing any other Executive function provided by Constitution or an act of Parliament.

So that is about the Executive, the President, the Prime Minister and the cabinet. Are we together?

Having said that I want now to take you to Judiciary, the judicial and the legal system. That is page 23, the judicial and legal system. Are we together? Ama mmechoka? Asante. Kuhusu maneno ya kortini, kokote tulipotembelea jamhuri ya Kenya, raia wa Kenya walilalamika sana kwamba maneno ya kortini bei yake imeenda juu, hata ukienda kwa advocate ama kortini iko pesa mingi ambayo mnatumia. Hiyo ni kweli? Wanachi walilia sana mpaka hata ile kuku yako moja utauza, kwa maneno ya kortini. Tena unaenda kwa kortini, file yako imepotea, ama document ingine ndani ya file hakuna, na hujui imeenda wapi. Hiyo in kweli? Na tena ni kama hiyo korti ni kama inaishi kwa dunia ingine, na wananchi ndio wamepatia hiyo mamlaka, hiyo ni kweli au ni uongo? Sasa wananchi walilalamika walisema maneno mengi, taabu ambayo wako na korti. Na tena wengine wanakuwa majudges na hata hawana ile elimu ya kukutosha kuwa hapo. Wanapewa zawadi, na tena kukata shauri ama judgement: unapata kwamba wale ambao ni innocent ndio wanaingia jela, kwa sababu wengine wamepatiana ile nini? Ile kitu kidogo.

Basi kwa haya malalamiko, Constitutional of Kenya Review Commission ilipendekeza hivi. Kutakuwa na new structure ya korti na hiyo new structure tutaanza na ile inaitwa the supreme court na ningependa kusema kwa Kiswahili, haya nitaanza na inasema hivi: Article 187 – New structure itakuwa hivi, Supreme Court, yaani mahakama ya juu, 187 (1) Mahakama ya juu inajumuisha (a) judge mkuu ambaye ndiye kiongozi wa mahakama na majudge wasiozidi sita. Haya mamlaka ya kisheria ya jumla ya mahakama ya juu, hiyo mnaweza kusoma, let us go to article 189 – mamlaka ya kisheria ya usimamishi wa mahakama ya juu, 189 (1) Mahakama ya juu ina mamlaka ya kisheria juu ya mahakama zingine zote, na mtu yeyote, kundi au mamlaka inayoteleleza jukumu na kutoa uamuzi. (2) Kwa madhumuni ya kifungu moja kilicho hapo juu, mahakama ya juu inaweza kuitisha record ya kitu chochote kilichoendeshwa katika mahakama au mahakama maalum yeyote na kutoa maagizo kutoa haki na kutoa maelekezo yanayochukuliwa kuwa ya kufaa kwa lengo la kuhakikisha utoaji sawa wa haki. Article 190 – mahakama ya rufani, mahakama ya rufani inajumuisha (a) Rais wa mahakama hiyo na (b) majudge wasiopungua kumi. (2) mahakama ya rufani inaudwa na majudge watatu. Haya twende kwa mahakama kuu article 192 mahakama kuu inajumuisha (a) judge kiongozi wa mahakama, na (b) idadi ya majudge wasiopungua hamsini kama itakavyoelezwa na sheria ya Bunge. Sasa hiyo ni

kuhusu mahakama.

Nataka nikupeleke dini, kwa uteuzi wa makadhi, that is article 202 page 25, Qualifications for appointments of Kadhis. Wenzetu Waislam kuwa walitoa malalamko kuhusu the structure of courts na ndio Katiba mpya pia imepatia hao hicho kiwango chao ili kudumisha masirahi yao ili wawe na uhuru kama waislam. The article 202 inasema hivi, sifa za wanaostahili kuteuliwa makadhi. Just before that I think I have forgotten something.

Kuna hiyo article 195 – qualifications for appointments of judges. I have just forgotten and sorry for that. Qualifications for appointment of judges article 195: Sifa za anayestahili kuteuliwa kuwa judges. Kwa Katiba mpya tunarecommend hizo conditions na ningependa kusoma hiyo article 2 No. (b) na (c) inasema hivi: (b) Uwezo wa kiasiri kama inavyodhirishwa na sifa za kisomo na huduma ya kisheria, hiyo ni condition No. 1. (2) tabia ya madili ya hali ya juu na uaminifu kwa sababu ukiwa judge lazima uwe na tabia ya maadili ya hali ya juu na lazima uwe na uaminifu. Hiyo ni kweli ama hapana? Na kwa hiyo ndio recommendation. Halafu hapo juu kuna various recommendations ambayo judges, the supreme courts, court of appeal, high court wanatakikana wawe nayo.

Lakini ningependa kusoma hiyo article 1 and 6. Awamu ya majudge officini, article 196 inasema hivi: Judge na maofficer wengine wa mahakama dogo watastahafu wanapofikisha umri wa miaka sitini na mitano. Lakini wanaweza kustahabu baada ya kufikisha umri wa miaka 60. (2) Baada ya kupitisha umri wa kustaaf, judge wa mahakama za juu za kulegelewa anaweza kuendelea kuhuduma kipindi cha muda wa miezi sita ile kumuwezesha judge kutoa uamuzi, au kutekeleza jukumi ingine lolote linalohusiana na state ilioanzishwa na judge kabla ya kutim umri wa kustaafu. Kwa hivyo tunasema kwa Katiba mpya, judges wote na maofficer watastaab wakifika miaka sitini na mitano lakini pia wanaweza kustaaf wakifika miaka sitini. Kwa Katiba ya kisasa ni miaka 74 lakini wakenya walilalamika na tumependekeza hiyo miaka ya umri 65. Hiyo ndio moja wapo ya vita ambayo tuko navyo kwa sasa. Na sasa itakuwa juhudi zenu kusema maoni yenu ni nini. Tuko pamoja?

Then I want to take you to the same page 25, we have article 208 and 209, we have the office for the attorney general and the director of public prosecution., that is 208 and 209, Tuko na mwanasheria mkuu, the Attorney General na tuko na mkurugenzi wa mshtaka ya uma. The point here is that, kuanzia sasa hizo offices zitakuwa independent offices, Constitution imepea hawa kipower kuwa independent, wawe na ule msimamo au wa independence kufanya shughuli zao. Tuko pamoja? Unaweza kusoma kujua uko namna gani.

Halafu article 204 – the judicial service commission that is point 25 – the judicial service commission, nimesikia kuna hiyo mivurugano kati ya judiciary na advocates na kila mahali na nyinyi wananchi mko na wasi wasi nini kinaendelea. Si ndio? Na ndio tunasema ya kwamba, njia ya pekee kuleta harmony kati ya majudges, kati ya ma-advocates, ni kwamba to expand hiyo tume, tume ya huduma, tuko na tume ya huduma kwa mahakama. Mnaweza kusoma hiyo lakini ile nilikuwa nataka kuongeza kwamba kuna wengine ambao Katiba mpya wana recommend wawe kwa kamati hiyo ili wawe na umoja na tuwe na udhabiti

katika judiciary.

Na inasema hivi: - Ukiangalia hapo (g) kwa mfano, tutakuwa na Kadhi mkuu, atakua member (h) mahakimu wawili ambao mmoja wao atakuwa mwanamke, watakaochaguliwa na mahakimu (i) Mwakili wawili ambao wamekuwa wakihudumu kwa miaka 15 mfululizo ambao mmoja wao atakuwa mwanamke watakaoteuliwa na chama cha wanasheria nchini Kenya. (j) Waalimu wawili wa sheria ambao mmoja wao atakuwa mwanamke ndio atakaye chaguliwa na viti vyao, sheria ya juu, na vikudi vikuu vya university (k) Mwanachama aliyeteuliwa na baraza la elimu ya kisheria, na (i) Mwenye kiti wa tume ya huduma kwa uma na (m) wanachama watatu wa kawaida ambao mmoja wao atakuwa mwanamke watakaoteuliwa na baraza la masherika yasio ya Serikali. Sasa hizo ndio composition of the judicial service commission to help in the independence.

Halafu there is a new office which the new Constitution has created that is the office of the public defender page 26 article 210 - yaani wakili wa uma, public defender. Out of the cries or feelings of Kenyans, on the exercise they undergo with court, the new Constitution imependekeza ya kwamba tuwe na wakili wa uma ambaye atasaidia wale watu ambao hawezi kulipa ama hawezi (inaudible) kwa maneno ya kortini. Hawana pesa, hiyo ni sawa? Kwa hivyo tuko na office na hiyo office hatakaa tu Nairobi, hiyo kiti itaenda mpaka chini huko kwa village council ili wananchi wahudumiwe kwa njia ile sawa sawa, ili kama huna pesa kwenda kortini kuna yule tunaita wakili wa uma na watasaidia wananchi ambao hawawezi kujisaidia. Tuko pamoja? Kwa hivyo hiyo office itakuwa an independent office .

Then I now want to take you to article 212 – the profession of law. The professional law we are saying the rights of the client must be respected. Kwa hivyo hata wakili ambao wanahudumia wananchi, wananchi walikuwa wanalalamika sana kwamba wanaweka bei juu, kesi pia inaenda pole pole, ama hiyo hapana fanyika hapa Mogotio? Sasa ndio tukasema hata wakili na kila mtu lazima tuheshimu raia na lazima tuhudumie hao kwa njia sawa sawa. Tuko pamoja?

Halafu now I want to take you to the public service, watumishi wa Serikali. That is page 32. The public service again; we went across the country to various constituencies, everywhere we went Kenyans were very concerned about the conduct and the management of the public service in this country. There was this lamentation that if you go to the office of a civil servant, you find somebody very tired, very gloomy, very exhausted, he is not smiling at all. Isn't it? And you wonder what is going on, yet he is in a public office? It is there to serve people in a public office. That if you are going to his office you have to book an appointment and it is you who have put him in that office. When you go there for example you want to go to the ministries of health afya house, you can't even get your salary and yet you are an employee of the ministry.

Sasa mambo yako kombo kombo isn't it? Hakuna file kwa office ya Serikali, file zimepotea, documents zingine hakuna hapo, sasa unashangaa hii ni taabu gani, na hii ni office yetu, sisi ndio tumepatia hao mamlaka. Hiyo ni kweli ama hapana? Halafu wanaweka excuse, unajua hii Serikali, Serikali ni nani? Serikali si ni yeye? Pengine wanataka kublame Rais wa jamhuri ya Kenya, ama kublame minister but it is just that he is not responsible to the work. Isn't it? Halafu tena tuligundua hata hawa civil

servants wanasema it is not for nothing that they are not smiling. There is something wrong, these civil servants are getting very poor salaries. Terms and conditions of service ziko chini. Sasa unafikiria anaweza kukuwa na furaha? Hawezi kukuwa nayo.

Tena kwa maneno ya civil servant, tuseme maneno ya training, unapata watu wa Nairobi ndio wanaenda ng'ambo kwa training, watu wa chini kwa madistricts una apply, una apply, siku yako haifiki hata kidogo na unasikia mtu anaenda anapata faida huko. Si ndio? Hata ile training committee huko kwa ministries, iko kwa mfano tu Nairobi. Ndio tunasema kwa hizo devolution structure, hizo vitu lazima irudi kwa wananchi, chini kuanzia village. Si kutoka juu mpaka chini, itoke chini ziende juu. District council wanakuwa na powers kufanya hivyo. Tuko pamoja? So what is happening now in the new Constitution, we have said in order to restructure the civil service, in order for the civil service to improve efficiency, (1) terms and conditions of the civil service must be looked at as a (inaudible) in order to give them a good salary, to maintain their families, their houses, education, and all that a person needs. And we have got a specific commission which shall deal with that. I will come to that one later. So we are saying all public appointments shall be on merit. Are we together? And (3) we are also saying hiyo masomo, hiyo training ipatiwe kila mtu katika jamhuri ya Kenya. Sio hati ni watu wa Nairobi peke yao, tuko pamoja? Kili kile kikundu ambacho tulikuwa tunasema kijulikane. So what we have recommended, we need a fully and independent *end of Tape 2A*

Serikali haitaingilia maneno ya waalimu, kutakuwa na hiyo Teachers Service Commission ina deal na trade union, wanamaliza mambo yao hapo. Are you getting it? Tena tunasema uangalie article 265, tuko na establishment of the Kenya police service, it used to be called what? It is called Kenya police force. Why is it called Kenya police force? Why is it using force on wananchi? The police is there to serve the people not to use force. Are we together? So now from now on tutaita hii Kenya Police Service – kuhudumia wananchi. Are we together? Then tuende kwa hiyo article 266, tunataka kuona huyu officer wa commissioner of Kenya Police Service atakuwa nani. What are the recommendations on the Kenyan people? 266 tunasoma hivi: There shall be a commissioner of Kenya Police Service na tunasoma No. (2) The commissioner shall be appointed by the President but this time with approval of Parliament and for one term of 10 years. Akiwa commissioner of police atakuwa commissioner au police kwa miaka kumi. Ikiwa amefanya kazi yake vibaya, President ataachisha yeye kazi lakini Parliament lazima aapprove. Tuko sawa? Then (3) No person may be appointed as commissioner unless that person (a) has a degree from a recognized university. Kuanzia sasa tunataka commissioner wa police awe na degree kwa sababu yeye pia ni kiongozi wa taifa na lazima atumie akili. (b) He must have served with the police service for at least 10 years. Sasa hiyo ndio kuhusu commissioner of police.

Twende kwa prisons article 267, kwa Katiba hii mpya tunasema tutaita hii Kenya Correctional Services, hatutaki hii maneno ya prison. Wale wako kwa jela, si wako kwa jela kwa sababu wao ni wenye dhambi sana, hapana. Wako huko kuhudumiwa na ni wananchi ni binadamu kama sisi, kurekebishwa that is the word. Wako hapo kurekebishwa. Hiyo ni kweli ama uongo? So from now on we have Kenya Correctional Service na mkuu wao ataitwa article 268 (3) mkubwa wao ataitwa director of the Kenya Correctional Services.

Halafu we go to chapter 15, its talking about matters of security, as you realize security is a very important issue in this country, without security this country will be in complete anarchy, so there must be a security organ. Review Constitution has proposed the following:- The defence forces and acts of security – tutakuwa na watu hawa:- article 272 – establishment of the national security council, the President here atakuwa mkubwa, (b) the Vice President (c) the prime minister (d) the minister in charge of defence (e) the chief of general staff (f) army commander (g) Navy commander (h) Airforce commander, (i) the commissioner of police (j) the director of Kenya correctional services. (k) the director of national security intelligence service ((l) the chairperson of the relevant Parliamentary committee and (f) the attorney general. Hiyo ndio itakuwa composition ya national security council.

Halafu tuangalie 274 - defence forces. Council watakuwa hawa:- The President, the Vice President, the Prime Minister, the minister in charge of defence, the chief of general staff, army commander, navy commander, and airforce commander. Those will compose the new office of the defence office. Hizo functions zao mtaweza kusoma baadaye.

Halafu I want to take you to page 34 chapter 16– leadership and integrity – what it means it applies to various leaders in this country. They are here to serve the people of Kenya These will include the President, the Prime Minister and the Deputy Prime Ministers, ministers and deputy ministers which includes all members of Parliament, all members of local councils, and all Constitutional office holders and all other public officers. What it means, Kenyans were also again complaining and lamenting that wherever you go, in various places where there are people in positions of leadership, leaders are not what they are supposed to be. Somebody is a headmaster of a school, he is a policeman, he is a church leader, he is a minister, he is a politician, he is a councilor but ukiona yeye matendo yake, mafikirio yake, tabia yake, haionyeshi ya kwamba yeye ni kiongozi ya wananchi. Hiyo ni kweli? Unauona yeye tu anatembea, unaona huyu anaitwa chief, huyu anaitwa coucillor, huyu anaitwa kiongozi wa dini lakini ukiangalia unaona kwamba matendo yake haionyeshi huo uongozi wake. Tuko pamoja?

Kwa Katiba mpya tunasema saa ile mtu anachukua ule usukani wa kuwa kiongozi atasign ni ile tunaita code of conduct, ili akifanya mambo mabaya kwa wananchi, iko ile code of conduct ambayo wananchi wanasema alisign hiyo na huyo mtu ataachishwa kazi. Tuko pamoja? Kila mtu lazima awe na ile matendo ambayo ni kuhudumia wananchi wa nchi hii tukufu ya Kenya. Tuko pamoja? So that is what the topic is talking about – the chapter – leadership and integrity.

Then we go to chapter 17 Constitutional commissions and Constitutional offices. Kwa Katiba hii mpya tunapendekeza kuwa tuwe na hizo commissions ambazo zitahudumia wananchi. Wananchi wanaweza kukuwa na malalamiko fulani kama hiyo tunasema ya leadership and integrity, kama maneno ya human rights, kama maneno ya salaries, taabu yeyoto ambayo inashika wananchi, wananchi wako na tabu kwa njia yeyote. Tuko na zile ocmmission ambayo sasa ni independent katika Constitution ya Kenya. Kwa hizi commissions kila mwananchi ana haki kwenda huko kupeleka malalamiko yake na mtakuwa protected because they are independent institutions. Are we together?

Sasa hizi commissions zitakuwa hivi:- kwanza tuko na ile tunaita commission on human rights and administrative justice. Kwa Kiswahili, sasa tuko na hizi commission za kwanza, the commission on human rights and administrative. Kwa kiswahili tunasema tume ya haki za binadamu na haki za utawala. Kwa hivyo ukiwa na shida, utaenda kwa hiyo tume halafu hapo. Kwa hivyo and the same page that is page 35 article 288 3 (d) We have a new office there, the office known as the people's protector. Are we there? The people's protector is what we may call an ombudsman. Are we together? The people's protector – yaani masilahi yote ya wanachi, malalamiko ya wote iko office ambayo imeundwa ambayo inaitwa people's protector.

Halafu commission ingine inaitwa ethics and integrity commission, vile tushaongea kuhusu mambo ya ethics.

Ingingine ni page 36 – salary and remuneration commission. Yaani tume ya mishahara na malipo. Kila mara ama kila upande tulitembea wananchi walilia sana hasa kwa wanaBunge, wanajiongesha tu mishahara, si ndio? Na wengine wanaumia, hiyo ni kweli? Kuanzia sasa Bunge haitakuwa na uwezo wa kujiongesha mishahara. Kuanzia sasa hiyo tume ambayo inaitwa tume ya mishahara na malipo ndio itaangalia maneno ya mishahara kwa viongozi wowote katika hiyo public office. Awe mwanaBunge ama nani, ni hiyo tume ndio itaangalia maneno ya mishahara. Tuko pamoja? Sasa tunaita salaries and remuneration commission.

Halafu tuna ile tunaita Teachers Service Commission, this I have already told you about, maneno ya waalimu watakuwa na independence commission yao.

Tena tutakuwa na Constitution commission – maneno ya Katiba – ukiwa na shida ingine ama shida yeyote hii ndio commission ambayo itaendesha nchi hii katika maneno ya Katiba. Kwa hivyo in summary ningesema ya kwamba we have established Constitution offices and they are as follows in articles 293. They are as follows: -The Attorney general, the auditor general, controller of the budget, director of Central Bureau statistics, director of the Kenya correction services, director of the Kenya police service, director of public Constitution, governor of central bank and public defender. These shall be the Constitutional offices completely protected by the Constitution.

Having said that nataka twende kwa ile sehemu ya ardhi. Katiba inasema nini kuhusu maneno ya ardhi, that is page 28 – land and property – maneno ya ardhi Katiba ya sasa mpya inasema nini? Article 232 chapter 11 – Are you there? Nitasema hivi kwa ufupi. Ardhi na mali – mfumo wa sera ya ardhi – 231 – Ardhi ambayo ni raslimali ya msingi ya Wakenya na pia msingi wa riziki ya wananchi itahifadhiwa na kutumiwa na kusimamiwa kwa njia ambayo ni ___ ya kufaa, ya (inaudible). Kwa hivyo tunasema, are you hearing me? Kwa hivyo tunasema tuko na mpango mpya wa ardhi, wale ambao wana malalamiko kuhusu ardhi tuna commission mpya ambayo itaangalia maneno ya ardhi na ya kwamba kila ardhi lazima itumiwe kwa njia mzuri. Hakuna haja kukuwa na ardhi kubwa na hutumii hiyo ardhi. Kama una ardhi ugawanye watu wengine pia wafanye nini? Watumie. Hiyo ndio sheria Katiba ya sasa inasema, kwa hivyo Katiba mpya imeuda commission ambayo inaitwa tume ya

kitaifa ya ardhi. Mtaweza kusoma hiyo halafu mjue mnasema nini kwa sababu kila pembe ya jamhuri ya Kenya wananchi..., nafikiri twendelee tu. Kila upande wa jamhuri ya Kenya wananchi walikuwa wanalalamika kuhusu maneno ya ardhi ndio kwa sababu tumeseme kwa Katiba mpya tutakuwa na commission ambayo wananchi watapeleka malalamiko yao, ili maneno ya ardhi ihudumiwe kwa njia ile mzuri. Tuko sawa?

Basi, baada ya hiyo twende kwa mazingira na mali ya asili – which page is it? Mazingira na mali asili, environment and natural resources. Page 29 – What the chapter is talking about is that you the people of Kenya have a role to play in environmental management. Are we together? You the people of Kenya have a role to play in the environmental management. From now on in the new Constitution we are saying that in the new Constitution the people of Kenya will have the rights to administer to manage matters of environment; ikiwa ni miti, ama forests, ikiwa ni rivers, mko na rights. Kwa current Constitution hamna uwezo kupeleka mtu yeyote ama company ama state – Serikali kortini wakitumia maneno ya environment vibaya. Lakini kwa new Constitution inasema maneno ya mazingira lazima tulinde kwa njia ile mzuri, na mna haki mtu akicheza na mazingira apelekwe kortini atachukuliwa hatua kali. Tuko pamoja?

Kwa hivyo maneno ya environment na mtu akikata miti ovyo ovyo hii Katiba inasema itachukua hatua kali kwa mtu yeyote ambaye anacheza na miti ama forestry ama rivers ama minerals. Lazima ihudumiwe kwa njia mzuri. Na kwa ile new structures of devolution nilikuwa nasema village council, locational council, district council, zitaangalia hizo mali kwa maeneo hayo ili mtu akitumia kwa njia mbaya huyo mtu ni kama ameshavuja sheria. Na hizo mali kutoka hizo districts ama locational councils nyinyi wenyewe ndio mnadetermine ihudumiwe kwa njia gani. Tuko pamoja? So that is about the environment and natural resources.

I want now to take you to page 29 – public finance and revenue management – Yaani fedha za uma na usimamizi wa mapato, kokote tulipotembelea wananchi walikuwa wanalalamika sana kwamba matumishi ya pesa haiendelei vizuri, hata kwa hizi district councils, hata kwa ministers, hata kwa ministries, maneno ya pesa ni shida kabisa. Hiyo ni kweli ama uongo? Na hata hii kwa devolution ambao tunarecommend maneno ya locational council, village council, kama hatuwezi kutumia hizo pesa kwa njia nzuri, hata haina haja, si ndio? Kwa Katiba mpya tunasema ya kwamba tuna new conditions ambayo kila kiongozi awe kwa location ama village, ama district, kila mwananchi wa Kenya lazima tutumie mali ya Serikali, revenue maneno ya taxes, hizo lazima tuendeleze kwa njia ile sawa na iwe sawa kwa wananchi wote wa jamhuri ya Kenya. Tuko pamoja? Na mtu akivunja hiyo sheria, basi Katiba sasa ndio hiyo na inasema hivyo.

Having said all that, are we moving well? Ama naenda haraka haraka sana? Having said all that I want to take you now to page 36, chapter 18, that is amendment of the Constitution. What does the new Constitution say? Again as we criss crossed the whole country wananchi were saying, now you are struggling with the Constitution, but if it goes to Parliament it will be amended several times. So what is the need of having a Constitution? It is as if it is useless, isn't it? The Constitution keeps on being amended several times by Parliament. So what is the need of you about this new Constitution? They kept on asking us. In response to that, the Constitution of Kenya Review Commission recommended the following: Article 294 (1) Inasema hivi,

subject to the provision of this Constitution, Parliament may in the exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance to the procedure laid down in this article. (2) An amendment of this Constitution may be initiated only by the introduction of a bill for the purpose in either a house of Parliament and when the bill is passed, it's second and third reading in each house by not less than 2/3 majority of the total of members in that house, it shall be presented to the President, who shall give assent to the bill and there upon the Constitution shall stand amended in accordance with the terms of the bill. (3) An amendment seeks to make any change in the following: (a) The territory of Kenya (b) the sovereignty of the people (c) the principles and values to the republic – that is in article 62 (d) the bill of rights (e) the structure, values and principles or devolution as set out in chapter 10 on the Constitution. (f) citizenship and (g) the provisions of this article.

In a nutshell what we are trying to say is that Parliament may amend the Constitution but only if the bill is passed in both the two houses, in second and third reading with at least 2/3 majority. Are we together? So two to three readings in both houses, that one of the National Council and this one of the national assembly, and it must get two thirds majority, that is when it can be amended and Parliament can assent to it. But, I want you to note that number 3, No. 3 can only be amended if you the people of Kenya accept, Parliament even when they are two houses, they cannot amend that provision 3 unless the people of Kenya approve it through a referendum. Are we together? So what are these issues?

Maneno kuhusu territory ya Kenya, maneno kuhusu mamlaka ya wananchi wa Kenya, maneno kuhusu jamhuri ya Kenya, ama principles za jamhuri ya Kenya, maneno kuhusu haki yenu, the bill of rights, maneno kuhusu village council, maneno ya location, maneno ya district, maneno kuhusu uraia, Parliament haiwezi hata kidogo, hata kama ni Parliament ile ya kwanza na ile nyingine, haziwezi dunia hii kubadilisha hiyo, ni wananchi wa Kenya peke yao, ndio wana ule uwezo. Are we together? So that is about the amendment of the Constitution.

I now want to take you to chapter 20 page 37 – transitional and consequential provisions, I may not go with you detail to detail about this chapter lakini hii chapter inaongea kuhusu maneno ya territory ama maneno ya border. Tuko kwa nchi ya Kenya na tuko na mpaka, tunapakana na nchi zingine. Hiyo ni kweli ama apana? Kwa hivyo sheria inatoa kamili, kama ni nchi hii ya Kenya, nchi hii ya Kenya na Uganda imefika wapi? Mwanzo ni wapi? Mwisho ni wapi? So chapter 37 inaongea juu ya Kenya na Uganda. Halafu hapo kwa page 39 tuko na mpaka kati ya Kenya na Sudan, halafu the same page boundary ya Kenya na Ethiopia, the same page boundary ya Kenya na Somalia, halafu hapo chini territorial sea and exclusive economic zone boundaries. Yaani maneno ya (how do you call an ocean in English?) Bahari, kama bahari yetu ile ya Indian Ocean. Ni haki yetu kwa kiKatiba tujue imefika wapi, mipaka yetu na nchi zingine ziko wapi? Are we together?

Then tuko na page 40 – boundary kati ya Kenya na Tanzania, iko wapi? Katiba inatoa hapo inasema wazi wazi, halafu page 41 tuko na ile tunaita 2nd schedule, yaani provinces and districts. Na ningependa kusoma the provinces tuone kama nyinyi watu wa Mogotio mnafall kwa hizo provinces, tuko na Nairobi, Central, Eastern, North Eastern, Coast, Western, Nyanza, Rift

Valley. Are you there? Kwa districts wacha tuseme Rift Valley kama mko hapo, tuko na Baringo, Keiyo, UasinGishu, Nandi, Marakwet, TransNzoia, Turkan, Samburu, West Pokot, Buret, Kericho, Laikipia, Nakuru, Koibatek, Bomet, Transmara, Narok, Kajiado. Mko hapo? Kwa hivyo hii Katiba ni yenu.

Basi tutaingia kwa fourth schedule page 42 – Tuko na zile tunaita alama za kitaifa ambazo lazima tumaintain alama ya kimataifa, and they are as follows third schedule, Are you there? We have the national flag, hiyo ni alama ya kwanza, alama ya pili, the national anthem, alama ya tatu the court of arms, alama ya nne the public seal of Kenya. Are we together? Then on the fourth schedule tuna ile tunaita national oaths and affirmations. That is to say in each position of responsibility right from the village, locational, district council, Parliament, ministers, Prime Minister, Deputy Prime Minister, the President, they have oaths to swear to the republic of Kenya. Are we together? And so if you read there you will see various columns dealing with the oaths and affirmations.

Let us now go to page 45, the sixth schedule, kuna hiyo table hapo, tuko pamoja? Kuna sixth schedule down there, are you there? Sasa vile nilisema, kwa wakati huu tuko kwa ile tunaita transition, yaani kwa Serikali hii na ile Serikali mpya. Are we together? In order for us to have a smooth transition, kutoka kwa Serikali hii ya sasa na ile Serikali mpya kwa Katiba mpya, lazima tuende kwa hiyo kwa ile njia ya amani. Hatutaki watu wapigane, hatutaki tuwe bila sheria, sheria lazima ikuweko, lazima iwe, na ndio nilikuwa nasema ile sheria ya kisasa bado tutatumia ili tuingie kwa ile sheria mpya kwa njia ile sawa. Tuko sawa sawa?

Kwa hivyo nasema hivi, ukiangalia sixth schedule, kuna actions to be taken by Parliament. Yaani tukishaunda hii Katiba mpya iko duties ambazo Parliament itafanya ili Katiba hii itumike kwa njia ile nzuri. Ukisoma hapo tuko na first column na first column hapa we have various issues affecting the people of Kenya. Na second column iko article, kwa hivyo ukitaka kusoma for example article 47 (4) inaongea juu ya rights of access to the information. Halafu third column inasema, time limits within which actions shall be taken. In other words, hii Katiba inapatia Parliament ile specific time ambayo hii Katiba lazima iwe implemented. Tuko pamoja? Na I want you to make this correction, where it is written no time limit, write three 3 years, where it is written no time limit write 3 years and it will apply to all of those indicated no time limit. In other words we are saying, for reviews and every position in the Constitution, in the first column Parliament is given a definit time under which the Constitution must take place. Are we together? So that is about the state schedule.

Having said all that, I would like to finish by just highlighting to you the 7th schedule which starts at page 46, are we there? Now I'm not going to read all that but what it says on top there we have powers of national and district Government, huenda wengine watafikiria now that you have given village council, locational council, district councils power, and we are recalling them Government, are we therefore saying national Government is useless? Hapana. There are some duties which the national Government will do, and I want to make the point here and now, some people have been wondering what are we doing with the provincial council? Provincial council as you remember was not duplication of the National Council, they are not

represented in Parliament.

Provincial council is constituted by the all the districts in that province. Are we together? And there are the people who constitute the provincial council, the provincial council will have no otherwise. The powers rest in districts, whatever decisions are made at the provincial council, pass through the districts. These representatives will form or will constitute the provincial council. What we have as a provincial council is more or less a secretariat, an Executive body whose role mainly would be to coordinate councils within the district, activities within the district, roles of the districts but then it is the district council which have power. Are we together? So we shall have a provincial council but this will be just a coordinating body, it will just be a coordinating body as you realize for example, there are some assets or resources which belong to the whole province. For example in Rift Valley you have may be Rift Valley Province as General Office. Isn't it? Hiyo si ni mali yenu? Hatutasema ile itabelong to Nakuru hapana. Kila mali ya province itakuwa shared na kila district equitably. Na ndio kwa sababu tuko na provincial council kufacilitate hiyo, lakini power iko na district council. Lakini watakuwa represented kwa provincial or council.

Na districts' council representatives ndio watakuwa wanaBunge huko kwa baraza la mataifa. Are we together? So if you read there, on page 46, you will see powers of the national Government. The (inaudible) is stated there. If you come to (inaudible), you have got the district Government, they are powers which are listed there, like local taxes, education services, nursery, primary, secondary education, or any services, district planning, all these are to be handled in the districts.

Then we have also on the (inaudible) list, so you can read them at your own time to know what they are all about.

As I finish the eighth schedule on page 36 article 27 I have already highlighted a portion but I want to make one very important point. We in the Constitution of Kenya Review Commission are saying, and are recommending that we need a smooth transition of this country. At when the current Government shall leave the office and Kenyans shall go to the next Government, the new Constitutioners has given provisions, in order to enable us to have a smooth transition. Are we together? So that we don't have conflicts, we don't have problems.

As I conclude I want to say we in the Constitution of Kenya Review Commission took the views of Kenyans and these are the views we have here. Our main purpose at this particular time, is that this is a draft Constitution; it is not a Constitution as such. It is a draft. We will come back to you after your views, and it is now upon you to react and to have any clarifications which you may have in order for us to prepare for the national Constitutional conference. Therefore I beg now to stop there and that I ask the district coordinator to conduct the report of any clarification. And what I want to say, we are not here to engage than any debate, Ours is not _____ views, once we have taken your views from that draft we shall submit it to the headquarter, and then your representatives to the national conference will follow it at the national conference. Are we together? Asanteni sana.

District Coordinator – Paul Tukong: Makofi tafadhali, tena tena tena (clapping)

Nafikiria kwa wakati huu umefika kile kiwango ambacho tungetaka kuuliza maswali moja mbili, tatu, havi, ili tupate kwendelea

na kumaliza. Basi tutaweka mkono juu, No. one, two, three, four. Unakuja hapa unasema jina lako, kwa sababu, kuna purpose of recording. (*vernacular*)

Daudi Kipteng: Jina yangu ni Daudi Kipteng, na nyinyi mnakuja hapa, nimesikia kila kitu ni mzuri, hata moja hakuna mbaya. Isipokuwa binadamu hawezi kosa kitu cha kusema. Akitaka kusengenywa anaweza kusengenywa lakini kwa kweli mumefanya kazi. Kitu yangu nataka kuuliza tu ni hii, hata nimepeana asante, pongezi tena kwa mambo ile watu ulikuwa unafanywa ya commission, nyinyi wote wa kufanya hii kazi alikuwa anafanya kwa haki kabisa. Sababu tumesikia kila kitu. Kitu yangu nataka kuuliza ni namna hii, nimeona, nafurahia watu wanafurahi. Kila mtu anafurahi kwa sababu hata wote wale wanapenda kusema hii maneno ni maneno hii huyo ni mhalifu tu, au ni watu wakutaka kuchochea.

Mimi kitu nataka kuuliza ni hii, unasikia? Mimi nasikia maneno na ninaona moja nataka kuuliza moja, mbili, tatu, kwa nini amesema Serikali ni yetu ya Kenya? Na kwa nini watu wanaweza kung'ang'ania kama Rais. Anasema Rais anatakiwa fulani wavulana hapana patiwa fulani, Rais ninataka kuuliza, Rais anaweza kuzunguka kwa hiyo yote au anakuwa ya location moja au ya umapendeleo. Na kwa nini hapana kuwa ya watu, maana Kenya ni watu wote na tunataka Rais kuingiza Katiba hii hapana kwa upande moja?

Basi nyinyi, ile mimi naona ni mambo ya kesi. Kesi tunaona mtu anaweza kuua binadamu na yeye anataka kujiuliza anakwenda nyumbani na yeye anajua iko shida ameweka mbaya hapo, Kwa nini kama anauliza mtu anapenda kufunga miaka saba? Kwa nini binadamu anawacha ile ____ au kunyonga, au kufanya nini na nini na mimi najua inaweza kuleta shida kwa watu wadogo, wakuzaliwa, kukaa hiyo mji, italeti shida. Napenda hiyo (inaudible) kabisa aangalie decisions? What they are doing they are doing ____ hata mishale, kama mti ni mishale, ni kama ni ya ____ maana kama ananyonga mtu wa district inakuwa shida kwa jirani, hawa wa kuamini ninapenda hivi ndio tusikizane. Tuangalie kabisa kwa sababu adui ni adui. Mtu wa kunyong mtu ni mtu mbaya. Lazima hiyo imalize maisha yake au lazima isafirishe yellow ndio ____ kuliko kukaa na mtu yule anaua watu wao.

Basi ingine ni mtu kufanya hii: kufuja taili ya mti. Mti kama sasa tunakaa kwa imani watu wa Kenya . *end of tape 2*

Maisha yake yote, mali yake yote ikawa hapa sababu ni uchumi wa hapa, kaa anakaa hapa hiyo ni uchumi wa hapa. Hatutaki tudhulumiwe, pia kama mtu hapana kubali kuwacha uchumi yake kwa district ile ile au province ile ile aondoke. Sababu yeye hapana mtu wetu. Kama ni mtu wa hapa, uchumi yake ni ya hapa, ____ itapata faida kutoka wapi?

Ingingine, mtu tunataka bado ile alikuwa anapewa anatuhambia mbaya kama Egypt, Mchanga ile inapeanwa kwa watugen, ukiokota, kuangalia, na mimi nasikia asante sana ____ atakuja kusimamia hio ingine. Basi mimi sina mengi, nimeona mmetosheka kabisa. Thank you very much indeed.

District Coordinator – Paul Tukong: No. 2. Biwott

Biwott Hosea: Asante sana, nafikiria yangu ni furaha, nimeambiwa nipeane maoni na maswali ndio kwendelea, kwa Jina naitwa Hosea Biwott. Nitapeana pendekezo nne, na pengine maswali. Tatu nafikiria itasha kuhuduliwa na wale watu tumewatuma. Ya kwanza ni Chapter 2, kuna ___ inasema ___ of an ambudsman nac___ yani Katiba bill. Kwangu naonelea tubaki na US base so that it can include watu kama hawa wenye wametusaikia sana kutengeneza Katiba na wale watu walileta uhuru nchi hii.

Ya pili, kwa family ya clear rights, the family right, I think we should make it illegal to have bastards, kila mama ama msichana ambaye anapata mtoto lazima ajulikane huyo ni mtoto wa nani ili tusiwe na watoto wenye wanaladalada nchini yetu.

Ya tatu inashikana na social security, nataka watu wasaidiwe as necessary lakini hatutaonyesha social responsibility. Nafikiria ni mkiwa tuonyeshe ni nini wananchi wanatakiwa wafanye. Halafu ni nini wananchi wanatakiwa wapate. Swali, kwa sababu nitakuwa nikienda na nje, inahusika na qualification for registration, tutaifahamu kamili on page 79 1B (2) ndio tutafahamu kamili, section 87 (3) ambayo inasema nobody may use this resources to support any political party or that inasema bado inatumia pesa ya Serikali na hii pesa, ama hii ni pesa. Hizo zingine ni public na hii inakuwa tofauti ndio tutafahamu kamili. Pendekezo la page 13 inahusika na ___ discipline. When a member of Parliament is disqualified, I think it should not go for ___. Section number 2 is automatically vetted, kwanza ___one party wanasema wanataka waende kwa ile party wachaguliwe tena warudi. Na wanatumia pesa za Serikali. Yule mtu alikuwa No. 2 anachukua hiyo kiti ya mBunge huyo.

Swali la tatu nafikiria kwa mahali pa maswali, tulikuwa tunazungumza juu ya wale watu waBunge, na ni kama mmepata watu wengi sana hatujaifahamu kama ni wagapi, mimi naona ni kama 210 halafu kuna ingine ya mia moja, sasa watakuwa wagapi? Yote makes wale wako upper house na lower house. Na kuhusiana na hiyo wazee wa ___ chapter 6 kwa hivyo 76 plus 40 women. Are we also giving women another 30 seats so that they make 76? Take care of that.

Nafikiria kabla sijamaliza kuna kitu mzuri nilikuwa naonelea kwenye article ___ Moja ni kama kwamba tumesema waachilie wafanya kazi nchi yetu kwa sababu tunasema mtu akifika 70 years hawezi kuwa President na pengine hawezi kufanya kazi yeyote. Can we look for ways of finding kazi kwa wazee nchi yetu? Wale watu pengine wamefika miaka 65? Kitu yenye inahusika na hiyo, tunataka hiyo jukumu la Serikali kutengeneza sheria ya watu, tuseme hapa tuko na sheria ya watugen, tuko na sheria ya wajaluo, tuko na sheria ya wakikuyu, tunataka iandikwe na ikuwe sheria yenye inawekwa public libraries halafu kutakuwa na wazee wa mtaa wenye watakuwa wakitengeneza correctional services, kile kidogo kidogo waliungana, ikifika hapo, then tugen, lakini tugen kazi kubwa zaidi wanapeana hiyo jukumu kwa persons ama kortini. Kwa hayo nasema asante na tunatalajia kitu mzuri, hii Katiba nafikiria ni mzuri na mwendelee namna hiyo.

District Coordinator – Paul Tukong: No. 3, na jaribu kuharakisha kwa sababu naona mikono juu, sema jina halafu uendelee.

Silvester Kiprono: Kwa majina ni Silvester Kiprono na kwanza kabisa ningependa kutoa hota ya kwamba Katiba ambayo imetengenezwa hivi sasa, sisi wenyewe tumechangia na ni bora kweli kweli. Ningependa kusema kuanzia kwa wale ambao walifika, na ningependa kusema kwamba mko na wananchi nyuma yenu. Kwa hivyo kwetu sisi twaonelea kwamba ile ni jukumu ni moja wapo ya kwendelea mbele. Kwamba popote vile mnasema kwamba Katiba yenyewe imependekezwa kwamba ni Katiba ya wananchi na sisi wenyewe tumechangia.

Pili ningependa kuongea juu ya sixth schedule page 44. kwamba kuna mahali inasema kwamba mara nyingi unakuta kwamba rasilimali za binafsi hata mali, utakuta kwamba yule ambaye amehusika ambaye anataka kuingilia katikati kitu chote zile au DC kwa mfano ama kama ni secretary, the very vital seat za Serikali ni vyema adeclare his wealth, ile chama ijulikane ni kwa vile hilo ni upolojo wa mali, kwa vile mara nyingi watu wamekosa sasa na katika bali bali ili waweze kujisasilisha na baada ya muda mfupi wanarudi kwa watu kununua kura. Hiyo tunakataa. ___ zinatumika kununua viti.

Pili ningependa kuzungumza juu ya kuna mahali sijaelewa vizuri hapa juu ya media access, sijui sheria gani itatumika ili kwamba ufathasaji wa media access ikuwe kila mahali kwa vile wakati mwingine unakuta eneo za remote areas kama hapa unakuta kwamba hati you are only at liberty of KBC. This can ___ news, so please it is good for ___ ili tuachilie hiyo possibility sana ili tuone kwamba katika media zote ambazo zimekubaliwa zipitie kwa wananchi, si lazima kwamba tu ni Nairobi ama Mombasa peke yake. Tuko katika, (inaudible) kwamba, ningependa kuongea juu ama kuhusu hoja ya election, to a___kwamba transparent grassroot iendelezwe, ziwe sawa ili kwamba kura zihesabiwe katika kituo. Kwa vile unapotembea katika kituo, kwa vile unapohesabiwa katika kituo utakuta kwamba mara nyingi viongozi wanashinda, katika viti vyote unakuta kwamba mara nyingi wao wanapitia njia isio sawa. Kw hivyo ningependa kusema kwamba mwisho kabisa, ikiwezekana tafadhali ni nawasihi Katiba ya sasa itumike katika uchaguzi ambao unakuja, sijui kama wanapanga na nini kwa mkono? Ili kwamba watu wasije, viongozi wasije wakaingia pale ambao hawafai kwa vile they normally say the Government of the people by the people for the people . So idhilike wazi kwamba huu ni Ida Salim wetu. Asanteni.

District Coordinator – Paul Tukong: No. 4.

Philip Soksu: Asante sana, kwa majina naitwa Soksu Philip. Kwanza kabisa naunga mkono mswada huu wa Moi kwa sababu ni mtu wake ambao sisi wenyewe tulichangilia tukatoa maoni yetu na sasa imerudi kwetu ndio sasa tunajadiliana. Kwa kweli mambo yote ambayo tulipatiana wakati ule mwezi wa saba wametuletea kile tulipatiana. Kumaanisha hakuna kitu ambacho kilienda kombo. Mambo yote ambayo tulichangiana mwezi wa saba walitokea vilivyo. Kwangu kuwa nina maneno mawili ya ningependa kutoa. Kwa citizenship and marriage, mimi naonelea ya kwamba tusijasilishe kwanza kwa haraka, ninasema ya kwamba mtu anapotakikana kuandikisha katika nchi kuwa raia wa nchi, tusiharakishe, isiwe ni miaka tatu, iwe ni miaka kumi mpaka kumi na tano kwa sababu kuweka miaka tatu hiyo ni kumaanisha tunaweza ishi na sisi watugeni katika customary yetu kuna mambo mengi ambayo tunapenda kuchunguza kwa mtu.

Ya pili ni land ownership: Mimi naonelea on land ownership and property, mali iandikishwe kwa baba na mama, mimi naunga mkono hapa kwa sababu wakati wowote baba anaweza ondoka na zile mali ambazo zilikuwa hasijaaandikishwa kwa mama, watu watakuja kutoa. Naunga mkono ziandikishwe baba na mama lakini katika mambo ya mashamba watu wanasema wavulana na wasichana wagawiwe shamba, ni wasichana wa aina gani hawa wanagawiwa shamba? Wale ambao wameolewa ama wale ambao hawajaolewa? Mimi naonelea wale ambao wameolewa wagawiwe shamba mahali ambapo wameolewa lakini wale wameolewa kwangu sasa nikiwa mzazi, kijana yao ameo msichana atapata shamba kwangu.

Pia napendekeza tuwe na customary law, customary law ni ya maana sana kwa sababu tusipokuwa na hiyo sheria ya kinyumbani, kwa mfano kwa Tugen customary law ambao ilikuwa zamani na ikapotea, sisi tunaonekana tumetoa na tunapendekeza kwa wale ambao wanaenda kule kwa referendum wahakikishe ya kwamba mambo haya yanapendekezwa. Sisi kama Watugeni wakati huu ndio sasa tutaitwa pia ni wakati kama sasa tutachunga sheria zetu kama Watugeni – Watugen customary law.

Mimi nilikuwa naonelea kwa upande wa wamama ambao wanatakikana wachaguliwe wame___ sisi ni wakati _____. Nafikiri kwangu mimi napendelea, juu nafikiri ni mashindano, haya yote ni mashindano, yule ambaye atakayeshindwa, basi ameshindwa na inaonekana ameshindwa. Yule ameshinda basi ameshinda. Mambo hayo yaende kwa merit, mimi naonelea yaende kwa merit kwa sababu mimi najitangaza nataka ivunjwe sheria imuongeze. Mama yule anajitangaza anataka ivunjwe, tunasikia na mama basi atakapolishinda, si amenishinda na akaenda sasa Parliament? Kwa nini apatiwe nafasi yake? Na mimi basi nipigiwe yangu, Katiba says. Asanteni ni hayo tu.

Councillor David Kigen: Asante sana bwana coordinator. Ningependa tu kuuliza My names are Councillor David Kigen. So I would like to ask you a question about devolution whereby these assistant chiefs, chiefs and DCs - Ningependa kuuliza swali kuhusu kuachishwa kazi when assistant chiefs and chiefs and these provincial administration if possible to public service commission. Ni kazi gani wataenda kufanya huko hasa? Na kisha baada ya hizo tunapata ingine ya malicious village Government. Ni nani watakuja kulipa village Government na ni security gani watapewa huko, watapewa police ama AP ama ni nini watapewa huko? Kwa maana kama si nakuja katika ___ kuongoza ama kukaa ama kurepresent watu kama chief huko reserve, sisi kwa kawaida ile tulikuwa nayo ilikuwa wanaye chief kwa wakati ule ilipita. In case of any crime walitoa _____. Lakini sasa hawa watu wanachaguliwa nani atalinda hawa?

Kitu cha pili, nani atalipa hawa? Kitu cha tatu kwa maoni yangu hawa watu ndio naona kwa mahali fulani wataweza shindwa na kazi. Kwa maana this issue of administration you see sometimes is trying na mwenye amechaguliwa huko na watu anaweza kuwa compromised, anaweza sema kwa maana anachunga kura kama councilor hakati kufanya kazi kulingana na vile inahitajika. Anaweza kuta wezi kwa reserve ama anaweza kuta wezi ama ku-promote crime kwa maana anachunga kura. Sasa nitaomba kama ingewezekana maneno ya chiefs ingebaki vile ilikuwa halafu councilors waendeleo kuchaguliwa na watu.

Ningependa tena – I would like to concur with what somebody was saying about the women. This is an issue of nomination, if somebody needs to be elected, then she should go and contest, that's a kind of kuonyesha somebody who is capable to come and act in that position in the ____ Kama sisi Wakalejin tunasema if you meet quality with your women, that means if we men are attending the ____ to bring equality. So nasema – customary law, therefore I'm not supporting the issue of equality to that ____ because even individually sababu twaweza ladies ____ and it is agreed so you ____ there are some areas whereby they don't have any ____ (inaudible) so we don't entrust so much our ladies ____ and if somebody would like to go and dig these sentences they should be given elsewhere but not here. If they need to go to Parliament or to ____ then they should come and contest with me, and this seat is meant for us then we will see.

I would like to ask also a question about the criteria which will be used to recall an MP or a councilor. Suppose may be the part of Government are also of the idea to recall unless majority of the people are of the idea, so that the said MP or a councilor is supposed to sit there. What is the procedure or the criteria to be used to prove that this person is not capable, doesn't deserve this seat? Finally I would like to, I have to read the publication of the Maoni yale mlipeana wakati ule, I would like to ask one question because I say the Eldama Ravine constituency _ walipeana maoni yao na vile ya Mogotio inakuja Mogotio constituency I say that somebody who is supposed to be an MP should be a graduate or at least to have ... or must be a degree holder. Kulikuwa na office ingine unakuta vitu vyote havijaandikwa sawa. So a councilor, I was wondering because somebody was ____ an issue or at least to have a primary level. Mimi I disagree with that and should start at form four level and in case ____ but was even put under regulation and somebody was ignoring, and now you want to be favoured to be a primary level while the one who have your ____ so he doesn't entertain that. So I wish the qualification for a councilor to be a form four and if tomorrow it should be a degree, we will not accept it. Thank you.

District Coordinator – Paul Tukong: Sijui kama tungeweza kujibiwa hiyo halafu tuweze kwendelea

Peter Pinoti: Mimi naitwa Peter Pinoti, neno langu ambalo nataka kusema hapa, nauliza neno tu ambaye iko chini sana, chini sana, jambo la kwanza nataka kuona kama wazee wa mitaa wawe na nguvu ya kurekebisha kila jambo kwa sababu watu wengine wakikosana wanapingiza lower, anakibisha kortini. Kwa hivyo, na kortini hajui kuliko wale wazee wa kinyumbani. Hiyo ni jambo la kwanza. Nataka nyinyi muandike hiyo sana kwenda ulizia sisi hawa wawe na nguvu kwa sababu kila jambo inatoka hapa hapa.

Jambo la pili, kuna watu wengine ambao ni masikini na wanapelekwa kortini, na kwao saa hizi ni jela kwa sababu hakuna mwenye kutetea masikini au wale hawana chochote. Kw ahivyo lazima ikusanywe report kutoka kwa Mogotio iangalie wale masikini kwa sababu kwao ni (inaudible). Hakuna mwenye kutetea kwa sababu nimejaribu hata mimi kwenda kortini mara tatu mara nne kusikiza kesi, naona wale ambao wanasukumwa na ile gari inaitwa nani? Mariam, ndio napatwa hawa kwa sababu hamna kitu cha kutoa na kama wewe uko na mali yako wewe unajua tu hata ukienda kortini utarudi. Kwa hivyo naomba

msaidie masikini ili kuta jambo hilo No. 15 iko 70, page 15 sijui inasema nini. Hebu somea,

Speaker: Katika Numbari 70 inasema hivi, haki za watu walio kizuizini – watu wakasema hivi, watu wako walio kizuizini, wale wamehukumiwa wataendelea kuwa na haki zao chini ya Katiba isipokuwa haki hiyo haimbatani na urahisi kwa kuwa kizuizini.

Peter Pinoti: Sasa jambo hiyo nataka kuuliza, mtu kama anakamatwa kwa makosa fulani na anastahili awe cell, siku ngapi itasikizwa kesi? Kwa sababu kuna wengine wanakamatwa na kuwekwa cell anamaliza hata miezi mbili na (inaudible) ni kidogo tu. Haifai mtu alale cell, ni lazima imalize week mbili ama mwezi ama mwezi tatu. Na hiyo neno ni neno chafu sana, haifai kulalishwa mtu huko kwa sababu hamna mwenye kutetea waliopolekwa cell. Kwa hivyo ombi langu ni hiyo, heri muandike jambo hilo kutoka constituency yetu ya Mogotio. Namaliza. Asanteni sana kwa kusikiza.

Wycliff Owade: Basi ningependa kujibu hiyo, mzee enda ukae chini kidogo, nitaanza na councilor David Kigen, aliuliza nani atalipa hawa katika hiyo structure ya devolution, village council, locational council, district council, hivi sasa ni institutions in the state na Serikali lazima walipe hawa viongozi. Hiyo ni ya kwanza.

Security, if you read that clause of some ___ under the districts, you will know why it skips this For example like the district council, you will have the police community service, so the police will be there at the district level and this will be the overall leader of course in charge of the districts, but there are police, they are centralized at various district councils. So police will be there for security kuanza kuwa ___ but the issue of which work for the chief, the assistant chief, the DO, the DC, the PC, kwa Katiba hawa watu bado watabaki kwa kazi, ile mshahara yao itakuwa ile ile, isipokuwa itakuwa juhudi ya Bunge na public service commission kudecide ni kazi gani watafanya. Wanaona kurudi kwa district councils, lakini wanakuwa na maadiko ya (inaudible), kama mnajua kwa district iko na mambo mengi yako kado. So they can become part of the Executive secretariat but they have to work under the head in that location, the head in that district, but they will leave it for the public service commission to decide lakini kwa Katiba bado watakuwa na mishahara bado watakuwa na kazi yao.

Then we go to (I don't know which other thing he has) the issue of women we have noted your concern, we shall put this and submit – criteria for councilors to recall Parliamentarians you can read there it is there. And

Mr. Biwott uliuliza kama wazee wa mitaa watakuwa na nguvu, ndio watakuwa na nguvu – watakuwa na nguvu ile ya kortini, maneno ya ardhi, maneno ya kifamilia, kabla mambo haijaenda juu mtakuwa na kortini hapo na mtaongea kuhusu maneno ya kimila na kila kitu ili mambo iendelee sawa sawa.

Na uliuliza kwa wale the very poor (I don't know how to translate it) wale masikini, nilisema tuko na yule tunaita people's protector ambaye atasaidia nyinyi hata kwa kikortini tuko na yule public defender na kwa kila pahali mpaka district watasaidia wale ambao hawawezi kutoa hiyo malipo au hawawezi kujisaidia.

Haki ya wale ambao wako kizuizini, pia the people's protector atakuwa hapo kusaidia wananchi kuhusu maneno ya watu kukaa hapo kwa cell, wanakaa kwa muda ama wanalala. Sasa tunawachia Parliament warekebishe hiyo, kwa Katiba hatuwezi kuandika kila kitu lakini tumepea Parliament homework ambao watafanyia hiyo kazi.

Kuhusu representation of women that is a ___ right of the competition on merit , hiyo refer tumechukua na pamoja na coordinator wenu sasa mtang'ang'ana huko kwa conference.

David kipkorir, Rais wa jamhuri ya Kenya ni kwa kila mtu kwa nchi hii, hiyo ni kweli na ukikumbuka nilisema kwa jambo hili, hiyo ndio Katiba inasema. Rais ni wa Jamhuri ya Kenya ni ya kila mtu si ya kabila fulani na akishapewa hiyo mamlaka sasa hiyo mamlaka tunauliza ya kwamba wewe ni wa Wakenya wote. Hiyo ni kweli?

Hii maneno ya kesi, watu ambao wameiba kitu kidogo ndio wanaenda kwa jela, wanakaa huko sana, si ndio? Na wale wameiba million ni karibu fine ama miezi tu. Hiyo pia tunawachia Parliament na ile committee inalingana na maneno ya judiciary, maneno ya sheria itaangalia hiyo maneno. Mtu ya kuua mtu hiyo ni pendekezo na tumeandika hapa, tutapeleka kwamba bwana Kiprkeris amesupport hiyo.

Wale communities zingine kama hapa pengine tuko na communities zingine ambao wamekuja hapa kuishi na nyinyi, sheria yote ya kuwa wawe hapa, tuko na ile bill of rights, kwamba haki zao lazima zilindwe, na pia wao pia lazime walinde haki ya watu wa hapa, hii community. Hiyo iko kwa sheria.

Maneno ya ardhi tumeunda commission, hiyo ni sawa.

Bwana Hosea Biwott, ungependekeza hiyo October 20 iwe (inaudible) day, hiyo pia tumeandika iko hapa chini. Maneno ya (I don't know how to call it in Kiswahili) somebody responsible for illegitimate child, that should be known in broad day light. Again that one Parliament can deal with, the Constitution has just given you a framework and the family rights. Social security and revenue catered for in the Constitution.

Qualifications of registration of a political party, I request you read it down there you will get. No of MPs hiyo tayari tumeandika.

Then wazee tayari tuko nao hapo, somebody read about customs, if you check page 4 article 5 on the rights of Kenya, it reads, the laws of Kenya complies to the Constitution, acts of Parliament enacted under the Constitution, African customary law, Islamic and religion personal law and the ___ known as thecommon law and East African community law and customary international law. So that means that in all the African customs have been taken into account with the new Constitution and I

want to add kwamba Katiba Katiba hii mpya itakuwa translated kwa ile lugha ya kila kabila yote nchini Kenya na tuko Kiswahili na kwa Kizungu. Tutakuwa ___ ili kila mtu, sio hati unasikia tu Katiba, Katiba na hujui Katiba ni nini. Are we together?

Halafu maneno ya media pia unaweza kusoma hapo ujue under bill of rights inasema nini.

Transparent boxes, Parliament itadeal na hiyo lakini electoral commission already inahandle hiyo na iko kwa Katiba.

Bwana Sokso Philip, ile citizen by marriage unapendekeza kuwa iwe 10 to 15 years, tumeandika hiyo tayari na tutasubmitt na maneno ya property iwe tu or considered kwa baba na mama not the unmarried ones, Isnt it? That one also we have taken into account and we shall submit it. I think I will stop there.

District Coordinator – Paul Tukong: Nichukue mbili tatu halafu tufunge, nitachukua mzee halafu 2? Umemaliza? Haya No. 2, basi mpendekeze halafu, namjue ya kwamba bado tutakuw ana wakati ambapo bado tutaangalia kabisa kwa undani wake hii maneno ya Katiba, ila sasa tukija kuchukua (inaudible). Hebu endelea, majina.

Walter Njuguna: Yangu ni pendekezo na itakuwa fupi sana. Yangu ni juu ya age au miaka ianayohusu uchaguzi ya uRais, kwa maoni yangu mtu mzee isipokuwa awe kikongwe ili hawezi kusimama, wala kusema, wala kusikia, anafaa kupewa haki ya kusimama akiwa na miaka ya kutosha na ana uwezo wa masomo, ana uwezo wa kila ___ili tufanya bidii turudi ___ mwenye tabia bora anafaa kupewa miaka kwa kulingana na maoni yangu. Sithani atasikia ambao mkimwabia hana haki, watu wengi tunajua hata katika nchi za ng'ambo viongozi wengi kama vile (inaudible), India, Germany, France, hawa watu ambao ni viongozi kule ni watu wa maiaka ya juu sana. Na pia tumeona wameendesha wananchi bora sasa watu wetu tusione hawana uwezo huo. Ningesema ile age ya 65 kwa uchaguzi wa Rais uko chini sana na ningependekeza age ya 75 iwe ni limit kwa sababu tunajua hata katika vijiji wazee wengi sana wanapatiwa mambo ni wazee zaidi na wana uwezo huo.

Ya pili ni juu ya majudge, age limit ya majudge, katika nchi nyingi pia kama vile kwa Rais viongozi wa hizo mahakama kuu huwa ni watu wana umri mkubwa sana na wale watu ndio wametumiwa ni watu wa ___ ni watu wenye kujulikana sana, na watu wa mamlaka mazuri na watu ambao hawana ___ ni watu ambao kukata shauli wanakuwa wangenisikilia sana na nitaona si kama watu wa miaka 65, wanakuwa nyumbani basi tutakuwa na watu wengi sana ambao wana ujuzi na ujuzi hiyo inapotelea nyumbani. Kwa maoni yangu yule judge anaweza kuretire katika miaka ya 75 lakini kuanzia hapo apewe nafasi ya kuajiriwa tena katika contract, apewe contract between the age of 65 and 75. Asanteni.

Ya tatu ni juu ya land and property. Kuwa na mali, tunaona Katiba inatulinda kutokana na ___ ni kusikia mashamba na limepewa ile ___ Ingesema pia hapa nchini sisi wenyewe wananchi tunafaa kuwa na limit, how much land we can own kwa sababu nchi yetu ni dogo na watu wanaongezeka. Nchi haiongezeki na watu wanaongezeka. Na mali ambayo tunalima kwanza

bora ni dogo sana na watu wengi wale wenye mali, wale greedy au wale wa tamaa wanakuja kununua, unakuta mtu mmoja ana acre mia moja na mwingine hana hata acre moja. Na hawa watu tukiendelea hivyo hivyo basi watanyakua na kunyakua nchi yote na itakuwa ni mali ya ___ bado tutaendelea kuishi kimasikini na wachache wamejitolea lakini sisi tunapewa maziwa. Kwa maoni yangu ningesema, one Kenyan hata kwa mwananchi iwe na limit, ikiwa ___ kama hakuna sababu ya binadamu moja awe na acre zaidi ya 50 na mwingine hana. Asante. Ile ___ ni kama 5,000 acres in order kuwa na free hold. Anything above 5000 acres iwe katika ihalalishwe, ndio village ikimaliza ile miaka tano sita, ile tutaweza ___, Kama sivyo kazi itakosa kwa sababu ___ itakuwa na watu wachache, wanyanyashwe na wanyamaze.

Ya mne ni section 15, ya security. Tunaona Serikali yetu hatuna ___ hatutegemei kwenda mitaani na Tanzania, Uganda, Sudan, tuko mahali tulivyo na majeshi yetu inatanda kuongezeka but ___ na kabi na hawana la kuganya. Ingekuwa ni haki wawe wakitumika kutuletea huduma katika jamii kama vile kujenga barabara zetu, madaraja, mashule kuliko kukaa kambi na kula na kuzolota na kuwa wahalifu. Kila wakati uko hapa kwetu kupitia ile madaraja na watu wanakaa kule na kupora mali. Kwa hivyo ningependekeza katika ile Constitution tuwe na uweze na kifungo ambapo kinasema pia wahusike katika nchini taratibu kwa kuhudumia raia.

Ya mwisho, mimelipa ladhi, ni pesa ya civil service, Ninaona shida kumwambia kile kifungu kinasema mtu wa kawaida wa civil service asiwe na biashara na huku tunajua maisha inaendelea kuongezeka. Hali ya maisha imekuwa garama sana, Serikali inasema hakuna pesa, na inamwambia yule mfanyikazi asiwe na uwezo ya kujiandikisha katika biashara na huku hun guarantee kwamba mshahara bora, huna guarantee social security bora, yeye anaendelea kuwa masikini na anakuwa mwizi katika kazi na anaendelea kupora kwa sababu umemkataza kufanya kazi. Ndio ana haki kama mwananchi yeyote ajiandikishe bila uoga ili ajulikane kazi yake ni kazi gani. Anafanya biashara kitu gani? Kiprotich iko biashara, basi, bora iwe kila siku iko kazini na anafanya kazi yake, aandike manager, aandike nani, but awe huru na wizi itapunguka katika Serikali yetu. Asanteni.

Kipkoech Kipingo: Jina ni Kipkoech Kipingo. Yangu itakuwa mafupi pia, katika tumeenda kuangalia yote ambayo imeandikwa tunakuta kwamba kuna sehemu ambazo tumewacha kabisa hatukuzungumzia hata kidogo, hapo ni public seal, public seal ilikuwa katika takiba na hata hivyo tumewacha tu kama bado ikae namna hiyo. Ukienda kuangalia public seal ya Kenya unakuta kwamba imetengenezwa na ikaudwa kabla hatujapata uhuru na kungetumiwa kitu ambacho haionyeshi amani hata kidogo. Unakuta kwamba hapo katikati iko, gao, hiyo ni vitu vyote vya vita. Sisi tungependelea kwamba public seal iende itengenezwe, itolewe wanyama, simba ambaye ni mnyama wa kuua itolewe. Halafu unakuta katika katikati hapo unakuta jogoo ambaye anachukua shoka ambaye anaenda kuua, zitolewe hizo vitu vyote na itengenezwe vizuri sana.

National flag: - unakuta national flag ambayo imewachwa, ikawekwa pale katika ile rangi yake, ni rangi nyekundu ambaye ni ya damu na kifo, unakuta hapo katikati unakuta rangi nyeusi lakini hiyo sio watu weusi peke yake, hii ni Kenya ya watu wote. Itengenezwe iwekwe rangi ya kijani kibichi na iwekwe katikati pale ___ ambaye inaonyeshwa ya white, isimame kuonyesha provinces zetu nane, hapo katikati kubwa moja wa rift valley.

Basi tunaenda katika ministers, tukiona katika sehemu ya ministers tunakuta kwamba imewekwa ati tupe ministers 15 na deputy 15. Hiyo ni chache sana, ningependelea iweko kwamba ifikie more than 20 ili kwamba inaweza kuwa kama 18, kuchukua more than 20 ministers na sio more than 20 assistant ministers ama deputy ministers. Asante sana.

Katika sehemu ya public holidays, katika sehemu ya public holiday tunakuta kwamba imetengenezwa mapublic holidays nyingi na ningependelea kama vile imefanywa zikuwe tatu lakini zikuwe Katiba day ikuwe 12th day maana itakuwa ikuhusisha watu wote ambao wameweka Katiba uwezo wa mji huu wa kuwa mtaani. Na mtu kuqualify kukuwa katika ile village ipitie Parliament idiscuss iwe na isemwe kwamba yeye anasitahili kupata heshima ya Katiba day. Yangu ni hayo, asante sana.

Councillor Pauline Ngoli: Asante sana, kwa majina naitwa Councillor Pauline Ngoli, yangu ni kuhusu mambo ya kazi, vile tumesikia ya kwamba inaweza pewa watu nomination ___ hao ninaona ni wengi sana. Ndio tunadhani ya kamba kuna sehemu zingine ambayo tulikuwa tumepata mbeleni ya kwamba kuna watu wachache na wakati wanaenda kupiga kura, hawawezi kutuweza kutoa mtu wao kwenda kuakilisha kwa Parliament. Kwa hivyo ninaonelea ya kwamba hao watu ni wengi. Tungepewa watu wachache kama ... mtaona tu vile mtafanya. Nikiongezea ya kwamba kwa upande ya ___ tumekuwa na shida nyingi sana, mara kwa mara tunakuta wasichana wanapata mimba na hawa vijana wanakataa kuo, na saa zingine unakuta wasichana ndio wameenda kwa abortion kwa sababu haelewi, sijui ni sheria gani mtachukua katika Katiba ya Kenya?

La tatu kuna wazee wamesema ya kwamba hawawezi pea wasichana mashamba, kuna wasichana wengine wako nyumbani na wamezaa wako na watoto, na nchi ni mama ameichangia sana akikuta watoto wachokora hati ndio wameweza (inaudible) kwenda kuwa watu ambao wanaishi vizuri. Mara kwa mara wanaua watu wako natafuta mali. Na hii ndio wamechangia kwa umasikini katika Kenya hii kwa sababu unaona watu wengine wanafabania kuondoa umasikini na juu kuna wengine ambao wametatizwa na shida *end of tape 3A*

Kiptun Arap Biwott: Kwa mchango wangu kuhusu mswada wa mjadala wa Katiba, majina ni Kiptum Arap Biwott, ningetaja kuhusu vyama vya siasa. Kwa wakati huu nchini Kenya kuna _____ sana kuhusu vyama vya kisiasa na tulisema kwamba ama tungependelea ya kwamba vyama vya kisiasa visipewe idadi ambayo itachaguliwa, lakini kile chama ambacho kitachaguliwa kiwe na wanachama kiasi fulani katika kila sehemu ama kila mkoa ili icalify kuwa registered, ili tusiwe tuna vyama kama Liberal Democratic Party ambaye inakaa halafu mtu anakuja kununua. Kwa hivyo tungependa kusema kama kwa mfano tuwe tuseme chama ili alipishwe iwe na labda watu mia moja kwa kila wilaya, ndio icalify kuwa party, ndio isikuwe chama ya kabila moja ama asikuwe tu chama ya baba na mama na marafiki yake.

Jambo lingine ni kuhusu uchaguzi waBunge ama udiwani, Wakenya wengi wamependekeza kwamba Katiba iseme, ikiwa umesimama kwa mfano chama ya Kanu, kwa ugumu, halafu wakati ya uteuzi ushindwe, Katiba isikuruhusu uingie chama kingine

na ung'ang'anie kiti hicho. Kwa sababu ulikuwa umeingia chama fulani tuseme KANU halafu ukashindwa kwa nomination, ukaingia kwa DP, hiyo inamaanisha kwamba msimamo wako kwa chama uko kwa sahani na unaleta mgawanyiko. Ukishindwa kwa uchaguzi basi, familia mpaka miaka mitano uende chama ingine ile unataka. Hayo tu ni yale ambayo ningependa kuchangia kwa mswada huu. Asanteni.

Wycliff Owade: Haya asante sana Bwana Biwott kwa hayo maoni yako lakini ukiangalia hapo tuna section ambayo inadeal na political parties, juu tulifahamu that they are now solutions to guide political parties and we are saying where we are _____(inaudible) over decisions, freedom of speech, this freedoms must be made responsible. Also for example somebody has been elected by the voters on a particular party, you can hear that ananda wimbo wingine, Katiba inasema ni lazima tuvunje aende kwa wananchi na a-seek proper mandate. Hiyo ndio nataka kukuuliza. Sisi hatuwezi pande hii na unanda muudo nchini Kenya, tomorrow unapatikana kwa Katiba mpya we are calling for party discipline.

Naona ____ ana, naona councilor Pauline Ngoli and ____these are going to be taken into account but other people you can discuss with your own forum, so that when you come to the conference they are ____ effectively.

Public seal and the flag, we have taken your comments very seriously and we shall also submit them.

Proposal of ministers to be 20 we have also taken that one into account. Thank you very much.

District Coordinator – Paul Tukong: Sasa wananchi basi tukumbaliane kwa shauri moja kwamba imekuwa siku mzuri, inakaa jioni na lazima tujiandae pia kuondoka na kwenda manyumbani. Namna hiyo wananchi? Basi kwangu nataka kuwarudishia nyinyi asante sana kwa sababu ya uvumilivu wenu kuanzia asubuhi mpaka wakati huu. Hii ni shukurani sana sana kwenu na siku ya leo nasema watu wa Mogotio tunapendelea Katiba, uvumilivu wenu na area ya (inaudible) kabisa. Natarajia ya kwamba siku nyingine tukikutana tafadhali mkuje namna hii kwa sababu kwa kufanya hivyo tutakuwa tunajenga nchi yetu tukufu. Now, vile tulikuwa tumefungua na maombi, na pia pia tufunge na maombi ili tupate kuondoka. Asante. Kama pengine una memorandum yako ambayo ungefikiria ya kwamba tungeweza kuingiza ama iende katika national constituency conference, tafadhali mnaweza kunipatia ili niweze kupatia wale ambao wataenda kwa national constituency conference week ijao tarehe 28.

Pastor Sally: Kama uko na kofia tafadhali utoe. Na tuombe pamoja. Mungu Baba wetu katika jina la Yesu Kristo, tunakushukuru jioni ya leo kwa sababu umetulida na umetuongoza. Asante kwa yale yote ambayo tumejadiliana na katika siku hii jema, na hata Bwana na yote ambayo tumeakilisha mbele. Tunakushukuru kwa sababu tena unaenda kutusaidia na ____ upate kutuongoza. Asante kwa mambo yote ambayo yako katika uwanja huu. Wale ambao watakaosafiri kwa magari, Mungu ninaomba ya kwamba ukawafunike na damu ya Yesu Kristo na hata ukawaongoze na kuwapa safari jema. Asante kwa sababu ya watu wa Mogotio, Mungu unawajua na hata unawatabua nanimeomba ya kwamba unaenda kukutana na mahitaji yao na

