

**CONSTITUTION OF KENYA REVIEW COMMISSION**

**(CKRC)**

**Verbatim Report Of**

**DISSEMINATION REPORT AND DRAFT BILL,**

**MOLO CONSTITUENCY AT KIHINGO CATHOLIC**

**CHURCH HALL.**

ON

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

**DISSEMINATION OF REPORT AND DRAFT BILL, MOLO CONSTITUENCY, AT KIHINGO CATHOLIC CHURCH HALL ON WEDNESDAY 9<sup>TH</sup> OCTOBER, 2002.**

**Present:**

Com. Andronico Adede

**Secretariat:**

Esther Mugo - Assistant Program Officer  
Alice Thuo - Verbatim Recorder

Meeting started with a prayer from District Coordinator, at 10:30 a.m.

**District Coordinator(John Kirui):** Tuombe. Baba Mwenyezi Mungu tunasema ni asante kwa sababu ya ulinzi ambao umetupatia, tunasema ni asante kwa sababu umetuwezesha tufike hapa katika mkutano huu wa leo, tunasema asante kwa Katiba ambayo imetengenezwa na tunakualika uwe pamoja nasi utusaidie katika kuongea kwetu ili tuafikiane na kuelewana kwani tumekualika uwe pamoja nasi kwa Roho Mtakatifu na kwa jina la Yesu Mkombozi wetu.

Kwa hii mkutano yetu, na kama hatujaanza ninataka kufanya introduction kwanza, na nitauliza 3c's ambao wako hapa waweke mikono juu. Hawa ndio 3c's wetu ambao wameshugulikia (inaudible) Wa kwanza hapa ni Chairman wetu wa Molo Constituency, member wetu kutoka Laare Division Bwana Koech anatoka Mau Narok na mimi nafikiri wengine wanakuja. Kama Bwana Chiefs wako hapa waweke mikono juu. Bwana Chief wa wapi?

**Chief:** Mauchi.

**District Coordinator(John Kirui):** Mauchi. Kuna mwingine? Councillors. (inaudible) mnakaribishwa kwa hii mkutano wetu na ningetaka tuseme, hii mkutano ni yenu. Tunaletea nyinyi reports kwa ile kazi ambayo mlikuwa mmefanya siku ingine mkiwa hapa. Mlitoa maoni zenu, na hizo maoni zikaenda Nairobi, na zingine zikatoka pale popote katika Kenya na tumeandika kitabu ambayo tumechukua maoni zenu. Kwa hivyo tumekuja kukutana na nyinyi kuonyesha kuonyesha kwamba kama maoni zenu ziko ndani kwa hii karatasi ambayo tumezungumza ama hii kitabu tumesema draft Constitution. Hapa tuko na report mbili, ya kwanza ni maoni ya watu wa Molo iko kwa hii (inaudible). Tumefanya summary, maoni zenu zote ziko katika constituency report. Maoni ingine yetu iko katika Draft.....

**Interjection:** (inaudible)

**District Coordinator(John Kirui):** Green Book (inaudible) Na lengo letu leo asubuhi ni kupata nafasi kujua katika hii Constitution kuna nini, na nini, na nini, ambayo imeandikwa ambayo inatuhusu. Kwa hivyo Commissioner wetu Dr. Adede atachukua nafasi hii kutuchukua katika hii kitabu ya Constitution, chapter by chapter. Mengi sana tumeandika kwa English lakini I would like to promise, very soon tutakuwa na version ya Kiswahili. Na zile ziko kwa hii kitabu ni zile ziko katika hii gazetti mumepeza asubuhi. Kwa hivyo mkiwa nayo karibu, mtumie hii wakati mwalimu atatuongoza. Kwa jumla tulikuwa na public hearing hapa July na tukakaa Nairobi kuweka maoni jinsi inavyotakiwa katika kitabu hiki. Kwa hivyo imechukua mwezi wa nane na mwezi wa tisa kufika mwezi wa tisa karibu tarehe ishirini na tano hivi, tulikuwa tumechukua maoni ya Kenya nzima. Hii ni proposed Constitution ambayo tunahitaji muangalie (inaudible) tunataka baadaye iwe Constitution yetu. Na bila kupoteza wakati.....(*sentence incomplete*) Ni machache tu kidogo kisha tumekuja mpaka tukaandika kitabu. Ya kwanza Commission wanashukuru Kenyans kwa jumla, na sio kwa Kenyans kwa jumla, hata watu wa (inaudible) na Njoro ama Molo Constituency tunawashukuru kwa kazi ambayo mlifanya. Kwa hivyo mjipigie makofi moja yenu. Report ni kwamba Commission wako na furaha kutupatia hiyo report kwa Kenya nzima ili watu wajue kwa hakika report yetu iko na nini ndani yake. Hii report hatukuandika tukiwa Nairobi. Report ilitolewa kwa maoni ya watu wote ambao walizungumza, waliandika, walitoa maoni kwa midomo, hata kwa mikono kwa wale ambao labda hawawezi kuzungumza. Kwa hivyo source ya hii report yetu ni kutoka kwa ile mkutano tulikuwa nayo na nyinyi na katika Constituency yetu Nakuru tulikuwa na fourteen public hearings. Katika Molo tulikuwa na hearings tatu hapa moja, moja ni kwa Egerton University na ingine ilikuwa kwa upande wa Molo town. Kwa hivyo kitabu hiki kimetoa maoni (inaudible) ni yenu and we are very grateful.

First tumeenda kwa state karibu (inaudible) tulianza na masomo ya watu kufundisha elimu ya Katiba. Na hapo tukawa na committee kidogo kusimamia kila Constituency ambayo tulikuwa tunaita 3c's ambao walikuwa wanashughulikia wananchi katika Constituency zao. Walisaidiana sana na waalimu kufundisha watu kuhusu Katiba ile tulikuwa nayo. Na tukarudi baadaye tukawa na public hearings ambayo nimeeleza tulikuwa na tatu katika hii Constituency yetu ya Molo. Kutoka hapo

tukarudi Nairobi tukapeleka report ambayo sasa mko na report ambayo inaitwa Draft Bill na People's Choice ambayo iko hapa mbele yenu. Hii inatueleza kabisa sisi tulianza mpaka pale tuko na akaongeza ile Draft Bill ama ni nini iko katika Constitution ambayo tuna (inaudible) nazo. Vile vile Commission imefanya juhudi zote kuona katika Kenya reports zimetangazwa ama zimepatianwa katika Kenya nzima. Almost 220 Constituencies these reports are there now. And meetings like this are also taking place in those 220 Constituencies in Kenya kwa hivyo Commission imejaribu sana kukuwa na watu.

Tukimaliza hapa tutakuwa na National Constitutional Conference. Hiyo Conference itakuwa kwa hii mwezi ambayo tunaelekea Mungu akipenda. Na hiyo itachukua maoni ambayo tutakuwa nayo hizi draft zetu na zile maoni ambazo mtakuwa nazo zitaongezwa ndani kidogo, ile correction. Lakini maana ya National Conference ni viongozi wote kama wajumbe wote wa Kenya kadiri mia mbili na kumi, tumechagua watu tatu katika Nakuru District ambao tunawaita District Delegates, kwa hivyo katika Kenya tuko na karibu watu mia mbili na sita. Tuko na wale ambao wanashugulikia professionals ama wanashugulikia ofisi zingine huko Nairobi karibu watu mia moja hamsini, na hao wote wanafanya baraza kwa mwezi mzima wakizungumzia hii kitabu yetu. Kazi yao ni kuzungumza, ku-debate ni kujadiliana, kukubaliana na finally adopt the Constitution. That is the most important forum ambayo iko mbele yetu. Na hii imechukua muda wa mwezi ujao.

About the report, kitabu ambacho mko nacho, watu wa Kenya wameeleza matatizo ambayo wako nazo. Wameeleza jinsi wako nazo kwa uchumi, jinsi wako nazo na matatizo ya security, tatizo kama wagonjwa wa HIV AIDS, ugonjwa kama ukosefu wa afya wote wameeleza matatizo ambayo watu wetu wako nazo. They have also talked about the basic needs. Wananchi wameeleza kwamba wangependa, tukiwa tunaishi kama binadamu, tuishi kama binadamu tukiwa na maji ya kutosha, elimu ya kutosha, nyumba ya kuishi vizuri na environment ambayo ni very conducive. Hii Kenyans wote wametueleza na iko katika hio kitabu. Wamesema vile vile wangependa serikali ama uongozi ambao ni fair and just to most of us. The proper governance, uongozi watu wametueleza na iko katika hii kitabu. Kwa jumla wanataka kuwa na amani na umoja katika Kenya hii, na tuwe na utu kama integrity, walisema hii ndio lengo yetu sana. Tuwe na amani kati ya nyumba zetu, vijiji yetu, Kenya yetu kwa jumla iwe a peaceful country and also with unity and with integrity and we need to respect each other in order to safeguard our well being as people. Unajua wakati Mungu alitufanya, hakutaka tuumie umie hivi hivi. Kwa hivyo watu wa Kenya wamesema hio. Wemekubali kwamba powers, ni sovereignty katika mikono ya wananchi. Mimi nafikiri zingine nitawachia mgeni wetu wa heshima, na kama sijamaliza tume-appreciate kama Kenyans kwamba tuko na makabila nyingi. Tuko na utamaduni wengi, na tuko na religions ama dini aina mingi, na vile tuko katika pahali tofauti tofauti, regional differences, kuna pahali ambapo kumekauka, kuna pahali pengine kuzuri. Kwa hivyo tumechukua katika Constitution yote diversity zetu na ikatufanya tuwe Kenyans. Na unity wanasikia kama Kenyans if you are marginalized, tukisikia kama tumewachwa nyuma, watu wanasikia uchungu, marginalized or minority feelings ndio walitumbia hapa tukiwa marginalized tunasikia vibaya sana. Kwa hivyo tunapenda tuwe na respect. And the new Constitution states that we have respect for each other. We need a better life for our people na mimi nafikiri mnapenda maisha yajayo kuliko ile ambayo tulikuwa nayo. Mnakubaliana? Kwa Constitution yetu vile vile kuna aspirations watu wamesema. Ile mtu ambayo angetaka tutoe. Moja ni corruption, tufanye juu chini tuwe corruption. Ile ingine ni towards ugonjwa yaani if we can eradicate (inaudible) For those few remarks nimewagusia

mnakaribishwa katika mkutano wetu na I will call upon Dr. Adede na kama sijaita Dr. Adede ni Commissioner wetu mpya lakini sio mpya kwa kazi, amefanya pahali pengi katika Kenya amefanyia serikali yetu tukufu na anafanya na (inaudible) katika nchi ya nje. Na Dr. Adede this are parts of Molo Constituency, tungependa akina mama mimi nafikiri wanakuja mimi nachukua nafasi hii kukukaribisha tafadhali.

**Com. Adede:** Asante sana Coordinator Bwana Kirui kwa kufungua mkutano kwa maombi na kuwaeleza wanaohudhuria hapa machache ambayo inapatikana kwa Katiba yetu. Jinsi ulivyosema Katiba imetolewa kwa Kingereza ambayo iko imetolewa sasa wengine wanayo mkononi. Katiba pia imetolewa kwa lugha ya Kiswahili lakini bado haijapatikana kwa wingi na hata sasa hatuna hapa. Kwa hivyo itanibidi mimi leo niwaeleze Katiba kwa Kingereza maanake ndio tunayo mkononi. Itakuwa ni shida kutafsiri Katiba ambayo imeandikwa kwa Kingereza kwa Kiswahili halafu nieleze. Kwa hivyo kazi yangu ni kujaribu jinsi niwezavyo kueleza Katiba ukurasa kwa ukurasa na kwa Kingereza, wale ambao hawafahamu Kingereza ni bahati mbaya, lakini hivi ni jinsi tumeanza kazi. Tumeanza kueleza Katiba kwa lugha ya Kingereza kwa wale ambao wanaweza kufahamu na baadaye maelezo kama haya ambayo Bwana Kirui ameanza itafanyika kwa Constituency. Hio ndio jambo la kwanza ya kusema.

Yaani hapo mwanzo watu wa Kenya waliamua ya kwamba wakati Katiba mpya, kitu cha kwanza waliosema ya kwamba Katiba hii lazima iwe kwa lugha ambayo wananchi wote watafahamu. Kwa hivyo sasa tumetoa kwa Kiswahili na kwa Kingereza lakini Kingereza version yake ndio imekuwa ya kwanza. Ni hayo machache tu ningeweza kueleza kwa Kiswahili na bila kupoteza wakati ningetaka kuanza sasa kuwaelezeni kidogo juu ya Katiba mnayo kwa Kingereza. Ladies and gentlemen, as I have just said briefly Kenya decided to have a new Constitution which is different from what was given to us at the Lancaster House Conference in the 60's because that Constitution under which we are operating, although it has been amended from time to time was produced by those people who were only concerned with the procedure of transferring power from colonial government to our people. They never asked us what we wanted. Now the first thing we did as we agreed to write a new Constitution was to initiate a procedure under which we are asking the Kenyans themselves to tell us what they want to see in that Constitution. Explain to them that it is a document, it is not somebody's brother or sister, it is a document, it is a piece of paper in which you record the wishes, the means and the ways in which you want to live in the country.

What we have as we have already explained has gone through a process. The views of Kenyans were collected by the Commission, they were collated, they were synthesized and they are the basis of what has been produced here as a Draft Constitution. We depart right away from Lancaster House version of Constitution by including in this one something called a preamble. The preamble is a statement of lofty hood where Kenyans say what it is they want this new document to talk about. So in the preamble for example, the Kenyans acknowledge that we are aware of our ethnic, cultural and religious diversity but we are determined to live in peace and unity as one indivisible sovereign nation. Very important idea we recognize our diversity but we are determined to live in unity as a single nation. Down the line you find exercising our sovereign and inalienable right to determine the form of governance of our country, we would like to determine the form of governance in our country and having

fully participated in the Constitution making process like sitting here today to listen to the Draft, we are participating in the process of its making. It is not just going to be announced from high, we will say we gave our views a Draft was given to us, it was explained to us, we made comments. So we are saying, having participated fully in the making process, we now adopt this Constitution we give it to ourselves, we give this document to ourselves and to the future generations to guide us. So God bless us, that is how we humbly begin. A solemn document in which we would like to bequeath also to the future generations. So that is one major effort we have done in producing this new Constitution in the preamble, recognizing our diversity and indicating our determination to live in peace and security as one nation.

Now we go to chapter one, Sovereignty of the People and the Supremacy of the Constitution. There again we have made specific and important pronouncements. My effort is to highlight major issues that I would like you to remember so that any of you who have not had a chance to read it at least will come out with an idea of what is in the Constitution there for you. There we say, that all sovereign authority belongs to the people of Kenya, belongs to us the power to govern ourselves belongs to us; and can only be exercised according to this Constitution, but we delegate it to three branches of the government to do it on our behalf. We delegate it to the Legislature to whom we entrust the Legislative authority of the Republic. We delegate it to the Executive to whom we entrust the Executive authority of the Republic, then to the Judiciary and other independent and impartial tribunals to whom we entrust Judicial authorities of the Republic. We have selected three branches of government which we are entrusting to do certain things for us and now we would like to tell you how you want us to let these three branches work.

What kind of government do we want in Kenya? What did the people say during the discussions all over the country? And what have we as Commissioners suggested in the Draft Constitution? Before that we now know that we call ourselves a Republic, Kenya as a Republic. What does it mean to be a Republic? Our present Constitution now tries to explain to wananchi both in English and in Kiswahili when it becomes available what a Republic means. So we have in the Constitution the explanation of what a Republic is. The Republic of Kenya is formed on Republican principles of good governance through multi-party democracy, participatory governance, transparency and accountability, separation of powers and listen to this, respect of human rights and fundamental freedoms and the rule of law. You, the individuals respect for your rights and your fundamental freedoms is supreme and is the foundation of our Republic. Anybody that tramples against your own right is not doing his job, he is not performing its power correctly as (inaudible) because those powers are delegated to them so that they can perform them in a way that observes and respects your rights and freedom as a human being. These human rights and fundamental freedoms are not merely mentioned like that, the whole of chapter five of the Constitution now deals with them. Chapter five of the Constitution before you enumerate and it is the most comprehensive chapter of the Constitution better than any Constitution in the world now in enumerating the human rights and fundamental freedoms which Kenyans are going to enjoy, which is going to be respected for them according to the Constitution. That chapter, because this thing is announced very high up in the Constitution as one of part of our Republican ideals, let's focus on it because everything else will fall on that as you'll see. There is the three types of human rights and fundamental freedoms which you have, several are political rights, your right as a person to exist, to live in peace, the right to court, the right to form political parties, the right to do all these things.

And the freedom from discrimination, the freedom from torture and all those. Then there are the so-called social and economic rights and these are mentioned in the Constitution. They range from the right to health, education, housing, food, water, sanitation and environment. How the government is going to give effect to these rights will be now the responsibility for the government you are creating under this Constitution. How the government is going to give effect to the other normal well right to vote is also being done under this Constitution and it will be the responsibility for the Kenyans to supervise how they are to be given and effect.

The right to life under which in accordance to the new Constitution, the death penalty is now abolished. Freedom for movement, freedom to hold elections, freedom to participate in trade unions, freedom to have better labour relations all these are in the Constitution. The Constitution itself may not have the details because for example in the area of trade unions, there is a labor act which details how the workers are going to be protected. The Constitution can only talk about the basic ideas of having giving people under article 55 for example, everybody has the right of fair labor practice, every worker has a right to fair remuneration, reasonable working conditions, to form joint participate in activities and programmes of trade union, (inaudible) and all those, those are cited there. So you cannot say that the Constitution does not take into account the right of workers. The details of how to do it is in the Act itself, otherwise this Constitution would be so huge that only labor unions would use it. But there is recognition of this right in the Constitution, how to implement them is the next stage. I have thus given you an indication as to what Chapter 5 of the Constitution which Draft Constitution you have deals with namely your human rights and fundamental freedoms. I have come up on it again to give you some other details which are pertinent in that.

Now we also have Chapter 3, the National Goals and Values. You see again our Constitution wants us to have a clear idea as what we Kenyans must point to when we judge a performance of those who we have delegated the power to administer our country. About 18 national goals have been formulated. Let me just say 6 of them to give you an example of what these national goals are. One, the Republic shall take effective measures to eradicate all forms of corruption. That is the goal which is under the Constitution and if anybody questions, say I am asking you to desist in any activity that is corrupt because our Constitution demands so. Even if there is no law specifically saying so you can say the Constitution is supreme in the land and in it I find an expression the public must end all activities of corruption. Another one the Republic shall ensure access of the people to independent, impartial, competent institutions of justice. Another one, the Republic shall promote the role of civil society and even private sector for that matter in governance and facilitate its role in ensuring the accountability of the government. This is not the place to detail how various civil in societies are going to actively participate in the governance that belongs to another chapter. The government will pass a law of registration, recognition and functions of the civil societies but the Constitution says so, it says the public shall promote a role. Give them a chance to participate in the society, in governance and to play their role properly in the society. Another one, these are national goals and aspirations, another one, the Republic shall ensure the fullest participation of women, the disabled and the marginalized communities and sectors of society in the political, social and economic life of the country, the Constitution says so. How is the next stage and why would be your questions later on if it is not done. The Republic shall be committed to social justice and through appropriate policies and

measures to providing for all Kenyans the basic needs of food, shelter, clean water, sanitation, education, health, a clean environment and security so that they live in a life of dignity and comfort and can fulfill their potential. There you are. The Constitution requires these things to be done.

The last one, the Republic shall promote equitable development recognizing and enhancing the role of science and technologies, universities, anything despite this in development between regions of the country and certain society and manage natural resources fairly, efficiently, not for the government, not for foreign people but for the welfare of the people. Again the people are the key. This is a standard, are you doing this for the welfare of the people, are you doing this for the welfare of your friends. The Constitution now directs us as our national goal. But the Executive, the Legislature, the Judiciary they have to take into account the welfare of the people. The last one on this is the Republic shall recognize its responsibility to future generations of Kenya by pursuing policies for the sustainable management of the environment. Our forests must be protected, we must initiate sustainable policies of dealing with our resources in a way that permits us to use them to suite our needs without making it impossible for the future generations also to use them to suite their needs. This is the meaning of sustainable development. I will come back to this again when we talk about the chapter on the environment but just keep on your mind that our Constitution now compels our government to pursue the policy of sustainable development as a national goal.

I have left Chapter 3 now I am going to Chapter 4 of the Constitution that is on Citizenship. Again my idea is just to highlight the sign posts for you leaving you later on to get the text either in English or Kiswahili to read them. Here I would like to mention two things. The law is updated in such a way as to respond to certain deficiencies and gaps that Kenyans felt existed in our current law of citizenship which tended to discriminate against women in some forms and also other Kenyans. So the first thing one of the major difference between the old and the new Draft Constitution is that there is a suggestion for Kenyans to hold dual citizenship. You do not have to lose your Kenyan citizenship by virtue of acquiring other countries citizen if you are in a position where you have to do that. At the moment a Kenyan who is compelled to take on a new citizenship of other countries for reasons beyond their control are automatically required to give up their citizenship. We are suggesting that there are problems with that and perhaps we should experiment with allowing Kenyans to have dual citizenship. Again on this there are various ways of conferring citizenship. We also have now a possibility of acquiring citizenship through registration that is to say, a Kenyan woman married to a foreigner, that foreigner residing living here in Kenya can apply to be registered to be a citizen of Kenya. The most important thing to remember on this particular one is that that part of the Draft Bill also indicates that the government, the Parliament will pass a law which will contain the details on specifically how these rights will be extended and enjoyed. But now it actually means that my sister's husband from Sweden who has chosen to live here in Kenya has a right to apply to register to become a Kenyan citizen by virtue of marrying my sister and living in the country which never happened before. Think about those with a (inaudible) that the Parliament will pass the law to detail how these bills are going to be enjoyed.

The same as Chapter 5 back to it again, merely to indicate that it is so important to chapter that here in the Constitution there is



already established a machinery for enforcing it. It is called the Commission on Human Rights and Administrative Justice. That Commission is among the many Constitutional Commissions established under this Draft Commission and will be the forum where individual Kenyans who claim of violation of their rights have occurred can go for complains. There going to be a number of Commissioners those dealing with gender, those covering the disabled, those covering anything. This section also precedes also the people's protector, the Ombudsman concept. The person who will spear head and help in ensuring that respect for human rights and fundamental freedoms for Kenyans announced by our goals detailed in Chapter 5 is actually realized. The Bill of Right as it is called is the foundation of our Republic and that is actually even repeated again in Chapter 37 which says the Bill of Rights is the foundation stone of Kenya's democratic state and is a frame work for the adoption of social, economic and cultural practices. I recommend it to you to read in details so that you become familiar with specific rights enumerated in this chapter which are yours, your rights. In fact one of the requirements of this Constitution is that all of us should know it, should know what it contains because we are in a democracy and democracy thrives only when people know their rights and they ask that their rights be given to them. If they do not know their rights, somebody else will try to exercise it for them and that becomes a dictator. We create them ourselves by not ourselves going out to seek and to search our rights. All the movies of why we need to have education. When we say we need primary education for people to at least know how to read and write and understand and comprehend their rights. This is part of democracy it is not mere cliché. It goes to the ability of the individual society to be able to comprehend what is available for them, so that they can ask. Then they can seek the enforcement, if they do not surrender later. One of the reasons for getting education is not because you get a degree, you get a good life, is that just want to be familiar with what is happening around you. The AIDS scourge campaign, the education. We have to struggle with it to reach those who can be staring at in the television or in the (inaudible), who can listen to the radio, who can watch the TV. How about those who can neither read nor write? We try to act to put drama to find ways of reaching them it would be a bit better by finding ways, we may be sure that our people have the right to education and so that communication would be easier so that their rights could be respected. The Bill of Rights is the foundation of our Republic I said. That is in the Draft Constitution, Chapter 5.

Chapter 6, Representation of the People through a streamlined electoral system. Here we have electoral system and process reach in the new Constitution Electoral Review take things to consider. There will be a new Electoral Commission established under this Constitution which will be responsible and have a streamlined function. It will be the Commission that will register political parties. They will no longer go to the AG Chambers and register as societies. Political parties will now have a code to follow because the functions of political parties are around. Every Kenyan still has the right to form a political party but those political parties must be registered by the Electoral Commission. The Constitution provides criteria for registration and criteria for re-registration. If you fail to follow the code. We are envisaging in this system a funding an a political parties fund so that a certain amount of the budget will be set aside to fund political parties. Now don't you think that you and I are going to go and form a political party and just get funded every year? No. If the constitution catches up with you, because it gives Electoral Commission the power to examine your returns every year and if it finds that in the last two elections, your party never even scored one percent of the votes, whom are you representing? Are not a (inaudible) supposed to represent

the people. Who are you representing with your political party? You get de-registered right away. We only have those bona fide political parties that are exercising.....(*sentence incomplete*)

### ***End of Side A – Tape 1***

**Com. Adede:** .....a new Electoral Commission could be followed funding. This is where the Constitution becomes famously gender sensitive and gender conscious. One of the ways by which political parties may even get better funded is to show that they are encouraging women to be their members and to help them to be elected to all levels of governance which we have been discussing. So it is an inducement and their parties are also encouraged that a party is a (inaudible) the leadership there must go to women. If you read Article 76 and 78 you will get all these information later on but I also want you come out with this few minutes to know that political party and the system is now new. Voting itself must be simple and clear. We will have transparent ballot boxes. Votes will be counted and the results announced at the polling stations. No more transportation from point A to point B for counting because we know what has actually happened since 63. So all those things have now been taken out and new standards for voting. Simple and clear, ballot box transparent. Voting counted and announced at the polling station. The other details about the election system and process you will get when you read later on but those are the sign posts I want you to remember. If this turns out to be the final Constitution but as drafted that is the recommendation.

Chapter 7, the Legislature. What kind of system of government do we want? The Commissioners went round the whole country heard views. We are used to the unitary form of government which we have at the moment but the system suggested here is a Parliamentary system as opposed to Presidential system. A Parliamentary system in that we have a Parliament of two houses. An upper house called the National Council and the lower house called the National Assembly. That is the Parliament.

The President is no longer part of the Parliament because I will now disgress famously to tell you the difference. In the current system the President is not a Member of Parliament, he is not representing a particular constituency, he represents the whole country and he is elected directly by the people. He will choose a running mate called a Vice President and the whole country will vote for a person called President. He will not represent a particular constituency. Our present President is a Member of Baringo Central. I remember as a government officer years ago Martin Shikukuu refused to stand up when President Kenyatta entered the Parliament on the budget day and Kibaki was reading the budget. His arguement was that, I did not see why people should be so excited when member for Gatundu enters the house. Because on that occasion President Kenyatta was attending the Parliament to listen to the budget as a Member for Gatundu not as a President because the ministers (inaudible). So we are suggesting, the Draft Constitution suggests a President who is elected directly by the people with a running mate and does not represent a constituency and therefore not a Member of Parliament. This President is just ceremonial let me tell you. Of course he has the right to open all sessions of the Parliament which is ceremonial but look at what else he does. He is a symbol of unity of the whole country. He has the right to propose a piece of legislation to present to the

Parliament for enactment. But when he gets a piece of legislation already enacted for the Parliament on his table, he looks at it, the Constitution says, he may have a question on it he may doubt its constitutionality. He sends it to a supreme court, look at this first, I am not going to sign it. He has the power to refer that piece of legislation draft legislation to the Supreme Court of Kenya for examining to determine its constitutionality or he may look at it and say, I do not like it. I am returning it to the Parliament for re-consideration and they must re-consider or he signs it. Who says he is ceremonial? He makes all the appointments. He will be appointing the Prime Minister in a few minutes while sitting here as I come to that section. He appoints the Prime Minister from a person who leads the party with the majority votes in election, he makes an appointment. The only catch is that the Constitution now requires that such appointments have to be vetted by the Parliament, subject to approval by the National Assembly but he makes the appointment and puts the demand that to respond to the undiluted power of appointing and dismissing at will, he will have power to appoint if his suggestion is correct and should be, the assembly will confirm. Our (inaudible) idea of Kenya now is to make sure that whoever is appointed to high office of responsibility to be one worthy of sitting there. And we do it by giving the President the privilege of looking around and choosing an appointee, lets say, lets give it to the wananchi to look at in Parliament, if they say yes, that is okay. Questions at the end. Power of the President, not only Prime Ministers, Ambassadors, High Commissioners who represent us abroad appointed by the President vetted by the National Assembly. The Auditor General the director of the budget all these. There are also other appointments which are vetted by the upper house like appointment of the Chief Justice (inaudible) of Kenya with created a few minutes. That appointment is made by the President but it is confirmed by the upper house. I just pointed out at you the power of the President and to show you that in this system, B above there he is required to address the country every year to tell us how this goes and aspirations we have (inaudible) are being fulfilled. And for that reason the Prime Minister is required to keep him fully briefed of what is happening in the government because the day to day running of the government will be done by this guy called the Prime Minister whom I am delaying the discussion about but you will hear about it. So the Prime Minister will have to inform the President, make him aware. He could be a member of a political party or not and an independent person can run all presidency or parliamentary seat in Kenya under this Constitution in the case of Presidency so long as he has one thousand signatures of supporters, ten of which must come from each of the provinces. Then the candidature for the Presidency is open and independent. They can serve only for two terms of five years each. He must be thirty-five years of age at least but not more than seventy. He is required to have a degree from a recognized university.

Now the Prime Minister. The day to day running of our government under the Constitution is to be by the Prime Minister appointed by the President from the leader of the majority party at a particular election. There are two Deputy Prime Ministers appointed by the President and the Prime Minister but all of them subject to the approval of the National Assembly. This Prime Minister is supposed to work with a cabinet. A cabinet of not more than 15, that is okay and assistant ministers. The radical thing about the proposal is that the Prime Minister will appoint its members of cabinet from people who are not members of the Parliament. Appointed them from outside, professionals to run the ministries, to help the Prime Minister run the specific ministries of the government. The ideal situation to have a minister for environment who understands about the value of forests for example, who because of his profession knows that this is a commodity that has been dealt with in a certain way. Forests as

a source of wood from which some of us get firewood to cook the next meal. Forests as a source of wood where we get timber to build our houses and benches to sit on. Source of energy, source of commodity for trade. Forest as a place for recreation. Forest as a home of our age by diversity, medicine, plants from which we get all these medicines and for which we are known. Forest importance of the carbon cycle as a carbon sink, nitrogen cycle that controls the rain (inaudible) drought and all that. So these multiple uses of forest for example must be weighed and policies be initiated which would enable our government to follow the aspiration (inaudible) of sustainable development. And the idea is that if we have a ministry and a minister, a professional who understands these things is most likely to ensure that these are translated into action. The idea of having professionals from outside heading ministries to help the Prime Minister to run the day to day work of the government. And the Prime Minister constantly informing the President of the affairs. This is a radical departure.

Complains that Parliamentarians once elected disappear. Some of them are too busy to take care of their Constituency issues because they are Ministers they are flying out, they come back again at a following election or at harambee. Or they do a little nothing. Now there is a procedure under which constituencies can recall their non-performing Members of Parliament. No more identifying the building in Nairobi called Parliament, you walk in you walk out and at the end of the month you earn your salary. You go in you come out, you have to participate in legislation. We are freed because we know parliamentarians will be exclusively concerning themselves with the work of legislation. Know your constituency, know what they want you to do and go up there debate and legislate. Leave the day to day running of the ministries to run the government to be done by professionals with the assistance of the Prime Minister who will be accountable and reporting to you in the Parliament as a member in the proceedings. This is a suggestion.

The Prime Minister can be dismissed when a vote of no confidence is moved in the house. If that vote succeeds, he resigns immediately there is no if or but about it. But the government does not fall immediately. That President of ours has another power. He has to look around and see if he can find somebody else who could form the government in the absence of this particular Prime Minister on whom vote of no confidence has been served. If in twenty-one days he fails to find somebody to replace the outgoing Prime Minister, then and only then will the house be dissolved. So the President has the power also to find a replacement for the Prime Minister in the case of...the President can also dismiss a minister who has suffered a vote of no confidence in the house. We now have each procedure by which we seek to ensure that those to whom we are transferring powers to serve us, not to rule us but to serve us and perform those functions properly.

Now the upper house, the Parliament called the National Council shall be made up of one hundred representatives. People who are mature, a little older than thirty-five and above. The age of becoming a member of the upper house is higher than the age of those who are going to the lower house. The upper house is going to be made up of mature people who will help us to run the country to help in the process of legislation. They represent districts equally. Of the one hundred, thirty are reserved for women. A house of seventy of which thirty shall be women. The women will be elected through a provision mechanism. Each of the several provinces will produce four women. Nairobi will produce two, making twenty plus seventy. But other women

who are capable of just going through an election can also practice it. We may have a house of more than thirty women. That is the upper house and it is the one constituted to allow representation of districts equally. It will be the one vetting the appointment of the Chief Justice and a few others. The National Council shall approve the Judicial Commission, Ethics and Integrity Commission, National Land Commission, National Environmental Management Commission, Teachers Service Commission, Salaries and Remuneration Commission, Constitutional Commission, Commission of Human Rights and Chief Justice, Attorney General, Director of Public Prosecution, Public Defender, Police Commissioner and the Judges and the Chief Kadhi. These appointments will be vetted, will be approved by the National Council. Appointments to be approved by the National Assembly are The Prime Minister, Deputy Prime Minister, Minister, Deputy Ministers, Permanent Secretaries, Ambassadors or High Commissioners, Electoral Commission, Controller of the Budget, Director of Central Bureau of Statistics and the Governor of the Central Bank of Kenya. The Constitution has already decided which appointments should be vetted by which house. Now you know the upper house, the council of a hundred, National Council is made up of seventy plus thirty.

The lower house of three hundred will be elected on the single constituency system which we have now, the first past the post. Two hundred and ten will be elected that way. We have an additional ninety, ninety members of the lower house of the National Assembly to be elected through a system called mixed proportional representation where the principle parties will be required to produce their list ranking their candidates for election in order of preference. If for example KANU is required to produce six that rank the list of the six they want to be, or ten if they put it to be voted on. Ranking them according to their persons. But what is intriguing is that in ranking this party list, they are supposed to alternate man, woman, man, woman. So that the list if four are taken it will be two women and two men. That is how the ninety are going to be elected. There is nothing in the Constitution talking about nomination, it is not nomination but it is a party list that contains lists of persons that a particular party is presenting for elections and they are ranked according to preference and alternating man, woman, man, woman. And that is how the ninety are going to be elected so that we have a house of three hundred, 210 plus 90.

The system of two houses is supposed to help us also to make sure that our legislations are not done too much in a hurry. The lower house we have a version of the bill, the upper house may have its own version of the bill on particular issues. But then if that happens the Constitution requires that they meet and confer to see if they can have one version of a particular bill. But each house will do its responsibility of taking part in the legislative process. That is the Parliamentary system as opposed to a Presidential system. The day to day running of the government is by the Prime Minister with his cabinet. The Prime Minister can be dismissed through a no vote of confidence.

Other things have now been cleaned. We now know that the Parliament will stand adjourned every 30<sup>th</sup> of November each year, prorogued and resumes every 1<sup>st</sup> Tuesday of February the following year. That is the suggestions that have been tabled. We now know that after first five years and the elections are being held, either to elect the President or the Parliament, though the election will take place on the 2<sup>nd</sup> Tuesday of October when they occur, a date has been assigned. No longer holding meetings, elections on Sundays or Saturdays or Friday at noon which make it difficult for other people to (inaudible) It

has now been put in the Constitution that whenever those elections takes place, when they are due they will be held on the 2<sup>nd</sup> Tuesday of October on the year before. That is enough for the system of government for the purpose of the highlights. Keep your questions, I will take them at the end. That is the Legislature. The Executive I have already explained in the context by juxtaposing them and lets not redo it in isolation. You now know what the Executive branch is headed by the President who will have close contact with the Prime Minister, who will run day to day working with the government, the Prime Minister with his Deputy Prime Minister with his cabinet with his permanent secretary with his civil service appointed and vetted by the Public Service Commission which is established under the Constitution. The rest of the details you can look at Chapter 8 which is the Executive. There we have appoints of President, his speech functions, his legitive functions, his decisions, (inaudible) of his rights, qualification as I have told about, all that.

Lets go to the Judiciary Chapter 9, the third branch of the government. We have the Legislature, the Executive now the Judiciary the third branch of the government to whom we have referred to Chapter 9. There again we are saying that the Judicial power is derived from us the people and shall be exercised by the court in our name and with conformity with this Constitution and with conformity with the values, norms and aspirations. We have new instuations created here for example, there will now be, it does not exist now a Supreme Court of Kenya. So we will have the Courts of Records will have the Lower Courts, the High Court of Kenya, the Court of Appeals and the Supreme Court. We also retain the Kadhi's Court. District Kadhi Courts, Provincial Kadhi Court and Kadhi's Court of Appeals. The appointment of Judges will be made by the President upon the recommendation of the Judicial Committee. There is a committee established for that purpose and this is a committee probably constituted that will set the qualification and the merits of individual Kenyans who want to be appointed as Judges to seat on the bench to ensure that the laws of the country are properly applied and interpreted throughout the country without fear, without favor. Because access to impartial and proper justice is part of a human right as read before. Get the chance to make sure that whoever is going to do it for us is also suited for the post through appointment, procedure, vetting through the commission and Chief Justice being vetted by the upper house, we will have probably a better constituted Judiciary.

This brings me to the burning issues of today because as the Commission went round the country, there was a general feeling that all this things we are now talking about, this right we want to establish, the new arrangement of a government will come to nought if left in the hands of those people who the people in Kenya thought were not competent to occupy that place as judges. And that perhaps efforts be made to address this thing. There was a rumor that because of that reason the Commission was suggesting the wholesale sacking of the current Judges when the Constitution enters into force. This is what made the Judges also angry saying that the Commission drafting the Constitution don't like them. In response to the views of the people, this Draft Constitution has a transitional provision which addresses this issue. And that is it is not wholesale sacking of judges ...*(sentence incomplete)*

**Tape 2 – Side A**

**Com. Adede:** When this Constitution enters into force any of the Judges may elect to retire at the age of fifty-five. Because we have young and old in the current bench about whom wananchi have spoken, and I have suggested that some of them were appointed there for reasons other than for what they are supposed to do. Not qualified they claim retire at fifty-five. If you elect to do so if a Judge elects to do so, the terminal benefits, remunerations will be based on five additional years as a package. You retire with your benefit but tabulated with an extra five years of service so you get higher package than you quietly leave. That is one option.

The second option is that you are entitled to stay but the law now requires that all Judges must retire at sixty-five not seventy-four. Currently they can serve up to seventy-four. Now the new law says that they can only serve up to sixty-five. The current law also gives option of early retirement. A Judge may retire at sixty but shall retire at sixty-five so put that aside.

Go back to the option of the interim arrangement. Those who choose not to leave and get the five years bonus and would like to stay will be made subject to the new leadership code. They have to declare their wealth, they have to show all kinds of things as required by the code and any of them who is found to have any cases of mis-conduct, corruption what have you pending as listed in either the AG's Chambers, Law Society, Advocates Committee and they are plenty. Those will be investigated. At the end if the investigation is found to be substantiated then they will have to go, this time without the additional package. If you think you have no skeleton in you closet stay, and retire at the age of sixty-five; but if you think that a lawyer had a brought a case before you and before you were tried you were appointed a judge and the case was quashed, and you think that must be unearthed, pick up and go. This is the solution suggested in our current draft and for that reason an interim judicial committee is established just to make sure that this thing is done properly.

These are the things that made certain judges and certain lawyers to take the Commission to court, saying that they were anti the court and that they were trying to destroy the profession for the lawyers because if you exclude the Judges where would they practice said the lawyers. And the Judges themselves brought the case because they thought the Commission was being unfair to them by reducing their service from seventy-four to sixty-five and getting through all these procedures. Today is a big day, as you know. Lawyers are supposed to have a boycott the court proceeding on the 9<sup>th</sup>, there is maybe a case decision on us the Commissioners, because they accuse over contempt of court of continuing to do what we are going now while they told us not to do so. But we were established by an act of Parliament and wananchi wants us to help them take part in the Constitutional making process which we have started, which is why you are here. That is why you are interested listening here attentively otherwise we would do other things if you were not concerned. So this is the Judiciary, a Supreme Court to which the President will refer questions of constitutionality of a particular bill. The Supreme Court to which to refer specific cases that are written in this Constitution and it will also be in essence the final Court of Appeal. You can start your case all the way to the Supreme Court to get your satisfaction. The election system, the qualification are written there in the hope that the crop which will attract to form the bench will be fully qualified Kenyans who will be able to deliver justice to our people. That is the essence of Chapter 9, the Judiciary.

Chapter 10 is Devolution of Power. As I mentioned to you one of the suggestions that the Commissioners had during their collection of views was that Kenyan citizens wanted to discuss and decide issues that touch upon their lives themselves locally as far as possible. You may think of a Majimbo but the Commission has a procedure called devolution of power with its principles. The principles and objectives of devolutions are, I will read maybe four out of eight.

Give power of self-governance to the people at all levels and enhance the participation of people and communities in the exercise of the powers of the state.

Strengthen national unity by recognizing diversity in ways that promote the sense of citizens that they belong to Kenya and share in its government.

Ensure equitable sharing of national and local resources throughout Kenya with special provisions for marginalized areas.

Facilitate the decentralization of central government powers and the location of central government institutions and departments away from the capital territory to ensure equitable distribution of resources in all provinces.

Provide essential services to the people effectively and economically, protect and promote the interests and rights of minorities and disadvantaged groups, and finally facilitate cooperation between national and development authorities.

The national and devolved government shall ensure the participation of communities in decisions relating to the exploration of natural resources in their areas and the preservation of the environment.

These are some of the principles that govern the desire of devolution of power from the central government to the local people. In this the system is based on district councils as the center of the level of devolution of power coordinated by the provincial administration and then spread all the way through to the village and the location. All this devolution will rely on people's representation into various councils from location councils, to village councils, to district councils to provincial councils all done through elections. No more appointments of civil servants from the headquarters. The idea was to put aside government by civil servants. Government by people elected by people. The district is made the focal point because of the experience we have that in our present system these are the people who have the closest contact with the people.

The knowledge of the fact that there are areas in which people who would want to discuss their affairs cannot do it either in English or in Kiswahili but of necessity may have to speak the language they understand, the Constitution talks about English and Kiswahili being the national language, official language. Swahili being the national one but encourages the use of indigenous languages in this system. Where there will be a possibility of a particular location or village to discuss an issue in a language they will understand there is nothing wrong with that provided the report which they produce is later produced in one of the official languages of the country.

Read once again the goals and the principles of devolution and the fact that every stage of the government either national is elected, provincial is elected, district all the way down. Call it what you may but Chapter 10 tries to put down procedures



under which the people at the village can decide, discuss about that road, about that school, about that health center for example, and how the money to run it will be budgeted, and how the people helping to run it will be elected and so on and so forth.

As you say as you saw that the attempt is also to make sure that the Central Government has a hand in seeing that those people for the time being to whom the power is going to be devolved down the line do perform their work properly. They may send their representatives just to see they have offices in those areas to make sure that there is supervision of the work of the country while the people exercising their power devolved to them.

So this was the short answer a short way instead of talking about Majimbo we don't have to talk about Federalism we are talking a system under which power is devolved from the central government to the local government through devolution of powers as described in details in Chapter 10.

The Constitution even helps us out by having in the schedule a list of the powers and functions. What would be the powers and functions of the provincial government? What are the powers and functions of the district government? And which powers do they share if at all? And what happens if there is a conflict between this power? This is an attempt that is given there for you to look at and to see if it meets your approval in your request of taking part at the local level on issues that touch upon your lives. It is here that a statement is made that the provincial administration in the way that we know it is abolished. Just like in the right to life it says the death penalty is hereby abolished. This is not to suggest that when this is done there will be a vacuum. There is Chapter 10 that suggests how power is to devolved by this councils.

Again in the transitional arrangements, the provision is made that anybody who will be holding a post in the existing provincial administration as we know it will report to the civil service commission for re-deployment and the procedure is set in motion. Those who are near retirement whose terms have to be dealt with in that way there will be machinery for doing that. Those who are still fit able and willing to continue the work will be absorbed until such time that the Constitution takes on itself by using elected members of the councils.

You may not know but you know in our history, at the very beginning we had two houses, the senate and the lower house. When we woke up and abolished the senate, there came a question what do we do with the senators? They were not thrown out in the wind, a way was found out. Does any of you remember? We created constituencies, we absorbed them and they just became sitting members of the Parliament. Certain we are not in the mood of throwing out our citizens if we are changing the system, there will be a way to smooth and to make the transition human. Because all you are preaching here is also our rights as human beings. Our Constitution that establishes this must be the first one to make sure that human rights are not violated. Hence those in the provincial administration currently who have read that position need not be afraid of losing jobs. I know some of them are concerned not because they are going to lose their jobs, but because they would like like all of us to

fully participate in the process of making this Constitution. To help us with the way in which we can make, we can bring this power to the people who are there in the village areas. Who are also being listened to, to wananchi. Do they have the unique groups or elders with different names we don't even know to whom they listen to even more than the DO or the PC, how can we tap on this? How can we ensure that certain issues that are of tribal, cultural nature can be settled at that level with the people whose functions, whose authority can be recognized. This are the things we are looking at and we are giving it to you to take a look at it also; to make sure that what we are trying to suggest makes sense in our effort to devolve the power to you.

Land, Chapter 11. Our present Draft Constitution wants all of us to realize that land being Kenya's primary source and the basis of livelihood for people, shall be held and used and managed in a manner which is equitable, efficient productive and sustainable. We are now suggesting a system under which there shall be established a national land commission with new powers, new functions streamlined. This land commission is the one that is going to hold all public lands in trust for the wananchi. Unlike the present situation land is now divided into three types. There is Public Land which is appropriately defined in the Constitution, there is Private Land as we know it already defined in the Constitution but now there is Community Land a new recognition of system of land ownership which was not included in our previous law. All land in Kenya belongs to all people of Kenya collectively as communities and as individuals. This is the Public Land, Private Land and Community Land and they are described quite in details in the Constitution itself.

A non-Kenyan citizen who may somewhere in the vaults have leasehold more than 99 years is advised to bring it for correction.

They will only have leasehold up to 99 years non-citizens. I understand there are some of them who have lease running up to 999 three nines, right. The present Constitution says that non-citizens can only hold leaseholds which are not larger than 99 years. It is something which may be going on already but it is more powerful now that the Constitution itself says it. Because of the issues associated with land being the most important commodity of Kenyan's here, there were views during the collection of views of wananchi of what to do with certain land which wananchi thought changed hands in dubious fashions. Lands that were grabbed and so on. We have suggested a transitional measure which will put in place a land commission to deal with this. And the issue will come up on various ways. If you look at your Bill of Right Chapter 5, the right to own, possess land, to dispose it is a human right. Anybody violating that right will be subject to proceedings brought by you. So other people will have a chance of pursuing their land rights through procedures that are available on that, and also the cleaning up process that will be undertaken by the land commission established by the Constitution whose membership will be appointed by the President, vetted by the assembly. This land commission will take into account all the do's and don'ts that our Kenyan nationals have already tabulated and voiced on this important question of land ownership.

There is not much one can say about it at the moment until you see how the new land law and the functions of the commissioner of land are going to address the issue chapter – Chapter 11 of the new constitution is devoted to land. The description of all types of lands are here, the tenure system is there, the national land commission is established and we hope a system should work for the reasons I am going to explain in a minute and that is; we are looking forward to the occasion of having our own

people adopting a culture of serving us, so that when you are appointed to the land commission to deal with these little problems, we ask you to do your best to assist Kenyans in discharging your responsibility without favour. That's all we can ask as human institution and we all we can ask for human beings is to act accordingly. No amount of writing constitution will help anything if our people still have the old idea of just doing things for their own selfish gains.

This question of vetting, debating and qualification and ensuring that the person being appointed to sit in this committee is really worthy of sitting this committee is supposed to help us. So, once you get there, please don't disappoint us by turning into somebody else. If you do, of course you will be kicked out. But every human institution, that is going to happen. The land commission is going to be a very powerful commission – this is a very important issue which as you see the constitution says- it is the well being of Kenya depends on it and you know it and big issues surround it; and there is no way we can deal with it except as human beings by putting together machinery which we think may not be perfect but we think can deal with it.

Environment; chapter 12: Two things to be said about this are enough. Kenya would like to pursue a policy of sustainable development. The national environmental management authority, an institution is now entrenched in the constitution to make sure that our environment is protected. The constitution now provides for the proper application of environmental impact assessment; a procedure which is essential for every development project that relates to the development of natural resources. There must be an environment impact assessment made as a tool that must be given its rightful role to play. Most of you are aware of the Thiamine mining question in Mombasa. You know what citizens are talking about, you hear what a company is talking about, what the government is talking and you find that the environmental impact assessments were made by experts from outside and so forth.

It should not be something that is haphazardly done and put aside. The constitution now requires that the reason for which this concept of environmental impact assessment was invented must be made to work. It is an issue for which we have international standards suggesting how they are supposed to be done and when it comes to those international standards, we are now saying that our president should be responsible to make sure that the obligations that Kenya has assumed through such international standards should be respected. Therefore, proper application of environmental impact assessment to have the people affected to get their rightful say reject or accept a particular activity being carried out in their land, near them, taken with their land, compensation and all that must all diffuse. Because in other areas where it is practiced even if the government in its wisdom has decided that we suffer from lack of power, we would like to supplement our hydropower by building a nuclear plant to produce power to warm us and to give us light. The location of that nuclear power in a particular area must be subject to a very serious environmental impact assessment. The people in that location may reject and say 'okay, not here, not in our backyard, not on our land, however much you want to pay us we don't want it'. Recently, people in Mexico, the government wanted to build an international airport near their land taking their land and paying them money for compensation. They went and massed and carried their pangas and hoes, not to kill anybody, but to show that that is our land, this is the panga I use to cut the grass and this is the hoe I use for digging and that is where I live. I like it like that. I don't want to become a baggage handler because

you are telling me that when the airport comes here we will be employed. I don't want to be a latrine clean. I just want to keep my land, use it and live in it because if I want to (inaudible) that is going to cause displacement of the people – an example.

So, when our constitution now also says that there ought to be serious implications for development and that in the area of environment, they should be done that is the standard and let's be serious about it and this is why we want experts, professionals to run these ministries who will bring to bear such considerations, who will know that apart from our own national experience, they are experienced elsewhere and that since I am looking at the national cake as a whole, I am not a minister coming from Nthiwa for example, and that all I do is to bring things to that area, I am relieved and I can think nationally as a professional and help the Prime Minister run the government efficiently for the welfare of the people of Kenya not only for the welfare of the constituency.

Public finance; chapter 13: Again on these new areas, the constitution follows a very delightful way in that it sets out the principles that govern the public finance, and there they are set out for you. The first one; the primary objective of the public finance and revenue management system of the country is to: one; Ensure efficient and effective generation of revenue for the purposes of promoting and safeguarding the well-being of the people of Kenya. Again the people of Kenya are supreme. There is enough evidence here my friends to indicate that a new culture is being encouraged; a culture that looks to the people – the well-being of the people as the standard of review. Is what I'm doing for the well being of the people or for the well being of myself and my pocket and my bank account?

So, all the procedures of imposition of tax through various funds and how to disperse them, how to discharge them are all now done here in the new constitution, establishing the Central Bank of Kenya and dividing auditor general's work from the director of the budget. Those two offices are now separated in the new constitution. Control of the budget and the auditor general are not combined in one office as usual and this is an attempt to improve on the way our money or finances can be managed in the new constitution.

Public service; Chapter 14: Values and principles in administration generally, we have suggested a number of things that people who are being appointed to public service should know about. You can read them later on, but I take this opportunity to bring to your attention something very interesting on the public service. Since we are emphasizing service to the people as a new culture, we have now tried even to make the police service to come not under the security arm of the government but on the public service sector of the government. There is hereby established not Kenya Police Force, but Kenya Police Services with emphasis to Utumishi Kwa Wote; so that we create the conditions under which a police person is somebody you can go to, to ask direction when you are lost or to tell you the best way to get to Nyahururu from where you are. And not somebody to run away from because you think all they do is arrest people because they consider you as all wrong doers. All corrective services are now part of the chapter on public service. We are emphasizing service to the people. If you read the chapter you will find a heavy dose on service with appropriate connections with security aspect of it.

So, our public service system which should be run by the Public Service Commission that will lay down the rules and the parliamentary action will be based on emphasis on service to the people. We think that once we have that culture with your people in mind, then you will definitely less and less be thinking of your own personal advancement, corruption, ineptness, failure but the system is now put in place to weed out those who do not subscribe to the code of conduct put in the constitution.

For that reason this is the time to tell you that Kenyan new constitution has a new code of conduct to which all people in the public appointed offices will have to subscribe. A schedule has the details of what it is that we have come to. The constitution has a chapter announcing it, and there is the leadership code supervised by ethic and integrity commission which will be established under the constitution so that things which are dubious could be quickly examined and those involved brought to book hopefully, if the system works.

Defense and National Council: Again these are things we are familiar with and I mentioned to you our defense council is made up of a team headed by the president as the Commander in Chief of Armed Forces. There is establishment of National Security Council and its functions are outlined, defense forces enumerated and commanding officers designated.

In Chapter 17, we give you a list of a lot of constitutional commissions that are established to deal with key issues. There will be special constitutional commissions, there will be a Commission on Human Rights and Admissive Justice, there will be Ethics and Integrity Commission, Salaries and Remuneration Commission, Teachers Service Commission, Constitutional Commission and other constitutional offices. These are described in the constitution and the new functions to help running the constitution are explained.

Then we have the chapter that tells us how we can amend this text once it has been adopted by us through a process which we are going through, we have the National Convention and after the final one and that of parliament. Then there is a chapter on transitional and consequential provisions addressing issues identified about the judges, about land, about the appointments to new councils, fate of the provincial administration and so on and so forth. There you have it. a draft constitution of Kenya as suggested by the Commission. This draft is going through a similar treatment everywhere in the country for a whole month. On the 28<sup>th</sup> of this month there will be the National Constitutional Conference to which delegations have been delegated are being gazetted where you Kenyans will now give your views on this draft.

It is subject to fine-tuning, it is subject to discussion among yourselves, it will be available in already English and I said Swahili later so that discussions on specific aspects of it can continue to be done by Kenyans. This is the work of the Commission, the Commissioners divided themselves into various thematic groups, did the draft, brought back the plenary, adopted and it is our product. No constitution can be written in a vacuum and we are not doing it for the first time and we are not the first country with a Prime Minister, we are not (inaudible) the president. So, we look at a large way of history. We can copy when we

want, we can reject and we can improve. So, all the difficulties that we have seen in others which are similar we have taken to account. Ours is ours; we don't have a pure ceremonial president, pure and simple as others do, our Prime Minister is also different in that he is subject to dismissal by the president...*(sentence incomplete)*

## **End of Side A – Tape 2**

...they be having be a member (inaudible) these are the true lives of modern society. We are trying this one and I am commending it to you to take a look and be ready to express your views through your delegation at the annual conference and take a decision as Kenyans as to what kind of Constitution you want. I do thank you immensely for listening, I will take questions which are on the level of clarification if need be, because this was an attempt to at least have everybody have a rough idea of what is contained in the Constitution before you read it quietly later. It is not the time to tell me that paragraph G should read like this, or I think paragraph F is the same as paragraph C or article 3 is wrong. This is not the time to do so, it is to introduce you to the text with those explanation to give you a chance to now, ponder them and be ready to make a contribution as the process continues. Remember in the end the preamble will say that we took part in the drafting it. Make your voice known but read it first. I thank you.

**John Kirui:** I would like you to clap very nicely one nice clap. Mpigie kofi moja mzuri sana. Asante. Asante sana Bwana Commissioner. You have taken us through this big document and as you said, let us have some few issues arising from the Constitution. He has also said it is not possible to incorporate everything in the Constitution; then it means you will have bulk of books. For your information, the Draft Constitution has got almost six thousand pages. Six thousand in four volumes, so you can imagine most of your points are still maybe in that big big book. This is a summary and this is your summary ya watu wa Molo. And when Commissioner was talking, I managed to go through it and what is inside the Draft Constitution seem to carry your opinion. We leave one copy with your Chairman. We will also try to have the copies in my office, and if you want one, come and photocopy it is only about fifteen, twenty pages. So it is about forty, fifty pages and you will have your copy. Before calling on the questions, let me introduce one of our delegates to National Conference. Councillor was elected the other day among the other two people who are not here and will be in Nairobi during that National Conference. Your sitting here is to have an overview of what Molo people are doing and tomorrow in Subukia the same, and in other constituencies so that by the time you are seated in Nairobi, you have an overview what these people are. You are going to represent Nakuru as a whole. Yesterday I saw you in town very briefly but I would like you to be with us throughout the course to be able to understand what the views of these people are. You are most welcome and you are congratulating him also. Mpigie yeye kofi moja. So all this is going to National make sure is also your Councillor isn't it?

**Councillor:** I belong to Njoro.

**John Kirui:** Njoro thank you. You will have an opportunity, I will also give you a copy. Now let me welcome some remarks

and based with that whoever puts up his hand, maybe the first four. So remember your number. Ya four ndio ya mwisho halafu tukimaliza hio nne nitaita. Na tell very briefly (inaudible)

**Muigai:** I am glad that the speaker here has done a good job. I am Muigai from Molo however to maybe ask if there is a provision in the Draft Constitution concerning what measures will be taken over the past messes that have been done by maybe the government in the provision because once a crime has been done, people are usually very anxious to see to it that judgement has been given yet (inaudible) criminal has the Draft Constitution that provision? Thank you.

**John Kirui:** Number two, come. Sema jina yako kwanza.

**Ruth Wanjiru:** Thank you the Commissioner, everybody who is here. I am glad that in the end we are going to have a Constitution which will belong to us. I am very happy. You mentioned about citizenship and I am happy because now in the end women....My name is Ruth Wanjiru from Njoro in Molo Constituency. So I am happy about the new Constitution and I appreciate what is in the new Constitution because it belongs to us. I was happy to learn that most of what we presented, our views have been incorporated in the new Constitution and for sure we are going to have a very good Constitution. Now about the citizenship, we have been having this problem of the passport. When we talk of the freedom of movement and the other important document like the ID, I don't know because I did not have a copy of the Draft whether the new Constitution has mentioned that it is a must of one with 18 years to have an ID, and also the passport because if there is that freedom of movement, one should not struggle so much to have a passport. Okay you also mentioned about the village, the power that will be with the people in the village. Sorry. On line of that human right will there be a court dealing with the human right? When one has been violated, when his or her rights have been violated, whether that one is established in the new Constitution. I am asking so many.

**John Kirui:** You do not ask so many because the other people may not have the chance, one.

**Ruth Wanjiru:** Okay, let me finish up with the most important. This is now where you said that women have been considered, have you included the affirmative action? You talked about appointment of 100 people and 30 of them to be women. I wonder if the new Constitution has mentioned the word affirmative action because it is stronger. So I reach there.

**Com. Adede:** Let me just take this two very quickly. The first question was whether all past crimes will be subject to any action or whether the Constitution contemplates that this be done. Yes indeed. We have a procedure under which there will be a leadership code to be followed and they're defined and people will be called upon to clear themselves when they retain the offices they hold in the transitional level. So they have defined here under this codes; Constitutional courts and all that, so it is taken care of in the Constitution. For the passport issues, the Constitution itself points the direction that this road goes to Njoro. We now tell you that this road goes to Njoro, follow it. You can take a matatu, you can go by bicycle, you can walk,

you can go with Pajero. Those are the details, how you do it is to be done later. Madam, the specifics of how to enjoy these rights whether the women will be required permissions for their husbands before they can have their passports, whether or not the age or the passport holder is same as the age for voting which is 18, these are going to be subject to Parliament making laws and at the end of this Constitution, there is a list of suggested legislation which the Parliament will have to undertake when the Constitution enters into force to go into give these things effect. There are those that even states how long, how soon since entering into force of the convention they should do it. Those without the time limit are compelled to be done within three years, so those details the Constitution now gives you a right not to be discriminated against for all those reasons. So those things will be done according to the Constitution. Thank you.

**John Kirui:** Number three, come.

**Samson Kosgey:** Bwana Commissioner, majina naitwa Samson Kosgey a civil servant.

**Com. Adede:** I left the most important question my dear, Affirmative Action. Article 109 of the Draft Convention says that one third of all members of both houses must be women. One third. It does not use your favorite term Affirmative Action but that is how it is stated, okay. Thank you.

**Samson Kosgey:** I had one question, a very important one. It is the system of governance which we have seen in the Constitution at the village level and the locational level there doesn't seem to be a provision for the representatives side of the divisions at that level. That is somebody like an Executive Assistant for the implementation of what has been discussed at the council at that level. The question was the difference between Katiba and Sheria, I do not seem to...

**Com. Adede:** The Chapter 10 on Devolution of Power. It is going to be very difficult for me to answer the question when you also ask them to (inaudible) Let them do it when I have answered your questions. The details of how devolution of power is going to be exercised are still being (inaudible) at. There is currently a taskforce which is actually working on this and we would like to here questions like you just pointed out that there seems to be lacking on the procedures of how the actual decisions at the local level are going to be implemented. I take that on board and I thank you. Sheria is law in English. Katiba is Constitution in English. Thank you. Now he wants to know the difference between the law and the Constitution, is that what you want. The Constitution is the supreme law of the land through which I have gone with you today and the one which we were given to us at Lancaster. It is the framework by which a country organizes its law. Specifically it is going to govern the conduct of people, companies, individuals, governments etc. So Katiba si sheria, sheria if I take you to court I charge you for theft is a law against theft, that is a law. But Constitution is the instrument that embodies the principles from which that law emerges. Okay, thank you.

**John Kirui:** Number four alikuwa nani? Kuja



**Rev. Fr. Joseph Thiong'o:** My name is Rev. Fr. Joseph Thiong'o. The issue of the citizen or the common man is the protection of their sweat the work they do to be protected by the government. So my question is in the new Constitution we have had of the Commission. In this Commission is there a provision to protect the products like milk, maize products of the farmers or such a commission that will govern the board, cereal boards and other boards. I would have wished to know which commission among the many commissions established by the Constitution that can govern. The next one is very short. Among the freedom, human freedom inherent human freedom there is the freedom of worship. Many at time it has been misused and the outcry among the many in our country there is a phenomena of many mushrooming sects, ministries that may end up misused. Is there any protection of that? And finally the issue of children. We have had that the new government would like to protect children. Is it by law or by the Constitution that the education of all children regardless of their families could be protected and free?

**Com. Adede:** Thank you. There is the Commission on Human Rights and Administration of justice established under the Constitution whose functions would deal with all issues leading with human rights and fundamental freedoms in the Bill of Rights which if you read you will see there are rights of the children, rights of women, the rights of disabled. The Constitution make a provision as to how these rights are going to be implemented. The right to education without any discrimination or the normal right of being free from discrimination of any kind. So the Constitution has made the provision now it remains for the actual implementation through an act of Parliament that will make sure that the Commission established under the Constitution will do its job. Not every facet of life will have its distinctive commission in the Constitution to deal with. There is no Commission to deal with problems of mavuno but because of the requirement of the life, there is a right to food, shelter and the rights to have agricultural products being protected as a human right. These come under the rubric of protection under the Constitution and you see once you have the rights to food, the rights to agriculture to protect you against genetically engineered food, to protect you against insults from outside, these are part of the specific procedures that the government will put in motion to apply the Constitution. Now (inaudible) the Constitution give the right to food but how can I protect myself if I do not have my price being protected and my commodity being protected against competition from outside. This is the way, do not expect every single aspect of our life to be detailed in the Constitution but there is a peg there for you.

**Joseph Kamunya:** Thank you. My name is Joseph Kamunya. Thank you Bwana Commissioners. Swali langu ni juu ya mashamba. Wakati Wazungu walikuja hapa waliweka maChief Waafrika na hao maChief ndio walikuwa wakiokota kodi. Walikuwa wakizunguka kuokota kodi na kwa sababu walikuwa wamekaa sehemu mbali mbali, waliona hio kazi ni ngumu wakataka kuwaleta watu karibu na vijiji ndio kazi yao iwe rahisi. Kwa hivyo mashamba ya watu wengine yalirudishwa katika forest na hao maChief. Sasa ninauliza, hao watu walinyan'ganywa mashamba yao ikachukuliwa na forest hii, katika hii Katiba mpya hao watu wanaweza kurudishiwa hayo mashamba ama walipwe compensation?

**Com. Adede:** Hii ni swali muhimu sana nakwambia. Katiba inajaribu kujibu swali hilo kwa njia mbali mbali. Yaani kusema ya

kwamba shamba lolote ambalo lilikuwa ni ya mtu pekee binafsi ambayo ilichukuliwa ikiwa public land kwa njia ambayo sasa inasemekana sio halali. Baada ya hii Katiba kumalizika na kufasiliwa itakuwaje? Tunasema hivi, wakati huu hii Katiba itaingia kazini yaani imesha apishwa all public lands will go to the Commission of Land as established. That Commission of Land has the power to examine all the Public Land that it is receiving and will register them and if there are outstanding claims of this kind, that commission will listen to. It is the Commission that will be the play for anybody who has a claim to launch the claim, it is the Commission that will advise the government of what to do and it is the Commission that will take into the account the interests of the wananchi. The whole idea is that we will have to protect the Kenyan of ownership. There are those who bought land which they knew genuinely to be land they can buy. They later found out that there is something wrong with them. They have been protected but that land must go to the rightful owner. So it will require judicial, determination according to the land laws but we have a procedure through which such issues will be initiated. The land commission will have the function of examining all these titles and here all complains that relate to ownership of land and will advise the government accordingly. That means that there will be no complete silence and if you raise it you will not be out of order because ownership of land is not yours as indicated in the Bill or Right. Thank you.

**John Koech:** Kwa majina naitwa John Koech. My question is on, you have explained very clearly about the powers of the President and the powers of the Prime Minister's power and functions. That one has been cleared, I was not very clear until this morning. I am not clear yet about the powers of the village, the location, the district and the provincial and what will become of the current Chiefs, Public Administration. That one is not very clear and yet it is a question that is bothering so many of the people in the communities as of now. If you clear that one I think I will say the work is well done.

**Com. Adede:** My functions succeeds or falls on this one. I think I was able to say discreetly that in the Chapter on Devolution of Power is where there is a statement to the effect that, the provincial administration, the administration popularly known as (inaudible) stands dissolved when the Constitution enters into force. And I also hasten to add that there is a provision in the transitional and consequential provision of the Constitution indicating that there will not be a vacuum. Vacuum in that they will be in place the existing system until the elections of the councils and the district level are completed. This is why there is an official commission which is being established to see that these activities are being implemented properly where there is no machinery to carry out a particular function, the old will exist until the new one replaces it. That is one idea. Secondly when that process is initiated, the actual replacement takes place, the new elected village councils and district councils and provincial councils have been completed and now they are put in place, those who are holding the old positions managing the government will be re-deployed by the civil service. Again there was no question of them being kicked out in the cold that is I gave examples of senators being created a new constituency and being redeployed. The critical issues was for those who were at the age of retirement. There discretions were dealt with on that level but those who were still in their prime time and working for the government, efforts will be made to re-deploy them in the government because all the system changes, their knowledge, their experience, their ability to deal with the people them as DO's appointed by the central government now as people who are servicing a relatively the new instrument put in place. That is how we see it and the details are being worked out to make sure

my brother that we do not make the mistake of kicking our people out in the cold.

We are aware that these people have the most valuable experience. We may dream of a village council, we have no idea how it may work, they know because they have been working on it on a day-to-day basis. They are privy to some very useful information that we will need for initiating the power devolution process. Who in the village is going to wield this power? They may even have our own denomination, they may have their own ways of describing the people who speak their village elders, we do not know them. The DO's the current DO's the current DC's are the people who are closer to wananchi than us. We hope, we wish that their views also injected (inaudible) but I understand that perhaps it was easy for the current members of the administration to give their views freely. But we know for a fact that our system of devolution of power must rest on a desire to enable wananchi themselves to make those decisions in the way they understand. We have had no experience with it, people in the current administration have that experience we intend to use it, and we should make ourselves free to allow them to serve their country in that way. And this is why I am saying to you once again, there will be no vacuum the services or the provincial stations will be tapped and will be used in the transitional period until (inaudible). Nothing would change, not everything will change overnight. We are trying to create a culture of being kind to all our fellow human beings, and this is why the idea of past problems comes in. They will be investigated under a code. No witch hunting, will just have you come and tell us politely your salary is 600 shillings a month where did you get the 80 flats you have in Nairobi, for example. Let me end this by confessing once again that this is one area on which a taskforce is still working on to give the details and to come to create with this ideas, to try to tap the knowledge from people who have actually tried to exercise power at village level. Thank you.

**John Kirui:** If you read your section 215 to 218 even the chief administrator is well identified. The Chief Administrator at the district level is well identified. Where are those chief, who is the chief executive is at the village level that is not mentioned but when you have time, go through the draft you have and the answers are there. Can we have number 3. Sema jina yako.

**Njogu:** My name is A. Njogu I come from Molo and also I am civic education provider. Maybe I would wish to ask or to be clarified on issues pertaining to the youth. We would wish to be clarified whether there are no Constitution the Draft itself. We looked into strategies or policies issues pertaining to life to maybe employment, education or maybe health and all that. Thank you.

**Com. Adede:** Indeed youth is taken care of in the Constitution. There is the famous Commission for Human Rights established under the Constitution who will have various divisions working under the Commissions office. This is in gender, youth, disabled and other marginalized groups of the people. There is where the Constitution provides for detail of programs and activities initiated by the government to take care of the problems of the youth as a group of citizens.

**Njogu:** It is maybe possible for them to be represented in the National Assembly or are they going to be given a ministry for the youth?

**Com. Adede:** The women have started it for five years, you start now. Then maybe in the next Constitution will be written. It was a big fight because theirs has been persistent and has been sang everywhere and I can assure you that if we go to the rule of having specific category to be given seats in the Parliament, we will have a Parliament of 800 people. However to be on the safe side, the Constitution does not have a specific number for youth. You know how many and what age and what have you. Thank you.

**John Kirui:** A lady, I thought I said a lady.

**John Mureithi:** I have two questions. First how sure are we in this Constitution it will be vernacularly translated to lugha ya mama in order to fit the ordinary person in the village. Like Bible for Christians and Quran for Muslims in Kenya? Question two. How sure are we because of the three top gears known to the current government as Parliament, Judiciary and the Executive? How free and independently and adequately will they work in the new Constitution? Thank you.

### *End of Tape 2 – Side B*

**Com. Adede:** How sure was your question which is easy to be dealt with because as we said here, we can never be sure. But indeed we would wish the Constitution itself to have the status in its familiarity to the people as you did say the Bible or the Quran, and this is why in the Constitution itself there is a requirement that each of us, the duty of a citizen is to know this Constitution and to discuss it with their friends. We cannot force you to do that; but we are in the process with your help to produce something which you will be proud of, which you will be happy to discuss which you can own. That is the best you can ask us to do with your help. So asking how sure are we that this Constitution is going to reach everybody, akina mama so that it has an effect on the price of potato for example, that is for all of us to make sure that is made at relevant. Once we produce it for you with your help, it is for you now to make sure that it works like I said. You should know your rights,0 seek opportunity to enjoy it, don't let somebody else do it for you. That was the first question. Again how sure are we that the Executive the Legislature, the Judiciary the way we now conceive them will work as intended. My brother I cannot answer that question, all we can say that we hope what we have put together makes sense and we will try to give the guidance to human beings to act accordingly. We even have a code for them to follow. We even have procedures for them to be moved if they do not act according to our wishes. That is the best we can say. How sure we will do it, we shall see but first of all help us to do something which is worthy for women. Thank you.

**John Kirui:** In fact kama chairman, ilikuwa ya mwisho, lakini nitaomba tu mgeni wetu from one very retired senior civil servant aseme kitu kimoja tu.

**Chairman (DP) Molo:** Thank you very much Coordinator and the Commissioner. Sorry I was a bit late. I am sure you have

discussed most of the issues raised in the Draft. I just wanted to make a comment on, of course we, me as Chairman of DP in Molo I had recommended that we do away with any provincial level of government either in the name of the provincial administration or provincial council. I see that you have brought in something in the name of a provincial level of government. I am still not convinced that we need that tier of government because your Draft says that the principle level of devolution of power shall be the district. So we do not then need the provincial level, it is another burden you are putting on the taxpayer. We would still insist that if possible we do away all together with the provincial tier of government. If according to the Draft there are no specific functions related to development or delivery of services to the people from the provincial level. It will be only another bottleneck in channelling policies, in channelling funds from the headquarters to the district instead of sending directly to the district. I was looking at Draft I have not seen what are the specific roles of the provincial level of government, and you take for me that we as members of DP and NAK should still insist that we do not need provincial level of government. After all how would we have represented from each district, when we have Nakuru district, the population of Nakuru is 1.1 million and there are some districts with 50 thousand people. So what kind of representation would we have if Nakuru is going to be compared with Marakwet with a hundred thousand people and elect two people to the provincial council. So it will not make sense at all and I want to insist that we in DP and NAK insist that we do not need the provincial level of government. Thank you very much and since I do not want to say much because I was late, but I hope we shall follow up to see how it will come up during the National Conference. Thank you very much.

**Com. Adede:** I would like to thank you very much because this is the way to go and you have expressed your views quite well. I am just going to invite you to look at all the schedules at the Draft Constitution which gives the powers and functions, the district councils and those on provincial councils. Then make up your mind, you are right in pointing out that perhaps we don't need a provincial council. That is a view that has been mentioned by other, you are not the only one. Today we saw in the papers people saying that this is a very costly proposition; but the Draft is a Draft until you accept it. So these views are being taken on board, I thank you. And maybe that was going to be the last performance this morning.

May I just now tell you the following. Inevitably my friends, not all the recommendations of the Commissions received could be accommodated within the Draft Constitution without making it an impossibly long document or duly restricting the discretion or the judgement or the future government and the legislature to provide the necessary details. But we have tried to accommodate the views. The Draft aims to make political responsible, politics responsible and peaceful and national in outlook. We are proposing the regulation of political parties to ensure internal of democracy and public accountability and the discipline of the code of conduct under which the right of all the participants in the political process without violence or threat is to be achieved.

We have tried to place the people at the center of the Constitution. Constantly emphasizing people's participation, bringing power closer to you, giving you greater control over your everyday lives. We have recommended Affirmative Action where it helps to remedy past injustice or disadvantage whether or gender or economic regions. Our proposals seek to make Kenyan a good citizen and global citizen promoting peace, economic development and human rights and welfare. We want Kenya to play

a conservative role in Africa and international affairs. We believe a Kenya which governs itself through a democratic participatory and just constitutional order will have the great moral authority in the international forums. The Commissioners therefore recommended a Constitution that departs in radical ways from the present Constitution. We believe that these departures are necessary to find directions to national unity, economic and social development, the dignity of individuals and communities, social justice as well as for renewal of our national institution. I thank you.

**John Kirui:** Asante sana Bwana Dr. Adede for having taken us through this morning. The gentlemen who came in later, there is a section in 16, page 47 check on that it is well covered. I would like to first and foremost, kurudishia nyinyi asante sana kwa sababu mumepata nafasi kukuja hapa. Ya pili mumekuwa very attentive yaani sikuona mtu akipiga kelele. Hii ni kuonyesha kwamba mlikuwa na nia ya kusomeshwa. Na mimi nafikiri kila mtu alipata kitu ambacho hakuwa anajua wakati alitoka nyumbani. Wangapi wamefaidika? Ikiwa umefaidika jipigie kofi moja. Ya pili jinsi bwana commissioner alikuwa ametuambia tutaendelea kwa hii mwezi mzima. Kwa hivyo kama ulipata hii Draft, this Constitution ambayo iko in form of Newspaper, ningependa ikiwa uko kanisani call that committee yako, member wa kanisa muangalie pamoja halafu muwe na maoni muandike. Mkiwa kwa kikundi ya akina mama ama kikundi ya vijana, ama business community, have time to read it. Because this is your Constitution. This morning when we were coming, the officers the DO told us this is what (inaudible) and we also told her call for heads of department, wazungumze, watoe maoni yao kwa sababu we don't want finally this Constitution to be opposed kwamba hakuchua mimi. So you have the next twenty days mpaka twenty eight. Na mimi nitauliza 3c's msimame ambao wako hapa. Memorandum kutoka Njoro mpatie Ruth. Ruth anakaa upande wa Njoro town, Koech anakaa upande wa Mauche, mzee mwalimu anakaa upande wa Laare, Bwana Ogose anakaa upande wa Elburgon. This will come to my office and you make sure it will be in Nairobi so it is not a close of the chapter. Kama mtakuwa na nafasi hata saa hii, muangalie before you go home. We are welcoming your comments, clarifications and I think we will come out with a very rich Constitution ambayo you will be proud of it. Kwa jumla tutakuwa na mkutano mmoja maybe ni upande wa Molo na labda moja upande wa Mauche, Mau Narok huko. Lakini tutazungumza na committee ambao wako hapa tuone kama tunaweza kuwa na moja, one forum for those sessions ili tupatie akina mama nafasi kukutana na sisi halafu waseme kidogo. Kwa hivyo tutazungumza halafu tutaeleza. Kwa jumla tumefurahi, mimi nafikiri Commissioner umefurahi kabisa na tunataka turidishie asante, na nitauliza Commissioner kama hatujafunga labda ako na staff ambao ningepomba tu atuambie ni nani na nani, halafu tukienda (inaudible)

**Com. Adede:** I was a miss in not introducing my team from Nairobi. With me is Esther Mugo who is our Assistant Programme Officer helping me to run this thing from Nairobi and next to her is Alice Thuo who is our Verbatim Recorder. They have both been working with us diligently in Nairobi trying to help this process of involving wananchi in the Constitution making. We are now trying to see if we can get back to Nairobi before the offices are closed and get some new material for our next station in Subukia. So I must thank all of you my friends, really this is the third meeting I am holding and each session is a new experience. Kenyans are interacting. I congratulate all of you. Know your Constitution, be involved. I thank you.

**John Kirui:** Asante sana. Ningetaka tufunge lakini nitaomba Bwana Commissioner wazee wamesema utakunywa kikombe moja ya chai halafu tukupatie uhuru uende Nairobi immediately after this. Ningeomba kama kuna mama moja anaweza kutufungia na maombi. Asante, when you are going to Nairobi have a safe journey and we see each other on Friday at Subukia. One member aje tuombe, Ruth.

**Ruth Wanjiru:** Natuombe. Asante sana Baba wetu wa Mbinguni kwa wema wako ambao umetufikisha kwa makao haya. Twakushukuru kwa vile umetulinda na vile umekuwa nasi kwa hii makao. Twakushukuru kwa yale ambayo tumefundishwa na yale ambayo tumeshika. Bwana tunaendelea tukikushukuru tukijua ya kwamba hata wewe umeshughulika ili uone ya kwamba tuna Katiba mpya kwa nchi hii. Asante Bwana kwa kutujali kwa shida zote ambazo tumeendelea kuwa nazo kwa nchi yetu. Asante Bwana kwa sababu tukiwa na Katiba hii mpya tutakuwa na nchi nzuri na tutakaa kwa raha. Na hii ni mapenzi yako kwa sababu hakuna mmoja wetu unataka atabike kwa hii dunia. Bwana twakushukuru kwa sababu tumekuwa na mwanzo mwema na sasa tumefika kwa mwisho mwema. Twaomba uongoze Commissioner pamoja na watu wake wakerudi Nairobi hata nasi Bwana utuongoze tukirudi kwa makao yetu. Wakati utatupa wakati mwingine kama huu tutashukuru jina lako. Tumejiweka mikononi mwako tukikushukuru kwa yote katika jina la Yesu Kristu Mwokozi wetu tumeomba tukiamini. Amen.

**John Kirui:** Asante sana. Jina yangu ni John Kirui ninajua tangu mwanzo sikusema jina yangu.

Meeting ended at 2.30 p.m.

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