

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

Verbatim Report of

DISSEMINATION OF REPORT AND DRAFT BILL,

**EMUHAYA CONSTITUENCY, HELD AT MUMBOHA CHURCH OF GOD ON
14TH OCTOBER 2002**

ON

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FINAL COPY

**DISSEMINATION OF REPORT AND DRAFT BILL, EMUHAYA CONSTITUENCY, HELD AT MUMBOHA
CHURCH OF GOD, LUANDA ON 14TH OCTOBER 2002**

Present

1. Kavetsa Adagala - Commissioner

Secretaria Staff in Attendance

1. Vincent Watako - Assistant Programme Officer
2. Patricia Mwangi - Verbatim Recorder
3. Agnes Ayuma - District Coordinator

CCC's Members

1. Arthur Etele - Member
2. Arthur Imbira - Member
3. Christorper Kwache - Member
4. Getrude Obulutsa - Chairperson
5. Bettina Okumbe - Member
6. Dorah Ingolo - Member
7. George Oredo - Member
8. Cllr. Gilbert S. Opanga - Member
9. Rev. Bishop Byrum Makokha - ACK Maseno North
10. Hon. Sheldon Muchilwa - M.P. Emuhaya

The meeting started at 9.45 a.m.

Agnes Ayuma: Wale ambao mme-register ningependa muje karibu wale watakaokuja baadaye ndio watakaa nyuma ndio tuweze kuanza haraka haraka. Florence, akina mama wachukue mstari wa mbele.

Habari zenu yes, (vernacular) we shall start off immediately. Kuna mzee anaweza kutuomba. Mzee utatuomba?.....(Inaudible)

Agnes Ayuma : Thank you Mzee, nilisikia maombi yote Mzee alituomba ambayo alisema tutatengeneza maneno ambaye itatusaidia badaye sivyo? Karibu bwana Commissioner.

Com. Adagala:(Vernacular) so tuta-prevent lakini tutakata kata kwa sababu hii mambo inafaa wale watu wanaamini na wana-interest, kama interest ni ndogo ni vigumu kuendelea na kuna vitu vingine vinafaa kuelezwa kama watu wako wengi, sasa hiyo tuta-skip kwa sababu it doesn't make sense to do it just to a few people.

Mimi ni Commissioner Kavetsa Adagala na alikuwa huku kwa civic education? Nani alikuwa huku for hearings? Which Commissioner was there? Asante, akina nani walikuwa hapa kutoa maoni? Pengine watu wa Emuhaya wanajua mengi, huyu ni Vincent atajitambulisha.

Vincent Watakao: ... (Vernacular) Jina langu ni Vincent Watakao.

Com. Adagala: Huyu mama.

Patricia Mwangi: Habari zenu?

Audience: Mzuri.

Patricia Mwangi: Mimi naitwa Patricia Mwangi.

Com. Adagala: Okay, haya mkiangalia kwa Katiba yenu hapo mwanzo, table of contents. Okay, hapo table of contents, tuangalie katiba ina sura ishirini. Tuzungumze kwa lugha gani? Kiswahili kwa sababu tukichukua tafsiri itakua shida. Kuna mtu ambaye haelewi Kiswahili? Haya, hapa kuna kiti kinaitwa preamble, table of contents don't go ahead hapo tu kwa orodha. Kuna preamble, hiyo inachukua maoni na maono na vile Wakenya wangependa Kenya isimame, nitaizungumzia hapo. Haya ile inafuata ni ukubwa au ukuu wa watu na Katiba, vitu viwili pekee viko na maana kwa Kenya.; wananchi na Katiba. Hakuna kitu kingine kikubwa kuliko hii, wananchi na Katiba.

Halafu hiyo sura ya tatu inaeleza Jamhuri ya Kenya ni nini, iko wapi, ina upana gani? Hayo yote iko hapo na nani wako hapo ndani na vitu kama hivyo. Capital: tutazungumzia hiyo. Halafu sura hiyo ingine inafuata, hiyo ndio inazungumzia lengo na nia ya Kenya. Kwa Katiba ya leo hivi vitu vyote havipo, hii sura ya tatu yote haiko isipokuwa inaanza tu Kenya is a sovereign

republic halafu hivi vitu vingine haviko. Sasa hiyo ina nia na lengo.

Halafu uraia wa Kenya inafuata kukiwa na nchi lazima iwe na raia na raia wa Kenya ni nani, hasa Mkenya ni nani? Halafu kuna sehemu hapo ambayo kwa Kiswahili wanaita Ukatiba kwa tafsiri ile ya Kiswahili inaitwa Ukatiba na hiyo ni sawa hata kuliko hii bill of rights, hiyo ukatiba kwa sababu hii inazungumzia vile wananchi wanaishi na Katiba, nini mtu anapata kwa Katiba na yeye anapeana nini kwa Katiba. Hapo ni sehemu ndefu lakini tutapitia.

Halafu kuna ile uwakilishi wa watu kwa sababu nguvu ni za watu, kuna uwakilishi wa watu kwa sura ya sita, uwakilishi wa watu, nguvu ni ya wananchi halafu wanatoa kwa wengine kuwakilisha, sio wale ambao wanaakilisha wana nguvu kuliko wananchi, pengine hata itafaa tubadilishe hii kitu Mweshimiwa iwe mtumishi kwa sababu uongozi utaenda kubadilika. Hiyo sehemu yote ni kuhusu mambo hayo.

Halafu tunaingia kinaganaga kwa ile uwakilishi tatu wa serikali kuna mapacha matatu hapa. Legislature, kuna Executive, kuna Bunge, kuna Urais halafu kuna Mahakama, tatu. Haya mapacha matatu inafaa ilingane. Kwa Katiba ya sasa, kuna Katiba ya uhuru ile ya 1963 ile ilitupatia uhuru, sio hii uhuru ingine inatembea sasa ni ile ya 1963. Kwa hiyo ilikuwa imetengenezwa sawa lakini waliweka bolts na spanner na wakafanya spanner job na panel beating halafu ikawa Rais alienda juu sana, sehemu ya Rais na inafaa ziwe zilingane hapo. Sasa hiyo tutazungumzia. Executive, nimezungumzia hiyo. Chapter ingine ni ya Executive, ingine ni ya Mahakama.

Okay, kuna kitu kinaitwa devolution of powers yaani kuzambaza nguvu. Zilikuwa zimewekwa zote pamoja. Tutazungumzia hiyo zaidi lakini sasa inakaa izambazwe ili iwe kila mahali na isiwe mahali pamoja. Kama Nairobi inaguvu zote na pia hiyo kiti cha Rais ina nguvu zote wakati huu, sasa inafaa izambazwe ili hiyo nguvu irudi kule ilikuwa. From 1963 wananchi walikuwa na nguvu lakini ilitolewa baadaye na amendments.

Halafu ardhi na mali inafuata, mnaiona? Ardhi na mali inafuata na vile tutakaa, vile tutajipanga kwa ardhi na mali. Halafu kuna mazingara na mali asili ya nchi na vile italindwa na vile watatumia na vile tutaitumia kustawi.

Halafu pesa ya uma, halafu utumishi wa uma pia iko hapo. Halafu ulinzi. Chapter 14 ulinzi na vile Kenya itakaa kwa usalama.

Halafu kuna njia ingine pia ya kukaa kikatiba na hiyo ni Tume, tumetunga Tume kumi na zimekaa hapo tutazungumzia, halafu kurekebisha Katiba na vile itatendeka. 19, ni kufafanua tu vile tunaweza kuangalia hiyo na kuona vile tutafafanua hii Katiba.

Halafu sura ya ishirini inazungumzia vile tutavuka kutoka Katiba ya sasa kuenda kwa hii ikipitishwa, kuenda kwa mpya, ni kama daraja vile itapita kutoka kwa moja kuenda kwa ingine na tutazungumzia hiyo. Halafu kuna vitu vinaitwa schedules, ni kueleza kinaganaga mambo iko hapa na tatamweleza tukiendelea tuone vile itakaa. Haya vile tumeanza, tumewacha sehemu fulani ambayo nitaeleza baadaye watu wakiwa wengi, hiyo ya process, otherwise tutaendelea tu na Katiba mpaka tutachukua break halafu tutaeleza hiyo process na tuendeleo pia na Katiba. Kuna swali lolote au comment yoyote? Tutaendelea hivyo, tutakuwa

tukisimama simama ili mkiwa na comment mlete mbele au proposal, hasa ni proposals tunazungumzia. Hizo sura ishirini zimeelewaka? Zimeeleweka? Nataka tuzielewe ili tuende moja moja na tujue tutakuwa tukipita hatua kwa hatua, sio kuvuka mbele au kurudi nyuma au kuendelea, au kufanya nini lakini moja kwa moja tutakuwa tukiendelea. Okay, any comment, where is the District Coordinator, Agness. Where is the Chairman of the 3C's? Chair ako wapi? Are you the chair, chairman ni nani?

Chairman, I am very disappointed that you are late and that the room was empty when we arrived. There is no explanation for it, the room was empty?

Kuna mtu ambaye anataka kusema lolote? Haya tuendele... (Inaudible)

Oko Lukose: Chairman hatujui kama mpango itakuwa namna gani kwa sababu nilikuwa huko Church of God, Kima na nikapeana memorandum huko ambayo nilifanya update baadaye na baada ya draft kutoka nimefanya some comments, kwa hivyo sijui kama mpango ya hapa itakuwa vile tumeandika majina huko nje tukiingia, tutakuwa na nafasi ya kuzungumza juu ya hii ama itakuwa tu hapa kwamba yule anayesimama amasema vile navyoona kwa sababu kuna comments nataka kutoa kutoka mwanzo mpaka mwisho ya hiyo draft.

Com. Adagala: Jina lako?

Patricia Mwangi: Say your name?

Ako Lukose: Jina langu ni Ako Lukose.

Com. Adagala: Lukose asante wewe umefanya homework yako kwa sababu hizi zilikuwa kwa magazeti, bill ilikuwa kwa magazeti na wale walinunua natarajia wamesoma, kama una-comments ni mzuri lakini hizi sio hearings, vile ilikuwa hearing. Hii ni kukagua na vile umekagua utakuwa ukitoa comments zako kwa kila sehemu tunazungumzia, okay? Tutaenda chapter by chapter na utatoa maoni. Kila mtu atatoa maoni, mjisikie wazi, mjisikie kama mnaweza kuendelea na kuzungumza bado kutoka kwa majadiliano na hii ni kukagua sasa vile kama imekaa hivi au ni vizuri au la. Okay, imeeleweka Mr. Lukose?

Mr. Lukose: Imeeleweka.

Com. Adagala: Okay. Comment ingine? Tumelewa vile tutaendelea, nikikosa kupata jibu nitawacha.

Oketch Elffas: Kwa hivyo comment ambayo imefanywa, tusema chapter five.

Com. Adagala: Your name.

Oketch Elfas: Oketch Elfas. Tukifika kwa chapter five for example, yoyote ambaye atakuwa na comment chapter five atasimama aseme? Asante.

Com. Adagala: Ndio tutafanya. Okay, tukifika chapter fulani ukiwa na comment utasema lakini msiruke ruke mbele kwa sababu hatuwezi kuendelea vizuri tukiwa hivyo. Macho yangu hayaoni vizuri sasa huyu kijana atakuwa ananisaidia, yeye ni wakili pia, yeye ni Programme Officer, tutakuwa tukifanya presentation together lakini vile macho yangu hayaoni sasa mtanihurumia hapo au mnisamehe lakini tutaendelea, yote iko hapa lakini kwa kinaganaga atakuwa ananisaidia kwa kusoma utaratibu.

Kuna kitu kinaitwa preamble, present Kenyan Constitution doesn't have a preamble basically Mzungu hakuona maana ya kuweka preamble because preamble inaweka mambo ambayo watu wanafikiria. Maono ya watu, lengo lao na mipango yao ya kuishi na vile tulipata hii Katiba kutoka kwa mwingereza hakuona maana ya kuweka hiyo sasa Katiba ya sasa inaanza tu, Kenya is a sovereign republic lakini hapa Katiba ya mambolea ni ile ambayo ina preamble. Tangu ile ilikuwa Katiba ya kwanza kuandikwa in full ya United States walipokuwa wanapigana na Wingereza hiyo inaeleweka, modern republic, jamhuri za kisasa zina preamble na hiyo preamble jamhuri inapata nguvu kutoka kwa watu. Sasa vile tunaendelea pengine niwambie ile Katiba ya 1963, Britain walitengeneza tu modal Constitution, sasa kama Ghana ilitaka uhuru wanatoa hiyo kwa shelf wanaweka hiyo mambo inalinganishwa na Ghana, Tanganyika inafika wakati pia wanatoa hiyo wanaweka. Yao ilikuwa kupeana republic, watu wachukue nchi nzao, sasa hawakuwa na haja na kitu kingine chochote. Sasa ndani ya hii republic walitengeneza ilikua haina watu ndani, ni kama haikuwa na watu ndani na hapa ndio unaona tumeanza, we the people of Kenya. Wengine tulifikiria iwe we the people or we the peoples of Kenya tulikuwa na majibiano. Sehemu ndogo hiyo ilikuwa wiki nyingi sana kutengeneza na ndio muhimu kwa sababu Katiba yote iko kwa hii sehemu, kitabu changu ni ukurasa wa kwanza. Katiba yote iko hapa ndani, hii ingine sasa ni kufafanua na kuendelea.

Preamble ni kitu muhimu na wengi mlituambia we want a preamble in our Constitution, si hivyo? Ndio mlisema hiyo kwa sababu mlikuwa mmepata civic education mnajua, mnaona vile inaendelea, Katiba zingine sasa mkasema tunataka tuwe na preamble. So for the first time in Kenya we are constituting our nation with the people, the people are constituting the nation. Hapo mbeleni ndio uliona saa zingine vitu vinatendeka hata bila kuulinza wananchi kwa sababu wananchi hawako kwa Katiba, lakini siku hizi lazima au kwa hii Katiba lazima wauliza wananchi na hata nchi imebadilika kidogo kidogo watu pia wameanza kufikiria hivyo, lazima tuulizwe. Lakini miaka hii yote walikuwa wanauliza kwa nini hatuulizwi? Kwa nini watu wanaendelea tu au viongozi wanaendelea tu bila kuuliza sisi. Vitu vikubwa na vitu vidogo, kama hivyo vitu vikubwa vya IMF loans na vitu kama hivo, Minister alikuwa tu anaenda ana-sign halafu sisi tunalipa taxes, kodi ambayo inaenda kulipa hiyo deni na hatukuwa tunaulizwa. Sasa hapo ndio inaanza, we the people of Kenya, sisi wananchi wa Kenya. Hapo mwanzo inazungumzia kuhusu vile tuko watu tofauti tofauti, diversity tofauti, wanawake kwa wanaume, vijana, kabila tofauti tofauti, walemavu, watu aina

tofauti, yote hayo tofauti, kabila kubwa, kabila ndogo na zote zipo. Hapo ni diversity, hiyo inasema... tunakubali tuko watu tofauti tofauti, hiyo ni kitu muhimu sana, si tunasema tutawacha hii lakini hiyo inasema kila mtu awe mtu wa aina gani akiwa Mkenya yeye ako hapa, we recognize that.

Kitu kikubwa tuliambiwa na watu, tusiende tukagawe Kenya, tusiende tukaweke mambo ambayo itagawa Kenya. Sasa hapa inasema sisi ni nchi moja ambayo haiwezi kutawanyika, tutakaa nchi moja, tutakaa hivyo bila kutawanyika. Hapo tukaambiwa na watu, walitaka watu walindwe mtu binafsi, familia na pia jamii iwepo ifadhiwe kwa Katiba. Halafu tukaambiwa kuna maneno Fulani ambayo ni muhimu sana, tuna hiyo uhuru, demokrasia, sheria kutawala na pia hiyo ya human rights kama social justice, hiyo ya haki ya binadamu na pia tuna haki, kuna ile haki ya utovu. (vernacular). Hiyo ni kama mtu hawezi kukunyanganya, nikija nikitoa tovu yako utakufa kwa sababu ni kama mwili yote imejengwa na imewekwa hapo eeh, hii ndio kifuniko. Wazungu wanaita belly burtons, hiyo ni kama the burtons that tie up the whole body, lakini hiyo ni kitu hatuwezi kutolewa. Kuna haki ya kuunda serikali yetu na pia sasa tunatengeneza na kutekeleza Katiba hii na kujipeana wenyewe, tunajipa hii Katiba na pia tunapeana kwa vizazi vijavyo. Hii ni yetu wenyewe, ni kama unazawadi unajipea wewe mwenyewe na pia inapea watoto wako. Kidogo ni urithi, tutawacha watoto wetu watarithi na tuliambiwa na watu hakuna Mungu kwa hii Katiba yetu ya sasa ndio tunayumba yumba, tunaenda huku, tunaenda kule hakuna msimamo na wakasema tuweke Mungu kwa Katiba. Wengine kama mimi nilitaka vile tulikuwa tunajadiliana, nilitaka ianza na hiyo; Oh God of all creation halafu tutaenda...we the people of Kenya believing in the God of all creation halafu tuendelee, hiyo ya nyimbo ya taifa lakini mwingine akasema tuweke hapa kati kati kama supremacy of God, tutafanya revision hiyo tena mpaka tukaja hapa ndio tukafanya God Bless Kenya, Mungu ibariki Kenya. Kwa ile ya Kiswahili inasema Mungu ibariki Kenya. Katiba ya sasa iko hivyo kwa sababu tunajua Mungu mwenyewe mwishowe ndio yeye ana mwanzo na mwisho, yeye anaamua na yeye ndio anatupea hata maisha hii tunayo, hata hii nchi tunayo ndio alitupea. Kama ya South Africa inasema “go sisi kele South Africa” pia wao wanaweka hata ya Amerika iko na hiyo, God ndani ya Katiba yao. Kuna swali lolote hapo kwa preamble, jisikia, kuja, nataka tufanye hivi, ukitaka kuzungumza njoo tu usimame hapa, mara moja usingonjee.

Mr. Lukose: Mwenyekiti mimi nasema kuhusu preamble.

Com. Adagala: Taja jina lako.

Mr. Lukose: Jina langu ni Lukose, iko kwa register pale. Kuhusu preamble mimi nafikiri ni kitu ya maana sana kwa kila Katiba ama kitabu au kitu kingine sawa pretence kwa sababu preamble itaonyesha, sisi ni nchi kutokana kwa sababu gani na sisi ni wananchi wa Kenya tuna uhusiano gani kama watu mbali mbali, wa kabila hii, kabila ile. Ni kitu gani ambacho kinatuweka kuwa pamoja kama watu wa nchi moja. Kwa hivyo preamble, mimi sidhani kama niko na mambo mengi ya kusema nafikiri inafaa hii preamble kuwa kwa Katiba kwa sababu ndio itaonyesha ni mambo gani ambayo yanafuata katika hiyo Katiba.

Com. Adagala: Asante mzee, vile ningetaka tuendelee si comments, kila kitatusaidia sana ni kama una proposal. Mzee amefanya vizuri, kama unaunga mkono ni sawa lakini leta proposal, leta pendekezo juu yake. Kuna vitu vingi sana vinakuja, very detailed so ni vizuri umesema hivyo lakini kama kuna mtu ambaye angependa jambo hapo liongezwe kwa preamble njoo mbele na sitaki usimame kama mwingine, simama mwanzo ili uje mbele. Kuna mtu mwingine anataka ku-comment kuhusu preamble, kuleta maoni mengine kwa preamble? Kunayo? Njoo mbele, nataka tupate utaratibu wa laini hapa.

Isaac Malanya: Naomba ...

Com. Adagala: Ninataka utajie kuhusu mambo ya preamble pekee.

Isaac Malanya: Hapana implementing the Constitution.

Com. Adagala: No, we are talking about the preamble. Nimeeleza sitaka turukeruke, hiyo itakuwa na nafasi yake, keti tu utapata nafasi. Kuna mtu mwingine? You know hakuna mtu wa kukubembeleza mzee. Habari yako mzee?

Rev. Enos Ochola: Rev. Enos Ochola. Mimi vile ninavyoona, ntoa pendekezo kwamba vile maandishi ya preamble yalivyo iwe hivyo hivyo maana kwa miaka thelathini na tisa tumekuwa katika enzi ambayo wengi sisi hatukueleza ni kitu gani kinachotendeka. Basi, vile ninavyoona wenzangu wakikubaliana na mimi tulitaka hilo neno, tulitaka preamble na imekuwepo na vile ilivyo ni fupi na ni mzuri. Asante.

Com. Adagala: Haya maoni yako ni tofauti, tofauti ukiwa na nafasi nisiangalie preamble ya Constitution of India ni fupi hata kuliko yetu, ni kitu kama six short sentences na ina mambo yote hapo. Ni kama nisema vile tuko na, watoto hawa ni watoto wa nani? Msiwafukuze ni watoto wa nani. Wa Wanyore, sawa, wakiweza kuketi na kukimya itakuwa vizuri.....(vernacular) lakini itakuwa sasa wote watataka. Haya, preamble ya India iko fupi hivyo, Kenya tumekaa vibaya sana kwa sababu hata hatukujua Katiba yetu inasema nini, ni kama kusema wewe ni Mkristo na hujui jambo hata moja la Bibilia au Muislamu na Koran haujui. Hii ni kitu cha kuamini, Katiba si makaratasi tu, vile iko tu sasa ni makaratasi.

Haya tuendelee? You are not going to stand one by one, tutatengeneza laini hapa, hivyo ndio tutaendelea ndio iende haraka. I don't want any after thought, sitaki after thought nataka watu wa-pay attention na waje mbele.

Reuben Anjeo: Reuben Anjeo.

Com. Adagala: Okay, proposal.

Reuben Anjeo: Niko na-propose kwamba already tuko na wimbo wa taifa. Wimbo huu ndio unafundishwa watoto kutoka

wakika wadogo mpaka wamekuwa wakubwa ambao inafanya kwamba tunashikilia haya, tunayakumbuka kila siku.

Com. Adagala: Pendekezo.

Reuben Anjeo: Preamble, sioni kwa nini tungetengeneza preamble ingine ikiwa kwamba tuko na huo wimbo ambao bado inatuunganisha sisi kama watu wa Kenya. Sasa tutakuwa tuko na wimbo kama preamble na huu tena mambo mengine hayo tofauti.

Com. Adagala: Ulikuwa hapa wakati wa kutoa maoni? You were here when hearings were going on and you said that?

Reuben Anjeo: I was not.

Com. Adagala: Because we are not in after thought now.

Reuben Anjeo: I thought that were going back and correct what I said.

Com. Adagala: What did you say then?

Reuben Anjeo: I didn't talk about preamble.

Com. Adagala: It is okay. Imeandikwa chini instead of... okay, tuendele. Tutaenda chapter by chapter usiende mbele kwa sababu tuko watu wengi, this is mass education so if you go ahead it will be very difficult na nimesikitika kwa sababu naona wanaume wengi sana hapa.... (vernacular). The District Coordinator should not have put it on a market day. Agnes?
And the Chairman you should not have put this day on a market day.

Sura ya pili.

Getrude Obulutsa (Chairman: ...)(Inaudible)

Com. Adagala: Chairman control yourself. Why did you put this on a market day?

Getrude Obulutsa: The date was given by the Commission and we could not change it.

Com. Adagala: Change it? You could have told them it is a market day, we could have easily done Vihiga and then the day for Vihiga would have been this time. Haya wanasema wanawake wako market. Wanawake ndio wanaenda market? We should say that they are the bread winners of Bunyore, okay, sasa bread winners watajuaje Katiba na wao ndio bread winners?

Haya, sura ya pili unajua tunamchukua vile nyinyi wenyewe mnajichukua, sasa kwa vile iko hivi itakuwa low intensive vile mtaichukua, vile nimeanza on a low note, so ikienda hivyo itakuwa low note. Haya kuna vitu viwili nimeeleza ambavyo vipo muhimu; Katiba na wananchi, kuna vitu viwili muhimu, wananchi na Katiba. Hakuna kitu kingine kikubwa kuliko hicho kwa Kenya. Hakuna mtu mwingine mkubwa kuliko wananchi, hakuna kitu kingine kikubwa kuliko Katiba. Wananchi wana tengeneza Katiba waliunda Katiba na Katiba inalinda wananchi. Nataka muelewe hii sana kwa sababu imekuwa kama kuna watu wengine ambao walikuwa above the Constitution, above the law. Hakuna kitu kama hicho kwa hii Katiba ni wananchi ndio wananguvu na hivyo ndio inasema hapa. Nguvu zote za Kenya ni za wananchi zile ziko kwa Katiba na wananchi wanatekeleza hizi nguvu kwa kupeana kwa wale ambao wanawakilisha na hiyo ni Bunge, Rais na Mahakama. Mmeona tukiwa na shida na mahakama kwa sababu wanafikiri wao wako above na hawako kwa sababu wanapata nguvu kutoka kwa nyinyi hata kwa Katiba iliandikwa vibaya au ilirekebisha ikahariba nguvu zao zinatoka kwa nyinyi. Sasa wanasema wananchi wa Kenya wasizingumzie sehemu ya mahakama. Sasa ni kama wamepiga marufuku watu milioni thelathini kutozungumzia mahakama. Sasa kidogo ni kama Kenya ni jela sasa, mnajua hivyo? Kwa sababu watu wa mahakama, Majajis wametoa hukumu yao na wamesema msizungumzie, sasa hiyo ni guard, wameshona midomo, mnakubali? Na nguvu ni zenu. Hii ni kitu wao watafaa wajifunze kabisa nguvu ni za wananchi. Sasa hiyo maelezo iko hapo kwa hizo paragraph ni ya kueleza kinaganaga.

Kenya sasa tuseme tunaunda Kenya kwa sababu haikuwa imeundwa kamili, sasa Kenya mzingi wake ni ukuu wa Katiba si ukuu wa kitu kingine au ukuu wa hii na ile na ile ya Mungu tumeshasema, God bless Kenya. Sasa sa zingine watu wanasema lakini Mungu yuko, tume-recognize Mungu. Mungu ibariki Kenya lakini vitu vyote viko chini ya Katiba hakuna mtu ako juu ya Katiba, hakuna jambo ambalo liko juu ya Katiba, hakuna tendo ambalo litakuwa juu ya Katiba. Mkisikia Military Government mjue hiyo inakuwa sasa wamevunja Katiba. Kwanza Military Government ikifika kiti kimoja wanatupa kwa moto ni Katiba, Amin alipochukua Government kwa Obote, kiti kimoja alikanyaga ni Katiba. Katiba ikitoweka sasa ni serikali ya imla au ya majeshi, mnaelewa? Haya.

Constitution inashikanisha watu wote, nguvu zote, wakuu wote, inashikanisha pamoja. Hiyo ya kuteleza Katiba haitakuwa kitu cha kupinga, Katiba inatekeleza kwa njia fulani na iko hapa vile itatekelezwa na hakuna mtu atakuja kusema hiyo haiwezekani. Hiyo ndio ukuu wa Katiba.

Kuna masheria zingine saa zingine sheria ya jamii fulani au mtu mwengine anaunda sheria kwa nyumba yake anasema sheria ya nyumba hii ni fulani lakini ikigongana na Katiba basi itatupiliwa mbali, Katiba ndio sheria kuu. Itafafanuliwa na kutekelezwa na kusimamia au kudhamaniwa utawala mzuri, wema, haki za binadamu na uongozo wa sheria na itatengenezwa ili isiwe na vitu

fulani ambavyo litaifanya kuwa ngumu kueleweka kwa wananchi. Hii Katiba ingine tunayo ina lugha ngumu sana hata mwishowe wakili wenyewe wakisoma wanaielewa halafu wanafika mahali fulani inakuwa shida hata Professor Ghai anasema...

Na pia kwa ile lugha ya zamani na ni ngumu sana. Lakini hii yenye tumeandika ile mnaona mkisoma, mnaweza kusoma, si hivyo? Ukiwa hata mtu wa Standard Eight unaweza kusoma na dictionary pengine kidogo hapa na pale lakini mtu wa High School anaweza kusoma halafu tutatoa ya Kiswahili na tunafikiri itakuwa Kiswahili raisi na pia itakuwa raisi kusoma. Nataka watu waelewe, hakuna maana kuishi na sheria ambayo hauwezi hata kuelewa, si hivyo?

Hiyo sasa watu wanafaa waone hii Katiba inaendeleza na watu wa mahakama. Judges are the ones who should make sure that this Constitution itakuwa enforced na mahakama wao wamesema wanapinga Katiba sasa mnaona vile tuko? Wamesema tusiendeleee na tunaendelea kwa sababu ni nonsense, ni upuuzi vile wanasema. Ile ya kuleta serikali ambayo si ya Kikatiba ni haramu, hatia na haikubaliwi, na serikali ambayo si ya Kikatiba ni imla au ya Majeshi au ile ya kutokuwa na sheria. Tukizungumzia kuhusu sheria ya Kenya kwa jumla, ya kwanza ni Katiba. Sasa hizo sheria za Bunge zinadhipitishwa na Bunge, mswada inakuweko halafu inapitishwa inakuwa sheria hizo pia, mila ya Kiafrika na sheria za Kiafrika, ya Kiislamu na ya Kiindi. Halafu kuna ingine inaitwa common law halafu ile ya East Africa vile mnajua tuko kwa East African na kuna East Africa Parliament. Nafikiri wengi mnajua Shama Lab ako huko na hiyo ya kimataifa ambayo imekubaliwa kimataifa, hiyo ya treaty na vitu kama hivyo na conventions.

Parliament itachukua miaka miwili kutengeneza na kulinganisha hii sheria yote ili iwe kitu kimoja isiwe na kugongana gongana na hayo mambo yote iko kwa kitu tunaita schedule six. Mkiangalia nyuma baadaye sio sasa, ni kitu cha kuketi na kusoma, wameeleza kinaganaga kile Parliament itafanya, kile Bunge itafanya kwa miaka hayo miwili. Hii Bunge ijayo kazi yao kuthibitisha hii Katiba, kazi yao itakuwa kutekeleza sheria na kujadiliana sheria ambayo na vile Katiba itatekelezwa, miaka miwili, mnaelewa? Watakuwa na miaka miwili, hiyo ni part of transition provision. Two years Parliament will discuss this. Are there any questions there? Si questions, additional proposals au haieleweki?

Speaker: Inaeleweka.

Com. Adagala: Hatuko hapa kuelewa tu, tuko hapa kukagua na kuona kama kuna mashimo, kama kuna kitu kimewachwa nje au kitu ambacho si kizuri, au kitu ambacho kinaweza kuwa kizuri zaidi au bora zaidi. Nataka muwe alert, kuna vitu hapa ambavyo in this chapter which we have just done which you have to be very alert on.

Kuja mbele, panga laini hapa ...

Jairus Lusuli: Jina langu ni Jairus Lusuli. Ningependa nipitie kwamba katika wakati Bunge waliketi wakapeana mswada kwamba Katiba itengenezwa upya, ni sehemu gani ambayo Bunge ilipitisha au ikasema iwachwe, isiwe discussed ndio sababu

Madam Commissioner amesema kwamba Mahakama au Judges hawataki wananchi wa-discuss mambo kuhusu judiciary na wakati Bunge ilipopitisha mswada kwamba Wakenya wapeana maoni halafu watengeneze Katiba mpya, kuna sehemu yoyote ambayo haikutaka ijadiliwe hapa Kenya.

Com. Adagala: Vile mzee amesema ni vizuri na pia nataka kusema kitu cha kushangaza hapa kwa Katiba wao ndio wamepewe ile ya kulinda Katiba. Sijui Lumwai...(vernacular) mnajua hiyo hadithi.(Vernacular) anafaa alinde ni kama vile wanasema kuweka fisi alinde kondoo au alinde kuku haiwezekani. Wao ndio gatekeepers na wao ndio wamepinga. Kitu kikubwa ni kitu kinaitwa self interest na hii society tumekuwa nayo imekuwa ya self interest ya watu wakubwa na hiyo ilionyesha wazi.

Rev. Dennis Ochola: I am Reverend Dennis Ochola, kikundi cha Forum for Understanding. Chapter hii inashuhudia kwamba tulizungumza hatukuwa tu, tulizungumza tukajadiliana na kila kitu ambacho tuliweka ndani, tuliona inafaa kwa maana yale ambao tunatengeneza wakati huu si yetu tu, ni ya vizazi ambavyo vinakuja. Tukiharibu leo basi kesho ni lawama kwetu.

Com. Adagala: Ngoja kidogo. Nikiangalia hapa nyuma, una Constitution yako?

Rev. Denis Ochola: Yako iko wapi?

Com. Adagala: Ukiangalia hapo inasema the law of Kenya, na kuuliza hii kwa sababu ya swala yako. Inasema Constitution, parliamentary laws, African Customary Law, Islamic and Hindu law na hizo zingine kadhalika. Kuna kitu ambacho hakiko hapo?

Rev. Dennis Ochola: Hata zilikuwepo ndani kabla Wazungu hawaja....

Com. Adagala: Okay, nakuuliza kwa sababu ya hii. Kuna kitu ambacho hakiko hapa?

Rev. Dennis Ochola: Hakuna kitu ambacho hakiko hapa kwa maana sheria, mtu ndio anageuka. Mungu ndiye alipeana sheria na ...

Com. Adagala: Anasema hapa hapa tu na kweli kuna Biblia na ina sheria. Iko hapa?

Rev. Dennis Ochola: Ipo.

Com. Adagala: Okay sit down tutazungumza zaidi. Usizungumza ukiketi, mzee keti hiyo jambo ambalo hata tutakucha....

Rev. Dennis Ochola: I am not following what you are saying.

Com. Adagala: I am talking to you very clearly. We have something called Christian law and then we have something called living in time of praise halafu mnasema hiyo mambo ya law. Unajua Wakristo wako na hii, the law of Moses and then there is a time of praise, Christ coming. Waislamu wameifadhi yao hapa, ya Wakristo iko wapi?

Rev. Dennis Ochola: Ina watu wenyewe.

Com. Adagala: Ina watu wenyewe. This is the law of Kenya, okay, wacha huyu dot.com azungumze kidogo nione atasema nini.

Joel Akaki: My name is Joel Akaki, I am a teacher by profession. I am looking at section 5 (ii), it says the Parliament shall within two years make some amendments on the Constitution in reference to those laws you have said there. So I am wondering, will they be doing it with consultation of the people or they shall be doing it...

Com. Adagala: Mwenzangu Mwalimu, it is a time for you to propose. The Constitution gives you more power than wondering.

Joel Akaki: I am proposing that they should consult us before they can make any other changes or enforce any other of these laws here.

Com. Adagala: How do you want us to conduct it?

Joel Akaki: Through a forum or something of that kind.

Com. Adagala: You only want to be informed, remember these people have your power, you are the one with the power. You only want to be informed? They are your servants.

Joel Akaki: No.

Com. Adagala: But perhaps that is what you want.

Joel Akaki: They should ask us and we should give our views as far as the amendments they will be making.

Com. Adagala: There is no making in the Constitution....

Joel Akaki: Okay let me use the common language. They should consult us.

Com. Adagala: You really have to say it...(Inaudible)

Joel Akaki: Through the Commission.

Com. Adagala: Umekuwa hapa kwa hearing?

Joel Akaki: Yes there is this Constitution Commission, they should organise so that we can have such a forum as this one where we can be consulted on these amendments.

Com. Adagala: You see you are saying less than you want. You want to be informed, then you want to be consulted, then after you are consulted.

Joel Akaki: ...(Inaudible)

Com. Adagala: It is not they, it is you. I want you to speak, this is part of what you have to realize life has changed. I want you to say, you were here for Civil Education how are the people consulted.

Joel Akaki: Through discussion like this one.

Com. Adagala: And then?

Joel Akaki: May be their views are taken on board.

Com. Adagala: And then.

Joel Akaki:(Inaudible)

Com. Adagala: No, they vote and how do they vote?

Joel Akaki: Through a referendum.

Com. Adagala: Through a referendum. That is what I wanted you to say, now you are forcing me to do civic education again.

You have to say it yourself, propose.

Joel Akaki: So they should come to us and they should hear our views after that we should vote through a referendum like this one.

Florence Asila: Thank you. My name is Florence Asila. Section 5 talking of the laws of Kenya nilikuwa nataka hii iwekwe in such a way that when these other laws are in conflict with the Constitution, the Constitution prevails, isn't it? Lakini vile imewekwa hapa nilikuwa naona they are all laws of Kenya and applicable and I was seeing a bit of confusion sometimes when say, African Customary Law is strong and is at variance a bit or I need reprieve from being suppressed with African Customary Law can I get reprieve in the Constitution. Nataka iwekewe hivyo, sioni kama ilikuwa imetoka hivyo.

Com. Adagala: ...(Inaudible)

Kaiser Amatalo: I am Kaiser Amatalo. I wanted to say that for example we have said the laws of Kenya comprise the Constitution and then may be you say acts of Parliament enacted under the Constitution. Tukifika sehemu ya c na d, tunasema tu African Customary Law halafu tunasema Islamic and Hindu.

Com. Adagala: You have to go through all these....and the second one you asked me Act of Parliament...

Kaiser Amatalo: Tumesema vizuri acts of Parliament enacted under the Constitution lakini tukisema C na D tunasema tu African Customary Law halafu tunasema Islamic and Hindu personal law but there is this argument, labda hizi African customary Law, Islamic and Hindu personal law zinajaribu kufinya Constitution, tutazikubali? Lazima ziwe zinakubaliana na Constitution.

Com. Adagala: Hapo tumesema ile inagongana na Constitution, Constitution is supreme lakini kuna Waislamu, Waislamu walijitetea na wako kwa Constitution ya sasa na walijitetea wakasema, they have personal law to do with marriage, death, inheritance and succession na wakasema hiyo wanataka iwe hapa, okay haya wacha tuendelee. Tuendelee? Mzee umeelewa kile nilikuwa nakuambia? Mzee wa Kanisa, wazee wa Kanisa wako wangapi na akina mama? hebu nione mikono. Haujisikii vibaya Waislamu na Wahindu wako hapa lakini ...(Inaudible) haya, wacha tuendelee.

Haya, hapa tuko na sehemu sura ya pili, sikizeni hapa ndio tunazungumzia Jamhuri ya Kenya. Kama mnataka kuzungumza nyinyi watatu endeni hapo nje kidogo mkimaliza mtarudi. Ukitaka kuzungumza utakuja hapa mbele lakini iwe-relevant.

Speaker: ...(Inaudible)

Com. Adagala: Sijui kwa sababu nimetoka kwa sura moja naenda kwa ingine sasa sijui unataka... Let me tell you Banyore amkeni. Tumeenda mahali kwengi watu wako sharp na kitu najua Wanyore ni sharp lakini hapa mnajifanya. I am telling you, hii mambo ni mambo ambayo itakutawala mpaka kitandani mwako, mpaka kanisani, mpaka market na mmesema akina mama wako market watajuaje? Si mambo ya kucheka. Si mambo ya kucheza, si mambo ya kucheza.

Okuomi Francis: My names are Okuomi Francis, I am concerned with the laws of Kenya that is part 5, that section (d) where it talks of Islamic and Hindu personal law. I propose that we should also include Christian personal law because it is also a religion in Kenya, otherwise it is not complete.

Com. Adagala: We(Inaudible)

Okuomi Francis: We have got issues pertaining marriages in the Christian society so sometimes if it is not covered here it may bring problems in future.

Com. Adagala: Like what problems?

Okuomi Francis: Where a man is supposed to keep one wife but when we look at other religions like the Islamic Religion they have allowance for more women, so this one should be included so that we are well protected or women are well protected for that matter.

Com. Adagala: What denomination are you?

Okuomi Francis: I am a Christian.

Com. Adagala: What denomination are you, you don't even know what denomination is about?

Okuomi Francis: Church of God.

Com. Adagala: Ndio anauliza huyu mzee na umefanya mzaha hapa. Wazee wa Kanisa this is just a member speaking and saying something important and you are not picking it up theologically and it will never be down unless you said in a manner in which it fits in here. Inaonekana kama you don't mind, I think that is why when you take money to a Church wanakubali wanasema huyu ameleta sadaka mzuri wacha tufanye sadaka takatifu, alete marafiki zake halafu anaenda analeta rafiki zake anapeana pesa hakuna mtu kanisani anauliza hizi pesa zimetoka wapi. Hata kama huyu mtu ameuwa mtu na kutoa hizo pesa hawajali. Christian principles are not enshrined here because Christians themselves don't leave by them. Mtu anakuja tu Kanisa Jumapili anaenda, Waislamu wanaishi na sheria yao hata walitaka sharia law, North Eastern na Coast wanataka sharia

law kama ile ya Khartum hawataki hii mambo ingine, they want to leave by their religion only. Tulikuwa na very difficult time during civic education because they were just saying but we have a Constitution it is the Quran, lakini lazima tuishi na watu wengine tunawabembeleza halafu mwishowe wanasema yaa lakini sharia law iko. Hata wale watu wameenda huko juu watakuwa na shida, si sharia law peke yake, Chief Kadhi yako hapa. Haya, mzee si majadiliano. Sura ya pili, Jamhuri.

You can't be thinking now on your toes, it is something you should be living with.

Okuomi Francis: ... (Inaudible)

Com. Adagala: That's why it is not here.

Okuomi Francis: ... (Inaudible).

Com. Adagala: Mzee, Waislamu kuna tofauti tofauti lakini wote wanaenda na law of the... that is why mnapuuza mambo ya Kikristo ndio haiko hapa, hawa hawapuuza mambo yao.

Haya, the republic, Jamhuri: Kenya ni nchi ambayo inajisimamia hakuna mtu mwengine atakuja kusimama juu ya Kenya hiyo ndio kuwa sovereign republic. Mtu mwengine hawezi kutokea kule na aje kusimama ati yeye ndio mkuu wa Kenya, mtu wa nje au nchi ingine ije kusimamia hiyo itakuwa sasa ni vita kwa sababu Katiba itakuwa imevunjwa, sasa hiyo ni vita. Mnasikia kila mara kuna ugomvi kati ya Rais na Mabalizi, inasema Kenya is a sovereign republic. Kwa sababu wengine wanataka waje walete mambo ambayo itatawala Kenya kwa sababu wanatoa pesa kidogo kidogo hapa na pale, wanataka sasa Kenya iwe kama chini ya nchi zao na ni struggle, si kusema tu hapa lazima sovereignty must be guarded. There is a saying, najua Wanyore wanapenda Proverbs, there is a saying, 'the price of freedom is internal vigilance.' Mmewahi kusikia hiyo wengine? The price of sovereignty is internal vigilance, kwa sababu kuna highlands hapa Busia na Rarieda na Bondo na Wakenya wanauwawa hapo kwa sababu Uganda says these are their highlands, Kenyans go there and if they want to fish or even people live there and they tell them, this is Uganda so all those things now will have to be cleared.

Kuna triangle ingine hapo juu Turkana pia kuna dispute fulani, all those things will have to be settled, okay. Msingi yake ni vile tumesema demokrasia, utawala bora na pia Multi Party, hii multi party tumepigania muda mrefu hii pia itakuwepo, iko kwa Constitution sasa, haiwezi kutolewa, haiwezi kuwa tena mtu anakuja anasema baadaya isipokuwa wananchi waulizwe, mnataka turudi kwa one party rule, itakuwa referendum ndio ibadilishwe na iwezi tu watu wanakuwa mahali na wanasema iwe one au Parliament peke yake, okay?

Kuna nguvu za serikali zile ambao watu wamepeana kwa serikali na hizo zinafaa zikae kila moja itatengwa iwe ni nini. Itakuwa kati ya Bunge, Urais na pia Mahakama, zinafaa zikae, ni kama vidole hivi, zinapata nguvu huko lakini hapa lazima zikae tofauti

ndio zitaitwa Arms of Government.

Kuna haki za binadamu lazima ziheshimiwe kwa republic na pia sheria ndio itaongoza, huwezi kufanya kitu kiholela holela na ikubaliwe, lazima sheria isimamie kila kitu. Haya hapo ramani ya Kenya, eneo ya Kenya ni nini? Na hiyo yote iko kwa first schedule kueleza kinaganaga ya kwanza iko huku nyuma kwa Katiba yenu mtaangalia baadaye, inaeleza Kenya ni latitude, longitude, inapitia wapi, hapa bahari inasema, huko kwa ziwa Victoria inasema, hayo yote iko kwa first schedule.

Kwa Katiba ya sasa hakuna kitu kama capital ya Kenya, mnaweza kuketi hapa sasa nyinyi wenyewe mu-declare kama Katiba ijabadilishwa musema Lwanda ndio capital ya Kenya, mtu yoyote anaweza kusema mnaona. Hasa sasa Wanyore wanaweza kusema tu na hizo nguvu zoa za kawaida. Wasema Lwanda ndiye *yene*. Hakuna mtu atapinga, sasa inasemekana Nairobi ndio Capital ya Kenya.

Parliament, Bunge itazungumzia mambo ya Nairobi. Hiyo Capital tutazungumzia baadaye hapa mbeleni iko lakini pia kuna vitu vingine vitabadilika. Kitu kimoja wacha niwaambie sasa ndio mshike tukifika hapo mtaona. Capital ya nchi si sasa kila idara na kila Wizara iwe uko na kila ofisi kuu iwe huko. Huenda Parliament ikifanya itengeneze ati tutakuwa na kikao cha Bunge Nakuru au sasa tutaenda Isiolo, au sasa tutaenda tukae Busia au Kakamega hasa kwa Provincial Headquarters. Haitakuwa lazima Parliament iwe tu huko Nairobi na pia kuna sehemu ingine inakuja ambayo itasema idara na wizara na hizo vitu vyote vinafaa vitawanyike kwa nchi ili isiwe tu mahali pamoja Nairobi, okay? Hiyo ni part of devolution.

Lugha: Official lugha ya Kenya sasa ni Kiingereza sivyo? National language ni Kiswahili lakini sasa tumeweka lugha ya rasmi ya Kenya itakuwa Kiswahili na Kiingereza. Usisema Kiingereza na Kiswahili, zitakuwa in that order, Kiswahili na Kiingereza. Juu yake Kiswahili ni National language. Maana ya hii itakuwa kila kitu ambacho kimeandikwa haswa lugha yoyote hata ile ya hansard, huyu mama anatoka kwa hiyo Hansard ya Parliament lazima itakuwa kwa lugha mbili. Hapo kwa wakati huu kama Nasir Bin Taif akifanya submissions zake huko Parliament kwa Kiswahili kizuri sana wanaenda iko kwa tape kwa Kiswahili lakini ikiandikwa kwa record wana-translate. Mnaelewa? Mwisho hata Nasir siku hizi hapeani submissions kwa Kiswahili, mnajua hivyo. Watu wachache sana kwa Parliament wanazungumza kwa Kiswahili, mnajua hivyo? Wengi wao wameenda kwa Kiingereza kwa sababu Kiswahili hasiko rasmi kwa Katiba ya sasa lakini kwa hii hata sign kwa nyumba lazima siwe kwa hizo lugha mbili na juu yake hii lugha ya national language ni Kiswahili.

Haya, tunakuja kwa dini, serikali na dini zitakuwa tofauti. Nasema hivyo kwa sababu kuna nchi zingine uko kama Saudi Arabia, Vatican serikali na dini ni kitu kimoja na Iran. Inaitwa Islamic Republic hata Libya na hiyo ndio dini na wote wako chini ya hiyo. Sasa hapa hatutakuwa na hiyo na pia hatutakuwa na dini moja ambayo itakuwa dini ya serikali, State Religion hatutakuwa na hiyo. Na serikali itaheshimu kila dini lakini haitachukua dini moja iseme hii ndio dini ya serikali. Kama Vatican huko ni Roman Catholic na mkuu wa hiyo State anaitwa nani? Pope, hiyo ni head of State of the Vatican.

Kuna ile ishara ya taifa na hiyo iko kwa kinaganaga kwa first schedule, mtaona description yenyewe. Schedule ni kitu ambacho kinalete description ya hii sheria iko hapa. Kuna bendera yetu na iko hapo kama ishara, ukienda huko United National iko bendera mia moja na themanini na sita, ukiangalia tu unaona hii ni ya Tanzania, hii ni ya United States, hii ni ya Kenya, ikisimama inamaanisha Kenya na inafaa ijulikane ni nini ndio wamekeka kwa schedule hapo.

National Anthem; hiyo ni Wimbo wa Taifa na hiyo wanaita crown lakini tunaita crown kwa sababu it was from the crown, from the Queens or the Kings crown lakini kwa tafsiri ya kiswahili bado wanatafsiri hiyo nakala na kuna muhuri wa serikali. Hiyo pia itakuwa ishara ya Kenya.

Sorry, nimechoka kwa sababu jana nilifanya kazi nyingi sana. Kiapo iko kwa forth schedule, hiyo itakuwa hapo imekuwa described watu wengine kama wale quakers hawainui Bibilia kwa sababu kwa Bibilia inasema usiinue, swear tu “jes to jes, nay to nay” hiyo inaitwa affirmation. Tena tuna watu wengine ambao hawaamini Bibilia au Quran hao pia wanafanya affirmation.

National Holiday: Sasa kuna national holidays na hiyo ni Madaraka Day June 1 na Jamhuri Day, December 12 na siku ile ya Katiba Day, siku ile ambayo Katiba itatekelezwa. Hizo zitakuwa National Days. Hiyo ndio republic sasa. Kuna kitu ambacho mtu angependa kuongeza au proposal au kiti kitatuletea mwangaza?

Kaizer Amatalo: Naitwa Kaizer Matalo. Nataka kupendekeza hivi kuhusiana na State na Religion. Tumesema State na Religion vitakuwa tofauti lakini ni lazima State ichukue authority na iwe inafuatilia vile vitendo vya kila dini kwa sababu tukisema tu State na Religion ziko tofauti watu wataanza kufanya maneno yao huko pasipo kujali ati State inafanya nini. So State should come up with ways of monitoring the activities of this diverse religion that we shall have.

Com. Adagala: Kama unamwambia mmbwa achunge nyama. How would you want this done because the State will now dictate what should be preached. Come forward and you tell us how that affect freedom of expression and freedom of choice.

Kaizer Amatalo: We are aware that there are human rights and kuna dini fulani kama dini ambazo huja na zinasema ni dini halafu zinaanza kufanya vitendo kama tusema kutairi akina mama hivi na inasema ni dini. Sasa ikiwa serikali itasema tu, kila dini sasa ina uhuru wake vitu kama hivyo vitaweza kuharibu watu sana. Sasa ni juu ya State wenyewe kuhakikisha kwamba though tumepatia kila dini uhuru wake lakini vitendo vyo kila dini lazima viwe isipite mipaka fulani kuumiza haki za wanadamu.

Com. Adagala: Okay, kuna mtu mwingine. Dot com wako werevu sana. Kuna mtu mwingine alisema inafaa tuongeze hapo na wewe umesema pia. Dini isidhulumu mtu...tumeandika lakini hiyo nataka kukuambia kuna mtu mwingine kwa station ingine alisema hivyo pia. Dini isidhulumu mtu, yaani hizo human rights.

Fred Osome: Jina langu ni Fred Osome.

(Interjection)

Com. Adagala: Nataka ufikirie pia vipi dini inaweza kukaa, itakuja baadaye lakini nataka ufikirie hasa za Kikristo. How should they...it is not really monitoring in a way but even if they have to be monitored or to be supervised, how should this be done, what should be formed? You always have to have, umesema kitu but how should it be done? I want you to think about that.

Fred Osome: Jina ni Fred Osome. Chapter 2, Republic section ya territory, section seven part (ii). The republic is divided into districts and provinces set out in the second schedule. Hapa kuna swala nyeti, swala la mipaka kwa sababu hapa nyuma ...

Com. Adagala: Toa pendekezo.

Fred Osome: Pendekeza langu ni kwamba hivi districts and provinces zenye zimekua set out in the second schedule zitupiliwe mbali, wananchi waulizwe kwanza mipaka ya districts na provinces zitakuwa wapi kabla hazijawekwa hapa. Kwa vile inaonekana kwamba hii Constitution mpya inataka kupatia districts ambazo zilikuwa created na mtu akitangatanga tu ovyo ovyo...

Com. Adagala: (Inaudible)

Fred Osome: Inaonekana kwamba hii Katiba wants to give the force of law, section of the districts and provinces which were created by somebody for political gain. So I am proposing that all the districts and the provinces set out in that sections be repealed and new boundaries created so that we don't have problems with Trans Nzoia and Western Kenya and Maseno where by sections of Maseno, infact somebody formed the boundary where some section is in Vihiga and all districts and provinces in this country. It will not be proper to give a false law to this system if we are creating these without consultation of the Kenyan people.

Com. Adagala: I hope you know it includes Vihiga District. We can say also even the first 42 were not by consultation sababu mikono ndio alipiga tu ruller but kijana unajua mtu akirudi pale hasikii tena. We have a boundaries Commission, eleweni hatukutaka kutingiza kila kitu Kenya, tukianza hivyo mtakuwa kwa hii jambo nyumba ya mtu imekatwa hivi. Kweli it is a violation of human rights lakini kuna mambo mengine makubwa ya Constituion ndio tulitaka tuangalie sasa. Sasa tulisema tutahifadhi hizi boundaries including provincial ones and believe me North Eastern kwa sababu nilikuwa huko nikifanya hearings and civic education wao watakuja na moto kwa sababu kuna provincial headquarters yao na it is in Coast Province. Wewe wacha hii mambo, the Provincial Headquarters for North Eastern is in Coast Province mnaelewa? Mipaka wamekata hivi na hiyo is in Tana River. So we have put a boundary Commission kwa sababu ni kitu kinafaa, hatuwezi kumaliza hiyo wakati huu

kweli?

Sasa boundaries Commission itakalia hayo yote, tutazungumza mambo ya Commissions mbele lakini umesema vizuri only that even the other 42 districts, no one was consulted they were made by the colonial Government. So you were right, that submission you should keep it, the boundaries Commission will come, you should develop it, you are a young man. Develop it even look at the map don't just give hii peke yake kuna zingine huko Hamisi, Wakalenjin pia wanasikia wawe kule au nini. Zingine Lugari imesongeshwea mara tatu au mara nne hivi ikuchukua sehemu ya Western inaenda Rift Valley. Kuna zingine kama hiyo ya Garissa, so sit down and make a good submission about that and wait for the boundaries Commission, okay.

Speaker: Mimi nataka....

(Interjection)

Com. Adagala: That is why we have come to you. Professor Ghai alisema the Commission does not have all the wisdom, it does not have a monopoly of the wisdom that is why we have come back to you. So be very alert and if I make a suggestion to you like develop your argument young man, you do it because it should be something that will be about 10 pages long if you do it.

Mr. Lukose: Mwenyekiti kuhusu State and Religion nakubaliana kabisa na number 2. There shall be no...

(Interjection)

Com. Adagala: ...(Inaudible)

Mr. Lukose: Jina langu naitwa Lukose.

Com. Adagala: Utasema jina kila mara.

Mr. Lukose: Every time I come I must say that, okay.

Com. Adagala: So that this information does not get lost so that your grand children will not miss.

Mr. Lukose: Hii ni kweli kabisa kwamba kuwe na tofauti katika serikali ama nchi na dini lakini kitu nimetaka Constitution itasema kitu gani kuhusu kitu kama Kenya Broadcasting Corporation inavyotumiwa na religion sawa sawa ni kitu ambayo ina-promote religion. TV inatumika kutangaza mambo ya dani kuliko kutangaza mambo ya maendeleo na hii KBC ni mali ya wananchi wa Kenya.

Com. Adagala: Okay KBC ni mali ya wananchi wa Kenya na pia ni Biashara. Hawa watu wanaenda ... (Vernacular). Hiyo KBC watu wanaenda hapo kama huyu Wairimu analipa lakini kuna sehemu fulani lazima wafanye mambo ya maendeleo. Hata hivyo kuna sehemu hapa ya information in the bill of rights. A whole section on the press and all that lakini it is an interesting point put it down for mzee. We take all your proposals, even if I comment on them we write it down.

Scholastica Naliaka: Kwa majina naitwa Scholastica Naliaka Ndale. Mimi ninaonelea pendekezo langu, chapter number 3 inaonekana ya kwamba.

Com. Adagala: We have not reached chapter three.

Fred Sirunya: Mwanzo nitashukuru Tume kwa kazi mzuri ambayo imefanya. Jina langu ni Muhango Fred Sirunya natoka hapa Lwanda. Naona kwamba wingi wa mapendekezo ambayo hata mimi binafsi niliyaleta mbele yenu mmeyashugulikia kwa hivyo ninaposikia kwamba mtu amesema Bwana Ghai amekaa pahali fulani akaandika vitu vyake ninasema kwamba huo ni uwongo na ni uzuchi.

Sasa nataka kushugulikia sehemu ya dini na serikali. Kuna sehemu naweza kusema kwamba kipande cha tatu, the State shall treat all religions equally. I think this is vague, nasema hivi kwa sababu pametokea dini zingine ambazo tunashindwa kujua kwamba malengo yake ni nini. Kwa mfano tumesikia watu wakisema kwamba kuna dini zinazoabudu shetani, kila mtu anajua hivyo na dini kama hizo wanasema kwamba wanakula viapo na hivyo viapo zinahusu damu ya binadamu. Kwa hivyo sehemu hii nataka Katiba iwe na lengo kabisa kueleza ni dini za namna gani kama vile mwenzangu alipendekeza hapo. Kwa hivyo tusiwe na serikali inayokubalia dini zote zinazokuja bila kuangalia kwamba dini hizo zinadhuru namna gani wananchi kifikira, kimawazo na mambo mengine yote, kwa hivyo sehemu hiyo muishughulikie.

Com. Adagala: ... (Inaudible)

Fred Sirunya: Nasema hivi, kwa mfano ikiwa dini hiyo ya kuabudu mashetani ikiwa ipo, ndio nakuja sehemu hiyo ya mawazo.

Com. Adagala: Sema pendekezo lako.

Fred Sirunya: Pendekezo langu ni hivi, dini za kuabudu mashetani na dini ambazo malengo yao hayako wazi zitupiliwe mbali kwa sababu zinatuharibu sisi kimawazo na kwa sababu watoto wetu watahusishwa na sisi wenyewe tunaweza kuhusishwa kwa njia moja au nyingine. Kwa hivyo tusiwe na uhuru tu, uhuru wa jumla isiwepo.

Com. Adagala: Unajua tuliuliza watu, what is devil worship? Hakuna mtu alituambia, wakasema they worship in the night sasa tunasema nikienda kwa Kanisa nikeshe au hii matanga ya Waluhya hiyo ni nini? Haya, tukauliza wakasema oh, they do

meditation sasa ningesema pia quakers do meditation then are they also...nobody told us what devil worship is, lakini kile umesema ni hiyo ya kudhulumu wananchi na

Fred Sirunya: Kutumia damu ya wananchi.

Com. Adagala: Hiyo ni kudhulumu mtu kwa sababu umeua mtu ili ukunywe hiyo lakini umesema kujenga kimawazo, sit down and right that proposal of yours because it is very complex and I want you to compose it very nicely. Okay.

Rose Nangira: Kwa majina ni Rose Nyangira. Mimi napendekeza upande wa lugha, lugha yetu tumepitisha kwa Katiba ya kwamba iwe Kiswahili kwa maana Kiswahili ndio lugha ya taifa na unaweza kuta ya kwamba watoto wetu humu reserve hawajuhi hiyo lugha, hiyo inatatiza watoto wetu wakienda kutafuta kazi wakitoka huku reserve hiyo inawasumbua.

Com. Adagala: Mama nimeambia wazee na akina mama hawajuhi Kiswahili, watoto wanafundishwa Kiswahili kwa shule, usiwaleta chini. Hawa watoto Kiswahili ni subject ya mihani hakuna mtoto ambaye anaenda shule ambaye hafundishwi Kiswahili. Sasa endelea.

Rose Nangira: Sasa nakuja upande wa akina mama. Akina mama wengi hawajuhi Kiswahili ndio sababu wanaogopa hata vile ulisema akina mama hawako hapa, wanaogopa hawajuhi Kiswahili. Wanaona ya kwamba wakija hapa wataulizwa mambo kwa Kiswahili na hawajuhi watajibu namna gani ndio sababu akina mama tunarudi nyuma, ni heri tufundishwe Kiswahili.

Com. Adagala: Mama una watoto?

Rose Nangira: Ndio.

Com. Adagala: Wanasoma, darasa gani?

Rose Nangira: Niko na mtoto ambaye ako katika darasa la nane na mwingine ako darasa la Form One.

Com. Adagala: Wao wanasoma?

Rose Nangira: Ndio.

Com. Adagala: Na wakina mama?

Rose Nangira: Akina mama wako wengine ambao hawajuhi kusoma.

Com. Adagala: Okay, sasa hiyo inaenda kwa sheria ya Bunge. Tuelewe wananchi,(Vernacular) ni msimamo. Kinaganaga itaenda kama hii ya mama inasema inaenda kwa education act, akina mama wafundishwe na iko kwa shule sasa huwezi kusema haipo kwa shule kwa sababu iko lakini hiyo umesema, hiyo inakuwa kama, lakini tukileta elimu ya watu wakubwa mnakataa. Hata akina baba wanaogopa.

Jairus Lusuli: Jina langu ni Jairus Lusuli. Republic of Kenya is founded on republican principles, wacha niruki mahali fulani. Kuna transparency and accountability watu wa Kenya, republic of Kenya kulingana na Katiba hii wawe accountable, serikali ya Kenya iwe accountable kwa nani kwa sababu wakati huu kuna nchi hapa ulimwenguni ambazo zinataka Kenya iwe accountable kwao. Hiyo mambo imefanya hata Kenya is held at ransom hatuwezi kupata development kwa sababu mtu fulani anataka tuwe accountable kwake, what is all that?

Com. Adagala: Okay this accountability, we are talking within Kenya. Accountable to the people of Kenya, hiyo ingine ndio nilikuwa nasema unaona Rais wanagonganisha na balozi wanataka, eh, unajua bado wanaile kasumba ya ukoloni, bado wana hiyo tamaa ya kutawala nchi zingine lakini hiyo ni vizuri if you said accountable. Hata mtu mwingine aliguzia hiyo lakini umeisema, niliwambia Wanyore ni watu werevu sana. Haya, hiyo ni accountable to all not just accountable or accountability, isn't it? Accountability to the people of Kenya.

Jairus Lusuli: Ya mwisho, national days tumechukua 1st June Madaraka Day, December 12 iwe Jamhuri and the day of enactment of the Constitution. Hiyo nakubaliana na Commission kwa sababu hatutaki au haitakuwa vizuri kila President anapotawala Kenya anaweka pale jina lake, anawake pale siku alizaliwa, siku atakufa. Hatutaki hiyo maneno, tunataka hiyo mambo ya National interest ya party.

Com. Adagala: Mzee hata siku atakufa? Nakuuliza hata siku atakufa pia anaweka hapo? Haya, nataka watu waelewe pia these are the National Holidays, do you want to add or subtract from these three? Nieleze kuna zingine, New Years Day, Christmas, hiyo ya Ramadhan wakimaliza, Labour Day, hizo ni Public Holidays, tofauti. ... (vernacular) tofauti iko hapo ili msifikirie hata kama huyu mzee amesema kila nini iko hapo, National Holidays ni hizo tatu. Mngekuwa na ingine ya kuongeza au kutoa mnauhuru tu, we are discussing this is a draft it is being discussed by you and the whole world is watching Kenya because it is not done like this, we are doing it better than in other countries.

Francis Oluoch: Jina ni Oluoch Francis nina maoni ya kwamba, I propose that that section of State and Religion we should add that the State or the Government shall supervise and limit the activities of the religion to ensure that they don't conflict with the personal and human rights of individuals because we have got some religions...

Com. Adagala: Hiyo ni civic education, you can put everything you are saying except limits. Kuna mzee mzuri hapa wa

Kanisa? Kijana, there is something called freedom of expression, the highest freedom of expression is spiritual, mzee umefurahi? Unaweza kufundisha huyu kijana, unasikia Professor ako hapa? The highest is the freedom of spiritual faith, hiyo ni yako na Mungu wako. If you start limit, I am surprised at you people because some of you have said, if you start limit you are bringing Government censorship and believe me hiyo government censorship mwishowe inakuwa imla pia itakuja waketi hapa, wanachunguza mzee anasema nini, unaona? We can put everything if you will allow us, limit is one thing even if that one on human rights is in I thought you would also say the religion must ensure and affirm human rights, something like that. I thought that is what it should be like because they should be able to further human rights.

Moses Akhabele: Mimi ni Moses Akhabele. Nitaongea kuhusu National Flag, nataka tuwe na tofauti ya National Flag na ile ya KANU juu KANU imechukua hii bendera ndio wanatumia pia kama yao.

Com. Adagala: ...(Inaudible).

Mose Akhabele: Rangi zile za....

Com. Adagala: Ulikuwa kwa darasa ukisoma ...(Inaudible). You are going to change the colours of the National Flag? I am asking you a question.

Moses Akhabele: Green is for environment.

Com. Adagala: I don't want you to explain that, just say the colours of the National Flag.

Moses Akhabele: Tuko na green, red, white and black.

Com. Adagala: You are making a proposal on something you are not sure of. Zungumza na confidence please this is your time of giving your contribution and the most important thing is for you to no fear and have confidence, describe the National Flag. No, don't run away you have a proposal which is very good, I want you to describe the National Flag and describe the KANU Flag.

Moses Akhabele: Green, white, red and black.

Com. Adagala: And the KANU Flag?

Moses Akhabele: KANU flag resembles it lakini wana-twist kidogo na wana add ingine.

Com. Adagala: You have tried but you need to know what you are saying. The KANU Flag or the poing which you want, you should research your contributions. Wewe mwenyewe uko confused, that is why you need to be distinct. The KANU Flag does not have white in it, Kenyan Flag is there on the Constitution, did you see it? You are not seeing it because you are not looking at the piece of paper in you hands, okay describe it?

Moses Akhabele: Green, red and black.

Com. Adagala: Okay, the KANU Flag does not have white in it but your point is that it should not be such that there is confusion, isn't it?

Medan Lidimuli: Kwa majina mimi naitwa Medan Lidimuli. Mimi sina mambo mengi, yangu ni kuongea juu ya...

Com. Adagala: Hautaongea.

Medan Lidimuli: Mapendekezo yangu ni kwamba hizi national holidays nimeona ile siku ya October ya mwakilishi wa taifa ni muhimu sana. Wewe mwenyewe hata unafahamu nani alikuwa mwakilishi wa taifa siku ile ya Kenyatta Day, October.

Com. Adagala: Nani alianzisha taifa ya Kenya?

Medan Lidimuli: Hapo mimi nasema hivi kwa kuongezea, mimi nilikua nafikiria hiyo siku ya October 20 ambapo mwanzilishi wa taifa letu marehemu Jomo Kenyatta alipokamatwa isitupwe nje.

Com. Adagala: To the best of my knowledge Kenyan people started Kenya, the Kenyan struggle. Isiite Ngei Day au Bildad Kaggia Day au Ochieng Oneko Day.

Medan Lidimuli: Basi ni kwa sababu yeye ndiye alikuwa kiongozi ya hao wote.

Com. Adagala: Sasa wewe unaturudisha kwa hiyo mambo ya ikirudi hapa ya kuchukua mtu unamfanya kuwa mkubwa kuliko Kenya. I want you to correct yourself, you have an idea only you are upside down.

Medan Lidimuli: Basi kwa hivyo pendekezo langu ilikuwa hivyo na kama nimetereza mahali mimi naomba Commissioner unisaidie.

Com. Adagala: Okay watu wengine wanasema inafaa iwe Freedom Fighters Day wengine wanasema iwe Heroes Day. Unajua hii mambo ya kufanya mtu mmoja anakua mkubwa kuliko Kenya ndio mbaya na hiyo tunatoa, Wakenya walipigania

uhuru. Kila mahali tumeenda tumeambiwa freedom fighters, huyu alipigwa risasi kila mahali si Central Province peke yake watu wanafikiri ni Central Province peke yake. Ijara walisema tulikuwa na nani Hassan, he was hanged on that tree na akakaa hapo mpaka akaoza, we went him recognised. Kila mahali tumeenda, mimi mwenyewe nilichukua submissions kutoka kwa Ochieng ' Oneko, akina Otiende hapa na wengine, hawa watu walikuwa viongozi lakini kile kinafaa ni credit should go where credit is due. Hiyo sasa inaweza kuwa kama Heroes Day halafu Wakenya wote walipigania.

Medan Lidimuli: Hapo nashukuru umenifundisha ya kutosha kwa hivyo pendekezo langu niko through sasa, uangalie hiyo iitwe Heroes Day.

Scholastica Naliaka: Kwa jina naitwa Scholastica Naliaka Ndale. Mimi pendekezo langu ningenelea ya kwamba number 298, halafu sehemu ya tatu, ningependekeza ya kwamba vile ninaangalia kwa hii kitabu au gazetti inasema sheria ya Kenya iwe hivyo hivyo. Ninapoangalia hapa mimi mwenyewe sina elimu ya kutosha lakini unaangalia tu kwa umbali.

Com. Adagala: Sura ya pili.

Scholastica Naliaka: Sura ya pili hapo number tatu.

Com. Adagala: Huna masomo mengi sana mama lakini nafikiri ungesoma na bado unaweza kusoma unajua hivyo?

Scholastica Naliaka: Ndio.

Com. Adagala: Unaonekana kama unaweza kuwa wakili mzuri sana. Haya lakini haijaleweka, what is she talking about? Is it chapter three or chapter two?

Scholastica Naliaka: Chapter two kutoka eight halafu....

Com. Adagala: So you are saying the capital of Kenya. Una lingine la kuongeza hapo?

Scholastica Naliaka: Nina lingine la kuongeza. Mimi naona nikipendelea sheria ya Kenya iwe tu ni moja hiyo hiyo.

Com. Adagala: Capital.

Scholastica Naliaka: Yes, capital.

Com. Adagala: Haya asante.

Kaiser Amatalo: Asante kwa majina ni Kaiser Amatalo nilikuwa na proposals mbili. Ya kwanza ilikuwa kwa national holidays, though I am of the opinion that the October 20th Day be retained but under a different name for the sake of posterity and then under territory. Number 4, that every citizen has the right and duty to defend the republic against any person who threatens the political independence, teritoria intergrity and constitutional order of the republic by constitutional means. Now we should be very clear how these citizens are going to defend the republic because you can defend in any way and in the course of defence you break the law.

Com. Adagala: Nafikiri soko iko Lwanda, Chairman soko iko Lwanda ukitaka kuenda huko na watu mnazungumza nao hapa muende kwa soko hapa si soko. Nasema hivyo kwa sababu kuna recording inaendelea hapa na mkizungumza ng’u ng’u ng’u, mambo ya Lwanda itakuwa ng’u ng’u ng’u. Mkitata hivyo mnauhuru wa kufanya hivyo lakini itafanya kazi yangu iwe ngumu kwa sababu siwezi kusikia hiyu mtu vizuri na already our work is very very difficult. Mtavumilia muwe na nidhamu mtakuwa hata na siku za kujadiliana lakini siku hii ni muhimu sana, lets respect this day.

Kaiser Amatalo: Kile nilikuwa nasema ni hiki. That every citizen has the right and duty to constitutionally defence not just defending. Thank you.

Com. Adagala: Wewe pia ni Wakili but that is good, that is what we are looking for hiyo kinaganaga. Yes, it is true because someone can be malicious na waseme we are defending the Constitution and they are creating loss of human life.

Charles Etale: Jina langu ni Charles Etale na yangu mnazungumza kuhusu function of the Central Bank.

Com. Adagala:(Inaudible)

Charles Etale: I should be excused.

Com. Adagala: Why should you be excused?

Charles Etale: Because they say I have gone very far.

Com. Adagala: ...(Inaudible).

Charles Etale: On this function of the Central Bank.

Com. Adagala: What chapter is that?

Charles Etale: 252.

Com. Adagala: What paragraph are you on?

Charles Etale: Or paragraph 31.

Com. Adagala: ...(Inaudible)

Charles Etale: Functions of the Central Bank.

Com. Adagala: The meeting here was supposed to start latest at 9.00 am. Tulikuja hapa and this room was empty bila mtu hata mmoja and this is the result we are going chapter by chapter hakuna mchezo hapa hata wa dakika moja, we are going chapter by chapter line by line kwa sababu tunataka watu... wewe sasa una-peruse vile unafanya ni kupitia pitia, hakuna kitu kama hicho. Okay, you will reserve your question until we get to that chapter, which chapter is it? We are on chapter two.

Ako Lukose: Asante sana ni Ako Lukose tena. Kuhusu mambo ya National Holidays, nafikiri Mwenyekiti ni kitu ya maana kuwa na national days lakini inafaa sheria Katiba ifafanue national days and holidays ni tofauti gani iliyomo, kwa sababu gani hapa naona iko national days tatu lakini nikifikiria naona iko holidays minge, New Year, Christmass Day, Idi Fitri na Madaraka Day, Moi Day, Kenyatta Day. Nafikiri ingefaa Constitution ifafanue ni wakati gani ambao unafaa kuwa na holiday na pia kama inawezekana vile jama mwingine amesema hapa siku ya Kenyatta Day au Moi Day kwa sheria ifutwe.

Com. Adagala: Mzee asante. Parliament itafafanua hiyo, hapa ni principles. Itafafanua na kuweka kwa utaratibu, haya, asante. Unataka kabisa 20th of October itolewe.

Ako Lukose: Call it something else not Kenyatta Day.

Com. Adagala: Okay.

Ako Lukose: Mwenyekiti mimi nilihusika kabisa katika hii siku ya October 20 kuifanya kuwa Kenyatta Day na kwa hivyo mimi nafikiri kwa vile inaonyesha jina ya mtu fulani ni afadhali iwe Heroes Day badala ya jina ya Kenyatta.

Com. Adagala: Haya tuendele. Wale wamekuja nyumba mlitucheleweshwa hata kuanza hatukuanza vile tunaanza kwa vituo vingine kwa sababu tulikuwa na watu wachache sana hapa lakini kitu kimoja tuheshimu siku hii haitakuweco tena mpaka may be 50 years from now ya kuangalia Katiba kurekebishwa tena even 100 years. So you need to look at it there may be

referendums, there may be giving of views but this day like this will not be there that is why I don't know why the people of Emuhaya took it to be just another day. Mahali pengine tunaenda by saa tatu au saa mbili, between those hours people fill the place mpaka kwa madirisha lakini hapa sijui imekuwaje. Haya tuendeleo.

Chapter three, Etale uko kwa chapter three? Ako wapi? Kwa Katiba ya sasa hakuna kitu kama nia ya Kenya, hakuna kitu kama lengo, hakuna kitu kama hicho hata kidogo. Vile ukiona mtu anajenga shule mmpongeze kwa sababu anafanya kwa hiari yake, kwa kupenda kwake na pengine anapenda kufanyia binadamu vitu au anawapenda nyinyi watu wa pale au mtu akifanya kiti kingine chochote hakiko kwa Katiba, hapa lengo na nia ya Kenya iko hapa, ya hii republic iko hapa. Mnaelewa? It is now in this proposal, it will be entrenched in the Constitution. Itakuwa unconstitutional for someone not to do the things which are laid down here. Nitampa huyu kija azungumzie hiyo lakini hiyo ndio lengo ikiwa kuna la kuongeza nitaongeza.

Vincent Watako: Sasa tuko katika sura ya tatu ambayo inaongea juu ya maadili muhimu ya kitaifa. Maadili haya yamependekezwa na yameorodheshwa katika sura hii na maadili haya itabidi yafuatwe na matawi tatu ya serikali ambayo ni Bunge, Urais na Mahakama. Maadili haya ni kama umoja ya kitaifa, national unity pia Katiba inatambua kwamba sisi watu wa Kenya tuko tofauti, we are diverse lakini Katiba hii inasisitiza kwamba sisi watu wa Kenya ingawaje tuko tofauti kwa haina mbali mbali tutakuwa kitu kimoja. Pia adili ya demokrasia imetambuliwa katika Katiba, serikali lazima itakuwa ya demokrasia. Wazi na transparency na accountability pia ni moja ya maadili ambayo yametambuliwa.

Ufisadi utatupiliwa mbali kutakuwa na mahakama ambazo ziko huru ama independent. Viama vya kisiasa zitawachwa kufanya miradi zao bila kupingwa ama bila kusumbuliwa na serikali. Kutakuwa na mashirika ambayo sio ya serikali pia yatawachwa kufanya vitendo vyao ama miradi yao bila kusumbuliwa.

Haki za kibinadamu itabidi pia zifuatwe, mahakama imepewa juhudi za kutunza na kukuza maadili muhimu. Haki za kimsingi kama nguo ama mavazi, chakula na shelter ama makaazi pia serikali itadumisha ama itaangalia kwamba haya mahitaji muhimu haya yanapatikana kwa wananchi. Maendeleo ya sehemu tofauti za nchi pia itaangaliwa na jamhuri ya Kenya itabidi iwe mwanachama mzuri wa bara la Afrika ama mwanachama bora. The republic shall promote equitable development and recognize the role of science and technology.

Com. Adagala: Haya maadili, lengo na hayo yote imehifadhiwa kwa Katiba, it is entrenched. Katiba inasema 'shall' hiyo ni promise and it is true actually the Constitution is a promise, a contract and a promise. It shall happen so it is not whether itaangaliwa au itawachiwe au mtu anaweza kuchagua kutofanya ni imehifadhiwa, it is entrenched and preserved in the Constitution. Si ati hajui lakini ni lugha nzito kuliko ya kawaida.

Vincent watako: Na ili kudumisha maadili haya Rais atatoa repoti kwa Bunge mara moja kwa mwaka kuonyesha jinsi maadili haya yanafuatwa. Katika sura hii pia kuna juhudi ama jukumu za kila mwananchi. Wananchi wamepewa jukumu

ambazo zitabidi watekeleze. Jukumu la kwanza ni kwamba itabidi kila mwananchi aielewe Katiba, kila mwananchi itambidi kuulinda Katiba, kila mwananchi itabidi a-participate ama ahusike katika upigaji wa kura ama promoting democracy. Kila mwananchi itambidi awe mwenyekuajibika katika kuikuza familia na kila mwananchi pia itabidi a-promote learning and learning institution na masilahi ya kila moja wa jamii itabidi yatunzwe.

Mali ya uma pia kila mwananchi anawajibu wa kuitunza mali ya uma, kila mwananchi pia ako na juhudi ama jukumu la kuyatunza mazingara yetu, kila mwananchi pia ako na juhudi ama jukumu la kuyatunza mazingara yetu. Kila mwananchi lazima aepuke na ufisadi na aone kwamba Kenya hii iko katika sehemu nzuri katika anwani ama katika ramani za kimataifa. Hayo ndio majukumu ya kila mwananchi ambayo yanathamatisha sura hii.

Com. Adagala: Haya tuendelee na chapter hiyo ingine, tutachukua hizi mbili pamoja lakini ukiwa na kitu unataka kuchanga kwa hii tutaendelee. Hii inafuata ni ile inaitwa uraia, uraia. Tumezungumzia jamhuri, tumezungumzia maadili na nia ya Kenya, tumezungumzia hapo mbele hata watu na nini lakini watu ni jumla, Mkenya ni nani? Raia wa Kenya ni nani na anakaa vipi ndio tuko hapa na usawa mbele ya Katiba, tuko na usawa kila mtu Mkenya. Uhuru wetu uko sawa na pia wajibu wetu na jukumu zetu ziko sawa. Kila Mkenya ana haki ya passport na zakabadhi zingine ambazo ziko kama National ID na zingine ana haki. Unajua siku hizi, kuna mtu amejaribu kupata passport hapa ya mtoto kuenda ng'ambo au nini? Unasumbuka na sasa ni haki kwa sababu si kitu mtu anakupendelea au mtu anaficha halafu anasema file imepotea mtotee hongo ndio akupe au kwa sababu anakujua ndio anafanya haraka, hii ni haki.

Vile tuko tukianzisha kwa sababu tunatengeneza Kenya mpya mnakubali hiyo? Tulipokuja hapo mlitaka hiyo ingine imeraruka sana tutengeneze mpya na hiyo ndio sababu ya kurekebisha Katiba moja na hapa tukitengeneza na tuache tu, mwishowe kila mtu itambidi ku-apply kuwa citizen. Sasa hapa tumehifadhi uraia wa kila Mkenya ambaye ni raia wa Kenya, yule ambaye sasa ni raia wa Kenya tunahifadhi hiyo au Katiba imehifadhi halafu wengine wako na registration na pia wataendelea kuwa citizens. Vile mtu anakuwa raia ni hivyo, kawaida tunasema tena(Vernacular). Hiyo ya kuzaliwa, ukizaliwa kwa eneo ya Kenya wewe ni Mkenya, ukiwa Muhindi, ukiwa Mzungu, ukiwa Mwafrika mtoto wa Kiganda akizaliwa hapa ni Mkenya. Nataka muelewe hivyo kwa sababu huenda ukasema lakini wazazi wake si Wakenya, akizaliwa hapa, Amerika iko hivyo, ukizaa mtoto ukiwa Amerika ni Mmerika mpaka awe miaka kumi na nane ndio anachagua lakini yetu inasema tu wale wanazaliwa.

Kuna pia hiyo ya kujiandikisha halafu hiyo ingine ya ku-apply mtu ana-apply akiwa Frenchman anakuja hapa anataka kuishi atafanya application inakaguliwa halafu anakuwa raia. Watoto ambao wako adopted, mtu anaweza ku-adopt mtoto Mtanzania au mnaelewa akiwa mtoto ambaye amezaliwa Kenya ni Mkenya sasa adopted children ambao hawakuzaliwa Kenya ndio wanazungumziwa hapa. Huenda ukawa mtoto Mjerumani na mtu anataka awe mtoto wake ataweza kupatiwa uraia.

Sasa hiyo dual citizenship nilisikia Lumumba akizungumza, uraia marudufu. Unajua Lumumba na Kiswahili chake hata wakati mwingine unahitaji kamusi ndio uelewe. Uraia marudufu, mlisikia jana? Wangapi walisikiza radio saa tano na ingine ni ya saa

tisa. Sasa hiyo ya double citizenship, dual citizenship, dual ni double, ya mara pili. Iko na inaweza kupatiwa kwa wale ambao wamepoteza raia yao. (All mobile phones off au waende Lwanda market). Wale ambao wamepoteza uraia, unajua kuna watu ambao wamepoteza uraia hata dada yangu amepoteza kwa sababu alienda Zimbabwe became a citizen there and then she was told both by the Zimbabwe Government which has the same law we have and the Kenyan Government she must give up Kenyan citizenship, mnaona hiyo? Kuna nchi zingine ukichukua halafu unapoteza sasa hao Wakenya ambao walipoteza citizenship sasa wako-recognised kama raia, under the old Constitution those who lost their citizenship: Pale unaweza kupoteza uraia sasa ni ikiwa ulipata hiyo uraia wako kwa njia ya uhalifu au ufisadi, mtu aliniambia juzi ukitaka citizenship siku hizi na inapitia kwa njia ya godfather hivo ni milioni tano, mnaelewa? Kama ulipata itachunguzwa, ufisadi utapoteza kama ulipata hivyo au mtu alipata hivyo atapoteza.

Wazazi wakifariki kabla mtoto hajazaliwa huyu mtoto atachukua uraia wa mzazi wake. Hiyo ya kukaa, tuseme watu ambao wanakuja wanataka tu kukaa Kenya iko ...(Inaudible). Wale ambao walikuwa raia wanaweza kuchagua kuwa tu wanakuja wanaishi lakini wanaenda kwa nchi zao. Kama ujerumani, ukiwa Mkenya, Wakenya ambao wako kule ambao wamechukua uraia wa Germany lazima wawe na hiyo pekee. Sasa tunasema wale ambao wamepoteza ya Kenya kwa hiyo njia wanaweza kuwa wakaazi wa Kenya na kuna haki za wale ambao watakaa Kenya. Wale ambao ni mke au mjane ambaye anatoka kwa nchi ya ng'ambo, mtoto pia hapo na Parliament itafanya hizo sheria itoke kwa kinaganaga. Kutakuwa na almashauri ya kusajilisha raia.

Kwa hizo chapters mbili kujeni mbele mkina na vitu vya kuongeza kuhusu nia na lengo la Kenya, maadili ya Kenya na pia uraia. Fanya haraka mnasikia, ninaona hii might take use five hours.

Paulo Amutwoko: Mimi naitwa Paulo ningependa kuchangia maneno ya hii passport.

Com. Adagala: Kuja hapa mbele na kuchangia kama Mwanakenya. Mnastahili mchangie with confidence bila uhoga.

Paul Amutwoko: Napenda kuchangia kuhusu hii mambo ya passport. Ningependa labda mngeongeza hapo kama age ya passport ni miaka ngapi kwa sababu tunajua ID ni age 18 lakini passport hatujaona hapo.

Com. Adagala: Hiyo sasa tutaandika hiyo maoni yako lakini hiyo sasa ni Parliament. Sasa mkichagua Mbunge mchague yule ataenda kutekeleza haya mambo mnasema.

Miller Ingabo: Jina langu ni Miller Ingambo nachangia kuhusu chapter 3 under duties of a citizen. My names are Miller Ingabo. I want to propose to add something on the overall duties of a citizen that the government in power should not influence or interfere with any duty of a citizen. For example if I may quote section 1 C, under duties of a citizen that a citizen should...

Com. Adagala: ...(Inaudible)

Miller Ingabo: Lets say when a citizen is entitled to elect or rather participating in a political election, the Government in power should not actually put conditions to influence the citizens to do something in favour of the Government in power, that is what I mean and many at times it has done this.

Com. Adagala: ...(Inaudible)

Miller Ingabo: Actually it is, for example being a civil servant I am compelled to vote, I mean the government in power compels me to vote for it in various circumstances this one has been seen many at times.

Com. Adagala: They decide that by secrete ballot, you have your conscience and you but also we election coming up or that kind of thing but it is true may be it is the kind of ...it cannot compell you but anyway we will put there, I thought I needed to know its interference to the citizen. Wakili anasema, wewe eleza duty na rights.

Vincent Watako: Sielewi pendekezo lako vizuri, sioni kwa nini serikali inaweza chukua jukumu lako labda serikali inaweza chukua haki yako lakini jukumu lako ambalo inapasa wewe mwenyewe ulitekeleze labda ueleze.

Com. Adagala: Hiyo ni right to choose who to vote for, you have a duty to vote and even you have a right to vote but they can take away your right to choose. Duty is a bit difference don't confuse, we have freedom and responsibilities, we have rights and duties ni kama inakaa hivyo but we will put it down and we will see what we will make of it when in a discussion. I put it that example of a civil servant.

Ako Lukose: Jina ni Ako Lukose. National goals, values and principles number three states the republic is based on principles to democracy and shall promote and the republic shall recorgnise the diversity of these people and promote the culture of different communities. Madam, Chairman, I think there are certain traditions which are iminical to development. Traditions such as nomadism don't promote development and for reasons of the nation and is contradictory to Kenya being a country in Africa and so on internationally. Therefore, the Constitution I think should state what kind of tradition should be done away with which are not condusive to development. Another thing here, I don't know whether women will think that I am against them but I think that there is too much marginalization of women when everything talks about putting something special for women. Why don't we use a word that states that the Government will ensure that facilities are availed to women to participate in politics to be elected and so on rather than having things reserved for women?

Com. Adagala: What chapter are you on?

Ako Lukose: National goals, values and principles is chapter 3 (11 and 12) disabled and women.

Com. Adagala: Mzee hiyo ya kwanza ilikuwa nini? The first one was what, I just want to get it right and comment on it. Just say it by your mouth.

Ako Lukose: I talked about traditions, there are nomadic traditions...

Com. Adagala: Sasa kile umefanya sijui nikuambie vipi kwa sababu nataka kuwa na heshima kwako lakini imetusi nomads na hiyo haikubaliwi mbele ya Tume. I don't know how nomadic life is not conducive to development, where don't you want them to come and settle in Bunyore?

Ako Lukose: The Maasai move from one place to another to graze their animals and other traditional like that, that is what I am talking about.

Com. Adagala: Where would you like them to settle in Bunyore?

Ako Lukose: No.

Com. Adagala: It is the pastoralism our lifestyle?

Ako Lukose: They should be coordinated and made to be urbanized or things like that.

Com. Adagala: And who will coordinate you and leave Banyore. You are taking away their lifestyle and their right to have a lifestyle, it is a valid lifestyle all over the world.

Ako Lukose: If that lifestyle be inimical to their development should we just leave it like that?

Com. Adagala: But how you be inimical to development?

Ako Lukose: Because they are not cohesive, they don't stay in one place to develop.

Com. Adagala: So if people are not Banyore's then they are not people?

Okuomi Francis: Jina ni Okuomi Francis, chapter three duties of a citizen part (f) contribute to the welfare and advancement of the community where they leave. Now I propose that we should have a clause there, contribute voluntarily, that clause

should be added there and then chapter (iv).

Com. Adagala: Why should it be added there?

Okuomi Francis: Because sometimes some Government officers may take advantage of forcing people to participate in activities when sometimes they are not even helped so to control that it should be voluntarily.

Chapter (iv)....

Com. Adagala: According to the(Inaudible)

Okuomi Francis: I mean there could be some kind of harambee and then you find that you don't have the money to pay but you have an animal at home, so some Government officers may come and pick that animal to cater for the harambee which is not good.

Com. Adagala: ...(Inaudible). There is something in the Bible which is called old wine and old tins, new wine, new wines tins.

If you put new wine into old wine tins what happens to them, itapasuka. I want you to be very clear on this, we are trying to make a new a Kenya because you said the way it is now we really don't fit in it. You gave us maoni, we have put them together, we are coming to you, we are moving forward. The people who want the old wine's tin and the old tins will remain in the 20th Century, and the 19th Century hii ingine ni ya 21st Century. Haya vile wewe umesema that the old Government will be there and we will have this Constitution, unaelewa kijana naona unaangalia tu kwa hiyo mambo yako I am talking to you, you are preparing for your next point and I am explaining something will you take that newspaper away from you. I want you to listen, mimi ni Mwalimu. There is old wine's tin and new wine and the only place we are doing new wine and old wine's tins is where we are bridging over to the new one and those are called transitional. Tusikilize are there Councillors here, Councillors, MP's, President and government officials who are there now muwaangalie kabisa they are endangered species, hawataonekana tena vile wako so don't say some Government officer will come and take, it means that you are taking the old Government and putting it in here and we don't have it here. Okay, are you listening? I don't know if you are listening because you are

Okuomi Francis: I am listening.

Com. Adagala: I am telling everybody, when you are thinking your proposals, it is new wine into new wine's tin. I don't want to hear that some government officers can come and take even now it is not like that. IPPG took it away so you are in 1997 yourself, with that recommendation, it is a recommendation which has already been taken care of by IPPG. Okay lets, use our time usefully and move ahead, nonetheless you have said you should have participated according to the ability and voluntarily, put it there. I want you in your mind to know that this is a new Kenya and a new Constitution.

Okuomi Francis: Another issue on chapter 4, citizenship and marriage part two. Citizenship is not lost through marriage or dissolution of marriage. I propose that we should remove that idea and say that once the marriage is dissolve then that citizenship should also be lost because someone may pretend to be married to someone for the purposes of getting citizenship and thereafter do away with the partner.

Com. Adagala: Is this partner a thinking person? If someone does that to you it means you are stupid, if you are used, isn't it. Kama msichana Mtanzania anakuja anakubembeleza and you marry her and she is cheating you and you don't see it then you are not a good citizen. If a Rwandese man comes and marries and is doing it so that he can be a citizen then I am not a good citizen you have to protect otherwise it will be that you have agreed that she marries you 5 years or 10 years and then you part. Do you feel it, you have a duty to be a good citizen, kijana unaweza kudanganywa kweli.

Jairus Lusuli: Jina langu ni Jairus Lusuli. Principles and values chapter 3 (9), the republic shall promote the role of civil society in governance and facilitate its role in ensuring accountabilities of government that is what they have said. Now I would like to observe here that before we came to give our proposals to this Constitutional Review Commission we had some people going round in the country educating Kenyans, some civic education being taught to the Kenyans. How is it enshrined in the Constitution so that people in this country should be educated on how civil society can take part in the governance?

Com. Adagala: You have just read the enshrinement for me.

Omufwoko Jackson: I am Omufwoko Jackson and I am going to talk on chapter 3 number three which says that the republic shall recognise the diversity of people and promote the cultures or different communities. I think you have to come out clearly because there are some cultures in this country that I think we should not entertain them. For example...

Com. Adagala: ...(Inaudible)

Omufwoko Jackson: No, what I am saying, a culture like may be female genital mutilation, that culture I think should not be encouraged in this country thought even if the Government is going to recognise it, I think it should be addressed properly and then we came to may be the circumcision, we have seen that the AIDS in this country at alarming rate and may be it is through this cultures we may be in a position to transform and may be embrace it. So these cultures I think we should put some restrictions for the betterment of the people of Kenya.

Com. Adagala: I don't want you to think of restrict, I would have liked you as a young man dot .com to say we should qualify. These restrictions you are thinking about are constitutional, the one someone say there limit something in religion, they are basic things which the Constitution will never compromise on, one is freedom of expression, right to culture and to the

expression also, freedom of movement. Those kinds of things it will not but first of all you have cited the female genital mutilation, what about when the Luos talk of the male genital mutilation, where did you fall? You see you are doing a bad judgement that is what I am asking you; answer me. Is male genital mutilation also a bad culture?

Jackson Omufwoko: But you see for the betterment of this nation because we are losing those people so we have to make them understand why that practice is ... (Inaudible).

Com. Adagala: Male genital mutilation.

Jackson Omufwoko: To me that one is not mutilation because even if we refer to the Bible.

Com. Adagala: If you refer to the dictionary anything that cuts or distorts is a mutilation. You see you are making a bad judgment, that is one. Two, what you are discussing will be difficult principle that will protect cultures. What you needed to do is say something about those culture may be an adjective or a word that we can use to further them but not limit or restrict because that is unconstitutional. People can decide that Luhya culture is bad what will you do, then they will suppress it because it is a bad judgement. I am not saying I support female genital mutilation but I have just said like the normads he was talking about. You have to tell me what we need to do, read that section.

Jackson Omufwoko: The republic shall recognise the diversity of its people and promote the cultures of each community. My proposal was that, I think these cultures before they are recognised as you have said it is a bad judgement we should find a way of how we are going to recognise them fully.

Com. Adagala: If you have a ... that is only you who can face.

Gamaliel Ososi: Kwa majina naitwa Gamaliel Ososi.

(Interjection)

Com. Adagala: ... (Inaudible)

Gamaliel Ososi: Mimi ningependa kuzungumzia chapter...

(Interjection)

Com. Adagala: ... (Inaudible)

Gamaliel Ososi: Gamaliel Rodwell Ososi, chapter 3 number 12. One third of members of elective and appointive body shall

be women. Ningependekeza tusiwe na usaidizi upande wa wanawake, hii ingetolewa iwe tu mtu kama ana uwezo aweze kuchaguliwa ama apewe appointment yoyote badala ya kupatiana special consideration, yaani usaidizi fulani katika Katiba upande ya wanawake na sisi zote tuko na usawa.

Com. Adagala: ...(Inaudible)

Gamaliel Ososi: According to my view is that may be you thought you are weaker sex.

Com. Adagala: ...(Inaudible)

Gamaliel Ososi: No I am not saying Professor Ghai, I am saying the ...

Com. Adagala: The Commission is above the draft...(Inaudible)

Gamaliel Ososi: That is what I am saying.

Com. Adagala: How did the Commission write the draft.

Gamaliel Ososi: I have told you.

Com. Adagala: How did the Commission arrive at the draft?

Gamaliel Ososi: That is why I am saying may be they thought ...

Com. Adagala: Let me tell you about social reality, there is no weaker sex biologically or otherwise but social cultural reality is the one that weakens women. Tell me in which way women are weakened socially and culturally.

Gamaliel Ososi: Ndio, nasema hapa Bunyore hatuna hiyo sasa tuwe na usawa kwa maana nyinyi mnatoa special consideration kwa nyinyi wenyewe, mnajipatia.

Com. Adagala: Who will inherits land in Bunyore?

Gamaliel Ososi: Kulingana na sisi hata wanawake wana-inherit land.

Com. Adagala: In a family of sons and daughters who inherits land?

Gamaliel Ososi: At the moment both are equal.

Com. Adagala: Where is a Mnyore Elder? I want you to stand here. You don't have elders. Maragoli kuna elders hata wameapishwa ni elders, where is a Mnyore elder? I want to get over this thing because it is going to come very many times. Your sister has how many acres in your home?

Gamaliel Ososi: If she wants she can get an acre.

Com. Adagala: I hope that is a right.

Gamaliel Ososi: It is her right but she doesn't demand for it.

Com. Adagala: Did you demand?

Gamaliel Ososi: Yes, we demand from our parents.

Com. Adagala: You know ...I want someone who is an elder, is there an elder here male or female who can tell me what happens in Bunyore? Haya hamtaki wanaume anasema Banyore wanakaa hivyo sijui ni vipi lakini wanakaa.

Fred Muhango: Jina langu ni Fred Muhango Sirunya. Nataka kutoa mchango katika chapter 4, citizenship. I want to emphasize on this area, najaribu kukosoa sehemu ya kwanza hii numbari kumi na sita kipande cha tatu. Equally entitled to a Kenyan passport and to any document of identification issued by the State to citizens. Kuna upungufu fulani hapa kwa sababu hatuelezwi njia zitakazotumika kwa yule ambaye labda atataka kupata passport kwa mfano. Ninataka kuzungumza juu ya passport,

Com. Adagala: The Constitution is about principles, Parliament decide a way, the system and vile hii itatekelezwa. So you have to be alert for the next, this one has one year in Parliament. Inafaa ikae chonjo na uchague Mbunge ambaye atakua interested in the Constitution, ambaye ataangalia hivi vitu. You have asked a question, is that what you wanted to do?

Fred Muhango: Nilikuwa nataka kwamba badala kungojea kwamba Parliament ita-decide ningependa kwamba mapendekezo yawekwe hapa kuonyesha kwamba kila Mwanakenya ako huru kupata passport bila kutumia vigezo vingine ambapo vitamfanya Mwanakenya anghalau kutoa kitu kidogo, jinsi ilivyo kwa sababu wakati huu mtu kupata passport si rahisi.

Com. Adagala: New wine, new wine's tin....(Inaudible). Are you listening, you are telling us that in this we are entrenching

corruption so that there will be corruption. There is something called zero tolerance of corruption hata hatujafika hiyo. Tulisema nini kuhusu citizenship? If you got it through fraud, fraud is corruption you will lose that citizenship. Kuna kitu kinakuja if you have been engaging in corrupt practices even of giving the Policemen here kitu kidogo you will be in problems, big problems because you will have to do things by the law. Do you understand new wine's tin, new wine? I want to know because I have just said it and he has come with corruption. Hiyo mlitumbia the first time we came for hearing, don't take us back lets move forward.

Jeremiah Ayieta: My name is Jeremiah Ayieta. Chapter three section 12, I am sorry I am repeating.

Com. Adagala: ...(Inaudible)

Jeremiah Ayieta: Thank you. The State shall implement the principle that one third of members all the elective and appointees shall be women. Now, here if ...

Com. Adagala: It is not a discussion it is a proposal.

Jeremiah Ayieta: It is a proposal yes.

Com. Adagala: Give a proposal.

Jeremiah Ayieta: I am proposing because we have got freedom of electing our representative and I don't see how the Government will get voters to elect somebody. We just leave it free to elect qualified leaders who can represent us better.

Com. Adagala: Okay, I have seen that in places like Maasai, Turkana or other places where women don't have education they are actually for this one third. Lakini nimeona hizi sehemu za huku men who are against women are using it to do away with affirmative action. You are saying that we are all equal so we should go equally, isn't it? You are using the impression you have that we are equal to do away with affirmative action, in other words you are actually against women because you see women are not equal to men. You have a wife my dear brother, she moves from her home to your home, isn't it? That patriforcinal marriage if you want to know what it is. Would you move from your place to her?

Jeremiah Ayieta: If they allow me I can go there.

Com. Adagala: Who can allow you?

Jeremiah Ayieta: The culture.

Com. Adagala: The culture is the one we are talking about, it doesn't allow women certain things that is why there is affirmative action. What we are hoping and I know that this side women are actually in many ways but there is a culture that denies them somethings. Did you wife pay bride price for you of groom price? You did isn't it? Why did you? You were buying her rights away from her she is not a human being by the way, she is a commodity. The land your sister inherited and you inherited, that is a culture we are talking about and we are hoping people like you will see it so that it will go away then this affirmative action will go away.

In education let me say this, Western Kenya is really top hawabaguhi wasichana na wavulana, that is top okay, but there was a time when they were doing it, there was a generation mzee isn't it? Yes, but it has gone away so we want this now to go away, we want women in leadership positions so that the children can see it is okay then in another generation itakuwa sawa. In this room turn around my brother, who is sitting here? Where are the women? Where is your wife? Where is mother? Let me tell you who is going to have a difficult time at home, you, because your wife will not know this na itakuwa Kenya mpya, mtahangaika naye. When you leave women out of development out of this participation the society leans like this, iko lame, it is cripples. So this is what we are trying to correct, is to uncripple it.

I know one of the leading women in this place Ruth Habwa, there is nothing that could hold her back, isn't it? But she is one so we want there to be others then we will stop affirmative action even in inheritance, in education but Western Kenya wacha nikuambie, we have been to other places and what they say about girls you just sit and look hata msichana mwingine Msamburu who was giving views halafu akasema, hapa hawa wazazi wanatuuzwa tu na wanatusumbua na manamba pia wanatuhangaisha, you know and she was in tears. They know what they do to the girls, by the time she is 12 years old omeolewa hapa hatuna forced marriage you see that? So we are thinking about the whole of Kenya and it applies differently but what I would like you to do, next time there is a woman standing please vote for her and you also so that we can be the same. Will you do that?

Jeremiah Ayieta: What I am disagreeing with is for us to vote for a woman if she is not meeting the qualities that we want.

Com. Adagala: There are many men who don't meet the qualities of anything and you vote for them. That is always an argument against affirmative action whether it is in the US or Latin America or here or in the UK, is that the women will not measure up to. It is not that affirmative action is actually the women, not all men stand for elections either isn't it? The women who have stood and are able, capable but cannot move because of the culture. So that we can break it, called a glass sealing because women go and then they eat something invisible then you see men up there, it is a sealing which is blank, so you see men up there and you wonder how they get there and they have the same qualifications you do have but they go up there. So that is just to break that glass sealing but this is not a time for civic education but next time if you see a woman who is capable like Dorah Hidi, mmpigie kura.

Ako Lukose: Chapter 4 section 16 C, concerning equally entitled to a Kenyan passport and to any document etc. I think the Constitution should clearly abolish identification cards and have that one identification by passport. Passport should be the only identification a Kenyan should get because it is so cumbersome getting an ID card and then again if you want to travel you have to look for passport etc.

Com. Adagala: Botswana has that kind of rule, Botswana people travel very freely, we have written your proposal down but we are dealing with a situation where it is so hard and it is not a right. Ukisumbuliwa na passport you cannot complain because it is not a right but now it is a right so ukisumbuliwa what we wanted to do is make it a right. Parliament will think of Urais vile itakuwa. I am very glad of the two men who have spoken here although it was a bit argumentative but I would like to say that yes what we want is equality for everyone. So you are actually preserving constitutional value, republican value, constitutionalism, it is called like that.

What we need to do is break the gap between the practice and your idea, so I am very happy because in the end actually I will tell you I personally think affirmative action is the one that says 30%, one third should be women and is by the way it is an international agreement which Kenya has signed so it is a principle which they cannot really go around. So what it is is that I myself think that when women are told one third halafu it makes them a little bit passive because they know there will be somebody there and the men also what they do they tell the women you have affirmative action, you will be chosen to go there and then they react and put them in what they call in the ghetto. They tell them you are not part of mainstream, you will get your share elsewhere. So it is a very difficult thing but I think that affirmative action is for a period of time.

In the report we have discussed it and we said it is for a period of time just like for Africans, there was affirmative action for people to go to school because ilikua ya Wazungu, si hivyo? Then they said let's train some African clerks and primary school teachers and preachers so then it became a little bit and then afterwards independence was affirmative action for all Kenyans, you have to understand that anybody who is disadvantaged historically, culturally needs affirmative action. South African they call it historically disadvantaged so the Africans when they go for a job they say but I am historically disadvantaged so you cannot apply those strict rules on me, it is in the Constitution but it will be for a time. Affirmative action is not just for women, it is even for minority like the Luhyas who live on that side of the border, is it this direction? Those ones who are in Kisumu Rural, when it will come to this thing you have heard people saying MMP, hii mambo ya 90 candidates elected by parties. Na hawa Wanandi wa Tiriki I think Bunyore you don't have any other. Those minorities are the ones who will be entitled to that, it is affirmative action.

MMP is actually about affirmative action so those minorities kwanza Wanandi wa Hamisi walifurahi kwa sababu they never get to be and that is what the Maragolis and Banyores of Nyanza said. Not even an Assistant Chief since 1905, they have never even had an Assistant Chief but now that MMP, yes the majority can elect, the Luos there can elect their MP but when it comes to MMP those minorities will be considered so that they also have someone representing them. You see places like Mt

Elgon where the Sabaots are 60%, Tessos are there and Bukusus are there. These others 40% will have to be considered, so you see it is not just women who are the minorities, anybody who is disadvantaged and believe me, if you can put up a case of yourself being disadvantaged and put in a group of people who are disadvantaged you will get affirmative action. The people with disability they are disadvantaged, truly you can see they are disadvantaged, so they also get that affirmative action.

Women are disadvantaged by culture, this way I know you (men) are going very well and maybe the sisters have tried to ask for land but maybe if they ask they would, for me I have my portion from my parents I didn't ask for it, it was just divided the same time na pia kuna hiyo but maybe that even land is not there to be shared, there may be shares in a company or something and things like that. You must understand that this is for the whole of Kenya and the whole of Kenya is not like Vihiga District as far as gender issues are concerned. Maybe we may prove that yes we have heard in Bunyore, we have had 4 Members of Parliament since independence and one of them has been a woman, isn't it? So we don't need it but we have it isn't it? But you will not be forced to vote for anyone only if you have an open mind you look at the leadership qualities male or female. Men loose elections isn't it, they don't always get it they struggle but because we say that women have a certain disadvantage for a time it will be there but they have a right to even make it 50%. The women's advantage is numbers but even they also have a problem because they don't vote for each other, isn't that also what you say? Haya, tuendeleo. Are we understanding each other? I am sorry I took a little bit longer on that but I hope you see the clarity of it. There is affirmative action for disadvantage throughout and disability throughout. In fact actually women are disabled socially, they have disability...(vernacular) and so they need to be helped to stretch a little bit, I am not just saying that because I am a woman, for me I think we deserve 60% so I am not a particular fan of affirmative action even if you are talking against it.

Citizenship you are clear with it? Kuna mtu hapa alisema huenda mtu akadanganya mtu mwingine. You must love your country more than you love your lover believe me, Kenyans have not learnt this, young American come here all the time and we are saying in Kenya. Why don't Kenyans love their country, they come in class, they sit here but people don't love their country, why? You must love your country, hii ni kama mama yako. Mama unampenda awe mfupi, awe mrefu, mama unampenda. What you would say after that, we need to develop a sense of patriotism so that msichana Mrwandeze akija anatong'oka huko na kule unaona huyu pengine hayuko na nia ya kuoa mimi anataka kuoa Kenya, that is what it is she wants to be a Kenya and it is very easy. You know women we are very persevering I don't know if men can do it but a woman can persevere for 5 years and become a citizen. Put up with all kinds of things to become a citizen but it is not just women it is also men. I hope you saw there that there is marriage, citizenship by marriage, it does not say, a woman – a man by marriage. You told us many things and the majority, understand that the Commission took the broad majority, so even this thing of one third it was everywhere so there is extreme on the right and the extreme on the left and we took mainly the middle. If there was item with quality then we took that particular one maybe now is the time when I can tell you that we can take a break a little bit not really a break what we should have told you in the beginning but there were only about 15 people here mzee, isn't that true? We were very disappointed so we said let's start maybe this important things we can say later, so can we put away our Constitution for a minute? I have said I will go over this very quickly because some of the things we have already said.

We are here to disseminate the draft bill, understand it is a draft bill. Mlichanga, mkaleta maoni na sisi tukaweka pamoja, tukaweka kwa computer, tukasoma, tukafunga virago tukaenda Mombasa, wengine wakasema tuko holiday. Mimi sikukanyaga bahari, the ocean was about like this junction and I never even once went there. Tulifanya kazi usiku na mchana hata watu wa Leisure Lodge walisema hawajawahi kuona workshop kama hiyo yetu, tulifanya usiku na mchana na wanaamuka mapema, ukikosa kuamuka unaenda unapata watu wamejadiliana sasa hungeweza kukosa. Nafikiri mliona kwa magazetti Commissioners wanne hawaku-sign kwa sababu wao hawakuweko na hawakuwa kwa majadiliano, so even when they came during the time for giving the report they didn't sign. Even if they were there on that day, I think they would have had problems because they had not signed they had not done the work. Sasa mimi kama nilikua baba yangu aliaga during the week when we were preparing to go, Mzee Solomon Adagala sasa nilikuwa hapa for about 10 days halafu tukaenda. I had to catch up with a lot of things hata hivyo nilikuwa nimepasuliwa jicho, so I had a lot of disabilities but I managed to overcome and got into the spirit and there is also collective responsibility lakini hawa wengine walisusia na pia walisusia kwa sababu walikuwa wanafanya kazi na politicians and Judges.

We took an oath, it is a very serious oath mimi nili-affirm kwa sababu mimi ni Quaker nasema I affirm to do my work independently and without fear or favour so hii mambo ingine walienda nyuma na kufanya hivi ilikuwa mbaya sana. Sijui mwishowe itatakeaje lakini ni kama we have so much we have suspended that. Hata nasikia kule kwao kwa sababu hii dissemination, hii kuzungumza civic education ya draft Constitution, kila mtu alirudi kwao. Sasa kama hukuweko ama kama sikuweko halafu na nyinyi hapa nitawaambia nini? Sitawaambia we arrived at this, we also discussed that, this is what we did, you cannot moreover you didn't sign so how can you disseminate something which you didn't sign. So wanashida at least one of them is having a lot of problems in her own area because people are asking, we sent you, where were you? Na watu wanaona tu-signature lakini nyuma yake is that they didn't participate.

Commission is the clause as you can get to a coalition government, this Commission we have. Every opinion is there, every shade of background is there, Waislamu, Wakristo mpaka wakati mwingine inalipuka. Wasomi, wale ambao wako kwa legal practice, wale ambao ni priest kama kuna Bishop anavaa hii, sijui kama ni moja au ni tofauti Bishop Kariuki, kuna Pastor Ayonga kuna Sheikh Lethome na vitu viko huko, si mchezo hata ile mnasoma kwa magazetti ni juu juu tu kuna majadiliano huko. Halafu Mombasa in the Act ile Act ya Parliament ambayo iliunda Tume, it says we shall as far as possible make decisions by consensus. What do you call consensus in Kinyore?

Speaker: ...(Inaudible)

Com. Adagala: More than that. Wamaragoli wanasema *kuhuminya...*(vernacular). Inakuwa ascent, mna-accept nyote, mnaita kito(vernacular). *Kuhumia*, to agree is another thing...(vernacular) is to agree but *kuhumia* is like...in fact tulikuwa na kitu kimaja tukapiga kura, watu wakaenda supper wakasema kwa nini hii jambo tulipiga kura lakini nyingine

hatupigi, kwa nini? Even though that issue carried the day, we took a vote and the issue carried the day, I won't tell you what it is but it was on gender.

Haya, tukarudi watu wakasema no, we can't do this, how shall we justify that we didn't discuss mpaka tukasikizana, hii kitu Waluhya wanasema sijui kama ni Waluhya wote lakini Maragoli wanasema ...(*vernacular*). Is democracy, you should know that there is democracy in our culture, you talk and you talk mpaka even the sunsets and even tomorrow morning you will start again. Therefore, democracy is a very slow process because...(*vernacular*) tena mkifanya hivyo huwezi kurudi nyuma, hivyo ndio tulikuwa kwa Commission na sio wakati huo peke yake wakati hata tulikuwa na issues za Okoth Owiro na zingine, tulipiga kura kwa hiyo kwa sababu ilikuwa na mgawanyiko kubwa sana lakini ya mambo hii ya Katiba, as far as possible consensus. Pia Quakers wako na kitu, hawako huku wengi sana lakini wana kitu kuhusu consensus na pia wao ndio walipeleka hiyo kitu kwa UN and in diplomatic course, it is the Quakers who took it there that decisions should be by consensus, it doesn't always usually happen there is voting and all that but the idea is there, it is one of the ways of agreeing.

So we had very exciting time but very exhausting, mwishowe tulikuja Nairobi na pia tukaendelea kwa sababu tulikuwa na mambo muhimu hiyo ya transition haikuwa imemalizika, what will happen between the old and the new? Even people are talking about it if the PC, DC, DO what will happen, haya mambo yote tulikuwa tunafanya KENCOM House tunatoka saa sababu za usiku, I think kwa Kiluhya ni za (*vernacular*) na kwa Kizungu ni sasa asubuhi, saa tano, saa tisa, saa kumi na asubuhi ukilala utaenda upate watu kwa discussion wanaendelea. Sasa unalala kidogo unaenda unarudi na hata tulikuwa tunatoka saa tisa na Professor Ghai ako hapo kwa computer yake anafanya kazi, we leave him there and when we come in the morning he is there. So it was really we worked overtime, huyu mama ako incharge of Verbatim Department, Patricia Mwangi hiyo ndio equivalent ya Hansard because we are a parliamentary commission. Department yake ile mambo mlisema hapa verbatim, neno kwa neno yeye ndio ako incharge ya hiyo na walifanya shift, hiyo haikuwa ati hatujamaliza kazi, walifanya shift ya 24 hours ili kumaliza wasichana wako hapa, wavulana na akina mama au experts wa hiyo, they are listening and translating. Kuna wengine who are listening na hata kuna msichana mwingine Atemo kutoka huku pia walikuwa wana-check, editing pia walikuwa 24 hours shift, huyu anaenda huyu anarudi. You go home to sleep and come back, supper tulikuwa tunakula KENCOM, so it was very difficult, very hard work even if we finished on time it is because we worked three, four or ten times more that we should have done.

Tumekuja kuleta haya mambo ili tukague tuone ni nini, nyinyi mumo ndani kuna repoti yenu District Coordinator akirudi tutapeana repoti kwa Chairman kama ako hapa. Ukiona anakuja anachelewa chelewa, we will hand it over to you, the verbatim and you have the right to read it. Committee do you have documentation centre at the constituency? You just need a place where people can come and see and if you look you will find maoni yako iko hapo yote, huyu msichana department yake ndio ilikua inachukua hiyo. We have a Data Analyst Department, hao wanasoma, wanatoa issues, zile za Judiciary, mnaona hawa watu wanaitwa Judges, mlituambia nini kuhusu hao. Hapa wale walikuwepo? It is 1800 pages of views hiyo ni 8 reams of paper iko hivi kuhusu judiciary, yote ni negative halafu wanatuambia tumetoa maoni mahali pengine, ilitoka kwenu. Hamkusema

mambo ya mahakama, hayo yote iko. Kwanza huyu kijana wa Data nilimuuliza lakini hii judiciary how many views were received, akaniambia 1800 pages imekaa hivi kubwa so we were not going outside to look for views, we didn't have time to go outside to look for views. Patrick Lumumba anasema this is the only Commission which has never traveled out of Kenya, hiyo ya land imeenda Australia, ya education ilienda kuangalia education wapi, hiyo ya 8-4-4, this is the only Commission which has never left Kenya to go anywhere because actually what we got from Kenya was so heavy haikuwa na haja ya kuenda mahali pengine. Nani anajua Kenya kuliko Wakenya? Kenyans, so what we have put here is not from somewhere else. Kama mnaona it is from somewhere else, look at your verbatim report and we are the only Commission by the way which has released its report to the public not because we wanted to although many of us think that way and the public also think that same. In the Act Parliament ilisema, you shall release your report to the public, tukaweka kwa magazetti, tulifanya vibaya? Nafikiri ilifaa ipitie mahali pengine ifanywe hivi halafu iende under the table.

Na, pia bill yenyewe pia tulifanya tukaita press conference tukapeana ikawa released na kesho yake ikawa kwa magazetti, wale walinunua walisoma, si hivyo? We have been practicing constitutionalism because you cannot make a Constitution and be unconstitutional. You cannot make a Constitution and not know it is the people who have the power otherwise you will be hypocrites isn't it, we are saying it is the power who have the power here and we have not listened to your views. Watu wa Parliament walifikiria sana, this time they really thought and they put it and it came from you and back to you. Siku tulitoa draft bill na tulikua tumechoka tukaita press conference, ulikua hapo wakati huo? Watu wote wa Commission wakaja kwa boardroom, the people who served tea, the sweepers everybody akawa hapo na sisi sote halafu tukapeana na baadaye tukaanza wimbo, tukaanzisha wimbo. Hakuna Mungu kama wewe, mnajua hiyo wimbo? Na tukaimba zote ilikuwa sauti nzuri sana na pia kwa report tulisema your prayers have been important kwa sababu tulikuwa tunafika mahali pengine hata hamtaki kuketi pamoja, si kwa kugombana lakini kukosa njia ya kuendelea halafu inakuwa frustration hata ukienda nyumbani hulali hapo unafikiria tutafanya nini. Pastor Ayonga, Bishop Kariuki na Lethome wote walikuwa wanaomba ya Kiislamu, tunaomba halafu njia inapatikana na tunakaa tunaendelea mbele, sasa your prayers helped us a lot we have put it in the report. Hata Ghai ambaye ako Ethist akakubali na hata siku hiyo alikubali kweli tulisaidiwa na pia alilia machozi ya furaha, alilia kabisa. Unajua ako karibu kama Mzungu uso wake ikawa kama hiki karatasi, akawa na furaha nyingi sana tukawa na furaha zote kabisa na tulimaliza tu na tukapanga tuje tumwonyeshe ili isikae sana. So we are here ili mkague, kwanza tuhakikishe haya yalitoka kwenu na tujue ni nyinyi mlitupa maoni halafu pia mujue humu ndani kuna njia fulani Constitution inaudwa, inatengenezwa kwa njia fulani kama hiyo ya preamble, national goals. Kuna chapters ambazo ziko kwa... lakini hii yetu kama kuna devolution kwa sababu we were told look at devolution.

Tumefanya kazi yetu kupatana na sheria si kitu kingine, kupatana na sheria, sasa mtatusamehe kama tunakasirika tunasema kweli tumefanya njia yenu na wengine wanasema tumetoa vitu ng'ambo hao ni ya uwongo. Kama hawa watu watu wa judiciary, it is a simple thing, ni self interest wanataka wasikaguliwe, wanataka tuiseme jambo lolote kuhusu hao, hao ni Wanakenya, si ni Wakenya? So what is the problem? Kama hujafanya kitu kibaya kwa nini hutaki watu waangalie transparency, sasa hapo iko hivyo na tulisema hata ikiwa jela tutaenda, tutaenda tufanya civic education ndani ye jela basi.

Gerezani unaweza kufanya civic education na Ghai akasema wakinipeleka Kamiti Maximum nitafurahi kwa sababu nilizaliwa Ruiru sasa nitakuwa karibu na nyumbani na hoteli ingine ikasema mkienda tutafanya outside cattering for you. Sasa tumekuwa na support nyingi, sasa hiyo ribbon unavaa kama uhamini, unajua Katiba ni kitu cha kuamini. Kama uhamini usivae hiyo ribbon kwa sababu hiyo ni support for this Constitution.

If you read this constituency report upate kuwa hatukuweka ile mambo ulisema haiko utatujulisha au unaweza kusema hapa nilisema hii na hii zaidi tutaandika, bado tunajadiliana. Hakuna Constitution imemalizwa na pia hakuna Constitution ilitoka nje kwa sababu hata kwa Library yetu Documentation Centre kuna dozens and dozens of complete Constitutions kutoka kwa wananchi. Wacha niwaambie watu wa Kenya are very intelligent, wengine waliandika complete Constitution na tena zingine are published. NGO's have them, even there is one which is called we the people of Kenya by the ...(Inaudible) isn't it? Something like that na zingine nyingi. Sasa kusema oh ingine ilikuweco yote ilikuwa documents tulikuwa nazo halafu wakachukua moja wakapeleka kwa magazeti na wakapelekea politicians, sasa hiyo haikuwa kwa sheria yetu ati mtu atachukua na apelize, it was collective responsibility. Ndio tuko hapa tufanya hivyo tukague tuone, tuendeleo. Kitu kimoja, we don't have the power to say people are concerned with elections hata kijana mwengine alikua ameanza hapa, when it will be implemented, hiyo ndio nazungumzia sasa. Process yetu inasema after this we have had other stages, isn't it? Tumekuwa na launching, the Commission being constituted, launching ya province tukaja district pia tukafanya civic education na pia kuchukua maoni hapa kidogo kidogo kama pilot halafu tukaenda tukafanya civic education ya nchi nzima. Mimi nilienda Ijara, Garissa na Wajir halafu tukarudi na hiyo maisha when I see people talking lightly about this I nearly die.

Barabara ikanyesha ikawa mto and we were there in the night, you have just seen lions pass behind there, tsetseflies are all over the car and we are getting stuck halafu gari ikaenda tu kwa shimo ikafanya "hoo hoo" kwa bahati tukaenda on solid ground lakini tulikua tunapitia sehemu wanaita wa-red, tunapitia kule ili tupite na tufika Ijara halafu anafanya lai lo na hii gari kubwa ilikuwa chini ya maji, maji ilikua inafika kwa wheel sheath, si maji, maji ya hiyo black cotton soil and tsetseflies ziko kwa madirisha zikiuma na kuvuruta inatoka na nyama halafu tulifika Holugo. Ilikuwa kijiji ingine baada ya Holugo, watu wote katika hiyo kijiji hata watoto wachanga waliamka saa nne ya usiku kwa sababu gari haikuwa imepitia huko miezi miwili sasa tulikuwa kama demons in the night, tulikuwa na maghari matatu. Hawa watu wametokea watu, waliporudi na helicopter, mlisikia hiyo siasa ya helicopter hiyo ndio ilitufanya tutumie kwa sababu mahali pengine ni kugumu sana na wakati huo ilikua imenyeshwa North Eastern yote sasa waliporudi huko walirudi na helicopter, watu wengine wakasema we want to go by luxury. Walipoenda hapo Holugo waliwaambie eh! Mmekuja, kwanza walikuwa na njaa, mmetuletea chakula? Halafu wakasema ghari ya Commission Adagala ndio ilikuwa ya mwisho kutoka hapa mpaka sasa ghari ingine haijaingia. Mimi nilisema kule Wakenya wanaishi nitaenda, tumeishi maisha magumu halafu tukafanya civic education, halafu tukaja tukachukua hearings. Tukaenda ku collect and tuka-compile sasa tukaandika, pia hii iko kwa sheria yetu. Submit a draft bill lakini pia mzungumze na wananchi kwanza halafu submit that draft bill to Parliament lakini kabla ya kufanya hiyo the next state from here is National Constitutional Conference. Mnajua National Constitutional Conference? Watu mia saba watakuwa Bomas of Kenya. Hii kamati yenu wanawaambia vitu kweli, kwa nini hamjuhi National Constitutional Conference? (*Murmurs in the background*).

It will start on the 28th lets just go on, it is information. 28th of October we shall start because it says, walifupisha muda wetu ya kukaa na nyinyi, tungekaa hapa tuende mahali pengine kwa constituency hii hata civic education walipunguza kwa sababu ya election because it is not a constitutional crisis but it is a political and social crisis. So they reduced our days from 60 to 30 days, even hiyo ya National Constitutional Conference imekatwa so we shall meet at Bomas of Kenya. All Members of Parliament, representatives of political parties, representative of religious groups, representatives of NGO's. Commission itakuwa huko kama secretariat sisi hatuna vote kwa hiyo, voting yetu tulifanya Mombasa tukitengeneza hii sasa hapo tutakuwa secretariat. Civil society, NGO's watakuwa huko, sasa tutajadiliana na tuendeleo. Hapa tunazungumza, bado tunachanga ndio tunachukua hizi tuone. We don't have a monopoly on the wisdom and on knowledge and on how the Constitution should be, so when you say the Commission should do this and this, we tell you that people should do this and this. It is you, when you stand here you have to say, okay so that is how we proceed and those are the stages, when it will come from National Constitutional Conference itaenda Bunge lakini hawa Wabunge tumekaza, we have tied them.

Ukiona mtu wa Bunge anazungumzia kuhusu Katiba na haungi mkono ana nia ingine, they have interior motives, they have been there, they are members of the 3C's, they are the ones who made the law, they are the ones whom we report to how we are going on. They are the ones who interviewed Commissioners, they are the ones who told us how to do what we are doing, we are following the law. They will be at the National Constitutional Conference, they should be here, they should have been at the hearings in the constituency then it will go to Parliament. It is not to say that Parliament will be a rubber stamp but they have been there at every stage of the way, so they are part of the process, they are Kenyans and part of the process. When it will go to Parliament it will be for them to look and make sure like you are doing that it is reading as it should that we have followed the stages, that hii section na ile ingine haigongani sana. Apart from that when it is passed they will have two years to discuss and make law. So they cannot now start saying na kila mtu alikuwa huru they could come to the headquarters or they could come at the venue of hearing. Sasa hapo nimewaaleza hiyo ya judges na ya politicians, they really don't have a reason to do this.

The present Constitution, wacha nimalize all controversies now. The Present Constitution the President can call election any time, he could have called it 3 years ago, it is his right in the present Constitution na nafikiri watu wameelewa hiyo sasa, si hivyo? In the present Constitution, the present law it is the President to do it and it is not President Moi who made this so, it is Kenyatta who did this, people want to be short sighted. Many of these amendments were done under Kenyatta's guidance na Moi akaja akasema nitafuata nyayo.

Hatukuuliza hiyo nyayo ni nini lakini alijua na wakati wa 1963 and 64 when they were changing all we we wanted was uhuru, isn't it? Tulitaka tu independence, we didn't want anything else just independence. Now we said we don't people to just say new Katiba, we want them to know what it is, you see that? So we don't have control, hatuna control vile elections itakuwa whether it will be in the new Constitution or the old one because the one that exists now gives the power to the President. I hope you realize also our position, people ask us how would you ensure? We have no way of ensuring events, Parliament

ikichukua hii na ipitisha, adopt it kama South Africa ilifanya interim. Nakuambia nimejifunza mengi hata kama mimi ni mama mzee nimejifunza mengi. Kama South African ilifanya then it can be an interim document, then we can do elections under this but it means postponing the National Constitutional Conference and discussing it next year, that is what it would mean but otherwise we are under the present Constitution and things should be done according to that Constitution. I think they have the budget which ends on the 30th of October, anytime from there if that is the Constitution we have that is how we will hold the elections. It means everything we have said here will be postponed for another 5 years including free primary education. Wewe wacha mambo ya siasa, ile muhimu ni ya health na education na hiyo yote tulikuwa tumepropose hapa, hiyo bill of rights, polisi wataendelea vile wanaendelea, provincial administration itaendelea vile inaendelea na tuta-postponed our dreams for another 5 years till the year 2007, mnaelewa? It is a very big problem. Watu wamesema wanataka, the new Constitution but you see it is very difficult because the old one is there, we don't have a constitutional crisis, we have a political and social crisis, I hope you understand that.

Then let me talk about something else which is controversial then I will go back. There is the provincial administration, we have been told we have done what? You yourself told us what about provincial administration?

Speaker: Corrupt

Com. Adagala: Which word did you use? The word that was most used was corrupt. Mtu alikuwa anasema tu provincial administration corrupt halafu ataendelea na ingine kwa sababu walikuwa wameaangalia kutoka Liguru mpaka PC na walikuwa wameona vile maisha yao, kijana amesema hapa mtu asikulazimishe au nini, hiyo ni provincial administration. We could not abolish provincial administration, do you know the reason why? It is not in the Constitution, we could not abolish it because it is not in the Constitution, at independence it was not in the Constitution lakini Kenyatta government took it from colonial times and brought it back. They brought it into independence, this is now old wine into new wine's tin, what happens then? I don't know what happens then but old wine into new wine's tin sijui inpasuka pia au inaharibika na unaona imeharibika. So provincial administration we did not abolish, there is no way we could deal with it, so what we did, we said lets create a system as the people told us. Provincial administration we have told them, it is a very simple thing. Kuna mzee anazungumza sana huko nyuma sijui ni nani. Unafanya kazi yangu inakuwa ngumu hata by the end of the day kichwa kitakuwa kinaniuma, it is not because I am a weaker sex. Nani anazungumza huko nyuma, Chairman please? Kama hasikii aje mbele, haya.

Provincial administration was not abolished, we told them to report back to their employer and their employer is? Who is their employer? Public Service na kila mara hata Assistant Chief, he applies, they are shortlisted, interviewed and then appointed, they have a very clear employer I don't think there is anything wrong with someone telling me report to your employer because that is where you got the job. Mlituambia Chiefs wawe appointed, if they are appointed they should be transfereable, otherwise they should be elected, isn't it? Sasa hawa wako appointed instead they report back to their employer and they will be deployed. Details iko kwa schedule eights, don't read it now, you will read it when you are seating down so that you can

absorb it nicely. Hiyo ndio controversy, kuna ingine? We have just said report back to your employer hawajafutwa kazi nilisikia watu wa kwetu wakisema hawa watu wametufuta kazi, we cannot fire you we didn't hire you so we cannot. Hiyo ndio controversy nafiriki ni hizo tatu nyingine ni ya presidency we shall talk about it when we get there hata nitaeleza. Sababu moja kubwa tulikuwa tuko objective, one of the major reasons if not the basic reasons why we were reviewing the Constitution ni kwa sababu ya presidency.

1963 tulipata independence tukawa na Governor, walimuita Governor nani? Mac Donald alikuwa hapa, mimi nakumbuka kwa sababu that was my year in Form One I had just done KAPE and you had to write through the Governor. The Governor was there, the Prime Minister was there, amendments zikaanza. Pia hiyo ndio sababu tunabadilisha hii kwa sababu hii katiba haikutengenezwa hapa ilitengenezwa Lancaster. Watu waliokuwa Lancaster walikuwa na differences, KANU na KADU. KADU inasema isipokuwa Majimbo hatupati uhuru halafu wakazungumza wakasema mnajua kubali tu Majimbo, lets just agree and then we will see what will happen, hiyo ni Kenyan philosophy. So they wanted uhuru and they would not have got uhuru if they didn't agree because to do that the British would have been setting a state for civil war so they agreed. Tutaenda na hiyo Majimbo kwa Katiba. Walifika hapa 1964, kitu walibadilisha cha kwanza ni kitu kinaitwa the law of amendments, isn't it? Hiyo ndio walifungua, Kenyatta ako hapo, spanner boy ni mtu alitwa, Mboya na Njonjo wakafungua halafu wakabadilisha hiyo so amendments became very easy.

In the end they did 39 amendments to the Constitution which are very many, the American one has about 15 in 250 years which means walifungua halafu ikaanza, hiyo sasa panel beating hapa, unatao kingine hapa, petrol tank inakuwa kama hiyo ya Volkswagen na hii gari ni aina ingine. The late Ombaka, the First Vice Chairman used to say it was the architecture of the Constitution change, hii ndio pia mnaona hapa kuna architect, tunajenga Constitution kwa njia fulani na hawa wali-change sasa wakachukua, mlango ikawa huko juu, hii paa upande ule ikaja chini, dirisha ikafika hapa, ukuta ikafika hapa na ingine iko kule na jikoni ikawa kwa choo na living room imeenda nje. Ni chaotic, ile Constitution tunayo hata ni haibu kubwa hata ni defence ninafanya ni haibu kubwa sana. Na hiyo ya presidency walichukua powers of the Governor, Powers of the Prime Minister wakaseama sasa hiyo itakuwa president and that President didn't need to go to elections to be a President, si tuliona haya yote during civic education? Yes, they didn't have to go so akapata hizo powers wakaleta hiyo ya provincial administration wakaweka bila kuuliza mtu, hata hawakuuliza Parliament na hiyo provincial administration, is there directly for the President. Nafikiri hata kila asubuhi hata Kenyatta hata Moi walikuwa wanapiga eight phone calls to know what is happening around the country. Hiyo ilikuwa yao, it was an extension of the presidency.

Powers za Parliament zikachukuliwa hata ku-decide their callender ikachukuliwa, ya wananchi wakafunga hiyo mambo ya Majimbo, hiyo ndio ilikua sehemu ya wananchi. Those of you who were there you know councils used to work then and then they just dried up, walifunga, wakachukua hizo zote Nairobi. Ndio sasa mnaona hata all busses go where? To Nairobi, isn't it?

Rose akitaka kazi Nairobi, kila kitu Nairobi. In fact that is centralized government, unitary government because it doesn't have anything which goes the other way there. When we have decentralization ni kama Vihiga District sasa, it is true you don't

have to go to Kakamega for all kinds of things, tunaenda tu hapa unashuka kwa district headquarters na unapata vitu but it is bringing Government closer to the people. Sasa hiyo ni vizuri lakini hiyo Government ikiwa ya imla pia wanakuletea hiyo imla karibu na wewe, ikiwa ya uhuru na ukweli hiyo itakuja lakini huhusiki, you are not participating, you are not deciding on anything, si mnaona hivyo. Kweli iko karibu lakini hata siku hizi Vihiga ukienda hapo you cannot recognize anybody who is from Vihiga, isn't it? Watu wengine wako hapa. Hiyo ndio tofauti kubwa sana decentralization na devolution. Kuna ingine deconcentration, kama hiyo quencher, quencher iko concentrated unaweka a little halafu unaweka maji ndio unakunywa, hiyo ndio Nairobi vitu vyote viko hapa na kwa Presidency kila kitu iko concentrated.

Wakati mwingine tukizungumza hivyo watu wanafikiri nini? Tunachochea, hatuchochei, it is just the way it is, even themselves they say the presidency should be strong, whoever is talking about that. Lakini ni kama kuzaa mtoto ambaye ana vichwa sita so you have the Prime Minister, the Governors power, the Parliamentary power, you have the Provincial Administration, you have taken away the regional government ni kama mtoto ambaye ana vichwa sita na hiyo ni monster. Vile mimi nasema ni kama jitu, *guonanani* si it is really a big problems. Hiyo ndio sababu ingine tuna haja ya kurekebisha Katiba, ingine ilikuwa tu hii Katiba iko kwa lugha ngumu na pia Kiingereza. Tuko na pocket Constitution hapa ambayo imetafsiriwa na NGO ya akina late Ombaka, imekuwa kwa miaka sita ya Kiswahili na Kiingereza, hii ni pocket Constitution. Hiyo ndio attempt iliwekwa tu kujaribu mwananchi ajue, kwa Kiingereza rahisi na kwa Kiswahili sasa hiyo naweka pocket au kwa kikapu natembea nayo mwishowe tutakuwa na hii na kule South Africa wako nayo na ukizungumza na mtoto kama hawa wako barabara, ukimchokoza anafanya hivi anakutolea Constitution anasema mimi ni mtoto ambaye sina makao unaidhulumu, unaidhulumu unanitushi, unaona hii. It is like wanajua, wanajua nini iko hapo kuhusu watoto na vile watoto wanafaa walindwe, hiyo ndio sababu ingine. Ingingine, watu wangapi hapa wameona Constitution ya sasa? Always it is two or three kuiona tu, kuisoma wangapi wameisoma? Kuielewa, wangapi wameielewa? Hata Professor Ghai anasema hiki kitu hakisomeki, it is not readable. Kila cha Queens council huyu kijana pengine ndio anaelewa kwa sababu ni wakili lakini pia hatutaki hiyo, tumeandika hii kwa lugha rasi, tafsiri ya Kiswahili niliona wanabishana hapo wataalamu wa Kiswahili, wengine wanasema ni ngumu sana na wengine wanasema hii ndio inafaa lakini hii lugha hata tulikuwa na consultant ambaye ako Professor of Plain Language akatusaidia hapa. So you can read it, it is not difficult, so hiyo ndio sababu ingine.

So hiyo ndio sababu ingine, ingine ni hatukuhusika ndio sasa tulitaka muhusike sio sisi Bunge ilisema muhusike, civil society walingangania muhusike Hiyo ndio background ya hayo na pengine kwa hiyo background ndio mnaaweza kuuliza hiyo mambo ya process. Kijana alikua hapa alikuwa anauliza au tuseme pendekezo ya process, kama mna comments come forward, I hope there are many people on this one so we can finish it kabisa kabisa. Au nimeeleza mpaka mmelewa tu? Au kamati ilifanya kazi mzuri sana mmejua. Feel free to do this.

Speaker:(Inaudible)

Com. Adagala: Kile unasikia kwa moyo wako au kile kitu una-question kwa kichwa chako hiyo ndio itarekebisha Katiba.

Kile kiko kwa maisha yako ambayo unafikiria ni kizuri sana utachanga, kile kibaya utasema na tuone vile pendekezo itakua. Hamngezungumza, hatungekuwa na hii. Kweli wakili wanaweza kuketi watano hivi na kuchora Katiba si vigumu na watabahatisha watu wangependa nini na waandike, hiyo ni kubahatisha hatutaki kubahatisha.

Jairus Lusuli: Jina langu ni Jairus Lusuli. Madam Commissioner ametupa habari muhimu kuhusu process ya hii Katiba, wakati huu Madam Commissioner na wenzetu kuna mjadala mkali huko nje ya kwamba watu waende uchaguzi na Katiba mpya, hapa imetuonyesha kwamba mpaka ikae miaka mbili au zaidi ndio iwe effected. Inaonekana wazi kwamba kwa sababu Katiba ya sasa ndio inafanya kazi hata kama vyama vya upinzani wamekubali watafanya....

Kwa masilahi yao binafsi. Nyinyi kama Commissioners, vile mnavyokaa mwananchi wa kawaida anaweza faidika vipi?

Com. Adagala: Wananchi wa kawaida vile mnapokaa mtafanya nini? Unajua, I am your maid, I am working, mimi ni clerk. Unajua Commission imepewa by newspapers a very big big glamorous name, we are servants and we didn't even make this Constitution, we wrote it the way you wanted. Sasa kwa hiyo swali wananchi wa kawaida nguvu ni zenu mtafanya nini?

Jairus Lusuli: Kulingana na jibu hilo mimi ningependekeza kwamba ingekua vizuri, tungekuwa na interim vile vile ya South Africa na vile ulivyoeleza, watu watumie hiyo interim ndio watu waende kwa uchaguzi upesi uwezekanavyo katika Katiba mpya kwa sababu tukikaa na Katiba ya sasa ambayo inadhulumu mwananchi, ambayo ilifanya hata tutafute njia ya kuandika mpya, taabu hiyo ya Wakenya haitakuwa imekwisha hasa kuwa na sababu ya kuketi hapa, ya kuunda Constitution ambayo itakaa miaka zingine tano kabla haijakuwa implemented. Mbona wananchi hawezi kukubali tuwe na interim ambayo tunaweza kufanya nayo uchaguzi kugeuza mambo hapa Kenya. Asante.

Com. Adagala: Wanasiaka wazi ukawauliza wanataka presidency ya sasa kwa sababu ina nguvu, ile ingine itapunguzwa irudi kwa Prime Minister kidogo, ingine irudi local authorities, ingine kwa mahakama, ingine irudi kwa Parliament. Pendekezo lako ni interim lakini mkiketi tu na kusema hapa haitasaidia, tutaweka lakini even as we are writing Parliament could be dissolved, so you see we are in that situation. Haya ukitaka kuzungumza panga laini usiketi chini, wale watapanga laini ndio watazungumza na kupanga laini saa hii halafu nikaona ni watu sita.

Omufwoko Jackson: I am Omufwoko Jackson Asanga. Since this is the Constitution that the Kenyans want, my proposal is this. We know very well that the outgoing Government is against this Constitution and we are just visitors may be as time passes, the only thing that I am appealing to Kenyans to this, the only language that these people understand, we should go for mass action. With me I am just advocating for mass action so that we can adopt this Constitution.

Com. Adagala: It is true but it is difficult to see how the Government is against because there is a law, we have followed it from Parliament, that is the one that makes the law. Tukawa interviewed, appointed by Parliament, President aka-sign

Commission ikiwekwa. It is difficult, mtu anakuambia lima hapa...*(vernacular)* halafu anakuja anasema hala! Kwa nini ulilima hapa, ni vigumu an amekuajiri. Sisi tumefanya kazi yetu na yako ni....

Omufwoko Jackson: Ndio sababu nasema tunaenda ku-force hawa watu ku-addopt hii Constitution. It is just my appeal to Kenyans we should go for mass action.

Com. Adagala: You know there is something small called time.

Omufwoko Jackson: And the time is now. *(Laughter)*.

Com. Adagala: Okay, ukitaka kuzungumza mambo ya process sitaki ije tena. I don't want someone standing up ili azungumze kuhusu process, tukimaliza hii we shall go inside the contents, process ni sasa.

Fred Sirunya: Jina langu ni Fred Sirunya. Pendekezo langu ni hivi, ni makosa to complain. Let me speak in English. It will be unfair to complain against the politicians before we do our work in fact my appeal to the Commission is this. Complete the work in good time and then present it to Parliament, if they fail to implement it so that we go into the elections using this new Constitution that is when we shall blame them but if we do it sluggishly such that we are overtaken by time, it will be unfair to blame them.

Com. Adagala: Small problem is time we have to complete our process. Now we have a very small problem, time. There are competing political interests, after October 30 Bunge can be dissolved, if Bunge is dissolved Members of Parliament are one third of the National Constitutional Conference, there are 210 elected members. The Conference consist of just under 700, Councillors are there, they are also very many nearly one per district I think, those are 70 people you see that. So the National Constitutional Conference which starts on the 28th might not be able to complete its work because Parliamentarians must be there. So you must think very hard, we are not coming to you just to say one or two things, you must think very hard what the alternatives are. After the 30th of October, the President has said it, he has not hidden it amewaambia, si hivyo? Yes. So you have to agree.

Fred Sirunya: So I would rather say that we include a clause in this new Constitution which states that once the Constitution is completed by the Commissioners it should be implemented immediately.

Com. Adagala: You know if you say that, we have completed our work as this Commission what is remaining is the National Constitutional Conference which is 30 days and we can't put in this because it will not function until it has been passed by Parliament but there can be a proposal on the process. What is your amendment then, come and say your amendment to the proposal, come back.

John Amsama: The Commissioner na wananchi wote ambao wako wako hapa...

Interjection

Com. Adagala: Jina?

John Amsama: Jina ni John Amsama Iriru. Vile nimesoma hii Constitution lakini ile kitu ambayo imeni-irritate kidogo ni about education.

Com. Adagala: Do not go into the contents we are on process now. If you are on education and now if you ask it is not part of the process but on the process you can make your recommendation.

John Amsama: Anyway, the process ikiwa ni hivyo vile imeandikwa imenitosheleza isipokuwa ni vitu kidogo kidogo na wakati itakuwa tayari hatujui ni lini lakini ndio hapo nilikua nataka niweke maneno ya education lakini sasa...

Com. Adagala: No, it will come.

John Amsama: Sitakuwa.

Com. Adagala: Utavumilia kwa sababu vile niko hapa huwezi kukata laini unataka kusema jambo fulani tuna utaratibu, utakuwa hapa ukiwa na hiyo point. You know this is only one day in 100 years utaenda wapi, unaenda kunyonyesha mtoto wapi?

John Amsama: ...(Inaudible)

Com. Adagala: Not on education, on process. Let me explain I told you (hiyo soda ikiwa na kelele utaitupa nje, Chairman you are walking around and generating noise). Wakili watano pengine hata tungeweka gender hapo wawili wawe wanawake na hiyo wangeketi na kuandika Constitution in a month, si kitu kigumu. Lakini tulitaka wananchi wahusike ndio imefanya process imekua ndefu. National Constitution Conference ya Cameroon ilikuwa na 250 people, ya Mozambique 350, ya Uganda 350 nafikiri na ya South Africa 400, yetu iko 700. We want as many people to participate as possible. One woman, isn't it? Mnajua ile election ilikuwa ya representatives, ilikuwa, one woman, one person who can be a Councillor in the end it ended being a Councillor and one person chosen freely from every district. Three people from every district. Parliament in the Act wanted people to participate so that it is people driven, this is actually what it needs to be people driven, okay. It is law, there have been many amendments mainly reducing time but not changing the steps, so the one that is now in jeopardy is the National Constitutional Conference.

Edward Ambwaya: Asante. Mimi naitwa Edward Ambwaya. Hii Katiba ni yetu sisi wananchi na tungetaka Commission.

(Interjection)

Com. Adagala: Nataka comments, unazubaa, natakaa watu wapange laini hapa.

Edward Ambwaya: Nyinyi wa Commission mmefanya vizuri kuja Emuhaya kufanya kazi yetu hapa. Tunataka mfanye kazi na sisi wananchi ili hii Constitution yetu imalizike haraka.

(Interjection)

Com. Adagala: Hiyo soda ikiwa na majadiliano itakwama hapo hapo. I don't want to go back with a tape which has a lot of manung'uniko inside it, kama unazungumza, utapata soda lakini iwe bila mazungumzo na kuna mtu hapa ambaye anazungumza sana. I don't want to take a dirty tape back to Nairobi, you want me to do that for Lwanda? You can talk and I talk.

Edward Ambwaya: Hii ni Constitution yetu sisi wananchi wa Emuhaya wa Kenya na hii ndio sababu tunahusika sana kwa sababu tuna shida na taabu. Kwa hivyo tukae hapa tukijua hii maneno tunaandika ni ya vizazi na vizazi vijazo. Sisi si waoga Commissioner tuko nyuma yenu, tunashida nyingi hapa Emuhaya nyingi sana, tunaishi katika mipaka ambapo tunaumizwa mpaka wa Maseno wametuamiza siku nyingi sana na Kiboswa. Mali yetu inaenda upande ule na tunataka hii Constitution itutetee leo na process yangu ni hivi.

Sisi tutatuma wajumbe kuenda Nairobi kwa National Constitutional Conference, tunataka iendelee vile ilivyopangwa iendelee katika Katiba, hatutaogopa chochote kutoa maoni yetu na tunajua wakubwa wengine wanataka kutuvunja. Ni hayo tu. Asante.

Com. Adagala: Commission haina shida. Mnielewe, mnataka kuweka shida

Edward Ambwaya: Wanasema Commission haina shida, tumewapa kazi ya kufanya.

Com. Adagala: ...(Inaudible) Si sisi tuko na shida, hiyo iko na ni hadi.

Edward Ambwaya: Shida ambayo tuko nayo ni sisi wananchi ni kunyanyaswa na tumekataa.

Michael Malema: Yangu ni kuhusu vilema, viziwi na disabled...

Com. Adagala: ...(Inaudible)

Michael Malema: Na nikiwa nimeshaandika hapa nitapeana, will you accept it?

Com. Adagala: ...(Inaudible)

Michael Malema: Sasa nataka kuenda kula sana. (*Laughter*)

Com. Adagala: Ukiona njaa ni muhimu kuliko siku hii ya miaka mia moja utaenda.

Dorah Ingolo: Jina langu ni Dorah Osman Ingolo. Mimi nataka muzungumza juu ya meeting ya National Constitutional Conference ambayo inatakikana iwe Nairobi tarehe ishirini na nane. Uchaguzi ambao ulipatiwa Councillors kufanya katika district hii yetu, ningependa kusema ya kwamba haukufanywa vizuri, sababu yake ni kwamba Councillors wa County Council ambao walipatiwa nafasi hiyo, wakati walifanya uchaguzi wao kulingana na mimi niliona ya kwamba walikua wanatumia watu ambao walikua wamewapatia pesa. Hii nasema kwa sababu wakati tulifika mahali pa election, nilisikia Councillors wengine wakisema watapatia mtu ambaye amewapatia kitu na wakati walifanya uchaguzi wao ikawa ni hivyo. Kwa hivyo ningependa kusema katika siku za usoni watu wa Kenya wafanya uchaguzi kulingana na watu ambao wanaweza kufanya kazi na si kupendelea mambo ya pesa. Kitu cha pili, ...

Com. Adagala: New wine new bottle. Muangalie vizuri hawa watu wanaitwa viongozi, ni mara ya mwisho mtaona kiongozi kama wale wako, sasa wewe unazungumzia old wine and old bottle. Kama tulikua na kuongana na watu walisema hivyo, mngesama wazi, nini ilikukataza kusema wazi?

Ya pili, kama mna viongozi hawa walipeana pesa na mkaangalia hiyo ndio tunaita cancer, hiyo cancer, wanaitaje kwa Kiswahili, saratani. Imekula Kenya yote na kama walifanya hivyo you should launch a complaint lakini hamjafanya hivyo, wananchi hamjajua ni nyinyi, sasa unaambia nani?

Dorah Ingolo: I am saying this to ...(Inaudible)

Com. Adagala: What is this thing, it is a Kenyan? No, you refused to take your responsibility as a citizen of Vihiga, the only people you can tell is Vihiga people they are the ones with the power. If you think the Commission is going to come and ...

Dorah Ingolo: I commented because they had just taken two people from two constituencies, that is Emuhaya and Vihiga, Tirika is not represented, I commented that time and I even talked about the dishing of money which means people will work and others will reap from what others worked, so I commented on that date.

Number two, nilikua nataka ku-comment kwa maneno wa muda wa Constitution na Katiba mpya kutumika katika uchaguzi ujao. Mimi binafsi ningependa kusema ya kwamba...

(Interjection)

Com. Adagala: I would like those two people there, Chairman, I would like this man and that man to please finish their conversation outside kwa sababu hizo sauti nzito is ruining and they have talked throughout, can you please ask them to finish their conversation outside then come in, these two people here. Macho yangu haioni vizuri sana lakini it is just like we are in Lwanda Market. Please tell them to finish their conversation outside and then come in.

Dorah Ingolo: Nilikua nasema ya kwamba Wakenya walitaka Katiba mpya itumike katika uchaguzi ujao na kwa sababu ya muda vile umetueleza Madam Commissioner inaonekana ya kwamba Bunge linaweza kuvunjwa wakati wowote lakini sisi kama Wakenya ambao wanatoka Emuhaya tunapendekezo ya kwamba ni afadhali muda wa Bunge ungesongezwa ili tutumie Katiba mpya ambayo haitakua na rigging vile Wakenya wanataka.

Com. Adagala: Okay, hiyo ni proposal ya extension. Watu wa soda I don't want to hear bottle tops because ninaenda kwa microphone. Nilisema hizo vitu vifunguliwe nje because we have experience a lot of noise with bottle tops. Excuse me Madam? Chairman tell that mama to go out with her sodas, afungule nje please.

Ako Lukose: Jina ni Ako Lukose tena na Mwenyekiti sijui kama nizungumze chapter 5, 6 ama nimalize na chapter moja kwanza.

Com. Adagala: Process ndio tunazungumzia wakati huu...(Inaudible)

Ako Lukose: Okay, hii mambo process sijaona kama niko na jambo naweza kuongeza kwa yale ambayo yamezungumzwa kwa sababu kitu tungependa ni uchaguzi ufanywe katika Katiba mpya na ikiwa hivyo Bunge iongezwe siku ama Commission ndio itaweza kumaliza Katiba upesi, whichever will be passed.

Com. Adagala: Mnajua, wacha kutuambia siasa ya muda, keti mzee. Mbeleni tulikuwa na wanasiasa walisema muda uongezwe wa Bunge halafu watu wakasema the President wants to extend his time halafu wakapinga hasa opposition. Halafu sasa opposition wanasema Bunge iongezwe muda na President anasema na wale wa upande wake wa siasa, tulitaka iongezwe mkasema tunataka President's time be extended. Yeye amesema mnaenda na vile mlisema. Unajua hakuna kitu kipya nawaambia hapa, si hivyo? Iko magazetini kila siku, tumalize process kwa sababu sitaki mtu aje tena kuuliza mambo ya process, ukiwa na jambo ya process kuja.

Tom Anjichi: Kwa majina ni Anjichi Tom. Nikichangia juu ya process tusema mmoja wetu amechangia juu ya muda, the time

factor, ningependa kuhimiza tu tupewe reasonable space. Mmoja alitaja vile criteria iliofuatwa kuchagua watu ambao wateenda National Constitutional Conference, wengine hatukubaliana na hiyo procedure na vile vile katika magazeti mmesema, kwa wale ambao walifanya application to join the conference, mlisema mtachapisha majina ya wale ambao wataenda. It is taking too long for them actually to be prepare and I wish to request we be clear on that. Thank you.

Com. Adagala: ... (Inaudible)

Tom Anjichi: It will be too late rather from this statement. Asante.

Jeremiah Ayiecha: Kwa majina ni Jeremiah Ayiecha. Yangu naona Constitution ni yetu Wanakenya, sisi ndio tumewaandika mtufanyie kazi, pesa ilikua yetu ambayo mnatembea nayo round, mmemaliza kazi na mmeleta. Imebadi pahali padodo ambayo siasa imeingia ndani. Kile naona, Wanakenya wakatae kupiga kura ndio other solution itokee mzuri ambayo itatuwezesha kuwa na hii Constitution mzuri ambayo tumeona ime-comfort Wanakenya wote na wemefurahia hii ifuatwe ndio tuende kupiga kura na Constitution mpya si ile ya zamani.

Com. Adagala: Okay, kitu kidogo tu. Kama gari imeanza kuenda au kama imeanza *msweleko*, mnaitaje kwa Kinyore? Kama imeanza kuenda chini ni ngumu sana kuisimamisha, ukingoja ifike wakati wa kupiga kura, they only say there was a low turnout na itaendelea, so there is a time problem. Tumeandika hapa.

John Gama: Kwa jina ni John Gama. Nina proposals mbili, kwa vile mmemaliza kazi yenu na sehemu inabaki ni ya Wabunge na Conference na vile Parliament inaweza kuwa dissolved anytime, ikiwa Wabunge wangeweza kuelewana for the sake of national interest wapitishie kauli kuwa wa-extend the term of Parliament so that the Constitution can be ready for the next Government.

Com. Adagala: Ikisemekana hivyo halafu wanasema hawa Commissioners wanataka waendeleo na mishahara yao na magari yao. Mimi nina kazi yangu University of Nairobi inaningoja. You know you are also the one who measures the ... (Inaudible).

John Gama: If the term cannot be extended then probably a way could be found where the next Parliament will be allowed to make some reasonable room for the Constitution to come in and not to wait for the 5 years as you had proposed if possible.

Com. Adagala: Okay, you know new wine but you want the old bottle to take the new wine and most of the things which have to be changed here needs new leadership. Unaona, but if we do it under the old leadership we shall get more or less the same leadership up there and one of the things that need to change is the presidency and nobody even among you is going to sit there in the presidency and reduce his or her own powers. Watasema ngoja 2007, it is very difficult, I want to tell you we are

dealing with a very difficult situation.

John Gama: Now that we are going for election that is why I am proposing that if there is a possibility the new President before we elect him or her should be aware that even if he or she is going to the office there is a duty of national interest at hand.

Com. Adagala: ... (Inaudible) anaitwa Chiluba, mnamjua? Chiluba in Zambia campaigned on this main subject that we shall implement the new Constitution, wakafanya elections under the old Constituion. Chiluba was in the opposition then he got in government, Professor Ghai alikuwa consultant akaenda, wakaenza kuzungumza, oh, yes you wrote a very good document Professor, this and that. I think you have seen him on TV a little bit the way he talks, oh, yes. Professor akasema, you know it needs to be implemented, oh yes, very good document let me just be appointed. Akamwambia there is no way we are going to implement this, we need elections under the old one, hii itakaa but if you say if there is an understanding then that is like IPPG, minimum amendments. An understanding that they will... it really means a lot, it means this free education for children will not be there, it means that two chambers of the House will not be there, it means a lot of things that will not be implemented.

(Interjection)

Speaker: Just a minute, I want somebody by the name John who has not recorded in my book here.

Nicholas Ndeta: Kwa jina naitwa Nicholas Ezekia Ndeta, maoni yangu ni haya. Ningependelea Katiba itengenezwe hii Katiba yao, tufanye kura mwaka huu kama tunaendelea ...

(Interjection)

Com. Adagala: Unasema Katiba itengenezwe Katiba yao, kwa akina nani?

Nicholas Ndeta: Sorry, Katiba ambayo sisi wenyewe tumetengeneza ipitishwe kamili kabla tufanye uchaguzi na tukienda kwa uchaguzi by the end of this year tuwe na Katiba mpya. Kwa sababu gani nasema hivyo? Tukiongeza muda ndio corruption inazidi, tukiongeza muda wale ambao wanapigania kura sehemu mbali mbali ndio hivyo itaendelea ndio tunakua na matanga mingi, famine mingi na vitu vingi. Ningeonelea kwamba Katiba by the end of the year tuwe tuna...

(Interjection)

Com. Adagala: You have said very well, you are saying your wish and your dreams but we are telling you there is a problem, time factor kwa sababu tutaendelea tu na hiyo lakini (Inaudible). Pendekezo.

Joseph Odera Amuli: Asante. Kwa majina ni Joseph Odera Amuli. Tumeona Katiba ni ile ambayo sisi wenyewe tumetengeneza na mmefanya vizuri kutuletea hapa, the draft. Kwa hivyo, kulingana na vile mmesema time haituruhusu si wakati wa kwanza hapa Kenya, tumesikia na tumeona kwamba South Africa walikua na mambo kama haya na wakatamikia interim

Katiba yao. Kwa hivyo mimi napendekeza hivi, tusingojee mpaka wakati tutakapokamilisha, tuwe na interim hii yetu tumeona draft na hii ndio itatusaidia ili uchaguzi ujao ufanyike katika hii Katiba mpya.

Com. Adagala: Kitu ningetaka mjue zaidi ni...don't you have enough people in your committee who are active to write this, it means your committee is not active. Let someone else do that or you do that someone else come here. Where is the person who was here?

Nilitaka mjue wananchi, it is not just the politicians game, it is also Kenyan society at stake ndio nimeleta jambo la malipo ya shule ili mujue politicians are just talking about political posts up there and that is what the newspapers do but the real issues about our society, those are the ones who will suffer. Even then these politicians they do somethings where they are even dividing seats, Prime Minister, this and that but that is in the new Constitution, it is not in the old. Hata wale ambao wanataka many powers for the President, they want also to be able to capture people by offering Prime Ministers post here, Deputy there and yet they don't want to work on the problems here.

Morrison Lumakwe: Thank you Madam, I have heard what you have said.

Com. Adagala: Jina lako.

Morrison Lumakwe: Morrison Lumakwe.

Com. Adagala: Zungumza na heshima kwa...(Inaudible)

Morrison Lumakwe: (*Laughter*) Naitwa Morrison Lumakwe.

Com. Adagala: Umelewa?

Morrison Lumakwe: Hapana sijalewa.

Com. Adagala: ...(Inaudible)

Morrison Lumakwe: What I came here to say is that a person like myself I have two wives, If I want to divorce one and I want that one to be recorded, I am coming back to ...(Inaudible).

Com. Adagala: Katiba ni kitu muhimu sana. Tunazungumza process wewe umeenda kwa mambo hayako hapa ndani, keti hapa tutazungumza hayo yote yako hapa. Tumemaliza process? Haya, mambo yako ni ya process? Please go away siwezi

kupumua changaa inanifanya nataka kutapika. Tafadhali...

(Interjection)

Speaker: Watu wetu wa Emuhaya Constituency haya ni maneno siku ya leo.

Com. Adagala: ... (Inaudible). Thank you very much. If you don't want to do what I am telling you to do, you will not do it, you have had a lot of time, you are a member of 3C's what have you been doing all these years. There is no warning you will do juu ya pombe, hiyo ni kazi yenu. ... (*vernacular*)

Haya tutaendelea. Mkutano huu hauko sawa na nimesema lakini mmelalia masikio, kuna vijana wachache, kuna wanawake wachache and it doesn't bother you, does it? It doesn't bother you men? So where are the women, each one of you has at least two women in your life, your mother and your wife, where are they? I want someone responsible to tell me where they are, like the Chairman, I want to know the mobilization that was done for youth and ... (Inaudible). How much mobilization did you do? Chairman.

Arthu Etale: Asante. Kwa ufupi watu walipaswa habari kwamba mkutano itakua hapa leo na vile mnajua leo kawaida yetu hapa Lwanda inakua siku ya soko lakini akina mama wengi wemekuwa na shuguli nyingi na niko na akina mama wengine hapa ambao pengine wameogopa kuzungumza. Tafadhali akina mama ambao mko hapa mje mbele ili muonekane, si ni kwamba ni wanaume peke yake ambao wako hapa. Wale ambao mmezungumza tumewaona lakini kitambo muda ilikua fupi watu walipata habari kwa wingi lakini sijui leo imekuwa namna gani, watu wa Lwanda ni watu ambao wanapenda maendeleo lakini leo... Tafadhali Madam Commissioner excuse them, we don't know what has happened today.

Com. Adagala: Chairman, hunielewi. Mimi Commissioner siwezi ku-excuse in equality. I cannot condone inequality and your work was to mobilize, where are the women in the committee? How many women did you mobilize? I want the women on the committee. Vile mmekuja mmekeki hapa you should have come each with 50 women, how many did you come with and how did you come with back there?

Getrude Obulutsa (Chairperson, 3 C's):... (Inaudible)

Com. Adagala: Kukaa kwa kamati sio... unajua hii kazi ya Commission watu wanafikiri ni glamorous, hii ni gazi ngumu sana.

Getrude Obulutsa (Chairperson, 3 C's): Today is a market day in Lwanda.

Com. Adagala: Why did you put Lwanda on Market Day?

Getrude Obulutsa: I did not know that the date would fall on a market day.

Com. Adagala: ... (Inaudible. That is not my problem you are supposed to mobilize. You know, sikizeni wanaume pengine mnafikiri wanawake wote tuko hivi. Personally I have said it several times, I want to resign from the Commission because wanawake hawaonekani, kule tulikuwa na wanawake, Bondo, Rarieda, hapo ilikuwa fift fifty. Mahali kwingine tunaenda kama Kikuyuni wanakaa tu kama hawa wanaume, wanasema wako market, wanapanda na wanakaa tu hivi. 17% of the hearings that was the only number of women who contributed hata sio one third. I am telling you mtawachwa nyuma, society yenu, if you leave half the society out of anything mtabaki nyuma. People in Bondo and Rarieda will advance more than you because they make the effort, they were fifty fifty. Unaona mwanamke, mwanamme, wanaume wawili, wanawake watatu hapo, hivyo hivyo wameketi wamechanganyana. You are making a mistake for your society, a big one. You want to explain market day, that is your problem. (*murmurs in the background*)

Com. Adagala: You mean to say the entire female population is in the market.

Audience: No.

Com. Adagala: Poor coordination.

George Orende (CCC) Please could you give me a hearing. I have to say something just to you as the people who have come, it is true as the Commission says the number of women present is actually not good but for us who are in and the men who are in, I know some of the people have come from far East of the Constituency madam and that is why probably reaching this place is another problem that could not be explained. Otherwise, I am begging you who have come, wale ambao mko peaneni maoni yenu vile mnaulizwa na Commissioner na tuwe watu wa kuonyesha kwamba tulikuwa tukifanya nini vile tulikuwa tukifanya hapa. Hawa watu Madam walikua wakifanya hii kazi, it is only today that you excuse us may be because of the journey from the other end.

Com. Adagala: I cannot excuse you, unaniweka kwa dhambi zako sitaki. Haya wacha tupeane hii. District Coordinator, Chairman, stand here with your committee nimalize kazi yenu sitaki kuingia kwa *vuongohivi*, mimi nataka yangu iendelee. Are you a Committee member, please stand up. I don't want to ask people twice. Where are those women who were saying they work very hard, come here? Okay, stand here with your Chairman, Chairman come this side, who is the chairman? you are not Chairman. You are Chairman and you came with 10 people. I don't want you to spoil my work, mimi ni Mkristo sitaki dhambi, sitaki hata kidogo. Report will say we come to an empty room, when we got here it was empty and that is what the report will say.

Okay, this is your Constituency Report watu wa Emuhaya, hii ndio mlisema, hii ndio mlíchanga ni report number 164.

Chairman you are not even standing where you should be. Hapa we have the report nitapeana kwa Chairman na District Coordinator, Emuhaya Constituency, Western Province, report number 164. Nitachukua picha kufanya documentation tupelekee Ghai. Piga ingine, simama hivi, okay chukua, haya. Good we have taken that one. Hiyo ndio reporti yenu na wataweka pale, mtu ambaye atataka kufanya photo copy atafanya. Si mmefurahi...(Inaudible)

Watu wa Emuhaya mmewahi kuona report ingine ya Tume?

Audience: Hapana.

Com. Adagala: Haya hiyo ndio yetu. I have finished that one and now I want to move very very first, hiyo ndio tungeanzia nayo. Ningependa District Coordinator to introduce representatives to the National Constitutiona Conference. Coordinator, Agnes

Agnes Ayuma: Habari wananchi kutoka Emuhaya Constituency?

Audience: Mzuri.

Agnes Ayuma: Naona mko very dull, kwa nini? Kuna National Constitutional Conference ambayo ninajua mmeambiwa, si mnajua kuna National Constitutional Conference ambayo tunahitaji kupeleka delegates na kwa wale ambao wako very keen it was advertised in the newspapers, in the radios, everywhere, so if you didn't hear be very keen on reading the newspapers and listening to the radion. It means you are a bit low keyed.

Tulifanya uchaguzi na kabla ya uchaguzi tulikuwa na nominations, kulikuwa na nomination papers ambazo zilitoka Nairobi zikaja kwa ofisi na zikawa well advertised, watu wakatoka the whole district, wakaja kwa ofisi wakachukua nomination papers. Walijaza hizo nomination papers and wakazileta, waka-submit on 10th and 11th of September sasa after submission tukawa tume-nominate around 17 people. Tuliendelea, tukaenda uchaguzi ambayo ilikuwa tarehe kumi na saba mwezi wa tisa. Tulifanya hiyo uchaguzi pale Vihiga County Council. Tuliweza kuchagua delegates watatu, kiti cha kwanza kiliendea mwanamke ambaye anaitwa Bi Rebeka Ivelia kutoka Hamisi Constituency na yeye ndiye atawakilisha akina mama kutoka Vihiga District, kwa hivyo National Constitutional Conference. Kiti cha pili kilichukuliwa na Councillor Calleb Jumba, Calleb Jumba alipigana kweli kweli na Chairman wa County Council ambaye anaitwa Councillor Calleb Inganji kutoka Hamisi. Jumba kutoka Vihiga Constituency alichukua hiyo kiti cha civic leaders na kiti cha tatu kilichukuliwa na Bwana Edward Ohari. Bwana Edward Ohari anatuka Emuhaya Constituency, South Bunyore, wale wanamjua si ni South Bunyore? Alipigania na wenzake kutoka constiencies zingine na akaweza kuchukua hicho kiti. Sasa kama kuna mtu hapa unasema hukusikia pole sana kwa sababu ilikuwa well advertised na tulikuwa na wale watu, Ohari anatoka karibu kwa Wajaluo kule, Ivelia anatoka mipaka wa Rift Valley na Nyanza na Jumba anatoka hapa Hamisi. Walisikia wote na wakaja Vihiga, walikuja wote na uchaguzi ukafanywa

sasa ikiwa hukusikia pull up your socks on gathering information.

Kuna kitu kingine ambacho ningependa kuwaelezea. Ninaona hapa sijaweza kuona Jumba, Ohare wala Rebecca ingawa kwa mikutano zingine zote tumekuwa nao, kwa mukutano wa mwisho nilikuwa na Ohare na alikuwa mgonjwa, alikua ananiambia ako na shida ya mguu. Rebecca sijamuona na Calleb alikua amepata matanga hapo awali ndugu yake alifariki. Ninadhani hajamaliza hiyo shuguli ya matanga na pengine Ohare hajisikii vizuri lakini sijapata any apology kutoka kwa Rebecca. Kwa zile maoni ambazo mnatoa mkienda nyumbani musome hii draft, kuna pahali ambapo unge-propose ku-make amendments wakati ule wanaenda kwa conference, pengine ungepende ku-contribute something kuhusu sehemu fulani ambayo hujafurahia ama ambayo ungependa kuongezea kitu. Ukiweza kuandika hayo maoni yako kwa wale ambao wanajua Mr. Ohare mmpatie ataenda kuwaakilisha na ikiwa unaweza kuja kwa ofisi ya Constitutional Review pale Mbale Municipal Council, unaweza pia kunipatia na tena ikiwa unaweza kukutana na moja wapo wa hawa. Hebu simameni tena muonekane wasije wakasema, we don't know them. Hawa ni wanakamati wa Emuhaya Constituency Constitutional Committee. Huyu ni Bwana George Oriedo, yeye anaakilisha vijana katika hii kamati, pale tuko na Mr. Arthur Etale, George ametoka Wehomo, Arthur anatoka, unatoka?

Arthur Etale: Central Bunyore.

Agnes Ayuma: Central Bunyore. Songeni karibu tafadhali. Huyu ni Bi. Obulusa Getrude, yeye anatoka West Bunyore na pale tuko na Bwana Christopher Kwache Amwayi. Kwa hii Katiba ilitakikana walemavu wazingatiwe kabisa na yeye anasimamia hiyo kiti ya walemavu, anatoka North Bunyore. Tuko hapa na Area Education Officer na ninajua leo tuko na waalimu wengi sana, huyu ni Area Education Officer anaitwa Bi. Betina Okumbe, anatoka South West Bunyore. Tuko na Mr. Arthur Imbira, anatoka North East Bunyore na tuko na Bi. Dorah Ingolo Horrison, yeye anawakilisha East Bunyore. Tulikuwa na Rev. Birum Makhoha lakini shugulu zake ni mingi ni vigumu sana kumpata kuja kukaa na sisi kama leo, huwa tunampata mara moja, moja tu na kule South tulikuwa na Bishop Oketch kwa hii kamati. Tulianza na yeye na pia shuguli mingi mara ako hapa Kenya, mara ako nje ya Kenya sasa tunapata ni vigumu kuwasiliana na yeye kila mara.

Tuko na kijana ambaye tumemchagua awakilishe ile sehemu ya Bishop Oketch kwa sababu tulipata hapo kuna vacuum, anaitwa Fred Afuya, amekuwa hapa nje. Kwa wale ambao mnamjua mnaweza kumpatia maoni yenu, halafu civic leader tuko na Councillor Speak Oponga na speak amekuwa hapa, ameenda wapi? Ako nje. Yeye ndiye anashikilia pahali pa civic leaders. Sasa hawa ndio wanakamati wa Emuhaya Constituency Constitutional Committee na pia Member of Parliament, Honourable Sheldon Muchilwa pia ni mwanakamati wetu. Sasa hata yeye atashugulika sana kule kwa conference atakuweko, na sasa kama unaweza kuwa na maoni yako umpatie, he is a very open man he will come and represent you there.

Ningependa huwahimiza wananchi wa Emuhaya Constituency wakati mwingine vile tunafanya mambo mnasikia tuko pahali, tuko na Commissioners si hapa Emuhaya peke yake ni most of the districts. Unapata mtu amekaa nje pale, tunaendelea na mambo ya Katiba na yeye amekaa nje. Next time tukikuja, akiamua kuja ndani anasema I don't know that is happening I was

never told, that one is being irresponsible. Lile Commissioner anawaambia hii Katiba, tunaitengeneza Katiba yetu, it will serve us, it is for our own good and it is not just for today. We expect to make it well so that we can use it for the next few generations, isn't it? If you just go and sit back, you keep on saying I don't know, I was never told, I never heard, that is a very big problem on you. So, please I am just encouraging you to be active na ningependa kurudisha shukrani kwa wengi hapa ambao tumekuwa nao tangu mwanzo tukianza civic education, we have always been with them. When the Commissioners came to look for views they were there, there are a number of them here I can see them. Thank you very much for representing Emuhaya Constituency. Asante.

Mimi ni Agnes Ayuma, mimi ndio Coordinator wa Vihiga District.

Com. Adagala: Okay, asante Agnes. This is our last stop in Vihiga District halafu tutaenda district ingine but I am a bit surprised kwa sababu nilifikiri watu wa Emuhaya watu wa wachangamfu, sasa hapa tuko very low, sijui kwa nini, vile alisema. It is a bit dull and this is something very exciting. Tuendeleo.

Chapter five, tutaenda haraka haraka kwa sababu vitu vingine tumegusia hapa na pale. Bill of rights iko hapa, iko kwa present Constitution lakini iko karibu mwisho sasa tukasema tutaitete hapa. Citizenship then bill of rights, iko mbele sasa and that is very important. Kwa nakala ya Kiswahili wameandika ukatiba, it means constitutionalism or republican value or it means leaving by the Constitution. This is how the Constitution will be in our lives plus the Commission which will be there, other things are there also but they are all, zimefadhiwa hapa kwa bill of rights. It is a long chapter and I want this young man to go through it but only the principles, tutakuwa na nafasi ya kuisomea zaidi but I want you to know that the details, sikizeni. The Constitution talks about principles, goals, values, those are mainly what it talks about, the details will be worked out in Acts of Parliament. Sasa hapa tutazungumzia tu principles na tuendeleo.

Vincent Watako: Tuko katika sura ya tano ambayo ni sura ya ukatiba ama haki za kibinadamu. Katika mwanzo wa sura hii tunaambiwa kwamba sura hii ndio guzo ya demokrasia na serikali inapewa juhudi ya kupitisha sheria ambazo zitawezesha kila mwananchi kunufaika na mapendekezo ambayo yako katika sura hii. Inafaa pia mujue kwamba haki ambazo ziko katika sehemu hii zinaweza keukwa tu kwa mujibu wa sheria ambayo inaambatana na sura hii. Nitaenda moja kwa moja kwa haki ambazo tumepewa na sura hii.

Haki ya kwanza ni haki ya maisha, kila Mwanakenya anapewa haki ya kuishi. Hukumu ya kifo inatupuliwa mbali na sura hii.

Haki ya pili ni usawa, sura hii inasema kwamba kila Mwanakenya ni sawa. Sura hii pia inampatia Mkenya haki ya kutobaguliwa kwa msingi ya jinsia, msingi ya rangi, umri, vile lugha na kuzaliwa baina ya mambo mengineo. Wanawake pia wanapewa haki katika sura hii, sura hii inasema kwamba wanawake watakuwa sawa na wanaume na mila ambazo zinawabagua wanawake zinatupuliwa mbali. Wakongwe pia wanapewa haki katika sura hii, wanapewa haki ya kuwa huru, ya kufanya

mambo ama kujinufaisha na mambo kama ya kazi, ya kuwa na utu na heshima, pia watakuwa na maisha yalio ya kawaida. Watoto pia wamekumbukwa katika sura hii na kila mtoto anapewa haki, kuna haki kadhaa ambazo watoto wamepewa chini ya kifungu hiki. Inafaa mkumbuke kwamba haki hizi zinapewa kila mtoto, awe mtoto ambaye alizaliwa katika ndoa ama awe mtoto ambaye amezaliwa nje ya ndoa.

Kila mtoto atakuwa na haki ya kuwa na jina, haki ya kuwa Mkenya, atanufaika na ulinzi wa wazazi, atapewa elimu ya msingi ya bure, hatabaghuliwa, atapewa makaazi na chakula. Hatachapwa viboko hasa katika vyuo ama shule, hatasajiliwa katika vita ama awe mwanajeshi. Hatafungwa pamoja na watu wazima na iwapo atawekwa korokoroni atastahili apewe wakili ambaye ataweza kumwakilisha. Neno mtoto katika sehemu hii inamaanisha mtu ambaye ako chini ya umri wa miaka kumi na minane.

Familia pia imepewa haki kwa umbele, kila mtu atakua na haki ya kubuni familia yake lakini awe ametimiza umri wa miaka kumu na minane.

Bunge imepewa haki ya kupitisha sheria ambazo zitawezesha ama zitanufaisha jamii kwa jumla kunufaika na mapendekezo ambayo yako katika sehemu hii.

Watu ambao wako na utukufu tofauti hasa walemavu pia wamepewa kipawa mbele, watakuwa na haki sawa kama kila mwananchi, watakuwa na heshima, watakuwa na haki ya kuenda shuleni. Vyombo vya usafiri lazima vitatambua upungufu wa walemavu na watashiriki katika kutoa rai zoa katika maswala tofauti tofauti ya kitaifa.

Kila mwananchi pia amepewa haki ya utu, lazima utu ya kila mwanadamu iheshimiwe. Ulinzi wa kila Mwanakenya pia umepewa kibao mbele Katiba hii kwamba kila mwananchi atastahili apewe ulinzi wa kutosha. Utumwa au kazi ya lazima pia imetupiliwa mbali na sehemu hii ya Katiba.

Kila Mkenya pia atakua na haki ya kuwa siri, hatanyanyaswa na makabuzi katika mwili wake ama katika mali yake. Kila mwananchi pia amepewa haki ya kuwa na dini ambayo anapenda, pia anapewa haki ya kutoa rai yake ijulikane.

Uhuru wa kujieleza pia umepewa kibao mbele katika Katiba hii na kila mwananchi amepewa haki ya kujieleza bila kunyanyaswa na upande wowote. Yafaa pia muelewe kwamba kila mwananchi amepewa haki ya kutoa maoni yake kuhusu mambo ya kitaifa na maswala ya kimataifa bila kunyanyaswa.

Vyombo vya habari ambavyo ni vya serikali ama vya mali ya uma vitahitajika kuwa huru na havitakuwa na mapendeleo yoyote. Kila mwananchi pia amepewa uhuru wa kupata habari kutoka kwa serikali hivyo habari ambazo zilikuwa za siri zitaweza kujulikana na kila mwananchi.

Mwananchi pia amepewa haki ya kujiunga na chama chochote kile, kiwe chama cha kisiasa ama vyama vyovyote vile mradi tu vyama hivyo viwe vimesajiliwa katika sheria ambazo zinahusika. Kila mwananchi pia ako na uhuru wa kuandamana, haki hii amepewa katika Katiba katika kifungu cha arubaine na tisa. Kila mwananchi pia ako na uhuru kisiasa, uhuru wa kujiunga na chama chochote cha kisiasa, uhuru wa kusimama na kupigiwa kura katika kura za kitaifa mradi tu yale mapendekezo na masharti ambayo yako katika sheria zinazohusika yafuatwe. Kila mwananchi ako na uhuru ama ako huru kuishi katika sehemu yoyote ile ya jamhuri na hatanyanyaswa.

Wakimbizi pia wametambuliwa katika Katiba hii na Bunge limepewa uwezo wa kupitisha sheria baada ya mwaka moja ambazo zitatoa masharti kwa wakimbizi. Kila Mwanakenya pia amepewa haki ya kufanya kazi yake kulingana na taaluma yake awe mwanabiashara, amepewa haki ile katika Katiba. Mali ya kila mwananchi pia imelindwa katika kifungu hiki, mali ile mradi tu iwe mali ambayo ilipatikana katika njia halali italindwa.

Wafanyikazi pia wamepewa haki katika Katiba na haki hizo ni kama kujiunga na vyama vya wafanyikazi, kuandamana baadhi ya haki zingine. Watu ambao wamestaafu ama social security wamepewa haki pia katika Katiba hii, kila Mwanakenya atastahili pia kupata haki ya matibabu. Elimu pia ni haki kwa kila Mwanakenya na imesema kwamba elimu ya msingi sasa itakuwa ya bure. Makaazi pia ni haki ya kila Mwanakenya, chakula, maji, usafi, mazingara safi. Lugha na utamaduni pia umelindwa katika Katiba hii. Wanunuzi pia wamepewa haki kutokana na bidaa ya bivu haki hii iko katika kifungu cha sitini na nne. Pia kila Mwanakenya atanufaika na uongozi ulio bora ama fair administration ni haki ambayo amepewa katika Katiba hii.

Kila Mwanakenya pia hataitajika kufuata maagizo ambayo si ya halali, maagizo ambayo yanakeuka Katiba hii, pia kila Mwanakenya ako na haki ya kuasili mahakamani ama kuakilisha malalamishi yake mahakamani. Watu ambao wamepekwa korokoroni wako na haki fulani, haki kama ya kupewa fursa na kupewa wakili. Kila Mwanakenya pia atapewa hukumu iliyohaki ama fair judgment.

Haki za watu ambao wako jela pia zimepeanwa katika Katiba hii, haki kama ya kuwa na utu, watapewa mafunzo maalum korokoroni ama jela.

Ili kuwanufaisha Wakenya na haki hizi Mahakama Kuu ama High Court imepewa uwezo wa wa kufafanua mapendekezo ambayo iko katika Katiba hii. Pia kumbuniwa katika kifungu hiki Tume ya haki za kibinadamu, watu ambao watajiunga na Tume hii wameorodheshwa hapo chini natumai mtapata saa na kupitia katika mapendekezo mengine.

Maswala ya ufafanuzi ya kifungu hiki ama ya sehemu hii yamepewa Mahakama Kuu na ufafanuzi huu ni lazima uambatane na manufaa ya kila mwananchi for maximum enjoyment. Kwa ufupi tu hayo ndio mapendekezo ambayo yako katika sehemu hii. Maswali.

Com. Adagala: Mapendekezo. Hii ndio sehemu ya ukatiba kulinda wananchi, hii ndio sehemu mujue itakuwa-postponed

Katiba ikikosa kupitishwa, tukifanya uchaguzi kwa Katiba ya zamani. Waalimu wako hapa wangapi, hebu nione waalimu? AEO kwanza ako wapi? Waalimu, I am very happy there are more teachers here than in the other places kwa sababu suhuluhiso zenu iko hapa mmeisikia, the right to strike. Ni kuandamana lakini ku-strike, the right to unionize and the right to strike and then afterwards there is another one many teachers didn't come to give views but wazazi walituambia hawa waalimu wanashida sana, iko mbele tutafika kwa hiyo.

Hii ndio ukatiba, sehemu hii ndio tena mambo yote. Tunaweza hata kusema preamble na bill of rights in a way they are the most important, isn't it? Wacha niwa-advice kidogo, msifuute watu wa siasa waki-concentrate on the presidency, you will never be President yourself. Wana-concentrate on the presidency, judiciary, pengine mtoto wake atakua Judge lakini hii ndio muhimu, hii ndio itamfanya apate elimu na matibabu na haki zake ndio akue mpaka afike hapo. Mlituambia hiyo mambo ya watajiri na watoto wao na shule na afya, tumeziweka hapa na haki ya elimu ya msingi ni ya bila malipo, health services iko hapo, maji. Watu wengine walituambia, this is very romantic, this is very utopias tukasema sehemu moja ya Katiba iko realistic ingine iko romantic kwa sababu huoti ndoto utakuwa nani, kama hauna mahitaji pengine siku ingine nitakuwa hivi na itakua hivi, ningetaka hichi hata hautatekeleza chochote, utazubaa tu, si hivyo? You must have vision, you must have dreams.

Kile nasema kama hii mambo ya maji kuna nchi zingine kama Switceland, everybody has water, tukikosa kuweka hapa itakuwa kama ile ya education for all by the year 2000, water. Health for all by the year 2000 na hiyo ilikuwa tu serikali inasema sasa Katiba inasema na lazima itekelezwe. A place like Los Angels, it is a city which is more than 20 miles, yaani kutoka Kisumu mpaka Chavakali, town moja and even more than that even to Kakamega and it was in a dessert, they had no water so they diverted the river and it passed by that place which was small and then it grew. It is the political will but it is in the Constitution now. Hiyo yote iko na pengine tuendelee haraka haraka.

Nicaron Masili: Kwa majina naitwa Nicaron Masili. In this chapter 5, I would like to add a proposal on section 50, 33 (a) on a registered voter that I am empowered as a registered voter to vote and give power to my MP to go and decide for me. I would like to add a clause there that to be a registered voter and vote by.

Com. Adagala: Is that in writing.

Nicaron Masili: No it is not in writing. That I am a registered voter and I should vote by secrete ballot in any elections referred to me and close to. I would like to add something small that, whereas I am empowered to vote in somebody I should also be empowered to remove him from power because I am the one who gave him the power, when he messes up.

Com. Adagala: That is all. Okay, umeenda mbele na maoni yako we will find that one under Legislature but here it is your right to vote halafu inaendelea mbele but you are on the right truck but the MP doesn't go to decide for you he goes to represent you. You are on the right truck.

Fred Siminyo: I am called Fred Siminyo. I want to talk about privacy and property ownership.

(Interjection)

Com. Adagala: ...(Inaudible)

Fred Siminyo: Alright, although you had told me earlier that some of these things will be passed by Bunge itself but there are certain things which if you leave in the hands of the Parliamentarians they will not act on them the way we want because they are the culprits. I am talking about the acquisition of land and ownership, you will find one individual....

(Interjection)

Com. Adagala: ...(Inaudible)

Fred Siminyo: Privacy and property ownership in general. I just to want to talk generally.

Com. Adagala: ...(Inaudible)

Fred Siminyo: I want to give my submissions.

Com. Adagala: ...(Inaudible)

Fred Siminyo: Okay, so I am proposing that it be put in the Constitution directly how much land one must possess in terms of acreage because you will find some own thousand of acres of land when there is another Kenyan owning nothing. So, if we leave for the parliamentarians to go and decide this and they are the culprits they will not make it.

Com. Adagala: New wine old tin. Kama parliamentarians are culprits let me tell you anybody who has ever received land or owns lots of land, itakaguliwa how did you get to be the way you are and someone else is without and even those without land tutakaguliwa. Tutaangalia land baadaye but you didn't talk about privacy. You see voting there is a whole chapter on election, land. Hii iko kama preamble kidogo zinafanana mambo yako hapa ndio itakua kwa hizi chapters zingine. What did you want to say about privacy?

Fred Siminyo: Okay, I find these two sections conflicting because on privacy you are saying that nobody will be searched especially when it comes to land nothing will be seized from him concerning land.

Com. Adagala: ...(Inaudible) As I told you national language, Kenya has two official languages...(Inaudible)

Fred Siminyo: Okay, number 42 (c) their possession seized, that means that it cannot be taken away from them. That is what I understand by this, your property...

Vincent Watako: Mwanzo wa maelezo tumesema kwamba haki hizi zinaweza keukwa tu kuligana na sheria ambazo ziko katika Katiba hii sasa yafaa wakati tunasoma kila kipengele lazima pia tukumbuke kwamba the rights are not absolute and the Constitution provides for the limitations.

Com. Adagala: If you got your land fraudulently, we are trying to protect the small person here, hiyo mlisema ya Liguru, si hivyo? Mmesema Liguru anakuja anachukua au mtu ana-force hiyo hatutaki lakini itakuweco na Commission on land na pia itakagua hiyo, si Bunge. Muelewe the power is the peoples, the bill of rights are for the people then there are Commissions which will also help the bill of rights and the people and there is Parliament which will represent people. It is not going to be the same Parliament, believe me leadership will be very very different. Kama hii ya President, MP au Councillor these are power position, nowadays they are power positions lakini kwa hii Constitution they are service to the people.

There is a very different person who is going to stand for the post of Member of Parliament because hataenda huko na apate extra land huko na apate nini ingine, apewe hii na apewe ile na pia anyakue hapa kidogo na pia awe Minister. It is not even like that. Kama uko Member of Parliament you are a Member of Parliament, the very peoples doll. So different types of people now, a different kind of person will stand for elections. These ones who want power and money will not manage, they just won't manage.

Ako Lukose: Jina ni Ako Lukose. Mimi sinashuku na bill of rights as it is except that as the Commissioner has explained here before, when Parliament has to pass certain acts controlling this bill of rights then it will dilute the whole thing completely. Right now there are two Acts, one Act they call Official Secrete Act and there is another Act they call Limination of Action Act. These Acts discriminate against ordinary people here because Official Secrete Act, if a Chief has committed any crime I cannot sue him in court because another Assistant Chief will not come and reveal whatever wrong he did. Limitation Act simply says, anything that government or an official of the government has committed wrong all ways will be made to make it to delay and after 2 or 3 years you cannot sue these people for anything.

Com. Adagala: I don't want old tin and wine, I want to move forward. Wazee hukumbuka na usikie, I want to move forward. You are quoting to me things which are, I want things which will be. Hata hiyo Secrete Act imezungumziwa hapa, hata hiyo yote ya usaidi iko hapa tafadhali. You know there is going to be a new Kenya and I want to move forward please without heckling, you please. I don't why and I have explained this, in other places you explain it very quickly and it moves forward but we keep going back to old wine's tin. Now you want us actually to throw away this because there is the Secrete Act, you want us to throw away what we have brought mzee? I am asking you Lukose, you really must say where you stand,

are you in the old or are you in the new?

Ako Lukose: All I am saying Commission is that can the Constitution rule out these Acts, Limitation Act and Official Secret Acts.

Com. Adagala: Parliament will do it, you must make sure it is a new Parliament because if it is this one they will dilute. You people don't know what is at stake that is why you are talking in a light way. Hii ndio section itachunguzwa sana. You must make sure you have representatives even at the National Constitutional Conference, make sure you have representatives. It is Parliament that will do it and we cannot now right an Act here, it is not the jukumu of the Constitution to write an Act, you know yourself there are Acts and they are done the Parliament and this is what I keep saying we are here on principles hata Commissioners wengine vile wanakuja, sisi tunafanya tofauti lakini vile wanafanya wanakuja wanawasomea principles halafu wanaenda, sisi tunajaribu ili muelewe sana.

Wycliffe Mbilu: My name is Ndilu Wycliffe. Thank you very much Commissioner for the document you have given us, we are very happy because we have looked at it and when we looked at it compared with the old one, you have given us quite a lot of information and I think this Constitution is going to reflect most of the things that were proposed. I want to comment on chapter 5, we are saying women have the right to equal citizenship with men including the right to equal opportunities in political, economic and social activities and then in two we are saying women are entitled to be accorded the same dignity of a person as men which is very true. I think we are miles away particularly in Kenya when it comes to women, we are proud that we have our women in the same footing with men. Some of us who have happened to have access to a lot of data in the area of what is happening in this country like in the education area, we have enough women in this country to man quite a number of these places. Now...

(Interjection)

Speaker:(Inaudible)

Ndilu Wycliffe: Thank you. We want to man even more. I am not happy with the way we have given that under national goals, values and principles. I wanted to comment on that one but it happened that I was time barred so I am not commenting but I want harmonization to be done so that we are talking the same thing in the Constitution. When you say the State shall implement the principle that one third of the members of elective and appointive bodies shall be women, I think we are discriminating against women. I would suggest here that we remove this word one third. The State shall implement the principle, so that we have equal chances when it come to elective posts they just stand as men stand but when it come to the appointive are it should be half so that we have half male, half female. But when it comes to elective it should be open because if we don't do that we are already being segregative, we are not being fair to either side because you are telling women all the same you are

there. Thank you.

Com. Adagala: Wait. I am glad you are 50% like me, me I believe in 50% na nitachukua, nitanyakua na nitapigania, I believe in 50%. Haya, one third, you have to understand it is a principle of equality, there is an impediment in the way and that impediment has to be overcome. It is called the glass ceiling, I think you were here when I was talking about that, so somewhere we want to break through that. When you are this way in Western Kenya really, women and men have equal opportunities because parents don't discriminate but there are other places in Kenya where it is very difficult and other places where even women are not allowed to stand in public to talk hata hawa Waislamu, so how do you even get a seat. We are saying that we have a problem culturally which needs some interim action, affirmative action is never forever, otherwise it turns around. You are more liberal I think in your mind than some of the other men because some of the other men are actually prejudice against women and that is why they want the one third out but yours is different.

Two, you really must come to terms, you are a parent like me. You must come to terms with the fact that in homes children should be treated equally not just education but also inheritance to stand for political office. Apart from bribery which we don't condone you need to have a place, a standing to be. So, this is what we are saying that the bigger principle, if you want to say the internal principle is equality but in the meantime there are some impediments. That is all but personally I am for 50% not one third.

Wycliffe Mbilu: To finish on that one I would say that if the elective posts will have to be carried forward then may be mechanism or a criteria should be given on how in the elective area that will be realized.

Michael Malema: Mimi nitazungumza kuhusu chapter 5, (35). Viziwi hawana nguvu kwa sababu...

Com. Adagala: What is your name?

Michael Malema: Michael Malema. Viziwi na vilema ni kama disabled, hawana mkalamani kotini wakikosewa.

Com. Adagala: Hiyo haitoshi? Umesoma?

Michael Malema: Nilisoma hapo awali....(Inaudible)

Com. Adagala: Okay, ndio tunasema hapa ingekua na mtu mlemavu ambaye hazungumzi na hasikii lazima District Coordinator angelete interpretor, iko kwa Act yetu, kwa sheria ya Commission sign language iko, Bunge iliweka.

Michael Malema: ...(Inaudible)

Com. Adagala: Sasa mzee hii wazee hukumbuka ndio inakurudisha nyuma lakini kwanza hawataka kuitwa viziwi kwa sababu kiziwi ni kitu kama kikombe, wanataka waitwe walemavu.

Michael Malema: Na wao ndio walemavu ambao...(Inaudible)

Com. Adagala: Yes na watu hawaoni pia ni walemavu, hawataki kuitwa(*vernacular*) ni kama vikombe, ni vitu, kwa ile klass ya vitu.

Michael Malema: ...(Inaudible)

Com. Adagala: Mzee sikiliza kweli umezungumza kotini na kila mahali. Haki kama watu wengine.

Miller Ingavo: Thank you very much, my name is Miller Ingavo. Under the right to live, 32 (ii), I wish to propose that death penalty should actually exist in special circumstances, let say anybody who defiles a minor. I may give an example like those who rape small children.

Com. Adagala: ...(Inaudible)

Miller Ingavo: Therefore, I propose that death penalty should be apply in some special circumstance, like those who rape minors like small girls and boys. I look at it as a very barbaric act.

Com. Adagala: Watu walituambua hasa Waluhya walisema death sentence is repugnant to them because they don't have it in their culture. Mtu anakua exciled au mtu anafukuzwa, si hivyo? Hawajuhi ataenda kuishi wapi lakini they said life imprisonment. Unajua, we are not dealing with basic use now, wale ambao hamkuwa, hamkutoa maoni yenu mbeleni, tuko kwa level two, tuko form two sasa si form one. Sasa usije na maoni ile ambayo ni ya form one. You are the AEO, are you a teacher? We are at another level and that should have come at the level when we were doing hearing but teachers didn't come, were you here?

Miller Ingavo: I was here.

Com. Adagala: Fine, we will put down that some hinious crimes and may be a schedule needs to be put for the hinious crimes because death penalty people refused except Wasomali walikuwa wanasema, akiiba kata mkono moja, akiiba tena kata ingine.

Miller Ingavo: Okay, concerning children there is a group here Madam Commissioner, I am not actually seeing them

accommodated these are the present street children. I would propose that the present street children in the new Constitution should give them a chance, let the State accommodate them in terms of what has been put down as the right of the children, let's say, free education.

Com. Adagala: ...(Inaudible)

Miller Ingavo: They have a right to get education? And I am very sure the present State...

Com. Adagala: ...(Inaudible)

Miller Ingavo: And many others Madam. I am very sure the present...

Com. Adagala: ...(Inaudible)

Miller Ingavo: If you get me right Madam there is a group outside and these are the street children.

Com. Adagala: They have a right. Hiyo ya serikali kutimiza sasa, it comes in an act, I wish you would stand that these are principle and once the principles are set for all children they will go to school. Orphans, we were told about total orphans and all that, please don't come with things which belong in an act, please talk about principles.

Miller Ingavo: Under slavery and forced labour, I wish to contribute or to add upon the following clause that no person may be required to perform forced labour unless punished by the court of law.

Com. Adagala: There is nowhere where forced labour is justifiable. We will come to it under corrective services.

Sadia Hoyd: My names are Sadia Hoyd. In the bill of rights there is something that I feel has been left out. This is the producers right, we have talked of consumer right but producers rights have not been dealt with and I feel consumers have some rights and these rights should be clearly stipulated in this chapter. For instance the right of the producer to sell his products in time, such kinds of rights should be ...

Com. Adagala: Western Kenya is the one that should actually talk about that because they are the ones who suffer more.

Dorah Ingolo: My name is Dorah Ingolo. On the rights of the elderly.

(Interjection)

Speaker: Your name please?

Dorah Ingolo: On the rights of the elderly members of the society, ningependa kuongeza ya kwamba watu ambao ni wazee wengi wao huwa hawafanyi kazi na wao ambao hawafanyi kazi wamewachiwa familia yao na wengi wao ni maskini. They are not employed, may be they had not been employed during their youth so....

Com. Adagala: ...(Inaudible)

Dorah Ingolo: I am sorry, they are not employed.

Com. Adagala: ...(Inaudible)

Dorah Ingolo: I know that but I am referring to those who had not been employed during their youth. Hawajaandikwa kazi, hawa watu ningependa tuwe na provision kwa sababu wanafamilia zao ambao hawawezi kuwaangalia vizuri kwa hivyo ningependa State ichukue jukumu ya kuona kwamba wazee wanalindwa na State, wale ambao hawakuwa wameandikwa kazi hapo awali.

Com. Adagala: Kwa nini walindwe na State na pia jamii hata wale walikuwa wanaajiriwa. I want to know because Maasai's told us msiliete hiyo hapa, we take care of our orphans and you cannot know who is an orphan and who isn't, we take care of our elderly. So I want you people to tell me why you want the government to take care of your elderly, not that I am refusing or not I want some justification.

Dorah Ingolo: I am saying that because most of our old people are poor in this region and due to the poverty they face in life the families they have are not in a position to look after them. This makes most of them even die of poverty.

Com. Adagala: ...(Inaudible)

Dorah Ingolo: The community I suppose is poor as by now especially in this district.

Com. Adagala: You are not giving a good reason.

Jackson Shisia: My name is Jackson Shisia, thank for this opportunity. My interest is on section 44. It is talking of freedom of religion, belief and opinion. This section is not clear about religion, beliefs and opinions. What I am talking about is that we have some bad....

Com. Adagala: ...(Inaudible)

Jackson Shisia: I am coming to that.

Com. Adagala: ...(Inaudible)

Jackson Shisia: My proposal is, it should cater for these bad sects we know of what happened in Uganda and even here in Kenya we have bad religions, these sects. Talk of devil worship and bad religions that will lead to loss of life.

Com. Adagala: ...(Inaudible)

Jackson Shisia: No, we want to do away with them, we want to define something that will do away with them because of the religion we know. Let me say bad sects like devil worshippers and those we believe that may lead to loss of life should be done away with. The perpetrators of these kind of sects should be brought to court and sentenced.

Com. Adagala: No one has given us a definition of devil worship but the rest of what you have proposed is okay. This devil worship can be witchhunting you know what witchhunting is?

Jackson Shisia: I think that kind of person is the one who is practicing devil worship.

Com. Adagala: You say it is that one, you say this old man wears a collar but you know really... So until someone really gives us an idea on the definition and what they do that makes them devil worshippers, it is okay but the rest of harming other human beings, is that okay?

Jairus Lusuli: My name is Jairus Lusuli. Niko kwa publication of opinion, I don't know what we should here but I feel when one has an opinion to publish or to make known to the mass media, such a person is victimized and I don't actually know who should be in charge of this publication because in the papers or the mass media is not controlled by the State as such and then the Constitution may ensure this but how should that be done?

Com. Adagala: My brother you don't know the power of a Constitution, you have no idea how powerful a Constitution is. You can say the Constitution may state it but how, it will be done, the things which are here will be done. When our Constitution said we wanted uhuru we got it. Abanyore have their own Constitution which makes someone a Munyore, isn't it? When they say it should be done does it not yet done? Yes and if you don't do it you are not part of that community or you get punished? By the way publication is not mass media, what you have just done now with your mouth is publication because it is public, to the public. So publication is much more than the mass media and demonstration can also be a publication. You

can stand like in Trafalgar where they stand there or those Preachers in Jevanjee Garden they are publishing.

Jeremiah Ayiecha: My name is Jiremiah Ayiecha. Madam sorry I am also repeating for...

(Interjection)

Com. Adagala: ...(Inaudible)

Jeremiah Ayiecha: Freedom of religion, belief and opinion, that is section two. Everybody has a right either individuals or communities in public or private to manifest any religion or belief through worship or other practices. Hapa najaribu kukosoa hapo kidogo kwa sababu sisi tunaamini Mungu hata nimesoma hapa Ministers and others wanaongea wakihapa wakisema hebu Mungu nisaidie. Sasa tuseme nimekaa pahali na mtu akisoma hii section halafu aanze kujenga nyumba yake awe akiamuka saa nane ya usiku na kuanza kupiga makelele ya sasa na pengine anapiga makelele akisifu shetani na pengine ni jirani yangu. Mimi naona hii section inanizuia kabisa hata siwezi kulalamika na pengine inaweza kuvunja roho na kelele mingi. Sasa mtu atajenga Kanisa yake karibu na wewe na anafanya kelele, anaku-disturb na kukuambia hii section inam-protect na anaweza kuongea na ku-manifest beliefs zake. Afadhali tutenge pahali pamoja ya public ambapo Mekanisa yote na vitu kama hivi vinajengwa pale na sasa mtu akitaka kufanya mambo yake anaenda kule na kuwacha pahali watu wanakaa waishi vizuri.

Secondly, nimeonelea kwamba muchukue watu ambao ni good believers ambao wanaamini Mungu kweli. Sect ikitokea na wapewe mradi ya kuchunguza kama wanaabudu Mungu au nani kwa sababu haistahili kuabudu shetani, tunastahili kuabudu Mungu. Asante.

Com. Adagala: Ngoja umalize mambo yako. I don't know why you are putting things in a tridial way ni kama hiyo ya kusengenyana kwa village. These are principles I want you to give me the principle, if you say Churches will only be built in that stage you are already taking away those peoples freedom of movement and there are certain things we cannot do. You know very well if there is too much noise you go to the Police and if you want it invested it will be done and it will be a new Police, don't tell me hawafanyi, wale watafanya, okay. So you have that and you have right to privacy but you have also democratic principles, republican principles, tolerance, respect for others. These are very very serious issues you cannot just do as you want, that is anarchy which is what you are describing but I don't think the Churches are like that. You want it to be investigated, waone ni nini, nani achunguzu? Usiniambie the State or the government. Unataka nani afanye uchunguzi?

Jeremiah Ayiecha: Hapo nilisema iwe reserved kwa hawa waamini.

Com. Adagala: Nani achunguze haya mambo?

Jeremiah Ayiecha: Hii itolewe.

Com. Adagala: Mzee wa Kanisa unaona vile watu wako wanaongea, the shepherding ...

Kaiser Amataro: Jina langu ni Kaiser Amataro. Nataka kusema kitu juu ya older member of the society. Proposal that older members of the society are entitled to reasonable care and assistance of family and State. I propose that it be reasonable care and assistance from the State and ...

Com. Adagala: ...(Inaudible)

Kaiser Amataro: We don't want to throw them away.

Com. Adagala: Have old members of the society ever been thrown away?

Kaiser Amataro: No.

Com. Adagala: Why do you want to throw away the older members?

Kaiser Amataro: We are not throwing them away.

Com. Adagala: ...(Inaudible)As old members ever been thrown away?

Kaiser Amataro: There is a way of doing it.

Com. Adagala: That is what I want you to say.

Kaiser Amataro: For example right now the State is caring for us, has it taken us away from our homes? It has not and so I believe...

Com. Adagala: ...(Inaudible)

Kaiser Amataro: It is not true. So, I propose that the State and family should care for the old but at the same time we have to be very specific when we talk of family because the family can be extended, can be nuclear, we have to state which type of family we want to care for the old. If my father for example...

Com. Adagala: ...(Inaudible)

Kaiser Amataro: I am saying that the immediate family members should care for their older members of the society and the State of course because these are their members and we pay taxes to the State so when we grow old they should not ignore us.

Com. Adagala: They should not ignore you. You started off by taking the family away from this and I wanted to know why the State can do it? It will build dormitories like in the Soviet Union, they will build dormitories and they will take your father away and the children will never know that you ever had a father and the children will also see how you are treating your father and when it comes to your time, watakutupa huko. The State can do it, it is not taxes or anything, the State can do it all I want you to know, there is that line of human being which is family, which only other members can take care of, emotionalize and all that and if you do that itakuwa the brave new world and the State will take everyone away.

Kaiser Amataro: The Constitution has provided for the freedom of movement and the State will have to guard that, it cannot deny people their freedom of movement by confining them at a place. Therefore, it is easy if the State is going to allocate some money for the old and be sending to their accounts.

Com. Adagala: We don't complicate it. You cannot say the family it has also the responsibilities and the duties.

Ayuya: I have a small issue to raise on family.

Speaker: What is your name?

Ayuya: I am just a bit worried about the way it is put here. Well, it is like we are giving the Parliament authority even to enact a law.

Com. Adagala: ...(Inaudible)

Ayuya: I am talking of family that is section 38. It is like we are giving Parliament authority or freedom to enact a law whereby people of the same sex can marry.

Com. Adagala: ...(Inaudible). If you want to put it down there, it is true the prevalent marriage is nitrogenous so this other one, I don't think it will come through but we will put it down that it is not clear but it was answered like that.

Ayuya: I just wanted to say only male and female can marry.

Com. Adagala: ... (Inaudible)

Gilbert Omufwoko: Jina langu ni Gilbert Ang'ondi Omufwoko. I just have something small to comment about...

Com. Adagala: ... (Inaudible)

Gilbert Omufwoko: Okay. Something about privacy. I think probably we should add something like, if you are a public figure you should accept you have to lose some of your privacy because we have mandated you with our life, say you are a Minister, President or PS. Somebody can define privacy in his or her own understanding. We don't want a situation where a big man is confusing a young girl of 16 years and then you don't comment on it because it is private life.

Vincent Watako: I have taken down your point but you must know that the right of privacy as enshrined in this article is to protect the common citizens against arbitrary service by Policemen and the likes.

Gilbert Omufwoko: This situation of refugees, I think we should have a situation whereby a refugee is just a refugee, it should not matter whether he is heading a certain rebel movement. If he comes here for asylum he should just be given same refugee status as any other person and is supposed to be taken to a refugee camp like any other person, not to be given the privileges of addressing press conferences here and there.

Com. Adagala: ... (Inaudible)

Gilbert Omufwoko: No, I am just suggesting.

Com. Adagala: Please let's move forward I don't know why this thing is hard here, let's move forward here. Tell me how we can make it better from this one because your proposals are going to be about the past and we are moving into the future from this. Tunakagua hii and we move forward.

Kuna njia ambazo wananchi ambao ndio wenye nguvu. I want you to be very proud of that, nyinyi ndio wenye nguvu lakini nimeona akina mama wameenda, you really oppress your women here? Akina mama wameenda kwa sababu mnasema wao ndio wanafanya kazi, unataka kupikiwa ugali na mtu ambaye hana nafasi ya Katiba, si hivyo? You really oppress them. I am impressed, a representative is in the section of the people. Nguvu ni zenu sasa kuna njia ambazo tutatumia ili muwakilishwe, lakini you don't give up your power you only give someone to represent you so that you can go on with your other life but it is not that anaenda, anachukua, anajifanya yeye ndio mkubwa wako, okay. We leave that alone, it is not there anymore, hii mambo ya watu wakubwa na waheshimiwa na nyumba kubwa, hiyo kando, nyumba nene tuwache hiyo.

Vincent Watako: Tutapitia sura ya sita kwa ufupi ambayo inahusu uwakilishi wa watu. Sura hii iko na maadali ya kijumla kama uchaguzi utakuwa wa siri, uchaguzi utakuwa wa huru na haki, uchaguzi pia utawezesha uwakilishi bora wa wananchi na pia uwakilishi wa wanawake. Sura hii inampatia kila mwananchi haki ya kupiga kura na kabla hiyo, kwanza usajili wa wapiga kura utakuwa wa kuendelea au mfululizo, ama continuous voter registration. Sehemu hii pia inampatia kila mwananchi haki ya kupiga kura na haki ya kupigiwa kura. Ni lazima kila mwananchi ambaye anataka kusajiliwa kama mpiga kura atimize masharti fulani. Kwanza awe amefikisha umri wa miaka kumi na minane, awe mkaazi wa Kenya, kuna masharti fulani fulani ambayo yanahusu mkaazi, awe amekaa katika nchi kwa kipindi kisicho pungua mwaka na kuna masharti mengine pia.

Pia kuna masharti ambayo yatamwezesha mwananchi kupoteza haki ya kusajiliwa kama mpiga kura ikiwa hana haki timamu ama labda uraia wa kuwa wananchi wa Kenya kwa njia si ya halali. Sura hii inabudi Tume ya Uchaguzi, Tume hii itasimamiwa na mwenyekiti na wanachama wasiopungua wanane na wasiozidi kumi. Tume hii pia...

Com. Adagala: Mmeelewa hapo? Sasa tunao ishirini na mbili kwa Tume mnaelewa? Sasa itakuwa eight to ten.

Vincent Watako: Qualifications za watu hawa pia iko hapo na Bunge itahidhinisha uteuzi huu ama Parliament ita-approve. Kazi ya Tume hii pia imeorodheshwa katika kifungu cha themanini na nne ambayo itakua kama kustajili wa watu, upangaji ama kutengeneza mipaka ama maeneo ya. Upigaji ukura, kuona kwamba kura ni za haki na za huru. Itasajili vyama vya kisiasa na pia ita-supervise political parties. Wafanyikazi wa Tume ya Uchaguzi pia Tume hii imepewa wajibu wa kuwaajiri wafanyikazi wengineo. Vyama vya kisiasa vikisajiliwa na Tume hii na juhudi ama kazi za vyama vya kisiasa pia zimeorodheshwa pale na masharti ambayo vyama hivyo itabidi vitimize kabla havijasajiliwa. Lazima vyama hivi viwe vyama vya kitaifa ambavyo ni vyama vinakuuza demokrasia na vyama ambavyo vinakuuza haki za kibinadamu. Vyama vya kisiasa vitaendelea hata baada ya vifo ama kutoka ofisini kwa waanzilishi wa vyama hivi, they wil have a corporate status na vyama hivi vitaweza kupoteza usajili wake ikiwa itapuuzwa masharti ambayo yameorodheshwa katika kifungu cha tisaini na mbili kama vile vyama hivi vitajihusisha katika mambo ya violence ama registration yake was obtained by fraud.

Katika kifungu hiki ama sehemu hii kumbuniwa fund ama vyama vya kisiasa sasa vitapewa misaada ama vitapewa pesa za matumizi kutoka kwa pesa za uma. Itafadhiliwa na uma na kuna fund ambayo imebuniwa katika Constitution hii ambayo itawezesha vyama vya kisiasa kupata mikopo hivyo. Vyama vya kisiasa havitapokea fedha zote kutoka nchi za mbali labda pesa hizi hapo awali zilitumiwa kwa fujo. Supervision ya vyama vya kisiasa pia itafanyika na Tume kulingana na party discipline ama masharti ambayo vyama vya kisiasa itabidi vifuatwe lakini vitabu vya fedha vya vyama hivi vitakaguliwa mara kwa mara ili kuona kwamba pesa ambazo zinapewa kwa vyama hivi vinatumiwa katika malengo ambayo ni ya sawa. Pia mkinirohusu nitapita sehemu ya sura ya saba ambayo ni sura inayobuni Bunge.

Wajibu wa Bunge umepewa uko katika sehemu hii kwamba Bunge itakuwa na wajibu wa kupitisha sheria mbali mbali, kubadilisha sheria hizi na kuhidhinisha matumizi ya fedha ya serikali, pia kukagua vitabu vya fedha za serikali. Inafaa muelewe

kwamba Bunge sasa itakuwa na nyumba mbili ambayo ni National Council na National Assembly. Uteuzi wa viongozi mbali mbali katika serikali lazima utaidhinishwa na Bunge, uteuzi huu ni kama watu ambao watahikilia wadhifa katika afisi za judicial service ama afisi za Mahakama. Kuna Tume mbali mbali ambazo zimebuniwa katika Katiba hii na pia uteuzi wa Waziri Mkuu, Manaibu wa Waziri Mkuu, Mawaziri, Mawaziri Wasaidizi, Mabalazi, Wanachama wa Tume ya Uchaguzi, Controller of Budget, Director wa Bureau of Statistics na Governor wa Benki Kuu. Uteuzi wa watu hawa lazima idhinishwe na Bunge. Bunge pia itaidhinisha fedha za serikali ama fesha za matumizi ya serikali ama budget ya serikali.

Sasa tuone ni akina nani ama the structure ya Bunge. National Council ama Baraza la Kitaifa litakuwa na wanachama sabini ambao watachaguliwa kutoka kwa maeneo ya Bunge na Wabunge wengine thelathini ambao watachaguliwa kutoka makundi ya akina mama na makundi mengineo ama kutoka kwa vyama mbali mbali ama makundi kama vya minorities. Kila mkoa utakuwa na wakilishi wane ambao watakuwa wanawake katika Bunge hili, wawili watatoka katika mkoa wa Nairobi ambao watawakilisha wanawake katika Bunge hili. Ni masharti yapi ambayo Wabunge hawa watatimizi kabla ya kuchaguliwa? Ni lazima wawe raia wa Kenya katika Bunge la National Council, lazima wawe wamepita umri wa miaka thelathini na mitano ilhali Wabunge wa National Assembly ama Bunge la sasa ni lazima wawe watu ambao wamefikisha umri wa miaka ishirini na moja na zaidi. Lazima wawe watu ambao wameandikishwa kama wapiga kura na watu ambao hawana akili tamamu, watu ambao hawawezi kulipa madeni yao hawataweza kuchaguliwa katika nyumba hizi mbili za Bunge. Upigaji kura katika National Council utafanyika baada ya miaka minne ilhali katika National Assembly itakuwa baada ya miaka tano.

Wananchi sasa wako na uwezo wa kuwafuta Wabunge kazi iwapo hawatekelezi wajibu wao, uwezo huu wamepata katika sehemu ama kifungu cha mia moja na kumi na mbili. Sehemu hii pia inabuni afisi mbali mbali za Bunge, sehemu hii inabudi afisi ya Speaker na naibu wa Speaker na pia afisi za karani na naibu wa karani wa nyumba hizi mbili. Mishahara ya Wabunge sasa itakadiriwa na Tume ya Mishahara ambayo imebuniwa katika Katiba hii, tutaangalia baadaye. Maswala yote ya kupitisha kwa sheria itakuwa ni wajibu wa Bunge na pia uwezo huu pia utapewa serikali tofauti tofauti ambazo tutaangalia hapo baadaye.

Utaratibu wa kupitisha sheria katika Bunge umeorodheshwa hapa na hatima mtapata wasaa wa kupitia. Lugha rasmi katika Bunge itakuwa lugha ya Kiswahili na lugha ya Kiingereza na sign language pia itatumiwa katika Bunge. Kamati mbali mbali za Bunge pia zimebuniwa hapa, tutaziangalia baadaye, kamati ni kama Kamati ya Maswala ya Katiba, Kamati nyingine tofauti mtaziangalia baadaye. Kikao cha Bunge kitakuwa Nairobi lakini kikao hiki cha Bunge kinaweza kubadilishwa kwa sehemu yoyote ile iwapo inahitajika. Bunge pia litakuwa na uwezo wa kupitisha kura kutokuwa na imana na kwa Waziri Mkuu. Wabunge wamepewa immunity yanahusu mamba ambayo wanajadili ama wanayasema katika Bunge. Uma utakua na haki ya kusikiliza, watakuwa na haki ya kuingia Bunge bila kushurutishwa kusikiliza jinsi maswala ya Bunge yanaendelea. Kwa ufupi tu haya ndio mapendekezo yalio katika mswada huu.

Com. Adagala: Nataka m-comment on this one because the other three chapters come from this one. Any additions? Come forward quickly.

Nicaron Masili: Thank you. My names are Nicaron Masili. I would like to ask a question or may be give a proposal. Here I have a right to vote by registering myself. Now supposing two subsequent elections are done and I have not participated, is it fair? I will answer myself. I am proposing that there should be at least some penalty after may be two subsequent elections having been done, you being a registered voter and having not exercised your right of voting which means you are a useless fellow.

Com. Adagala: Kijana ngoja. Mngoje musikie mambo yenu. What you actually want is to be like Australia where you have to vote and if you don't vote you are taken to court and put in jail. Okay, hapa tumesema West people are aware I don't know how Australia got to that one but that is how it is there.

Secondly, Parliament we have put the right to vote, we have put the principles here. The penalties and all that is an Act of Parliament so make sure you vote for someone who will make sure you will be there in Parliament.

Joel Akaki: My name is Joel Akaki and I wanted to propose something about the two houses. I think we should specify the roles of the two houses in the Constitution.

Com. Adagala: Okay, hii ndio pia tulikiwa with a lot of discussions on, thank you but you could also sit down and actually write, I know you can't do it here but write it and give it to the District Coordinator, give it to your representative in the National Constitutional Conference.

Ako Lukose: My name is Ako Lukose. On this chapter six part two, Electoral Commission. I think Madam Commission the manner in which this Electoral Commission is being established does not make it an independent Commission because if the President has to appoint Commissioners then there is that remote allegiance to the President as the one who appoints them. I know (b) says Parliament or the National Assembly will approve appointments, again we are creating two wrongs here because (a), the party that is in power will want to see that Commissioners of the Electoral Commission are supporters of that party. Two, it will be creating a possibility of corruption in that.

Com. Adagala: Proposal.

Ako Lukose: For this reason I propose Madam Commissioner that Electoral Commission be elected directly by the people. Coming to political parties, I think party discipline, a clause should be clearly put in the Constitution concerning defections. There is something mentioned there concerning a Member of Parliament or Council losing a seat but that does not specify because defections and resigning are two different things, there are people who defect from one party to another without actually resigning therefore, they continue to serve. I think the provision here should state clearly, defecting from one party to another

automatically forces somebody to leave the pitch.

Com. Adagala: ...(Inaudible)

Ako Lukose: In chapter seven, the question of the children.

Com. Adagala: You are saying they move from one party to the other or resigning from what?

Ako Lukose: I mean, they defect but not actually resign.

Com. Adagala: From what?

Ako Lukose: From that party.

Com. Adagala: You are talking about the last three years or so.

Ako Lukose: Yes.

Com. Adagala: Last three years or so is stale.

Ako Lukose: To resign...

Com. Adagala: ...(Inaudible) You had to resign but the last 2 years is because they know very well that if you say, boo to this one, they can say boo at you so nobody is saying anything about anybody people are in three parties, they are in two parties and they are going on being in Parliament, isn't it? So lets leave that alone.

Ako Lukose: Okay, while I am still on that disciple, the question of political violence. I think the Constitution should also empower the Electoral Commission to disqualify any parliamentary candidate or even presidential candidate whose supporters engage in violence, this will ensure fair and free election. On the question on the structure of Parliament, the draft Constitution does not mention anywhere the role of the National Council, I don't see what the National Council will be responsible for, what will it be doing and for this reason I personally propose that we have only one chamber that is the National Assembly and may the Constitution Review Commission can expand the composition by increasing the number of members of that National Assembly.

Com. Adagala: So you want us to go back to Unitary Government because you are proposing something, you have to say...

Ako Lukose: I am not proposing unitary government.

Com. Adagala: You see provincial administration doesn't exist.

Ako Lukose: Provincial administration is perfect and okay.

Com. Adagala: Yes, now then you just have Members of Parliament and it is one line.

Ako Lukose: My question is on the two chambers of Parliament.

Com. Adagala: So if it is defined more would you then agree with it or you just want one chamber?

Ako Lukose: One chamber.

Com. Adagala: Haya, this is the last person. ... (Inaudible)

Gilbert Omufwoko: My name is Gilbert Omufwoko. I just want to add something on the age of voting. I am of the decision that it should be raised to 21 years and then this presentation of bills, I think we should work out a mechanism where by it is only the MPs who are supposed to present bills in Parliament. So we should work out a mechanism whereby say, I as an individual...

Com. Adagala: You want to discriminate against other youths. You want the age be raised to 21?

Gilbert Omufwoko: An 18 year old adult I tend to think still suffer from the teenage hangovers. (*Laughter*)

Com. Adagala: Actually they suffer from those hangovers till they are 30. Okay, we have three chapters following, hiyo ya Bunge ina mambo mengi ndani, hiyo ya Urais, ya Executive pia ina mambo mengi ndani na pia ya Judiciary lakini haya ni mambo tunayajua tutapitia tu haraka. Hii ya legislature vile mmeona, the proposal is if you say Parliament unamaanisha nyumba mbili, National Assembly na National Council. So lets see if National Council can get clearer or not. You know part of the reason why we have this is because you told us the Chief should be elected, it is not just the Chief and then you said take away the PC, DO and the DC may be there. You were giving us what in the end came to a structure and we didn't start with two houses, I want you to know mambo tumezungumzia hapo ilikuwa mabishano kabisa so we actually started with what do the people want, they want Village Elders, what do they want? They want elected Chief? What line is this? They don't want the PC, what happens here? So we put actually more democracy, some people think it is more beurocracy, we have put more democracy in

the system than there was. But one of the things I wanted to talk about before we go there, Electoral Commission will have a bridging time, they will be there to conduct the next election under this proposal, then they have 90 days to wind up this coming election whenever it will be, whatever it will be and then we will get new people. You have proposed that people should vote directly and here there is also presidency as it should be but by that time they will have put in place, these are people who are self executing, wanajinyonga wenyewe. They will have put in place National Assembly and National Council then they will wind up their own business so that National Council and National Assembly can now be in a position to get another Electoral Commission.

Hiyo ndio transitional provision in schedule eight, hiyo ya Electoral Commission. We are not leaving gaps and we want you to help us with creating that bridge so that vitu vitapitike like that boundary somebody was saying. He said lets not shake everything so much such that people will now concentrate on a boundary here when there is a bigger principle to be dealt with because then everybody would have been under care. But if the boundaries Commission decides to do that, at least we will have done the major thing and then we can take care of the others. So, Electoral Commission will be in office for 90 days to do an election and to wind up their work.

Sasa tumemaliza Bunge sasa tuko kwa Urais na nafikiri hapa principle kubwa nimeshazungumzia, our work was to devolve and deconcentrate power, hiyo ya quencher unaweka maji kidogo ili isiwe nzito sana kwa sababu there is no other presidency in the world like ours. I hope you know that and it is not something to be proud of, it has too much powers and it has taken on more and more as time has gone on because it is powerful. So that is what it says, you know when you have power you get more power. They say power corrupts and absolute power corrupts absolutely so you keep getting more power because you have power, okay. So here the presidency is not our making in the Commission it is an objective reality. Professor Okoth Ogendo wrote a book called the Making of the Imperial President, yaani the King President and it cannot be, it took the power of the Head of State who was the Governor, it took the power of the Prime Minister, from Parliament, from the people, from the judiciary later on, all that. So here we have a presidency which is proposed, kijana atapitia juu juu.

Vincent Watako: Tuko katika sura ya nane ambayo inahusu Urais, yafaa tuelewe kwamba Rais ama mtu ambaye atateuliwa kama Rais atakuwa mtumishi wa watu wala si mtawala na atashikilia mamlaka yake kulingana na Katiba hii. Mamlaka ya Rais yameorodheshwa katika sura hii, mamlaka yako katika kifungu cha mia moja na hamsini. Atakua Amri Jeshi Mkuu na Rais pia atakua kielelezo cha umoja wa nchi ama asymbol of unity. Kazi za Rais ziko katika kifungu cha mia moja na hamsini na moja, kazi hizi ni kama, atapeana hotuba katika ufunguzi wa Bunge pia atateuwa watu ambao watashika nyadhifa hizi, atachagua Waziri Mkuu, Manaibu Waziri Mkuu wawili na Mawaziri kumi na watano na Manaibu wa Mawaziri kumi na watano. Pia atawateuwa Majaji, atawateuwa watu ambao watashikilia nyadhifa hizi katika Tume tofauti ambazo zimebuniwa katika Katiba hii. Pia atawateuwa Mabalizi na pia ataona kwamba yale maswala ya kimataifa yanatekelezwa na serikali ya nchi. Pia atalitaka Bunge kwa wakati tofauti tofauti kupitisha sheria tofauti tofauti ambazo atahitaji.

Uchaguzi wa Rais, tarehe na wakati umewekwa katika Katiba, uchaguzi utakuwa siku ya juma nne mwezi wa Agosti na ni baada ya kipindi cha miaka mitano. Ni masharti yapi ambayo Rais atatakikana ayatimize kabla ya kuchaguliwa? Ni lazima atakuwa mwananchi wa Kenya kwa kuzaliwa, awe ametimiza miaka thelathini na mitano, awe mtu wa heshima ama mtu mstahiki, ashikilie shahada ya degree kutoka kwa chuo ambacho kinatambulikana. Ni lazima pia awe amesajiliwa katika chama cha kisiasa ama awe independent candidate lakini mtu ambaye ako chini ya kiapo cha kutumikia nchi ya mbali ama ni mtu ambaye anashikilia wadhifa mwingine katika utumishi wa uma ama katika Tume ambazo zimebuniwa katika Katiba hii ama Mbunge. Watu hawa hawatachaguliwa kama Rais. Ninachomaanisha ni kwamba Rais atahitajika kuwa Mbunge.

Maswala kuhusu uchaguzi yatapelekwa katika mahakama ya Supreme Court ambayo itakuwa ndio mahakama ya juu zaidi inchini. Kwanza Rais atahitimu kwa kipindi kimoja cha miaka mitano na anaweza kuchaguliwa tena kwa kipindi kimoja kingine cha miaka mitano lakini baada ya vipindi viwili mtu huyo hataweza tena kuchaguliwa kama Rais. Rais hatapelekwa mahakamani kwa maswala ya hatia ama maswala ya jinai, ama maswala ya civil lakini anaweza kutolewa kwa kushtakiwa katika Bunge ama impeachment. Bunge litakuwa na uweza na kufuata utaratibu ambao uko katika sehemu ya mia moja sitini na tatu. Inaweza kumtoa mtu huyu iwapo labda amefanya makosa ambayo yameorodheshwa pale. Rais atasaidiwa na Makamu wake ambaye atakua running mate wa President. Kazi za Makamu wa Rais pia zimeorodheshwa katika sehemu ya mia moja sitini na sabata, atakua msaidizi wa Rais na kazi zinginezo.

Mishahara ya Rais na Makamu wa Rais itakadiriwa na Tume ya Mishahara ambayo imebuniwa katika Katiba hii, pia kuna afisi ya Waziri Mkuu ama Prime Minister. Prime Minister atachaguliwa na Rais kutoka kwa chama chenye Wabunge zaidi Bungeni na iwapo Waziri Mkuu ambaye amechaguliwa kutoka katika chama chenye Wabunge wengi zaidi akitolewa afisini kupitia kwa resignation ama kupitia kwa vote of no confidence, Rais ataweza kumteuwa mtu yoyote katika chama kisicho na Wabunge wengi zaidi Bungeni. Pia kuna baraza la Mawaziri kutakuwa na mawaziri kumi na watano peke yao ambao watateuliwa na Raisi halafu wanahidhinishwa na Bunge. Kazi za Mawaziri zimeorodheshwa katika kifungu hiki na ni lazima mjue kwamba Mawaziri hawatakuwa Wabunge, watachaguliwa kutoka kwa watu wenye taaluma tofauti tofauti. Mishahara ya Mawaziri pia itakadiriwa na Tume ya Mishahara ambayo imebuniwa katika Katiba hii, pia kutakuwa na Waziri Wasaidizi kumi na tano ambao pia hawatahitajika kuwa Wabunge. Pia kutakuwa na Katiba wa Wizara na kutakuwa na Katibu kumi na tano, kutakuwa na Katibu moja katika kila wizara. Sura hii inatamati kwa kutoa maelezo juu ya viapo ambavyo viko katika schedules. Huo ndio mwisho wa sura hii.

Com. Adagala: Okay, hapo mmeona hayo, kama mna-comments njoo mbeleni haraka na vile tuna party nyingine mpya nitazungumzia pia na party nyingine mpya inaitwa Liberal Party.

Josephat Okwako: Asante sana. Mimi kwa majina naitwa Josephat Okwako. Ningelipenda kuuliza labda swali moja hapa na pia labda ninaweza kutoa comment yangu. Tumeelewa kwamba Rais ndiye atakayechagua Prime Minister ama atamu-appoint.

Com. Adagala: ...(Inaudible)

Josephat Okwako: By that I mean the President, whoever it is, si huyu ndio naelewa lakini yule atakayekuwa.

Com. Adagala: ...(Inaudible) (*Laughter*)

Josephat Okwako: Then this President in this multy party era I am trying to look at it kwamba huenda ametoka katika chama fulani tofauti na tumeambiwa kwamba atachagua Prime Minister kutoka kwa chama ambacho kina wingi wa watu, ambacho kinaweza kuwa ni chama chengine. I am seeing a state of confusion here kidogo sijui mtanisaidia, kwa mfano mimi ni President wa chama changu...

(Interjection)

Com. Adagala: ...(Inaudible)

Josephat Okwako: Yes. Ningelipenda kujua, apart from that huyu President pia anachagua other Ministers who are not parliamentarians, cabinet appointed by the President.

Com. Adagala: ...(Inaudible)

Josephat Okwako: I didn't see that, it may be there and that is what I wanted to say.

Com. Adagala: You are not confused, you are in a unitary system and a unitary system doesn't have balance of power. Don't go away, you still have more to say. What we need and what we were told is checks and balances, did you not say that? Nataka mtu asiwe na nguvu ambayo there is nobody else checking it, hiyo ni checks and balances, that is what we are dealing with now but in a unitary system mtu anaendelea tu vile yetu ya hapa ambayo haiko pahali pengine duniani. President just chooses, fires and hires, like you generation said you don't want the President to appoint and dissappoint over the radio.

Josephat Okwako: Kama ipo labda sijaisoma ni kwamba napendekeza tu kwamba the Prime Minister au the President wakati anapotaka kuchagua the Ministers...

Com. Adagala: ...(Inaudible)

Josephat Okwako: Okay, wakati anapochagua the Ministers then before announcing these Ministers the names should be submitted to the Parliament halafu Parliament to vett these names because pengine anaweza chagua a friend who may be

corrupt.

Com. Adagala: You are also very corrupt. (*Laughter*)

Josephat Okwako: Ili ndio sasa baadaye wachaguliwe.

Com. Adagala: Wapi highland.

Speaker: Treasure highland.

Com. Adagala: Treasure highland ndio kunapesa tena.

Elphas Okechi: Mimi ni Elphas Okechi.

Com. Adagala: Endelea.

Elphas Okechi: Mimi ni Elphas Okechi, mwakilishi wa timu yangu ya watu sita ambao tunaita forum for understanding. Nina-proposal moja kulingana na presidency ingawa nataka watoto lakini naona watoto ni watoto tu. Tumekubaliana ya kwamba...

(Interjection)

Com. Adagala: ...(Inaudible)

Elphas Okechi: Ile serikali ambayo imekwisha in brackets, we submit our qualification for election of a President under section 156 (i) (b) should be 45 years of age without imposition of upper limit whatsoever, waendeleo tu miaka yote. Asante.

Com. Adagala: That was proposed but what we did, we will put it down but what we did in the Commission, we took the middle ground and most people were saying 35, this is what we did. There were proposal like that others said he should be 50, 40, 45, he should go upto 80, he should not have upper limit but what we did is that we took the middle ground, hao walisema 35 kwa hearings.

Speaker: The lowest.

Com. Adagala: Yes, now you have one proposal which may be even qualitative but it will be hard to balance with it but we will put it down may be other people also will come with proposals like that.

Wycliffe Mbilu: I am Wycliffe Mbilu, I am back again and this time I want to make a proposal about the candidate for the presidency who receive more than 50% of all the votes cast in the election, I don't want to go beyond that but I think previously we had the majority, if he had the simple majority he qualifies. 50% is a very good move, but I wonder why we are now reducing the percentage the President has to get from the provinces because if we increase the catchment we should also increase the catchment areas well. It should only be five to four, if anything it should be 20% cross board the whole country so that provinces feel that they matter and you realize that our provinces are tribal, I have never seen the curmbasome but I will use the word tribal and they were set that way by the colonialists. So if we are moving in that direction it means we are giving more powers to tribes to perpetuate their majority.

Com. Adagala: Haya asante.

Joel Akaki: My name is Joel Akaki. I am worried about the executive when the Parliament is dissolved, I feel there will be a vacuum so I don't know who will take that chance during the campaign period.

Com. Adagala: Professor Okoth Ogendo calls it an interregnum, that vacuum and he says that it will not be there, the Speaker would take over but you know National Assembly will have 5 years, National Council 4 so there will always be a house of Parliament okay. That is one but you are asking about the presidency, the Speaker. Okay.

Bettina Okumbe: Thank you. I am Bettina Okumbe.

(Interjection)

Com. Adagala: What you are talking about is when the President has to go and stand which means the Vice President also goes because they are a ticket, isn't it? Wao ni items so the Speaker takes over, it is always like that. The Speaker would stand in but the best part of the two houses is that there will not be a vacuum like we have now, we have actually nearly 90 days when a President can do and say anything because he remains in power. You see how smart Kenyatta was. He remains in power and hands over to whoever else, Kenyatta never handed over to anybody but like Mugabe that is how he made all these laws on land, it was during that time of three months. People go out, they campaign, busy doing this and busy giving directives and even now a lot of the directives are during that period and it is a campaign kind of thing. But now there will be a house.

Bettina Okumbe: I am Bettina Okumbe. I am still on this part of qualifications for elections as a President, there is one part which I feel still can be added in view of the children of this nation. Their feeling was, when one is married, a family person, this is not covered here and those children had that feeling.

Com. Adagala: ... (Inaudible)

Bettina Okumbe: But he is a family person.

Com. Adagala: ...(Inaudible)

Bettina Okumbe: Yes it is a she.

Com. Adagala: ...(Inaudible)

Bettina Okumbe: Yes.

Com. Adagala: Who is a person without a family, what do they look like, what do they leave like because you have said it is a family person, so who is a person without a family?

Bettina Okumbe: Difficult.

Com. Adagala: If you had a definition...

Bettina Okumbe: Okay, the nation is helping me. Now the part of the Vice Presidency as we are looking at...

Com. Adagala: ...(Inaudible)

Bettina Okumbe: You have explained to me.

Com. Adagala: I want you to tell me.

Bettina Okumbe: This is my definition Commissioner.

Com. Adagala: ...(Inaudible)

Bettina Okumbe: No the moral uprightness is already reflected Madam in these points.

Com. Adagala: ...(Inaudible) (*Laughter*)

Bettina Okumbe: Okay.

Com. Adagala: Sorry, I want you to help me so that when I said this thing, nobody was telling us then they say it must be monogamous and we said what about Muslims, if they will have 4 wives at any one point and then all kinds of things. It is like the issue of devil worship, who is not a family person?

Bettina Okumbe: May I explain in my own way, other members may help me too. I would take a family person as somebody who has children, of course you may be divorced but you are having children, you are having dependants and you are responsible to those dependants. That is the family kind of person I am talking about.

Com. Adagala: Why is it an issue, I want to know it is the same one with the marriage. Vumilia tu, you will earn a lot of status where you are now, you can even stand for something after this. Like in marriage, we write it and then they say, say male and female but you know we don't have that problem here. It is like if we put here, it is like it exists and now a person will say marriage and then he says, family person. We can put family person but I don't know who is not a family person. You cannot put something that doesn't have...okay, lets leave it like that. Endelea.

Bettina Okumbe: Now this imposition of the...

In this case I am wondering whether this explanation will remain and will be fitting so that there is no case where a President will not have a Vice President like now.

Com. Adagala: Wewe ufanye usimame district council. Okay, anything else on presidency? The problem is that the presidency hivi vichwa vingine tumetoa, imepungua ndio watu wanalalamika but we cannot go on with the kind of presidency we have, is monstrous and I can say this even if I am put inside jail I would say it, it is monstrous, it doesn't exist. Even if we have a unitary government but it is made even worse by the kind of presidency we have and it was not made by the incumbent, it was made in the 60's.

Meshack Amaya: Asante sana. Nimefurahi sana kusimama hapa kaka Mkenya kabisa. I will speak in English. My name is Meshack Amaya and I will comment on what we are trying to go through and my proposals are these. In the new Constitution I know we shall not make it even in 100 years, we want to make a strong Constitution. I think we want to make a new country with the new Constitution, we should have 8 States in this country and 8 States should be represented by one President.

Com. Adagala: ...(Inaudible)

Meshack Amaya: We should have a central government, we want a strong government and a strong State like Western State, Nyanza State so that we are not dictated by the higher authorities. We are tired of being eeh...

Com. Adagala: I don't want you to put us in form one when we are in form two. Please don't laugh, no kuckling please, huyu mzee ana point na lazima isikike. I am asking you, ulikua hapa wakati tulikuwa tunatoa maoni?

Meshack Amaya: Siku hiyo nilikua kazini, sikua hapa.

Com. Adagala: Okay, don't take us back to form one let us deal with this but even if you have a proposal make it looking forward so that you don't start mambo ya, we don't want to be dictated to because tumeitoa. Zungumza mambo ya State ile unataka, sema vile unataka sasa.

Meshack Amaya: Kwa hizo eight States mini nataka mtu wa State awe na authority yake, awe na sitting yake, chamber yake ama Bunge lake ndogo ile maneno yanaweza kupitishwa na ikipitishwa ifanye kazi. Tena awe anaweza kataa maneno ya mkubwa yule yuko juu kwa sababu tumeona sehemu zingine zimewachwa, sehemu zingine zinanyonywa. Kama magharibi inanyonywa na Eastern ambayo haina kitu chochote, kwa hivyo tunataka kila wadhifa wajitegemee, wawe na authority kwa mali yao, walinde mali yao. Hiyo ndio maoni yangu.

Com. Adagala: Sasa mnanyonywa vipi na Eastern. Wakamba wanawanyonya.

Meshack Amaya: Nasema tu kwamba...

Com. Adagala: Usiseme mfano kama huo kwa sababu it is not realistic but Western can be taken advantage of and what can take advantage of Western is Nairobi. Nairobi is taking advantage of everybody, kila mtu ame-complain, vitu vyote vinaenda Nairobi. Mzee, simama hapo kidogo. We have Rift Valley, you are saying eight States, Rift Valley unataka ikae vipi?

Meshack Amaya: Ikae vile iko.

Com. Adagala: Okay, haya. Unataka ikae hivyo. Sasa umemaliza lakini ungeketi chini na kusema mambo yako kabisa kwa kuandika.

Meshack Amaya: Nimesema.

Com. Adagala: Ndio umesema.

Meshack Amaya: Kwa sababu some provinces are being frustrated.

Com. Adagala: Okay, bye bye then. Okay, mahakama tutapitia haraka, tumewaambia shida ya mahakama. Hii ndio mmoja wa mapacha matatu ya serikali na kile kilikua kimefanyika kwa mahakama ilikuwa sasa judges were being appointed pengine by favour, let me put it that way. Two, the qualifications like of a Chief Justice were not so clear. Three, even the Attorney General tenure was brought back by IPPG, isn't it? So there was a lack of independence, judiciary haikua independent, inafaa iwe independent.

Vincent Watako: Tutaangalia sura ya tisa ambayo inahusu mahakama. Yafaa tuelewe ya kwamba nguvu ya mahakama imetokana kutoka kwa watu ama wananchi. Mahakama itabidi ifuate taratibu fulani ama maadili fulani ambayo imeorodheshwa katika kifungu hii. Kwanza kesi hazitacheleweshwa, pia maswala ya ufafanuzi wa Katiba yatashugulikiwa na mahakama lakini ni lazima yawe ya kunufahisha wananchi. Maadili haya yako katika kifungu cha mia moja na themanini na nne. Katiba hii imebuni utaratibu mpya wa Mahakama, utaratibu huu kwanza utakuwa na mahakama ya Supreme Court ambayo ndio itakua mahakama yenye nguvu zaidi. Mahakama haya yatakuwa chini ya Judge Mkuu na Majaji wengine sita. Mahakama haya yataangalia maswala ya ufafanuzi wa Katiba na maswala ya impeachment of the President. Pia maswala haya ndio yatakagua shuguli za mahakama mengine ambayo yako chini yake. Pia kuna Mahakama ya Rufani ama Court of Appeal ambayo itakua chini ya Rais wa Mahakama wa Appeal na Majaji wengine wasiopungua kumi. Mahakama hii itasikiza rufani kutoka mahakama ya High Court.

Pia kuna mahakama ya High Court ambayo itakua chini ya Principle Judge na Majaji wengine wasiopungua hamsini. Mahakama yatabidi yawe huru yasiingiliwe na matawi mengine ya serikali. Majaji wa mahakama watateuliwa na Rais na ni lazima watahidhinishwa na Bunge. Kuna masharti fulani ambayo yatatakikana yatimizwe katika uteuzi wa Majaji wa mahakama haya. Lazima wawe na ujuzi wa miaka kumi na tano na zaidi, ujuzi huu lazima uwe kama Judge wa Mahakama ya Rufani ama awe wakili wa miaka zimetajwa, awe mwalimu wa sheria katika chuo kikuu na awe mtu mwenye heshima na mtu mstahiki, a person of moral integrity. Pia Majaji watahudumu kwa muda wa miaka sitini na tano lakini wale ambao wamefikisha umri wa miaka sitini wanaweza kustaafu kwa hiari na watalipwa marupurupu yao na iwapo Majaji ambao wako wakati huu, iwapo hawatataka kustaafu maswada yao au mambo yao yataangaliwa na kuchunguzwa na iwapo watakuwa watu wamehusika kwa ufisadi watatolewa. Watakaguliwa na Tume ambayo imebuniwa katika Katiba hii. Pia tutakuwa na mahakama mengine ambayo sasa itakuwa chini ya mahakimu.

Wandugu wetu Waislamu watakuwa na Mahakama ya Kadhi, mahakama hii itakua chini ya Chief Kadhi ama Kadhi Mkuu. Mahakama ya Kadhi itasikiza maswala ambayo inahusu maswala ya Kiislamu inayohusu mambo ya familia, talaka, mambo ya urithi na mambo kuhusu work na maswala mengine baina ya Waislamu yanayohusiana na maswala ya kibiashara. Makadhi watateuliwa na Judicial Service Commission. Watu hawa ambao watateuliwa kama Kadhi lazima watimize masharti haya, wawe watu ambao wamesomea sheria ya kawaida, wawe watu ambao wanaweza kuchaguliwa kama Magistrate ikiwa kama Kadhi na pia wawe na elimu ya Kiislamu.

Sura hii pia ibuni Judicial Service Commission ama Tume ya Mahakama ambayo itashikilia ama itachunguza maswala ya Mahakama na pia ni Tume hii ambayo itateuwa mahakimu. Tumesema kwamba Majaji watateuliwa na Rais na watahidhinishwa na Bunge lakini Mahakimu watateuliwa na Tume hii. Tume hii pia ndio itakaoteuwa mafisa wa koti kama makarani, wasajili ama registrars mengineo. Pia sehemu hii inabuni afisi ya Mkuu wa Sheria lakini inapunguza mamlaka ya Mkuu wa sheria. Mkuu wa Sheria atakua tu principle advisor kwa serikali, mamlaka mengine ya Mkuu wa Sheria ya sasa yatashikiliwa na afisi ya Mkurugenzi wa Mashtaka ama Director of Public Prosecution ambaye ndio atasimamia maswala ya mashtaka mahakamani. Pia kuna afisi ya Public Defender ambayo ndio anasikiliza malalamiko ya uma haswa watu ambao hawawezi kujilipia hudumu za makili. Watu hawa wataweza kufika kwa afisi hii kupeleka malalamishi yao halafu ikibidi watapewa huduma ya mahakili.

Sura hii inapatia Rais mamlaka ya kumsamehe mtu yoyote ambaye amehukumiwa na mahakama ama prerogative of mercy. Pia idara ya sheria kwa jumla haswa mahakili wamepewa mwongozo katika sehemu ya mia mbili na kumi na mbili. Lazima wawe watu ambao watailinda Katiba, watu ambao wataweza kupigania haki za binadamu na hawatakuwa watu wa ufisadi. Hayo yote yanapatikana katika kifungu cha mwisho ambacho nitataja.

Com. Adagala: Okay, hiyo ndio judiciary. Tulisema tutengeneze soft landing for Judges not because walitupeleka kortini lakini the transitional provision. Wale wako sasa vile kijana amesema wakitaka kustaafu wale wako 55 years and above ama hao wale wako 70 years wanaweza kustaafu, wakitaka kuendelea basi kazi yao itakaguliwa, mali yao itakaguliwa ili *kukasereze*. Ili tuone wale wanaweza kuendelea na mambo ya Katiba mpya. Kuna kitu kama ukikubali unapata benefits, ukikaguliwa halafu ikipatikana uko sawa utaendelea na kazi, ukikaguliwa ukipatikana uko na hatia sasa hiyo hatia itachunguzwa ikiwa corruption na vitu kama hivyo. Nimeambiwa anybody who has ever touched Pattni's case, awe Policeman, Sweeper, Lawyer, awe nani, their lifestyle changes within one month. Haya maoni, nafikiri judiciary iko clear, any maoni ya kuongeza hapo ama unakitu unahisia pia itasaidia. If you bring a thought even if it is a half thought it will develop.

Joel Akaki: My name is Akaki Joel. Ninaangalia haina ya koti ambayo nafikiri ndio ya muhimu sana, hii koti nataka kuita Family Court for matters to do with family.

Com. Adagala: Endelea.

Joel Akaki: I wanted to add there a court known as Family Court because matters to do with family are quite unique. For example, the Family Court is supposed to heal the relationship between the family members but not to penalize as other courts do.

Com. Adagala: Watu wamesema the aim of our courts should be like the aim of our culture, to reconcile watu, si kutawanyisha especially for family. Huenda ikawa pia watu wengine may just be friends. It is better to have reconciliation, that

should be the first aim of the court and not a lawyer who is ... Land cases will be dealt with by Village Elders, kuna sehemu hiyo kwa sababu watu waliuliza, mliuliza iwe under Village Elders. Tumeitoa kwa Mahakama kwa sababu hiyo ndio corruption number one.

Elffas Oketch: Mimi naona kwamba.

(Interjection)

Speaker: ...(Inaudible)

Elfas Oketch: Jina ni Elfas Oketch. Kwa Judges, Commission iliona wastaafu kwa miaka wa 65, forum ya understing ya group yangu ya wazee sita tulisikia kwamba kama mzee amesimama ambaye yuko na miaka 74 na yule mwingine mmoja wa forum ni 78, wangali na nguvu. Judges tungetumia maximum kabisa iwa miaka sabini ku-retire, wazee ndio wana-wisdom ya kutosha wakatu ule wa kufanya kazi. Mimi niko 67 naona bado ni kijana hata naweza kuanza maisha ingine ya pili.

Com. Adagala: Unaanza ingine ya pili kabisa. That is a good proposal that has come up, it has been even said if a presidential candidate has to be 70 the last time they are standing, if they are 71 they will not be able to context. We didn't talk about that transitional mechanism. Give me a chance, mzee keti vile umesema umri.

Upande wa Rais tulikua tumesahau kidogo hiyo transitional provision. Any person who has had two terms or more will not be able to stand in a next election as per the existing Constitution, we are doing transition. Sasa hiyo ni a little bit of this and a little bit of that.

Wale ambao wako 70 and above but are standing the presidency can stand kwa sababu tuliona tutatatiza watu wengi, nywele nyeupe nyingi. Halafu MP na Councillor, wale ambao ni MP and Councillor now wataweza kusimama even if they don't meet the educational and age which is set here in the Constitution. Sasa wao they have experience that qualifies them to stand. Tuliona tusiweke nini...and this idea of MP who is 21 years old and can go on till they are 70 years old ni kwa sababu watu wengine ni career politicians, wanaweza kuendelea. Tuliona wanaweza kuanza wakiwa vijana chipukizi na waendelea kama akina Edward Kennedy halafu wanakuwa wazee wakongwe hapo, wanafanya kwa one house, Lower House, wanaenda kwa Upper House au wanaweza ku-vie presidency na kuendelea.

Ya National Council vile mliambiwa ni 35 years, okay. To be in the National Council you must be 35 old, so we have made that provision for the transition, hiyo ya miaka na MPs and Councillors who have been Councillors can still stand this election.

Edward Ambwaya: Jina langu ni Edward Ambwaya. Kiti ambacho kinaitwa judiciary kama Jaji Mkuu, huyu mtu ni jambazi sana. (*Murmur in the background*). Wacha niseme, wacha nimalize.

Com. Adagala: Utasema hiyo kwa baraza ya Chief, utasema hiyo mahali pengine lakini hapo toa tu pendekezo lako.

Fred Ambwaya: Pendekezo langu ni hivi. Huyu jaji akichaguliwa, anachaguliwa na anakaa pahali pamoja miaka mingi na anaharibu hapo. Katika Katiba mmesema akae hapo kwa muda wa wakati gani ili aende transfer, asikae sana na kuharibu wale ambao wanakaa nao hapo.

Com. Adagala: Hapa tuna hiyo retirement age ya judges, hiyo ya 65.

Fred Ambwaya: Ana-retire mimi nakubali halafu anaweza kuleta situation ya Rwanda hapa.

Com. Adagala: Huyu si Jaji Mkuu sasa wewe unazungumza kuhusu judge.

Fred Ambwaya: Anakaa hapa miaka mingi bila kuenda transfer.

Com. Adagala: Sema proposal yako.

Fred Ambwaya: Maoni yangu ni haya. Judge akikakaa mahali kwa muda mrefu anaenda transfer na tena anarudi, sasa katika Katiba mmesema nini hapo.

Com. Adagala: Tunataka wewe usema vile unataka.

Fred Ambwaya: Basi maoni yangu ni haya, judge asikae hapa katika koti ya hapa kama nyumba hii, asikae zaidi ya mika mitano.

Com. Adagala: Haya imeeleweka nilifikiri unasema Jaji Mkuu, Jaji Mkuu ni Chief Justice. Huyu judge wa 5 years in one post.

Fred Ambwaya: Tuwe na Ombudsman ambayo atanikikosewa niwe na mahali pa kuenda kufanya repoti. Mtu mzee ambaye anaweza kuhoji watu.

Com. Adagala: Hiyo tulichugua kwa sababu watu walisema kimila tulikua na hiyo, mtu ambaye hatapendelea huku na kule na kuna hiyo it is called Public Defender. Watu wengi walikuwa wanasema Ombudsman, no in this Constitution it is called Public Defender. Unaona sasa unaenda unaripoti polisi kwa polisi, utaenda wapi?

Fred Ambwaya: Nitaenda kwa polisi kwanza.

Com. Adagala: I know but nakuambia sasa una mtu anaitwa Public Defender sijui watasemaje kwa Kiswahili. Mtu ambaye ata-defend the public, hatapendelea huku wala kule.

Fred Ambwaya: Ata-defend mimi katika koti ama katika maakbari?

Com. Adagala: Kutakuwa na legal aid, utasimamiwa pia kwa koti na State italipa, hiyo pia iko hapa. Yeye pia anaweza kuchukua kesi yako, kuna mtu ambaye unaweza kuenda naye. Si uliuliza hiyo na nikakuambia the Public Defender ukienda Kotini utapewa wakili kama huyu wa ku-defend wewe.

Fred Ambwaya: Na huyu sitamlipa.

Com. Adagala: ...(Inaudible)

Fred Ambwaya: Kwa sababu wakati mwingine anaambiwa wewe bwana uko na mastaka hapo kwenda utafute advocate na sina pesa.

Com. Adagala: Hiyo mambo yanaturudisha nyuma tafadhali tuende mbele, hata ni bora nini iko mbele kwa sababu hii hujasoma na ni sawa. Lakini utapata wakili ambaye hutalipa.

Fred Ambwaya: Hiyo ndio nilikua nataka.

Com. Adagala: ...(Inaudible)

David Onyino: Naitwa David Onyino, nataka kuongea kuhusu prerogative of mercy. Mtukufu Rais anapewa hiyo uwezo na anakua na watu wengine sita wa kuwasiliana nao.

Com. Adagala: Proposal yako.

David Onyino: Proposal yangu ni kwamba hawa watu sita watoke katika mikao tofauti na ile Attorney General ametoka na ile Rais ametoka. Asante.

Com. Adagala: Different opinion, okay tuendelee basi. Mambo ya mahakama ni hivyo, hii ndio ile walisema iwe espunched kama mlisoma kwa gazetti. Ku-espunch ni kama kuchukua ile sponge na kuwe hapo inakunywa maji. Walitaka tufanye hivi isiwe hapa, Wakenya wasizungumzie, kama sasa wakitaka wanaweza kuja kutufunga. Haya next.

Devolution of powers is very important, hii tuliambiwa look into ways in which power can be devolved. Sasa hatukuambiwa tuache vitu vikae vilivyo, mtu akikuambia fyeka tu hapa na hiyo inatosha utafanya hivyo lakini akikuambia fyeka halafu ulime halafu *uvusi*, si utafanya? Hiyo ndio ilikuwa kazi yetu na tukafanya hivyo.

Devolution of powers ni hiyo nilisema deconcentration na pia devolution. ...(*vernacular*) ya Boys Scout ile. Sasa...(*vernacular*) na hiyo ndio hiyo devolution of power, sasa wacha kijana apitie juu juu lakini ni kulete power karibu na watu, si services peke yake ni services, power, decision making and benefits, hiyo ndio devolution. Sasa hapa tusema tulizungumzia sana, hii chapter pengine ndio ilikua ngumu kuliko zingine, hii ya Presidency ilikua raisi kwa sababu tuliundwa njia fulani lakini hii ndio tulizungumzia, iwe province devolution unit, iwe province kama mzee amezungumzia hapa au iwe district au division. Tukazunguzia sana halafu mwishowe vile iliendelea tukasikizana ni district lakini ilikua majadiliano magumu sana hata sasa inafaa tumalize tuende kwa mikutano ingine kuhusu hii devolution huko Nairobi na mtu ambaye anatoka Canada kwa sababu wako na federalism Canada. Federalism ndio modern system, tukikosa kuwa na federalism sasa watu hawatahusika kwa serikali, hiyo ilikua yetu ya juu ya unitary, ilikua mbali sana. What it is like one of the things probably the American disagreed with Mboya on, he wanted capitalism without federalism na hiyo inafanya capitalism without a human being. Inafaa iwe na humanity, watu waone oh, yes kuna capitalism kwa sababu capitalism is very harsh lakini kama niko hapo na biashara yangu and I benefit kwa maadini yetu kama gold au mawe and we benefiting, si ya kunyanyaswa, watu wanachukua tu, ndio hiyo. Si mnaona tunapanda miwa, where is the headquarters for sugar?

Speaker: Nairobi.

Com. Adagala: Why isn't it in Kakamega or Kisumu.

Speaker: Is what we are wondering.

Com. Adagala: Haya, we plant maize. Is there factory in the Western region from Nyanza there to Marakwet and everywhere? Ya pili, there is a lake here, where is the omena factory? In Thika. The passion fruit comes from Western ambapo kuna mvua nyingi ndio inaweza kuleta hiyo fruit. Where is the headquarters?

Speaker: Thika.

Com. Adagala: I am very happy you know these things.

Vincent Watako: Sasa tutaangalia sura ya kumi ambayo inahusika na maswala ya kuleta nguvu mashinani ama devolution of powers. Sura hii iko kwa sababu kadhaa ambazo zimeorodheshwa katika kifungu cha mia mbili na kumi na tatu. Maswala

muhimu ni kwamba kutimiza self governance, kuleta umoja wa kitaifa, kuleta demokrasia karibu na wananchi na pia kuleta ule ukaguzi. Bila kupoteza wakati nitaangalia aina ya serikali tofauti ambayo imebuniwa katika sura hii.

Kwanza kutakuwa na serikali ya mtaa ama village Government ambayo itakua na wanachama wasiopungua sita na wasiozidi kumi. Watu hawa ndio watakuwa na uwezo wa kuangalia maswala katika Kijiji, pia kutakuwa na serikali ya kata ama Locational Government ambayo itakuwa na wakilishi wawili kutoka katika kila Kijiji, mmoja wa watu hawa atakua mwanamke.

Kata itakua chini ya Locational Administrator ambaye sasa ndiye atashikilia wadhifa unaoshikiliwa na chifu hivi sasa. Locational Administrator atachaguliwa na wananchi.

Pia tutakuwa na serikali ya wilaya, serikali ya wilaya itakua na District Administrator ambaye ndiye atakua mkuu. Administrator atachaguliwa na wananchi na kila wilaya itakua na wakilishi wasiozidi ishirini lakini wasiopungua thelathini, lazima wawe kati ya ishirini na thelathini.

Pia kutakua na serikali ya mkoa, serikali ya mkoa itakua na wakilishi wawili kutoka kila wilaya. Wakilishi hawa watachagua Provincial Administrator ama Mkuu ya Wilaya hiyo.

Hizi serikali za mashinani zitakuwa na mamlaka tofauti tofauti, mamlaka haya tutayapata katika schedule seven lakini mamlaka haya pia kwa ufupi tu yanapatikana ama yametokana na kifungu cha mia mbili na ishirini. Serikali hizi za wilaya zitakua na mamlaka ama nguvu za kupitisha sheria fulani fulani, pia zitakua na uwezo wa kuchukua ushuru kutoka kwa wananchi. Serikali hizi pia zitasimamia rasilimali fulani fulani ambazo zinapatikana katika sehemu fulani fulani. Serikali hizi pia zitagawana mamlaka na serikali kuu, mamlaka ya serikali kuu na mamlaka ya serikali za mashinani yako katika schedule seven nilivyowaambia. Serikali za mashinani zitakua na uwezo wa kuajiri maafisa wake na pia watapata usaidizi kutoka kwa serikali kuu hasa kuhusu uwaajiri wa maafisa watakaodumu katika serikali hizi.

Rasilimali tofauti zinazopatikana katika sehemu hizi zitatumwa kwa manufaa ya watu ambao wanaishi katika sehemu hizi. Katika tamati ya sura hii kuna ufafanuzi, neno village ama Kijiji itakua Sub Location sasa. Huo ndio mwisho wa sura hiyo.

Com. Adagala: Okay, devolution ndio mambo yote, 50% of the resources in Kenya are in Nairobi, the closer you are to Nairobi the better off you are. Sisi tuko mipakani ndio mnaona tunaishi hivi. Tena mzee Otiende aliniambia, our poverty is planned, the poverty we have is planned ndio mtu alisema family ikiwa poor , we are not planning poverty, we are planning wealth, we are planning abundance, si hivyo mzee wa Kanisa? So that you can live more abundantly, isn't it? So you have to believe and also believe in God for this to happen. Haya comments on devolution. Tuendee, ukifanya polepole mvua inakuja na mnaona hamja ceiling up, hamna light.

Japheth Amunga: My names are Japheth Amunga. I would like to talk about the village government.

Com. Adagala: Not talking about the village government, what are you proposing?

Japheth Amunga: What I am proposing is that the administrators, that is the members of the Council, we need to have some qualification because I am afraid we are going to have a system where ...

(Interjection)

Com. Adagala: Propose what you want.

Japheth Amunga: May be it is upon you to set out the qualifications so that they look like those of the MPs, they might be long and exhaustive.

Com. Adagala: ...(Inaudible)

Japheth Amunga: Yes.

Com. Adagala: ...(Inaudible)

Japheth Amunga: Okay, may be gender issue is what I am considering here because if we look at the locational level we are told the council should consist of at least 2 representatives. That is, two representatives from each village one of whom shall be a woman. What if there is now woman elected at the village level because it doesn't talk about the gender issue when it comes to the village council.

Com. Adagala: Give us the qualifications first of all.

Japheth Amunga: One of the qualifications should be the gender.

Com. Adagala: ...(Inaudible) shall is a promise, a contract. One shall be a woman, one shall be a man there is nothing that a woman will not be elected but the other one is that we want you to give us some qualifications even age or education.

Japheth Amunga: Okay, for age each of the members should be at least 21 years of age and then in the Village Council, at least half of the members shall be women.

Com. Adagala: ...(Inaudible) Okay give us the qualifications.

Japheth Amunga: May be the education level should be “O” level, I think.

Com. Adagala: Tulikuwa tunasema hivyo na watu wa North Eastern they said, we have been denied education so when we reach we do a compromise, do you understand what we do? We balance and so we may say “O” level here and lets say standard eight or seven then we will say probably at least. That is what happens, I am not saying that is what will happen but that is how we arrive at that middle ground. A Constitution is a compromise, usually it comes after civil war or war of national independence that is how it is. We are very lucky we are doing this during a peaceful time which if we play around with will actually be bloody time. I want you to know this, if we play around with this period italeta hiyo mambo ya Kakamega.

Onyango Osaso: I am Onyango Osaso. I want to make the following proposals for the Village Council. We are talking about the numbers between six and ten or something like that. I will propose that the young be given a slot within that promised number of ten so that we have may be about 2 or 3 young people of ages of around 18. So that we can over time develop these young people to become probably the leaders of the council over time. Secondly, I am also proposing that...

Com. Adagala: ...(Inaudible)

Onyango Osaso: Of course yes. Secondly, I am proposing that the distribution of the members of the council be evenly put within the restricted village boundary. So we are talking about 5 kilometre square, that should be split against the vacancies that are there.

Com. Adagala: It is called geographical spread.

Onyango Osaso: Sure. Geographical spread, thank you. So that at any one meeting of the council there are views from all over the village. Thank you.

Com. Adagala: Thank you very much kijana.

Wycliffe Mbilu: I am Mbilu Wycliffe. I wanted to comment on the area of the village and the locational council because the people who have been there, these are the Assistant Chiefs and the Chiefs and these are the people who are going to be deployed elsewhere as it is indicated here. We are human beings and this is our Constitution, we have been able to look at the Councillors and the Members of Parliament. Councilors we are saying, okay you are 70 but this time round we allow you because we have caught you off guard. The old wazees who are 70 ...

(Interjection)

Com. Adagala: ...(Inaudible)

Wycliffe Mbilu: Okay, those who want to stand for presidency we are telling them this time round you can contest. I am suggesting here that at the village and locational level we deploy the Assistant Chief and Chief as ex officials because life must continue. It might be a continuation of the exercise going on when one is taking over, they may need an ex-officio without voting.

Com. Adagala: You are taking them to their employer and there is a schedule there would you look at the schedule and see what it says? Will you do that mzee? You will look at schedule eight.

Obadia Nyangoro: My names are Obadiah Nyangoro. I wanted to talk about devolution of powers.

Com. Adagala: Make a proposal.

Obadia Nyangoro: I am proposing that the Administrators, when you say these people should all be elected from the communities.

Com. Adagala: We don't say.

Obadia Nyangoro: What the Constitution says.

Com. Adagala: The people said.

Obadia Nyangoro: Yes what the people said that these people should be elected people, I have a feeling that we should have one person who is an executive administrator who will provide checks and balances that we have talked of in the beginning. If that one is put in, it will balance everything.

Com. Adagala: When you read quietly you will find out that it is there now we are moving fast.

Obadia Nyangoro: Elected.

Com. Adagala: Not elected, executive.

Benson Lihayo: My names are Benson Lihayo. I want to contribute on locational government. A location has many sub locations and those sub locations have got many villages and when we talk of two representatives one whom should be a woman, I would suggest that we should have more representatives because we have got many villages and if each village should

have two people....

(Interjection)

Com. Adagala: Each sub location.

Benson Lihayo: Oh, each sub location.

Com. Adagala: ...(Inaudible)

Benson Lihayo: Thank you.

Com. Adagala: We wanted to retain that particular flavour but the sub location is the definition here.

Benson Lihayo: If that is the case, in my location we have got 5 sub-locations, so if we say one women representative and one man representative and we have 5 sub-locations some of us will not be represented because some locations are more than others. Some are six sub location, like in South Bunyore where I come from we have 5 sub locations.

Com. Adagala: Asante tumeelewa. Haya tuendelee, next chapter. That chapter 10 devolution you need to look at it because this is where the power is coming down to people so that they can go up again with their representation. The next one is on land, I think and now we have not light. Don't worry when we went to Gachoka they also didn't have electricity and all the electricity for Nairobi and other places come from Kiambere. So they said we don't have electricity, inapitia juu na inaenda. Those people must benefit first from electricity. Turkwell dam they also said, inapita inaenda. They must benefit first before other people get it, here we have electricity but we don't make any electricity but we have it.

Vincent Watako: Sura ya kumi na moja inaongea juu ya ardhi na mali. Vitu muhimu katika sura hii ni kwamba sura hii inalinda umilikaji wa ardhi. Umilikaji wa ardhi utakuwa katika daraja tofauti, daraja la kwanza ni umilikaji wa kibinafsi ama private, utakuwa pia na umilikaji wa familia, umilikaji wa jamii na umilikaji wa uma. Sura hii inalinda umilikaji wa ardhi iliyopatwa kwa njia ya halali, hivyo ardhi ambayo ilipatikana kwa njia isiyo ya halali haitandwi. Maswala ya ufisadi yatachunguzwa.

Ardhi yote ya serikali itashikiliwa na Tume ambayo imebuniwa katika kifungu cha mia mbili na thelathini na saba. Tume hii ambayo itamiliki ndio itakuwa na uwezo wa kugawa na pia kutambua eneo ama acreage, the limitation of land.

Com. Adagala: ...(Vernacular) Now we shall not be able to function because we know once it starts raining and because we have no ceiling tunaendelea. Which is the other chapter? Environment ni kulinda mali ya asili na mazingira. Hiyo ni kulinga, to develop, to benefit. Kama hii Maragoli forest ilikatwa hakuna mtu hapa alisema lakini from now on you must say. Hii mawe

yenu ni mali Mungu amewachimbia na ameweka juu. Mfanye kile mnaweza kufanya nayo na hii inaitwa granite and we could all be living in mable houses better than Italy but we are not doing anything about it because nobody cares. Sasa it is up to us to care. Nini ingine? Hiyo maneno ya land tulikua nayo wamesema joint ownership in the family, we talked about that before. We shall have individual land, private land and community land hiyo mambo ingine ya crowni imetolewa hakuna kitu kama hiyo tena ya State land.

Kuna public finance, mnajua public finance imechezewa sana, sasa hiyo public finance itakaguliwa kikisemekana barabara itawekwa lami itawekwa, si kusema itawekwa lami halafu mtu anaweka pesa kwa mifuko anaenda kufanyia campaign. What else is there? Parliament will approve all budgetary allocations and projects. Parliament is the one that will borrow it will no longer be the Minister just signing away. Office of the Auditor and Controller will be there na itakuwa inakaguliwa na Parliament na Parliament inakaguliwa na watu, okay. Auditor atakagua serikali na Parliament ikague Auditor na Parliament ikaguliwe na wananchi.

Utumishi wa uma, it will be without corruption we have a leadership code there, leadership and integrity is a chapter that is coming. Hao watu wote lazima wawe watu safi wameoshwa na omo with powerform na jik ndani yake, hakuna mambo ya kusema tena akiwa hivi atakuwa hivi, hapana. New wine in new bottle. Wacha tumalize ndio ...

Police service itakuwa na tena watu ambao watakuwa watu safi si vile iko na watu wanataka Polisi itoke kwao, wanasema tunataka polisi wajue hawa ni watu gani. Sasa district itakuwa na hiyo jukumu, tutakuwa na national lakini wa hapa kukagua itakuwa kwa district.

Correctional services yaani prisons pia ziko na zitalindwa na zitafanyiwa bora. Mtu mwingine alisema tumeifanya bora watu watataka kuenda gereza, sasa hiyo vizuri.

Ulinzi wa taifa, wa Turkana walitumbia we are the berbed wire of Kenya because the Army doesn't take care of the borders. Wanaenda na Uganda, Ethiopia au Sudanese amevaa mishipi hivi na mishipi ingine ya risasi na ana hiyo AK 47, anatembea amekua mnono na Kenya Police Reserve wana risasi tano pekee na pengine amebaki na tatu. Sasa huyu akizungumza Kenya Police Reserve anaangalia tu na hapo tutakuwa na Defence Council. Vile tumesema Rais atakua ndio Amri Jeshi na Defence Council itakuwa na watu ndani yake, Mkuu wa Army, Mkuu wa Navy, Mkuu wa Airforce, President, Vice President na Director of Security and Intelligence.

Speaker: ...(Inaudible)

Com. Adagala: Ngoja nimalize kwa sababu itanyesha halafu hatutasikia hiyo ingine, kutakuwa na nafasi lakini ...(*vernacular*).

Leadership and integrity, there will be a code, what will be required of leaders because we don't have that and that is why leaders are just anything so there also there will be declaration of wealth, una mali, ulipata wapi. Hiyo ndio shida yetu kubwa sana watu wameenda huko kutajirika sasa ninataka kujua mishahara yako ni hii, hii mali uko nayo imefika hapo, ulipata wapi hii ya katikati. Declaration na kukaguliwa pia na ukipatikana na hatia kama ile pia ya land, ikiwa kuna shamba ambayo imechukuliwa kwa ufiada itarudishwa kwa uma na wananchi walisema wawe prosecuted, watakuwa prosecuted. Sasa mnaona pengine umaskini utakuwa bora sasa kuliko utajiri kwa sababu watakaguliwa and things which belong to the society should return back.

Kuna hiyo kumalizwa kwa ukatiba, kuna Commissions moja yao itakuwa Constitutional Commission haitakuwa hii, hii itamaliza kazi yake halafu watu watano hivi watachaguliwa kuendelea na hiyo kazi ya kukagua mambo ya Constitution. Tutakuwa na human rights, tutakuwa na Salaries Commission hiyo ya Waalimu na Wabunge mlisema kwa nini Wabunge wanapata na Waalimu hawapata, hiyo sasa itakuwa kazi ya Salaries Commission kukagua hiyo. We have Teachers Service Commission. Salaries ya watu wote si waalimu peke yao, watu wote wa uma mishahara yao itakuwa inazungumzwa na kutengenezwa na Commission. There is Judicial Service Commission ndio itasimamia mahakama.

Kuna sehemu ambayo inazungumzia amendments, kurekebisha Katiba by amendments, hiyo iko na vile itaendelea. 65% in both National Assembly and National Council ndio itabadilisha sehemu ya Katiba na pia tutakuwa na referendum, wananchi kuulizwa maoni yao.

Interpretations ya hii Katiba ni kitu mtasoma tu na kuelewa, hii ni ufafanuzi zaidi halafu ya mwisho ni hiyo daraja tulizungumzia, daraja ya kuvuka kutoka kwa ile ya zamani kuenda kwa hii mpya. Kutoka kwa Kenya mzee kuenda kwa Kenya mpya. Hizo ndizo chapters ambazo ziko halafu hizo zingine ni schedules. Tuling'ang'ania sana districts, mtu alisema hapa provinces na districts zitolewe. Tuling'ang'ania sana kwa sababu sasa ingekuwa tungerudi kwa old district kwa hiyo devolution, sasa kwa devolution ni 70 districts si 42. Sasa tungerudi Kakamega, Butere Mumias irudi Kakamega, Lugari irudi Kakamega na Vihiga pia irudi Kakamega because they were saying the old districts, unajua ni siasa hapo Tume kuna siasa nyingi lakini tunaendelea tu. Haya mzee ulikuwa na kitu, I know we have gone very fast but even the light is going away hata kijana atakuwa na shida kusoma. Mzee njoo useme jambo lako.

Edward Ambwaya: Ile nilikuwa nayo.

(Interjection)

Patricia Mwangi: Jina.

Edward Ambwaya: Jina langu ni Edward Ambwaya. Majeshi ambao tunao katika Kenya ni mengi na hii Katiba

imewapunguza, kaka GSU na Katiba imesema nini?

Com. Adagala: Ingekuwa umesoma ndio ungezidisha. Administration Police iko part of the Police Force na wamesema Police Force wawe trained mika tatu na wapate psychology na history, watu walisema hivyo lakini hiyo itaingia kwa parliamentary act na pia GSU is part of the police. AP and GSU are part of the police. Umesikia mzee? Umesikia GSU, AP, CID iko sasa kwa police service not police force lugha ni tofauti. It is not Police Force it si police services. Sasa hiyo force ni kama ni nguvu ndio unaona Katiba inajenga kila kitu kwa sababu mlisema force wananguvu. Sasa ni service lazima wa-serve wewe, isipokuwa wanasema hivyo kwa act yao lakini hawatimizi.

Elffas Oketch: I am Elffas Oketch. I have a small proposal on chapter 14 which deals with the public service. We members of a small group called Forrum for Understang we commented this on the public service. It is our strong recommendation that the Constitution should establish a commendable, a contented civil service, free from corruption, good work, good pay to eliminate the danger created by the Ndegwa Commission in the public service and which paved way to private business enterprises by civil servants. This interferes with their duties in the government offices along with this, discipline should be included in the police service to eliminate and avoid corruption. We recommend the Constitution Review Commission headed by Ghai for the work they have done and recommend that the election be conducted with the new Ghai Constitution.

Com. Adagala: Asante sana mzee tutaongeza hiyo kwa memorandum zetu, tumepata kadhaa maandishi tutaongeza. Mzee, there is something called, one person one job lakini hiyo itatokea kwa act watu wengi walisema one person one job lakini inasemekana if you are a civil servant sasa huwezi kuwa na shamba Kitale.

Speaker: Huwezi kuwa na duka.

Com. Adagala: Huwezi kuwa na duka ni biashara. You concentrate on your work and let me tell you without bragging or revealing. I have come to appreciate the value of one job. Nilikuwa naenda USIU, naenda wapi, unafanya ingine hapa and even it is not enough income but if it is adequate income as you say and one job watu hawatarukaruka. Walisema hivyo kuhepa kulipa civil servants because they saw that the salary was becoming low wakasema nendeni mfanye business na ikaharibu nchi.

Nicaroni Masili: Jina langu ni Nicaronni Masili. Chapter 17 which talks about the functions of the TSC, 291 part C says the TSC shall promote teachers but it does not spell out on what basis. It is on identical grounds or academical grounds or whatever grounds. Part (e) it shall do anything which incidental, what is this that is anything.

Com. Adagala: Parliament, okay. Act of Parliament it shall do anything which is incidental to what? The details will be in an act of Parliament and that is how it is. We have said we shall promote so if you have something to add you can add, that is why this session is a waste of time if it is questions. If you have proposals you give them, then hiyo itakaguliwa na tupelekee

Parliament and say this is what people said in addition to the principles.

Nicaroni Masili: May be promotion I would have proposed that this be done on:-

One, may be after a certain duration of time say after 3 years automatically you are promoted and secondly based on academic qualifications because in the past we have had a very big mess.

Com. Adagala: You would have said academic advancements because everybody comes in at the same level, what qualifications will you consider but still it is like in my case of University publication or you get your masters. You are advancing yourself, so people can advance.

Tom Anjichi: I am Tom Anjichi. I have some comments on public service. We have very few...

(Interjection)

Com. Adagala: Make your proposal.

Tom Anjichi: Okay. I will propose about medical services. We have very few hospitals which...

Com. Adagala: ...(Inaudible)

Tom Anjichi: Okay, I think there is need for the Constitution to include a provision for standards to be met before an establishment is registered as those practicing for health in an hospital.

Com. Adagala: For health.

Tom Anjichi: Yes for health.

Com. Adagala: You put it down and pass it on to them. There are many things but mtasoma. If you wanted to speak you should have stood up with the others, if you want to speak you stand up with the others, tumemaliza?

Speaker: Bado mimi nataka kuuliza swali.

Com. Adagala: No but you have to stand up and say standing mzee because sitaona ni nani. Okay, we have 5 more minutes for 5 more people.

Edward Ambwaya: Thank you very much. I am Edward Ambwaya. Justine Alon Samba, Jackson Otenyo. The Constitution

Review Commission of Kenya have drafted the Constitution. The people of Emuhaya Constituency 14th October 2002, we have adopted the Constitution draft as it is but we make proposals to this right. Maseno to be given Local Authority under Emuhaya Constituency district council. Our land has been taken by mechanisms and given to the Luo people.

Com. Adagala: Write.

Edward Ambwaya: I have written and I will give this ... (Inaudible)

Com. Adagala: What are you proposing?

Edward Ambwaya: The government must but be under the Bunyore people. Our children should be joining Maseno School from form one to form four because this school is in our land. Thank you.

Com. Adagala: Boundaries Commission will deal with internal boundaries.

Rev. Enos Ochola: My name is Reverend Enos Ochola. I strongly believe that no section of people in the republic of Kenya or any individual may assume to have an overriding opinion on the demerits and the merits of the validity of the Constitution of the republic, I believe we have taken a true step in this new wine in the new guard.

Com. Adagala: New wine, new wine's tin. I think that is how it is, I have been saying bottles and others. Haya tumemaliza, tumeenda haraka mwishowe lakini mtasoma, if you have any comments give to your representatives to the National Constitutional Conference, give it to your committee chairman who will pass it on to your District Coordinator who comes from this division.

Thank you very much. The most important thing is spread the word don't keep it to yourself. Unajua, if we do elections under this new Constitution some people would be expecting mlolongo and there will be no mlolongo. Sasa umewacha mama nyumbani na yeye anajitayarisha anajua mlolongo halafu akisikia secrete ballot atasema, eh hiyo ni nini na ni Katiba. Don't leave the women out of this, please pass a word on to them so that they know because if they know they will tell the children by the fire place, they will tell other women and so forth.

Nataka kuwashukuru sana, ningependa kusema juzi tulikuwa na matanga hapa na nilisumbuka kwa sababu cousin yangu aliaga, nilisikia tu kwa radio afisi hatukuweza kuja hata District Coordinator alitaka aje lakini hakuja na mimi pia ningependa kuwashukuru kwa sababu you have done a lot for people who didn't get the Constitution before. So, it is very good, muendeleo hivyo, nataka kamati iwe na nguvu, I will meet with them and they may be calling you for other meetings it depends on how Lumumba plans is and how we can facilitate that. Nimemaliza Vihiga District tutaelekewa hizo districts zingine

zimebaki, Kakamega na Lugari na tumaliza halafu turudi na tujitayarisha kwa National Constitution Conference ambayo itakuwa Bomas of Kenya to be attended by 600 people. All the Members of Parliament, member or religios faiths, political parties, civil society, hayo yote yatakuwa ndani, about 700 people, tutakaa hapo mwezi moja if the Parliament is not dissolved. We have a lot of work hata wale watu ambao wamebaki Nairobi wanajitayarisha kuhusu National Constitutional Conference, they are saying there is so much to prepare but we are together I think we are all Kenyans we look forward to a new Constitution and a new Kenya and I would like to say God bless you all, God bless Kenya, Mungu ibariki Kenya. Haya District Coordinator, maombi au unataka kusema kitu kingine. I want to meet with the committee, we need to meet with the committee just now, so don't go away come here when you finish. Maoni yenu ni muhimu tumefurahi.

Agnes Ayuma: Mimi ningependa kuwarudishia shukrani kwa kufika na kuvumilia kutoka wakati ule mliingia mpaka wakati huu kusikika mafundisho ambayo tumekuwa nayo tukielezewa na Commissioner wetu. Sasa ningependa kuwaelezea ya kwamba huu si mkutano wetu wa mwisho tumepanga kuanzia 21st tutakuwa pahali panaitwa Mwituha, hata tusipopata Commissioner kuwa nasi lakini sisi kama wanakamati tutakuwa Mwituha then 23rd tutakuwa

(Interjection)

Speaker: ...(Inaudible)

Agnes Ayuma: Kuja basi. Sasa tutaendelea na mikutano yetu na mmekaribishwa. Vile nilisema kuna watu ambao ni wengi lakini tumekuwa na hao tangu tuanze civic education mpaka wakati huu tunaendelea kuwa na hao. Mmoja ni kama huyu Mzee Enos, tumekuwa na yeye tangu mwanzo hata vile tulikuwa na Commissioner Nancy Baraza he was very active na alifurahisha huyo Commissioner sana na nimeona tena leo amekaa na hajatoka na yeye pia ni muhubiri. Kabla nimpatia hii microphone atuombee wacha nipatie Chairperson amalize na hiyo announcement nilikuwa nataka kuwapatia. Asanteni.

Bettina Obulutsa: Nawashukuru wote kwa kufika hapa kwa mikutano wetu na ningewaalika tena kwa zile mikutano tumepanga tarehe ishirini na moja tutakuwa Mwituha, tarehe ishirini na tatu tutakuwa Mumbisa, upande wa Kima. Tarehe ishirini na tano tutakuwa hapa Mumboha Anglican Church, kwa hivyo mnaalikwa wote wale waliofika leo kama mnaweza tafadhali mje kwa hizi mikutano mutoe maoni yenu tuandike yote pamoja halafu tupatie Coordinator apatie wale wataenda Nairobi kwa National Constitutional Conference kupeleka proposals zetu.

Asante sana Commissioner na timu yako, tumefurahia, nawashukuru na mkiwa na nafasi mrudi tena kutuelimisha. Asanteni.

Com. Adagala: Kweli tunajisikia kama hatujafanya civic education ya Constitution at all, tukiwa na extention nafikiri part of that time will be used for more. We wanted to do it village by village, Lumumba anasema pesa bado iko kwa sababu tulitumia kwa njia ya kujinyima lakini kile kiko ni muda, niliwaambia time is a very big problem and power. Nataka kusema pia huyu mama Rose ambaye aliaga hapa ni dada wa Julia Ojiambo tulikuwa tunafanya na yeye Commission, pole kwa hiyo lakini

imefanyika, nataka kushukuru wale walinihurumia wakati Mzee Solomon Adagala aliaga na watu wengine walija kutoka upande huu na kulikuwa na watu wengi zaidi. Asante kwa hiyo.

Nataka tu kusema kitu kimoja nilisahau, kuna kitu kinaitwa Nile Waters Agreement, Nile Waters Treaty ya 1928 na hiyo treaty inasema hakuna mtu ataguzi mali ya Nile waters bila Egypt kujia, Misiri. Sasa kufupisha stori ndifu Sondo Miriu hawangeweza kujenga mpaka Misiri ijue hiyo maji, technology walikuwa wanatumia itakuwa inarudi kwa mto wa Sondo Miriu ikienda kwa Lake. Lakini hiyo ilikuwa 1928, mnajua haya maji yote yanatokana na mvua na inanyesha wapi? Pengine watu wengi wanafaa waandike memorandum waseme watasimamiza kama hawa watu hawatatusaidia, kwetu uso imekauka, ... (vernacular) immenda na Wakikuyu na huku. Kuna ingine imekauka? Na kwa sababu watu ni wengi sasa Egypt inafaa itusaidie kuhifadhi mazingara yetu na njia moja ni kutupea hiyo kutoka kwa Parliament yao kutengeneza hii au tena juu yake hata watutafutie vitu vijana wanaweza kufanya ili wasilime na kuwa na hiyo pressure. Au even to help us with industrialization so that people can leave farming and look for jobs ili tuwe na catchment areas.

Hiyo ni sasa tunasema hata watu wa Marakwet walisema rain is a natural resource na inatuliwa inakuwa mito na watu wa Rarieda na Bondo walitaka law of the Lake, kuna law of the fish, wanataka law of the lake. Msi sahu hizi nyinyi, hata hii mawe iko hapa it is wealth and pia economize in place of gold mine. We need to look at ourselves there is nobody else, we need to what we can do with our environment and our resources. Hiyo ni kitu muhimu sana. Wazee kama hamjalala ile usingizi wa milele mje muwaambie vijana maneno wasinde tu kwa mito wanatafuta gold na wakati mwingine wanafukuzwa huko, hiyo ni delicate, we need to consider. Hata United Nations ikifanya survey hapa itasema ile ni gold in Western Kenya hata mpaka Ndhiwa lakini serikali ikiwa hiyo sehemu ya Western iko karibu na Nairobi wakasema it is not viable. Lets do it ourselves, that is what devolution is about.

Sasa nataka muwe mnasikia kuna mito mikubwa kama hizo na tule tudogo tudogo nasema hii iende kwa record. Watu wa siasa are concerned about political powers, you should be concerned about bill of rights, devolution, environment, isn't it? That is what you should be concerned with, ask them. If they say oh, it is too late they should discuss it, when it will free education started now we ... (Inaudible). When are the bill of rights passed, ask them that kwa sababu wao hawana haja na hii, wametajirika. Haya tutaonana, nasikia wameunda party mpya inaitwa Liberal Party huko Uhuru Park na hiyo pia ni maendeleo. *(Laughter)*

Agnes Ayuma: Okay, asante Commissioner. Watu wa Emuhaya tangu tuanze hii shuguli ya kurekebisha Katiba hamjakuwa na Commissioner Adagala, mmekuwa na yeye kweli? Hakufika huku, sasa mngempigia makofi kidogo mu-appreciate na mmewambie arudi. Haya sasa tupige makofi. *(Applause from the audience)*

Com. Adagala: Lakini iwe makofi ya service si ya power. *(Laughter)*

