

**CONSTITUTION OF KENYA REVIEW COMMISSION  
(CKRC)**

**NATIONAL CONSTITUTIONAL CONFERENCE  
(NCC)**

**Verbatim Report of**

**THE PLENARY PROCEEDINGS, OPEN DAY WITH THE MEDIA  
HELD AT THE PLENARY HALL, BOMAS OF KENYA.**

**ON**

**10.02.2004**

## CONSTITUTION OF KENYA REVIEW COMMISSION

### NCC - PLENARY PROCEEDINGS, MEDIA EVENT HELD AT THE PLENARY HALL, BOMAS OF KENYA ON 10.02.2004.

#### Present

<b>Yash Pal Ghai</b>	-	<b>Chairman (NCC)</b>
<b>Koitamet Ole Kina</b>	-	<b>Vice Chair (NCC)</b>
<b>Sylvester Wafula</b>	-	<b>Chair</b>
<b>Mrs. Rose Lukalo Owino</b>	-	<b>MAC Chair</b>
<b>Mike Oliewo</b>	-	<b>MAC Member</b>
<b>Lewis Odhiambo</b>	-	<b>KBC</b>
<b>Wilfred Kiboro</b>	-	<b>Nation Media</b>
<b>Macharia Gaitho</b>	-	<b>Nation Media</b>
<b>David Lidbury Awillie</b>	-	<b>Delegate</b>

#### Secretariat Staff in attendance

<b>1. Kibisu Kabatesi</b>	-	<b>CKRC</b>
<b>2. Ann Kiama</b>	-	<b>Verbatim Recorder</b>

#### SESSION 1

<b>Chair</b>	-	<b>Mr. Silvester Wafula</b>
<b>Presenter</b>	-	<b>Hon. Delegate Rose Lukalo Owino - MAC Chair</b>
<b>Subject</b>	-	<b>Introduction &amp; objectives of the meeting</b>
<b>Presenter</b>	-	<b>Mr. Mike Oliewo - MAC member</b>
<b>Subject</b>	-	<b>An overview of the Media Performance in Bomas III</b>

The meeting started at 9.05 a.m. with Honourable Delegate Sylvester Wafula in the chair.

Session started with a Giriama song presented by dancers from Bomas of Kenya – Groom looking for a bride.

**Hon. Delegate Koitamet Ole Kina:** Thank you very much. I think that was a desired session and at this juncture I would like to call this meeting to order and the following items will be prayers from Father James Gatiti, followed by Sheikh Ali Sheikh and Mrs. Mariam Mwanyota. May we rise up for prayers please?

**Hon. Delegate James Gatiti:** Oh God, we adore and we worship You, we come to You with sincere hearts, thanking you for the beautiful country of Kenya you have given us. We thank You for the gift of this new day. Give us guidance in all the deliberations we shall have today. We thank You for this rare opportunity and historical process that You have given us Kenyans to rewrite our new Constitution. You have been with us in all the stages of this process. We thank You for the critical stage that we have reached so far. There are many challenges that are there, we thank You for the efforts that are being made at Consensus Building. Help us to remove suspicion and mistrusts that have been filled in Bomas during this time. We pray for Your divine wisdom and understanding to prevail at efforts that are being made to reach out to all the stakeholders in this Constitution Review Process so that we may come up with the Constitution that is acceptable by all. Almighty God and Father, help us to be accommodative of the divergent views of one another, help us to come up with a Constitution that will shape our destiny as a Nation and contribute to our prosperity. We pray this through Christ our Lord. Amen.

**Hon. Delegate Sheikh Ali Sheikh:** *Bismillahi Rahmani Rahim. Kwa jina Lako Mola, Muumbaji wa bingu na ardhi na vitu vyote, tunasimama mbele yako tukiwa wanyonge, wanyenyekevu, tukitoa shukrani zetu kwako kwa ulinzi ambao Umetupa, kulinda watu wetu na nchi yetu. Ibariki nchi hii na watu wake kwa muda mrefu ambao wameishi hapa, Mola endelea kutubariki na kutupa ulinzi huo. Wewe ndiye Mlinzi wa Taifa hili, Wewe ndiye aliye mlinzi wa mataifa mengineo. Ee Mola endelea kutulinda. Ee Mola tuna haja ya busara na hekima kwenye kazi hii ambayo tunafanya. Pasipokuwa na hekima na busara na uvumilivu, hatuwezi kufaulu kwenye kazi hii. Ee Mola tupe nguvu hizo ili tuweze kuvumilia na kwendelea na kazi hii ambayo ni kazi ngumu iko mbele yetu. Ee Mola, sisi tuko na adui mkubwa mbele yetu ambaye ni adui wa mwanadamu naye ni shetani ambaye anatia wasiwasi kwenye akili za watu wetu mpaka wengine wamebadilika wamekuwa ni maadui wa kazi hii ambayo tulio nayo. Ee Mola, uwezo wako kwa watu hawa ni mkubwa, unaweza kubadilisha fikira zao ili warudi kwenye njia ya sawa, njia*

*ambayo wananchi wanaitaka. Njia ambayo wananchi wanaitaka ndiyo njia ambayo wewe unaiunga mkono. Wananchi ni watu wako na maoni ya wengi ndiyo maoni ambayo Wewe utakayoyaunga mkono, hata kama ni maoni ya makosa, lakini maoni ya wengi ndio maoni ambao Mwenyezi Mungu anayoyataka. Eee Mola, tuondolee wasiwasi huu wa shetani, mshinde shetani, na Uashinde wale ambao wako pamoja na shetani. Ee Mola, sisi tuna haja kubwa na nguvu zako, tuna haja kubwa na busara zako, tuna haja kubwa na uwezo wako. Utawale kwenye akili zetu ili tuweze kutengeneza Katiba, Katiba ambayo itafaa wananchi walioko sasa na vizazi ambavyo vitakavyokuja. Ee Mola tupe ulinzi, tupe neema, tupe baraka. Wengi katika sisi tunakosea Mola makosa kama haya yana haja ya kusamehewa na Wewe, Wewe ndiye msamehe, Wewe ndiye Mlinzi wa kila jambo. Ee Mola tubariki, Utuweke katika hali bora. Amen.*

**Hon. Delegate Mariam Mwanyota:** Fear not, says the Lord, for I know the plans I have for you, plans to give you a future and a hope. Thank You, Heavenly Father, for You alone is our God, You alone has brought us this far, You alone called Moses to give the ten commandments and You alone Lord, You have lived with a taste of life. Even at this time Oh God, we know that You are with us. You are here, You have been with us and You will continue to be with us for you change not. Our Father we thank You, we bless Your holy name because God You are God and You will live for ever to be called God. Even in Kenya, at this time, we know Lord You are intervening in the process of this Constitution making. We know Lord that You are concerned with each and every step that has been undertaken, You are concerned about all the fears that have gone through and through. Lord we know, You are taking action and in You Lord we know we are hoping in You. At this time Oh God, we commit those who are in Mombasa, we thank You for the work that they are doing, and it is receiving Your only anointing and we know God that at the end of this Session, at the end of Bomas III, we will surely kneel down and say, Thank You God. So God, we pray that this day you will be with us, you will continue to shower Your blessings upon each one of us whom you have called to participate in this process of Constitution making. We pray Father for the leaders especially our Chairman Professor Yash Pal Ghai. We thank You for his wisdom, we pray that Lord you will continue to bless him, all those who are assisting him, you will continue to be with them and as You have assured us, Lord we know that You are with us and You will continue to be with us. So, we thank You, for we are not going to fear any thing because you are mightier than the devil who is on the earth. We thank You and we praise Your holy name. In Jesus' name we pray. Amen.

*(National Anthem).*

**Hon. Delegate Koitamet Ole Kina:** I would like to welcome you all to today's activities on the Media Events. I will hand over the programme to the Chair of the session this morning but before I do so, I would like to apologize to the Delegates because tomorrow we will not be able to have the trip to Magadi and there are a few items we were not able to cover this week in the programme which we think will be very important in the sessions that we are having next week and so we would like to try and cover them. So, we ask for your understanding; I know that we are doing this in good faith to enable us prepare well. So--

**Hon. Delegate Daniel Osoi:** 364, Ole Osoi. Information reaching us from reliable sources is that there are senior people in this Government who are part of the oppression --

**Hon. Delegate Koitamet Ole Kina:** Excuse me--

**Hon. Delegate Daniel Osoi:** --of the matters in that area--

**Hon. Delegate Koitamet Ole Kina:** Put your microphone a little low so that we can hear what you are saying.

**Hon. Delegate Daniel Osoi:** I am saying information is reaching us that there are some very powerful forces that will not be happy if the members of this Conference see the oppression of the Maasais in Magadi and therefore they are influencing this Conference to postpone the visit to Magadi. Can we be enlightened on that? And the community is waiting, you have seen the suffering has been highlighted in the Press, even the United Nations for the indigenous people have realized this and as we make the Constitution, it is important that the suffering of the Maasai people in Magadi is highlighted and therefore they are given the true share of what they are supposed to get. Therefore, can we be informed why we cannot visit Magadi tomorrow?  
*(Clapping).*

**Hon. Delegate Koitamet Ole Kina:** Well, to the best of my knowledge, there is nobody who has come to us to try and ask the Steering Committee or the Conference management to postpone

the trip. It is just because of the programme that we have and we realize that there are certain preparations, which we must have. During the programme, it would be possible maybe in the near future, to try and slot in that visit, but as it is at the moment, it is realized that we must do other items that are more important. We are having the other people coming from Mombasa, and as soon as they arrive, we are supposed to get into the rest of the programme and there are items that the Delegates must go through before that. So, I do not think it was anything to do with what is being said, there are so many rumours that take place but I would like to assure you that we do not have influence from anybody, it is just the programme itself and we are trying to ensure that we work within the programme. I would like to ask Mr. Sylvester Wafula to take over part of the programme. Thank you. (*Murmurs*).

**Hon. Delegate Sylvester Wafula:** Chairman--

**Hon. Delegate Moses Ole Sisika:** Point of Order.

*(Noise and heckling on the floor).*

**Hon. Delegate Sylvester Wafula:** I would be delighted to start my meeting with Points of Order. Whoever is having it please, if I can answer that, I will be delighted. 365.

**Hon. Delegate Moses Ole Sisika:** Thank you Chair. I am 365, Ole Sisika. I completely agree with Honourable Delegate Ole Osoi. Magadi trip was also in the programme, what Ole Osoi said is nothing but the truth. It is the powers outside this Plenary hall that have scuttled our trip to Magadi. (*Clapping*). We the people of Kajiado and especially me, Osoi who comes from Kajiado, as a Delegate representing those people of Magadi, it is a duty that we visit Magadi. It is very important for Kenyans who happen to be these Delegates to see the oppression of our people in Magadi. Magadi is Maasai land, our people are not benefiting from whatever is going on there and we cannot see the point whereby people outside this Conference are exerting their pressure so that the other Kenyans who are here will not see what is happening in Magadi. (*Clapping*). We the communities are not benefiting! We are happy our fellow Delegates will go and share the problems we have down there at Magadi. Therefore we feel, it is not a matter of other issues coming up right now; it is not.

We want an assurance and we want to see that we go to Magadi, so I propose that tomorrow we proceed to Magadi. (*Clapping and cheering*).

**Hon. Delegate Moses Ole Sisika:** Our people are waiting for us there on the ground and they cannot wait for us and then find that we are not there tomorrow. Thank you.

(*Inaudible discussions on the floor*).

**Hon. Delegate Koitamet Ole Kina:** Thank you. I was listening and consulting on that. So, let me say, please leave it to the Steering Committee in the morning. So we will give you the final thing tomorrow morning about the trip, we will consult--

**Hon. Delegates:** Point of Order.

**Hon. Delegate Koitamet Ole Kina:** The ruling will come from the Steering Committee because-- (*Murmurs*). When the programme was changed-- Order, Order, Order! The programme was not changed by the Chair of the Conference or myself, it was in consultation. So, I think it is only fair because we can read the mood and we hear what you are saying, just to let us consult back. I think that is the way things go because we will respond according to the mood that we have read from the Conference.

**Hon. Delegates:** Point of Order. (*Murmurs*).

**Hon. Delegate Koitamet Ole Kina:** 601, Point of Order.

**Hon. Delegate Luseno Liyai:** Thank you very much, Mr. Chair. 601, Luseno Liyai from Political Parties. Magadi Soda having been the only rare, actually the greatest mineral Kenya is producing, and bearing in mind that countries that produce minerals are never poor, I fail to understand how the Maasai surrounding the site where the mineral is being mined are living under object poverty. Being important the way it is, I think it is only necessary that the Steering Committee should consult very fast and enable us to travel to that place tomorrow as a matter of urgency. Thank you very much. (*Laughter & clapping*).

**Hon. Delegate Koitame Ole Kina:** 368.

**Hon. Delegate Luseno Liyai:** So I second that Motion. *(Clapping and cheering)*.

**Hon. Delegate Joel Sang:** Thank you, Honourable Chair. I am Delegate number 368, Joel Sang, a District Delegate. Honourable Chair, I concur with the immediate speakers on the issue of Magadi. Infact it is a surprise that we are not going to Magadi as per what had been arranged before. If that situation prevails, we will have no option but to conclude that imperialist forces, the forces of neocolonialism that are trying to interfere with this Conference-- *(Cheers)*. Make no mistake Delegates, we are not fighting local forces only, we are fighting international forces of imperialism. I come from a district where we expect the tea plantations, the soil on the tea plantations to revert back to the indigenous people. We want to start with Kajiado. Parliament is trying to interfere with this process because the imperialist forces are telling them to roll back the freedom struggle of the Kenyan people. Let me conclude, Honourable Chair, by saying that nowhere have I heard a small clique succeeding in actually breaking the determination of a people to be free from control outside their own powers. Therefore, it is my believe that we will go to Magadi, we will see what is there, so that this Conference shall realize the extent to which the ordinary Kenyan has no power over what happens in this Country. *(Clapping)*.

**Hon. Delegate Koitamet Ole Kina:** Thank you.

**Hon. Delegate Joel Sang:** So that we can realize on behalf of those who sent us that even those who are in power today are in connivance with international imperialist forces. Thank you. *(Clapping)*.

**Hon. Delegate Koitamet Ole Kina:** Thank you. Honourable Delegates, I would like to give a ruling on this. I have said we have a Programmes Committee which is part of the Steering Committee. So, I would like to consult with that Programme Committee to make sure that everything is put in the programme well. So, please give us time and understanding and we will be able to get back to you in the morning. *(Murmurs)*.

**Hon. Delegates:** Point of Order.



*(Noise and uproar on the floor).*

**Hon. Delegate Koitamet Ole Kina:** 365.

**Hon. Delegate Mwalimu Digore Kitambi:** Thank you, Mr. Chairman. I am actually Delegate number 231, Mwalimu Kitambi Digore from Kwale District. Mr. Chairman, the point that has been raised here Mr. Chairman is of very grave importance. The gravity is so heavy. Listen to this Mr. Chairman. Teomin Resources Corporation is coming to Kwale where I come from, they are going to do their mining there. We would like to go to Magadi to see what the Maasais are undergoing, so that we can know how we are going to protect our people and we are writing this Constitution, we want to share the experiences so that we can have the input. It is very important that we go to Maasailand. Mr. Chairman, I rose on a Point of Order because I do not think the Chair is in order when a Motion has been moved, it has been proposed and it has been seconded, it has been carried, or hasn't it been carried?

**Hon. Delegates:** Yes.

**Hon. Delegate Koitamet Ole Kina:** You are out of order.

**Hon. Delegate Mwalimu Digore Kitambi:** It has been carried Mr. Chairman--

**Hon. Delegate Koitamet Ole Kina:** Excuse me--

**Hon. Delegate Mwalimu Digore Kitambi:** It has been carried.

**Hon. Delegate Koitamet Ole Kina:** You are out of order.

**Hon. Delegate Mwalimu Digore Kitambi:** Mr. Chairman--

**Hon. Delegate Koitamet Ole Kina:** Mwalimu Digore--

**Hon. Delegate Mwalimu Digore Kitambi:** Mr. Chairman--

**Hon. Delegate Koitamet Ole Kina:** Order, Order.

**Hon. Delegate Mwalimu Digore Kitambi:** With your permission--

**Hon. Delegate Koitamet Ole Kina:** Order, I ruled on that. I said, I have not said there will not be a trip because I said, having read the mood, I am going to ask the Steering Committee and the Committee to reconsider the earlier decision. (*Murmurs*).

**Hon. Delegate Mwalimu Digore Kitambi:** Tomorrow Mr. Chairman.

*(Uproar on the floor).*

**Hon. Delegates:** Point of Order.

**Hon. Delegate Koitamet Ole Kina:** Order, sit down, order, the Chair is speaking, kindly. I say, we have a programme for today, and as the programme for today is taking place, we still have time to make a decision because you were not going to Magadi today. So, let us understand that as we are undertaking today's programme, the Committee will reconsider and it will be communicated to you. I have said we have read the mood and we see what is more important now, we will respond. So, please let us go on with today's programme because we are not going to impose anything on the Delegates here. So, thank you very much.

**Hon. Delegate Mwalimu Digore Kitambi:** With your permission Mr. Chairman, with your permission, with your permission Mr. Chairman--

**Hon. Delegate Koitamet Ole Kina:** Mwalimu Diroge kindly--

**Hon. Delegate Mwalimu Digore Kitambi:** With your permission.

**Hon. Delegate Koitamet Ole Kina:** I have ruled on that please.

**Hon. Delegate Mwalimi Digore Kitambi:** With your permission Mr. Chairman, I only wish to ask humbly that the Steering Committee convene this lunchtime, at one o'clock to reconsider this decision. Thank you Mr. Chairman.

**Hon. Delegate Koitamet Ole Kina:** I have ruled on that, so I hope your Point of Order is not on that.

**Hon. Delegate David Rakamba:** Mr. Chairman, it is a drama I am seeing in this conference Mr. Chairman. It is as if this Conference has no power to decide on a Motion that has been raised on the floor Mr. Chairman and this Motion that was brought up and which has been brought up under Section 32 is a substantial Motion. Can we get guidance Mr. Chairman on whether the Chair has power to overrule a Motion that has been seconded on the floor and refer the matter to the Steering Committee which actually has been made by this Conference?

This Conference is a self regulating Conference which has power, which has actually formed the Steering Committee and therefore their Motion cannot be absolved by the Steering Committee. Mr. Chairman, it has to be decided by this Conference itself Mr. Chairman and this is a serious issue being raised because it is going to have a serious implication on the floor for some Motions that we are going to bring in reference to this exploitation Mr. Chairman. So Mr. Chairman, we need to be given the opportunity because the Motion has been seconded, so that we can discuss it because this is a serious Motion and we need this trip. Thank you Mr. Chairman.

**Hon. Delegate Koitamet Ole Kina:** I do not think we are communicating here. I have said simply that there was a decision from the Programmes Committee to move or to remove the trip; but here, the Delegates have insisted that they would like to take the trip. So, I would like to take it back to them and say the mood I have read is that the Delegates would like to go and so we must adjust the programme. So, kindly, give me that time. *(Clapping)*. So, in that regard, it will be communicated back to you in the course of the day and you will get-- *(Clapping)*. So, please let us go on with today's programme.

*(Inaudible discussions on the floor).*

**Hon. Delegate Sylvester Wafula:** Order Honourable Delegates. Although I am chairing this session, you must know that I am also an Honourable Delegate and the decision that has been made by the Chair has made me happy because I also would like to go to Magadi. (*Clapping and cheering*). In that regard, Honourable Delegates, I think you are going to allow that we proceed.

Mr. Chairman of the Conference, Honourable Delegates, Observers and members of the 4<sup>th</sup> estate, it is my great pleasure and I welcome you all to this Media Event. I am sure everybody is having a detailed copy of the programme. As you are coming in you are being handed over those copies. What I would like to bring to your notice is that a few items have been rescheduled, for example rules and regulations of the National Constitutional Conference - this has been rescheduled.

In that regard, this morning in the first session, we shall have introduction and objectives of the meeting by our able Chair of the Media Advisory Committee Hon. Delegate Rose Lukalo Owino who is seated to my immediate left. I wish you could give her a clap. (*Clapping*).

Then the second item will be an overview of the Media performance in Bomas III by Mike Oliewo, my extreme left. Please let us give him a cheer. (*Clapping*).

I apologize for the late start, but having seen the performance of Bomas of Kenya Staff who would have said no, I am sure we were delighted by their performance. I would like to straightaway call on Rose to give us an introduction and objectives of the Meeting. If you have got any queries, I would urge that both speakers finalize and then those queries can come during that period of discussion; that will be from 9.30 to 9.45 according to our programme. So, now of course we are already late. I will give this lady and gentleman very little time, very short time and with those few remarks, Rose please.

**Hon. Delegate Dubat Ali:** Point of Order.

**Hon. Delegate Sylvester Wafula:** Point of Order?

**Hon. Delegate Dubat Ali:** My name is Dubat Ali, Delegate 252. Mr. Chairman, I would like to know whether this Conference can continue without Members of Parliament. This is a critical issue and we have to be told in black and white. Members of Parliament are trying to kill this Bomas, and we want to know if this Conference can continue to have enough quorum and deliberate on the business without Members of Parliament.

**Hon. Delegates:** *Twendelee, endelea.*

**Hon. Delegate Sylvester Wafula:** Honourable Delegates, we have agreed that we go ahead.

**Hon. Delegates:** Yes.

**Hon. Delegate Sylvester Wafula:** And I am sure you will bear with me that we go ahead and finalize these issues. (*Clapping*). Thank you very much.

**Hon. Delegate Rose Lukalo Owino:** Thank you the Chair of this important session--.

*(Discussions on the floor).*

**Hon. Delegate Sylvester Wafula:** Order please.

**Hon. Delegate Rose Lukalo Owino (MAC Chair):** Honourable Delegates, Media Managers, Journalists, Ladies and Gentlemen, and Observers. Mine is a very brief duty just to tell you why we are here today. This session is a critical event in the calendar of the National Constitutional Conference, and it provides an opportunity for Delegates to regroup with the Media. We have been through Bomas I, and II, we are now at III and we are aware of the deliberations that are taking place in Mombasa where Technical Committees Reports are being harmonized for the final debate. We are truly on the homestretch and as we move into the Plenary, it is important that we are very conscious of the process of unveiling what we want to present to Kenyans. That is the Constitution that they have asked us for.

Today is not just an opportunity to review our partnership with the Media, it is also an occasion to renew our commitment of working together for a positive outcome to our noble and national undertaking. So, the purpose of this event is two fold. Firstly, to provide an opportunity for both the Delegates and the Media once again to interact and exchange ideas on issues of mutual interest relating to our past and our present performance. As Delegates we need to reflect on our role as sources of news for the Media, while the Media will also be reflecting on their role in the coverage of the Conference so far. The questions to ask are, have we done our best for Kenya and for Kenyans in our respective role? Is the information Delegates have provided and the coverage by the Media useful to the future that that we want and to the Constitution making process?

The second objective is to provide an opportunity to discuss the way forward. As we embark on the homestretch, we must all take stock of our roles and responsibilities. If there have been limitations, we need to address them, if there are any gaps in the information flow, these also need to be closed. We should ask, what can we do better? How do we (?) to the important information of our deliberations to the public? This event today will allow Delegates to better understand the Media, we have very senior managers, writers and owners of Media coming to be with us today, and I hope you will ask them all the questions that I am always asked about, why is Media like this?

The Media plays a very critical role, I do not think I need to say very much about that, it is our critical link between the Delegates' views, between Delegates and the public. It is the mediator between the Conference, what it does and says, the public response, and the feedback. It is how we gauge the tempo of the country, and it is also the main medium of civic education in this country. So, it is crucial that we as Delegates review the Media as part and parcel of this process. On its part, the Media should continue to be selflessly aware that it is part of that process. It is part of the process that will usher in greater freedom of expression, including freedom of the Press, and the Media stands at the crossroads of ensuring the Kenyans are bestowed with a democratic Constitution.

I urge all my fellow Delegates to pay keen attention to today's presentations with the view to exploiting the opportunities offered by the News Media. Our aim is that on this homestretch, we

will be empowered to contribute to Kenyans' understanding and appreciation of what is happening at the Conference. Only when Kenyans are well informed about what is happening, can the public appreciate the role and have confidence in the role that we are playing here. Only when the Media reports the proceedings of the Conference critically and responsibly, will it create a public opinion of hope for Kenya and its future. And only when Kenyans have hope in the future will they encourage this Conference. Once again we are not here to apportion blame on either side, but to evaluate our performance, in a way that we can chart the best way forward. I thank you for your attention, and I will hand you back to the session Chair, Mr. Wafula. *(Clapping)*.

**Hon. Delegate Sylvester Wafula:** Thank you, Rose. I think at this juncture we will just straight away go on to Mr. Mike Oliewo to give us an overview of the Media performance in Bomas III. You all have been reading newspapers, you have been seeing what is in Print Media and Electronic Media. Let us get it from Mr. Mike Oliewo.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you Chair, Honourable Delegates, Media Managers, Ladies and Gentlemen. My name is Mike Oliewo as you heard introduced by Mr. Wafula. Allow me at the outset to thank you most sincerely for your individual and collective efforts that all of you have made to steer the National Constitutional Conference from the very beginning to date. From the commencement of Bomas I to Bomas III, a lot of human energy and intellect have gone into this process. The process has now reached a critical stage which requires even more commitment and dedication on the part of all concerned in whatever individual and wholesale efforts we may have to make. Mr. Chairman, we in the Media Advisory Committee are particularly grateful that this Conference has progressed to this stage, despite some of the difficulties and obstacles it has had to face at different stages.

Should the Media be partisan? That is the big question. My answer is always yes. The Media should be partisan towards objectivity, noble goals that enhance national unity and cohesiveness and partisan towards ideals that make the society more progressive. Finally the Media should be partisan towards aspirations and dreams of the society that are practically realizable and this is the challenge of the modern Media. Ladies and Gentlemen, while we realize and appreciate the fact that events at this Conference have been shaped by our own decisions and to a certain extent

decisions from other external forces beyond our control, one cannot down play the key role played by the Media in molding the image and public perception of the review process. As a matter of fact, the role of the Media in rallying public support or sometimes condemnation of some of the issues that were discussed at the National Constitutional Conference has been to say the least, phenomenal.

Ladies and Gentlemen, Honourable Delegates, you may wish to recall the acrimony that has sometimes been witnessed at Bomas and how the country has come to learn of it. I know there are those among us who would not hesitate to blame the people in the Media about some of those issues outright. We are also aware of the sentiments expressed by some of our brothers and sisters who have on occasions pointed accusing fingers at the Media whenever we as a Conference have been portrayed negatively. On the other hand, there have also been our brothers and sisters in the Media who have within their roles of responsibility at their Media Houses, made comments and remarks about the Constitutional process, which have sometimes been less than flattering and we have ended up infuriated. We in the Media Advisory Committee have, however, recognized all along and infact from the time we were constituted that the National Constitutional Conference and the Media have an interdependent role from which none of the two groups can exonerate themselves.

Mr. Chairman, Honourable Delegates, Ladies and Gentlemen, as you are no doubt aware, the very initial stage of the conference during Bomas I, the issue of Delegates' allowances was flashed on Papers and broadcast country-wide on many Electronic Media generating obvious anger from Honourable Delegates in this connection, and in our view, the Media was simply playing its role. The responsibility of the Media to its readership notwithstanding, however it is our considered opinion that the issues in question were over played. Moreover, there was a particular weekly commentator/columnist who went as far as saying that Kenyans had assembled fishermen, villagers and in essence, ordinary folks to write their Constitution. The writer went on to argue that a neighbouring country had tried such an approach and failed only to settle for experts. We strongly believe that such views only strengthened our resolve to carry on with this noble task.



Mr. Chairman, further more, the reporting in all Media tended to rally public opinion against Delegates as we were portrayed as greedy and uncaring people. None-the-less, when the matter of the allowances was eventually settled the Media reported the decision to raise their allowances, and as the English will say, all is well that ends well. We were thereafter at the Conference treated to news coverage on issues in the Media, touching on those who were perceived to be against the people-driven Review process. This did not persist as much, and we can say that unlike the issue of allowances for Delegates, this and other matters did not generate as much public debate through the Media. It is our wish that the debate of actual Constitutional issues should have been published as much, because those were the issues that Kenyans needed to know in closer details.

Mr. Chairman, in the subsequent weeks, the Media in this country has followed the deliberations at the National Constitutional Conference with unrivalled zeal. We cannot but state that this interest of the Media in the Constitutional making process is commendable. But this type of publicity did not stop the Media Advisory Committee, and indeed the National Constitutional Conference itself from being concerned that while some sections of the Media have continued to cover the Goldenberg enquiry in graphic details in most cases producing verbatim records, some issues at Bomas have on the other hand, been treated as ordinary stories. And while we have no control over the editorial decisions at the Media Houses, Mr. Chairman, we wish only to appeal that since the Conference is now moving into its final and most exciting leg, the Media should give this process a more closer and focused treatment particularly the final Plenary session which in itself is historical. For Kenya's posterity, it should be covered verbatim. (*Clapping*).

Mr. Chairman, there is no doubt in the minds of Kenyans that the contentious issues that have plagued the National Constitutional Conference over the period can not just be wished away. Indeed, it is not lost to the majority of Kenyans that the Media's coverage of the Conference has placed these issues to the doorsteps of most homes across our republic. We are aware that issues surrounding, say, Executive power, Devolution of power, Kadhis' Courts, Political Parties funding among others must be amicably resolved to enable a successful conclusion of the Review process. In the current efforts to build consensus, it is our view that the Media should come in and play to assist by explaining the need for consensus because the Media, like any

other industry, will thrive better in a peaceful, sound and well governed country where the whole population is at peace with itself.

In a nutshell, we at the National Constitutional Conference and the members of the fourth estate as citizens of this land, have a mutual responsibility to see the Conference through and successful. In this regard, Mr. Chairman, I wish to refer you to Calvin Coolidge, one of America's greatest President, who once said, and I quote, "Under our institutions, each individual is born to sovereignty. Whatever he may adopt as a means of livelihood is real business in serving his country. He can not hold himself above his fellow men, the greatest place of command, is really the place of obedience, and the greatest place of honour is the really the place of service". Mr. Chairman, what should the Media have hope? What is the hope of modern Media in Kenya? The answer is simple. We have a very Media friendly Draft Bill of the Constitution of Kenya Review Commission, particularly the Bill of Rights, from Chapter 29 to Chapter 75 and generally throughout the Draft Bill. I think this the greatest thing that happened to the Media in this country. This is the most Media friendly Draft Bill that this country has ever seen. *(Clapping)*. We hope the Media will appreciate and reciprocate this goodwill by executing their role and responsibility in a manner that satisfies the dreams and aspirations of this country.

Secondly, the hope of the Media in this country is a critical but tolerant society that appreciates both sides of the debate.

Finally a sense of responsibility and objectiveness on the side of the Media, so that we do not end up in a situation that can be similar to the prerogative of the harlot. And that is power without responsibility.

So, Ladies and Gentlemen, let us all serve our Republic by working individually and collectively towards the enactment of a new Constitution for our Motherland, for this is the best service we can offer our people regardless of our professions and all stations of calling. Thank you. *(Clapping)*.

**Hon. Delegate Sylvester Wafula:** Thank you, Mike. I think we shall adjust our program Honourable Delegates. According to the program, it is now time for tea, but this being a very, very important subject, I think we should allow ourselves a few minutes for general discussions. What emerges is that, you are men and women of integrity and all that was talked about you in the early stages of this Conference is now eroded by your good behaviour. People who have gone to the Press, have left you here working, and now even the Press has changed its attitude towards you because you have behaved well. The Media has the power of the pen. Let us also know that the Media is party and parcel of this process. The people that run the Media are our brothers and sisters, they are our husbands and our wives, they are our mothers and fathers and therefore they are Kenyans like us and they view the intentions you have for this process as prosperous just like you do.

I would like just to make one correction. We always refer to this lady, my Chair, as Hon. Delegate Rose Lukalo Owino, I think she gets a bit (?) she is Mrs. Owino, but the documents always refer to her as Hon. Delegate Rose Lukalo Owino. She is Hon. Delegate Rose Lukalo Owino-Owino. Apologies, Rose. So, at this juncture, I would like to invite questions and any discussions, participations from the floor.

Let me start with this side. I see 368.

**Hon. Delegate Joel Kipyegon Sang:** Thank you, Honourable Chair. I am 368, Joel Sang, a Delegate from Bomet District. Honourable Chair, the issue of the Media is very touchy, because it involves reputations. And whereas I commend the Media Committee of the Conference in whatever it has been doing, I think its management of the Media, what the Media gets of the Conference has not been up to standard. I say so because on many occasions, I have read in the papers, individuals who are ill informed. I have one Gibson Kamau Kuria in mind, who is always hitting at the Conference. The Media has never taken time to ask the man when he changed his mind. Because one and half years ago, he was shouting at the top of his voice at the regime that was in power by then. He has been hitting at us-- (*clapping*) --and he has been masquerading as an intellectual. In my view Gibson Kamau Kuria is not an intellectual, he is a pseudo intellectual he is a pseudo intellectual, I repeat. The issue here is, in this hall are people who are capable of being filtered by the Media Committee to go and speak on behalf of this

Conference in the studios. They are capable, they have the facts. People have changed their minds without admitting as much, and they are hitting at the Conference from outside, they are getting all the media attention. Some of the pertinent issues being debated in this Conference are not getting even half that amount of attention. This is because of the management style, I think of the Media Committee, they should have been doing something on behalf of the Conference.

The Government and many members of the Government have been talking with two voices. One, they have been saying they are for the Conference. In the Media, they have been hitting at the Conference. We have not been good at managing that. It is only the Honourable Chairman of the Conference who has been quite articulate and as an authority in law, he has been able to defend,-- (*clapping*) -- and give the whole truth about the Conference.

I wish to conclude, Honourable Chair, by saying that this historical Conference is in a class of its own in this Continent. I was speaking with the High Commissioner of the Republic of Zambia outside there one day, and he was saying, we have come here to watch how Kenyans are making their Constitution. We intend to make our own following along what Kenyans will do. In other words, we are an example to the Zambians. Nobody is paying attention to that the watch word today is, the power elite, would like to take over the initiative from 'Wajiku' and the Media is silent. I will tell you why the Media is silent, the Media is owned by the stinking rich in this country. (*Clapping*). They are bed fellows with the power brokers in this country. They stand to lose if 'Wanjiku' shall be in a position to determine her destiny. The whole question of interference in this Conference is not even a Media issue today in this country. Because the Media has an axe to grind. The Media is not objective, the whole world should know that the Media is owned by the rich and they have interests to protect. Who will protect 'Wanjiku's' interest? (*Clapping*). It is me. It is I, the District Delegate to represent 'Wanjiku'. I am not being given any coverage, nobody is reporting what I am saying, and then tomorrow, when the Government thinks of scuttling the process, just because the Media does not reflect what 'Wanjiku' wants, I have not been given a chance to speak, It shall be business as usual.

Let me inform you that the Media carries a lot of power, and as you did refer to the prerogative of the harlot, I do believe that it has been playing the role of the harlot in the case of Bomas, because it has wielded a lot of power, emphasized the wrong issues and played down the really

hot issues. Why isn't an issue in the media that the power elite truly fears devolution of power to a point where they are really thinking of scuttling this process, it is one thing they fear, devolution of power, because they have businesses in Nairobi. They know that the moment emphasis will go to Kisumu, the moment emphasis will go to Nyeri, the moment emphasis will go to Mombasa, they will not get business and Nairobi will begin to have famine like we have in the villages in this country and the Media fails to say that Kenya is in the villages not in Nairobi. I really would like to call on the Media Committee to be more serious. Some of us are well versed with public relation; the Media Committee is not doing what it needs to do on behalf of the Conference. The people who are hitting at us demagogues like Hon. Delegate Wamwere who has been debating outside when we are debating here are given banner headlines. Recently when he was inciting people there telling them to go back and repossess their land when he knows that it is going to cause social upheaval. He is a candidate for imprisonment, but nobody says it.

*(Laughter)*

So the issue is, the media has not been forthcoming with us and I am requesting them that they need to be with us as much as with the other group. Thank you very much.

**Hon. Delegate Sylvester Wafula:** Thank you very much Delegate, I am sure Honourable Delegates would have wished that you go on talking. Delegate number 317.

**Hon. Delegate John Kinuthia:** Thank you Mr. Chairman, my number is 317 Waitiki Delegate from Thika. Media is a very, very effective tool to be used by any authority. I would like to remind you, for those of us who followed "desert storm" how the Americans used media to shape the world's opinion. I do agree with the presenter that media maybe could be partisan, but we must also acknowledge that members of the media are part of our Kenyan society and as a result they also have their own opinion for or against any issue that we may be discussing. Last weekend as I went home, I was confronted by a few friends who said, "what is all these we read in the press, what are you doing about these". And I told them, "look my friends, this is part of the consideration stage and we are bound to have different opinions, but watch, come 16<sup>th</sup> of February be weary of what will come out of our discussions". I trust that the Media will portray balanced and objective discussion. The bashing that the Bomas of Kenya, especially the District

Delegates had during Bomas I, was sincerely uncalled for. This is because we as Delegates were actually accused in a forum we could not defend ourselves at. My request therefore, as we enter the final and most critical phase of our deliberation is that, whereas we do acknowledge again that the Media is part of the Kenya society, please try to be balanced and try to be objective, that way you will be part of the team that will make the Constitution. Thank you very much.

**Hon. Delegate Sylvester Wafula:** Thank you. I am moving from this side to this side. I see 375, gender sensitivity.

**Hon. Delegate Jane Kauka:** Thank you Mr. Chair. My name is Jane Kauka, District Delegate from Lugari, number 375. The Media has not covered any of Delegates from the Districts, they only cover a few of the MPs who just go there and try to show themselves off how powerful they are. The media has never covered any of us who are sitting here reading too much and trying to prepare for the review, but they are only covering those who are a few people, who are known in the government, who can voice and we are never covered. We want to see that the media is covering everybody here, whether you are a man or a woman. Whether you an MP or a District Delegate or those Delegates come from any other sources, otherwise we will not welcome you if you cannot cover us. Thank you.

**Hon. Delegate Sylvester Wafula:** Thank you so much, wonderful contribution. We shall come back this side in case we still need to talk. Let me go to 308.

**Hon. Delegate James Mathenge:** My Delegate number is 308, James Mathenge, District Delegate from Kirinyaga. Those who know me, know me as a Kenyan, because I have worked in most places in Kenya, I have worked in all different ethnic groups in Kenya, I describe myself very truly as a Kenyan. Also Kirinyaga is a District which is very cosmopolitan, everybody included who is here, consult me later on if you want to know your roots and therefore, I qualify to talk as a Kenyan. Mr. Chairman, one or two points about the Media, those who have talked are very correct, very much these people in front of us are Kenyan and most of time they think like Kenyans and they would like good in Kenya society. On the other hand those people sell some pieces of paper to earn a living and sometimes they have to make a decision between selling that piece of paper or looking at the interest of Kenyans. Sensational news as you know

sells faster, those who are known better they pick them. You see how they hide their faces when they are going round so that they can pick the person who can sell the newspaper. They are trapped in that network many times.

I have been taught not to be looking behind, I have been taught to be looking forward, in the Bible there is a story of Lot's wife who was asked not to look behind and when she looked behind she turned into a pillar of salt. So, I would like to look forward, what the past is, we use it purely as a lesson or as a springboard. The Delegates have been abused many places, they have been called names, some are unprintable. Some of them have not been very fair remarks, like describing all these honourable Delegates here as the country pumpkins who do not know what they are doing here, that is not fair, isn't? But that is playing with somebody's adjectives. These are honourable people who have worked very hard indeed since we came here, but on the other hand they have covered some issues very well. Some of the controversies they have covered, although we may not agree with it, it ourselves who have generated, it is ourselves who opened our mouths and they have covered that. What I would like to see is Mr. Chairman, is to look ahead. We are coming to a critical stage of our Constitution making and I think this will require a lot of seriousness from ourselves as Delegates and from the media as well, so that we focus on giving the people of this country the Constitution they have been crying for. Do not worry about the arguments, tempers and the differences, those are normal and I repeat, "those are normal". We are different, we think differently and we come from different backgrounds, that is not a mistake, that is not a weakness, that is our strength. Fellow Delegates, I would like us as we move to the last stage to know our differences are our strength, be proud of what you are. I come from a small called Kirinyaga, I have been telling Delegates here, "my interests and those of the people of Kirinyaga cannot be served until the interests of Turkana are served". If I want to speak about Kirinyaga, I must look at the interest of Kwale, I must look at the interests of Kajiado, that is the way we are moving. If the Press can help us to look positively ahead, to give this country a good Constitution and a good Constitution is a Constitution which will take the interests of everybody represented in this hall.

Thank you Mr. Chairman, I hope the Press would help us indeed to do that. I think they can because centralization of a few issues would just go to create doubt and create despair, Press as we look ahead to the final lap, create hope not despair. Thank you very much.

**Hon. Delegate Sylvester Wafula:** Thank you. I should be honest, I am seeing this is generating a lot of interest and I promise I am going to be very fair to everybody because this is a very important subject. I have just been writing down the numbers of people who are interested in speaking. Let me just pick two from here because of their population and then I come and pick another two or three from here, then we see that actually there is still interest, we shall still give you time. The two that I have written for this area are 462 and 596.

**Hon. Delegate Samuel Tororei:** Mr. Chairman do I have your permission?

**Hon. Delegate Sylvester Wafula:** Yes.

**Hon. Delegate Samuel Tororei:** 462 Arap Tororei, representing NGO's and specifically Kenyans with disabilities, the largest tribe which is fairly invisible to our colleagues in the Press. Today we hope we shall profile ourselves so that you can begin to notice us. Mr. Chairman, *nitatoa mchango wangu kwa Kiswahili, kwa sababu wenzangu walionituma hapa wengi wabajabatika kwenda shuleni na kwa hivyo hawataelewa lugha ya Kimombo. Walinituma na wakanipa mdomo, masikio, macho na uwezo wa kuongea kwa niaba yao. Bwana Mwenyekiti, mimi na wahenzi wanahabari wenzangu. Kwanza na wahenzi kwa sababu wamewapa ruhusa wale wanafikiri mimi ni mshenzi kuniita mshenzi tangu mwezi wa sita tulipoondoka hapa, mwisho wa Bomas I. Nawahenzi kwa sababu wamewapa ruhusa wale waliopenda kuniita nyani hasieona pahali fulani, wakaniita nyani. Ninawahenzi kwa sababu wamewapa wenzangu ruhusa ya kusema mimi niko hapa kiharamu na kwamba sina legitimacy, sina sababu, sina uhalali wa kuwa hapa. Kwa sababu mimi sijachaguliwa na wananchi, sijui ni wananchi gani ambao wanachagua wengine na gani ambao hawakunichagua mimi.*

*Bwana Mwenyekiti, na washukuru kwa sababu hawajanipa nafasi ya mimi kuwajibu mpaka leo ambapo pengine watatupatia nafasi na sisi pia tujibu. Bwana Mwenyekiti, mimi nimetii amri ya Biblia ni katoa mashavu yangu yakapigwa makonde, kwanza nikayatoa Professor mwenzangu akayapinga akasema mimi sielewi ni nini nachokifanya hapa. Alisema 70 per cent of us do not know what we are doing in Bomas. Bwana Mwenyekiti, nafikiri kama uwezo wa kufahamu yanayoendelea hapa Bomas unategemea kiasi cha shule tulichoenda, basi hata mimi Mwenyekiti nimeenda shule hapa nchini na uko ng'ambo kama vile mwenzangu alivyoenda shule. Pengine*



*kwa kiasi ananishida, na ninamheshimu kwa sababu ya hivyo, lakini pia ningependa aniheshimu  
kwa unyonge wangu.*

*Bwana Mwenyekiti, ikiwa uwezo wa kufahamu tunavyofanya hapa kwa kutengeneza Katiba ya nchi hii ni kwa ajiri ya umri na miaka tulioishi dunia hii, basi Bwana Mwenyekiti mimi sio mdogo sana wala sio mzee sana niko umri wa makamu, na kwa vile akili zangu natumai ziko timamu nimeweza kuelewa ninayoyaona na ninayoyafanya hapa. Wanaposema namna hiyo wananidhalilisha mbele ya wale walionituma. Bwana Mwenyekiti, wakati nilipokuwakiongozi wa wanafunzi wa Chuo Kikuu cha Kenyatta miaka ya themanini, nilimpigania mwenzangu ili atolewe katika detention, wakati huo sikuwa nyani. Wakati nilisimama nikiongoza wanafunzi wenzangu, hata kama nilikuwa mlemavu, nikawaongoza tukaenda barabarani tukasema, “Koigi awachiliwe na wenzake”. Wakati huo sijui kama nilikuwa nyani, sasa niko nyani. Bwana Mwenyekiti, natumai kwamba wanahabari wenzetu watatupatia ruhusa ili tumwambie Mheshimiwa pia atuheshimu ili na sisi tumheshimu.*

*Mwisho Bwana Mwenyekiti, ningependa kuomba kwamba Press wajue kwamba hata tunapokaa hapa tukizugumza, kwa mfano, ninaposimama nikuzugumza maneno ya ulemavu, sio kwamba sijui mambo mengine. Mimi ni mwanachuo, nazugumza maneno ya walemavu kwa niaba ya walevu, lakini pia nazungumuza maneno ya Kenya kwa niaba ya wananchi wa Kenya.*

*Mwisho kabisa, ningependa kuomba kwamba mashavu yangu yanauchungu, kwa hivyo waache kuyapiga makonde. Asante sana Mwenyekiti.*

**Hon. Delegate Silvester Wafula:** Thank you very much, you can go ahead 596.

**Hon. Delegate Hezron Nyerere:** *Mimi namba yangu ni 596 naitwa Hezron Nyerere. Today I will try to speak in English because I have been speaking in Kiswahili and I have been ignored for a long time. Since I came to this Conference I have been using Kiswahili and Kiswahili is our national language and they said in this Conference we can either speak Kiswahili or English, but whenever I speak Kiswahili the Press all the time ignores me. In Bomas when a Delegate speaks in Kiswahili he/she is ignored. Citizen television and radio in this country, (I think as a Delegate), is serving a clique in their propaganda and neglecting the majority voices at Bomas.*

On Nation, KTN and Citizen television channels, they only take two minutes when giving a report on Bomas, while they take three to four hours reporting on Goldenburg. I wonder what is important in this country, is it Goldenburg where money has been stolen and lost in the wilderness or is it the Constitution that we are making, that will make the country recover what it has lost since independence? I do not know what is important since Goldenburg is covered in the Media for fours while our Constitution making is only reported for three to four minutes.

The next one, the Kenyan Media is spending a lot of time serving the foreign countries and spending less time serving this nation and Kenya cannot grow while the Media's interest is not in this country. We better focus on the nation building rather than focusing on CNN, Sky News and all those. Thank you.

**Hon. Delegate Sylvester Wafula:** We are running short of time and I can see some honourable Delegates are now walking out. If you have a chance to contribute please limit it to even a minute. Let me pick two here, I will come back. I am picking 388 and 333, but I have noted others, I will come back to you.

**Hon. Delegate Sammy Naibei:** Thank you Chairman, my names are Sammy Naibei Chemwey, a District Delegate from Mr. Elgon. Mr. Chairman, this particular event could not have come at a better time than today and I do want to congratulate you for putting this event for this hour and this particular time. I say so because, today happens to coincidentally fit in with the programme that is going on in Parliament and which they are calling a "*Kamukunji*". At this particular moment it would have made a lot of sense seeing that the organ of the National Constitutional Conference brings us together with Members of Parliament and such a "*Kamukunji*" would have made more sense if we were all gathered here and informally discuss about a very important issue in the Constitution of Kenya because this is where the Constitution is being made. I am wondering and appealing through the Members of the Forth Estate that the Members of Parliament are part and parcel of this process in Bomas. And when they elect to go and hold a meeting outside Bomas, when Parliament is prorogued, I am wondering what are they actually doing? This is because the Speaker and all those members are sworn right in front of us to be part and parcel of this process and then they choose to take themselves out of this process and go and hold a meeting outside. Is it because they continue to believe, that we cannot understand

what the Constitution making is all about? I would want to appeal that at this moment, in this National Constitution Conference when we have elected to choose a forum, even for consensus building, in which we are endeavoring to extend a hand of welcome to those who of their own volition decided to walk out of this Conference and decided to make expressions outside so that they could come on board. It would have made more sense for them to extend an equally good will and come back and make their presentations among these members and therefore, I am hoping that the members of the Forth Estate will highlight that a particular part of the Delegates have chosen to go out in this history making event to chose to be out there in order to fight what Kenyans wanted them to do. It is important, therefore, to put on record that Bomas is the right place for making the Constitution and if any changes have to be made, this is the place to suggest those changes, this is the place to ratify those changes and this is the place for all us to agree for a way forward for all Kenyans. Thank you Mr. Chairman.

**Hon. Delegate Sylvester Wafula:** Thank you. One minute please, one minute because very many people want to contribute. It is 333, isn't?

**Hon. Delegate Emmy Kipsoi:** Thank you Mr. Chairman Emmy Kipsoi, Delegate number 333 from Uasin Gishu. I want to echo what my fellow Delegates have said, first to thank the Media Advisory Committee for this forum because we have never had a chance to talk to the Press. We have been served poorly by the Press in their coverage and we have been put to task many a times to explain ourselves to the people who we represent, because sometimes they misinform and give wrong news, what is not true. Sometimes you are put to task to really explain what actually goes on in Bomas and I think when we move towards the last and most crucial stage of this Conference, let us get enough air time because this is the only place where the Constitution is being made and let us not just focus on the side shows. Let us consider the issues that are actually being passed, things that will affect the nation.

I want to say what one of the presenters said, the airtime given to the Goldenburg and what we get here, what we get here in Bomas is sideshows but the coverage that the Goldenburg Inquiry is given more coverage, as the presenter has said. If when we get to the last stage we are given enough airtime, I do not think as Delegates we will have trouble explaining and qualifying ourselves as credible qualified Delegates to this Conference because we have many competent

people here, but nobody has ever bothered to find out, what is the view of a District Delegate, for instance, on a particular issue. The Media would rush towards a controversial Member of Parliament or an activist. But nobody will find out, for instance, Emmy, “what do you think of this thing”, nobody knows me in this Conference because maybe I do not appear in the Newspapers. But I think if the media took trouble to find out who is who, and give a balanced view on a particular issue that is the headline of the day, we maybe informing the nation, because you as the Media have one duty, to sell, but you also have an important issue to this nation, to inform. Who will inform the nation if you do not do it? Thank you Mr. Chairman.

**Hon. Delegate Sylvester Wafula:** Thank you. After 381, I will go to 393. We will come back to you.

**Hon. Delegate Rita Ombito Katamu:** Thank you Chair. I am 381, Rita Katamu, from Butere Mumias. Sincerely speaking I want to appreciate the work the Media has done today and I think today we are reconciling the Media and the Delegates. I understand what role and power the Media has and by bad luck it has appeared to me that you have used those powers the best way you can to finish me as a District Delegate. It has been my prayer that God intervenes between the Media and Delegates, so that we work together and we tell the public the truth. It is my wish that we rebuild our relationship for the success of this historic process. I propose that now you have realized the importance of us as Delegates, although very late, it is not too late for the Media to clear our image in the public. Whenever we go home we are asked questions, what are you doing in Bomas, read here, read there, I heard this? So please clear our image because we are landing back on a very bad note.

The critical bit remaining should be well covered to relax the hearts of our Kenyans who are yearning for the new Constitution. In our Consensus Building, we actually have a Consensus Building team, which has never ever been covered and they are doing a very crucial thing.

Therefore we ask that you take care of this Process. I want to talk about myself as a woman. Women in this Conference have really been neglected by the Media, and you understand very well the role women have always played. They have never been covered, infact if anything they

will cover you when you are making noise, when you are doing something which is negative. Please let us agree, stand together and work for the well being of the process. Thank you.

**Hon. Delegate Sylvester Wafula:** I am advised--

**Hon. Delegate Roseline Barasa Ashepete:** Honourable Chair.

**Hon. Delegate Sylvester Wafula:** I am advised --

**Hon. Delegate Roseline Barasa Ashepete:** I hope you gave me the chance. 393.

**Hon. Delegate Sylvester Wafula:** Okay go ahead.

**An Hon. Delegate:** You are forgetting us.

**Hon. Delegate Roseline Barasa Ashepete:** I am Delegate 393, Ashepete Barasa Roseline from Teso. I would want to thank the first presenters who gave the first over-view and also a very eloquent presentation of the Media from Honourable Mike Oliewo. And for the Media fraternity I want to say we love you but remember you are the link between us, Kenya and the rest of the world. You have done your best, we so much appreciate, but what is it that has been put in the Media that you only want to cover things that are very negative, things that are stormy, things that are icy, things that are contradictory to the people of the Nation, instead of covering the real truth?

What makes you catch only negative things instead of positive things? Why do you favour certain personalities and give them more time instead of giving all the people the right perspective of what is happening in Bomas? Is it the “Animal Farm”, that some animals are more equal than others? What makes the Media want us to live a life that we have lived for the last 40 years where you are told, “kaeni hivyo hivyo”?

Another thing I wanted to say is that, remember whatever is reported in the Media is taken as wholesome truth by the people in the rural areas. It is never a lie for a person who lives in the village and sorry for Citizen, you have done us a lot of harm. (*Clapping*).

So we want to say whatever is given out here especially by District Delegates maybe covered. For the first time in history learn to say the truth and do not give your own views, or the way you perceive things to be. Do not make us look like very ditched pigs, we are people like you, you are our brothers and sisters. For example when you were reporting about issues that had been passed by the Technical Working Committees, we were not pleased, because you could have told the public that what has been passed by the Technical Committees shall have to be ratified by the Plenary and the Committee of the whole then that could have been more presentable of the truth. So let history not remind us of the bad things we have gone through, and say the truth at all times because it shall save this Nation from the acrimony, from the suffering, from the wrong perspectives they have got about Bomas. Say the truth and God will bless you. Thank you.

**Hon. Delegate Sylvester Wafula:** May I, as a believer in democracy, put this question to you Honourable Delegates?

**Hon. Delegate Mwalimu Digore Kitambi:** Point of order Mr. Chairman.

**Hon. Delegate Sylvester Wafula:** There is a Point of Order, after which I will put a question to you Delegates.

**Hon. Delegate Mwalimu Kitambi Digore:** Thank you Mr. Chairman. My number is 231 Mwalimu Kitambi Digore from Kwale District. Mr. Chairman I have raised on a Point of Order because I am concerned. I have read the Standard today and on page two of that paper Mr. Chairman it is alleged that Honourable Paul Muite who is a Honourable Delegate at this Conference and also the Chairman of the Parliamentary Select Committee, with his PAC, if what is repeated is right Mr. Chairman, they are opening the gate or the doors for Parliament to go and look into the content of what we are going to produce here and actually have the powers to debate, amend, remove or include. Mr. Chairman, now I wish to say this and I hope that the Media is going to report it very clearly.

Mr. Chairman we know that Parliament is meeting today for a *kamukunji*, and I hope that --

**Hon. Delegate Sylvester Wafula:** I have got your Point of Order and what it is amounting to now is a contribution.

**Hon. Delegate Mwalimu Kitambi Digore:** Mr. Chairman, just hold on. I am on a Point of Order because what we are discussing on the Media is not what I am raising Mr. Chairman.

**Hon. Delegate Sylvester Wafula:** You have made your point clear.

**Hon. Delegate Mwalimu Kitambi Digore:** Mr. Chairman I have not made my point. The point I want to make is this, just listen. That Kenyans have no confidence in Parliament to re-write a Constitution! This is my Point of Order, Mr. Chairman! (*Applause*). That Kenyans did not trust Parliament to re-write a new Constitution. Kenyans only want Parliament to amend certain laws, small laws, not to re-write a whole Constitution. And if they are opening that door Mr. Chairman that is to say they are going to re-write a new Constitution for Kenya. That is not the role of Parliament.

Mr. Chairman just hold on. Mr. Chairman Kenyans said they wanted a new Constitution, which was going to look into the Parliament itself, to review the role of Parliament in this Country. Parliament who is going to be reviewed at Bomas, Parliament cannot have the power to review itself and we are reviewing the role of Parliament here at Bomas! (*Applause*). Mr. Chairman Parliament cannot review its role in this Country. Mr. Chairman, Bomas is greater than Parliament and Bomas is greater than the Presidency that is why Bomas is reviewing the Presidency! (*Clapping*). Constitution making is not a small thing. It cannot be left to Parliament, it cannot be left to the Presidency, it cannot be left to any individual organ Mr. Chairman. That is why we all come here. Mr. Chairman, that point should be very clear. Infact if anything that message should go to wherever they are at *kamukunji* to tell them Kenyans have no confidence in them writing a new Constitution. (*Clapping*). Thank you Mr. Chairman.

**Hon. Delegate Sylvester Wafula:** Honourable Delegate, your Point of Order is really taken and I want now to put a question to you. We were supposed to go for tea. Do we adjourn and go for tea?

**Hon. Delegates:** *(Mixed response.)*

**Hon. Delegate Sylvester Wafula:** As many as are of that opinion say “**AYE**”.

**Hon. Delegates:** “**AYE**”.

**Hon. Delegate Sylvester Wafula:** I think that is the (?)

**Meeting adjourned for Tea Break at 11.15am.**

**TEA BREAK**

**Session reconvened at 11.55 a.m.**

## **SESSION 2**

**Chair - Mrs. Rose Lukalo Owino**

**Presenter - Mr. Herman Igambi – Citizen TV and Radio**

**Subject - Difficulties and Hurdles to effective coverage of the NCC**

**Presenter - Mr. Wilfred Kiboro – Nation Media**

**Subject - Media, Politics and the People’s Agenda**

**Presenter - Mr. Macharia Gaitho – Nation Media**

**Subject - Misreporting, Disinformation and Subjective Report – What are the Mechanisms for Redress?**



**Hon. Delegate Sylvester Wafula:** Honourable Delegates I would request that we bring this meeting to order. Honourable Delegates it is high time we started. Let us settle down to business. *(Mic failure)* we have about ten minutes to finish this session. I have been advised that some of the questions that may be raised by you could still be asked during the next session. So at this juncture I will only allow about three people. I had put here the numbers, 435, 390. Can we start with 435?

**Hon. Delegate John Katumanga:** Mr. Chairman I would like to thank you most sincerely. My name is John Katumanga, Delegate number 435. Mr. Chairman, if you listened very carefully in the morning the Delegates were justified in getting angry and I am happy that now we have Mr. Kiboro here. Actually the people we were addressing ourselves to were merely soldiers, the generals are not here, the brigadiers are not here and I am happy that he represents them. And he can tell you how we have been very generous in the Articles to give the media freedom to be able to express themselves without censorship.

Mr. Chairman, like all of us have wondered, this Conference has the best brains in this Country. We have professors here, we have all kind of people, doctors, people in the army, and some other people who have held very important positions in this country and when they talk they know what they are talking about. Mr. Chairman, when we were at school we were taught to respect older people and Mr. Chairman like it has been said we all swore that without prejudice we would do our work here. And I would like to thank the presenters in the morning and above all our Chairman who has been fighting a lone war but he should know we are behind him. *(Clapping)*.

I also want to say Mr. Chairman, let nobody take this thing lightly, because it can get out of hand like it did in Haiti. When the people of a country decide to do something, and we give chance to a few people to manipulate it, they must know one thing is that we do not learn from history but history cannot be changed and we want to caution them. We want to caution them because we are here because of an Act of Parliament. Those people were in Parliament, some were there, we started Bomas I, II, they were there, and the excuse they want to use is not good. But the Press, who are my friends, helped us fight a war as teachers. The Press can also destroy a Country particularly if wrong information goes to the public. It can incite and destroy the faith the

Country has in the institution of government. So, the Press should not articulate the ideas of a man, but the ideas of this Country and our aspirations.

Mr. Chairman, I want to tell the Delegates this; any time someone abuses you, you know he has reached the summit of his thinking and his reasoning, and so there is nothing he can offer except to abuse you. You are too dignified to fall into that trap. Let us do our work diligently, let us finish our work as we were sent here to do. It does not matter what the other people are thinking about us.

The danger Mr. Chairman, if we are drawn into this kind of thing, is they know what they are doing and we know the Press is like when you pay dowry. The person with the highest price wins. Let us not allow ourselves to be abusive to those who are abusing us. But let us tell our Members of Parliament that we are watching. We are here, we are watching, we came from all parts of this Republic, we can also fight in a different way. (*Clapping*).

Mr. Chairman, finally when you see bee, which are very hostile you know there is sweet honey. This thing is like honey. Some lady has just told me when you fish, the fish looks at you, as you cook it it is looking at you, as you eat it it is looking at you, and that it means that fish is saying we were all created equal and one day you will be eaten like you are eating me. We want to tell the Members of Parliament we are here and, they are Delegates. I do not see why the Parliament should be on when it should be on recess to be doing work here, and if they go and plan anything that is against this Conference, we are still here. We can also show them that on behalf of those who sent us here we can also resist. Thank you very much. (*Clapping*).

**Hon. Delegate Sylvester Wafula:** So, just one more, that is 411.

**Hon. Delegate Teresa Usunga Ogutu:** Yes this is Delegate 411, Mary Teresa Usunga. Thank you Mr. Chairman. It is very funny especially when we think about this statement, which was given to us by one of the presenters; that there was a certain clique of people who referred to the Delegates as fishermen, I do not know, country folks who had come to write a Constitution. What I can say here is that we are like baby Jesus. I am giving you a story about Christmas, where Jesus had been born and Herod was afraid of Jesus. Now the Parliamentarians are

behaving like Herod who was afraid of baby Jesus. (*Clapping*). How can a big person be afraid of a baby? Infact the best thing we can do is to deliver this baby. Instead of being afraid of this baby we should deliver this baby and the Parliamentarians should help us to do so, with the best midwifery possible.

Another thing I can see is that the Press should try and show the Parliamentarians that they need to be here and that they need to come and be with us here and whatever we shall produce here shall be more legitimate than what they can produce away from here.

Just as our friends had said, this story of “Animal Farm” is very, very important here, because we do not want history to repeat itself. We find that there were commandments, which were made, there were the Ten Commandments yes. We are aware that God also gave us the Decalogue, but now we are also writing the National Decalogue and while we are making the ten legitimate commandments there should be no people to make an illegitimate ten commandments for example saying, “that all animals are equal but others are more equal than others, that you should not kill but you can kill without a cause”. Surely that is very bad and that “two legs are good but four legs are better”. I really wonder.

So generally we should be able to know that whatever we are doing is legitimate and the Press please help us to do so. Another thing is that I really thank the Press, they have really covered us if not me very much, at times adequately. What I want them to know is that they should not be misused. Thank you.

**Hon. Delegate Sylvester Wafula:** I sincerely apologise, Delegate 390 I had ticked your name. I thought you had already spoken, maybe I will give you a chance. 390.

**Hon. Delegate Kellen Wavomba:** Thank you Mr. Chairman. I would like to make my presentation and maybe respond partially to what my colleagues have said. I happen to be in the Executive Technical Committee, which you know is a Committee that has been of great interest to most of the people and especially the citizens outside here. Mr. Chairman I would want to say that in our Committee the Press covered us but not as we expected. This is because I tend to feel

that they were few and they would go round other tents, then come back and ask a colleague whom we had left there what we had said and that led to misreporting Mr. Chairman.

Another thing was about the contentious issues. Mr. Chairman for example we had an issue on the removal of the President where we talked of two thirds and the Press simply said it was a mere two thirds. I thought that was a misinterpretation. Two thirds is not a mere two thirds Mr. Chairman, and therefore I thought that was very damaging especially to our Committee. They also got raw material to give to *wananchi*, especially before we voted on an issue we would realize that issue was on the papers and you would get calls from all over, asking what we are doing in Bomas and why we are doing such a thing.

For example, Mr. Chairman it was just last week when we had an issue on the recall of Councilors. I think the Technical Committee working on that had not yet reached the solution, but it was already on the papers and we were receiving calls from as far as Bungoma, asking what we were doing here and why we had given a lee-way for the recall of Councilors and we were fighting to retain the MPs. Mr. Chairman I felt that was misreporting.

On the side of the MPs Mr. Chairman, I feel that they are the representatives of the people and that they should be here and that they should support Bomas, although the Press has given them a lot of coverage to show that they are against Bomas and that they are not supporting us.

Honourable Koigi was championing the issue of the new Constitution last time. I was surprised when he changed his goals and that he is no longer supporting the *Katiba* issue. Mr. Chairman, he was a good representative of the people, I am surprised. And I would like the Media, if possible not to cover him as much as they are doing now because they are giving him a lot of coverage and he has become popular in scuttling this process. Mr. Chairman *Waswahili husema, "akili ni nywele na kila mtu Ana zake". Nashangaa kwamba Mheshimiwa Koigi aliponyoa zake alipata hata upungufu wa akili, lakini hata hivyo hatumulaumu.* Thank you Mr. Chair. (**Laughter and Clapping**)

**Hon. Delegate Ail Dubat:** Thank you Mr. Chair, my name is Dubat Ali.

**Hon. Delegate Sylvester Wafula:** Wait, hold on. Where is that voice coming from?

**Hon. Delegate Dubat Ali:** Mr. Chairman, thank you very much--

**Hon. Delegate Sylvester Wafula:** No, sorry-- (*Laughter*). I have not given you permission to talk.

**Hon. Delegate Dubat Ali:** I do not want to be defiant, Mr. Chairman, but I think you should allow me--

**Hon. Delegate Sylvester Wafula:** I will give you a chance to talk. I have actually gone past my period as a Chairman and it is you Delegates who are putting a ceiling on the duration of a President, I do not see why mine should be extended. I will just use my veto powers for now and allow 323 and 304 just to-- I see that most of the issues that you have will be covered under understanding the role of the Media on NCC, and these are the same, same issues, I am sure you can raise your points when we have the next Chairperson. Can we agree so that now these presenters respond to your questions and we conclude this Session?

**Hon. Delegates:** No, (*Murmurs*).

**Hon. Delegate Sylvester Wafula:** Please. Because whatever you are going to raise can still be raised under the issues, under these headings that we are going to have in the next Session. It will be my plea to you Delegates to be understanding. 304 and 323 will be given a chance by the Chairperson who is going to take over from me.

Now, I would like to give this opportunity to Mike to respond before I allow our Chairlady of MAC to give a response.

**Hon. Delegate Rose Lukalo Owino (MAC Chair):** Thank you, Bwana Chair. We had actually agreed between ourselves that I would start and so I will take the liberty of doing that. I would like to thank you all for your very provocative interjections and just to start by saying I feel a little bit uneasy on the part of the Media who are sitting in the gallery and are unable to defend

themselves. When I started I said this is not a session to apportion blame because if we look at our own behaviour as Delegates, we cannot say we are completely blameless in how coverage of the Media has played out.

Having said that, I also need to say that this is not a process like any other, we do not expect the Media to treat it like event coverage of another meeting down the road and I am not saying that they are treating it that way at all. This is a historic meeting, I think it is reflected in the fact that we have very senior journalists here with us on a daily basis, they are here from morning to evening; I have worked in the Media and I can tell you it is not very often that journalists are released for that length of time. Usually we are sent to a place two-three hours back, get another job done. So, I think we need to appreciate the effort that is going in there and to appreciate there is some commitment within the Media. So what we are asking for is an extension of what the Media is currently doing. There was a mention earlier that Goldenberg is getting a lot of coverage, it is an important case but not more important than the legislation that we are trying to craft here.

On behalf of the Media Advisory Committee, I want to say that we do not have control on how the Media works. Our role is specifically to advise the Steering Committee to advise the Conference on where we need to interject. As per our rules and regulations, the spokesperson for the Conference is the Chair of the Conference, Professor Yash Pal Ghai and we have worked with him. However, we have taken the concern that was shed here that other Delegates are not being covered. At the beginning we thought that the Media would spontaneously look for diverse views. It did not happen. We began to look at that more aggressively and we have created a database of Delegates who are in the different Technical Committees, that database was created by the Technical Committees themselves, we did not handpick anybody, we asked you to select people who could represent your positions and we have that list, it had been circulated to every single Media House by last week. We are in communication with the Senior Editors to encourage them to use that and it has phone numbers and contacts of the Delegates listed. So they do not have to come through the Media Committee, they can call you directly and you will respond, we ask you to mention that you are speaking as a Delegate and not for the Conference just to avoid confusion.

Other areas the Media has supported us, they have given us a lot of airtime, well, I shouldn't say a lot, they have given us some airtime on some of their key programmes, the discussion programmes, the news hours and weekend programming but again they have tended to ask for very specific people. I need to just advise you, when they call us and say we have this programme, they usually tell us, specifically we want to speak to so and so and it is their right, it is their prerogative; but we have them here with us today and I am sure that they are hearing what we have to say and to encourage them to speak to other people and to include the diversity that is Kenya in the coverage of the Conference.

In ending, I would like to say that it is not always very strategic to hit out at those hitting us. I heard a lot of anger that the Media is giving undue coverage to those who would abuse us, who would disparage us; as a Media person, I can tell you it is not always the strategy to hit back and we have used it, the issue of issuing statements from the Conference has come up many, many times at the Steering Committee. We have discussed it and felt we can make our point by continuing with our work. But I think that is paying dividends, if you look at the coverage and for me looking at the coverage is not only reading what the people who call us names said, when you look at the letters to the Editor, the responses, the phone-in programmes, even the commentaries by journalists themselves, when we started, it was all Bomas bashing, they were all bashing us. If you look at it today, it is very different. We shouldn't underestimate that sometimes it pays just to continue with the work. Sometimes we hit back, sometimes we clarify, Professor Ghai made a very good clarification of Section 47 yesterday and I think there are others among us who are ready to do that as well but sometimes just by doing what we came here to do, the Media are not blind, they can see, they can see--

*(Consultations at the "high" table)*

**Hon. Delegate Rose Lukalo Owino (MAC Chair):** Okay, I was about to conclude anyway, so, if we are serious about our work the Media says that there was a poll on one of the television stations yesterday and Kenyans used their own money to call in and vote, whether Bomas should continue. That poll said that more than 75% said it should continue. *(Clapping)*. We are winning, it may not show in the headlines but we need to make sure it shows on the ground. Thank you.

**Hon. Delegate Mike Oliewo (MAK member):** Thank you, Chair. My response will be slightly briefer and for good reason. Chair if I had been in charge of today's programme, perhaps I would have displayed all the Media Managers here so that they just--

*(Consultations at the "high" table).*

**Hon. Delegate Mike Oliewo (MAK member):** First and foremost I think Bomas stands out in a big way for the degree of honesty and sincerity and forthrightness. If anybody was listening to the views expressed from the floor this morning, that person would leave here in no doubt that he or she has been addressed directly. The reason why the Media Advisory Committee thought of this day for purposes of a Media Event was to allow free ventilation of views from Honourable Delegates to the Media directly and I am so happy personally and on behalf of the Media Advisory Committee that this was delivered directly. I saw the Press gallery was full and it still is full up there and they heard you speak to them directly, they heard you tell them that one of your greatest problems with them is that you think they are captives of class interest and I found that very amusing. Ladies and gentlemen, they heard you when you said they have ignored "Wanjiku" at Bomas and covered the big men; they heard you and I am so glad they were all here. I can congratulate you on that.

I heard Mr. Mathenge talk about news in terms of sensational news. The Media Managers are here and the journalist are here; they will tell you there are two types of News, Sensational News and Sensationalized News. I do not know which one you would prefer but they always have the last say on that. Chairman, what I have heard here today is that the Delegates wanted to address issues for purposes of the continuity of this Nation and they want to continue working together with the Media as partners in progress. I think that is what I got from here. The Delegates appreciate the role of the Media so much, so that they are not reluctant to express themselves directly to you. The caliber of Delegates here is so high, is so high (*Clapping*), that it includes even fishermen like I and I believe there is no expert in the life of a fisherman other than the fisherman himself. (*Clapping*). And we have also got professors, doctors and Bishops here and that is what makes Bomas a very interesting venue. When Bomas is under attack, they attack it because they know it is a powerful organ, it is the sovereign expression of the people's will.



Ladies and gentlemen, I said my comment would be brief and I would urge you to continue sitting here till the end of the Media Event day so that we can ventilate these views more accurately and more openly. Thank you. *(Clapping)*.

**Hon. Delegate Sylvester Wafula:** Thank you so much. I think Delegates that makes the end of this Session and you have heard it all, you have participated, the Media have listened to you, like you listen to church Ministers when you are in church. Everything actually depends on you, we are soon starting the Plenary and I should advise you that it is like a football game, we are entering injury time and you are winning, I can assure you we are winning. The coach always gives an advise to the winning team – do not result to delaying tactics, avoid incidents that may necessitate a biased referee flushing out a red card. That is my advise and on that note, I thank you very much for giving me this chance to chair this Session. God bless. *(Clapping)*.

**Hon. Delegate Rose Lukalo Owino ( MAC Chair):** I will be chairing the next Session, co-chairing actually with Mr. Oliewo here. Without wasting any time I would like to first apologize to the Chief Executive Officer of Nation Newspapers, Mr. Kiboro for delaying him and to thank him for being here and invite him immediately to address us. He will be talking about Media Politics and the People’s Agenda. Welcome. *(Clapping)*.

**Hon. Delegate Wilfred Kiboro (Nation Media):** Thank you, Madam Chair. I think let me start by apologizing because I think there was a bit of miscommunication because I was told – I think the information reaching my office was that I was supposed to come and listen to what the Delegates had to say with respect to the Media and I came here to listen rather than to address this distinguished gathering, but when I got here just fifteen minutes ago, I was told no, no, no, you are supposed to be talking about Media Politics and People’s Agenda. So, forgive me if I feel a bit ambushed by this but I will do the best. I think I cannot shy away from my responsibility particularly in my capacity as the Chairman of the Media Owners Association, so I carry the sins of all my colleagues in the Media fraternity.

I think Madam Chair, I am very happy and glad to see that the Delegates are taking a lot of interest in the role of the Media in this Constitutional Review Process and I am also aware particularly of things coming out through the Steering Committee about the concern that has

been expressed at various times on the way the Media has reported on the proceedings of this Conference. I think the main complaint has been that the Media has been concentrating more in reporting of the negatives than on the positives. But before I get to that and maybe as a way of trying to explain what are the dynamics going on there, I think it would be useful if I could make an attempt to try to explain what the role of the Media is in general and how I see the role of the Media in this particular exercise.

I think generally speaking the role of the media is to inform, educate and entertain. So, basically if I take them in the reverse order, there is a need for entertainment and I think this Bomas has provided a lot of entertainment particularly on the television and I think this is one aspect that I think Honourable Delegates forget. That as part of the entertainment in the theatre that this is Bomas, they have provided a lot of footage on this, although that was not really the key reason why we are here but I think at the back of our mind when we are dealing with the Media, let us not forget ever that it is their role to entertain the people because after all they are running a commercial enterprise and people will watch television and listen to the radio, not so much to be educated but in addition to being educated and informed is also to be entertained. So, part of that you need to understand it within that context.

When I talk about the Media here, I will be talking about the Print Media, I will be talking about the Electronic Media which includes both radio, television as well as the internet because all these Media outlets or Media platforms do play a role in one way or the other. I think the issue I was asked to talk about here is whether or not the Media has discharged its role properly in the whole of the deliberations and the proceedings of this Conference; and I would just like to say that for the Media to be able to discharge its role, it needs to do a number of things. First of all some of the interactives for the Media to play its role properly, I think first the Media needs to be free. Free from government intervention, free from partisan interest, free from political manipulation, free from religious interventions, free from business interest or any other interest of that matter. In other words, the media needs to be completely independent to discharge its role properly. When I talk about these various forces that the Media faces, the Media does face a lot of pressure from all these groups I have talked about, political interest, religious interest, government interest, and even Delegates interest. So, first and foremost we need to create an environment where the Media can discharge its role in a free environment.

Secondly, the Media itself needs to be properly informed about the issues that are under discussion and I think many of you who have either participated in the various Technical Committees will understand that the issues that are being discussed at various forums are highly complex and very complicated and yet we forget that journalists just by virtue of going to a university and getting a degree probably what they did in university is a degree in English Literature and then on to become journalists. I think we have maybe an unusual expectation that the journalists are a jack of all trades. If we are talking about Constitutional issues, the journalists do not have particular expertise in matters of Constitution making and therefore part of the responsibility and I say this within the context of saying, if we are talking about issues of Devolution, if we are talking about Transitional issues, if we are talking about matters of Executive and so on, I think we have an unusual expectation that the journalists will be able to interpret this for all of us in a manner that makes sense but forgetting that they themselves need to be informed. So, part of the problems that we face is that the journalists themselves need to be informed properly to be able to make intelligent interpretation and reporting on issues that are being discussed in a forum such as this which is highly complex.

The third thing that the journalists need to do or another imperative for the journalist to discharge their role properly is to have reasonable access to information and also information packaged in a manner that makes it easy for the journalists to be able to assimilate it and to be able to put it within their various media platforms in a manner that makes sense, and this is not always the case. If you look at for instance when we have 13 different Technical Committees all going and speaking the whole day from morning till evening and you expect the journalist to be able to cover each and everything that happens in the Technical Committees, it is not going to happen for two reasons. One, these journalists have other assignments other than Bomas, and let us not assume that the only thing that is happening in Kenya today is what is happening in Bomas; Bomas is just one event that is happening. The journalists have assignments to go and cover, like if you look at what is happening today, the Parliamentarians have their *Kamukunji* and we cannot sit here and ignore what is happening down town when Members of Parliament are meeting to discuss about issues happening in Bomas and our journalists have a responsibility to go and cover that event. So, essentially, therefore, they need to have reasonable access to information and therefore for instance in the Technical Committees work, it is the work and the

job or the Conference organizers to ensure that they can get all the information and give it to the journalists in a manner that makes it easy to process that information so that it can find its way into the various media platforms.

Fourthly, the journalists themselves need to be professional, I think they need to be ethical, I think in their responsibility they need to be fair, they need to have some balance in the way they report, they need to be objective, they also need to be impartial and unbiased. The question is, are they doing this? And I think that is a question that I think each of us has probably a different interpretation; but for that to happen, some certain imperatives are also necessary for this to happen and I must say that when you look at the Constitutional Review Process, by its very nature, it is a highly political process, it is a process that brings people with different interests and let us not kid ourselves here, there are so many interest groups here, everybody here represents some interest group or the other, whether I represent the Media, somebody represents Religious Organizations, somebody represents Political Parties, somebody represents the Government, somebody represents the nomadic tribes, and so on and so on. So, here we are trying to define our role in terms of competing interests and this competition of the various interests is being played within the arena of the Media because the various people whether they be politicians or the government and so on, they are trying to articulate their view points through the media and this is why I think within that context, it is very important to understand how the Media operates because if you do not know how the Media operates, you will just be left behind and will be complaining, oh the other group is having the upper hand on me.

Right now I think the discussion that is going on is the question of what is going on in Parliament. The Parliament it would appear wants to take the role of what is going to happen here, they want to be able to have the power to deal with the Constitution, to amend it, to be able to amend the Draft here and so on. This is a highly political action but then how do the Delegates here react to a move like that by Parliament? How do they react to that? I am sure whatever their reaction is, it is going to get into the public domain, it is going to get into the public arena and it is articulated in a manner that their view point is clearly understood.

In the context of the Constitutional Review Process, how has, therefore, the Media performed in all these? In terms of the informing the people, in terms of educating the people, in terms of

helping to set the Agenda of the people, in terms of influencing the public opinion, in terms of helping to resolve the various issues and contentious issues that are there; because as we come towards the end of this Conference, there are a number of contentious issues. Is the media actually playing a positive role to have those issues resolved or are they actually adding to the confusion that is there in terms of resolving those issues? And I think I will go back to saying that, if the expectation of the Delegates and the Kenyans at large is that the Media will provide, maybe the vision of the leadership to be able to tell us what these issues are all about, what are the pros and cons of the various debates here because I think within this Conference we have had, let us take the Executive, people divided between an Executive President and an Executive Prime Minister or whatever it is. Is the Media doing enough to tell us what are the pitfalls of having an executive President, the pitfalls of having an Executive Prime Minister, or the pitfalls of having the power shared between the two. What are the pros and cons of it so that we can all read about it, we can think about it and make an informed decision because that is what we expect the Media to do. And we are doing that, and I am saying they can only do that if they know and understand about those issues. Do they understand those issues? And if they do not understand those issues because we have to report about this particular process what sort of ideas that find themselves in our pages? And I will suggest that the ideas that find themselves in our pages are mainly ideas emanating from various interest groups who have access to the Media or who take the interests to interact with the Media to push their agenda and the ideas forward. Therefore, my take here is to say, if you want your idea to get into the public domain within the Media, then you have some work to do but you cannot just sit back passively and expect that because you have made a statement in this Plenary, it will be in the headlines tomorrow because it clearly will not.

So, how about some of the bashing I have heard about the Media with respect to how they have behaved here and I think there has been some justification. I think the Media has been accused of bashing these whole Delegates too much, where the negatives have been over dramatized. In terms of the spirited disagreements that have been here, the shouting matches, elements of wrangles. Elements of intolerance among the various Delegates maybe repetitious arguments within the Conference and so on. I think all these have been there but then is this all that really the Media has reported? Because, okay, people will come and say one Member of Parliament was hounded out of the Bomas and thrown out wherever it is and that catches the thing. And I

think we tend to remember only the few things that actually happen that are not very palatable but we also forget that there has been a lot of reporting, a lot of editorials that have been written by the Media with respect to this Conference.

So, basically I do not think that it has all been bad. I do not think that we should be too worried about the apparent wrangles that are going in there because if we do not disagree with one another, then how are we going to find consensus because I think it would be naïve to think that we all think alike, we all share the same ideas, we all see things in the same way, otherwise we would not have been here. I think we need to expect and I think the Media needs to recognize the differences that exist our various interest groups and so on and not necessarily to highlight those as is the beginning and at the end of it all. Even in reporting about the wrangles that definitely have been here, I think perhaps we fail to put them in the context of saying, this is a healthy disagreement and at the end of the day as Kenyans, we will find a solution.

So, I would like end by saying that sometimes in the Media we feel very frustrated because we usually get the stick rather than the carrot. I think every time I come to the Bomas, I always have somebody to tell me how we reported the day before, if it happens to be something that somebody agrees with, I get compliments and get a pat in the back but when it is the other way round, then I get quite a stick but I am not complaining, I think that is just the role of the Media because I think if you run the kind of Media where everybody is happy about what you are doing and noting that the society actually is constituted by very many different kinds of people and interest, there is just no way you can run anything in the Media that is acceptable and is loved by everybody because that will just not happen. I think we need to understand that our role as the Media as the public watchdog is a difficult one. We step on a lot of peoples toes, sometimes we get it wrong or let me say, there are many times when we get things wrong but that is also a reflection of the fact that in the Media, Media is also composed of people who are human and people who have also limitations in terms of understanding about the issues and so on. But I would just like to appeal to the Delegates to say that even as much as sometimes how the Media report is very frustrating, let us not resort to shooting the messenger.

I will also tell you what not to do about the Media. The Media is very powerful in itself and I think we need to understand that the power that the Media wields and so on can be very hurtful and it can be used both for the good or for the bad. But I think if you want to get the best out of

the Media, the way to do it is not to throw tantrums, you know because sometimes you get reported badly and then you throw tantrums and you call them every kind of thing, you call them disloyal, you tell them they are un-patriotic and all the kind of stuff. I do not think that works in the Media because sometimes the way they report they just look at that as added drama and so on. So that does not really work. I think what works with the Media is if you are reported incorrectly or perhaps the point you were trying to make was not understood by the Media, is to actually try to correct it. You correct it in a civilized manner that you correct it in a manner that actually can show the journalist or the Media House exactly where they went wrong and ask for them to make the correction. So, basically that is what I would advise you to do.

So, finally I would say that as we come to the end of the process, we at the Media we see many forces trying to influence the outcome of this process and I think the kind of forces that we are seeing, we see the government definitely, we see the government hand in trying to influence how the final product coming out of here is going look like. We see Parliament also very keen on this one. We see Member of Parliament, we see Religious Organization. We see even other bodies like LSK, FIDA, Political Parties and so on.

So, how do we then manage all these interest because you see everybody is now gone into overdrive because now we are in the last lap and I think everybody, all these competing interest are trying to influence the Media one way or the other because public opinion of course after all matters.

So, I think it needs to perhaps be understood that all these competing interests and the battles are going to be fought through the Media and that is why I think the Media is very, very much central to this whole process. What I would like to advise the Delegates is to really take their time to understand how the Media operates and to see how we can use the Media creatively and well to be able to get the kind of the results that we want. Let us understand how we can capture the Media interest, let us understand how we can create events that can become news worthy. Let us understand how we can make the Media choose the event and the things that we are doing above all the other things that are happening in the country because at any one time, Bomas event is one story. If you look typically at any newspaper in any single day, we probably have a

hundred stories, so how do you ensure that the story of what is happening in Bomas gets the number one and also the page one story?

The other thing we have also to recognize is that there is such thing as Media and viewer fatigue. You cannot have Bomas story on page one of a daily paper on every day because the readers will get tired. You cannot have number one news item on the prime time on the television about Bomas because people get tired but then the challenges, how do you ensure that you can sufficiently capture the interest of the Media to ensure that at least you do not get put in the back banners and the Media moves on to look at other things that are happening in the country side.

I thank the Chair for giving me this opportunity as I said I was ambushed, I was not really prepared but I will be quite happy to answer any questions that you may have. Thank you very much, for your attention. *(Clapping)*

**Hon. Delegate Rose Lukalo Owino:** Thank you, Mr. Kiboro. Many of you know him as a colleague here, as a Delegate and he has very eloquently presented the position of the Media Manager. I would like to beg your indulgence and in view of the time, we took a lot of time with session one. We have another guest here with us, we heard from the Media Manager and I think we would really like to hear from somebody whose job it is to feel to fill those pages on a daily basis. Macharia Gaitho, I do not think the name needs much introduction. He is a columnist with the Nation. He has been writing about Bomas for the past almost one year and he is senior Editor in charge of special projects. Today, he is going to talk about mis-reporting, dis-information and subjective reporting and what are the mechanisms for redress. Without wasting time, let me invite you.

**Mr. Macharia Gaitho:** I want to thank this conference for giving me this opportunity to be part of a very great process in our history. We in the Media have followed what is going on at Bomas and also what has been going on outside Bomas for a pretty long time. I personally have been following developments on the campaign for a new Constitution for ten years and more and now as we are on the last leg, obviously there is a bit of excitement in the air and we all hope that it will not be a wasted effort. I do not know whether it was by coincidence or by design that I am speaking directly after one Mr. Kiboro and what I will say is that I represent my personal views



here and not the views of the Nation Media Group and if I say something that he does not like, I am sure he will not bhang me over the head.

The title I have been given is: *Mis-reporting, Dis-information and Subjective reporting*. What are the mechanisms for redress? When I first saw that, I was quite taken aback. First of all I felt like I have been a victim myself of mis-information because when I was first called by somebody at the Conference Press office to give this talk, I was given a very vague idea of what I am required to talk about. I knew it was something to do about Media coverage of Bomas. All the same, I agreed and when I got a second call to confirm my participation and time, I was told, it is the same thing about the Media coverage of Bomas. When I got the letter detailing what I am to write about and I read, *mis-reporting, dis-information and subjective reporting* and I thought it is not quite the same but all the same, I will give it my best shot but I also thought that whoever came up with that title is somebody who has a bone to pick with the Media. It is somebody who assumes that all the Media does is to misreport, misinform and so on. Maybe, somebody who has had his/her problem with the Media in the past. Maybe somebody who feels that this is the chance for somebody in the Media to be on the firing line for a change but from where I sit, from where I come from and grew up, I do not see the Media as deliberately being out to misinform.

The Media makes mistakes like any other organ. It gets its facts wrong, it sometimes report things which are not correct. There is even a Media which maybe, thrives in misinforming, in sensationalism, in looking into the private lives of people which maybe those people would prefer was not looked into. Well, we are all in the same boat but I think in this country, the Media by and large, is pretty responsible. We do have what you popularly call the gutter press but that is not a situation which is unique to Kenya. I think if you go to the streets of Kampala, New York, Paris, London, anywhere in the world, you will find the gutter press which makes ours very, very tame by comparison.

What I would like is to draw a distinction between deliberate misreporting or deliberate misinformation and honest mistakes. What does one do? I think the easiest thing to do and I would like first of all, when you are dealing with the responsible Media, the easiest thing to do is pick up the phone, call the Editor, explain the side of the story and if you can put up a good case,

more often than not, we are very happy and very obliged to issue a correction, a clarification and apology and so on.

You can take another route, get your lawyers to write a letter and once that is done, then that matter is quite out of our hands because that letter we will not deal with it ourselves but we will simply hand it over to our lawyers to deal with and any clarifications which will come or apologies which will come will obviously not be immediate. If the matter ends up going to court, it will be an even longer process. So, by which time, by the time an apology if it was due does come, probably the issue would have been forgotten in the first place.

In the first few years obviously, you all know that there has been a lot of libel suits against us, against all the Media. It has become quite a business, the libel suits. Sometimes we say that the libel laws are more a threat to us than any repressive government. I think if you back to around 1995, there were libel suits of course but that is when we started getting some very outrageous awards by the courts and that was out of a very deliberate effort by the past government. I think that was about the time they changed the laws so that unlike any other fines which may be imposed by a court, they established minimum damages on minimum fines rather than maximum as is normally the case. Within a few years after that, we started seeing awards of 10 Million, 20 and 30 million. Some people made a career of going to court to sue for libel. They are always very happy when they see themselves in bad light in the Media and they start counting the money they are going to get. I think that trend has carried on, then 2002, we got this infamous Media Bill which again sought to put some very terrible curbs on the Media. We did find it very interesting that the people on the outside with whom we were fighting against that Bill, are now on the inside and they are making much more use of it than the KANU government ever did.

We were told that those Laws were meant to tame what we call the gutter press but those Laws do not talk anything about the gutter press or the alternative press. They talk about the press in general. So they will affect me as much as they will affect, the Citizen Weekly or the Independent but what is saddest is that they restrain the growth of an independent Media and maybe now with the Nation Media Group, the largest in East Africa and so on but I grew up in the Independent Media, a responsible Independent Media. Magazines like the Economic Review, before that there were others, after that there have been others which have tried with

very limited resources to provide alternative viewpoints. They have done sometimes, what groups like the Nation or the Standard cannot do. I recall very well when the struggle for the Multi-Party started in 1990-1991, it was really the Independent Media which carried that battle where what we call the mainstream Media was very cautious about.

Today, somebody wants to start a small newspaper, maybe a regional newspaper, a village newspaper with very limited resources. He is not going to be able to raise a one million shillings security bond. He is not going to be able to distribute because the vendors and the printers and anybody else involved in that chain would not want to touch him because they are not sure whether he has complied with those Laws or not.

One of the things that I would have really have liked to see coming out of this Conference is Constitutional amendments that protect the Media and let it thrive and that open up sources of information as in, for instance, repeal of the Official Secrets Act which I think is a very colonial piece of the Legislation which remains in our books. And the more the Media is free, the more the Media has space, the more professionally it will operate, the less it will be prone to make mistakes and the more opportunity will be given for what we are calling the underground press or the gutter press or the alternative press to grow into the mainstream, to also learn that it pays to operate within certain boundaries, within certain rules and maybe they will be encouraged to subscribe to certain things like the Media Council. I think we have always said that the route to a responsible Media is not through government controls, it is through self-regulation. I think if you saw the papers last week the Media Council is about to get going, it is recruiting staff. It is more than a year since it published its Code of Ethics and Regulations and if we can get the Independent Media to voluntarily subscribe, then we are not going to have the problems we have been having with the gutter press because it is already in their interest. They work under that umbrella and they observe certain rules.

I think that is all I can say at the moment. As for what you can do as an individual who is aggrieved, it is very much up to you. You can chose the friendly way, the legalistic way but well, that is a decision for you to make with your lawyers. But I would prefer the friendly way and then we respond in a friendly way and we will carry corrections very promptly and apologies where necessary. Thank you. *(Clapping)*

**Hon. Delegate Rose Lukalo Owino:** Thank you, Bwana Gaitho. We are into lunchtime. I want to ask Delegates if we can take a few minutes rather than detain our guest here and ask a few sharp questions, direct questions to them if that is okay with Delegates. I am going to ask Mr. Oliewo to conduct the questions and we are going to start from where we left off which was in this lane, in this row here.

**Hon. Delegate Dubat Ali Amey:** Point of order, Madam Chair?

**Hon. Delegate Mike Oliewo:** Yes, point of order Delegate number 252.

**Hon. Delegate Dubat Ali Amey:** My name is Dubat, Delegate number 252. I would like to draw the attention of the Chair that it is our prayer time.

*(Consultations at the “high” table)*

**Hon. Delegate Mike Oliewo:** Honourable Delegate, just a minute. Honourable Dubat, we have heard your concern. We so very much respect our right to religious freedom. We also had just one wish, that our guests are engaged elsewhere in the afternoon and we were thinking that we could give them just a little while. Can you just oblige for a little while Honourable Dubat, have a few questions then—

*(Consultations at the “high” table)*

**Hon. Delegate Mike Oliewo:** Honourable Dubat, do I have your indulgence? Do I have your permission?

**Hon. Delegate Dubat Ali Amey:** No. We cannot compromise on this.

**Hon. Delegate Rose Lukalo Owino:** For your information Honourable Delegates, Honourable Kiboro will have to leave us. This is the only opportunity that he can answer your question although you can interact with him later. Mr. Gaitho has kindly agreed to spare a little time if we come back straightaway from lunch to answer some questions.

**Hon. Delegate Simeon Shitemi:** Point of order.

**Hon. Delegate Mike Oliewo:** Delegate number 545.

**Hon. Delegate Simeon Shitemi:** Mr. Chairman, my name is Simeon Shitemi. I stand on a point of order. If the Chairman, Honourable Dubat wants to go and pray, I plead with him to kindly let him leave quietly and go and pray. I hope he prays for me also and while I have the floor Mr. Chairman, I do plead that this brilliant son of Kenya, Wilfred Kiboro stays for a few minutes so he can handle one or two questions. I have one burning one for him but I stood on a point of order, thank you.

**Hon. Delegate Mike Oliewo:** Thank you very much, Honourable Shitemi. Can we get first from 531?

**Hon. Delegate Mustafa Ali Sheikh:** Thank you Chair. Mustafa Ali are my names, Delegate number 531. I first want to thank the two Speakers for their splendid presentation about the Media and how it works. Also I want to thank all the journalists here, I think they have done a tremendous job to cover this Conference despite all the problems that are going on. We must really-- They spend the whole day with us here and they are doing a great job. Even though we know that we have really got what we want, it is not all the time do you read the newspaper and see that-- or when you smile, you smile all the time.

Journalism is an imperfect profession and journalists also do make mistakes when writing stories and when covering such functions which are highly political as Wilfred Kiboro and others have said before me.

Just to respond to Kiboro's presentation that the freedom of the Press, Media must be independent. I totally agree with him. However, I do not think the media in Kenya is independent and it is going to be very difficult, not just here in Kenya but all over the world. As much as we are seeing great reduction in our Government censorship, but we are going into a different level whereby the corporate censorship is really going high and is muzzling the Press.

For instance, I believe or think *Nation* media can report anything adverse against Kenya Airways or Stanbic Bank or *Standard* for that matter; *KTN* can report something very negative about Coca-cola. Most of these multinationals really have got-- Most of the Media here have become captive to these multinational corporations. It makes it very difficult.

Now, all these negative reporting that we are having, not just here but all over the country, stems from the fact that we do not have simple, clear unambiguous principles which guide or inform our media systems. We used to have the authoritarian system which used to really inform our media system during the past the government. But now we are kind of-- We are neither here nor there we are swaying from liberal to social responsibility but I do hope that this Conference, if it is going to detail principles that will guide the performance of our media system and come up with a proper moral, then it is going to be that of a social responsibility.

Just to-- Macharia Gaiho, talked about the Constitution Amendment that they really hope will come from this Conference, things like Official Secret Act are which have really jeopardized the working of the journalists. Well, it is true that some of these Acts are colonial in nature and we really-- Any self-respecting country in the post-colonial era should still continue to have these Acts. We hope that in the Bill of Rights as it has been, that the freedom of Press is going to be enshrined and all is going to be okay. We will not have not have forever these kind of Acts sneaked through the back door into the Parliament in order to tame the Press. Thank you very much.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you very much, Honourable Mustafa. Let us make our questions and comments very brief. 542, very fast.

**Hon. Delegate Ibrahim Omondi:** Thank you, Chairman. Ibrahim Omondi, 542. (Evangelical Fellowship of Kenya). I really want to appreciate the Media Advisory Committee for doing what you did today and particularly for bringing this nice Media people to talk to us. In following up what Honourable Delegate Kiboro shared earlier on, I would like to say that it would have been good if the Advisory Committee had a foresight into what we could do with Bomas and even prepared some Press briefings in the language that the journalist could understand. Brief Press briefings from every Technical Committee would have really helped to give the image that we

would have preferred, but it is not too late. I think that could still be done. So, if one of your tasks is to do that in the next few days that we are here, it would be wonderful.

The other thing is that-- I mean educating Delegates on the Media, I happen to have that background, I used do the *Beyond* magazine before Moi put us in big trouble. But I thank God that we at least helped bring freedom of expression, so that *Nation* and *Standard* could enjoy it. I would however like to say that educating the Delegates on what really would make news, could also help and I really thank Mr. Kiboro for what you have done today, because really shouting and doing some acrobatic things here do not help at all. But coming up with reasonable and emotional expressions that could make sense, is what the Media looks for, for information, but they take the others for entertainment and we, in Bomas have really been seen more of a circus place for entertainment and I would like to see that image not repeated in the future Bomas Plenary meetings in this place.

Finally, Mr. Chairman, I do not think all is lost. I think the all-open, transparent, honest discussions we had here portrays to Kenyans who we really are. Without editing it, it is raw and that is who we are. Kenyans need to appreciate that Kenyans are doing their own thing without really being-- Without some kind of prescription-- Something being put on us. I mean we are natural. We are honest, we are transparent, we are who we are and I really appreciate. Thank you, Mr. Chairman for your time and for bringing this wonderful people.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you, Delegate. I hope the next Speaker will even be briefer. 545.

**Hon. Delegate Simeon Shitemi:** Thank you, Mr. Chairman. Should I go on?

**Hon. Delegate Mike Oliewo (MAC Member):** Go ahead.

**Hon. Delegate Simeon Shitemi:** My name is Simeon Shitemi, Delegate 545. I stand first of all to compliment all the journalists meeting with us today. Journalists all over the world have done a splendid job in exposing corruption, in exposing bad governance. They have gone on to the fronts of battles, may of them have lost their lives as a result. I salute you. But on the other hand

I am a little worried with the kind of freedom you are demanding or expecting from all of us. What do you want to do with that freedom?

Mohamed, the great Prophet, the founder of Islam once said, “in terms of real value, the ink of a writer is of greater value than the blood of a martyr”. You have power, the power greater than that of the sword and in some cases you have used it badly. I have several examples I could give, but let me ask my question. If – and please my neighbor, do not interrupt me - for one moment you really are the Fourth Estate; the first being the Judiciary, the second; the Legislature and the third; the Executive and you are the fourth. We have spent a lot of time right here talking about checking and balancing the authority we are awarding to those three. We have not spent a lot of time examining how to contain this brave soldier called the Journalist, who at times runs wild and gets out of hand and starts stamping and destroying the lives of many people.

The other day you reported that my President, whom I love and respect, “fell and agonized in pain in his house”. I wondered about that. The following day a statement came out and *Nation* was forced to apologize. What happened? Was that true? How shall we ever get to know what really happened?

My final point, Mr. Chairman, is a request to the journalists present. I spent most of my working life in the Civil Service and diplomatic assignments abroad. The country as a huge external debt; what I want to leave you with as a challenge is, please spend some time, analyze, dig into it, find out, who do we owe money? At one time I was the Director of the Department of External Aid in the Treasury (*bell rings*) and I negotiated for greater Nakuru water project. The Germans won it. Shortly after, I was told, no, give it to the French. The German rate of interest was 0.75%. The rate of interest for the French was 3.5%, repayable in fifteen years. The Germans wanted it repayable in fifty years. That is a debt we entered into that we should never have entered into. Why doesn't a brilliant journalist take time to dig into it? Thank you very much, Chairman.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you very much. I want to point out one thing. I want a lady Delegate to rise. When I reach this section here, I specifically go for lady Delegates, but right now, 590 – very fast.



**Hon. Delegate Patrick Onyango:** Thank you very much, Mr. Chairman. My names are Patrick Onyango, Delegate number 590. I will restrict myself, not to a question, but to an observation between the engagement of the Media from Bomas I, II and now III. I stand to say that I have been monitoring closely, observing closely the body language of us Delegates and the media houses. I stand here on full authority, without fear or favour to report that I have seen change in that engagement from one of contest and conflict to one of the rapprochement and engagement.

I say this because what Mr. Wilfred Kiboro has stated; the role of the Media as a watchdog has worked on some of us. We are now more watchful about our body language; we are now more tolerant towards others. The testimony is there, the heckling, the shouting that you saw in Bomas I faded away as we approached Bomas III. It is not there anymore and Delegates will agree with me, even at the highest point of provocation from politicians, the Delegates have kept their cool. This is what I want to say that we, Delegates, are sensitive to what the Media projects of us. That does not mean that we are going to be cowed by negative reporting.

What I am saying is, we have gained a great deal from the work of the Media and we are hoping together as one, we will move with that spirit as we go to the Committee of the Whole and as we come to the final Plenary to adopt the Constitution of the Republic of Kenya. Thank you.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you, Paddy. 276, you are not a lady, so we will take 273.

**Hon. Delegate Joyce Muriuki:** Thank you Chair. My names are Joyce Kagendo Muriuki, Delegate 273. I will be very, very brief. First of all, I would like to thank the Media and the presenters, but there is something we as Delegates-- I am not going to talk about the past, but I will talk about the present. There is now a problem inside this Bomas and outside. Our process is being hijacked. You as the Media, because this is the day, there is a chorus which says, "this is the day the Lord has made".

This is the day you Media people together with the Delegates, you are going to help us to restore our process back to the track. We want it to be *Wanjiku's* and let it be *Wanjiku's*. Sometimes we are so much disappointed when we see the religious organizations, the religious people taking

the process, when we see the politicians taking over the process and more so, our Parliamentarians taking over the process, even the Government taking over the process. We want you people to help us and today, come out point-blank and say, at Bomas, the Delegates said their process is being hijacked and let us know how we are going to bring it back.

Today at lunchtime you might see them coming back here and more so on Fridays, they will come like flocks to take their allowances. We have never said about their allowances. Every time we talk of Delegates' allowances, those people even send their drivers to come and sign for them, so that they do not miss their allowances. This time round, we want to work as a group, Media people and Delegates. Then we come out with a clear Constitution for Kenyans. Thank you. *(Clapping)*.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you. Now, we are going take one from Political Parties and one from Special Interests. So, Special Interests raise up your hands. 579.

**Hon. Delegate Daniel Rasugu:** This is Daniel Rasugu, 579 (Political Parties). I want to take this opportunity to thank the presenters and particularly Mr. Kiboro for addressing the issue on Media, politics and the people's agenda. I tend to think that the Media and politics pieces were taken on board but I did not see you contribute elaborately on the people's agenda.

Allow me ladies and gentlemen to say that Kenyans have spoken and they have spoken in favour of a people-driven constitution and Kenyans have said that by June, they should be enjoying a new Constitutional dispensation.

Secondly, let me say that a lot of money and time has been spent to date and it does not make any sense or logic, therefore, for people to abstain and arrogate themselves with the Constitutional power to go and review the interpretation of the Constitution in the name of the Parliamentary Select Committee. I am asking one question to Honourable Wilfred Kiboro and the question is this, had I been asked to write a paper on the Media during the Bomas I and Bomas II, I would have chosen a title, "The Role of the Media in Scuttling the Bomas Process". But this time round given the same opportunity, I would say-- I would write a paper on the role of the Media in sustaining the Bomas process. *(Clapping)*.

So, my question to Honourable Kiboro is, in your view what is the role of the Media in sustaining this Bomas process?

I would like to comment (*bell rings*) briefly, one minute Mr. Chair, on the ethics and the packaging of information for consumption. Mr. Kiboro did indicate that sometimes our journalists are not conversant with what we were discussing or debating on and so I propose to CKRC to consider a favourable weekend and invite our journalists take them out for a weekend and get them to know, induct them, so that when they report during the Plenary, they are going to be fairly competent and to the point. (*Clapping*).

Lastly, I know that journalists or rather the Media houses can build and at the same time they can destroy. When one reads what has been reported by the media houses in the past, one would think that these are people who are imported from other parts of the country, from Uganda or so to come and report. I would pray and request them that they have that flow of patriotic blood in their veins and let them report as Kenyans\_ because a good Constitution will favor the development of the Media and journalism in this country. Thank you so much.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you, Speaker. I said I was going to look for Special Interests in this category. Special Interests. We have already dealt with women. Hold on. 286, but first--

**Hon. Delegate Martha Rop:** Point of Order--

**Hon. Delegate Mike Oliewo (MAC Member):** --let us start with the Point of Order.

**Hon. Delegate Martha Rop:** I am Martha Rop. Excuse me, I am 509, somebody gave me a wrong number at the door. *Mimi nataka kuuliza hivi* – I am a woman from the village and I am Delegate 509. *Shida yangu, ningetaka kuambia* Mr. Kiboro *kuhusu mambo ya Media, lakini mmenipita hapa. Wanaume wangapi wameongea? Ni mama mmoja tu pekee ndio amenongea.* Is that not discrimination in Media? So, I was saying, please may talk to Kiboro before he leaves, because mine is a problem in the village--

**Hon. Delegate Mike Oliewo (MAC Member):** 509, thank you, you have made your point. We will come back to you. Quickly 286.

**Hon. Delegate Ireri Ngunia:** Thank you Chair. My name is Isa Ireri Ngunia, Delegate number 286. I want to actually echo--

**Hon. Delegate Mike Oliewo (MAC Member):** Which is the Special Interest Group?

**Hon. Delegate Ireri Ngunia:** Now, I am a District Delegate from Mbeere--

**Hon. Delegate Mike Oliewo (MAC Member):** No, no, then we will not allow you to speak--

**Hon. Delegate Ireri Ngunia:** You see, Mr. Chairman--

**Hon. Delegate Mike Oliewo (MAC Member):** Just hold on--

**Hon. Delegate Ireri Ngunia:** Mr. Chairman--

**Hon. Delegate Mike Oliewo (MAC Member):** We are looking for Special Interests in this category--

**Hon. Delegate Ireri Ngunia:** Mr. Chairman, I will be very brief--

**Hon. Delegate Mike Oliewo (MAC Member):** Order! May you take your seat please? Let us have some order here. Is 468, Special Interest?

**Hon. Delegate Ireri Ngunia:** Yes she is from the Special Interest.

**Hon. Delegate Mike Oliewo (MAC Member):** Just hold on. Just take your seat. Take your seat please.

**Hon. Delegate Ireri Ngunia:** Now, Mr. Chairman, are you going to give me another chance once I take my seat?

**Hon. Delegate Mike Oliewo (MAC Member):** We will come back to you but let us hear from Special Interests first. 468.

**Hon. Delegate Hellen Yego:** Thank you Chair. My name is Hellen Yego. I just have one small comment to Honourable Kiboro. First of all, I want to give thanks for this Media event. It is very fruitful and very educative. What I want to mention is that, Mr. Kiboro mentioned that, if you have Bomas having to appear on the headlines every time, it is monotonous and Kenyans will not even read it. I want to remind the Delegates that Kenya is undergoing a process. We are like we are in the deep seas and we do not know where our direction is unless a new Constitution is born.

Therefore, no Kenyan at this point in time would be bored and tired of reading about the Constitutional process. (*Clapping*). Therefore, it should appear every day because one thing I want to congratulate the Media on is the opinion poll. We have been seeing a series of opinion polls run by *KTN* and the *Standard* newspapers and anytime they mention something about the Constitution, you find that they are favoring the points and we win and we get a lot of percentages.

Therefore, they are interested and it is high time that this goes to appear because it affects the lives of those who are alive today and the lives of those who will be born - even up to a hundred years. Thank you very much.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you very much. Honourable Delegates, the Honourable Delegate, Mr. Kiboro has to leave, so let us give him a chance to respond quite fast and then Honourable Gaitho and then we--

*(Inaudible comments on the floor).*

**Hon. Delegate Simon Mwai Gakuya:** Point of Order, Chair.

**Hon. Delegate Mike Oliewo (MAC Member):** Ladies and gentlemen, Honourable Delegates, I take your concerns seriously. Let us hear the Point of Order, 488.

**Hon. Delegate Leslie Mwachiro:** Thank you Chair. My number is 599--

**Hon. Delegate Mike Oliewo (MAC Member):** 599, there is already somebody on the floor with Point of Order. So, will you please take your seat? There is another Point of Order.

**Hon. Delegate Simon Mwai Gakuya:** Mine is just to request the guests who are at the Chair, whether they could continue in the afternoon so as to give us time to talk and deliberate on this Media issue. It has been a burning issue all day and all night long. We want them to clarify things which we do not even understand where they get them from. Thank you.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you. Honourable Delegates, ladies and gentlemen, today is Media event day and those of us who may not have had an opportunity to talk in the morning session or up to now, we still have the whole afternoon and those who have not spoken will be given first priority when we come back. Please, just bear with us.

*(Inaudible comments on the floor).*

**An Hon. Delegate:** Point of Order.

**Hon. Delegate Mike Oliewo (MAC Member):** Hold on. 336.

**Hon. Delegate: Mkawerweren Chebii:** *Bwana* Chairman, 336, Mkawerweren Chebii. I am worried because one thing is that Honourable Kiboro is a Delegate here and it is not in order that Honourable Kiboro wants to leave and yet he is a Delegate here. It is also very-- It is not worthy and by virtue of swearing here, he said is going to do things at his own will. My question is--

**Hon. Delegate Mike Oliewo (MAC Member):** You were on a Point of Order, sir.

**Hon. Delegate: Mkawerweren Chebii:** --this is worrying. It is a Point of Order because it is not in order for Honourable Kiboro to leave when he is a Delegate? Thank you.

**Hon. Delegate Roseline Ashepete:** Point of Order.

**Hon. Delegate Mike Oliewo (MAC Member):** Point taken. Let us hear 393.

**Hon. Delegate Roseline Ashepete:** Honourable Chair, I am Delegate 393. My question has been reserved purposely for Honourable Kiboro. If he goes, who will answer me that question? *(Laughter)*. I have waited all this long and unless you allow me to ask him, then let him not go.

*(Consultations at the "high" table).*

**Hon. Delegate Roseline Ashepete:** May I ask the question?

**Hon. Delegate Mike Oliewo (MAC Member):** Proceed. One minute.

**Hon. Delegate Roseline Ashepete:** Thank you, Sir. Honourable Kiboro, is it right for the whole Media to have turned this holy Plenary to be an entertainment venue when indeed the process of Constitution making is such a sacred process? The Media is to inform, educate and entertain and then you chose on entertainment. Was that right and is it in order? Please, do answer that question.

**Hon. Delegate Mike Oliewo(MAC Member):** Thank you. Now can we give Honourable an opportunity to answer. It is already eighteen minutes to 2.00 O'clock. Please, let us hear him. Go ahead, please.

**Hon. Delegate Wilfred Kiboro:** Excuse me, I think sadly I have to tell the Delegates that I have to leave because I was asked to come here for twenty minutes and I had made alternative arrangements. My being a Delegate notwithstanding, I also serve on several other Committees related to this Conference. So, I have to balance my time in addition to doing other things which are not related to this Bomas. I will try to answer the questions as quickly as I can and I think

the first one had to do with Media freedom and also the issue relating to the censorship maybe coming from the corporate world particularly the influence by the corporate world on the Media in terms of what they report and what they do not report as well as also the role of the Media in developing and corporate social responsibility and also the issue about the Official Secrets Act.

Let me say that in fact what I said at the beginning of my presentation, is that the Media faces a lot of pressure from different interest groups and all these power plays are always there, we face pressure from the Government, Members of Parliament, members of the society, religious organizations and even the corporate world. I did say that at the very beginning and our role has been to try and see, how we can become independent of all these special interest groups. Even the Bomas Conference itself is also an entity, which is also trying to influence the Media in the best way possible. You can hear it right across the floor here. That is part of the problem we have in the Media because we have so many things and so many people and groups with various different agendas and therefore, navigating through those kind of different interest becomes very difficult. What we try to do is to discharge our role with a clear conscience and with the idea of trying to inform and do the best we can.

Let me say that no Media, particularly the mainstream Media, goes out to seek to bring about divisive forces or to misinform deliberately and so on. We have nothing to gain by misinforming the people and pegging lies. So basically, understand it from that point of view, but sometimes when you talk about the communication, the way people communicate and the way people understand how you communicate differs from person to person and with respect, we are not the greatest communicators. Even around here you can find that even as we try to articulate one point from another, we understand what people are trying to tell us in different sort of ways.

Then, because we always understand the message differently, when that message is understood and maybe reflected in the Media in a different manner, we get very, very surprised. But even as I am talking today, if you ask each one of you here, “what did you understand Mr. Kiboro’s message to be?” I bet there will be twenty, thirty or forty different versions of what I am saying. That is just the nature of communication. So, we need to factor this in the context when you find sometimes things are not quite reflective of what you thought you did, perhaps you understand it within that context.



One of the best ways to ensure that you get your message in the Media crystal clear, is to put it down in writing. We have even found people where they have been caught on camera, they are on the TV and then they come the following day and say “I did not say it” until you run the clip and they say “oh yes, I remember I said that”. So, if you want to get your message clearly, first of all prepare what you are going to say. Don’t just speak off the cuff, because sometimes not all of us are gifted in being able to arrange our thoughts in a logical order. So, think what you are saying before you talk with the Media because whatever you say or whatever comes out, they are going to put it down. So, please organize your thoughts properly in a coherent, sharp and brief manner, because sometimes if you talk for two hours and then you expect the media to report on the two-hour speech, he has only this much of space which is allowed by the editor to report on. Therefore, when you have spoken for an hour, it is copious pages, but you know you will not be able to get the space to report what you are trying to say. So, if you want to get your point of view across, be brief and to the point. Talking and talking and talking is not going to help you to get what you want to say in the Media. Be brief and if you can be very, very brief, you have a better chance of being able to do it.

I was encouraged that somebody appreciates what the Media is trying to do and that now people are handling in a calmer way and also, I think somebody is appreciating that what Media is reflective of us, isn’t it really a reflection of what we are trying to do here. I think some of the things we have done today, I wish to ask you to watch the 7.00 O’clock and the 9.00 O’clock news. Okay? What is the Media going to show about what we are doing right now? Then you tell me because the News item is not going to be more than two or three minutes. Of all this deliberations we have been having since morning, what is the Media going to report on? So, you have to factor that in mind and therefore make sure that if you are going to say anything in this Conference, make sure it is something that the Media can pick that seems to be of Newsworthy.

There was the issue about maybe somebody asking, “what do we want to do with the power that we have in the Media”? I think the issue with Mr. Shitemi was the issue that the Media reported that the President tripped on his stairs. Sometimes I get worried about our own country where we seem to think that the Head of State is not a mortal personal. We trip on our staircases everyday. Who here has never tripped at his home wherever it is? But then because if the Head

of State and he tripped, we think that this man should never trip. Come on guys! Maybe the source of our story was wrong as in fact was denied, but let us not crucify the Media because they said the President is unwell or he tripped. I don't even think it is a big issue. But then we need to understand that whenever we are reporting and this is why we talk about Media information. If you want to report what happens in State House, people are not just issuing Press statements everyday and telling us, "you know, yesterday the President ate food and he felt sick". There is a lot of secrecy around what happens in that institution in Government and particularly in State House and yet every single one of us here should have an interest in what happens in that institution because what happens to the presidency affects the lives of all of us and the Media have a big duty to try to find out what is going on around here. Okay? What is going on around here? So, don't shoot the Media because they report on a thing like that. Sometimes the Media depends on the information from their sources for the story and because when we believed that particular source, we run that story. It so happens that the story was denied and we said, "if it didn't happen, it didn't happen. End of the matter", but let us not try to make a big issue out of it as if the President cannot trip. He is a seventy year old man and therefore tripping should not be such a big deal that we make out of all these things.

I am happy that somebody also noted that maybe as a result of the wrangles that were reported by the Media, the body language of the Delegates has changed. I think we have come a long way from what Bomas I was - you know - wrangling and so on and so on and I think now we are behaving in a sharper manner and I think that is also being reflected in the way the Media is reporting.

There was somebody who is very concerned about what the role of the Media is in terms of perhaps finding out that this Constitutional Conference is being hijacked by people from outside and requesting that the Media should speak loud and clear. I entirely agree and I think the Media has been in the forefront of highlighting this. Please understand the difference between the Media reporting on what is going on because if we did not report on the proceedings that are going on in Parliament, where would you be? So, basically I think it is distinguished between us reporting and actually supporting the other side. We are not supporting the scuttling of Bomas. We believe that the Constitutional Review process should be carried through this August House and that is the position, I think, we as the Nation Media Group are trying to do (*Clapping*) but it

is also our responsibility to inform you about all the other parties and what they are doing because if we did not do it, then you would not know what to do. So, please distinguish between that.

There was one lady who wants to say the role of the Media in sustaining this whole Constitution Review process. I say, yes, we agree fully, we have a critical role to play and we will do our best to try to help build a consensus that can help us to move forward. I think that is our role and we can only build consensus if we can bring all the different view points that are emanating so that they can come to the table and every one of us can examine them and therefore help to reach consensus.

There is Delegate 509 who wants to talk to me directly. My telephone is 242322 (*Laughter*). If you can take that, I am available at any time. Just give me a call and you can talk to me directly. Basically, I think, because we need to wrap this up, the final question was that the Delegate said that reporting about Bomas of Kenya is not monotonous and you can afford to have it on front page everyday. I disagree entirely. Let me say that, that proposition is not backed by sales of circulation of your shape or the audience that we get in ratings in radio and television. So basically, I think the Media does not work that way. Even if you had earthquakes and a hundred thousand people died in one day, it will not be in the headline news four days after the event. That is just how the human beings are. They get on and I think it is good that we are made that way that we forget all the things that happen to us and we move on to new things. Thank you very much for giving your time. I am sorry I have to run but I will be here and I am a Delegate; so if any of you has any issues, please see me. I am in the Tent dealing with Bill of Rights. Thank you (*Clapping*).

**Hon. Delegate Mike Oliewo(MAC Member):** Thank you. Can we give him a clap? (*Clapping*). We are coming back in the afternoon to listen to the rest by Honourable Gaitho. Honourable Kiboro has to join other members of the Consensus Building Group and thank you ladies and gentlemen, Honourable Delegates for your patience and interest. We shall meet here at exactly 2.30 p.m. for the afternoon session. The meeting stands adjourned.

**The meeting adjourned at 1.45 p.m.**

## AFTERNOON SESSION

**The meeting reconvened at 2.40 p.m.**

**Hon. Delegate Winston Ogola:** Thank you very much--

**Hon. Delegate Mike Oliewo(MAC Member):** Go ahead.

**Hon. Delegate Winston Ogola:** Thank you very much, Mr. Chairman. I am Winston Ogola Odhiambo, Delegate number 603 from the Federal Party of Kenya. I wish to make a few comments on the side of Media. The Media has been working very hard and I know their work or education, entertaining and informing the public is a difficult job because they have to cover almost every one and every area.

The first thing is that, I am having a complaint with the Media in Kenya because they have really marginalized me and even the contributions made here, I have tried to contribute but they do not report it. So, I think the Media though being very good, they should stop discriminating against others because they like a lot of these sensational things rather than the true things. That is my complaint to the Media. I hope and request them that in future, they should try to take the interests of most of us. They cannot take the interest of everybody of course because it is impossible, but they can take a few contributors who are outstanding and then inform the public about their performance fairly and adequately.

The second point which I wanted to bring out is about the Government and the people. What I wanted to bring out is that the nation is made up of various institutions and I think all these institutions must have built in them checks and balances so that they do not involve themselves in excesses. The point I want to make on the institutions is about supremacy. I am talking about conflict times because inevitably it comes. For example, if there is a conflict between the people and any other institution in the country, what can be done? For example, we have the point at this moment that there are fears. All of us have heard them expressed, that there are fears that we may go through this process and one of the institutions or two institutions may disagree and maybe refuse to sign or refuse to their part in which case we shall have a stalemate. What can be

done about that? It means we have not taken care and put in law that when there is a conflict between the people and for example, the Parliament, what shall we do and what is causing the problem?

The problem is simply coming from the shortage in the existing laws. So, I am requesting all the Delegates that this time, we should not leave this place without solving this problem of supremacy or sovereignty because the sovereignty is on the people. Whenever there will be a stale or a crisis created by disagreements of opinion, we should fit it in the Constitution that in such a case it is the people's views which will dominate. So, I am proposing that we create the right of initiative so that when there is a disagreement we know what to do because the supremacy and the sovereignty of the people will prevail. This right of initiative will also include the changes in the Constitution like the referendum which people are speaking about, that the people themselves can initiate the right of initiative, you put a specific proposal even if it is 5% of the voters or 5% of the people. If they can make a document and sign it, then the Parliament or any other institutions can be removed from office through the people's authority or if it is a referendum, it is the same rather than leaving us in a situation of doubt.

**Hon. Delegate Mike Oliewo(MAC Member):** Thank you.

**Hon. Delegate Winston Ogola:** There is just one small point. Thank you very much, Mr. Chairman. Just the third and last point is this, I am requesting all the Delegates - I took care of the consensus and the rest. That is why I was supplying the farism philosophy to everybody so that they may know the negotiations. If we take into account that our major aim is the believe that there is peaceful solution to every human problem--

**Hon. Delegate Mike Oliewo(MAC Member):** Thank you.

**Hon. Delegate Winston Ogola:** --so they take it serious. Thank you very much, Mr. Chairman.

**Hon. Delegate Mike Oliewo(MAC Member):** Thank you. There is every solution to every human problem. Thank you very much.

**Hon. Delegate Winston Ogola:** There is a peaceful solution to every human problem. So, they take it seriously. Thank you very much, Mr. Chairman.

**Hon. Delegate Mike Oliewo (MAC Member):** Our next speaker--

**Hon. Delegate Winston Ogola:** Just one more thing--

**Hon. Delegate Mike Oliewo (MAC Member):** Please, give us the microphone now for the time being. Thank you very much.

**Hon. Delegate Winston Ogola:** Thanks a lot.

**Hon. Delegate Mike Oliewo (MAC Member):** You are supposed to be our next speaker. What is your number? Yes, 336 and I hope you will be a little bit brief.

**Hon. Delegate Mkawerweren Chebii:** Bwana Chairman, I thought I would be given my minutes, not brief. Thank you, Bwana Chairman. 336, Mkawerweren Chebii. My main issue is that I would like this Conference to note those people who have been coming late, they should actually be recorded in the long run, so that Kenyans can know those who have been participating fully and those who have been signing and just leaves to go to where he wants to go to. That is why Bwana Chairman, I was of the opinion that we are making a Constitution and Kenyans like it very well.

However, I was to ask a question to the Media person that, is it true that if you can even actually write people, those who come and sign here and then they say that this process is not good, they could also be told that they are coming here to earn the little money and also they do not participate? It is also irrelevant for somebody who is not working to be paid. In fact, it is part of the corruption we have in this country. In fact, those and especially the Honourable MP for Subukia who comes and signs owes some debts to this Bomas. He could actually forfeit the money and forget it in totality. So Bwana Chairman, actually even if some people want to do 1, 2, 3, one day we are going to be told that we need to change your our altitude.

Imagine Bwana Chairman, reformists of this country, the popular pillar of this country who call themselves the intellectuals. It is good to be an intellectual and we respect the intellectuals of this country but they should also know that they need to respect the *Wanjiku*. In fact the natural law does not need somebody who is an intellectual. For example, when you see a child stealing money, it does not mean that you need to be an intellectual to know that the vice stealing is bad. In fact it is known in my custom that if you steal, it is illegal and it does not mean that *Wanjiku* does not know that stealing is bad. If it is bad, I would like to tell Honourable Koigi that we are here and we shall stay here and we shall work here. Remember, Members of Parliament should know that even the Delegates who are here are voters and if they are voters, they will be voted out and some of us can come in. It is not a miracle that next time you may see us being members of Parliament.

So, they should know that we are not trusting them and we shall never trust them forever. Why? It is because Bomas is a creature of Parliament. If it is a creature of Parliament then, it means they do not know what they are doing. I was not brought here because I never knew this, but Members of Parliament put the mechanism there and now they want to reverse, but I will say, “no” and remember we respect Bomas.

I actually appraise the Chairman of this Conference because when you read in the Nation, he has actually been articulating very well about Bomas. Above all, we know we are almost delivering the baby. Thank you very much.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you very much. I am taking only two more and after that we will have Honourable Gaitho respond. Dr. Odhiambo has already arrived, he is taking lunch and he will be here shortly. Can we hear from 530?

**Hon. Delegate Florence Mburugu:** Thank you, Chair.

**Hon. Delegate Mike Oliewo (MAC Member):** Followed by 252.

**Hon. Delegate Florence Mburugu:** Indeed I had to remove my brown cardigan because it did not reflect a lady’s attire and perhaps that is why I was not noticed since morning. I have been

here since morning. It is unfortunate that Mr. Kiboro has left because we had a few questions that we wanted him to address. My name is Florence Mburugu from Religious Organizations.

Mr. Chair, listening to the input that we have heard since morning, we are glad that the media has been trying its best to cover this Conference and we hope that from now on, the Media will listen to us and cover the Conference the way we expect it to be done. We understand that they have a task to be able to sieve what they are listening to throughout the day and come up with something but it is understandable that at the end of the day, people will be glad to learn and to read what they were speaking.

He told us that and we have always known that the purpose of the media is to educate, to inform and to entertain, but some of the things that we see more often in the Media, we are not able to classify where they fall. For example, we have responsible that we have voted in as MPs to come and discuss issues of this nation and especially at this critical time when we are making the Constitution. But more often than not, we have seen the Media highlighting the bad words that the MPs keep talking to one another. Is that entertainment, education or information? Where does it fall?

When we look at what comes up in the Media and the TV and especially those of us who come from upcountry, we are wondering when the *Wanjiku* will have an opportunity to get to know what is going on in this country. I wonder whether the Media ever thinks of the people who are upcountry. People who will gather in a market place where the only TV is and they sit the whole night waiting to hear something about the Constitution. And what is it that they see? Programmes that are actually killing the morals of this nation. Mr. Kiboro says that there is the Media Reader and Viewer fatigue and I am asking, there are programmes that have been run on TV for years. The kind of viewers and read these views or who see these programmes, do they ever get bored? If they do, why do we have to have these programmes running throughout of years in fact, for some of them? If there are those who get fatigued, are they telling us people will get fatigued at learning what is going on in their country while they get entertained on Western Media and they do not get fatigued for years? I want that question answered.

Another thing is that we want to know, when the Media writes, which parts of this country do they address? In Nairobi, those of us who are in Nairobi, realize that Nairobi has access to so



many Media Houses. In some of these countries, we know that there is only one media that transmits and when we look at the people in those countries – look at the programme and the timetabling of those programmes. How do you talk to farmers at 7.00 a.m. in the morning? How do you expect them to sit down and listen to those programmes when they are preparing themselves to go out to the farm to work? How do you address pastrolists, for example, in the evening when they are supposed to be herding their animals back home? So, the timing of the programmes is also another thing and if really the Media is supposed to inform and educate, we realize that a lot of time is spent on entertainment. Listen to what goes on. Get into any *matatu* in this country. There is a Media that is playing music throughout. Is it music that is important for this country at the moment or what is happening in this country?

Finally, Mr. Chair, I want to address the issue of in, my opinion, who the Media addresses. In my opinion, the Media addresses the rich. So, the rights to the rich and for the rich because nobody has ever asked a question here. For an ordinary person to be able to afford a Newspaper every day, that person should be able to earn money such that he is able to save a thousand shillings to be able to get to the Media. Who raises, or who discusses the cost of newspapers? For those newspapers, the ordinary person can maybe sit in groups in the villages so that they can afford a paper a day through merry-go-round? What do we have to read about ourselves in those papers? So, I am requesting that even as the Media houses cover us, they consider the majority of these Kenyans who live below the poverty line.

**Hon. Delegate Mike Oliewo(MAC Member):** Thank you.

**Hon. Delegate Florence Mburugu:** That they have access to information and that they can learn about what is going on in this country. Thank you Chair.

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you. 252.

**Hon. Delegate Dubat Ali Amey:** *Ahsante sana Bwana Mwenyekiti. Mimi ningependa kuzungumza kwa Kiswahili leo. Bwana Mwenyekiti, nafikiri watu wa Press wana jukumu kubwa sana katika nchi hii. Mimi ningewahimiza tu wasichukuliwe na wave kufurahisha watu fulani. Sisi tunajua kitu kimoja, Bwana Mwenyetiki. Kawaida kwa tabia ya binadamu, hakosi kasoro. Sisi hapa Bomas hatusemi sisi ni malaika lakini tunasema tupewe haki yetu kama Wajumbe na*

*mambo yale tunasema yawe reported properly. Sisi hatukubali Press freedom yake iwe curtailed. Hatukubali Board ya ku-regulate Press ifanywe maana hiyo tunajua itachangia nini lakini na wao lazima wawe watu wenye ustaarabu. Wasiwe wanatumiwa na watu fulani ambao labda wanatoa kitu usiku.*

*Bwana Mwenyekiti, mimi naunga mkono Freedom ya Press, hasa hiki kitu ambacho watu wengine wamekiita, "Gutter Press". Mimi ningekiita "Alternative Press" sio "Gutter Press". Hata zile nchi ambazo zimeendelea, kuna watu ambao wanafanya kazi ndogo ndogo. Hata America, hili taifa kubwa, kuna Gutter Press. Kwa hivyo wale ambao wanaenda usiku kwa barabara fulani wakiona hiyo ni threat, sisi tunasema hiyo ni watchdog yetu. Kwa hivyo Gutter Press iendelee na ichunge hawa wahuni ambao wanatangatanga usiku.*

*Kitu kingine, Bwana Chairman, ambacho mimi ningependa kusema ni kuwa watu wa Press wana mapendeleo kidogo. Kuna kitu fulani ambacho sisi tulitaka kitokeze. Tumesema mara nyingi kuwa katika Eastern Province kuna nuclear waste ambayo inatuhatarisha. Press ya Kenya mpaka leo haijajitokeza kujua ni nani alizika hicho kitu hapo na ilifanywa na nani na viongozi wetu wengine kuulizwa wamechangia nini kuona hiyo nuclear waste imezikwa katika Eastern Province.*

*Kitu kingine ambacho mimi nataka kusema, Bwana Chairman, ni kuwa kuna Mheshimiwa mmoja amesema sisi hatuoni kitu fulani. Kwa hicho kitu, atuambie kuona kwake kuna uzuri gani. Sisi wengine hata hatuoni umuhimu wa kuona hicho kitu lakini kama yeye anaona ni kizuri, wacha atuambie hicho kitu kina uzuri gani kuangaliwa.*

*Mwisho kabisa, Bwana Chairman. Press ni kitu muhimu na ni kitu ambacho kimenchangia Uhuru wa nchi na pia kimechangia multy-partysm lakini hatutaki wawe kama wanasiasa wengine ambao leo wanasema hivi na kesho wanasema vingine. Laziwa wasiwe biased. Sisi tunajua Editorial Board ya haya magazeti makubwa makubwa ni kabila gani na ni watu gani. Wacha waweke heshima yao na wachunge hii nchi. Sina zaidi, ahsante sana.*

**Hon. Delegate Mike Oliewo (MAC Member):** Thank you very much. Now, let me take this opportunity to invite Honourable Macharia Gaitho to respond to issues raised this afternoon as

well as those that were raised in the earlier session. I can see our panel is growing very fast as all our guests are already here so, I hope Honourable Gaitho will find it appropriate to address you briefly before we go to the next stage. Honourable Gaitho, welcome.

**Mr. Macharia Gaitho (Nation Media):** I am even happier to be here because it is the first time in my life I have been called “Honourable” (*laughter*). If we go back to the morning session, I think Mr. Kiboro responded to most of the things but there is one thing I would like to amplify. There were a lot of things, which have been raised in the course of this discussion. A lot of them do not touch on the Press; they touch on other things and those, I think I am not qualified to talk about.

We had Mr. Shitemi. He did call for more effective Press regulation. Infact, he pointed out that some of these powers we have as the Press are badly misused but at the same time he is censoring us for not doing enough, for not exposing enough. He referred to a scandal somewhere in Nakuru, where he says a lot of money was lost and he says we are not raising that issue. Maybe we are not because we are not aware about it but if he came and told us about it, you can be sure we will look into it. At the same time if you want us restrained from looking into what might be Government secrets or secrets of a few powerful people, where do we stand? We are stuck!

There was somebody else. This came up in the morning and in the afternoon also. It was a response to the comment by Mr. Kiboro that we cannot put Bomas on the front page everyday. Somebody raised it very eloquently in the afternoon and her view was that we concentrate too much on entertainment and not on serious issues like Bomas or other things. I think we try to get the right balance. I can tell you for a fact that our Media in Kenya is a commercially-driven Media apart from the State-owned Media which is the Kenya Broadcasting Corporation.

**An Hon. Delegate:**

*(inaudible).*

**Mr. Macharia Gaitho (Nation Media):** Sorry, I have been corrected (*laughs*). Apart from the public Media, which is the Kenya broadcasting Corporation, the rest of it is fully independent, it has to survive in the market place; it has to survive on what it generates from sales, advertising

etc. There is absolutely no Government subsidy. So, even if we do play a public service, we cannot do that at the cost of our revenue otherwise, there is no two ways about it; we will close down. It is upto us to get the right mix. At the Nation for instance, even when we say that we cannot headline Bomas everyday, we have taken a deliberate decision to give much coverage as possible. Sometimes, two pages out of ten news pages will be devoted to Bomas. We have also taken a deliberate decision to play down the sideshows and give more meaningful reports on what is happening within the Plenary, the working groups and of course also, we cannot ignore what is happening on the political side of it because constitution-making is a political process. As we sit here, even if the MPs are not here, at the end of the day it will be a political decisions that will determine very much what we achieve. We cannot ignore that. I think we do very well. I think if it was a Western newspaper covering this thing, Bomas would hardly be getting a mention only when people fight or abuse each other but we try to do so much. I think my friend. Kwendo, is here; *The Standard* does the same.

I would like to get on the gentleman who talked about the role of the Gutter Press. I think a lot of people were surprised a few weeks ago when the authorities sent policemen to confiscate some of these articles from the streets. A lot of people were surprised that Media houses like the *Nation* and *The Standard* would come out to defend the rights of those publication. As we said, we call them alternative press and not the gutter press. Our view is that there is room in this country for all types of Media. As the gentleman pointed put, alternative press exists everywhere and in a small market like ours and in a evolving situation like ours, then we probably have more of a role to play than we acknowledge. True, they may go overboard, they may malign people, some of them may blackmail people; they may use the information they have to extort money and so on but the way I see it, if you have nothing to hide or be afraid of, nobody will blackmail you because there will be nothing to be blackmailed of.

I think I have covered most of the issues which have been raised without having to repeat myself and without having to repeat what Mr. Kiboro said unless there is anything else. I think I will hand over the Chairman who will introduce the other participants.

**Hon. Delegate Rose Lukalo Owino:** Thank you very much Mr. Gaitho. I think we will all agree that our guests have given us very stimulating, very though-provoking presentations

today. They have answered lot of questions which many Delegates have brought to me and members of the Media Advisory Committee. I am sure Mr. Gaitho earlier invited you to contact him. Pick up the phone for any concerns, issues, complaints, he is ready to address them. We have gone through the reality of running commercial news stations balancing the realities of audience fatigue, misreporting versus honest mistakes. He also touched on the constraints which are imposed by very harsh libel and Media laws and how this ties the hands of the Media in very many situations and the need to balance the rights of freedom of expression and the Press with social responsibility and the common good.

I thank him, Mr. Kiboro in his absence, all of you Delegates and members of the Press for your patience. We are moving on to the next session which will be chaired by Mr. Nkoroi, who is a another member of the Media Advisory Committee and I promise you it will be equally stimulating. We have guests from the *Public Broadcaster* and *East African Standard* who will be introduced. Thank you.

### **Session 3.**

**Chair** - **Peter Nkoroi.**

**Presenter:** - **Mr. Lewis Odhiambo – KBC.**

**Subject** - **Understanding the Role of the Media on the NCC.**

**Presenter:** - **Dr. Makumi Mwagiru.**

**Subject:** **How to deliver a Constitution for Kenyans by Consensus – Negotiations and consensus building at the NCC.**

**Presenter:** - **Kwendo Opanga – E.A. Standard.**

**Subject:** - **Communication skills- Using the Ordinary to Communicate.**

**Hon. Delegate Peter Nkoroi:** Honourable Delegates, again we are in another important session and you know we have come a long way from the time of multiparty agitation and civic education. We were here one time at Bomas, we were disbanded. All these have been much ado and I am sure even what is trying to distract us we are going to go through. This afternoon, we are privileged to have various guests who are going to talk to us about various issues that we are also dealing with here. So, those guests who have already arrived, one of them is Dr. Lewis Odhiambo from Kenya Broadcasting Cooperation and he is going to talk to us about

*“understanding the role of the Media on the National Constitutional Conference.”* Dr. Lewis Odhiambo is here.

So, after Dr. Lewis Odhiambo we shall have Mr. Kwendo Opanga. You all know Mr. Kwendo Opanga; he has been a very famous columnist with the *Daily Nation* and *The Standard*. We are going to have all these privileges and Delegates, it is a n opportunity and I am sure you are going to be very cooperative, accommodative it to be able to make this process a success. Thank you. Here I straight away welcome Dr. Odhiambo to take you on *“understanding the role of the Media on the National Constitutional Conference.”* Welcome Dr. Odhiambo.

**Mr. Lewis Odhiambo (KBC):** Thank you very much. Mr. Chairman, colleagues, delegates, ladies and gentlemen, traditionally, I am not a public speaker; I am a teacher but these days I am trying to do Journalism again somewhere I started thirty years ago. That gives me some insight into how the Media work and what I think the Media should or has been doing in covering some of your deliberations which, I think, have been extremely important. It has been suggested and I think this has been said any times, that ultimately, Constitution-making is political. Many of us would have preferred that the politics of Constitution-making ended when this assembly was put together and that we would move on to highly technical and interesting ways in which to put down the basic law that is going to govern our society for millennia to come. Anyhow, there is no difference in the role of the Media in covering a convention such as this one and in covering any other convention be it religious, political or even economic.

Ultimately, the Media have some very fundamental roles, the most important being information, simply giving its audience information about what is going on. That information can be something as basic as, “What is it that is going on? What is happening” but it can also even go behind that and say, “ What is a Constitution? Why a Constitution?” et cetera. Ultimately, the Media may not necessarily originate this kind of information. A lot of this information comes from other people; experts, ordinary people et cetera. What have become known here as stakeholders may be the ones that are sourcing this kind of information and the Media, then used as megaphones simply pass this on but I think that is water under the bridge. What is now worth reflecting on is what role has the Media played in this whole process. I think that is probably very interesting and I do think that the Media has given information, the Media has covered

proposals that have been put forward, proposals that were collected from the Kenyan people, proposals that have been digested, discussed, canvassed and then put into form in which it is expected they will operate in guiding the governance of this society.

So, the Media will be answering questions such as:

- What is being proposed?
- How different is it from what is there now?
- Why is it being proposed?
- Who is proposing it?
- Who does not like that proposal?
- What will be its impact on Future governance?

I think ultimately, one can say that the Media has answered some of these questions fairly satisfactorily perhaps not to the satisfaction of all of us but clearly this I think, has been answered and I have been watching.

The second thing the Media does is performing a very simple role: Comparing what is happening here to what might have happened elsewhere because ultimately, we live in a world in which we very often compare ourselves to other people.

- Where else has such a process taken place?
- Are we reinventing the wheel?
- Was it worth it? Is it worth it?
- Is it worth the money?
- Do we need to do this?
- Don't we have other ways of doing this?
- What is wrong with what we have done before?
- What is wrong with our previous Constitution?

Co-relating all this is a very important part of what the Media does and I think the Media has done a fairly good job. I have difficulties in understanding some of the issues that have come up in much of that discussion, but if I do have that confusion, I know a lot of Kenyans have and I wish the Media could do a little better. So, in a way of evaluation I think the Media has raised

questions, issues as to whether they have done it satisfactorily. Of course it is our responsibility of the Media house to try to address in the form of self-reflection. So, Co-relation. It has been suggested of course that Constitution-making can be very simple in some countries that have Constitutions that have endured not so many people are involved in the process. The Constitution was simply given to the people and then the people are led under those Constitutions through various amendments, corrections et cetera. However, I think this process was long overdue. I think the process that has taken place here is every Kenyan in the sense that Kenyans at that time were debating with themselves. 40 years of dictatorship and difficulty has not been an easy time for Kenyans and I do think that Kenyans wanted to talk to themselves and I think the Media has reflected some of those discussions and I do feel that even though it would appear that not everybody is agreed with what is going on. The discourse has been fairly well reflected in the Media and the Media has done that.

It is not upto the Media to tell you what to say. When the Media says something that you do not like very often, somebody suggested among you, somebody else probably held that opinion and very often the Media reflect things that are not very nice to certain people. Who is making which proposals? Why don't some people like those proposals? That is very often much of what has occupied the interest for the Media. Are there others who are silent? Are there others who have their views that have not been reflected? Of course the Media does not reflect everybody's views but the Media reflects the spirit of what is going on. If it is true that the Media has reflected this spirit of conflict, then the Media has done its job very well.

One of the ways in which the Media work and this is very important is that the Media always look for the dramatic; that which is conflictual. Who is against who? What is against what? What balanced against what? The Media looks for this type of approach very often because this approach also helps us to bring up certain issues that very often are not brought up in the simple statements that we make as we discuss. I think that sometimes conflicts are not apparent even to people who are sitting somewhere. As Delegates, you may not have known the degree of conflict that there is. Very often, the Media is able to distill much of this and bring it very, very clearly so when you read it tomorrow it looks like, " No, the Media is making up these stories" but that is not usually the case because the Media people are very often trained to detect and to see clearly where conflict is emerging or where conflict is potent. That very often happens.



In situations of conflict again the Media focuses on people, individuals or groups:

- Who are the antagonists?
- Who is against whom?
- Who are willing and why?
- What does winning mean?
- Who is winning today?
- Who is losing tomorrow?
- How has this person come back?

It is a real duel. Very often the Media like to dramatize those kind of issues. Who is carrying the majority public opinion? Very often, we would like to say that, that is where the truth lies; that is where God lives. Who is carrying the minority opinion? Very often, we would like to think that is where Maggog stays.

We would say that other roles of the Media are just as important. Sometimes the Media thinks that they are very powerful. Very often the Media actually do feel that they can do something about changing the course of events. This is something that we sometimes call, “ Agenda Setting.” The Media try to see whether they can lead through opinion, whether they can lead through editorials, through a commentary and through other things to direct people’s thinking along certain lines. I think the Media has tried to do that sometimes. I think the Media has given certain, if you like, a balance of weight to certain sides of discussions as against others. I think that in some cases, Delegates have been, perhaps justifiably angry that the majority opinion; the opinion which seems to be most popular, is not the one that the Media is harping on. Very often, that does not happen. Real life in Media is sometimes very complicated because there are all sorts of conflicts between Media houses themselves and also within individuals. We do have, sometimes, indeterminate positions with regard to a number of issues of life.

So, whom are they setting agenda for? If you talk about setting Agenda, setting Agenda for who? Is it setting Agenda for the Delegates to the Constitutional Conference or is it setting Agenda for other Kenyans? Suppose you are setting Agenda for Delegates at the Conference, is it legitimate Agenda setting? Should delegates be influenced through Media commentary? That is an ethical question but it is ultimately a question of judgment call for each editor and for each reporter.

Why would Media try to set Agenda? Very often, Media have interest like I have said. Media also come from different places. Some are business interests, some, as you know are public interests. There are all sorts of differences within a society, class difference, races differences, ethnic differences and some of those things very often get into Media houses and Media decisions and very often Agenda that emerge maybe Agendas of some of those interest groups.

On the balance, however, it does not really matter whether which Media is trying to set which Agenda because ultimately, what tends to happen is some kind of balance; homeostasis, where issues are proposed, other are counter proposed and ultimately they cancel each other and we move forward. So, Agenda setting is very important.

Public opinion formation. Ultimately one of the things that Agenda setting does is, it tends to congeal public opinion around certain issues. I think that many people may not like it, but there is now a sense that perhaps a number of issues in the document that is being discussed might need further discussion. I am saying, “ might” because I have not been part of this school and I do not qualify to suggest that anything is except the one that I am going to suggest to you at last.

- Which publics, why and to what end?
- Why would you like to influence public opinion?
- What is your motive for influencing public opinion?
- Why do we now have groups that were originally there which were part of this process branching and saying, “ We now want to do something else”?
- Are they worth listening to?

Perhaps they are and I think the Media has reflected this type of process fairly accurately and I do think that it is a legitimate part of the walk towards the end that is Constitution making. That walk perhaps is the kind of walk that is torturous but ultimately satisfying if it ends well.

Some of you have been here for a while and you know one of the things that the Media do is they provide comic relief. There are a number of things that are worth laughing at and Media have given us an opportunity to laugh at some of those things. In this whole process there have been people we call heroes, people who have really stood up and fought along painfully towards what

they feel is a commitment. Then we also have people who might have been called the buffoons, people who have excelled in just comical activities, people who have come out as not so nice, not so good. There are also people who have come out as “turn-coats”, people seem to have proposed certain positions but now have changed their minds and people feel they are “turn-coats”. Other people think there are even pick-pockets around here, people who are just here for the money. The Media has brought up all those issues and those issues have come up in various forms; in the forms of cartoons, in the form of humour, in the form of all sorts of stories. The Media has given us that opportunity because life must also have moments of laughter.

There is also a sense that there have been ladies and gentlemen and people who are not so much ladies and not so gentle. That has also come out in the Media and I think what I am saying in all this is that the Media have reflected the social life and the activities that were involved in Constitutional making and that those are legitimate. Those are legitimate issues for the Media to bring about. However, I do think that there are a number of gaps, that perhaps need broader attention. I think they have come up either as substantive issues during those discussions but perhaps the Media has not canvassed them sufficiently. I have not seen much debate in the Media about the role of the Media in society. I do know that the Media have asked and even Media representatives have come here and made a case why Media needs to be free. I do know that papers, documents have been given in certain forums in these places, where cases have been made for a free and independent Media. That is good. I do not think I have seen enough of it, I think the Media should have talked a little bit about themselves so that you can understand clearly what the role of the Media on society is. And because of that, I am going to take this opportunity to point to a number of things.

One, is the role of the public broadcaster. In this case I am talking from self-interest; self interest because I have always been a public officer, I have always worked for the public and I am now working for a public broadcasting institution. I have not seen the role of the public broadcaster; I would have seen a much clearer role being put in. In fact if anything it is the one thing that should have been put in the Constitution, is the role of the public broadcaster. The existence and support for a public broadcaster - that should be in the Constitution. I would have liked to see a line that says; “there shall be a public broadcaster, that shall be funded through this means”. If possible to make it independent it should be funded by Parliamentary allocations. It is only by

providing such a provision that we can really talk legitimately about “the right to information”. I have seen in the document talk about “the right to information”. Who is supposed to provide this information? A private investor has no obligation to anybody to provide information. A private investor has only one right; to make money or go away. Once they cannot make money they go away so you can only talk about “right to information” if you have an independent and properly funded public institution to provide that kind of information.

The other thing that has been provided for in the document that has been canvassed is the issue of access to information. Access by the Media themselves but also access by members of the public. We need information to survive, we need information to exist. This kind of “right of access” again is not necessarily guaranteed by the mere fact that you have plural Media that are free, independent and are money making. You have to provide for that in the basic law. In other words you have to address the issues of obligations of Media to provide accurate and biased information. Those ethical issues need to be addressed but they cannot be addressed just on the context that they talked about me along some street in Nairobi keeping wrong company. I think they must be addressed as broad ethical issues that affect values in our society in general.

It is only within the ambit of addressing issues of public information, access to public information that we can also talk about the role of the private broadcaster. The private broadcaster also has a role because very often the private broadcaster provides a good counter balance to what might become strangely official mouthpiece in the name of a public broadcaster and that is what KBC has been over the 40 years that we have been there. It was set up like that. Achieng’ never set it up in 1963 saying KBC shall be the mouth of Kenyans, the mouth of the Kenya government and it has remained like that until I was appointed last week. Now, it is not.

Now, we are saying that when we talk about limits to Media freedom, the limits that we would like to see are only those limits that deal with morality and security. Other than morality and security, I think the Media should be free. The Media should be free, even if they sometimes annoy us, even sometimes embarrass us, they should be free because the alternative is never any good. You try an unfree Media and you have lived through unfree Media before. It was not a nice country at all. This raises the question as to what must be done in enactment of laws that will go along with this basic document that we are discussing, the basic law. The issues of

Media policy, who may invest in what kind of Media, to what extent? Those are important questions. I do remember the Minister for Information saying that he tried to go and invest in the Media in Britain and he was told the law there does not allow foreigners to invest in Media in Britain. It would appear that the law allows foreigners to invest in the Media in Kenya. "What is good for the goose is clearly also good for the gander". I am not talking retaliation here, I am talking reality.

Is Media an open investment area or is Media a cultural sector? Because depending on how you answer that question, you will have to face one fact. If it is a cultural sector then Media cannot just be another investment area. If it is simply an investment area then issues of morality do not come in other than those morality questions that are connected to profit and security of investment.

I am finally going to say one thing about politics and the Media. Much of the time Kenya lives, eats and dreams politics and so Media write, and write and write politics. That is fine, because that is the nature of our society and very often sometimes the Media reflect that which is true of our society as a whole. But there is also one aspect of Media and politics that should be addressed particularly in the basic law. Other countries have tried to deal with that and those are issues of power and Media concentration. There can be no fair society where others are investors and others are merely helpless recipients of information generated by those that are more powerful. I think those issues are important to address and so questions of power and Media concentration need to be dealt with. Should we allow Kwendo Oponga to also own a broadcast Media? I do not think it is fair. I think that the issues of concentration need to be addressed and the nation had better get ready for a debate on this issue.

Then there are of course, issues of distribution of Media resources. I think this is an important part of distribution of any other resources in a nation. I think there is a sense in which one wants to say that if you want to invest in Media, this area has already got enough, go invest else where. With that I will leave you. I think the Media has done a good job in covering this thing, has raised some very fundamental issues, has covered most of the mood, has covered most of the concerns but has left certain gaps that I think can still be addressed. Thank you very much.  
*(Clapping).*

**Hon. Delegate Peter Nkoroi:** Thank you very much, Delegates and that is the end of the first presentation and I think you are going to hold on with your questions until we complete with the second presenter so that we can have a session of answering questions or responding to other issues. So, second we are going to welcome Mr. Kwendo Opanga. And Mr. Kwendo Opanga welcome, these are the Delegates who are making the Constitution. *Karibu.*

**Mr. Kwendo Opanga (E.A. Standard):** Thank you very much, good people. I am supposed to talk about how to communicate, that is using the ordinary to communicating. That is my topic of discussion. In all our endeavours we seek to share a point of view, we seek to convey messages, we have ideas, we have thoughts we want to share, we want to put them across, we want to communicate. Now, when you want to put across a certain point of view, or when you want to share a certain message, idea or thoughts with the people around or those who are not even near you you have got to decide what the message is. What is this message that I want to put across, to convey, to share? You have to decide what it is exactly you want to tell your fellow Delegates, the Media, the politicians, your children, your peers whoever. So, how do you say it? That is what we are talking about. How do I say what I want to say? I having to define what it is I want to say. Having decided what it is I want to say then I have to decide how I will say it. Before I do that of course I have to know whom I am going to speak to, whom am I writing for, and whom am I broadcasting this message for.

When I was told to talk about what I have just said, I told myself; “my, they must have put the cart before the horse”. I should have been asked to talk to the Delegates before they began to discuss, before they began to deliberate at Bomas. Not necessarily I but somebody else who would have ideas about how to communicate, thoughts about how to communicate, to talk to the Delegates before they began to do what they have been doing but then that is besides the point.

Having decided what we want to say, we must be very clear in our minds; this is the point we are putting across. It does not matter whether you are a parent, it does not matter whether you are a teacher, it does matter whether you are a journalist or a Delegate at Bomas taking the floor to contribute to Constitution making. Having said that, you also want to make sure that you do not couch the point you want to make in ambiguity, you will not clutter your point, you will not

cloud your point unless of course you are very clear in your mind that you want to come across as ambiguous and indeed there are people who like to be ambiguous when they make statements.

Former President Moi was adept at this and of course that was clearly deliberate. Current U.S. President George W. Bush, is often times ambiguous. Ambiguous in the sense that he will come out with three messages about the same issue. If it is Iraq for example, he will talk about the so called weapons of mass destruction. He will at the same time talk about the need for democracy in the Arab World and he will then talk about regime change, the need to remove Saddam from power. Now, which exactly is he pursuing? He leaves that hanging in the balance. President Moi would for example, if he is responding to claims that the government is weak. He will say, “*Serikali, nani amesema ni rejareja? Si mumeona askari?*” You can get the implications of the latter statement, “*mumeona Serikali*”. He does not need to explain but behind that statement “*mumeona askari*” there is a huge World you can trade as you try to find out what exactly he meant.

So, if you want to be ambiguous you can deliberately choose to be so, but if you are seeking to communicate and we are talking about the ordinary, then you are called upon or you will be required to be very clear. No ambiguity in what you are saying. You do not touch so many issues in one session that people are lost as to begin to ask where exactly are we going? If we are asking where are we going when we have been talking then one of us is confused and most likely the person who is confused has been confused by the speaker, by the person who set out to try and put across a point of view.

If you want to make certain messages you will also have to think about when you are going to say them, when you are going to make your message; that is the question of timing. They will tell you in child psychology that if your kid makes a mistake now and then you punish the kid two three days later the kid will not understand why it is being punished. They will tell you that if the kid makes a mistake now you punish the kid immediately so that the kid will connect the two, the mistake and the punishment. For example, when in 2001 September 11<sup>th</sup> there were the terrorist atrocities in New York and Washington at that time it would not have made sense for somebody to stand up to try and make certain statements. They would not have made sense, you would not make news. You might communicate but nobody will think about you because

everybody was or is thinking about the terrorist atrocities that had been visited on the U.S. Indeed the entire World was thinking along these lines.

So, you will find that at this time Coca Cola did withdraw their commercials. Why did they withdraw their commercials? Because Coca Cola commercials are “feel good” commercials, they tell you life is good, they tell you enjoy life, they tell you coke is the real thing. Those kinds of messages could have been discordant with the sorrowful moods, with the mourning and the fear that had gripped the U. S in particular and most of the World. I do not have much time so there are some things I will have to jump so you will have to excuse me when I am trying to look for what I want to say next.

Still on the issue of the timing you might recall that in 1992 for example, the late Masinde Muliro chose to announce his candidature for the Presidency on a Sunday. It was not by coincidence, it was actually deliberate that Masinde Muliro decided to do what he did on that day because people will tell those in the Media and those who observe the Media, that Sundays are slow news days. Usually there isn't a lot of activity going on on Sundays apart from of course we going to Church or other places of worship. And for a long time you might remember that the Reverend Timothy Njoya used to make news on Mondays. Actually he did not make news on Mondays, he made news on Sundays and the Media had come to realize that he is bound to make a controversial statement, a sensational statement, a dramatic statement and an interesting statement form his pulpit at St. Andrews. For good measure Njoya himself came to famously say, that the Media were in fact an extension of his pulpit.

You have things to say, but you must also catch the attention of the people you are speaking to. You must catch the attention of your audience, you must get people interested in what you are saying. I am not very sure I am succeeding on this front because I have seen a few of us dozing. But the point I am trying to make is that we try as much as possible to catch—Sorry. We try as much as possible to catch the attention of the people you are addressing. How do you do that? One, we have already talked about the issue of the timing but then we also want to talk about the way you are going to put your message across. There are many people who even after Margaret Thatcher long left the political arena - I think she went in 1992 - long after she left there are people who still remember a very famous phrase of hers that, “The lady is not for turning”. Now,



how did the phrase come about? The British journalists are fond of talking about making a u-turn. That is, a politician says one thing today, the following day he says, or she says no, I did not say that or what I meant is. The British Media say, so and so has made a u-turn or the government has made a u-turn. So, at one time it was expected that the Iron Lady as Margaret Thatcher was famously known would make a u-turn, would go back on some of her economic policies but in a speech that is still remembered to this day she said; “There are those of you are waiting for me to turn, those of you are waiting for me to make the u-turn, sorry; the lady is not for turning”. Why did that phrase stick? It stuck because there is an important book – not an book – a well known book called “The lady is not for burning”. She just turned the phrase of “burning” or her speechwriter did that from “burning” to “turning” and the following day there was not a single Paper that did not have that as the headline; “The Lady is not for turning”.

This in our trade is called a “sound bite”. A sound bite is that phrase that stands out, that helps sum up what somebody was trying to say. Now, it is not for nothing that you will have that kind of phrase, say, from we of the Media or from a Delegate who is speaking or a politician who is speaking. They want to have a memorable quote, a sound bite. Of course after Thatcher there came John Major and he too in 1995 did have a phrase of his own when there was a lot of in fighting in the Conservative Party, as there is in our governing coalition. John Major felt that a time had when he had to face down his critics and so, he called for a leadership challenge and told them, “Put out or shut up”. And again the following day there was not a single Paper in the UK which did not have that as its headline, “put up or shut up”. The Tabloid Press out there which some have felt we might compare to our own alternative Press, they had a field day and one of them did in fact say in a sub-headline “Oh so he has balls after all”. Yeah, that is what they did say, just to try and drive home that point, that at last John Major had dared his critics to come out and take him on. Of course somebody did come out and take him on but he did win the contest.

How do we of the Media try to communicate effectively, easily with our readers, our viewers and our listeners? One of the things newspaper editors-- I will talk about newspaper editors because I have been more in print than electronic. One of the things newspaper editors will complain about is a speech that is laden with very big words, a speech that is laden with say jargon say of the lawyers for example which we of the Media do not understand. We will complain about that.

Why do we complain about that? Because they will tell you straight from the school of journalism that you aim to tell your story simply, you aim to keep your story short and you aim to make it easy for people to read you, make it easy for people to follow what you are saying on screen or on radio. Reading through a newspaper or navigating through the pages of a newspaper is very much like say, driving on a road. If the road signs are not there, if it is potholed then you have trouble navigating the road. Now, say a newspaper if it is full of so many big words that are going to drive you to the dictionary every now and then; it is like you have driven into a pothole. You have got to stop and engage the gears again to get moving. Now, you do not enjoy a story be on radio, be it on TV, be it in the newspaper if you have got to ask “hey, by the way this word sophistry means what?” You will not enjoy yourself. I think it is the same for most people who want to communicate.

Again when we are wanting to communicate there are messages we are sending across. As newspaper people or news people we say that our trade consists in educating, in entertaining, in informing and of course as you heard Dr. Odhiambo say, there is also the other objective of the Media which is to set the agenda and you can add that we of the Media also want to watchdog the government of the day to try and protect the public interests. If we are not simple in our language, if we are not clear with our images, if we blur what we want to say, then we will not educate, we will not entertain, we will not inform and I do not think we will succeed in watchdogging Government or setting the Agenda for our readers, viewers and listeners.

If again, you want to communicate, you might want to ask yourself, which medium am I going to use? Well, you can have a press statement, and think it out. Most Editors will tell their Reporters when you have a new statement surely, use it as the basis, you know – to look for the real story. In other words, just the press statement that has been given to us, we will say, now what does the third paragraph mean? Are they trying to hide something? So, the Editor tells the Reporter find out - what is it that is here. Now, the newspaper, the TV station or radio are already asking questions about what you have if you have just put out a statement and you might not be around to answer those questions but that will not stop us from raising those questions. If you want to go to radio, I do not mean to be unkind to anybody but the truth of the matter is, radio is very much about voices, while TV is very much about images. There are some of us

who cannot go on TV, there are some of us who would like to hide, you know – on radio because people will just know about my voice, people will not know that I have half a nose.

Now, you have to decide the kind of medium you are going to address your audience through. If again you follow the American politics, they attach a great deal on television debates and again, how you dress how you smile, how you gesticulate all those things matter very much when you are dealing with say, television. If you are on TV and most of the time you are gesticulating and moving from one end to another, you do not come out well and your message will be lost because even on the screen, people want to move with you – you confuse them, and you confuse the message you are trying to put across.

All in all when you want to communicate, at the very ordinary level, you want to be very effective, they will tell you there are just four letters you should think about. One is (K), another one is (I), another is (S), and the last one is (S). K.I.S.S. ‘Keep it short and simple’. ‘Kiss’. Thank you very much. (*Clapping*).

**Hon. Delegate Peter Nkoroi:** Thank you very much Mr. Kwendo and Delegates I think this is the session for asking questions or listing some issues, but let us limit ourselves to issues which can be responded to by our presenters, and let us make our questions or responses short because we all know we take five minutes each Delegate and this is enable everybody to have a chance. So, I am going to start on my right from where I am seated and then I will go round and everybody will have an opportunity. So, let us welcome questions and issues. Thank you. Number 368 and then 542 follows.

**Hon. Delegate Joel Sang:** Thank you Honourable Chair. I am Delegate number 368, Joel Sang from Bomet – District Delegate. Honourable Chair, I wish to thank the speakers who have illuminated our minds on matters to do with Media and personally, I am very much delighted because two of them are my favourite journalists – Macharia Gaitho and Kwendo Oponga; I make sure I read them every now and then. Even when I differ with them, I admire the way they handle issues. So much for the compliments.

I wish to actually talk on an issue that touches on this Conference and the Media. We can forgive the Reporters when they report issues as they are because actually they are reporting what they understand or what they see or what they hear. But with the analysts, the ones who analyze, we have a bone to pick with them. I will give you an illustration because you are members of the Media. Recently, when Parliament said they wanted to take over the Review Process, the Media simply talked about it, talked about what Parliament was saying, never bothered to know what we thought as Delegates who represented other Constituencies. I would fault the analysts because, when you analyze, you have to realize that you are dealing with basic principles - the process is people-driven. Parliament wants to take it over. In other words, denying 'Wanjiku' the right to be heard. You are actually violating a principle that the people are above Parliament. It is God, then the people, then their Constitution and then the institutions, which include Parliament. So, when they say they want to take it over things are actually standing on their heads and the press doesn't portray as much. So, that is where we pick a bone with the analysts in the Media.

The second question is about the owners of the Media. One of the Speakers did refer to Kenya as having given freedom to even foreigners to own the Media and he did actually tell us that Britain does not allow foreigners to own the Media. - so much for their patriotism. In our freedom, if we allow foreigners, when it comes to a fundamental issue such as the Constitutional Review, where foreigners think they might be shut out somewhere, or they might lose out somewhere, or even Kenyans who belong to the upper class, because the newspaper owners are very rich and they control the policy of the newspaper. If they are going to be actually protecting their interests, I dare ask, who will protect 'Wanjiku's' interests? This perhaps can portray to the speakers that our criticism of the Media is not so much based on our desire to be highlighted in the press, but rather we are nudging them to look at the more fundamental issue of whose interests do we want to protect when we make a Constitution? The powerful in the society, may be partly protected by their wealth, "Wanjiku" is naked and needs protection, does not the property to protect her. This is the person for whom we are fighting here and I do hope you will understand that this is why we are very anxious that for every point that Parliament or any other Constituency that is powerful enough, for example the Media owners, there needs to be a counter-point by the representative of the down trodden who is actually the person the Constitution seeks to protect. Thank you.

**Hon. Delegate Peter Nkoroi:** So, thank you. Before the presenter answers, let us have some guidelines because you know there are two presenters and I am sure you all have this programme. So, ask your question specifically or reflect your issue specifically so that it can be responded to easily. So, this one, I think it might go to Mr. Kwendo Opanga and then let us have 342.

**Hon. Delegate Ibrahim Omondi:** 542 Ibrahim Omondi. I have three questions Mr Chairman. Thank you for the opportunity. It can go to either Kwendo Opanga or Dr. Odhiambo or Gaitho. Question number one is, in the Technical Working Committee on the Executive sometimes back, there was a discussion about the term of the President and then there was a discussion on the President's health, I think a newspaper which I do not want to mention went ahead and did a detailed article on the health of the current President and that was a lot more than what was discussed at the Technical Committee giving a world of details and when it happened and what happened and what could happen. Now, that may be good journalism but couldn't the Editor for example think about the implications of such an article. Is it really to inform the people? Is it to educate Kenyans? Or was it going to cause some panic and some confusion? I saw a similar situation in Tanzania last week, when the health of the President was also carried as headline news. The State then intervened and the Editors of that paper withdrew the article and wrote something in the perspective of what the state wanted them to say. I am not saying that Kenya should go that direction, but couldn't we also as Editors at least have some judgement on what to take out there.

Two, I thank the Standard Newspaper for, when one of our Delegates was killed sometimes back in Nairobi, the Standard's investigative journalists took a very courageous step and even managed to get a video tape of some police interviews. Now, we all know what happened I do not want to bore you with the story, but in retrospect, did Standard achieve what they wanted to achieve? And what is it they wanted to achieve? If they would do it over, could they do it the same way?

Finally, I usually enjoy reading Gaitho's commentary, I have never seen him in person, I did not know he wore glasses, but one of the things you people look for are the protagonists and the antagonists and we have had a few of that from Mt. Kenya and Lake Victoria. That has been

very much represented in these commentaries, and whereas we are talking about consensus building, what is the role of the press in bringing Mt. Kenya and Lake Victoria together? I know those elements cannot move, but even here at Bomas, could we with help from the press, find some commonality so that we are not making a Constitution for a Raila Odinga for example, or for some Mt. Kenya people, but for the future generations. Could the press help us in that? Thank you, Mr. Chairman.

**Hon. Delegate Peter Nkoroi:** Number 608.

**Hon. Delegate Lihanda Savai:** Thank you, Mr. Chairman. I am 608, Dr. Lihanda Savai, I am doctor of education. The Media in Kenya has been inherited from the British and it has not come to the African people at all, because even during colonial times, when there was the Mau Mau war, they could write in the East African Standard 50 Mau Mau have been killed, when 70 British soldiers have been killed. The Media did not help the people to fight for their freedom, therefore in any country, the Media is a creation of the people, to help the people to fight any evil both inside and outside the country. Now, this time we have had so many similarities, even where Honourable Kiboro has been attending and we question. Many things are - you the leaders of the Media, you divulge them to the junior officers, they are the ones who make mistakes in everything, when you are the ones leading. For instance, in the rural areas what we are doing here, not many people know very well because the language we use, is a foreign language, and I do not know how you listen to this when like this Constitution we are fighting for all Kenyans, but it seems to me we are writing for the people in towns, the people who dwell in towns only.

The Honourable Speaker Mr. Oponga has referred as to British people like Major and so forth, he has not referred to us anybody in Africa at all. So, would you like to be moving us to our imperialists who suppressed us, you are leaving us here what democracy are you going to build in Africa? To that extent, the press here people read the Taifa, but it writes a few things, but the English papers, they contain everything, which the population in Kenya do not read at all. Therefore, I think you are being unfair to help the struggle of democracy in this country, you have left it to few politicians especially those who feel that they can liberate this country, no matter whether they have education or not. The Media has helped to advertise the foreign

interests in Kenya much, much, much than the problems of the people. The people of Kenya are not created in rural areas but you have based only in towns, you write about commercial interests and so forth. Therefore, being even here, I choose you, we seem to be coaching you how you are going to work. You do not come with the – and you have a weapon in your hand and you do not use it at all. How long are we going to coach you? Unless you go to Nyeri there, you go to Busia there and everywhere else

**Hon. Delegate Peter Nkoroi:** Order!

**Hon. Delegate Lihanda Savai:** Therefore, I think it is a high time we fight for democracy, all of us and the Media is the first weapon of the people to--

**Hon. Delegate Peter Nkoroi:** Honourable Delegate please, can you finish your point.

**Hon. Delegate Lihanda Savai:** -what is hidden here, because now the Parliament that the people we elect and when we vote for election you write only for--

**Hon. Delegate Peter Nkoroi:** Honourable Delegate--

**Hon. Delegate Lihanda Savai:** -who are very rich, who have stories--

**Hon. Delegate Peter Nkoroi:** Delegate 608—

**Hon. Delegate Lihanda Savai:** You do not write--

**Hon. Delegate Peter Nkoroi:** Can you please have a sit, you will be answered, you will be answered. Thank you, you will be answered. The next speaker please, number 376.

*(Consultations at the “high” table).*

**Hon. Delegate Peter Nkoroi:** Yeah, 376.

**Hon. Delegate Mafunga Wambulwa:** *Asante*, Mr. Chairman. I will want to make about two points on the matter as has been given to us by the press. Now, the first one concerns the Bomas of Kenya here, this Conference. The minimization – *yaani*, the degradation of this House started with the Media, you are the people who first put us down, took us as people of no importance. The reason is this, when Dr. Mbai was killed, we met in this House on Monday, Mr. Shikuku raised a Motion which talked about the cowardly killing of our friend, and said that although that has happened, but we are here to make sure the Constitution will come to an end and we will deliver the Constitution from where Mbai has left. Now that reporting I do not know whether it was reported that way because I did not see it. But then within the same week, that Monday, Friday, the KBC called Professor Ghai and Dr. Okoth Ogendo, to ask them will Bomas deliver? And I was asking if we the Delegates had said we are going to deliver, why were you belittling by going to ask the Chairperson, who is only going to listen to us and only helping us? This is my question or my feeling that really the press is not really for us, because if you were for us, we won't have doubted. That is one.

The second thing is that you claim that the press is for teaching and for information, I personally when I was in Eldoret, I delivered a statement to the press, first of all I had some little money, I wanted to buy a sport, they said this one you cannot buy a sport on this, the statement was this. I wanted the NARC Government to be informed that the Western farmers are asking the Government to deliver agricultural money through the AFC, to assist the farmers to prepare the lands now, because our land preparations must be in January and February, so that in March we are ready when the rains come, we plant. Up to this time, that statement never came, they told me no! An appeal will only come through the press, and I have never heard it. And now, what kind of information or who are you teaching? Is that the help to the county or not? That is my question. That is very important. Now tell me, Mr. Kwendo Oponga was telling us that it depends on how you tell and that statement the way I wrote it was only 45 words and it is as clear as that. Can I know where it went because I left it-- in fact – I left it with KBC (*Clapping*), and I do not understand; can you tell me where it went or can I go and see the KBC because I am appealing now to the Kenya Government they should now release that money--

**Hon. Delegate Peter Nkoroi:** Next Speaker with white paper.



**Hon. Delegate Raphael Livu:** Thank you Chairman. My name is Raphael Livu, District Delegate from Mombasa. Mr. Chairman, I would have expected the two panelists to have given us their position in as far as the debate that has been going on here is concerned. What I mean Mr. Chairman is, I believe the Media has really given, without bias, a lot of coverage to people allegedly who were supposed to scuttle this review; I do not buy that idea, but I thought it was the prerogative of the panelists this man used to go (?) I do not know whether he is (?) anymore, perhaps Mr. Macharia Gaitho, now or rather at this point to tell us in their own honest opinion, the position of the general public in as far as the Constitutional Review Process is. In that I believe they do gather lots of information from their men on the ground.

Secondly, Mr. Chairman, I thought perhaps they would also address – because I know lots of Reporters will complain that they would actually file reports with their respective Media houses and I think ordinarily and I am sorry, I am not accusing anybody, it is the Editors who actually determine what comes out and what does not. Maybe they would have commented on that because we may be bashing the people who cover Bomas, while in actual sense it is not really their problem, it may be up there. Thank you.

**Hon. Delegate Peter Nkoroi:** Okay, number 411.

**Hon. Delegate Teresa Usunga:** This is Delegate 411, Mary Teresa Usunga. Thank you, Mr. Chairman. I just have a very brief thing to raise, it is a question. Since I refer to where it was said that the Media uses the voice and the eyes, isn't it? Now, how will the blind see for example the reshuffle of the Cabinet and how will the deaf hear what is just being said and not being given to them in sign language? Thank you.

**Hon. Delegate Peter Nkoroi:** Okay, thank you. Number 596.

**Hon. Delegate Hezron Nyerere:** *Mimi naitwa* Nyerere, 596. Me I just have one question to either *Mheshimiwa Bwana* Opanga or *Mheshimiwa mwingine*. My question is, Kenyans are spending billions of shillings nowadays on buying television sets and even radios and the information we are gathering here in this Bomas is to pass through those electronics. When we have world cup or now we have African Cup like now in Tunisia, those Media newsrooms, they

are spending a lot of time, giving a lot of coverage to these sports people. And here in this Conference, we are reviewing the National Constitution, is it not necessary for those newsrooms to cover this Constitutional Review? This is my question to the Media houses, because it is very most important. Thank you.

**Hon. Delegate Peter Nkoroi:** Thank you. 600.

**Hon. Delegate Leslie Mwachiro:** Thank you, Chair. Today, I am using 600 but I am 600-1, 599, Leslie Betawa Mwachiro. Chairman, my points are basically tabulated and I just want to read them through, I have been wanting to speak since morning.

One, the conception that there is conflict at Bomas is a creation of the Media. Sincerely, we argue, debate, jeer and cheer each other here and that is in no way a conflict. So, I think the Media should at least tell us that, where do they see this conflict at Bomas?

Two, the Media has given Bomas less coverage than they have given 'Koinange red light street business', you know and here we are dealing with very serious issues and we have not gotten a whole page, you know. Mr. Kiboro said that they cannot give us so much time because of the Media fatigue, I did not agree with him at all. I hope Macharia will basically deal with that point.

The other issue is that the Media is partisan, it is fond of highlighting what comes out from mouth- pieces. We know there are some mouth-pieces who are sent, even Honourable Raila said, "when you hear a dog barking, do not shout at the dog, look for its owner". So, I think there are some mouth-pieces, known by the Media too well, and they tend to give them a lot of coverage.

Real issues of Constitutional making have been ignored by the Media, for example, devolution is the prime issue of this new Constitution because if devolution is deleted and not basically accepted as part of the new Constitution, there is no point of writing a new Constitution because we will have basically gone back to the status quo. So, I think the Media should have at least taken time to highlight that point as well.

Now, if I may just use Kiswahili a bit here, *kuna wale tunaita washari, kuna wale wanaitwa wachokozi, na kuna wale wanaitwa walaghai, eh? Na wale tunaiwaita vinyego au watundu. Na Media inapenda kuandika maneno ya watu kama hawa. Lakini wale ambao ni wazalendo, wenye nchi, wananchi, wenyeji na kadhalika, unaona wakizungumza, Media haiwapi nafasi kujulikana kama wamesema kitu gani.*

The other point which I want to go back to is the Senior Editors, this is what I know there are complaints from your Reporters that they go to the field, gather news, bring it to you and you basically kill the stories. You know, you are very partisan in what you take from your Reporters to publish in your Media. So, I think this issue of partisanship and selective reporting is basically being done by the Senior Editors and I am happy Kwendo is there as well as Macharia.

If I give you the story about BBC – When BBC attacked or said something unsavoury to Tony Blair, hell broke loose. But when BBC says very bad things about Kenya, Tanzania, Zimbabwe, Malawi, nothing happens even if those issues are totally out of order or they are far from the truth, nothing happens. So, until it basically talks about your home, or your home-ground or your homestead, that is when you hear somebody reacting. For example, when the Nation wrote a story about the ‘Koinange Street’, was it true? We still don’t know whether you are telling us the truth or you had converted yourself into gutter press as well.

I had another one point to speak. Now, the Nation, the Standard, the Kenya Times, the People are you in competition are you complementing each other? Are you trying to undercut each other or you are basically trying to give us very balanced reporting?

A I finish Chair, I want to ask the Editors again. do you poach stuff from each other, and if you do, what is that in aid of? Are you trying to enhance your position to be the leading newspapers or you are basically trying to use your meagre resources to report objectively? Thank you, Chair.

**Hon. Delegate Peter Nkoroi:** Thank you. 336.

**Hon. Delegate Ernest Kaitany:** Thank you, Mr. Chairman. My name is Ernest Kaitany Delegate number 341. I don’t have mine, I was using somebody’s. What we have gathered from

members and what our presenters have said has been excellent. We have heard from the horse's mouth, you have heard from us the complaints that we have but you are very patriotic, we have read all your articles that you always give. If we talk now around here, we still have to tell you the same and the same thing. Could you please, because you are patriotic Kenyans, we cannot blame all of you, you are making business, but you have seen and you have heard our views, the way we would like this thing to be taken into. I would like now to ask you, if whatever we have said all of us round, instead of repeating ourselves, say the few that we have just said so that we cannot continue repeating ourselves. Thank you, Mr. Chairman.

**Hon. Delegate Peter Nkoroi:** Thank you. 425.

**Hon. Delegate Sylvanus Ogari:** I am Sylvanus Onyambu Ogari, number 425. Mr. Chairman, I think the presentation this afternoon has been excellent and before I go on, I have two questions to ask. Before I do that, I want to assure the Media fraternity that I think when this new Constitution will be operational, I think you will be free according to what we have seen or what you have told us and when you will be reinstated, you will be able to have access to information and I think that you owe credit particularly to Mr. Kiboro, because Kiboro is a member of the Bill of Rights and Citizenship Committee, where I am a member. His explanations, his deliberations were very cordial and really gave us, directed us and we saw that Media is the most important tool we need in our development in Kenya.

Sir, now there is one thing which I don't actually understand. One is where we have people in big positions, they make statements in market places, at funerals, and these statements are sometimes taken as directives or government statements. What do you do? Say that you don't actually get people, the people in the countryside get that information and take them very seriously, like the one Mr. Githae said on the other side when he was addressing people in his Constituency. He said that the Delegates are here illegally. So, the people of that Constituency and the people on the countryside, when they see that message, it was a directive or a government statement. But you said you were very selective when you take the information before it is sieved by people you see that it would be sieved positively. So, what I really suggest here is that when you get these people making these statements why don't those people get the message? Ask them is this your personal opinion or government statement?

Secondly and lastly Sir, very quickly, I wanted to know because in the market of vendors we have so many periodicals; independent, citizen, Nairobi etc, are these within your jurisdiction? Do you allow them, because the market is flooded with those kind of papers, and many of them are very defamatory and even character assassinating? Thank you very much, Mr. Chairman.

**Hon. Delegate Peter Nkoroi:** Thank you. 227.

**Hon. Delegate Amina Zuberi:** Thank you, Mr. Chairman. My name is Amina Zuberi, 227 Mombasa. Mine is just a general observation from the TV screens, you find somebody on the TV screen, a medium sized person or maybe a very tiny person casting news on the TV and you find the person looks very huge. So, I have just been wondering may be one day if I happen to be casting news on the TV, what will happen with my size? So, I would just like to know what the mystery is all about. Thank you so much.

**Hon. Delegate Peter Nkoroi:** Thank you. 530.

**Hon. Delegate Florence Mburugu:** Thank you, Chair. I am Florence Mburugu, 530, Religious Organisations. I want to thank our presenters for this afternoon and I would want to ask two questions.

One, we have learnt that even as you communicate, you have to know how to do it, where to say it, and whom you are telling it to. At the end of the day, you are supposed to educate, you are supposed to inform, and you are supposed to entertain. My question is, even as we make these presentations as the Media, don't you think you have national responsibilities particularly of the moral status of this country? What we have seen in the Media and all of us will agree, is that when you look at our young people, they are no longer living but they are copying what they see in the Media, it has become even difficult for a number of parents especially upcountry, to be able to counsel their children. You bring in adverts that are actually negative. Why are our children in drugs today? Because to be a sportswoman, you have to drink or to smoke or you have got to do this other things, or you have to walk naked in the streets so that you gain popularity. Is this the main purpose of the Media? Don't you have a national responsibility over that?

Two, you have told us that when there is antagonism, then people draw their attention. Good! But at the end of the day, do you inform, educate, or, do you confuse the public that wants guidelines from you because what we have seen, if you highlight those people who are actually negative, for example, when you gave us – like one Delegate has said, about the health of the Head of State, you have not taken initiative to find out those MPs who were elected and never got back home to say whether they are still alive or dead. Where are they? When will their constituents know of their whereabouts, because some of them are neither at home, you will go to their offices, they are not there, you look for them at Bomas, they are not there, and people need to be informed. And then when issues come to be addressed, we wonder which sides will such people take? So, we are appealing to you, even as you give information please know that every side, all people from these country wants to get to know what is going on.

And finally, we are talking about devolution, we give information at the grassroots to your agents at the districts, but what we give there hardly gets space in the Media. Don't you think then, that even the Media houses require to be devolved, so that people can be heard even at the grassroots? Thank you.

**Hon. Delegate Peter Nkoroi:** Thank you. 382.

**Hon. Delegate Sammy Amunga:** Thank you, very much, Honourable Chairperson. My names are Aswani Sammy Amunga, Delegate number 382. Mr. Chairman, I will begin by thanking our visitors today for having spared time so that they come and we exchange experiences with them, as regards the Media. Mr. Chairman, from the beginning when we started Bomas I, some of us were of the view that papers or Media has been compromised, because they were actually reporting to us Delegates. They were trying to wage a war between the citizens of this country and the Delegates. On the other hand, they were passing on information that people who are at Bomas of Kenya are not there for the purpose of writing the Constitution, but they are only there for monetary gains, which was of course false. Mr. Chairman, I thank them, they have corrected now their position and what I am asking them, we have been having forums here, sometimes we have several Constituencies. They have not been highlighting the issues of MPs have not shown up at Bomas. They only look for small things about the Delegates but not Members of Parliament. I would like them, because they have really played a very, very important role in the

society, some of the roles have been of investigative nature, which they have been able to expose many, many bad things, but what I am wondering why they should not also expose good things.

**Hon. Delegate Peter Nkoroi:** Make your point.

**Hon. Delegate Sammy Amunga:** Mr. Chairman, lastly before I move, radio citizen, I am very much concerned about the radio citizen. The radio citizen is actually trying to discredit Delegates here, in such a manner that we are doing completely nothing here. But I would like to remind the Media, what happened in Rwanda. We don't want the type of genocide to take place in this country if we can continue with the kind of what I am seeing being done by radio citizen. It will be very bad. If today this country, we can plague our country into a tempo, it will mean that nobody will be spared.

**Hon. Delegate Peter Nkoroi:** Yeah, next Speaker. Thank you Honourable Delegate, let the next speaker talk--

**Hon. Delegate Sammy Amunga:** Mr. Chairman, others are repeating themselves, it is only that they have been able to catch your eyes--

**Hon. Delegate Peter Nkoroi:** No, no, let him also have a chance.

**Hon. Delegate Sammy Amunga:** It is because Mr. Chairman, I have said I must obey the Chair. Thank you.

**Hon. Delegate Peter Nkoroi:** Thank you.

**Hon. Delegate Osili Adungo:** Mine is a very brief one. Osili Adungo, number 394. First, I would like to join the rest in appreciating the presentations made by the panelists today. I have enjoyed their presentations and I feel completely satisfied. I wanted to start from this question of freedom. One of us has even talked of even Britain trying to – you know, deny certain Medias from being licensed, but each time we people get this newly coined English words, like transparency and so on, we take them wholly and we do fail to understand the fact that even

freedom has its own limits. Now, with us we take it and we begin dancing the tunes of those fellows. Like today when we are in our country here, you will find that information is being dished out very freely to foreigners under the pretext of accountability and transparency. Whereas in those countries where those words started, they still have their FBIs, CIAs and they have a lot of controls for themselves. We should therefore not rely on those words that sometimes entice us and make us prisoners for nothing.

The other thing I wanted to mention is concerning the commentaries that have been made or were being made by the Media in the past, particularly during the past government. You were giving soul-searching commentaries, which were very, very useful. Today, you have ceased to do that. Does it mean that everything else is well? Because you can see from parties that those of us that were on the other side, those who used to go to *Kamukunji* because *Kamukunji* as we all know, started with *akina* Tom Mboya. The *Kamukunjis* were being used to keep the government in power on track, they were meant to really get into the government matters seriously. But when the people that are in the government today again go and call *Kamukunjis* themselves, are they trying to criticize themselves? Are they trying to say that they have no confidence in themselves, because you don't find a government officer double-talking and expect that, that government is running well? And yet we are not seeing those sharp commentaries against those actions.

The other one that, I wanted to end up with is I think one of you it must have been Dr. Odhiambo, asked whether the new Constitution has a provision regarding public broadcaster. My question goes back to him again. That you see what is happening at Bomas here, a Draft Constitution had been made following the collecting of views from the people; I wonder whether that request was made, because I have not seen it anywhere in the Draft Constitution. May be if the Technical Committee dealing with that has received fresh information – why I am emphasizing that issue is because outside there, you find that public broadcaster is helping a great deal. Most of these other Media don't reach us in the rural areas, but the public broadcaster reaches and unless--

**Hon. Delegate Peter Nkoroi:**

*(Inaudible)*



**Hon. Delegate Sammy Amunga:** --that issue was brought up at the collection of views, then it might not find its place in the new Draft. Thank you.

**Hon. Delegate Peter Nkoroi:** Thank you. Honourable Delegates, I think now we need to be fair to our presenters so that they can be able to respond to those questions, unless there is one with a very burning question or point, and that means he should be having the number.

**Hon. Delegate David Eruli:** Thank you. As you may have noticed, I am wearing several hats. I would like to take off one hat and put on another. My name is Eruli David, Delegate 397. My question goes to our distinguished gentlemen from the Media - I am just asking, what will it cost to have a live coverage of our proceedings here at the Bomas?

**Hon. Delegate Peter Nkoroi:** Thank you. Then there is 542.

**Hon. Delegate Marie Owino:** Thank you, Mr. Chairman. I am Marie Dan Owino. Delegate from Siaya. First and foremost, I want to thank you very much for a very nice presentation this afternoon. I only have two questions, which is, I have been wondering who is newsworthy? I am asking this question because I am sure I cannot just pick up a phone and call any newsroom and give my statements. First I will be asked, who is Marie Owino? Who are you and what are you? I would like a situation whereby all Kenyans are treated equally, and if I call Media house and I want to give a statement, I should not be asked if I have a title, because some of us don't have titles. We are just villagers back at home.

My next question is, what is news? I leave at a rural home and we have so many women groups at home who do a lot of work in the way of development. Yet we can't have any news or Media house covering whatever they are doing because like in a place where I live in Ukwala, when I call Siaya and I want news people to come, they want me to pay for their transport, give them lunch, give them drinks. Sometimes I don't have that. What is news? Is it those people at home there who are doing a good job or is it Koigi Wamwere having lunch with Moi?

Last but not least Mr. Chairman, all we are asking for is a balanced and objective coverage, reporting. I believe all my colleagues here will agree with me that we have not received that

from our Media group. May be it is because some of us are not loud enough or could it be that our faces are too old to appear on the TV? I leave it to you. Thank you very much.

**Hon. Delegate Peter Nkoroi:** Thank you, Delegates. I think I am only seeing three new numbers and let them just ask straight questions. No issues. So we go to 406, 603, 381 and we stop there.

**Hon. Delegate Shakeel Shabir:** Thank you. My name is Shakeel Shabir, District Delegate 406. I want to thank the presenters and thank the Media as a forth-estate. I wanted to just hear, but I have something on my shoulders and I feel that I must bring it out. It is a heavy burden that we bear and I thought if we bring it out I may be settled. On the Thursday before our District Delegate Mr. Chrispin Mbai was shot, we called a press conference and we informed the press of the threats that we were all getting. It is so sad that that day you covered something else and no mention was made of the press conference. The Nyanza Delegates were very serious, we discussed this, and it wasn't one or two ridiculous people trying to gain press coverage. It still bears heavy on me, that are the press satisfied that that sort of thing, which they decided and told us very clearly they will not cover, is something that they can rest with because had they covered it perhaps, we would not have lost Dr. Mbai. May be we still would have lost him, but we are saying that we were threatened, we talked to you as the press and we talked to you as a group and our news was blacked out. Why? Thank you.

**Hon. Delegate Peter Nkoroi:** Thank you. 603.

**Hon. Delegate Mwai Gakuya:** Thank you, Chair. I would like to take you back, my name is Mwai Gakuya from *Chama cha Uma*. I would like to take you back to time of election in 2002, and remember we had five Presidential candidates, but all our newspapers, the Media showed that we had only four. I remember we tried to go to all the newspapers to put our Presidential candidate David Waweru Ng'ethe on the limelight but all the Media houses refused. You made an arrangement to make a live coverage on all Presidential candidates that made even a great disservice to this Nation, may be we could be having a different President today, but the Media played it very low. I would also like to say, that it was not right for you not to have covered all the Presidential candidates who sought to be elected as Presidents. I am therefore saying that,

may be in 2007 or earlier, make sure if there are two who are willing to have a live coverage, make sure they are covered as much as possible. Thank you.

**Hon. Delegate Peter Nkoroi:** Thank you. 381.

**Hon. Delegate Rita Katamu:** Thank you, Chair. I am Katamu, 381. Most of my issues have been captured though I still have a few remaining. Now, that we are getting a new Constitution soon, what have you put in place as far as civic education is concerned in the rural areas? Because we actually, our people lack information. In fact, some of us are wondering, some of them up to now are not very sure what we are doing here. So, actually we wish that the Media promotes civic education in the rural areas.

Two, I believe that you are Kenyans and you are Africans. Sometimes the type of information you put across is very much humiliating. Sometimes you do not consider a man, a wife and the children. You throw some information in the air and it lands in the ears of the children and most of the homes have been damaged by the Media, sometimes even the children have been embarrassed by the Media. You remember what came across recently about somebody having done some bad things without using the gadgets. You know when you speak like that and you know the children are in school, children are reading about their fathers, women are reading about their husbands, you know what it means, we have to protect our families. As much as my husband may do something wrong, that is him, but I have to be retained as a wife. I should retain my dignity as a wife, my children should be protected from the actions of the fathers. So, I believe that you will consider this as people of our culture because we don't expose what adults do in front of the children. So, look at the news you are going to give us either in the print so that we are able to understand what should be done.

Lastly, we are talking about equity. We are talking about everybody coming on board to promote the development of our nation. People with disabilities have really been marginalized by Media. We need a space in the dailies where people with disabilities are promoted so that other who have disabilities to those people who have children with disabilities see the need to take their children to school so that they can also join other in the development of the nation. Thank you.

**Hon. Delegate Peter Nkoroi:** Thank you. Now, Honourable Delegates let us have the presenters responding to those questions and I am sure most of the question have been asked. Thank you. We start with Dr. Lewis Odhiambo and then Mr. Kwendo Oponga will follow. Thank you.

**Dr. Lewis Odhiambo (KBC):** Okay, thank you very much.

**Hon. Delegate Peter Nkoroi:** Order! Order! Delegates. Order! Order!

**Dr. Lewis Odhiambo (KBC):** I want to see if I can help as many people as possible some of the issues that have been raised, of course a number of issues have been raised about – mainly the print Media and I leave that to my colleagues from the print Media to deal with. There are other issues that have come and in fact I want to start from the bottom. I want to start with the Delegate who has talked about the role of the Media in civic education. What are we going to do with civic education etcetra, etcetra. I think it is not a misunderstanding but I think it is also selective memory or if you like sometimes memory escapes us. It is very easy to remember what we have seen in the newspaper so very often some of the things that we don't see in the newspapers we assumed also don't appear in the broadcast Media and that sometimes is the mistake.

The broadcast Media carry a lot of information that do not necessarily appear in the print Media. As I am speaking for KBC in particular we have hundreds of programming in about forty six languages in this country and we carry a lot of information. Much of it intended for people in rural areas but because some of this is sometimes is not really entertaining peoples sometimes don't pay attention to some of this information, we shall strive to make it more interesting and more relevant. Let me also as I said that I stand absolutely educated about the feeling of the Delegates with regard to the performance of the Media in particular how they perceived the Media not to have done a good job. I think we could do better, I think the Media can always do better.

The second thing I am going to address is the question of the tragic issues connected with the murder of Dr. Mbai who in fact was my colleague and a friend at the University of Nairobi. Of

course it is a very painful thing. I think the Media did carry this but you can understand it was a very sensitive matter and I think maybe we did not do a very good job particularly mayor Shabir.

I am saying we probably did not do a very good job but believe me I don't think there was collusion among the Media not to do a good job. Usually when you see the Media treating an issue almost in similar version, it is not usually because there has been a meeting where it has been decided that, that is the way the Media should do it, no. It is probably coming from fairly well editorial practice, editorial selectivity and therefore the question of deliberate ignorance of an issue does not really arise. Editors make decisions very independently most of the time, in fact much of the time. I have editors that do not consult me at all before they make any decision. They make those decisions themselves. What is amazing is how the decisions and the editors at KBC will be similar to the decisions of editors at Nation TV and also similar to the decisions of editors at Kenya Times and they don't make phone calls to each other. They may have been some professional judgement that led them to treat the story the way they do.

With regard to newsworthiness because Rosemary is my aunt I will not answer that question. I know she is newsworthy. I will ask Mr. Gaitho to answer that question on my behalf, because as my aunt she is always newsworthy.

I also want to say this, we do recognize more than anybody else and don't think this is empty talk, we do recognize our limitations as Media. But one of the things we don't ever forget is that we yearn for freedom to do our work so that we can carry our responsibilities better not worse. We don't look for freedom to ruin families, we don't look for freedom to be partisan or to write bias stories and I am speaking here for the Media in general. I am not speaking for what has come to be known as alternative press but again let us face it. Even as we speak of alternative press very often when you see a proliferation of that type of Media it is because the environment for Media practice is not ideal. Therefore as for me I am appealing for even a better environment for exercising Media freedom so that alternative press do not arise, so that when things go that bad they are criminal and you can get recourse in a court of law. When you do have an environment that does not allow for very free and very open discussion of issues including those things that we consider very sensitive unless we get that environment the Media will not do their role the way they should.

The other thing is and I would like to appeal to the Delegates to understand this. If you still have an opportunity a plural Media environment is good both public and private, it is very very good. Because unless the society has moved to such an extent where it can tolerate diversity of opinion in its widest sense, we shall not enjoy the kind of democracy we are yearning for through a Constitution process alone. The Constitution process is a way of developing a framework for enjoying all freedoms including the freedom to speak freely, there is freedom to choose what to read, what to watch and what not to watch. In my main speech I said that I do defer to only two types of restrictions to the Media. Those restrictions that have to do with morality and I think that has been expressed by our Delegates representing church organization and other, also those restrictions that have to do with national security. I think those restrictions are legitimate if they are not over used.

Much of the restriction that is required is very often exercised by journalists themselves through their training and practice. Most editors will not accept obnoxious material. I would like to speak also for other editors. Most of the time it is very unlikely that a serious paper such as the Nation can go out and write stories about people that did not take place. I think let us be humble and say they are certain things we do in public, there are ways in which sometimes we are known in public but as public officers your life is game. Let us also accept our British heritage, yes, the Kenyan state is a rather foreign construct and that is why we are trying to localized it through peoples Constitution. We do accept that for most of us our Media training is also fairly foreign, we accept responsibility for any shortcomings that come with our foreign training. I can assure you that foreign training or not I am Kenyan bred I know Kenyan values, I am not a young person, I understand Kenya as much as I should in order to do the work that I do as well as I can. We are concerned about the values that we have to deal with. We also know that we are in a sector where everyone is an expert and therefore it is very difficult for people to understand that we do exercise any modicum of professionalism which we always in deed do. There is a lot of professional stuff that we have to go through before we give you the rubbish that you read, but we do recognize that as other scholars have called it, it is a spontaneous sociology where all of us are experts but we are not expert in medicine or in other things because those things are not things that we come around all the time. We do recognize and accept criticism where we go wrong. Much more important I am not going to talk for anybody as to whether the health of a

President is an important public issue whether it should not be discussed or not. That is a matter of judgment call for each editor that chooses to use a story like that.

Broadly speaking most editors, most people around the world tend to think that the health of President is important public issues. The extent to which we are supposed to discuss them of course is a judgment call. I am also chastised, I am sorry to learn that there was no conflict at Bomas. It seems to me that there was a lot and it seems to me that there still is, because MPs are not here. I don't think the media created anything of the nature, I don't think Media are the mouthpieces of anybody in general, I work for KBC I have not received a phone call from anybody since I started working there in August and I don't think I speak for anybody. I know that the history of KBC has been a difficult one, but I can assure you that so far I have not received any phone call to say things in a certain way or not to say them any other way. I will leave specific issues that my colleague can deal with. Thank you very much.

**Hon. Delegate Peter Nkoroi:** Thank you very much. Now, let us have Mr. Kwendo Opanga react to some of the questions and issues which he is concerned with. Thank you.

**Kwendo Opanga (E.A. Standard):** Thank you very much. I think most of the issues that have been raised this afternoon are not necessarily with regards to what I was talking about but they are issues, which I think I can make a contribution. I don't have a particular order but I think I will try and address what I see. The accusation was made that the Media have been trying all along to put down Bomas. I say no. The accusation is being made that the media have not been part of the struggle and the story of democracy in this country, I say no. I believe the Media have since 1992 been part and parcel of this struggle for a new Constitution in this country and I believe the Media have defended Bomas Delegates and have argued as late as last week. That you said you want people driven and you want Wanjiku. Now, you are saying you want this process to go to the House. Please what has gone on, I do not believe that the Media have set out to put down Bomas or to fight against the struggle for democracy. Again like my friend like Dr. Odhiambo I will not say that we are perfect we are far from perfect we have our failings and we acknowledge them.

The issue of the health of the President again like Dr. Odhiambo said most people around the world believe the health of the Head of State of Head of Government is a matter that is crucial to them and to their country. When the Sunday standard did on the front page the story of the health of the President there was not malice aforethought or intended it was simply believe the judgment of the editors that is the story that is in the public interest.

I will not talk about the videotape that was referred to because as you know the matter is sub-judice, it is still in the courts. Owners of the Media should we allow foreigners to own our Media? That is a matter that should be debated in some countries they are not allowed to and say a huge Media owner like the Australian called Muddock had to change his citizenship to become an American so that he could own television stations in the US. In the UK there is huge debate about cross ownership of Media should you own a TV at the same time a newspaper and also a radio station because you can influence a great deal of public thinking. It is a matter as Dr. Odhiambo which should be addressed here or should have been addressed here. Personally I would say let us have foreigners own the media but let us put certain specific laws in place which will safeguard the national interest. The East African Standard and the Mau Mau. The owners of the East African Standard were British settlers and they would not have used their medium to support the Mau Mau, I don't think they would have done that.

The Media here at Bomas are giving voice and a space and airtime to mouthpieces. With all due respect I do not know whose mouthpiece are in this forum, but what will happen is that there are certain Delegates who have been outspoken. There are certain people in any gathering who will be outspoken or who know how to use or even manipulate Media and what will happen in such circumstances is that they could hog the lime lights. I do not myself think that we of the Media have gone out to look for information from so-called mouthpieces.

What is new? Is it the Honourable Koigi wa Mwere having lunch with the former President or is it the good out in Kakamega, Kasipul Kabondo or Wagalla who are doing backbreaking work to build the nation. Who are constructing schools and things like that. Perhaps the Delegates would like to know that at one time and especially in the 1970s the non-aligned movement and indeed U.N did try to come up with a kind of journalism that was called development journalism. Its thrust, its focus was supposed to be what development government people



are doing. That journalism failed, it did fail because there wasn't enough material about cattle dips, about cotton seeds, about sand mining, no there is a hell a lot of information about that and there was plenty of it published but that journalism did not just take off, it did not work. Why? Perhaps because viewers, listeners, readers had their interest elsewhere which might then bring us the question of who makes the news. Unfortunately and again I do not want to say that we of the Media are running away from ordinary folks, we are running away from ordinary people.

*(Consultations at the "high" table).*

**Kwendo Opanga (E.A. Standard):** Sorry it is a question I think he is the one who is best placed to answer. We are not trying to run away down, run away or even run down ordinary people in our coverage but it so happens that it is our leaders, political, religious, business who dominate the news and this is not a practice that is confined to Kenya this is a practice around the world.

The question of the marginalization of the people with disabilities. Again I cannot say the Media have done very well here, and like Honourable Delegate pointed out it is on TV and there are people who do not see. It is on TV there are people who do not hear, we of the Media have not developed our journalism to adequately take, or cater for people with disabilities in our country and again I wouldn't want to think that it is just us. It is only now that you go to building and you find that now there are special lifts, on our buses you find there are seats reserved for people with disabilities and now people are taking care to ensure that there are stairways that can be used by people with disabilities. The Media, we should remember live and swim in this society and don't live above it. Is there something that I am leaving out? I don't want to leave anything out. Are we competing or complementing each other? We are competing but there are sometimes when the story is one and it will depend on how different Media Houses treat that story. The front page will be dominated by one story but the difference will be in how different editors have treated that story. Have we given it three pages, two pages? Do we have graphics to go with it? Have we gone out and talked to the characters, the people involved which brings me to the question of MPs and Delegates and the views put across. That we covered what the MPs did but we did not report what Bomas did. The reaction of Bomas II, what the MPs were trying to do in regard to taking the process to themselves, I remember very well that at our editorial meeting we did say,

yes, the MPs are doing that we must get the Delegates at Bomas and I think the Delegates were not there on that day, so we could not get you.

We endeavour to give both sides of the story, every story has more than one side and we try to give every side an opportunity to be heard. I do not know if I can satisfactorily address the issue of negative adverts in our papers, adverts on our television screens, on the Internet, I do not know if us of the Media should be blamed for an aspiring athlete resorting to performance enhancing drugs. Are we of the Media responsible for the new fashions I am seeing which leave the Midriff bare I am not sure it is us who are doing that. I do not want to believe that it is the Media who are, of course I cannot say that we don't have a role in this, but I do not think that the fashions that we are seeing have been created, designed and being promoted by us and us alone. I think that is what I can deal with. Thank you very much. (*Clapping*).

**Hon. Delegate Peter Nkoroi:** Thank you. There are some short questions to be responded to just hold on. Thank you.

**Dr. Lewis Odhiambo:** A question was put as to what it might cost to give live coverage to Bomas. I just tell you what it involved. Live coverage to Bomas requires something called outside broadcasting van that is a mobile studio that will give you coverage throughout the day and night if you unless of course you install your cameras, unless this place has got its own cameras and studios through which that can be done. At the moment that is not there and so you will have to need a outside van. Just as an indication covering the death of Vice-President Wamalwa from arrival at the airport to the time he was buried costed KBC about 9.8 million that is 10 million shillings. My assumption is that it probably cost anywhere and of course the actual cost will be given to you depending on the connectivity to telephones and also to space of it. What it might cost you may be something on the everage 1.5 million shillings a day for live coverage of Bomas from here and that is the cost, there is radio electricity, when there is no electricity it becomes a little more expensive because we have to move in with generators. If that is of interest to anybody that is what it might cost.

**Hon. Delegate Peter Nkoroi:** Mr. Macharia Gaitho has also something to add. Thank you.

**Macharia Gaitho (Nation Media):** I am continuing from where Dr. Odhiambo left on live coverage. Fine we may install all the equipment we need here for live coverage but will the people watch it? It is very easy to bring live coverage of football match for ninety minutes, you watch, you have your beer wherever you are and you go home. It is very easy to bring live coverage of Jamhuri day celebrations, it is limited time within a definite duration you watch it and you go home, but when you have a live coverage of a thing like this. I don't think it can sustain itself, even as we talk today about live coverage of Parliament I think what we are doing it talking. Parliament is going to spend a lot on putting up all those systems and may be sell the signals to KBC, Nation, to KTN and whoever.

We are going to look at the time available to show that thing, there are other programmes which you people might think are more important and so on. In the UK they did start live broadcasting of Parliament, it doesn't work. Nobody watches it, what people watch is the highlights at the end of the day but nobody is going to sit there to watch live coverage in Parliament unless it is an extremely important debate. Which means you may come here because you want to watch a particular thing but you are not going to sit there the whole day just to watch Bomas or Parliament or anything else indefinitely for the whole day. You don't have the time and there may other priorities for that broadcasting space and obviously we are not going to dedicate a single channel just showing one particular thing.

The other thing I would like to comment on is. In this business or in this profession we have to be very, very brutal sometimes. On my desk I may have on a daily basis hundred issues of news but I only have space for ten which means ninety must see the dustbin. When I know the Standard is doing the same, KBC is doing the same, everybody else is doing the same and at the end of the day we more or less select the same things except for a few changes. Well 90% of what we do is the same thing. Then I know we are all on the right track because professionalism is what is at work rather than any biases or rather than anybody being bought and that is what is working.

The gentleman from the UMMA Party asked about why their Presidential candidate was not covered. Again we have to be brutal, we can see from where we are and everybody else can see who are the serious candidates, who are the candidates who are making an impact. We go with

