

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

NATIONAL CONSTITUTIONAL CONFERENCE

Verbatim Report of

**PLENARY PROCEEDINGS, PRESENTATION OF DRAFT BILL,
CHAPTER TWELVE – ENVIRONMENT & NATURAL
RESOURCES , HELD AT THE BOMAS OF KENYA**

ON

29TH & 30TH MAY 2003

**PLENARY PROCEEDINGS, PRESENTATION OF DRAFT BILL, CHAPTER 12 –
ENVIRONMENT AND NATURAL RESOURCES, HELD AT BOMAS OF KENYA ON
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**PRESENTATION OF THE DRAFT BILL: CHAPTER 12 -ENVIRONMENT &
 NATURAL RESOURCES**

**Presenters: Com. Abdirizak Nunow
 Com. Zein Abubakar**

**Session Chair: Sultan Fadhil
Co Chair: Elkanah Odembo**

The meeting reconvened at 2.55 p.m.

Prof. Yash Pal Ghai: Honourable Delegates, I call the meeting to order, please take your seats. I would like to make an announcement that we are trying to finalize the list of members of the Technical Committees. You have all seen this list which has been posted and if anybody wishes to change from one committee to another, please let the Secretary, Mr. Lumumba, have a note of that by tomorrow lunch time. Tomorrow afternoon, we want to finalize the list and you will not be able to move from the committee to which you had been assigned. So, you have an opportunity until tomorrow lunchtime to indicate to the Secretary if you wish to change your committee.

Now I would like to give the floor to Miss Miriam Muto, for a personal statement. We agreed just before we broke for lunch that an opportunity will be given for statements on Committee ‘C’, and now I invite Miss Miriam Muto if she is here to make her statement. Could the mic be taken there please, at 472? Order. Please proceed.

Hon. Delegate Miriam Muto: Thank you, Mr. Chairman. My names are Miriam Muto, Delegate number 472, representing persons with disabilities. I am rising on a matter of public notice on the functions of the Conference as provided under Article 23 (1), raised in response to Delegates queries since yesterday on a misleading headline contained in today’s ‘Daily Nation’ which says, ‘Gender Activists dropped as heads of Committees’ and other information given to the Steering Committee. Mr. Chairman, the facts are as follows: We held our elections on

Monday as Members of the Representation of the People's Technical Committee, we had five (*PA failure*) – Thank you. Sorry I have to start again.

Prof. Yash Pal Ghai: Okay, please do that.

Hon. Delegate Miriam Muto: My names are Miriam Muto, Delegate number 472, representing persons with disabilities. I am rising on a matter of public notice on the functions of the Conference as provided under Article 23 (1), raised in response to Delegates queries since yesterday to a misleading headline contained in today's 'Daily Nation' on 'Gender Activist dropped as head of Committee' and other information given to the Steering Committee. Mr. Chairman, these are the facts. We held our elections on Monday as Members of the Representation of the People's Technical Committee. We had five candidates and the winner was Prof. Maria Nzomo who scored 60% of the votes cast and all Members accepted the results. Since then, this democratic election is being contested by people from Central Province who claim that the slot should be given to a candidate from Central Province as per MOU to which many of us are not a party and which we were never consulted over. We rejected that MOU, decided to hold elections on the basis of who we felt should represent our Technical Committee and we did not hold any other election, neither did we send any person to the Steering Committee.

Yesterday, the Steering Committee directed our Committee to go back and reconsider our Monday decision. After deliberations, many of us in the Committee decided that we wanted to retain the status of call per our decision on Monday. What this Honourable Conference needs to consider is the following: that the mood of presentation and participation at this Conference should be given that each of us carries several identities including ethnic group, gender, clan, religion, political ideology, et cetera. Should we privilege one identity and overrule others?

Should some of us here decide for others what should be their primary identity without consulting them? This is not what is happening when the Steering Committee overrules what our Technical Committee decides, on a candidate not chosen by us using the argument of MOU. That is the original representation over all other identities. This Conference should know that the

Committee has not forwarded any other Convenor to the Steering Committee and hence the Steering Committee cannot, even under the rules, appoint anyone for us. Thank you very much.

Prof. Yash Pal Ghai: Thank you very much indeed.

Honourable Delegate: Point of order.

Prof. Yash Pal Ghai: Yes, number 314.

Hon. Delegate Gacuru wa Karengi: Thank you, Mr. Chairman, my names are Gacuru wa Karengi, Coordinator, Central Province and a Member of Committee on Representation, Committee 'C'. Mr. Chairman, I think it is misleading for one of the Honourable Delegates to give a statement that materially misleads this Conference. One, we did not all agree on the outcome of elections; secondly, Mr. Chairman, we can provide proof that some of those who were voting were Observers and therefore were not entitled to vote and therefore that invalidates the election that was there.

Secondly, Mr. Chairman, I would like to draw your attention to Article 49 (1), the Technical Committees have no mandate according to these rules to appoint anybody. The mandate lies in the Steering Committee and therefore the decision of the Steering Committee is what prevails. Whatever happens in the Technical Committee is being done on the mandate and on behalf of the Steering Committee. So, I wanted that to be brought and corrected that the decision of the Steering Committee prevails and according to what the Steering Committee decided, that committee is going to be convened by a Delegate from Central Province. That is the decision and that is what we understand, that is what it takes, no more, no less. Thank you.

Prof. Yash Pal Ghai: Could I just try to conclude this matter and get on to the other issues? I think the strict legal position is that it is this Conference and not the Steering Committee which appoints Chairs. The Steering Committee recommends and the Conference ratifies. The Steering Committee will bring the list of Convenors to the Conference once it has concluded that list and then maybe time for debate is necessary. At this stage, I do not want to have further

discussion because the matter will come before this Conference and I want to pass on the mic. What is your point of order?

Hon. Delegate James Waweru Mwangi: Thank you, Chairman. My name is Waweru James Mwangi, a Delegate from Murang'a. I want to inform the Chair that the statement that has just been read out purporting to have been written by the person who read the statement was actually authored and delivered not by the person who read it but by an interested person during lunch break. So, the person who read it just read it but the author and the person who circulated that statement is actually an interested person and is the person who is purported to have been elected.

Prof. Yash Pal Ghai: That is not a point of order and I will now ask my colleague Sultana Fadhil to take the Chair so we can resume the proceedings to a Chapter on Environment and please let us make progress because I do not want to continue with this discussion further, when the list comes before the Conference there will be another opportunity.

Hon. Delegate: Point of procedure..

Prof. Yash Pal Ghai: What is the point of procedure?

Hon. Delegate: Thank you very much, Mr. Chair Person. If indeed it is true that this Conference makes the final decision, in that circumstance I smell mischief. There are very many Motions and Statements that have been presented to the Steering Committee and they have not appeared before this Conference. If indeed the Conference is ultimately to ratify these decisions, how did that Statement manage its way into this Conference prematurely?

Prof. Yash Pal Ghai: Just carry on. Number 605. *Noise from the Honourable Delegates.* I am sorry we are proceeding now with the core business of the Conference.

Hon. Delegate Sultana Fadhil: Wajumbe watukufu, Mabibi na Mabwana, nafikiri sasa tutaendelea na mjadala na mazungumzo kuhusu mazingara.

Hon. Delegate: Point of order.

Hon. Delegate Sultana Fadhil: Delegate number 365, una nini? Ni point of order ama ni jambo gani?

Hon. Delegate Sisika Leng'ete Moses: My name is Ole Sisika from Kajiado, Delegate number 365. On behalf of Kajiado Delegates, we wish to register our disappointment, not a single Delegate from Kajiado has been given a chance to discuss on Land which is a very important thing to us.

Hon. Delegate Sultana Fadhil: Number 365, point of order yako itatujulisha regulation number gani?

Hon. Delegate Sisika Leng'ete Moses: I am talking because we did not get a chance to speak on land and it has been closed, Madam.

Hon. Delegate Sultana Fadhil: Land, haijafungwa. Kuna Technical Committee ambayo itakuwa yazungumza mambo ya land na mnaweza kutuletea kwa maandishi-- Hebu nisikilize ngojea kidogo number 365. Unaweza kuleta maoni yenu kwa maandishi na yatatiwa kwenye repoti ambayo itakwenda kwenye Technical Working Committee, unaweza kwenda kwa binafsi wewe mwenyewe au nyote watu wa Kajiado mkazungumza kwenye Technical Working Committee na pia leo, kwenye mazungumzo ya Environment na Natural Resources yanaingiliana na mambo ya land. Kwa hivyo unaweza kuzungumza na tutawapa nafasi.

Hon. Delegate Sisika Leng'ete Moses: Sawa kabisa, with that I will agree. The only thing –

Hon. Delegate Sultana Fadhil: Kama tujuavyo, tunabaki na siku sita na wakati ni muhimu sana. Kwa hivyo kwa hisani yenu tuwape hawa fursa wazungumze habari ya Environment na Natural Resources na land kama mlivyojulishwa asubuhi na Prof. Okoth-Ogendo inahusiana na land, environment na natural resources. Mnaweza kuzungumza na kwa hivyo, tujaribu kutumia wakati kwa busara.

Hon. Delegate Sisika Leng'ete Moses: I just wanted to make that point Madam Chair so that whoever will be there, if I go to land he will not say it is specifically land.

Hon. Delegate Sultana Fadhil: Tutawapa nafasi watu wa kajiado sio? Na mtuletee kwa maandishi maelezo yenu yote, mtayaona kwenye record na pia mtapewa fursa ya kuzungumza.

Hon. Delegate Sisika Leng'ete Moses: Madam Chair, it is very important, sorry to disrupt you.

Hon. Delegate Sultana Fadhil: Kwa hivyo hivi sasa bila kupoteza wakati mwingine, huu wakati sio wetu hapa juu tu, ni wetu sote na lazima tuuhifadhi. Tunamkaribisha Bwana Elkanahh Odembo ambaye atanisaidia kuendesha kikao cha leo na atawakaribisha wazungumzia wa leo. Asante.

Hon. Delegate Elkanahh Odembo: Asante sana, Dada Mwenyekiti, Wajumbe wote, namsalimu, hamjambo nyote? Hamjambo?

Hon. Delegates: Hatujambo.

Hon. Delegate Elkanahh Odembo: Asante. Chapter 12, on Environment and Natural Resources is what we are now about to embark on. We have two Commissioners who will as it has been the tradition, work us first through the report of the Commission and that will be followed by the second Commissioner who will work us through the Draft Bill, before we open it up for discussion. I am happy at this time to invite Commissioner Dr. Abdirizak Nunow, to take us through the report of the Commission and that will then be followed by Commissioner Zein Abubakar. Karibu.

Com. Abdirizak Nunow: Thank you very much, Mr. Chairman, Honourable Delegates, I am Delegate number 558 and my names are Abdirizak Arale Nunow as you have been told. First of all, I would like, before getting into the details of the main report, mention that there is very close correlation between this Chapter and the Chapter on Land and Property in two ways. One, Land is one of the critical natural resources of the country and two, the Environment

encompasses among other things, land. So, with that kind of relationship then, one cannot help-- You find in the previous discussions on Land, issues of forests being raised.

So, one cannot avoid to talk on the other whenever one is on one of the two subjects.

With that then, I would like to take you through the main report on the Chapter on Environment and Natural Resources and I would like to approach this subject in the following manner. Although the concept of environment and natural resources are very closely embedded for ease of planning and for ease of presentation, I would like to take them separately and I would like to take you through the environment component first and then the Natural Resources components thereafter.

The issue of environment really means or refers to the natural resources in their total form together with all infrastructure that are put in place to facilitate the utilization of these natural resources.

Why should we be so concerned with the issue of the environment? Because if the environment is not managed, there is a likelihood of imbalances that will result and such imbalances might be difficult to reverse. So, we are concerned with the environment mainly because of the concept of 'prevention is better than cure', so that we have proper use of these resources, where proper use is defined as – in the modern terms now – sustainable use. Sustainability implies that you use these resources now and ensure that they remain available for future generations. This then, takes me to the issue of equity between generations and within a generation – inter and intra generational equity. For that to be realized, we must use the environment wisely.

What does the current Constitution of Kenya say about the environment? I would like to mention that there is no direct reference to environment or there was no direct reference to environment in our current Constitution before the legislation of 1999, which created Environmental Management Coordination Act. That is where the concept of environment has been referred to directly for the first time other than mentioning it or implying it in other legislations and under that Environmental Management Coordination Act of 199, it clearly says that every person in Kenya is entitled to a clean and healthy environment.

Now, that is as far as our legislations go now and other than that our country is also a signatory to numerous international conventions and treaties that are concerned with environmental aspects and that are concerned with particular components of the environment.

Now, what are the experiences of other countries and other Constitutions with regard to the environment? Briefly, again where our current legislation on Environmental Management Coordination Act mentions or talks about entitlements. A number of countries in their Constitutions have elevated that entitlement to actual rights. You may be entitled to something but you do not have to get it. But when it is a right, then you have got to get it. So, a number of Constitutions have elevated entitlement to a level of rights and these rights therefore, force Constitutional obligations on these particular nations to ensure that their citizenry achieve and get those rights. We are not yet there ourselves. Some of these countries include Brazil, South Africa, Uganda, Namibia, Malawi, Thailand and India who made specific provisions and obligations on the Government to ensure that their citizenry enjoy these rights.

Now, some other countries have not really put it so specifically but have put these provisions on environmental rights by way of principles or state policies and within the Bill of Rights also.

The general approach then of those Constitutions that have put the environmental rights and environmental entitlement in the directive principles and Bill of Rights have basically taken the following approach: creating a right to a clean and sustainable environment within the directive principles or Bill of Rights. Imposing on state individuals and other entities to preserve and conserve the environment. While conservation implies wise use of the environment, preservation ensures that until such a time when such parts of the environment can withstand utilization, it should be completely protected so that you ensured that it regenerates. Normally, this is taken on specific components of the environment that are felt to be disappearing or in danger by diversity the critical part of such elements that need to be preserved rather than conserved because you will not be able to determine at what point particular species cease to exist.

Within these Constitutions, also there are Clauses that enable individuals of these countries to protect and defend the environment by giving them facilitation and the right to go to Court even when a particular issue does not necessarily touch on the person or the entity that is seeking court action.

These Constitutions also have endeavoured to create infrastructural basis for environmental governance. They have also undertaken environmental education to ensure that the widest possible awareness has been created within the country with regards to environmental management.

Some of these countries have also ensured that before any environmental resource is exploited, proper environmental impact assessment is conducted. Environmental impact assessment should, if it has to yield the desired results, involve the public through open forum where the public can actually agitate and ensure that their points come out. Not where an institution or an organization that intends to exploit particular resources, appoints consultants and assumes that the feedback of that consultant is binding because that consultant is trying as much as possible to ensure that they meet their terms of reference and often terms of reference of the institution that is going to exploit the resources, and of necessity might be biased. So, if environmental assessment has to make sense, they must be open to public scrutiny and the public must be left to have some input. Some of the Countries that have these elements clearly brought out also include again Brazil, South Africa, Uganda, Malawi, Portugal, Ethiopia and Ghana. These have entrenched certain particular provisions, some of which I have mentioned in their Constitutions.

Honourable Delegates, I would like now to mention and take you through what you and other Kenyans told us as a Commission when we went round with regard to the environment. We were told that environmental protection should be enshrined in the Constitution. We were also told that sixty percent of the benefits that results from exploitation of natural resources should accrue to the local people within that area. You also told us that there must be adequate compensation and resettlement for communities and people that end up being displaced by virtue of exploitation of a particular resource. This brings to mind the issue of titanium in Kwale.

Now the question of determining what is adequate compensation and what would be suitable resettlement maybe left to other interpretations and must be open to consultation again before it is finally said to be acceptable.

We were also told that there must be complete protection of resources that are irreplaceable. Such must be completely protected. This may include indigenous forest and particular endangered species. This again brings to mind, for instance, the species of antelopes known as 'Hirola', which is found only in Northern Kenya. There was an effort to move it from Northern Kenya to Tsavo National Park in 1996 and the local population went to court against the Kenya Wildlife Service and won the case where it was upheld that Kenya Wildlife Service must first of all make an effort to conserve the species within its natural habitat before making any efforts in translocating it elsewhere.

We were also told that there must be protection against deforestation, protection against pollution, protection against poaching and protection against soil erosion.

Honourable Delegates, you also told us that communities and Governments must be partners in environmental conservation and management. You also told us that natural resources such as minerals, forest, wildlife, water catchment areas and land must be protected. We also heard that the Government could own all natural resources but management of these resources, revenue collection on these resources, preservation of these resources and protection should be entrusted to local communities.

Finally, we were also told, Honourable Delegates, that forested land grabbed by politically correct people in the past must be repossessed urgently. *Clapping by Honourable Delegates.*

Now, on the aspect of environment, I would like to go to the last section, which are the recommendations we made, most of which have gone to the Draft Bill, which will be read later to you by my colleagues. But the broad recommendations that we as a Commission made on the environment are the following:

That environmental rights and duties as well as conservation and sustainable use of Kenya's natural resources and the issue of inter and intra generational equity should be provided for in the Constitution.

We also recommended that the following principles should guide all administrative and judicial decisions on the environment and natural resources.

The principle of public participation must be paramount if we have to have sustainable management of environmental resources.

Secondly, we must always recognize inter and intra generational equity. We must provide for the principle of polluter-pays. Polluter-pays principle is the underpinning that whoever pollutes the environment must pay for its rehabilitation. These include issues like reparation if damages have already been made, issue of compensation and cost of redress must all be borne by the polluter who should have enjoyed the benefits accruing from the process that ended up polluting the environment.

- The principle of relevant social and cultural values in the environmental conservation management should also be recognized and embodied in sustainable environmental conservation.
- We must have international cooperation on matters of trans-boundary resources. We have resources that go beyond one juridical boundary and because of that, if we have to have proper management of such resources, one would have in mind resources like water; if a river goes through our country and another, it is of necessity to cooperate with the other nation.
- The issues of industries that are allocated close to international boundaries, if they emit pollutants, for us to manage that pollution properly where that industry is on the other side of the boundary or on our side, we need to engage in international cooperation.

Honourable Delegates, we also said that among the principles that should guide sustainable environmental management should include the principle of precaution. Precautionary principle should also be incorporated. Such requires an advanced action before you get into the mess. An environmental impact assessment is recommended before projects that may have irreversible damage on environment are actually initiated. As I said, the EIA, environmental impact assessment must take the dimension of inclusiveness. Sometimes it might not be that clear that indeed this project may have irreversible environmental damage. So in an event where the public consensus is inclined towards suspicion that this particular process might produce, disastrous products or disastrous results, even the issue of scientific 'satinity' may not be required. This is what we recommend:

- That aspect of scientific proof may not be necessary for one to argue that this particular activity is going to result in environmental damage.
- We also recommend that every Kenyan should be given a right to protect the environment and be given recourse to court whether or not that particular aspect touches on the person or institution that is seeking court action.
- We are also recommending that the government must be duty bound to protect Kenya's wildlife, genetic resources and biological diversities and that the government must be duty bound to protect forests and under take reforestation where forest areas have been depleted.
- We also recommend that water conservation, particularly protection of water catchments areas must be an obligation to be formed by the government and water bodies, particularly the ground water should also be protected because some of the efforts may not be reversible.
- There must be government's responsibility to undertake periodic environmental audit and environmental monitoring to ensure that all is well within our environment.

- The government must promote environmental education because we feel that the wider the environmental knowledge among the populace, the easier it may be to engage in sustainable environmental conservation.
- Honourable Delegates, we also said there must be criminal and administrative penalties for those who engage in activities injurious to the environment, so that people may not just have a free day in doing what they intend to do without any penalties.
- Sufficient resources must also be accorded to environmental management so that the relevant ministry and the relevant institutions,, public institutions that are responsible for environmental management must have adequate resources to undertake their task.
- There must be periodic reports to Parliament by the Minister in charge of environment and that must be made public.
- There must also be, finally security of tenure for the director general of the National Environmental Management Authority which we propose in the Draft Bill so that this person works without any undue influence or duress whatsoever.

Honourable Delegates, I would like to quickly take you through the other parts, the natural resources components of this subject. We are saying the need for regulating the use of natural resources is necessitated by the fact that these resources are scarce and secondly because of the increasing demands for these resources, which come as a result of population increase and diversified uses of these resources.

The main natural resources, in our country include energy, water, minerals, fisheries, Wildlife and forests. On energy, I would like to mention that 19% of our energy is from biogas which is wood fuel. This uses the woodlands, the forest and the shrubs as well so that that wood fuel generates the required energy. It is clear that increased consumption of wood fuel would deplete forests, and is also a factor in global warming, which may not be felt in the immediate short term but which is a danger the entire globe now faces.

Honourable Delegates, devegetation of arid and semi-arid lands for wood, fuel among other things is a danger that we have got to live with and we live with currently. We all know that as we talk, a total of a quarter million refugees from various countries are settled in the arid and semi-arid lands of Kakuma in Turkana, and Dadaab in Garissa. The entire energy for cooking and for any other purpose that is required by these people is derived from this marginal environment and desertification is encroaching. That is a reality we have got to live with. This is over as decade now, about twelve years, and there is no light at the end of the tunnel. This has created a situation where the local population in these particular areas in Turkana and in Garissa had to register themselves as refugees in the camps, a very unfortunate situation because the condition, in the camps, was found to be better and more humane because wood fuel is provided by the international agencies after harvesting it from the local environment. But the local people cannot access because they don't have the equipment and the machinery to search for wood fuel from many kilometers away.

Honourable Delegates, water resources is also a critical component that we need to conserve and use wisely. As it is now, 65% of our water is used for agriculture, 18% for domestic, 13% for industrial and 4% for other purposes. Because of these diverse uses, there is the obvious conflict on water uses, and such conflicts must be resolved and harmonious conditions be found.

Now that brings us to the issue of equity and extraction so that when the water is extracted from whichever source, it must be equitably distributed to different uses and equitably distributed between the citizens. These conflicts have consequences for--rights, rights of the individuals where the water goes through and the ecological balance of the actual physical environment through which this water goes, so that you may interfere with mangroves for instant if you do specific activities in efforts towards extracting water. You may interfere with particular species of flora and fauna if you extract the water beyond a certain limit. These are roles for the national government, roles for the Constitution to ensure that these conflicts are resolved before they reach situations of alarming proportions. For instance, the upstream users of as river water must take into account the rights of the downstream beneficiaries of that water. We should not just say, "because this river is passing by my place I can take all the water irrespective of what happens downstream." Similarly the source of the river is also a critical area to conserve, for

example, water catchments areas, because it will not be available to both upstream and downstream if the catchment is destroyed. So this must be protected by the Constitution.

I would also like to mention the three-mile strip off River Tana which creates potential conflict between very good neighbors on either side of the river in Garissa and Ijara district on one side and Tana River district on the other side. The colonial government placed three miles of Garissa district, three miles of the river in Coast Province, which means that as we talk, the Provincial headquarters of North Eastern Kenya is actually in Coast province. These are things that must be resolved by the Constitution. We are also categorized by the World Water Institute in its report in the year 2000 as one of the countries chronically in shortage of water. We need to, therefore, take advanced action to ensure that we do not get to a position where we will have to import water.

Honourable Delegates, I would like to mention that exploitation of minerals in our country presents a real dilemma. On the one hand it is a very very critical source of revenue, both for the country and for the local population who may get employment and other indirect benefits. But it is also clear that mineral exploitation, almost in all cases actually result in environmental damage. That conflict must also be resolved by the Constitution and advance action taken in that direction so that we have harmony between environmental conservation and the mineral exploitation.

Fishing, Honourable Delegates, is a significant source of income for over a million people who derive their livelihood either directly or indirectly from fishing. So there must be used and management of fisheries which should be in such a way that is sustainable. There must be sustainable means of using the fisheries resources in this country.

Honourable Delegates, wildlife is a very important source of revenue for us and we are one of the countries bests known for its wildlife population. It is mostly found in National Parks, Game Reserves and other protected areas. It is actually estimated that about 75% of the country's landmass, is actually areas occupied by wildlife, either as Game Reserve as National Parks or as other protected areas. Significant population of wildlife is also found outside the protected areas. Unfortunately or fortunately, 90% of these are within the arid and semi-arid lands, very fragile

environment where pastoralists also compete for grazing and vegetation through their livestock with this wild game. There is therefore, a conflict between the wildlife and the people. This conflict takes two-forms, where there is damage by wildlife to human beings to livestock and to crops, but there is also damage by the people to the wildlife through poaching or killing after the wildlife trespasses on their property. That is also a conflict that should be resolved.

Traditionally, Honourable Delegates forests belong to communities, with approximately 15,000 traditional forest dwellers in indigenous forest. The best known indigenous forests in this country include Somek of Mt. Elgon, Ogiek of the Mau Forest, Miji Kenda of the Kaya Forest and the Boni of Boni Forest that crosses both Lamu and Ijara Districts. Of necessity therefore, management practices must be put in place to ensure that communities play a critical role if there has to be sustainable conservation of these forests that have been for generations associated with the local communities and particularly where these forests play other social roles, within these societies. As it is now, the management practices of the Forest Act still reflects the command and control principles, which were instituted during the Colonial period.

Honourable Delegates this should go and it is only a bit of recognition to local communities in forest conservation that is recognized now, but much more in corporation of local communities initiatives is critical. Our current constitution of 1963 had all minerals, water bodies, gazetted forests, being the property of the State and it was only under some restricted circumstances that they were also the property of regions. However, once regionalism was abolished, most of these resources reverted to ownership and control of His Excellency the President as the guardian of State property. I will not go into the details of the consequences of that provision.

What are the experiences in other constitutions Honourable Delegates? Briefly managing and controlling natural resources such as water, forests, wildlife, and bio-diversity and other marine resources are common in many constitutions. In these constitutions, provisions are either in the Bill of Rights or directly freehold state policy. I will only mention two examples. Uganda has provisions in the national objectives and directive principles of State Policy with regard to these resources. Ghana makes special provision in a particular article, where it creates obligation to protect and manage natural resources sustainably, and it also creates regulations for exploitation of these resources.

Now let me go to the second, last but one, what you and other Kenyans Honourable Delegates told us on the issue of natural resources. The main focus was on ownership of these resources, on the control of these resources and the management and most of the resources that were often referred to included water, minerals, fisheries, wildlife and forests. You may look at the details of these in the main report, pages 301 and 302. I will not go into details now

I will now go to the recommendations that we made as a Commission on the subject of natural resources.

- We recommend that all natural resources including minerals, water, forests, fisheries and wetlands among others should belong to the people of Kenya or by their Agents in trust for the people of Kenya.
- We also recommend that Parliament be the Public Trustee, being the Institution that represents the people. That is, Parliament be the Public Trustee on natural resources.
- We also recommend that any transaction or contract for the exploitation or use of minerals, petroleum and oils, water, forest and forest products, fisheries and other flora and fauna, and all other natural resources to be subject to ratification by 2/3 majority of Parliament, before any contract to exploit a particular resource is allowed or authorized. Honourable Delegates, we were told that because of lack of coordination in natural resource exploitation, these were abused. In Northern Kenya in the name of exploitation or exploration for natural resources, toxic waste has been alleged to have been buried, and the views from there were very clear that since 1988 or thereabouts when this started, there has been significant mysteries of diseases that were there before not known of, like throat cancer, and unique camel diseases that were never heard of before. This would not have happened if Parliament was to ratify that kind of action.
- Very quickly Honourable Delegates before ratification of this exploitation of natural resources, Parliament shall ensure that the following are actually available wherever these are applicable including Environmental Management Plan, Environmental Restoration Plan, Re-settlement Plan if there is any replacement of population, Revenue Management and

Utilization Plan, Industrial Development Plan where natural resources should enhance industrialization in the country, Socio-Economic Development Plan and Environmental Impact Assessment, that is valid and that has gone through the procedures that you mentioned before.

- Honourable Delegates, the Government shall also have the duty as we recommend, to prevent and control pollution of whatever form where air, water or soil, creates a balanced biological diversity and biological areas for conservation of bio-diversity.
- The Government should also ensure conservation of nature and preservation of cultural assets of historical or artistic interests.
- The Government should also promote rational use of natural resources and safeguard their renewal and ecological stability over time.
- The Government should also undertake assessment of existing ecological and other natural resources and maintain a data bank. As it is now, we as Kenyans do not know how much bio-diversity we have, or how much ecological diversity we have. We are therefore saying a data bank of this should be maintained, which will be reviewed periodically, so that before we lose any given bio-diversity or ecological areas of importance, we know that it is coming and preventive measures are taken.
- Honourable Delegates we also recommend that protection and exploitation of natural resources must pay special attention to local people needs, particularly those affected by virtue of their historic connection with these areas, either by residence or by periodic visits to these sites.
- We also recommend that there must be adequate compensation to affected communities or persons who suffer damage as a result of conservation efforts.
- Honourable Delegates, administration of natural resources must involve local participation while recognizing also that natural resources should be exploited for the national good.

- Lastly but not least, laws regulating mining should be reviewed and streamlined to ensure that it is in line with the needs and aspirations of the Kenyan population.
- Finally Mr. Chairman with your permission, those who exploit mineral resources should be obliged to restore the damaged environment as may be required by an appropriate public agency. Anybody for instance who conducts mineral exploitation that leaves excavations that are ugly, that are dangerous to the local population must be required by law to ensure that they restore the damaged the environment and they may leave it as aesthetically good as it was before exploitation.

Sorry for having taken long, thank you Mr. Chairman. *Clapping from Honourable Delegates.*

Hon. Delegate Wilfred Koitamet Ole Kina: Thank you very much, Commissioner Nunow. Now onto the Draft Bill and Commissioner Zein Abubakar will lead us to that. Karibu Zein.

Com. Abubakar Zein Abubakar: Thank you very much, Mr. Chairman. Honourable Delegates, distinguished observers, ladies and gentleman. I will try to be very brief, precise and concise for obvious reasons so that we can have a lot more of your thoughts and views than ours. More importantly, I think my fellow Commissioner, Dr. Nunow, has covered the background and the views of people very adequately. What I will try to do is to show the link between those views and how they were translated into the provisions that are provided for in the Draft Bill.

Mr. Chairman, with you permission, I would like to make about only four points, assuming that each and every Delegate has not only read the background information and has heard the articulation given by Commissioner Nunow but also is familiar with the provisions that they are provided for in the Draft Bill. So what I will try to do is to look at them in general terms.

The first point I would like to make, Mr. Chairman, is that this Chapter has only four Articles and one Article establishes the principles, which you might call the establishment Clauses. The other Article deals with aspects of management and advises; the third Article deals with enforcements of rights and oversight obligations and then the fourth Article deals with the

Legislative framework which needs to be put in place if this Constitution is to take effect. The most important point I would like to make on this score is that in order to appreciate fully the provisions that are specifically designed to protect the environment and natural resources, you need to look at other provisions in other Chapters and Articles and I will come to those so that we can look at them together with these four Articles I am making reference to.

Mr. Chairman, if you look on page 45, where Chapter 12 begins, it is entitled Environment and Natural Resources and then there is a sub title, Environmental Protection. The first Article is 239, sub-Article (1), and this sub-Article (1), establishes a duty and you need to read this Article that establishes a duty and you need to read this Article which establishes a duty together with an Article in third Chapter which is Article (15), page 6 in order to fully appreciate what this sub-Article is designed to do. It is designed to place a duty on every citizen of our beloved nation to safeguard and enhance the environment. If you go to the other sub-Articles I am making reference to, you will see that on page 6, on duties, 15 (1) (k) reads that it is a duty to protect the environment and conserve natural resources, and this was a missing component and those who are interested in our past will know that many times when citizens, either in their individual capacity or in an organized form, wanted to protect the environment they could not find a basis to do that because of our current Constitution and legal framework. So this Article, which places a duty on every citizen to conserve, safeguard and enhance the environment, must be seen as part of the expansion of the participation of the people in the management of the environment and natural resources. This can be seen in its enhanced and connected form if you look at sub-article 2(A), which deals specifically with public participation.

The other problem, which we have been having in this Constitution, which exists today, is the role of the Government, government agencies and officials. You will see principles that have been established which every government official or agency must respect in the handling of matters that are related to environment and natural resources. Of course, my brother has already made reference to public participation, respect of cultural and social principles and particularly, indigenous knowledge, which is useful to promote and protect the environment and natural resources.

You will see that those of our cultural practices and norms, which are not helpful and could be negative and offensive to the other aspects of our Constitution, including the Draft Bill, are excluded. I draw your attention to (B), (i) and (ii), and then specifically (B) deals with the general principles of administration, protection, exploitation of land or resources and what should guide that. (A) says, protect the wildlife, genetic resources and biological diversity of Kenya. (B) says, protect forests and encourage and carry out reforestation, and so on and so forth. All these principles that are then established by the Constitution as the barest minimum that shall be applied.

If you look at Article 240, you are now dealing with the management and oversight question of how to deal with the environment and natural resources and the Draft Bill proposes the establishment of a National Environmental Management Commission. If you look at its mandate you will see that it is restricted to management and advice but it is also going to be the primary body or instrument that will be used in formulation and implementation of Government policy relating to natural resources and the environment.

Then Article (241) deals with the enforcement and oversight responsibilities of these rights, which are provided and this opens the sphere to an individual Kenyan. Any individual Kenyan who feels that the Constitution and the principles relating to the environment and natural resources is or could be flouted, not respected or implemented, can go to court and ask the court to implement this. You will also recall the struggles of Kenyans either in their individual's capacity or in their organized form to try and do that and in some cases we were successful, in many others we were not. This particular Article (241) is designed to make it a right for any Kenyan to go to the High Court and implement these rights and principles that are contained in this and other Chapters that I will mention.

I would like specifically to draw your attention to Article 241, sub-Article (3), which closes the door so that if an individual goes to court they will not be told that they do not have the right to be heard merely because they in their individual capacities specifically are not touched or cannot demonstrate that whatever action they are talking about is harmful to them as individuals. This sub-Article reads, "a person bringing an action under this Article has the capacity to bring the action in court even if the person cannot show that the defendant's act or omission has caused or

is likely to cause that person any personal loss or injury.” This is still the attempt of expanding the right to be heard and also the participation of the people.

Now the last Article in this short Chapter is 242, and this is entitled Environmental Legislation. Parliament shall enact legislation to give effect to the provisions of this Chapter. What I would like to draw your attention to is the Sixth Schedule on page 73. you go down near the middle where it says Environment and natural resources, (242); the third column says no time limit. This is one of the provisions, which many people have criticized as faulty and it is up to the Delegates to discuss this matter because all we are talking about in terms of environment Parliament has not been given time limit to effect.

Now allow me, Mr. Chairman, to make reference to other Articles which, by necessity, if they are read together with this four Articles, the sum total is what will give effect to environmental protection and natural resources protection, and also allow the principles that we have talked about in the first Article, which is (239), to come alive.

I would like to refer you to page 13 of the Draft Bill. This is Chapter three on the National Goals, Values and Principles. Page 5 sorry. Page 5, Chapter (3). If you look at Article 14, sub-Article 14 and 16, for example, sub-Article 14 makes references to clean water, health, clean environment and so on and so forth but sub-Article 16 directly makes reference to the principles of equity within and between generations. It reads “the Republic shall recognize its responsibilities to future generations of Kenyans, by pursuing policies for the sustainable management of the environment”. That is the first one I would like to make reference to, that is Chapter 3.

If you go to Chapter 5, on the Bill of Rights, and you read on page 13, Article 63, which is entitled Environment and has Article 1 and sub-Articles, deals with environmental rights. Then if you go to the Seventh Schedule that deals with powers of the National and District Government under Devolution, that is page 74 and look at list number 3, 4, and 5, you will see that there has been established a principle of shared jurisdiction between the National and the District Government of the devolved units in matters of environment and natural resources. Specifically, 4 refers to natural resources, utilization and revenue generated; 5 refers to preservation of

environment, forests wet lands and so on and so forth. So this idea of shared responsibility, jurisdiction as well as the participation of the people in matters of environment and natural resources is enhanced there.

Finally, Mr. Chairman, let me make also reference to indirect mention of Articles which are relevant to this particular Chapter. If you read the Devolution Chapter, when you deal with national resources, part of the national resources, I believe and affirm that we had the vision that part of the national resources are also natural resources and environmental resources. Again, when you are dealing with the whole Chapter, and I am just echoing my brother Commissioner who spoke before me, that when you are dealing with the Chapter which just came before us, that is the Chapter on Land, you cannot separate it from the Chapter on the Environment and Natural Resources.

Mr. Chairman, I beg to leave to stop there so that we can allow Delegates to speak. *Clapping from the Honourable Delegates*).

Hon. Delegate Elkanahh Odembo: Thank you, Thank you very much Commissioner Zein and Commissioner Nunow for walking us through both the report as well as the Draft Bill. Now, fellow Delegates this is the moment we have all been waiting for and as has been our tradition, what we will do it is now 4.15 p.m, I imagine we should be able to get people to speak for the rest of the afternoon, before we close up at 5.30. We will start, we will go in the order in which we have been using. Starting on my right, we will go to section 1, section 2, section 3 up to section 9 and we will go alternating between the three categories of Delegates.

Therefore at this point I will call upon section 1, and I am looking for a District Delegate in section 1 who has not spoken. District Delegate in Section one that has not spoken. Remember we have the records here of who has spoken and who has not. I also want to bring to your attention fellow Delegates that between twenty and fifty minutes per day is spent on Points Order. Between 20 and 50 minutes everyday. So we need to be a bit sensitive on moving the process forward as much as it is important that we take the Points of Order. At this point I will put on my glasses so that I can see the number plates you are raising up, No 365 you have a

Point of Order. You want to speak? Okay, I will give you a chance to speak in just a minute. Is there a point of information?

Hon. Delegate: Here.

Hon. Delegate Elkanahh Odembo: 377, can I hear your point of information please. Point of Order, 377 can we have it please.

Hon. Delegate Nakalo David Okiya: District Delegate, Lugari District Number 377. Hon. Chair, sometimes before we got into the Constitution making on a serious note, the Minister for Justice Hon. Kirautu Murungi told everybody here that the Government was not going to interfere in any way in the process of Constitution making. This afternoon, a document that I would look at as official from the Government has been flooded here so that we sign for it and it is saying Devolution of Powers an alternative proposal for the new Constitution dispensation 2003, Department of Provincial Administration and National Security Office of the President are under house. Hon. Chair, I would want to know, is this the Government official position or is it the orders from above as there has been always? I would want to seek your clarification.

Hon. Delegate Elkanahh Odembo: Thank you Delegate 377 as I have not seen the document that you referring to-- It is adocument on Devolution you said and it is an official document from the Government of Kenya? (*Noise from the Hon. Delegates*) Okay, I will suggest that you hold on to that until we are able to get clarification on that. Okay, Commissioner.

Hon. Delegate Sultana Fadhil: Siyo Commissioner, mimi ni Delegate mwenzenu, ni mmoja ambaye nimepata hiyo karatasi hiyo, lakini nataka kuwauliza tuko hapa kama nani sisi? Si ni Delegates? Na tumekuja hapa kuangalia Draft Constitution na maoni yanayotolewa. Kuna NGO's nyingi, Civil Society nyingi ambazo zinazotowa makaratasi kila mahali, kila mmoja ana mambo maalum ambayo anatueleza, na kwa hivyo si kwamba sisi tumekuja hapa akili yetu tukipewa karatasi tukisha soma ndiyo tutafuata ile iliyoko. Ni kusoma Draft Constitution na maoni yanayotolewa na ripoti ambayo ndiyo yenye maoni ya raia yaliyotolewa tuifananishe na Draft Constitution. Kwa hivyo karatasi ukipewa, nyingine nyingi, ninaona watu wakitupa hapo

hapo, ukitaka unaweza kuisoma , ukitaka waweza kuitupa, lakini sidhani kwa kuwa sisi tukipewa karatasi ni lazima tufuate maoni yaliyoko pale. (*Noises from Hon Delegates.*)

Nafikiri hapa hakuna mtu wa Serikali anaye endesha huu mkutano, tulioko hapa sote ni Delegates na kila moja aliyekuwa hapa ana akili yake timamu, anajua atafanya nini na atatoa maoni gani, na atafuata mwendo gani. Kwa hivyo, msistushwe na karatasi ambayo mmepeva mkafikiri ni lazima muifuate. Mimi kwa hakika sijui, lakini wakubwa tuta zungumza Chairman na Steering Committee mambo haya nafikiri tutapata official jawabu kesho. Lakini ninataka kuwaambia ya kwamba msikasirike wala msiudhike, ichukulieni kama ni karatasi yoyote, waweza kuisoma, waweza kuitupa, waweza kufanya vile utakavyo. Nafikiri tutaweza kuendelea na mazungumzo yetu.

Hon. Delegate Elkanahh Odembo: Sawa, I had asked Delegate number 365 to take to floor.

Hon. Delegate: Point of information.

Hon. Delegate Sultana Fadhil: Wataka kumpa information nani?

Hon. Delegate: Hapa.

Hon. Delegate Sultana Fadhil: Ni nani mwenye Point of information

Hon. Delegate: Hapa.

Hon. Delegate Sultana Fadhil: Kuhusu jambo gani na kifungu gani tafadhali, 447?

Hon. Delegate: This document comes from the Kenya Government. When His Excellency the President was opening this Conference, he assured us that his Government will not interfere with this Conference. When we get an official document from the Government, we as Delegates must question, Mr. Chair. Why have you allowed first and foremost, this document to be available to the Delegates (*Clapping by Hon. Delegates*) if the Government is not interfering and it is standing for it?

Hon. Delegate Sultana Fadhil: Mheshimiwa Mjumbe 447, hii document imetolewa pale kwenye meza tukiingia kwenye mlango siyo saa nane. Ndiyo nawajulisha lazima hivi sasa kama mujuavyo, mimi ni Delegate kama nyinyi sihusiki na mambo yaku distribute karatasi. Kwa hivyo siwezi kuwapa jawabu la sawa sawa, wakati wa kwenye Steering Committee kesho, haya mambo yatazungumzwa tupate kujua imetoka wapi, na vipi imeingia huku ndani na ni njia gani itatumika kwa siku za mbeleni karatasi hizi zisitokee, lakini hivi sasa siwezi kuwapa jawabu la sawa sawa. Sijui ilifika vipi kwenye meza, itatolewa kwa watu. *(Shouts from Hon. Delegates)* Ninafikir Commissioner Okoth-Ogendo anaweza zaidi kuhusu karatasi hiyo.

Prof. Okoth-Ogendo: Just hold on. Delegates, I am making this statement as a Vice chairman of the Commission. That document was submitted to the Commission, we considered it and our recommendations have taken account of those documents. So you can read it or ignore it.

Hon. Delegate: Point of Order.

Hon. Delegate Elkanahh Odembo: The document before you, the document that was distributed this afternoon was submitted to the Commission by a Department of the Government. The Commission has used it, incorporated those parts of it as they saw fit to incorporate in the report and the Draft Bill, so you can choose to completely ignore it or read it if you wish. But it is there and it has already been considered by the Commission. Can we please stop any further debate on that particular document? *(Shouting and noises from Hon. Delegate)* Please, can we please stop any further discussions on that document. *(Shouting and noise by Hon. Delegates.)*

Hon. Delegate Sultana Fadhil: Tafadhalini Delegate waheshimiwa naomba jambo moja, hamutaki kujua kilichomo ndani ya hiyo karatasi muliopewa. Kwa hisani yenu, saa zingine ni hivi, ukipita pale, ukipewa karatasi siyo lazima uichukue.

An Hon. Delegate: Point of Order.

Hon. Delegate Sultana Fadhil: Na madamu mukishaichukua, mumeshaona ni jambo ambalo hamutaki kulisoma wala kujua, ningewaomba kila moja wenu hamuna haja yakusoma, munavyotoka irigesheni kwenye meza, lakini—

An Hon. Delegate: Point of Order.

Hon. Delegate Sultana Fadhil: --lakini sasa karatasi mumeshepewa na ni lazima tuendelee na hii kazi tuliyo nayo yakutengeneza Katiba.

Several Hon. Delegates: Point of Order.

Hon. Delegate Sultana Fadhil: Ikiwa ni kuhusu hiyo document--

Hon. Delegate Elkanahh Odembo: Delegates please! Are these all Points of Orders related to the document that we are referring to? (*Shouts from Hon. Delegates*). Sorry, I please want us to stop any further discussion on this document. (*Shouting and noises*). There is nothing we are going to resolve about this document at this point. (*Inaudible noises*) We will refer it to the Steering Committee to give us clarifications. Tomorrow morning it will be reported back to the Delegates, so please can we proceed to hear discussions and debate on the chapter?

Hon. Delegate Sisika Leng'ete Moses: Thank you Chair.

Hon. Delegate Elkanahh Odembo: Tutulie jamani, tafadhali.

Hon. Delegate Sisika Leng'ere Moses: My name is Ole Sisika Delegate number 365 and I come from Kajiado.

Hon. Delegate Elkanahh Odembo: Order please, order.

Hon. Delegate Sisika Leng'ere Moses: I want to thank the Chair for saying that now at least we can combine the land, environment and the natural resources. On environment I just want to say one thing. The Maasai are the best managers of natural resources, but they get very, very

little and this has to change. I would like to go to lands, I would like to contribute that there was a policy introduced called willing buyer, willing seller. This should be discontinued completely because whoever introduced it had ulterior motives. It has affected our people, the Maasai's. Community title deeds should be introduced to safeguard individual title deeds, as most of Maasai land was dispossessed without the communities' consent using this title deeds.

I come to another issue of anybody being free to own land anywhere in Kenya. To me this is an illusion, this has caused tribal clashes. If I leave my district for another it will become tribal clashes, but when there are clashes within one particular land, then that is land clashes. This has been caused mostly in pastoral areas and it has to stop. I want to say Maasai land is the only place called Kenya now. Other people have closed their districts while ours has become an open gate for everybody. (*Noise by Hon. Delegates*).

Hon. Delegate Elkanahh Odembo: Order, order.

Hon. Delegate Elkanahh Odembo: I want to come to Article No. 235, Sub Article (1); National Land Commission should be replaced; we should have District authorities and members of those authorities must be elders from those respective Districts. (*Shouting and noises from Hon. Delegates*) I want to come to this--

Hon. Delegate Elkanahh Odembo: Order please, order, the Delegate has the floor please,

Hon. Delegate Sisika Leng'ere Moses: I want to go on like this. I have an article here, a list of a group ranch which was divided in Nairobi and that is why I am opposing this National Land Commission. I have a list here, composed of 192 people whose land of Ilodaria group ranch was brought to Ardhi House during the time of Mbela and he allocated his wife some acreage there. A total area of 5,393 hectares were taken.

Hon. Delegate Elkanahh Odembo: Sorry. Hon. Delegate 365 could you refrain please from using people's names in your presentation.

Hon. Delegate Sisika Leng'ere Moses: The names are there.

Hon. Delegate Elkanahh Odembo: Order please, go on please.

Hon. Delegate Sisika Leng'ere Moses: Okay.

Hon. Delegate Elkanahh Odembo: Can you summarize?

Hon. Delegate Sisika Leng'ere Moses: What I am saying now is that, the moment this Constitution comes into force, all those titles being held by these people should be nullified and the others which are not here should be nullified as well.

Now, Sub-Articles 4 (A) of the same (vii); Settlement of landless people in urban areas. I want to say here that there should be no moving of landless people to other people's land. I have an issue here, we have a place called Kitengela, there are people from Kibera to be moved there to settle. I want to tell Hon. Delegate—

Hon. Delegate Elkanahh Odembo: --Kitengela is not in a sky, it is Kajiado and Kajiado is in Maasai land. We also have landless people and I just want to caution whoever wants to take those people to Kitengela--

Hon. Delegate Elkanahh Odembo: Thank you very much Hon. Delegate 365, thank you very much, we allowed you to speak on the issue of land because at the beginning we did say that there is a connection between land and environment. You have run out of time. Asante sana Delegate number 365 asante. The next section, Section two, we are looking for a Parliamentarian. Section two. Point of Order, 379? What is your Point of Order? 379.

Hon. Delegate Levi Wangula Ahindukha: Mr. Chairman, Sir, My names are Levi Ahindukha District Delegate from Kakamega.

Noise by Hon. Delegates.

Hon. Delegate Elkanah Odembo: Order! Order please. Just a minute please. Delegates, can we please be Orderly and listen to the Delegate who has the floor.

Hon. Delegate Mkawerweren Chebii: Mr. Speaker sir--

Hon. Delegate Elkanah Odembo: Delegate 336 I will give you a chance if you can just control your self and be orderly. Can you be orderly in your Point of Order? Please sit down and take the floor only when I ask you to take the floor. Somebody has a Point of Order. Thank you go ahead Delegate.

Hon. Delegate Levi Wangula Ahindikha: Mr. Chairman Sir, My names are Levi Wangula Ahindikha District Delegate 379 from Kakamega. Mr. Chairman Sir. We are here and we are guided by the rules of this Book. (*Clapping by the Honourable Delegates*).

Hon. Delegate Elkanah Odembo: Yes.

Hon. Delegate Levi Wangula Ahindikha: Mr. Chairman Sir, rule number 38 allows for Points of Order. It appears that the Chair has invented his rules. You are discouraging Point of Order in this Conference. Can you explain why? Thank you. Mr. Chairman.

Hon. Delegate Elkanah Odembo: Thank you very much, Delegate, I am not ignoring Points of Order. I am aware of them, I have read the rules and I had said at the beginning that we want as much as possible to avoid wasting any time, take Points of Order that are Points of Order (*Clapping by the Honourable Delegates*) so that the Conference can proceed--

Hon. Delegate: Point of Procedure.

Hon. Delegate Elkanah Odembo: That is all we are asking. Point of Order 336. We will take just one more then can we please move on to---

Hon. Delegate Mkawerweren B. Chebii: My name is Mkawerweren B. Chebii. I would like to tell you, Honourable Chair, that can you read properly 34 and understand what is meant by that. Thank you. (*Laughter from the Honourable Delegates*).

Hon. Delegate Elkanah Odembo: Thank you very much, Delegate, for reminding me. Thank you. All right I shall now proceed to the next section. Section 2. Parliamentarian in Section 2.

Hon. Delegates: They are not there.

Hon. Delegate Elkanah Odembo: Section 2, is there a Parliamentarian who wishes to speak? If not I shall move to the third category, which includes, religious Organizations, NGOs, Women's Organization, COTU, Professionals and Political Parties. If there is anybody from a Political Party in that Section I will take that first. There isn't. Can I see the numbers that are raised up again, okay? Delegate 459. You have the floor.

Hon. Delegate Oduor Ong'wen: Thank you Chair. My name is Oduor Ong'wen Delegate number 459 representing NGOs. Mr. Chairman, may I take this opportunity to thank the Commissioners for at least recognizing the Central role of our Environment in our lives and at least attempting to secure it in the Constitution.

Mr. Chairman, I am rather disappointed that as important as it is environment has a rather casual treatment. Mr. Chairman, when we are looking at the issue of our environment let us look around us. Let us look at what is happening to our rivers, let us look at what is happening to our lakes, let us look at what is happening to our forests, let us look at what is happening to our birds, our animals and every thing else, and lets look at what is happening to our lives.

Mr. Chairman, we have had circles of El Nino and Lanina floods and we are in danger of seeing the rise of the sea level. We are talking about securing our lives of the present generation, but more importantly talking about insurance for the coming generations. It is therefore important that when we look at re-engineering this country, it must be based on sustainable development. By sustainable Development I have in mind, development that is economically viable, technologically appropriate, socially acceptable and environmentally sound.

Looking at the Chapter, I am happy that Section 239 spells out clearly what the duty of every Kenyan is, but I would rather that it was preceded by our rights to enjoy clean air and to enjoy a habitable environment. I know, Mr. Chairman, that an attempt has been made in Article 63, however that right is not complete. I think both Article 63 and Article 239 need to be re-written, to secure the right of every Kenyan to a habitable environment.

Mr. Chairman, environment is not a new thing, we have lived with our Flora and Fauna, we have lived with our animals, we have lived with the environment around us for generations and centuries, and we have been conserving this. It is unfortunate that this Constitution does not recognize the traditional coping mechanisms, that our people have used over generations to conserve the environment. I think this needs to be recognized and this needs to be secured.

In 239 (2) b, there is an attempt to talk about the customs as regards to the environment, but I am afraid that it is more in a negative sense, looking at our cultural and sociological principles in a negative sense rather than appreciating the traditional coping mechanisms we have had. Environment and Technology is also not properly treated here. We have had Technology that has contributed to emission of green house gases, thereby promoting climate change. I think such technology should be outlawed through the Constitution.

Mr. Chairman, you have asked me to stop and therefore I am going to stop there but I think there is need to address the issue of land use, the issue of compulsory environmental impact assessment for various categories of investments because in these proposals, it only requires state officials but we know that investments that are really environmentally destructive are not initiated by the state but by the so called foreign investors.

Mr. Chairman, I think I will submit the details of recommendations of areas that need amendments. Thank you for the opportunity.

Hon. Delegate Elkanah Odembo: Thank you very much Delegate. I am moving on to Section three, and I am looking for a Parliamentarian in this Section. 599, Point of Order. I am looking for a Parliamentarian then let me take this Point of Order.

Hon. Delegate Leslie Betawa Mwachiro: Mr. Chairman, thank you. My number is 599, my name is Leslie Betawa Mwachiro representing Political Parties. My Point of Order is on three items

Security: The way things are going on here, we should fear for our security, in the sense that anybody can walk around and drop papers or a bomb as it may be. We therefore need to be assured that people will not be allowed to walk in here and just drop things as they like. When you discuss it at the Steering Committee meeting tomorrow, please Chair take these matters very seriously that now our security is at stake.

When we are being told half-truths, it basically erodes the seriousness of the Chair. The Vice Chairman of the Conference has vowed to tell us that this document was discussed by the Commission before they realised the Draft document and their discussions were in August last year, when the government in Power was KANU which means it was a KANU document which they discussed. Today this document which we are seeing here has the date of May 2003. Either he is lying or the document itself is fake. *(Clapping by the Honourable Delegates)*

Hon. Delegate Elkanah Odembo: Thank you very much Delegate 599.

Hon. Delegate Leslie Betawa Mwachiro: Lastly, Chair, we cannot be cheated as though we are unable to read and write. So I want the Chair, or especially the Vice-Chairman of the Conference to apologise for having belittled us by telling a horde of lies. Thank you, Chair.

Hon. Delegate Elkanah Odembo: Your point has been taken Delegate 599. Can I now call on again section three a Member of Parliament who has not spoken? Is there a Member of Parliament in section three who has not spoken? 138.

Hon. Delegate Gideon Ndambuki: Thank you very much, Chair. My names are Gideon Ndambuki, Delegate 138, Member of Parliament for Kaiti. Honourable Chair, thank you for giving me this opportunity to contribute on this Chapter of Environment and Natural Resources. Honourable Chair, I congratulate the Commission for putting this Chapter into the Constitution.

Mr. Chair, it is common knowledge to all of us that environment has been ignored a lot and we are looking forward when we are making this document for it to be enforced.

For example, I am going to talk about forests. In some areas, you hear of forests belonging to the Local Government, but they never do anything to these forests. It is my recommendation that these forests, we add them to the local areas, either County Councils or to the Districts for them to take care of. Some of these forests have been run down, the revenues which come from these forests are never enjoyed by the communities. Once the logs have been sold, the money is used elsewhere. Mr. Chair, the same thing applies to the minerals, there are some areas in this country, which have very valuable minerals, but the communities from those areas also never benefit at all. All these are exploited, used up by the Local Government through taxation, but the local people may never get anything. So my recommendation Mr. Chair, is that we need to come up with a certain percentage to be ploughed back into some of these communities or these areas so that it can be enjoyed by the communities.

Honourable Chair, we know water is a very valuable commodity. It is used for many reasons, for examples generation of power and those people where these dams are never enjoy the electricity. The electricity is second to the town and the people from those areas go without electricity as we speak, Mr. Chair. So these are some of the things we need to look at and make sure that the communities where these things are found, enjoy them, they use them. Wildlife: you will see lots of tracts of land, tracts and tracts which are occupied by wildlife if you go to some areas you will find people living in villages because they have nothing to live on and we cannot consider them. We cannot even allocate land to some of those squatters and they earn that money in some areas. So I appeal, even as we love the wildlife, we should also love the human beings and allocate some land to them. Because of land squabbles people have really gone down, stripped off riverbanks because everybody wants to own land and they have forgotten without the trees which grow around the rivers we cannot have a very clean environment and we need to enforce and make sure that we leave some distances from the riverbanks that are not cultivated. We can go there plant trees and encourage other people to do the same. Like I remember during the early times, when we were in High School we used to have a day to go round planting trees. Mr. Chair, we need to go back to this, otherwise the forest which we are talking about are going to be depleted, we are going to be left without anything but we need to come up with some policies,

how we can start doing this. We cannot wait for the Local Government to come and do this. When we are creating this Constitution we can put some Clauses there which will enable everybody to be aware of the environment.

Mr. Chairman, we need to have policies, we need to decentralize taking care of these forests and have this either Districts to be taking care of some of these forests, some of these wildlife, the minerals instead of everything just being left to the Ministry at the Head quarters and they don't even know what really sometimes goes down in the respective areas. Mr. Chairman, I will stop there.

Hon. Delegate Elkanah Odembo: Thank you very much, Delegate. I am moving to section number 4 and I am looking now for a District Delegate, preferably a woman District Delegate who has not spoken. I see hands going up of people who don't look like women there.
Laughter by Honourable Delegates.

Hon. Delegate Elkanah Odembo: District Delegate who has not spoken. 254 have you spoken? You have spoken my dear. 375. 254, I have you on record as having spoken

Hon. Delegate Fatuma Sheikh Muhammed: No, no please, I have not. 254.

Hon. Delegate Elkanah Odembo: I have you on record as having spoken but go ahead.

Hon. Delegate Fatuma Sheikh Muhammed: Thank you, Chairman, and the Delegates. I want to contribute on land and national resources. Let me just take an example of my region North Eastern where we believe that there is nuclear waste-- My names is Fatuma Sheikh from Wajir District, Delegate 254. In North Eastern we believe that nuclear waste has been buried in our region and due to that we are experiencing a lot of strange diseases like throat cancer and children who are born with deformities, like kids with no head, no arms or sometimes no hair. So we are getting a lot of problems and also we need the Government to compensate for those damages they have caused us because they are the ones who have buried those things in our region. So at least we need the Government to compensate us for the damage they have caused to us.

I have a feeling that we people in North Eastern, we believe we have oil and minerals which have not been exploited. So we also want the Government to do more research in our area so that those minerals are exploited, which will be beneficial to our people who depend on animals only.

Another things is that, on the side of sanitation, at least the other time the Assistant Minister for Local Government was telling you that toilets in Wajir are very poor. So sometimes especially during rainy season the water there is completely polluted such that almost everybody sometimes gets cholera or malaria. So we have a lot of problems due to the pollution of water or sometimes even the air. So we want the Government to do something about it.

Also due to the resettlement of the refugees, we are having a lot of problems, there is a lot of deforestation in our area. At least if you go to Garissa near Dadaab somewhere there you will not see even one tree standing there. So we have a lot of problems and those refugees may be or the Government should look for other means of energy instead of using the firewood or the trees around those regions. Thank you Chairman.

Hon. Delegate Elkanah Odembo: Thank you very much, Delegate. I would like to now move to the next section and I am looking for Delegate in the third category and can we have somebody from women organization who has not spoken. Third category women organization who has not spoken. If there isn't, I will look for someone in the NGO category who has not spoken. NGO category who has not spoken? 357, you are not an NGO, please put it down. 294, you are not an NGO please put it down. 455. Delegate what is your number?

Hon. Delegate Beatrice Nduta Kiarie: 465.

Hon. Delegate Elkanah Odembo: 465, NGOs?

Hon. Delegate Beatrice Nduta Kiarie: Yeah

Hon. Delegate Elkanah Odembo: And you have not spoken?

Hon. Delegate Beatrice Nduta Kiarie: Yeah. Thank you for this opportunity. I would like to speak on my behalf as a Delegate and on behalf of several NGOs which work in the natural resource sector and environment who have given me their views after several meetings, and these are the views. That this sections the Cap 34 was not tackled properly. There are a lot of issues missing, one of the issues is that we have not even bothered to describe what environment is and natural resources. Like we could have simple description of natural resources, we could say it means and includes, you can say rivers, forests, minerals no attempt has been made to do that, and this should be done.

The other issue, although even the presenter talked about issues like ownership and control, when you read the Chapter, this is lacking so the issue of ownership and control of the natural resources by the people of Kenya should be included. Then there are issues like principles of environment and natural resources, are we going to include them wholesome in the Constitution or should we leave them out as they are being developed. So this is an issue that the Commission should consider because we have even left out important principles like precaution principle. Although the Commissioner described it here but when you look at the Draft it is missing.

Also the issue of planning and environment, planning and natural resources, land use is also missing. So in respect of this issue of planning we are talking about creating essential measures between land and environments. It was not included in the Chapter on land and also it is not included in this section but many people have talked about conflicts, like human wildlife conflict. They have talked about problems with water catchments areas being destroyed, dry land. The suggestion from the environmental sector is that there should be created a section either in the Land and Property section and also be included in the environment section that environmental consideration shall be included in title and ownership of land. Examples of this is like in the wildlife areas, most people said here that they cannot farm wheat, the animals come and destroy their crops or some of them destroy their shelter. So if you could give the communities an environmental benefits by managing wildlife like the owners of the properties and the communities who live there can they manage all the resources. So that they can benefit, instead of getting into unviable agriculture which is destroyed by the animals and then they ask for compensation which takes a long time and it is not adequate. This conflict goes on from time to time. In marine areas the people from the coastal areas who say that people have destroyed

the marine ecosystem and we should include that in planning and environment or in land use and environment and natural resources, there are some ecological area that should not be utilized and should not be given out. So some of these land which has been given out in these areas, are they going to revert back or not? These issues have been left hanging.

Other issues include water catchments areas. In some of these areas there are people who own the property and live there could create wasteland dam, but because they are not given an incentive by the Government then they don't bother to protect the environment. Can they be given an incentive? Either some land within the area is left for creation of wasteland, dam and management by the people. As long as the people are able to manage the natural resources then they will have a benefit and they will feel they have an obligation to look after the environment, but if you give the people an obligation without giving them a right, then you cannot be able to achieve the purposes of these Articles.

The other issue is in areas which are dry, the dry land. You find there is a lot of water run off especially during the rainy season but nobody bothers to harness this water which can be used by the farmers to create forests and help the farmers with the water because some of the areas are very dry but there is so much water during the rain season. So give an incentive, let people in the dry land create dams and let them have benefits and encouragements from the Government.

The other issue that was also missing is community welfare which we have now covered through the example of wildlife. Consumer rights are also missing, there is a lot of danger in the food we consume. So this should be included in the Draft. Like in issues of Biotechnology some of the farmers seeds are sold to them and they don't know how safe they are.

There other issue is on Bio-diversity and community like it because the pharmaceutical companies come and harvest the Bio-diversity. I just want to make one small point and then I finish off. That what the NGO sector is saying is that all these issues from the preamble where we should protect our environment to the issue in the High Court where we should have a special court for environmental matter, are lacking and they are missing and we shall write a letter an elaborate letter, for inclusion of all these issues. ***Clapping by Honourable Delegates.***

Hon. Delegate Elkanah Odembo: Thank you very much, Delegate. In the next section, I am looking for a Parliamentarian who has not spoken. A Member of Parliament who has not spoken. (*Murmurs and noise by Honourable Delegates*) They have either all spoken or are not there? Who has not spoken? Okay, 085 since you have spoken.

Hon. Delegate Marsden Herman Madoka: Once.

Hon. Delegate Elkanah Odembo: Only once?

Hon. Delegate Marsden Herman Madoka: Thank you, Mr. Chairman. I am Delegate number 085, Member for Parliament for Mwatate Constituency. Mr. Chairman, this particular Chapter is indeed very important.

Hon. Delegate Elkanah Odembo: Your name, Sir.

Hon. Delegate Marsden Herman Madoka: Marsden Madoka.

Hon. Delegate Elkanah Odembo: Thank you.

Hon. Delegate Marsden Herman Madoka: I want to talk about minerals, one of the very important resources and my area in particular has suffered a great deal because the Government has not had any deliberate plan in terms of managing and controlling the mining of these minerals. Mr. Chairman, we need a proper plan because what happens at the moment is that you will find somebody coming to the Commissioner of Mines having marked a certain area, he comes to the locals and finds somebody farming there and then he tells them “get out, this is my area”. This is an injustice which the local people cannot continue to tolerate and therefore we do need a definite plan-- (*Clapping by Honourable Delegate*) --where the Government has proper control.

Mr. Chairman, I also feel that mining of these minerals, the local people must benefit. Today, you will find that what has been given to miners is, that one of the mining companies, will get over 250 million shillings a year and none of this, the Government doesn't benefit at all in terms

of taxes and more importantly is that the local people do not get anything at all. It is important therefore, that we do get the local people to benefit from these natural resources in these particular areas.

A point which has been mentioned is a question of water. I think it is so important that the Government finds the necessary resources to be able to harvest water. Today, it has been raining all this period and a lot of water has gone to waste. I went to Morocco one time and found that they have over 100 dams and in those particular area, they just harvest rainwater and they are able to farm large areas and get all the food from that particular area. In my constituency for example, if all the water was harvested in the Kamtonga area and Mwachabo area, we will be able to feed the entire Coast region, all those hotels with horticultural crops, which means the local people will benefit. So I think the Government has got to make that deliberate effort, in trying to ensure that we do harvest this valuable resource.

The other area of deep concern is the question of wildlife. Our people do suffer a great deal because of the conflict between wildlife and human life and I think we do need ... proper plan by the Government or enshrined in the Constitution, so that we have proper electrical fence to ensure that these wildlife do not interfere with the human life. We have people who have planted crops and all of a sudden, you get animals coming and destroying all that crop. So it is important again that we do find ways of trying to ensure that we do control this wildlife and human life conflict.

The other area is on question of special species of animals and reptiles. We have lost many of these natural resource, we find people like whites coming here, and capturing snakes, which they take to America and sell them at an exorbitant prices and we never know what sort of snakes are taken out of this country. We do need to have a special scheme, where all our resources that includes these reptiles and animals, are protected. Mr. Chairman, I beg to stop. Thank you.

Hon. Delegate Elkanah Odembo: Thank you very much 085. In the next section, we are looking for a District Delegate who has not spoken. 294?

Hon. Delegate Victoria Mutheu Musyoka: Thank you, Mr. Chair. My names are Victoria Mutheu Musyoka, Machakos District Delegate. My contribution is going to be based on the things which I feel the Constitution draft has left out and I am therefore requesting that they be included.

Point number one, I would like the Constitution to include a declaratory clause affirming that all resources, that is land, forest, minerals etcetera, which are presently in the public domain, belong jointly to the people of Kenya and are to be held in trust for the people of Kenya and must be used for the benefit of the people of Kenya.

Point number two, the Constitution should provide that whenever any public resources are to be used or allocated for a purpose other than public benefit for example, say allocation of Government land to individuals, then the Minister in whose department these resources are shall first send the schedule of such private beneficiaries to the Public Accounts Committee for approval before the allocation can be made.

Point number three, that there should also be established an office of the custodian of Public resources or assets, whose duty shall be to prepare for Parliament through the Public Accounts Committee, a schedule of all and alienated public assets and those which shall have been alienated in the past year. This would enable Parliament through its Committee to monitor the Executive in the use of public resources that has not been allocated.

The fourth point, the custodian of public assets should be a person with the same qualifications as the Controller and Auditor-General. The custodian of public assets then should be appointed by the President and take office after vetting by the Constitutional offices Committee of Parliament. I also agree with the Honourable Delegate who has just spoken on the issues about harvesting natural resources like water. The place I come from Machakos, there is a lot of water but we are the first people to be hit by famine. So I would like the Government to help us in water harvesting and hence the activities of irrigation to eradicate poverty. That is my contribution. Thank you Mr. Chair.

Hon. Delegate Elkanah Odembo: Thank you very much Honourable Delegate. In the next section we are looking at the third category and if there is a Professional Delegate representing the category of Professionals who has not spoken, is there any such person? (*Noise by Honourable Delegates*) No, that is the last section, yeah. Okay, is there someone from the Religious Organizations and one who has not spoken again? One who has not spoken Religious Organization? 507 representing Women Organization.

Hon. Delegate Margaret Kamar: Thank you, Mr. Chairman. I would like to start by thanking the presenters Commissioners Nunow and Commissioner Abubakar. Mr. Chairman, I would like to agree with the last remarks from Prof. Ogendo that this Chapter cannot be read without reading Chapter 11 and I would like to say Mr. Chairman--

Hon. Delegate Elkanah Odembo: Please introduce yourself, Delegate.

Hon. Delegate Margaret Kamar: Sorry, I am Prof. Margaret Kamar, Delegate number 507 on behalf of women. Mr. Chairman, Chapter 11 defined land in Article 238 and it also classified land in Article 234. In its classification, it is very clear that if we pass this, land in Kenya will be either public, community or private. When we come to Chapter 12, I would like to agree with the Honourable Delegate who said that the definition seems to be missing, blaringly missing, Mr. Chairman, although it seems to have come out in the presentation of Commissioner Nunow, that at the presentation level at the District, we were very clear that the ownership of forest was going to the community; it seems to be missing in the draft.

I would like to propose that we clearly define the forest among other natural resources and place it into the categories that we have defined in Chapter 11. Mr. Chairman, as two other contributors have said, forest must actually benefit the communities. The reason being, that some of the forests we have and in particular, Rift Valley where I come from Mr. Chairman, this is where conflict has continued and the reason conflict has continued is because people still feel that they were displaced from land, which was theirs. So if the communities are meant to benefit from their forest that will give us a more amicable way of managing our forest. Mr. Chairman, I would also like to mention that really forest is a land use practice that should be encouraged not only in community land, but even in private land. It should also be encouraged in more than

80% land of Kenya, which is semi-arid. Sometimes we over concentrate on the fertile land which would have been used for productivity of crops and forget that actually you can come up with forest in dry land. I think our concentration Mr. Chairman, has been biased towards productive land instead of going to the semi-arid land that has been left.

I would also like to suggest that as we look at forests Mr. Chairman, we look at them the way we look at other natural resources. When we defined land, we said it is beneath the soil so we are talking of mining, we are talking of gold in Kakamega, we are talking of wildlife in Narok. I think that is how we should look at that, so that we look at them as natural resources that should be exploited and protected by the community. (*Clapping by Honourable Delegates*) Mr. Chairman, if you look at the Articles that follow after the principles, you realize that the protection and exploitation seem to be going back to what we call the Government officials, State officials exercising some power in performing a function of administration, protection and exploitation in the spirit of devolution Mr. Chairman, we need to move this towards the people and towards the community and we should really emphasize that in the document itself.

Mr. Chairman, on this Chapter in particular, I want to propose a few things. 239 (3) d, there is one resource that has been left out which I would like to propose that we add and that is the Wetlands, the protection of Wetlands. As you know, Mr. Chairman, Wetlands have become very, very important natural resources both as reservoir during flooding and also in control of pollution.

Mr. Chairman, the next section that I would like to propose a few amendments is Article 240. In Article 240, establishes the National Environment Management Commission. Mr. Chairman, I would like policy to be added there, so that we have a National and Environment Policy and Management Commission. The reason why I am proposing is that this body must direct policy as far as Environmental Management is concerned at that level. In addition, the reason being that Mr. Chairman, even policy itself is not clearly articulated. Currently, we know NEMA has come up with something but for us to be able to enforce that body called the National Environment Management must have in policies so that they can direct policy in this country. In addition, Mr. Chairman, I think the National Environment plus policy if accepted Commission, must also be a regulatory body. It should not just be left to supervise and manage but it should

also regulate and for that reason Mr. Chairman, I would like to propose that we transfer a clause 239(3) g, which establishes the Environmental Impact Assessment. As a duty of the State officials to be shifted, I am proposing that we shift them to be under this Commission, so that the Commission establishes a body on the Environmental Impact Assessment and actually implements the regulation; and also implements the regulation established.

Mr. Chairman, that is very important, we have had problems Mr. Chairman, with Industrialists that have exploited this country. I want to mention one called Panpaper. Right from when they harvest the wood to when they actually process the wood. There has been a lot of pollution and there has been no way anybody would come up and complain. When we leave that only to the High Court, Mr. Chairman, I don't know how many people in Kenya know how to reach the High Court. I would like to suggest that that Commission takes over the EAI, the Environmental Impact Assessment regulatory body and actually implements it and I think we should enable the Commission to be able to prosecute.

Mr. Chairman, the establishment of the Commission should also come up in a more precise manner, just the way we establish the Commission on land. Can we state clearly that we have a Chairperson, a Deputy Chair, Eight Members and I would like to propose 50% should be professionals and 50% to be women and I will say why.

One, professionals, because we have too many lobby groups as far as Environment is concerned and we need people who are really in the area; and two, women because women are the main practitioners.

Finally, Environmental regulations, Mr. Chairman, should be entrenched in our education system. Thank you very much.

Hon. Delegate Elkanah Odembo: Thank you, thank you very much. In the last section I am looking of a Member of Parliament who has not spoken. Delegate 213, you have the floor. Oh, I am sorry, that is in the other section. Okay, since we have given him the floor please and he has not spoken and I will come to his section anyway.

Hon. Delegate Franklin Bett: My name--.

Hon. Delegate Elkanah Odembo: Sawa, sawa karibu 213 Delegate.

Hon. Delegate Franklin Bett: Mr. Chairman, I want to thank you most sincerely on this issue of environment. Environment does not only mean the forest.

Hon. Delegate Elkanah Odembo: Please introduce yourself, Delegate?

Hon. Delegate Franklin Bett: My name is Franklin Bett, Delegate number 213. Environment does not only mean the forest, it means many other things. On the forest issue I want to really pay tribute to the Hon. Wangari Mathaai because I think she has done quite a lot on conservation of the forests. *(Clapping by Honourable Delegates)*.

Now, what then is the environment? The environment is our surrounding, it is that area where you stay, it is that area where you travel, it is that area where you come into and go out of. But many a time, we find ourselves messing up the environment. We litter the environment, we throw a lot of *taka taka* (litter) into our environment. We even do a lot of spitting into our environment. Spitting and blowing your nose carelessly Mr. Chairman, should be outlawed because it is an environmental hazard *(clapping by Honourable Delegates)* by itself. It is pollution of the air. Noise: we allow the matatus, we allow the nightclubs to blare a lot of music in our environment that is pollution of the environment. So, we must legislate on how to control noise from our nightclubs, from our matatus and from wherever else.

Air pollution: our factories are emitting a lot of chemicals into the air, a lot of chemicals into our water, a lot of chemicals into our soil. We must legislate Mr. Chairman, that those areas be looked after and be controlled, because we cannot allow air to be polluted, we cannot allow motor vehicles to pollute our air. All of it will contribute to health hazards in the long run and we will be spending a lot of money putting our people in better shape. There is also sippage of dirt and chemicals into the soil and going into the water. I have in mind what I saw yesterday on television out there in South Nyanza where raw sewage is being allowed into the drainage

system. That is pollution, that is an environmental hazard and we must provide legal control on such, Mr. Chairman.

Then we have the issue of excavation of land. The Ministry of Public Works, they start excavating for roads without doing an assessment as to that excavation, and in the long run it will contribute to soil erosion, it will contribute to other factors that degrade the environment. So, assessment of an environmental situation must always be undertaken before any excavation is done on our land.

The other area, Mr. Chairman, is the exposure of wildlife. We expose our animals to situations that kill them, situations that destroy them. That removes the balance of the ecosystem. We must legislate on the protection of wildlife so as not to put them into danger. We have an Act of Parliament which is hardly five years old, can we enforce that Act, it is an environmental management and coordination Act. It is only five years old and it has never been enforced, it has never been implemented, it contains several of these things that would control and manage our environment. So, Mr. Chairman can we do that. We are being told of another Commission, National Environment Management Commission. In that Act there is also National Environment Management Authority and I think the relevant Minister has already appointed a team to look into that particular portfolio. Can we reconcile the two and get to know how we are going to put them together.

Finally, Mr. Chairman, on the issue of forests, they need to be properly designated. We need to know where each forest begins and ends, and then we fence them off as opposed to leaving them to encroachment by any person who may want to encroach. The Nyayo Tea Zones may have been a noble idea in holding back any encroachment into our forests but we have stopped where it started. So, we must find ways and means of designating our forest lands or any other natural resource so that we know where they are, and where they end as opposed to leaving them to be in a haphazard manner. Mr. Chairman, I beg to shut up and I beg to sit down.

Hon. Delegate Elkanah Odembo: Asante sana, Delegate. I am looking for, now in the last section here, a District Delegate who has not spoken. Hapa mwisho, hii sehemu ya mwisho sasa. 420? 420, karibu.

Hon. Delegate Susan Wambura: Thank you. My names are Susan Wambura from Kuria District, Delegate number 420. When you look at Article 240, there is established the National Environment Management Commission, fine. I would like this to extend up to the District level because when you come to a district like mine or where I come from, that is Kuria, there is a lot of tobacco planting. And after we plant a lot of tobacco when it reaches time for curing, we cut a lot of trees. Once these trees are cut the land remains without trees and we are told, “when you cut one tree, plant two trees”. These seedlings for planting are not there and the people from the village do not know how to prepare the seedlings. We request that when the Commission is at the district level or the village level, they will guide us on how to plant the seedlings or they will give us the seedlings for planting. If we don’t do that, when it is the rainy season and the land has remained without trees since we keep cutting a lot of them, the cattle will eat the grass, the soil remains fallow and thus the soil will be washed away, and that is very bad.

I would also like to talk about the environment, about us. The Government should actually come in and assist the whole Republic especially when it comes to air pollution as one of the Honourable Delegates has said. There are people who do not smoke things like cigarettes and you find that when in a matatu, your neighbour is smoking; most of us especially the *mamas* do not smoke so we are really harassed, like when we are in the matatus, by our polluted environment.

Lastly, I will say that please something should be done about disposing of especially in big cities like Nairobi here or other places where there are a lot of polythene papers. They are thrown all over, I think something should be done about that please. Thank you.

Hon. Delegate Elkanah Odimbo: Thank you, very much Delegate. It is now 5.20 p.m. Can we take two more? I am looking for a Delegate from Mwingi District. If there is a Delegate from Mwingi District-- I will explain why. According to our list here, the three Delegates from Mwingi District have not had a chance to speak at all. Is there a Delegate from Mwingi? Hamna, sawa. Okay, I am moving; is there a Delegate from Karachuonyo? Twende kwa utaratibu jamaa. Karachuonyo? Delegate 404? Sawa sawa. Karachuonyo District Delegates have not spoken at all.

**PLENARY PROCEEDINGS, PRESENTATION OF DRAFT BILL, CHAPTER 12 –
ENVIRONMENT AND NATURAL RESOURCES, HELD AT BOMAS OF KENYA ON
29TH MAY 2003**

**PRESENTATION OF THE DRAFT BILL: CHAPTER 12 -ENVIRONMENT &
NATURAL RESOURCES**

**Presenters: Com. Abdirizak Nunow
 Com. Zein Abubakar**

**Session Chair: Sultan Fadhil
Co Chair: Elkanah Odembo**

The meeting convened at 9.45 a.m.

Prof. Yash Pal Ghai: Please take your seats. I am going to ask Mr. Baldip Singh Rihal to say the prayers and then Sheikh Ali Shee to follow. So, please stand up for prayers. Silence for prayers please.

Hon. Delegate Baldip Rihal Singh: *(Prayers in Hindu)* Oh Supreme God, absolute yet all pervading, the Eternal, the Creator of the universe, the cause of causes, without any

(inaudible), without hate, both imminent in your creation and beyond it, you are not the God of one Nation but the God of grace. We pray that You give the Delegates to this National Constitution Conference of Kenya, the wisdom and selfless sense of service to write a new Constitution for Kenya. Oh Supreme God, we pray for Your mercy and blessings on all people of this Nation.

Hon. Delegate Sheikh Shee: Kwa jina la Muumbaji wa bingu na ardhi, tunakushukuru kwa kutuweka katika hali iliyo bora. Busara zako na hekima yako na nguvu zako, tuna haja nazo mno sisi tuliokutana hapa na wananchi wa nchi hii. Twakuomba ewe Mola utupe kila baraka na kila heri ili tuweze kufaulu na kuendelea mbele. Tunakuomba Mola wetu, utuondolee maradhi, utuondolee fitina na balaya na kila mateso ambayo yanaweza kumba nchi hii na watu wetu. Utupe support yako na utuunge mkono kwenye kazi nzuri ambayo tunafanya, kazi ambayo wananchi waja wako wanaingojea kwa hamu. Tunakuomba kwa kuwa hatuna mtu mwingine wa

kumuomba isipokuwa wewe tu, utupe nguvu zako zote na baraka zako twakuomba kwani hatuna mwingine ila wewe na tunaomba kwa jina lako, Amina.

Prof. Yash Pal Ghai: Thank you very much. Do we have any Delegates who need to be sworn in today as Members of the Conference? I think there are none and I proceed to announcements or communication from the Chair.

I believe that there was some anxiety expressed yesterday about the circulation of the document on Devolution and Provincial Government. I would like to make it clear that we do not have a system of censorship, different groups are free to distribute some documents as they please. This Conference is committed to open debate, free expression, if a document is not persuasive, the Commissioners do not have to follow its recommendations. At the next round of this process, there will be working Committees, they will have the benefit of summaries of the discussions in the Plenary and they will be free to make such recommendations to the Plenary as they deem appropriate. They are perfectly free to ignore any recommendations or documents that are circulated.

My own view is that it would be a pity if the Steering Committee or the Commission, or I, as the Chair, were to act as the censorship authority. This is inconsistent with the goals of the review that are in the Review Act. So, I think we should respect everyone's right to advance such arguments, as they like. But I will urge the Delegates and others to ensure that they do not bring in documents which are defamative of a community, which seek to incite racial or ethnic hatred as one document that was circulated yesterday was of this nature and the Steering Committee has asked me to plead to all the Delegates to avoid those kinds of negative documents.

The second announcement I have to make is that the Steering Committee decided this morning that during the lunch break, there will be a meeting between the Representatives of the Review Commission, the Select Committee of Parliament on the Constitution and the Steering Committee to discuss the future programme of this Conference and the conclusion of the Review process. We hope very much that after lunch we will be able to make an announcement containing the recommendations of this tripartite body and we will certainly allow time either today or next week for discussion of the issue so that before the Delegates go home next week,

we have a clear idea of when we should reassemble, for how long and then we should aim to conclude our process.

I was told by the Government Representatives at the Steering Committee today that there is no intention on part of anyone to scuttle the process or delay it unreasonably. Everyone is as we want this committed to come to a reasonable conclusion of this very important process. Everybody has made great investment of time, energy, emotion and money in the process and we want to make sure that this process reaches its conclusion with great success and we give Kenyans the document that they have been asking for. So, we hope to come back to you this afternoon with some recommendations.

The third point I want to make is that, as you know be our tentative programme is to conclude this round of meetings next Friday, so we only have a week but Monday is public holiday and so we really have only three working days, effectively in my view. Therefore, it is important that we move at some speed to conclude the general debate on the Draft Constitution. It is now clear that we are not going to be able to go into the Committees stage, something which I personally regret, but at least we can make every effort to conclude this general debate on the Draft Constitution. So, what I would like to propose, with your indulgence, is that we try to conclude the discussion on Environment by 11.00 o'clock allowing some amount of time of that hour to the respondents because it is an important topic but it is not a big topic in terms of volume of the issues.

Then, I would like to suggest that we go on to Public Finance and try to conclude that Chapter today. That will give us three days to finish another four or five chapters, especially the transitional provisions is an important chapter. So, with your permission, I would like to suggest we move on to the next Chapter at eleven and since we are going to break today at 12.30 pm, some Delegates have suggested to me that we dispense with the tea break, it will only be 11.00, we will have two and half hours debate and then we will break for two hours for lunch and then we resume at 2.30 p.m. I hope that these proposals are acceptable to you. Thank you very much. Now, I pass the floor to Sultana Fadhil for the resumption of our discussions of yesterday.

Hon. Delegate Joe Khamisi: Point of order.

Prof. Yash Pal Ghai: Yes, please.

Hon. Delegate Joe Khamisi: Thank you, Mr. Chairman for the explanation that you have given to us. Two days ago, I did submit to the Secretariat a Motion that relates to the timetable of this Conference as from the 6th of next week and I am rather perturbed that this Motion has not been brought before this House and would like to find out what is happening to this Motion. Thank you.

Prof. Yash Pal Ghai: Yes, the Motion has been brought to the Steering Committee which has spent some time discussing your Motion and the whole general issue of the programme of the rest of this Review. The issues are complicated and we needed a little bit more time to get the necessary information and to consult the necessary institutions. We believe that this afternoon we will be able to conclude our discussions and then the Steering Committee will bring some order papers on the discussion of the whole issue including your own Motion. Thank you. I think we should now proceed to the discussion.

Hon. Delegate: Point of order.

Prof. Yash Pal Ghai: I cannot see, number 204, yes.

Hon. Delegate Koigi Wamwere: Honourable Chairman, I just want to express some discomfort that I feel over the question of time because in my view, I think there can be no greater business for this country and for this Conference than the business of making this Constitution. The more I have thought about time, the more I have felt cornered. So far, we have been getting five minutes only, I try to say what I have to say but the time is simply not enough and each time I walk out of here feeling that I am almost muzzled. My feeling is that if we continue to give ourselves less and less time to write this Constitution, I will walk out of here feeling that we are just here to rubber stamp a document that has been written by others and a document that we have merely been called to rubber stamp.

I do not know what the big hurry is for, I think we should give ourselves time to say everything that we need to say about the issues that are being debated--

Prof. Yash Pal Ghai: Honourable Delegate, could you wait until this afternoon when this whole issue will be discussed and a report will be made and we can take up this issue then, please?

Hon. Delegate Koigi Wamwere: Your Honour, Mr. Chairman, what I was trying to say is that I do not agree with your proposal that we just give the debate that is there one more hour and close at eleven, I think that will be gross injustice. I think we need to give ourselves more time in order to do the business that we are doing as thoroughly and as well as possible for the benefit and prosperity of this country.

Prof. Yash Pal Ghai: Thank you. We leave it to the discretion of the Chair to see the sense of the House. I really would plead with you to let us proceed, otherwise we are losing so much time. Please, let us proceed, there will be time for discussion later on. Thank you very much.

Hon. Delegate Elkana Odembo: Thank you, Ladies and Gentlemen. Good morning all, good morning everybody.

Hon. Delegate Daniel Rasugu: Point of order.

Hon. Delegate Elkana Odembo: I hear you on your point of order, Delegate 579, but please have your seat for just a minute. Dear Delegates, it has been said time and again that we do not have all the time in the world and while it is in order for people to raise the issue, a Delegate has just reminded us that there is no greater event, more important event, happening in this country at this point in time; that is accepted and agreed. However, we also must recognize the need for us to push on and accomplish certain things because Kenyans do have expectations of us. They want to hear what it is after a month of this Conference that we will have been able to produce that can be shared and disseminated to them.

So, it is in that spirit that we are suggesting that at the very least, this general debate and discussion phase of the Conference, which according to our rules and regulations was supposed to last about two weeks and has now taken us over four weeks, that if we can at the very least complete the general discussion and the debate by the end of next week, then we can at least say to Kenyans that, “look, it took a bit longer than had been anticipated but we have now completed the general discussions and the general debate and we are now ready to move into the next stage, which is the most critical stage of this whole process of suggesting amendments to the Report and to the Draft Bill of the Kenyan Constitution”. So, it is really with that spirit that we are urging and pleading with you that we proceed. Let us just move and see how far we can go. This morning, we are suggesting that rather than breaking at 11 o’clock for tea and come here and then have to break again at 12.30 for people who need to go to pray, why don’t we push on between now and stop at 12.30 and hopefully by that time, we should have completed the Chapter on Environment. That is what we are asking. (*Clapping from the Honourable Delegates*). Shall we proceed? Thank you very much.

I am going to start in this corner where I see a lot of points of order. I am looking for a Parliamentarian, a Member of Parliament please, in section 1 preferably one who has not spoken. There is no Member of Parliament in section 1? Can we then look for a District Delegate in section 1, one who has not spoken and I see 433. There is no District Delegate in section 1? 405, has spoken twice. Delegate 433, you have the floor please. Yes, I know he has spoken once and the record shows that he has spoken once.

Hon. Delegate David Marcos Rakamba: Thank you Hon. Chair for actually preventing me from getting marginalized. Honourable Delegates, first of all I should congratulate the Commission for the good work done. My names are David Marcos Rakamba, Delegate number 433, District Representative from Gucha. Mr. Chairperson, this topic is very important and I congratulate the Commission for the good work that they have done, in producing the Chapter. However, Mr. Chairperson, I would like to say the following.

First, Mr. Chairperson, at the level of the details, if we look at Article 241, where the statement (inaudible) is written, to that person, I feel that, that Article where it says, “in relation to person”, must be deleted so that it cannot contradict the provisions of Paragraph 3 of

that Article, which expresses the modern liberal compensation, where you say that once somebody has a grievance over an issue is compensated. If you leave the first 241, then that means it renders paragraph 3 of the same Article irrelevant.

Mr. Chairperson, the provision of Article 242 which requires Parliament to enact legislation seems somehow idle because it does not provide for the direction and guideline. I feel it could have some more useful purpose, for instance, specify that Parliament shall enact legislation. This promotes sound environmental management and sustainable social and economical development. This, Mr. Chairperson would be consistent with the existing section, that is the law which was passed in 1999 Section 3 of the Environmental kind of Act, Section 3(4).

Mr. Chairperson, the provision of Article 242 which requires Parliament to enact legislation, somehow seems idle, it should also have some convenience. It should say something like Parliament to propose and state that Parliament shall review and where appropriate rectify these provisions, at least set a limit of say, two thirds majority to avoid the people taking to seek some kind of provisions so fast.

It will also be sufficient Mr. Chairman, to present our proposals to the effect that for example once you are talking of anything like an industry being set, we should have sound environmental management and sustainable economic development. That proposal for the industry that needs to be put up should have some sound environmental management and sustainable economic development so that it incorporates some kind of contribution that I am going to give.

First, the person presenting the proposal for a given industry must take into consideration the following: it has to have sound environmental and sustainable management, it should have environmental installation plan, that means how they intend to restore the environment, then environmental management plan should be reflected in that kind of feasibility study. It should also have the environmental impact assessment. It should also consider those people who have been unsettled from that plan; the plan should actually have resettlement provisions, so that it can arrange for the settlement of the population that is being removed from that place. It must also have the revenue management plan for the community that is going to be actually around that

kind of industry for example. It should also have the socio-economic plan so that we ensure that the environment is taken care of, it should not be given a leeway.

Mr. Chairperson, the Constitution should have an exhibit provision given that these recommendations take place, say, two years from the time when this Constitution comes into effect. Thank you Mr. Chairperson.

Hon. Delegate Elkanah Odembo: Asante sana. In Section 2, since there was no Member of Parliament in Section 1 that had not spoken, I am looking for a Member of Parliament who has not spoken in Section 2. A Member of Parliament who has not spoken in Section 2. All I see is Members of Parliament who have spoken. *(noise from Hon. Delegates)* Okay, I will therefore call for the category number three *(uproar from Hon. Delegates)* Okay, it seems like by popular demand, Member of Parliament 155—

Hon. Delegates: *Yees!!!*

Hon. Delegate Elkanah Odembo: Delegate 155.

Hon. Delegate Raila Odinga: Thank you, Mr. Chairman. Mr. Chairman, I believe the Delegates face very unfair treatment considering the fact that for the last four weeks they have enjoyed the environment of Langata for free. *(laughter from Hon. Delegates)*.

Mr. Chairman, environment is our national heritage and it is a heritage that we need to preserve for posterity. Mr. Chairman, if you have had the privilege of traveling around this country, by air during campaign, like I have had, you will wonder at the extent to which we have been able to destroy our environment. Mr. Chairman, this country faces an environmental crisis which we need to arrest, and arrest quickly. Mr. Chairman, we know that globally, human activities have destroyed the environment and we now have the phenomenon which we call the global warming. So Mr. Chairman, that is the reason why many countries are signatories to the Kyoto protocol which is meant to conserve and preserve the environment. Therefore Mr. Chairman, I do agree with some of the proposals which are contained in the Report and also the Draft. We need to have a National Environmental Commission which will help us to manage, control and protect

our environment. Mr. Chairman, there has been a lot of destruction of our forests. Our forests are being destroyed next to here, this hall here, we have the Ngong Forest which is being destroyed on daily basis by looters without mercy.

Mr. Chairman, we also have industrial pollution taking place all over the country, there are wastes being discharged into our streams destroying the aquatic life. We have also got the veil (?) cap for pollution; Nairobi City is one of the most polluted cities in the world in terms of air pollution.

Mr. Chairman, whereas I agree that the environment must and needs to be protected, no one says that the environment must be conserved as a virgin, because if environments were to be conserved as a virgin, there will be no development (*clapping*) that is the reason why we must find ways of allowing our resources to be extracted for the benefit of our people, while we also conserve. Mr. Chairman, there have been tendencies by some lobbies to stop development of certain industrial projects which will be beneficial to the economy of this country, by providing employment to our people. Whereas we must ensure that environmental impact assessment is done before the project implementation, the assessment must not be used as excuse to stop implementation of beneficial projects. We must, for example, we had a case in point, a Hydro Electric Power Plant, where environmentalists ganged up to stop the construction of a Hydro Electric Power Plant which will help us generate energy for our industrial production.

Mr. Chairman, these are some of the issues which the National Environment Commission will help us to deal with and deal with quickly. Therefore, Mr. Chairman, I did not want to take a lot of time, I fully support the recommendations which are contained in this Draft Bill. Thank you. (*Clapping by Hon. Delegates*).

Hon. Delegate Elkanah Odembo: Thank you, very much, Hon. Delegate. I am moving to the third Section, Section 3 and I am looking for someone who has not spoken from the third category and I am specifically looking for a political party person. If there is a woman, preferably a woman. From political party, who has not spoken? Anybody from political parties who has not spoken please? I am looking for a political party person who has not spoken; if there is none in that Sectio-- (*To an Hon. Delegte*) I will give you a point of order in just a

minute please. I see 588. 588 is from a political party and he has not spoken at all at this Conference. You have the floor number 588.

Hon. Delegate Francis Wabayale: Thank you, Mr. Chairman. My names are Francis Wabayale, Delegate number 588. I thank you for having accorded me this chance because I have been raising my hand ever since we started off, but never got a chance to give my deliberations.

First of all, I would say that Mr. Chairman, when discussing and debating on this Chapter touching on environment and natural resources, we have got to be very precautionary and more so, we have got to take note of the fact that this topic touches on naturally provided provisions. First of all, I would say that because natural resources touch on God's own creation in this very sovereign State of ours, I would say that these natural resources are connected or rather related to our sovereign God and therefore when we talk of natural resources we have got also to bear in mind of natural law. Now, when I say natural laws in relation to natural resources, I mean in reference to air. I would term air as a natural resource and it is freely given to each and every creation and creature.

While I make reference to water in regard to Article 241, I would say that I am not of the opinion that water should enter into evasive party and the second and then the third. I mean that it is not to be privatized. The reason why I say so is that there is a law or rather there are natural laws governing natural resources. Now, when we put aside all these natural laws governing natural resources and then we put a monopoly on water, then it would be as good as putting a monopoly on air which is freely given to us. Now, should we monopolize water, just like referred to in yesterday's paper, Daily Nation, at the back-- I read that there is a scuffle between the two Ministries, the Local Government and Ministry of Water, the scuffle is that both ministries want to make profits or they are craving for profits. By the time this water reaches the common mwananchi, if at all it will be monopolized and enter into a third party, then I fear for the mwananchi, Mr. Chairman, because the cost shall have gone up and it will be too high to be met. I therefore propose that when monopolizing water, let us also consider or make reference to natural laws governing natural resources.

The other thing that I would like to touch on is that we have natural resources that may be found in private land or may be community land. This may be water from the well or river water as well. We should make a provision in the Constitution such that no mwananchi should be deprived of this precious item, or this precious natural resource – water. With that, I believe all the wananchi will live in peace in this sovereign State of ours. With that I end my presentation, Mr. Chairman, Sir.

Honourable Delegate Elkanah Odembo: Thank you very much Honourable Delegate. Moving to the next section then, I am looking for a district Delegate again one who has not spoken and preferably a woman Delegate. No woman has spoken this morning. If you are not a woman please put your card down. You are having an identity crisis. A woman who has not spoken. Can I have Delegate 298? (*Noise from Honourable Delegates*) Order, order please.

Honourable Delegate Rhoda Ndumi Maende: Thank you, Mr. Chair. My contribution is on rivers and I want to talk especially-- My names are Rhoda Ndumi Maende, Makueni Delegate number 298. My contribution is on rivers, like Athi River in Kamba land. We are using Athi River and this river has been misused and sometimes you find the water is coloured, sometimes it is green or gray and this water has been used here in Nairobi and our people are taking that water and that is why most Kamba people are always complaining about water borne diseases. I am asking the Chair to have a very crucial Commission which can protect our people from such water and see if we can protect our water for our people.

The other thing I want to contribute is about our Natural Resources, especially wildlife. We border the Tsavo National Park and most of these animals cross the boundaries and come to our farms and destroy our crops. So we are asking the Commission through the Chair to see what we can do about it. Elephants and crocodiles have been killing our people and children when they are taking water, they have not been compensated and when we complain to KWS nothing is done. So we are asking for a Clause in the new Constitution which can protect us and see how the KWS can prevent those animals not to get out of the parks carelessly.

We also have other small animals like monkeys which are destroying our crops in our *shambas*. We like them but sometimes people are forced to kill them and you know a monkey is not edible.

So please, we want the Constitution to protect us because by killing such animals when we cannot help ourselves with the animals is really bad. So, Commission through the Chair, can you see how you can protect Kambas from these animals which trespass into our plots? Thank you.

Honourable Delegate Elkanah Odembo: Thank you very much Honourable Delegate for being brief and to the point. I am moving to the next section and I am looking for a Member of Parliament who has not spoken. (*Noise from Honourable Delegates*) Ladies and Gentlemen, I see two MPs who have not spoken but I can also hear the Mamas in the Conference hall. I will have first then Delegate number 83. (*Clapping from Honourable Delegates*) I recognize you 117 and I will call upon you later. Delegate 83 you have the floor.

Honourable Delegate Wangari Maathai: Thank you very much. Mr. Chairman, I want to congratulate the Commissioners for—

Honourable Delegate Elkanah Odembo: There is a point of order, if you could just hold for it. 506 your point of order. You have a point of order?

Honourable Delegate Fatma Ibrahim Ali: Thank you , Mr. Chair. My comment is that you are responding to the demands of the Delegates. I thought you are the Chairman and you are supposed to know who is supposed to speak and who is not supposed to speak. So you should not respond to the demands of Delegates, you should follow the list and strictly call somebody who is going to speak. (*Noise from Honourable Delegates*) Otherwise we are going to repeat the same thing. Thank you.

Honourable Delegate Elkanah Odembo: Thank you Honourable Delegate. I am following the list, I was in that section and was looking for a Member of Parliament but I am also being a ‘people-driven’ Chairman. (*Clapping from Honourable Delegates*) Honourable Delegate 083 you have the floor.

Honourable Delegate Wangari Maathai: Mr. Chairman, I was saying that I am very appreciative of the Commissioners work in these two sections both on Land and Property and the Environment and Natural Resources. I want to say that when we brought these trees originally

we wanted to honour the freedom fighters because the freedom fighters from the very beginning of our country have been fighting to protect our land and our environment.

Mr. Chairman, I have several points but I will say them quickly. I want to say that with respect to dual citizenship, one point that actually makes me fear dual citizenship is that you could easily have people flock into our country, buy our land, take citizenship and justify themselves because they are citizens and this could be very very dangerous. We must not open our country to foreigners because our people are very poor and we could have a lot of people come into this country and buy land, others pretending that they have citizenship.

I would also like to say that we have complained a lot about our land, we know that about a third of our country is arable; actually some people have even quoted something like 20% is arable and most of us are very worried about the fact that people come and occupy this arable land but nobody has actually mentioned one of the things that I wanted to emphasize. Fellow Kenyans, every time rains fall in this country we lose thousands of acres in form of our top soil which is taken away by the waters when it rains; most of our rivers in this country at this time are red with silt and nobody complains. There must be something in our document that makes it mandatory for every Kenyan to protect the soil on their land, make it mandatory because when that soil is lost, it is lost for ever and it is no less damaging than if an army had crossed our borders and was taking some of our land.

When we talked about underutilized land and calling upon the government to do something about underutilized land, we need to define that word 'underutilized'. If I leave my land fallow to regenerate, is that underutilized, am I underutilizing that land? We need to define that term but I also think that it is important for us to have a ceiling or a limit in order to discourage some Kenyans owning large tracts of lands while others have nothing. If they would be taxed, that money could be used to take care of our so many landless citizens.

I think, Mr. Chairman, we also have a Clause that ensures that because we have such small arable land that is about a third, that we should not allow land that could be used for agriculture to be used for expansion of cities and urban centers. For example, Nairobi had a tendency to expand towards Kiambu area where in fact we have some of the best soils for agriculture. It is

extremely dangerous and it is lack of foresight because Nairobi needs food and if you allow the whole of arable land to be converted into concrete jungle you will not be able to feed the city.

In the devolved government as I have said, in order for our people to understand how their natural resources are being managed, it is very important that local languages are used. Some of my colleagues have said it is very important that we have a land use policy. A land use policy would ensure that forests are protected and they are not encroached upon for the production of food crops and agricultural land is protected. Land use policy is badly needed in this country and therefore in that section of the land, Mr. Chairman, under Article 232(1) I would say that we need to include to say that, 'Land being Kenya's primary resource and the basis of livelihood for the people shall be held, used and managed in a manner that preserves the fertility of its soil'. That's very, very important.

Also under (e) we need to say, 'Sound conservation of soil, waters and ecological processes'. We need to add another Sub-section there, (f), I would call it, and say, 'Sustainable habitat for all indigenous species'. That is very, very important to us.

The rest I won't bother on land but now I want to talk on the environment, if you will allow me this is my line. Mr. Chairman, I would very much like to request that we have a paragraph that defines what the environment is, I have it and can give it to the drafters, I don't need to read it. But on 239 I would like to say that, 'Every person in Kenya has a duty to safeguard and enhance the environment'. Now I would like to add, For the benefit of present and future generations of human and other species, it is very important, there are other people around here besides ourselves. And I want us to add (c) under 239(2), let us add another Clause (c) that should read as follows: 'Every form of life is entitled to be respected and protected by humans as a unique and irreplaceable part of Kenya and is entitled to a habitat to sustain it and to play its natural role in the ongoing evolution of life'.

Honourable Delegate Elkanah Odembo: Thank you Honourable Delegate.

Honourable Delegate Wangari Maathai: Mr. Chairman, just one little thing I want to add, that 241 should include an Article on 'equitable sharing of common resources'. (b) 'conflict management of environmental issues' and these are becoming more and more. (c), 'mechanism

of enforcement'. It is important to take environmental issues to the grassroots level. That is, we must put mechanisms that will ensure that the environment is taken care of at the grassroots level and for example such things as smoking, spitting in public, uncontrolled use of plastic bags, dumping, or even dumping of nuclear waste such as has been alluded in North Eastern parts of the country.

Honourable Delegate Elkanah Odembo: Thank you Honourable Delegate.

Honourable Delegate Wangari Maathai: Thank you very much.

Honourable Delegate Elkanah Odembo: Since you have them written down, we will take whatever you have not shared with us. The next section I am looking at Category number 3 and specifically a Delegate in the Professional Organizations, one who has not spoken, Professional Organizations in the next section. *(Silence)* If there isn't any one from the Professional group, I will take someone from the Women Organizations, one who has not spoken. Women's Organizations hakuna? *(Noise from Honourable Delegates)* Women's Organizations. If there isn't anyone from the Women's Organization—

Honourable Delegate Joyce Majiwa: There is, Mr. Chairman.

Honourable Delegate Elkanah Odembo: What is your number, Delegate?

Honourable Delegate Joyce Majiwa: Delegate number 501, Women's Organizations, my name is Joyce Majiwa.

Honourable Delegate Elkanah Odembo: Okay, Women's Organizations, 501 you have spoken. I am looking for someone who has not spoken in the third category. I will recognise your point of order please, just let me-- Third category Trade Unions, Religious Organizations.

Hon. Delegate Florence Machayo: Can I speak? I left my card outside.

Hon. Delegate Elkanah Odembo: What is your number?

Hon. Delegate Florence Machayo: Number 512.

Hon. Delegate Elkanah Odembo: Have you not spoken?

Hon. Delegate Florence Machayo: No, I haven't. First of all I--

Interjection Hon. Delegate Elkanah Odembo: Number 512 you have spoken.

Hon. Delegate Florence Machayo: My name is Florence Machayo.

Interjection Hon. Delegate Elkanah Odembo: Sorry, you have spoken 512.

Hon. Delegate Florence Machayo: I have not spoken. (*A lot of noise from Honourable Delegates*). I have really not spoken, let me speak.

Interjection Hon. Delegate Elkanah Odembo: Sawa, order please. Number 512 you have the floor please speak.

Hon. Delegate Florence Machayo: First of all, I have to say that women are managers of the environment and they are consumers of the environment. I have looked at this chapter and seen that there is somewhere they talk about compensation for a person to be compensated when the environment is polluted. This country is really polluted because multi-national industries have come in with products which they cannot tell us how to dispose of.

I would like our Constitution to have a place where the multi-national factories when they bring their products, they should be in a position to explain to consumers how those products can be disposed of. This is because we have got now a lot of polythene to replace our baskets. Our women makes a lot of baskets from the indigenous crops and the indigenous vegetables are all gone because our country have become bare and we cannot get enough crops which can produce the baskets, kiondos. All these things should be produced so that our women can benefit from our raw materials instead of having a lot of these plastics and later they are thrown everywhere in the rivers and all over. That is one of my points.

In the rural area we use a lot crops now, because of the fertilizers which we don't know where they are coming from and what is in those fertilizers, the indigenous vegetables are all gone and I think the fertilizers should now be looked into so that we know exactly what they are doing to our soil.

Riverbanks: our riverbanks are all gone because the trees have been felled and I think this should be legislated so that the riverbanks can be protected. We don't have riverbanks any more, and if we have them, we don't have those indigenous trees which used to bring us a lot of water.

Forests: I think we can't do without forests for charcoal burning because these country women are using a lot of wood and charcoal. I if we say that we do not have charcoal, we should have an alternative. I feel we should have commercial forests and also we should have domestic forests where women can get their fuel.

My conclusion is that, I am very much for the industries, but industries which are polluting our country should compensate the inhabitants of a place like Webuye. Now people are dying and nobody knows how many people are dead in Webuye and I think in other countries. Such industries, even if they are employing a lot of people, should go away and if they don't go away they should have a way of reducing that smoke and ensure that water is safe for the people who are living there. Thank you very much.

Hon. Delegate Elkanah Odembo: Thank you very much. Point of order number 295, your point of order.

Hon. Delegate Saipstone Ngalaatu Musau: Thank you very much Mr. Chairman. My names are Saipstone Ngalaatu Musau, a Delegate from Machakos, the Chairman Masau County Council. Mr. Chairman we are talking about time, but we are wasting a lot of time searching for a Delegate who has never talked here. Please can we stop that and you have random selection, almost all the Delegates here have spoken.

Response from some of the Hon. Delegates: No, no.

Hon. Delegate Saipstone Ngalaatu Musau: The few who have not spoken should give you their names so that you can check.

Hon. Delegate Elkanah Odembo: Thank you, Delegate. We have a list with us here of Delegates who have not spoken. *(A lot of noise from Honourable Delegates)* Order! Please, order. Can I just respond to that point of order? Point of order please, we have a list here of people who have not spoken and it has at least one hundred Delegates, at least one hundred Delegates so please bear with us. In the next section please we are looking for a District Delegate who has not spoken. *Tunarudi huko jamaa, tunarudi huko.* A District Delegate in the next section, one who has not spoken. I wish to recognize number 367 who has not spoke at all in this Conference, Delegate number 367 you have the floor. Order please, order please, number 367 please proceed. Number 367 has the floor please.

Hon. Delegate Alexander Kipngetich Chepkwony: Thank you very much, Mr. Chairman. My names are Chepkwony Alexander Delegate number 637 from Bomet. Mr. Chairman,...*(A lot of noise from Honourable Delegates).*

Interjection Hon. Delegate Elkanah Odembo: Delegate Number 367 has the floor.

Hon. Delegate Alexander Kipngetich Chepkwony: I just want to join up with others who have appreciated the role the Commissioners played especially as far as this very important subject on environment is concerned. I look at environment, Mr. Chairman, as the most important part or issue that we should actually deliberate on and it should be very clear in the Constitution.

I think the issue of environment should be taken up in primary schools or from the lowest level where we have our student or boys and girls being educated on the environment. Because when we talk of disposing waste all around: I think young people should be very much disciplined as to know how to conduct environment in their immediate homes. So I think it doesn't serve any purpose or it doesn't serve much to start teaching environmental science in our highest institutions of learning, while at the lower level, our young people do not know how to conserve

the environment. So I want to propose that a clear curriculum be put in place in our education system, in primary schools and secondary schools.

Also yesterday a Delegate emphasized on the need to control a lot of noises that are around our places and it is very true. I don't want to repeat about noises in the buses, noises in the bars, but then there is another environmental nuisance; even looking at how God created the birds in the air, they fly noiselessly, but our planes are so noisy, helicopters are so noisy. I am talking on this one in relation to those people who are in the hospitals where they need a lot of silence. In some countries I am told they put in devices to control the noises. I think we need to have those ones also in Kenya.

Mr. Chairman, where I come from, Bomet, there are disturbances from the wildlife. The elephants from Mau forest, destroy crops there. I think there should be proper compensation from the Kenya Wildlife Society, because we have seen a lot of crops destroyed and there has been no compensation. I want to concur with the Delegate who was complaining about monkeys even destroying crops. I think as much as we want to conserve our wildlife, we also want to put in place a proper system of compensating those farmers who live around the affected areas because we still need food.

Mr. Chairman, I think I also want to propose that in our calendar we should have a day or one week that should be set aside for this environmental issues, so that our minds can look back and see what we have done as far as environment is concerned in our places. With that Mr. Chairman, I want to thank you very much for this opportunity. Thank you.

Hon. Delegate Elkanah Odembo: Thank you very much. In the next section we are now looking for a Member of Parliament, one who has not spoken. In the next section is there a Member of Parliament who has not spoken? (*A lot of noise from Honourable Delegates*). I will take your point of order in a minute please. There is no Member of Parliament who has not spoken, okay. Delegate number 017, a Member of Parliament who has not spoken at all, can we have him please? After the Delegate has spoken please number 361.

Hon. Delegate William Boit Kiplumbei: Thank you very much Honourable Chairman, my names are William Boit a Member of Parliament Baringo North. Mr. Chairman, I want to thank the Commission for having done a good job on this chapter on the environment. My recommendations are going to be very few because my colleague Delegates have already touched on most of them.

Mr. Chairman, I am looking at this chapter along with the land chapter, I think there are some areas where we need to put those chapters together, because when you want to protect land, you need to protect all of them together and I think there are some Articles which I am going to contribute later on to that committee. The National Environment Commission as discussed here Mr. Chairman, because this Commission which is provided in Article 240, I tend to worry about this commission. The land or the environment of forest as it stands now have been diver stated, as explained by previous speakers and this was being taken care of by the Government. They saw it all along. Am worried that this Commission, given how many people there are going to be in that Commission, may allow the same thing to come about. So Mr. Chairman, I am suggesting that while the National Environment Commission is in position, we allow a devolution, we allow that some powers be given to the regional councils and particularly the district councils, to take care of the environment within their area. *(Clapping by Honourable Delegates)*. Mr. Chairman, in Article 242 Parliament can be empowered to introduce an Act of Parliament where the district can be given powers to care for the forest within its area.

Secondly, Mr. Chairman, some forest lands in some districts have been excised and some rightful holders displaced, right now they are being called landless people. What are we going to do with those people? Yes, I agree they cannot be allowed to go back to the forest, but where there is land I think this committee should actually take care of that, these people are suffering quite a lot. I have them in Baringo North at Katimau forest, I think the District Commissioner is taking care of that. These people should be compensated because they have lost a lot of property, they have developed a lot of things in these areas where they are staying, and I think compensation as provided for in these Articles should be taken care of.

There are also some chunks of land in some areas which have been excised by KWS, for example in Kerio Valley we have(?) where we have Kerio Valley KWS covering about

two, three locations. People have been displaced, animals which have actually killed many people are being cared for. Elephants have killed these people living near there, they have not been compensated. I would like such things to be considered. Thank you very much.

Hon. Delegate Elkanah Odembo: Thank you very much, Honourable Delegate. In the next section, I can see you all want to speak, but all of you cannot speak. I am looking for a member of a political party who has not spoken and 602 has not spoke at all.

Honourable Delegate Benjamin Gitoi: Mr. Chairman, my names are Benjamin Nyagaka Gitoi representing National Conservative Party of Kenya.

Hon. Delegate Francis Ole Kaparo: Point of order.

Hon. Delegate Alkanan Odembo: Delegates, there is a point of order.

Hon. Delegate Francis Ole Kaparo: Mr. Chairman, I think we are in a little dilemma here, because Francis Ole Kaparo is Delegate number 223, Mr. Chairman. I happen to be Delegate 223, I am not a political leader, I am not, strictly speaking, a Member of Parliament, (*cheers from the Honourable Delegates*) in what category do you ever see people like us?

Hon, Delegate Elkanah Odembo: Honourable Delegate, you are an ex-officio Member of Parliament. However, you sit in this Conference Honourable Delegate, as a Member of Parliament and we recognize you as such. Okay. Order, ladies and gentlemen, can I just make a general announcement. There are some people who are sending notes to the table here, I would prefer that your notes are your contributions that you want incorporated in the proceedings rather than notes asking that you be given a chance to speak. Tafadhali, I welcome notes, but let them be your contributions. I have here 20 individuals sending notes asking to speak, we cannot do it that way. Okay? Number 361, your point of order. 361, you have the floor, your point of order.

Hon. Deleger Willian Salaon Ole Yiaile: Thank you, Mr. Chairman. My name is Ole Yiaile from Narok, Delegate number 361, representing Maasai Mara. Mr. Chairman, in all fairness, humility and humbleness, is it really in order for the Chair to continue with this debate that

touches on the environment and wildlife without giving a chance to the Delegates from Narok, Samburu, Isiolo, Baringo, Kajiado and Garissa, where the wildlife in this country really is?

Hon. Delegate Elkanah Odembo: Thank you, Honourable Delegate, I hear you, but you specifically Honourable Delegate, have spoken in this House.

Hon. Deleger Willian Salaon Ole Yiaile: I would rather never speak again as long as I do not have speak on the environment and I keep quiet until we close this Conference.

Hon. Delegate Elkanah Odembo: Thank you. Delegate 602 you have the floor. (*Uproar from the floor*). Order! Please, number 602 has the floor.

Honourable Delegate Benjamin Gitoi: Thank you, Mr. Chairman, for giving me this opportunity. My name is Benjamin Nyagaka Gitoi, representing National Conservative Party of Kenya, Delegate number 602. Mr. Chairman, I wish to acknowledge with thanks the United Nations for honouring our country, Kenya's capital, Nairobi to house the headquarters of United Nations Environment Programme and the United Nations Commission for Human Settlements. Mr. Chairman, I would like also to like appreciate the contributions made by the Executive Director of UNEP, Mr. Klaus Topffer and his counterpart for United Nation Commission for Human Settlements, Ms. Ann Tibaijuka for our settlements especially in the rural and the slum settlements. Mr. Chairman, I would like also to contribute on the re-locating of the United Nations headquarters here in Kenya. I would like to say that most embassies are re-locating next to the headquarters and this is very risky because, if all the foreign embassy offices are moved to Gigiri, especially as the embassy of the United States of America has been re-located there just next door and the embassy of Canada is also re-locating there, this is going to cause the re-location of this very important United Nations headquarters from Nairobi.

Mr. Chairman, now to contribute on the Draft, I would like to appeal that environmental rights should be included and properly stipulated in the Bill of Rights as we have consumer rights, political rights and fundamental rights. This is because the Bill of Rights is capable of interpretation into law and defines Parliament, the Executive and the Judiciary. Mr. Chairman, I would like to suggest that we have the following principles included in the Bill of Rights. I

would like to add that, as a principle, the capacity of the earth that produces vital renewable resources must be maintained and wherever practicable restored or improved. Mr. Chairman, I would like also to add,, that the non-renewable resources of the earth must be tapped in such a way as to guard against the danger of future exploitation and to ensure the benefits from such employment are shared by the Kenyan citizens. Mr. Chairman, I also want to include a principle which stipulates that the discharge of toxic substances in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damage is not inflicted upon the eco-system.

Mr. Chairman, I would also like to add as a principle that the state shall take all possible steps to prevent pollution of the seas by substances that are hazardous to human health, living resources and marine life. As a principle, Mr. Chairman, I would also like to have it stipulated on the Bill of Rights that environmental impact assessment as a national instrument shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and as a substitution of a competent national authority. Mr. Chairman, I would also like to add as a principle in the Bill of Rights, that the National Authority should endeavour to promote the internalization of environmental cost and use economic instruments, taking into the account the approach that polluters should in principle bear the cost of pollution. Mr. Chairman, multinational companies, which come to this country without taking into consideration the pollution they create, should be made to bear the cost of cleaning our environment. Mr. chairman, if you could allow me to just expound on this. Multinationals come here to produce but do not care where the waste would go. They must be made responsible for the re-cycling of this waste they produce, because once the waste is released, they do not care where it goes, whether to Dandora or Mukuru. They are not even labeling these wastes! It must be the responsibility of any company or factory to label the wastes they release so that it can be easier to re-cycle it, otherwise they are sending all these waste to our slums whose residents cannot be able to protect themselves before the law. Thank you, Mr. Chairman.

Hon. Delegate Elkanah Odembo: Thank you very much, Honourable Delegate. I am moving to – (*uproar from the honourable delegate*) I have just been there, sorry that is the same section have just been in. I am on my right, a District Delegate who has not spoken in section one? I

will take your point of order in a minute, number 403, District Delegate who has not spoken at all.

Hon. Delegate Benta Auma: Asante sana, Bwana Chairman. Kwa majina naitwa Benta Auma, a district delegate, Karachuonyo District. Bwana Chairman, nataka niongee juu ya forests na lakes. Naunga mkono Delegates wenzangu ambao wemeongea juu ya forests. Lakini nataka niseme hivi, hizi forests vile mwenzangu ameongea zinatakikana ziwe managed na district council. Kwa sababu gani? Unapata forest, kama sisi tuko na forest huko Rachuonyo District, ina-benefit wale watu wachache na tena wale watu ambao hawatoki kwa hiyo area. Hizi forests, zikiwa managed na community ama districts, zitapatia watu benefits. Timber inakuwa split hapo kwa forest lakini inapelekwa mbali na utapata schools hazina desk na watoto wanakaa chini na forest iko hapo na watu wachukua timber na kupeleka nchi nyingine.

Sisi ambao tumekaa karibu na lake, tunapata shida sana. Utapata wale wavuvi wanaingia kwa lake, wanavua samaki na wakirudi wanakuwa harassed sana na serikali. Kwa hivyo, tunataka serikali iangalie wale wavuvi na the community around the lake. Utapata hizi forest zitasaidia wanawake, maanake wanawake wanapata kuni hapo ndani, watu wanapanda miti, serikali iliyopita ilikuwa inakata miti bila kupanda miti ingine. Watu wanapewa hizo forest wanalima na kupanda mahindi na kila kitu, lakini wanakuwa-charged na serikali. Ukifuata vizuri, utapata hizo pesa ambazo wananchi wanalipa haziendi kwa account ya serikali zinaenda kwa mkono wa mtu mmoja. Kwa hivyo, Bwana Chairman mimi ningependa hizi forests na lakes ziwe managed na district council.

Another point ningependa kama serikali haiwezi kuangalia hizi misitu zingine , kuna wale flood victims, serikali inaweza kuwachukua wapewe hayo mashamba na wapande miti kwa maji ambako kunatokea floods. Asante kwa hayo.

Hon. Delegate Elkanah Odembo: Asante, in the next section, do I have anybody in the Special Interest Groups? Between 617 and 679. If there isn't one, yes 252 what is your point of order?

Hon. Delegate Dubat Ali Amey: Mr. Chairman, we are talking of environment and in our district there are 160,000 refugees who have destroyed our environment and you are now saying you will only give chance to those who have not spoken.

Hon. Delegate Elkanah Odembo: Honourable Delegate.

Hon. Delegate Dubat Ali Amey: How are we going to tell our predicament to this Conference?

Hon. Delegate Elkanah Odembo: Please submit that in writing, that is not a point of order. If there isn't anybody from the special interest groups in that section I want to look for a District Delegate who has not spoken, 291. 291, District Delegate you have the floor.

Hon. Delegate Jane Mwendu Pius: Thank you, Mr. Chairman. My names are Jane Mwendu.

Hon. Delegate William Ole Yiaile: Point of order.

Hon. Delegate Elkanah Odembo: Please just hold on. Who has a point of order? Point of order please?

Hon. Delegate William Ole Yiaile: (Inaudible).

Hon. Delegate Elkanah Odembo: That is out of order, Honourable Delegate could you please withdraw the statement that you have just made?

Hon. Delegate William Ole Yiaile: Mr. Chairman.

Hon. Delegate Elkanah Odembo: Just a minute please, order please. What is the delegate's number?

Hon. Delegate Jane Mwendu Pius: 291.

Hon. Delegate Elkanah Odembo: No, sorry. Honourable Delegate 361, could you please stand up and withdraw the statement that you have just made, please?

Hon. Delegate William Ole Yiaile: Inaudible)

Hon. Delegate Elkanah Odembo: You have spoken four times in this Conference. You are speaking when you have not been given an opportunity to speak, not allowing others who need to speak to speak and you are making statements that are uncalled for. Can you please withdraw the statement that you have just made?

Hon. Delegate William Ole Yiaile: Mr. Chairman, I withdraw whatever I said although I was murmuring I don't know how you heard. (*Laughter by Honourable Delegates*). Number two, wildlife is very sensitive to us, simba watamaliza watu wetu, wanyama wanamaliza nyasi yetu.

Hon. Delegate Elkanah Odembo: Tumekusikia tafadhali, please put that in writing.

Hon. Delegate William Ole Yiaile: When I put it in writing it cannot express the emotional concern of our people. Vile wanyama wameua watu wetu wengi sana, karatasi haiwezi kutoa hiyo emotion. Nakuomba tafadhali kwa jina la Mungu unipe nafasi. Tafadhali.

Hon. Delegate Elkanah Odembo: The point of order here? Number?

Hon. Delegate Shaaban Ali Isaack: Mr. Chairman, my number is 187.

Hon. Delegate Elkanah Odembo: Yes.

Hon. Delegate Shaaban Ali Isaack: Mr. Chairman, some of us have not spoken for the last three weeks and I was wondering, Mr. Chairman, especially the people who are sitting at the floor of this Conference whether you are able to see them. Mr. Chairman--

Hon. Delegate Elkanah Odembo: Sawa, thank you.

Hon. Delegate Shaaban Ali Isaack: Mr. Chairman, not only you but also those who have been chairing some chapters before you. I have realized they have not been able to recognize the

people who are sitting at the floor of this Conference and Mr. Chairman probably you will require--

Hon. Delegate Elkanah Odembo: Sawa, I hear you. The two Delegates who are sitting right in front of you with their numbers up have both spoken, you yourself have spoken twice in this Conference, so please let us give 291 who has not spoken. We will come back to this section again. With all due respect, Honourable Delegate--

Hon. Delegate Shaaban Ali Isaack: Mr. Chairman, there are some Delegates who have not spoken for the last three weeks.

Hon. Delegate Elkanah Odembo: I understand that, there are some who have not spoken for four weeks.

Hon. Delegate Shaaban Ali Isaack: Let me put my point, Mr. Chairman. There are some Delegates who have spoken on every Chapter and Mr. Chairman, some of us have not spoken for the last three weeks, you are not in order. Mr. Chairman, probably you require binoculars to give you some aid.

Hon. Delegate Elkanah Odembo: Tumekusikia vizuri, imeeleweka, please have your seat. At this point 291 who has not spoken at all at this Conference, you have the floor.

Hon. Delegate Jane Mwendu Pius: Thank you Mr. Chairman. My names are Jane Mwendu from Kitui District. I first commend the work of the Commission; they have done a wonderful job, a very progressive and innovative job.

Considering that women are half of the planet and given that gender inequality has persisted worldwide despite endless promises and commitments, I do therefore say that these inequalities have deprived our women of a voice and a choice in decision making and these do have a great impact on our development, our lives and our social, economic and natural development. I do therefore recommend 50% representation of women in the National Environment Management Commission.

Looking at the draft, two principles have been put in place in Chapter 239 (ii) (a) and (b) but for sustainable development to be realized in relation to this Chapter other principles have to be incorporated and have to be brought on board. For example, we must have proper legal control and mechanisms which have to be put in place and I say they must be put in place. In this regard, we have to exactly know who has the right to the natural resources we have in this nation. I do recommend that as a community, the people of Kenya have to be given the priority. We need to have the priority to recognize what is happening to our environment. Why do I say this? I will give an example of foreign NGO's which have been working in this nation, and who come in the name of research.

An example is our famous tree "mwarubaini"; it has been used in this nation, people have gone ahead and collected the species and they have come up with medicine, herbal treatments. But the question is, how much goes back to the communities where this "mwarubaini" tree is gotten from? I recommend that a certain percentage of whatever is gotten out of such goes back to the community concerned. I will also give an example of the titanium mining at the Coast. You will actually ask yourself; how much do the people from the Coast benefit from what is happening, and do we actually look at the future impact?

The principle of the environmental impact assessment after a specified period would enable the nation to establish whether we are on the win-win direction, the win-lose direction or we are on the lose-lose direction and with these we will have to draw a way forward on how to take care of our environment. I also believe that we need to have international cooperation in the management of the environment, why? This would help us in the control and management of the environment. Two, this would also resolve our renowned problem of implementation, having known that we have a history of putting beautiful policies on paper and yet they are never implemented.

Article 242 talks of environmental legislation. This Article according to me is silent on how the Parliament will go about the legislation in relation to this Chapter. I do therefore recommend that specific guidelines must be included in the Constitution on how the Parliament will from

time to time review and access what is happening on the ground in order to promote social and economic environmental development. Thank you.

Hon. Delegate Elkanah Odembo: Thank you very much Honourable Delegate. In the next section I am looking for a Member of Parliament who has not spoken. There is no Member of Parliament in that section who has not spoken? 151, you have spoken. All the numbers I am seeing up are for people who have spoken. *Uproar from Honourable Delegates.* Any person who has not spoken at all? Delegate number 283. Delegate 283 has not spoken at all, you have the floor then I will take your point of order. 283, go ahead.

Hon. Delegate Njeru Abel Mwaniki: Thank you very much, Mr. Chairman. I am Delegate number 283, District Delegate from Embu. Mr. Chairman, I am grateful that you have given me this opportunity.

Hon. Delegate Elkanah Odembo: Your names?

Hon. Delegate Njeru Abel Mwaniki: I would like this new Constitution to have Regional Management Boards and also Catchment Boards which will be catering for management of environment in these areas. Mr. Chairman, I would like allocation of forests, parks and riverbeds to be a thing of the past because we have seen how the environment has been abused by the former regime through allocation of forests.

Mr. Chairman, I would like those people who live near the National Parks and Game Reserves, immediately their domestic animals and crops are destroyed by these animals, to be compensated. Mr. Chairman, serious measures should be put in place in this new Constitution so that the Foresters and Kenya Wildlife men who have been destroying our forests by cutting trees and even selling land there can be taken to court.

Mr. Chairman, I would like to contribute on Nyayo Tea Zones because where I come from there are these pieces of land. I would like to request Honourable Delegate Wangari Maathai to visit Manyatta Constituency cemetery and see how people are living there so that Nyayo Tea Zones can be subdivided to our people in that area. Thank you very much, Mr. Chairman.

Hon. Delegate Elkanah Odembo: Thank you, Honourable Delegate. I had a point of order here, Delegate 330.

Hon. Delegate Nancy Iyadi: Yes. I am Delegate number 330, my name is Honourable Nancy Iyadi from Trans Nzoia. My point of order is this: is it a crime for the Honourable Chair to choose somebody who is next to a person who has just spoken because you are not in the same category and why have you been dismissing my points of order? It looks like you are aware of what I am going to say. Thank you. *Laughter from Honourable Delegates.*

Hon. Delegate Elkanah Odembo: That was not quite a point of order but I recognize your concern and I will keep that in mind. In the next section, since we did not have a Member of Parliament in the previous section, I am looking for a Member of Parliament who has not spoken. I do not see any Member of Parliament who has not spoken. 29. Can I have someone from the third category? Religious Organizations, one who has not spoken? Religious Organizations, 526 has not spoken at all at this Conference.

Hon. Delegate Rosemary Kinyajui: Thank you, Mr. Chairman. This is my first time to stand and I am so happy about it.

Hon. Delegate Elkanah Odembo: Karibu. Order please order.

Hon. Delegate Rosemary Kinyajui: I am Delegate 526 from Religious Organizations. Now about the Environment, people have talked about the forests but I want to add that there is even more than just preserving the forests. Yesterday we were talking of the people who were displaced, and people who have no jobs. Some years back, a forest would have even a thousand workers and schools would have more than two thousand children and people were brought up from there to the universities. Today all these forests have been finished and they're no longer there. I don't know how you may add on such a thing that they should be brought back and be enhanced. Previously, they would be given a piece of land for three years and then they would plant the trees and you take care of them for three years. This would keep the forests going.

Mr. Chairman, I don't know what is happening. I happen to come from Nakuru and the Flamingoes, the very beautiful birds that everybody would like to see, are moving away from that lake. I do feel that a system should be put in place to check what is happening. Maybe there are some things that are being put in the lake that are affecting those birds. Very soon we will not have any of those birds.

Article 239 (3C); says, "practice, encourage and where practicable, require waste minimization". I feel the word "minimization" is so loose. I think we would say "require waste removal" or a stronger word, because when you say minimizing, it means we can still have some more but I feel we need to remove the waste.

The other thing is about protection of the factory workers; in most of these factories you find people who have been working there and after several years they end up with some chronic illnesses. I would ask that something be added to talk about the protection of the factory workers, maybe to ensure that every factory has got protective garments which can help these people. Sometimes the results are not seen immediately and it is when people have left those factories that they have a problem. To go with that is the issue of those people who are injured in the factories. Many times there have been cases whereby these people are just ignored; maybe, after they have lost some fingers or a hand. I think something should be put in concerning that. Thank you Mr. Chairman.

Hon.: Elkanah Odembo Thank you very much, Honourable Delegate. In the next section I am looking for a District Delegate who has not spoken and Delegate 293 has not spoken at all at this Conference. Delegate 293 you have the floor.

Hon. Delegate Justus Musyoki M: Thank you very much, Mr. Chairman. I am very happy to get this chance. My name is Musyoki Justus, a Delegate from Kitui. Mr. Chairman the environment is a concern of everybody and, Mr. Chairman, I am contributing while looking back at what we were doing with land. There were proposals and in this one there is a proposal that we have a National Commission. My proposal here, Mr. Chairman, is that we decentralize the Commission, because the environment involves everybody. I am supporting a speaker who said that this one should also be taught in schools, because we have a duty to perform. Even the

Delegates here have a duty to perform, because like when you go out here we see the workers in Bomas of Kenya have done a good job. The environment has provided life and also gives some beauty. However when we go out we find that the grass is almost drying. What do you think will be the feeling of the workers? How long will it take to grow the grass again?

Mr. Chairman, I am saying this one is a gift and a gift has to be taken care of. This is why a National Environment Commission should be decentralized so that people on the ground will take care of their environment. We have had bad times-people like me who comes from arid areas-the land gets eroded now and then and we are very unhappy that in each year we see the soil being carried all the way to the sea and our land remains barren. If Mr. Chairman, great care has been taken on the environment, really we would still have use of our land as far as producing something to eat when we get some rain. It is also from this point Mr. Chairman that I am saying, back in the other Chapter we were thinking of the Land Commission to be decentralized to the districts, so that the policy is clearly spelled out that the land is used very well in order for those of us living in arid and semi arid areas to be able to use the land usefully to produce anything. In case the rain fails, as is usual with some of these semi arid areas, then the policy makers see to it that the water which flows into the Indian Ocean can be tapped for good use, both to conserve the environment and to produce something that can sustain our Nation.

Mr. Chairman, I think therefore the enforcement of the environment and taking very seriously as where we are, I heard one time people being told that they would be taken to court if they spit carelessly. Well it is true that they can be taken, but do they know what they are supposed to do? We need therefore to decentralize the enforcement of the environment management to the people who can work from the bottom to the top. Thank you.

Hon. Elkanah Odembo Asante. In the next section the third category Political Party 606 has not spoken at all at this Conference. After that I will take somebody with disability in that same area. Point of information 336. Point of information.

Hon. Delegate Mkawerweren B. Chebii: Thank you, Mr. Chairman, my name is Mkawerweren Chebii of Marakwet. Now, I would like to inform you that there are people who have spoken

from Chapter 6. They just came on day one and from the 28th most of the Delegates have been sitting here—

An Hon. Delegate:

(*inaudible*).

Hon. Delegate Mkawerweren B. Chebii: Thank you, Mr. Chairman, what I wanted to inform you is, we have come here from 28th and we have been happy sitting here and even the speakers who have actually been speaking they just speak and go. My information is, even those who have never spoken are people who are(inaudible). My information is can you take that note?

Hon. Delegate Elkanah Odembo: Thank you very much, Honourable Delegate. I have noted that there are people who once they have made their statements then leave the hall. That is not fair to those who are sitting here listening and participating in this Conference. I would therefore urge Delegates not to leave the hall just because you have made your statement, but sit and listen and participate with the other Conference Delegates please. Delegate 606 has not spoken you have the floor. 606 and then I will take your Point of Order sir. 606.

Hon. Delegate Phoebe Sikoya Kituyi: Thank you, Mr. Chairman. My names are Phoebe Kituyi from Political Parties my number is 606. I would like to propose that tree felling especially in forest areas must be completely wiped out in legislation. Any forestry officer involved in enabling timber trading or themselves are involved, not only must they be fired immediately but be prosecuted in courts of law so as to serve as an example to others. Mr. Chairman I would also like to propose that public education and awareness over the importance of forests must not only be confined to schools but must also be under taken in public meetings.

Mr. Chairman, on the side of wild animals may I say that the current size of National Parks must be reduced and the recovered land be distributed equally to those who do not have. We also find that these animals have endangered a lot of people who live near them, so these people must be compensated so as to cater for the lives that they have lost. Thank you Mr. Chairman.

Hon. Delegate Elkanah Odembo: Asante sana. Point of Order 382 you have a Point of Order.

Hon. Delegate Aswani S. Amunga: Honourable Chairperson I am Aswani Sammy Amunga Delegate number 382. Honourable Chairperson, is it really in order for the Chair not to keep a promise? Yesterday before we adjourned you did promise me that I would be able to talk today. What I am wondering is why you are just by-passing me and time is almost coming to an end . Mr. Chairman, why don't you keep your promise?

Hon. Delegate Elkanah Odembo: Honourable Delegate I hear you, you have spoken at the Conference mara moja. There are those who have not spoken at all, and they are here. I would like to invite someone from the disability sub-group and if there is one who has not spoken, a person with disability who has not spoken? 456 has not spoken? No it is not that category, no. 543 you have a Point of Order. 543 Point of Order.

Hon. Delegate Shashikant Raval: Thank you, Mr. Chairman. My name is Shashikant Raval Delegate number 543 Religious Organizations. I just want to point out for your information Mr. Chairman, that this is such an important Chapter but I feel there is lack of quorum. I am drawing your attention to that. Not that I want to speak, I would like to speak and contribute but I think people have lost interest in(inaudible). Thank you.

Hon. Delegate Elkanah Odembo: Thank you very much. A lot of people have walked out. I think because we have a long session this morning, some people might have decided to go out and stretch their legs, but I see people walking in and out, so let us not worry. A person with disability who has not spoken? One who has not spoken? All those have spoken I will move then to the next section, Point of information who do you wish to inform 266?

Hon. Delegate Galgalo Adano Tuye: May I take this opportunity to inform you as a Chairman and all the Delegates, that the Kenyan Government is damaging the environment beyond rehabilitation by allowing foreign military practices in Kenya. They are actually ruining the environment beyond rehabilitation.

Hon. Delegate Elkanah Odembo: Does that sound to me like a point of order? That would be useful information, Honourable Delegate, if you could put it in writing please. I am looking at the next section then, I am looking for a Member of Parliament. One who has not spoken please? Looking for a Member of Parliament who has not spoken, all of them seem to have spoken.

Order. Please. Between Honourable Delegate 073 and 223 could you agree on which one of you will speak? (*Noise by Honourable Delegates*). 233? Sorry, 233 has the floor; thank you very much. 233 Member of Parliament you have the floor.

Hon. Delegate Francis Ole Kaparo: 223!

Hon. Delegate Elkana Odembo: Sorry. Yeah.

Hon. Delegate Francis Ole Kaparo: Mr. Chairman, I thank you. First for the record, this is Delegate 223, Francis Ole Kaparo. For the record Mr. Chairman, I have not contributed to any topic.

Hon. Delegate Elkana Odembo: Yeah.

Hon. Delegate Francis Ole Kaparo: I have only spoken on a personal statement, on a point of order and that in my view is not contribution. Nevertheless, Mr. Chairman, because I have –

Hon. Delegate Elkana Odembo: That is why we are calling you.

Hon. Delegate Francis Ole Kaparo: Mr. Chairman, if you become a little patient, it helps the gathering. Mr. Chairman, I have a very short time and there are so many things that I would like to talk about.

First, Mr. Chairman, this Conference showing as it does, a lot of concern for our environment, it is not because there have not in the past been laws to regulate the same. What has happened is that over the years, there has been consistent disregard of the laws and regulations to manage our national affairs.

Clapping by the Honourable Delegates

And therefore what we require here is to state what we feel, take what is necessary into the Constitution and make it be known to this country that we have truly and totally concerned about continued disregard of rules and regulations by those who are put into authority.

Mr. Chairman, I have heard several Delegates talking about forest conservation. I totally agree. But who has been destroying? It is those who have been charged with the very responsibility of maintaining those forests.

Clapping by the Honourable Delegates

We have heard about our rivers drying up and this is a serious issue. Rivers drying. Mr. Chairman, you know of the existing treaty between Kenya and Uganda and Egypt that we cannot stop waters from Kenya going into Lake Victoria so that the Egyptians can have water downstream. But look at the situation in Kenya. All our rivers are having water extracted without any regulation. Imagine the Uaso Nyiro and the people downstream. In Habaswein, Lorian swamp, in Samburu, in Isiolo, in Laikipia soon, very soon, there will not be a drop and this is because we have not taken care of that natural resource. We must therefore, in my view, put in this Constitution – I am not saying, let us put forests there, you can put it-- But we must put in the Constitution that it is the Government's duty and obligation to ensure that water resources are used for the benefit of those upstream and those downstream. (***Clapping by the Honourable Delegates***).

Mr. Chairman, of course there should be regulations - and I hope they will be effected – on minerals and I am upset Mr. Chairman, that when Mr. Lesirma talked here last night, he did discuss on devolution, that the people from Range Land, Semi-Arid areas who considered not to have any resources do actually have them in plenty including minerals and other resources. Yet Mr. Chairman, distressing as it is, people from those areas with very burning desires to speak about those things, have had very little chance in this forum (***Clapping by the Honourable Delegates***) to articulate their aspirations, their fears and their interests. Mr. Chairman, let me very quickly - because I know that you are about to ring the bell – talk about waste disposal, particularly of the non-destructive types - the polythene. Our country has become littered with polythene paper which cannot be destroyed by nature. You move around Kenya, it has become one – I do not know-- I do not want to use very strong language, but you can complete, all of

you, Delegates. It is terrible. It is an eye sore. It is killing wildlife and it is polluting everything and it is killing our country. Something must be done about production and disposal particularly of polythene paper - (sound of the Bell), I knew you would do that. But I beg you nevertheless, I need to speak about wildlife and please give me just one minute. Wildlife is a great resource in this country and a some Kenyans have contributed to this country immensely by not eating wildlife, like a lot of you have done Mr. Chairman, I am told on a daily basis, that this country earns beyond twenty billion out of wildlife. Those people who manage wildlife today are people who do not have even a hare in their own areas and those people who have them in plenty have been put exclusively out of it. Look at it this way. You have hotels, say in Samburu Game Reserve, in Isiolo, in Trans Mara, in Narok, in Kajiado, in Tsavo, at the Coast, in Mt. Elgon everywhere, yet the local people do not benefit. I propose – so that I can sit down and obey the order – the following: that wildlife outside parks and I repeat, outside parks, must be the property of the people who keep it (*Clapping by the Honourable Delegates*) and it must be devolved–

Hon. Delegate Elkana Odembo: Thank you. Thank you.

Hon. Delegate Francis Ole Kaparo: --to the local communities and Mr. Chairman, finally--

Hon. Delegate Elkana Odembo: Thank you Mr. Speaker.

Hon. Delegate Francis Ole Kaparo: Finally, Mr. Chairman, I would like that when you are dealing with this particular section on wildlife and natural resources, let us devolve everything, the decision making, including the utilization of products to the communities that keep them. Thank you.

Hon. Delegate Elkana Odembo: Asante. The next section. I am looking for a District Delegate and I recognize that a number of District Delegates in that section and other categories have actually not spoken. So, I am in a bit of a dilemma but I will take 269 as I think about what to do with the other Delegates. Delegate 269 has not spoken at all. The others please keep your numbers up so that I can see them.

Hon. Delegate Yusuf Wako Dogo: Thank you. Thank you Mr. Chairman. My names are Yusuf Wako Dogo. I am a District Delegate from Isiolo.

Mr. Chairman, I think first and foremost I want to say this, I think I congratulate the Commission for doing a very good job, particularly on the Chapter on the Environment and Natural Resources and Land and Property. However, I have a few comments to make on this.

Mr. Chairman, it is my considered opinion that these two Chapters could have been collapsed and I have a reason for saying that. First, I think that the two titles of the Chapters 11 and Chapter 12 are a bit misleading. One is saying Land and Property, that is Chapter 11 and the other one is saying Environment and Natural Resources. If you look at the Articles under Chapter 12, on Environment and Natural Resources, there is nothing to do with natural resources. So, I would propose that the two Chapters should be merged and given three parts:

1. The land
2. The Natural Resources
3. Environmental Management - which is basically what is in Chapter 12 now.

I think it will give us a flow of some sort because we cannot separate the natural resources from the land but the Articles in Chapter 12, the property, the land tenure system etc., can remain. At least there should be an explicit statement on natural resources because I think the natural resources are just assumed. Because most of the natural resources that we are talking about are land-based resources, I think it should be good if these things are put together that way.

Secondly, I will go into maybe a bit of specifics and many speakers particularly the Speaker of Parliament has already said it all. But when we are talking about land, it looks like in this country we are talking about the thirty percent of agricultural land. The seventy percent or eighty three percent from some statistics of the arid lands in this country is not considered as land, because when we are planning, when we are investing, whatever we are doing, we never talk about arid land. I think the Chapter 12 on Land at least has made an attempt - particularly in recognition of the communities who live there - by saying that land belongs to the communities and I would propose that if land belongs to the communities, then, as Professor Kivutha Kibwana suggested

earlier, let us give it a code number or an identity number and provide a schedule of those communities with their land, because I think what we are always trying to do is, we are trying to separate the communities from the land.

Secondly - I am sure you are going to say “ stop now” but let me just– (*Laughter from the Honourable Delegate*).

Hon. Elkana Odembo: Thank you very much.

Hon. Delegate Yusuf Wako Dogo: I will just quickly run around three things:

One: I think for many of us who come from arid lands, we know how important water is. When we talk about water particularly in this country, we know the catchment areas are around Mount Kenya and the Aberdare Mountain. The Aberdare Mountains and the Mount Kenya region forests are gone. The catchment area destroyed. If you have seen the latest, maybe the satellite pictures of the glazier on Mount Kenya, it is receding. It is actually diminishing and that means that actually the most important heritage of this country, which is Mount Kenya, is going. We must make a decision, we must stand up and say ‘no’ to this.

Two: I think the other thing is there are lots of pumps there and these are suffocating the people who live downstream. So, certainly there must be something that we must do about it. As the Speaker suggested earlier, we must make minerals the property of the communities.

Hon. Delegate Elkana Odembo: Asante. Asante. Thank you.

Hon. Delegate Yusuf Wako Dogo: Excuse me just one minute. I want to just say something, maybe about---

Hon. Delegate Elkana Odembo: Asante. Tafadhali.

Hon. Delegate Yusuf Wako Dogo: Thank you.

Hon. Delegate Elkana Odembo: Asante sana. I am looking at – again – that section, Delegates, if you will allow me. There is quite a number of people who have not spoken at all in this section for some reason. I see an NGO person. I see three District Delegates. Will you allow me to take two Delegates from this section just now, who have not spoken at all? (*Uproar from the Honourable Delegates*). Hawajazungumuza kabisa? (*Uproar from the Honourable Delegates*). NGO Delegate 469 has not spoken at all.

Hon. Delegate Grace Githaiga: Thank you very much, Mr. Chairman. My name is Grace Githaiga. I am Delegate number 469, representing the Civil Society. I just have a couple of points to raise. One is that this Chapter must move from the point of departure that all natural resources in this country belong to the people of Kenya. Therefore, we need to use them sustainably. First, we have to correct the wrong dispensation that has been there all along that the general citizens are outlawed in use of, say, forests, enjoyment of wild life and other natural resources. We have minerals, mineral oil and marine resources and we must understand that they all belong to the people of Kenya. Therefore, we need to ensure that whenever they are going to be exploited, the people have a right to participate on how this is going to be done. The State should only come in to regulate and all these benefits must accrue to the people. This can only be secured in this Constitution and therefore we need to have a line to that effect.

We must also understand that our natural systems must benefit everyone. This proposed Commission should therefore ensure land planning and protection of ecosystems. This Commission therefore calls for devolution to the lowest possible structure at the village level.

My last point, Mr. Chairman, is that we know women are the main users of natural resources. They also suffer when degradation occurs. We should also not forget that they actually form the majority of the population of this country. Therefore, I am proposing that they need to be at the centre of management of environmental resources. I am also proposing that, since it is not stated the number of people who are going to be there, more than half of the members of this Management Commission should comprise of women.

Devolution must come down to the village level so that we also have village and district women participating in management of this natural resources. Thank you very much.

Hon. Delegate Elkanah Odembo: Thank you very much Delegate, you have saved us a minute there, which I want to give to Delegate number 504 in this last section. 504 has not spoken at all at this Conference. You have the floor.

Hon. Delegate Nasra Awes Abubakar: Thank you, Mr. Chairman. My name is Nasra Awes Abubakar, Delegate number 504, from women's organizations.

Hon. Delegate Elkanah Odembo: Sawa, you have the floor.

Hon. Delegate Nasra Awes Abubakar: Thank you. In my contribution, I would like to bring to your attention that the different parts of the environment or the ecosystem is inter-dependent and that one of them cannot do without the other. So with all these problems that we are causing, we know human beings are the beneficiaries of the other parts of the environment and yet we are the ones who bring a lot of degradation. So I would like there to be some laws where we do not say that it is a duty for every one to preserve the environment, but we make it a must that everybody must actually preserve the environment.

The other point I want to make is, we know the armed forces contribute a lot to environmental degradation. For example, the barracks or camps sit on vast lands, which could be used for other purposes to preserve the environment and also a lot of land has to be cleared for them to settle in such areas. The other thing is, in their training they stamp on the ground which inhibits grass or other small shrubs to grow in that areas because of all the stamping they do. The terraces they build for the defence cause a lot of soil erosion, which also contributes to environmental degradation. But because they are our armed forces, we say there is no gain without pain. We understand they are our armed forces, they are protecting us and we allow them to cause us the small pains. However, what I am concerned about is the foreign armies that come to Kenya to do their training and to build their camps. Imagine we already have our small pains from the gains of our own armed forces, what about the other armed forces that come to train or to have camps in Kenya which degrade our environment? We understand the world has become a global village and that we all interdepend on each other, but I do not see why we should allow somebody to preserve their environment and then to come to Kenya and degrade ours.

The other point I want to make is about the misuse of the coastal lands where people come and deposit their waste on our coastline. At some point we had some fish dying, maybe a little bit upstream from the side of Somalia but they were also found in some parts of Kenya and we heard that a lot of fish were dying and we need the fish to be preserved, they are our natural resource and there are so many people who live on fish so we need them to be preserved. We also heard about the people who come to Kenya to deposit their nuclear or other waste, which is also causing a lot of problems for our people. We have heard in North Eastern where women are having miscarriages and others bear malformed or children with disabilities because of the waste that was deposited there.

The other problem I would like to cite is that the communities should be helped to explore their natural resources. For example, if a community has petroleum deposit, the government should help them explore that because it is going to help the whole country. We should not say because that part does not belong to whichever - or they might go to another country or something like that - we should help that community to actually explore this because it is going to help all of us. Thank you, Mr. Chairman.

Hon. Delegate Elkanah Odembo: Thank you. Thank you very much, Honourable Delegate. I am now moving to this side (*Uproar from Honourable Delegates*). I don't see any number that has not spoken in that section. (*Uproar from Honourable Delegates*). I want to go to this section, I see—

Several Honourable Delegates: Point of order.

Hon. Delegate Elkanah Odembo: --section one, I am looking for a Member of Parliament who has not spoken and I see two of you who have not spoken.

Several Honourable Delegates: Point of order.

Hon. Delegate Elkanah Odembo: Number 174. MP, 174 has not spoken at all. Point of order here, I will take it. 626 has a point of order. Delegate 626.

Hon. Delegate Mamo Abudo Qonchoro: My name is Mamo from the Special Interest Groups. I would wish to ask the Chair, you are following the third category of Trade Unions, Political Parties, Religious Organizations, how about the Special Interest Groups? We are only fifteen. None of us has spoken in this hall. I spoke on a point of order four weeks ago, almost four weeks.

Hon. Delegate Elkanah Odembo: Sawa, sawa. I have called for Special Interest Groups and there wasn't anybody when I was in the other part. (*Uproar from Honourable Delegates*). I was looking for one who has not spoken, you, yourself, Honourable Delegate, have spoken three times according to my records. (*Laughter by Honourable Delegates*). Delegate number 174, you have the floor. Let us proceed please, let us proceed.

Hon. Delegate Oyugi Owino: Thank you, Mr. Chairman. My names are Charles Oyugi Owino Likowa, Member of Parliament for Migori. Mr. Chairman, I want to agree with the several speakers who have previously said that this topic should have been put together with that of Land and Property. This is because in my view, land is also a natural resource. In fact, land in itself is a resource that we economists refer to as the factor of production, a very important factor of production. When we talk about the environment, we simply refer to the condition that affects the behaviour and development of mankind and other creatures. It is my view, therefore, Mr. Chairman, that environment is an important factor and issue that cannot be discussed without discussing together the land issues that affect it. I therefore insist that interfering with the environment is basically interference with the behaviour and development of mankind and other creatures, including plants.

Mr. Chairman, it is my view that the Constitution should come up with a clear policy and measures of protecting the environment in which man and animals live together. We are talking about pollution. How much of our environment is polluted? Take the air, for example when you come from Mombasa down to Busia and follow those big lorries and buses, you have seen how much smoke comes out of them. All the way up to Busia, every day, I think the pollution is very high. What are we doing about it? The Constitution is very quiet on it and it should make it a

policy, it should make it very clear so that in future, our air and the environment around it is protected from those kinds of pollution.

I will go to rivers and the lakes. In fact, I happen to come from near Lake Victoria. Mr. Chairman, the kind of activities that go on around Lake Victoria are enormous, so many. Some unscrupulous characters have been basically putting anything that comes their way into Lake Victoria. I believe, as I am talking now, Lake Victoria is no longer fresh as it was initially. What are we doing to protect the lake? In fact, I can remember, Honourable Wangari Maathai has been singing everyday about the destruction of our forest. She has been a lone voice, like a lone voice in the wilderness. Nobody has come to help her go round the country to preach to our people the importance of conserving the forest. When I was a young boy, Mr. Chairman, I used to see beautiful birds around our home. Now what I see is a mere desert. What has happened? It is because the laws that we have had have not been restrictive enough to protect people from destroying forests and other plants around it.

Mr. Chairman, I will now take you to my own home. I live near a river called Migori and there is a hospital. Now, the waste from the hospital goes into the water and that water is used by people down stream. How far are we? How are we sure that people down the river are not going to be affected by various diseases? Mr. Chairman, if you allow me to finish. Let us take the example of the factory coming up at the Coast. Now, what environmental measures have we taken as a country to protect the people living around where that factory is going to be put up? Nothing! People have been crying there. There should be a clear definition of how much land we should own downwards, so that if there is a mineral coming up from your piece of land, 40% of the market value of that mineral should be given to you, not 8000 as I saw in the papers. Where can you get a piece of land in Kenya today worth 8000 bob an acre? Nowhere. Thank you, Mr. Chairman you have rung your bell, but you should have given me more time. Thank you.

Hon. Delegate Elkanah Odembo: Thank you very much. Point of order, 455.

Hon. Delegate Lawrence Murugu Mute: Mr. Chairman, now that you seem to have ruled that all Delegates with disability have spoken and, since our subjective reality is very important that

this Conference understands it, would it be in order for me to invite Honourable Delegates to become disabled so that they can speak? Thank you. (*Laughter from Honourable Delegates*).

Hon. Delegate Elkanah Odembo: I have noted your point of order Honourable Delegate. Point of order 417, I know you want to say you have not spoken. I know you have not spoken. Is that what you want to say?

Hon. Delegate Gaudentia Agoko: Yeah, that is what I want to say.

Hon. Delegate Elkanah Odembo: I am aware of that, so let us save that one minute there. Honourable Delegates, it is now 12.15, we have agreed we would knock off at 12.30 so that Delegates can go for prayers, and we also wanted to finish this session before we go for lunch. (*Uproar from Honourable Delegates*). I know what you are about say 117, but just a minute, please. I want to take just one more Delegate who has not spoken, yes I want to take one who has not spoken and then with your permission – order! please, order! 117 you do not have the floor so please be seated. Yes, I want you to please sit down and just put your card up. You do not have the floor, so you should not be standing. Thank you very much. We had agreed that we would finish this Chapter by lunch time. (*Protests from Honourable Delegates*). 233, let us hear your point of order and I hope it is not that you have not spoken. (*Laughter from Honourable Delegates*). 233 has the floor.

Hon. Delegate Beatrice Maringa Mwaka: Thank you Bwana Chairman. Ni hivi Bwana, nataka nikwambie kwamba....

Hon. Delegate Elkana Odembo: Order! Ndio nasikiza.

Hon. Delegate Beatrice Maringa Mwaka: Kuna watu wengine wana issues on this particular subject.. Unajuwa kule kwetu kuna Athi River mining, iko katikati ya watu.

Hon. Delegate Elkana Odembo: Nakusikia.

Hon. Delegate Beatrice Maringa Mwaka: Na wewe huniambii nikakuambia kuna nini. Kwa hivyo mimi nataka kukuambia....

Hon. Delegate Elkana Odembo: Tuna Makamati kwenye Kongamano.

Hon. Delegate Beatrice Maringa Mwaka: Hebu sikiza. (*Uproar from Hon. Delegates*). Point of order.

Hon. Delegate Elkana Odembo: Please unataka kuongea nao ama unataka kuongea?

Hon. Delegate Beatrice Maringa Mwaka: Aha siongei.

Hon. Delegate Elkana Odembo: Tafadhali, point of order, imeeleweka.

Hon. Delegate Beatrice Maringa Mwaka: Nataka kusema mengine ni ya kusikizwa kwa watu wote na mengine ni ya--

Hon. Delegate Elkana Odembo: Ninakuelewa, kila mtu hapa, kila moja wetu ana mambo ambayo anataka kila mtu asikize.

Hon. Delegate Beatrice Maringa Mwaka: Lakini Mengine ni makubwa kuliko mengine.

Hon. Delegate Elkana Odembo: Haya, point of order, okay. Can I have one more speaker and I am looking at the next section. Order please. I am looking at the next section of a delegate who has not spoken. I am looking at a District Delegate who has not spoken in the second section. Order please. A District Delegate who has not spoken in the second section. District Delegate who has not spoken, there isn't one? Is there a Member of Parliament in that section who has not spoken? Hapana. (*Uproar from Hon. Delegate*) Special groups, order please, order. Honourable Delegates please be seated, you have spoken at this Conference, please be seated. (*More uproar from Hon. Delegates*) Honourable Delegates, have your seats please. I am looking for a delegate who has not spoken in that section. 364 what is your point of order please? 364, what is your point of order?

Hon. Delegate Isoi Kamwende: Thank you, Mr. Chairman. In fact I decided not to speak on Legislature, Judiciary and even Devolution so that I see whether I could catch the eyes of the Chair on Land which I could not, even this Chapter is dear to our lives and we are not getting a chance. I don't know whether you want us to take our contributions home to our wives. The working Committee is going to get its deliberations from these discussions on the floor. In fact the Chair is even wasting more time instead of giving people a chance to contribute. I want to propose a vote of no confidence against you.

Hon. Delegate Elkana Odembo: Thank you Honourable Delegates, order please, order. It is now 12.20 pm, we are wasting a lot of time. *(More uproar from Hon. Delegates)* Order please. 508 what is your point of order, 508 point of order, order please, 117 please be seated we have a point of order here.

Hon. Delegate Mereso Agina: Thank you Mr. chairman. My name is Mereso Agina, 508.

Hon. Delegate Elkana Odembo: 508 has the floor.

Hon. Delegate Mereso Agina: Mr. Chairman I want to ask the speaker who has just spoken to substantiate or withdraw the comment, whether you want him to take the Constitution home to his wife. That is derogatory and it is an insult to the women in this panel and at home. Thank you.

Hon. Delegate Elkana Odembo: Thank you Honourable Delegate. Honourable Delegate, I would ask you to kindly withdraw that statement. *(Uproar from Hon. Delegates)* Honourable Delegate can you please withdraw the statement. *(More noise)*

Hon. Delegate Isoi Kamwende: Sorry I did not say the Constitution, I said my points, I don't want to take them back home, but if it is an insult to our dear sisters, I withdraw. Thank you.

(Clapping from Hon. Delegates)

Hon. Delegate Elkana Odembo: Thank you very much. Okay, order please.

Hon. Delegate Sultana Fadhil: Wajumbe waheshimiwa, kwa hisani yenu hebu nyamazeni kidogo.

Hon. Delegate Elkana Odembo: Order please.

Hon. Delegate Sultana Fadhil: Wajuwa, hivi sasa minaongea mwenye, point of order, mwenye information I don't want to be informed anything, mimi nataka niwajulishe kitu kwa hisani yenu. Kuna njia tatu za kutoa maoni hapa. Njia ya kwanza ni kuzungumza hapa yanaandikiwa yanaingia kwenye record. Njia ya pili, wale wanaoleta kwa maandishi, yote yataingia kwenye record. Na njia ya tatu ni wakati wa Committee ni kwenda kwenye Committee mkazungumza, pia yataingia kwenye record. Watu mia sita hapa ikiwa kila mmoja atazungumuza kwa dakika tano tutahitajia dakika elfu tatu, ambazo ni siku mbili, na masaa mawili mchana na usiku. Ngojeni nimalize. Kwa hivyo, kwa hisani yenu tutawaomba, haiwezekani watu wote. Wengine walete hizi zao na wengine wanaweza kuandika walete. Kwa hivyo waheshimiwa, Mwenyekiti atajaribu kuwapatia nafasi wale ambao hawaja zungumza wazungumze.

Hon. Delegate Elkana Odembo: Thank you, jamani tuheshimiane. Tuheshimiane tafadhali. Order, order, it is now 12.20. We cannot come back to this Chapter on environment in the afternoon. Samahani tafadhali. I would like to invite the Commissioners to make some statement. *(Uproar from Hon. Delegates)* Tafadhali, tafadhali. Saa nane tumekubaliana asubuhi kwamba-- If you will not allow the Chairman to speak, we will not be able to take your points of order. We agreed this morning, Honorable Delegates-- This morning Honourable Delegates we agreed that we will be talking about the programmes of the Conference at 2.30pm. *(More Uproar from Hon. Delegates)* Samahani Jamani, we agreed in the morning-- I want to speak please, I am the Chair, I am still the chair of the meeting. Ladies and gentlemen, can I have your attention please?

Hon. Delegate Sultana Fadhil: Saa nane mwataka kuendelea na Environment?

Chorus from Hon. Delegates: Yes.

Hon. Delegate Sultana Fadhil: Kwa hivyo saa nane tutaendelea, na sasa tuwape nafasi ambao hawajazungumza wazungumze. Kwa hivyo hakuna point of order, point of information, twapoteza wakati jamani. Point of information sio itakao kuzungumzwa kwenye technical Committee, ni maoni yetu. Kwa hivyo tujaribu kuwapa nafasi kuzungumza, kwa hivyo tuendeleeni.

Hon. Delegate Elkana Odembo: Tumekubaliana kwamba tutaendelea na Environment in the afternoon. That was not our earlier agreement; we have gone back on our earlier agreement. We will therefore at this point break for lunch, so that Delegates, who need to go for prayers can pray, come back in the afternoon and see if we can take a few more. Okay, thank you very much.

After Lunch

Session started at 2.21 p.m.

Prof. Yash Pal Ghai: Honourable Delegates I promised this morning that I will be in a position to make a statement about the reconvening of this Conference. I had said that the representatives of the Steering Committee, the Review Commission and the Select Committee would meet at lunch to consider when the Conference will be resumed after its adjournment next week. Unfortunately, not all the members of the Select Committee were able to attend at this short notice. Nevertheless, we had very useful general discussions and the tentative conclusion of our deliberations was that we would aim to begin our next session on the 17th day of August, 2003.

The Speaker has explained to us that Parliamentarians will be busy till about the 9th or so of August with their work on the budget and there is a Conference of Commonwealth Parliamentarians, which the Kenyan Parliament is hosting. So, we also considered that the MPs will probably need a week after the conclusion of Parliamentary work, in order to visit their Constituencies and to deal with other urgent business they may have. So, 17th August seems to be the first available date for our meeting. We will be able to confirm this date after appropriate consultations, but for the time being we are assuming that we will re-assemble on the 17th day of August and continue hopefully until the Constitution is complete. This means that we will

probably have to adjourn next Friday as originally planned on the 6th of June and re-assemble in August. We will consider plans to make the use of that interim period making progress on technical work so that when we meet again we can proceed with some speed. So, this is the announcement I wanted to make and I now want to give the floor back to the co-chairs of the session. Thank you.

Clapping from Honourable Delegates.

Hon. Delegate Elkana Odembo: Thank you very much, Chairman.

Hon. Delegate Joseph Matano Khamisi: Point of order.

Prof. Yash Pal Ghai: Yes, number 053.

Hon. Delegate Joseph Matano Khamisi: Mr. Chairman, I am 053, my name is Joe Khamisi I am the Member for Bahari. This morning when you did make that announcement, you also indicated that you will inform this House about the fate of the Motion that I tabled through your office two days ago. I have not heard anything from you and I would appreciate if you could come across.

Prof. Yash Pal Ghai: I would like to make a statement on that. Yes, you are quite right the rules provide for the Steering Committee to decide when a Motion will go on the order paper and this meeting was not of the Steering Committee as such, so we could not decide on when your Motion will be put on the order paper. This will be brought first thing to the Steering Committee on Tuesday morning and we hope that in the next day or two after that, we can have a debate on your Motion. Thank you.

Hon. Delegate Elkanah Odembo: Thank you very much, Mr. Chairman. With that clarification then on the issue of the Conference--

An Hon. Delegate: Point of order.

Hon. Delegate Elkanah Odembo: 614, point of order?

Hon. Delegate Dalmas Anyango Otieno: Mr. Chairman, the Chairman of the Conference has announced that we may re-convene on 17th of August. My point of order is, do we need a resolution of this Conference to re-convene on that day or is it a matter for the Commissioners, the Steering Committee? Because, if it is a matter for the Commissioners, they can change it any time, if it is a matter for the Steering Committee, they may also do anything they like without the Conference knowing. Now, if it is a matter for the Conference, then we need a formal resolution by the Conference that we will re-convene on that date and proceed as that resolution would determine. Thank you.

Clapping by the Honourable Delegates.

Prof. Yash Pal Ghai: Thank you very much. What we are proposing to do is to give this House a definite date before we leave. The Select Committee, as I mentioned, was not fully represented at the meeting and so the decision we made today was that the Select Committee will meet on Tuesday morning. By lunch time or early afternoon, we will be able to confirm this date and if the Conference wants to make a resolution, it is welcome to do so, but I can assure you that if the Commission has given this date and it has been approved, we will make sure as far as it is in our power that the meeting will resume on the 17th. We will provide an opportunity for a general brief discussion on Tuesday, I hope, and the Select Committee will have met and been able to internally discuss this date. Thank you.

An Hon. Delegate:

(inaudible).

Prof Yash Pal Ghai: Yes, 447

Hon. Delegate Kennedy Kiliku: Mr. Chairman, my name is Kennedy Kiliku, Delegate 447. Parliament is the product of the Constitution. Government is the product of the Constitution. What guarantee do you give this Constitutional Conference that it is not going to operate at the mercy of Members of Parliament? The only reason which justifies the adjournment of this Conference is the Budget debate, which is only 7 days. So, you have put so many reasons, Members of Parliament going to the Constituencies to visit their whatever, whatever. Could you

please be frank to this Conference, that Parliament is not going to hijack the program of this Constitutional Conference and it is out of order to adjourn the Conference without a Motion which must be specific, the date of adjournment and opening. The Motion must be moved and seconded and be supported by the Delegates. Thank you.

Clapping from Hon. Delegates.

Prof. Yash Pal Ghai: Yes, 223.

Hon. Delegate Francis ole Kaparo: Thank you, Mr. Chairman. Again Delegate 223, Francis ole Kaparo. This time I am talking as the Speaker of the National Assembly. (*Uproar from Honourable Delegates*). Order, order.

Mr. Chairman, I think it is good for the Delegates here to get the truth and the facts. I am totally amazed with the statement by the Honourable Kiliku, a long-serving former Member of Parliament, that the Budget speech takes seven days. Mr. Chairman, I wish to state for the record, that there is in place in existence today as we speak a Constitution operating in Kenya. That Constitution, Mr. Chairman, demands that a Budget must be presented to the National Assembly before the 20th of June, every year, and when presented, the budget must be discussed by the National Assembly to end, at the very last moment, on 30th of October. We do have uninterrupted 2 months of:

- First, the Budget speech
- Then the supplies
- Then the succession and
- Then the appropriation resolution to give half the money to the country to operate.

I can tell you, Mr. Chairman, and these Delegates, by 30th June there will be no money in Kenya until Parliament has given the Government authority to appropriate at least 50%. That is the law, but I wish to give a little background.

Honourable Delegates, before we came here in May, I had a meeting as the Speaker of the House, with the Commissioners of the CKRC and the Select Committee in April. The purpose of the meeting was to arrange a possible program for this Conference to continue. In that meeting in April, I informed the Commission and the Select Committee that I will advise that we adjourn the House before May so that we have the whole of May for this Conference and the first week of June so that we resume for the Budget. I further advised at that time, because the Act does say the Conference will take a month, but it was possible that it would go beyond it. I advised at that time, and you, Mr. Chairman, are my witness, that should it not end on the 6th, should we not complete this process on the 6th, the earliest possible time will be in August, taking into account our Constitutional obligation to discuss succession of our

(inaudible). As you have said, Mr. Chairman, I have again advised you and the CKRC and the Select Committee today, that the earliest available date is after the 9th and from 9th we have, as a matter of fact, up to the end of September. So when we say, to begin, if it was to begin on the 10th, I would technically have no problem because I finished. If you begin on the 17th or the 10th, you have a free Parliament until the end of September. *(Clapping by Honourable Delegates)*

I would also further wish to say to all these Honourable Delegates, we are here to negotiate a very important document for our people. In our own wisdom, the ones who negotiated for the Constitution of Kenya Review Commissioners, in their wisdom, saw three ingredients in that Act. They saw ingredient to number one, Members of Parliament, who constitute to 1/3; they saw in their wisdom, District Delegates as important ingredients to this Conference, constituting again another 1/3; they saw in their wisdom again, the input of the Religious people of the NGOs, of the Professional Bodies, of the Women Representatives, People with disabilities, Trade Unions to constitute another 1/3. In my submission, all the three components are absolutely important and relevant. I am of the opinion, and I stand to be corrected that as a people, as Kenyans, as Delegates, we need to midwife this Constitution together in harmony and in agreement. I therefore make a plea that let us not, let us not mislead Kenyans.

There is a Constitution that requires Parliament to do some of the most important business for which Parliaments over the world were created, and that is succession. We have this Conference to attend to. We have even got to consult our people, but above all, we are ready and available as

Parliament to come back at the appointed time to join all of you and make this Constitution. I thank you, Mr. Chairman.

Prof. Yash Pal Ghai: Thank you very much. I hope that very detailed explanation by the Speaker sets the background very well. We can now proceed with the discussion of Environment, so we have a chance to finish it and begin perhaps the discussion on Public Finance. Thank you very much.

Hon. Delegate Elkanah Odembo: Thank you Delegates. In the spirit of ‘mid-wifing’ this process in harmony - I am borrowing words, that is correct, they are good words so they must be borrowed - we want to spend another one hour on this Chapter, because Delegates felt very strongly that we had not exhausted the discussion. And therefore, what we are proposing is that we will do one more round, one more round, take one speaker from each one of the sections; that is nine sections times five is forty-five minutes, and the remaining fifteen minutes then will be given to the Commissioners to round up and summarize and respond to the submissions that have been made since yesterday afternoon, and in that wave we can at least begin debate and discussion on the Chapter on public finance. Is that agreeable? Ahsante sana.

We then are looking at section one and I am looking for – as usual – someone who is dying to speak and has not spoken. In the District Delegates category to start with, and don’t see one who has not. All the District Delegates have spoken in that category. I see a Member of Parliament who has not spoken in the Conference; I will therefore take an MP from this section, Delegate 162, is a Member of Parliament who has not spoken at all in this Conference. Can Delegates in the next section please, particularly the District Delegates; put your cards up. Delegate 162 you have the floor.

Hon. Delegate Okioma Samson Nyang’au: Thank you Mr. Chairman. My names are Mwanicha Okioma, a Member of Parliament for Kitutu Masaba, I want to start by thanking your wisdom of marking those who have spoken, because I want to believe that is the reason I have found this chance. In the past I have only been able to rise on points of order. Thank you.

Now, on this section of the environment, I would like to say that there have been submissions here regarding pollution of the environment and especially, from effluents that have been discharged from factories. I wanted to add my voice by saying that this effluent discharged from factories has been funded-- The factories have been funded using funds that have come from the banks. I wish to suggest that we put a tag and say that before any projects are funded, the National Environment Secretariat, perhaps in conjunction with the Central Bank, do make sure that all these projects have been assessed for environmental pollution, and that they put in place requirement that will make sure that effluent discharged will not affect the environment in whichever way. Why should we fund as the Government or as banks factories going to discharge raw effluent to the rivers?

It is a big shame that at times - like members from especially the North Eastern and pastoral areas have said – it is a big a shame that the Government can bring effluent from their areas to come and discharge in our pastoral areas. It is like these lands do not belong to anybody. This is a big mistake that has been made in the past, I believe, and want to propose that all those areas where there have been radio active materials that were discharged in those areas which have affected the young people, that will continue affecting the youth – I mean the young ones who are born – that sufficient checks are put so that this does not happen in future, and that those who are affected are paid compensation adequately.

I also would like to suggest, that depositing explosives like those ones that were left in some parts of this country, that have continued to explode, killing our people, cutting their limbs, that should stop immediately, and in future, those who are affected, adequate compensation is also given to those areas, and it should be punitive compensation, so that this is not continued in the future.

The monitoring of the environment needs to be done in a manner that is fast and by relevant bodies. In the past, like my Honourable Member from Migori said, it has seemed that it is only Wangari Maathai and the green belt movement that was in charge of the environment. And unfortunately, they seem to concentrate mainly with the Karura Forest and the Ngong Forest. There are many other forests that have been damaged, there are many aspects of the environment that have been damaged, they have been degraded, and nobody has been making noise. I have in

mind Nyangwetha Forest, I have in mind the Manga escarpment where Government agents run down a forest to remove forest products for their own use, and nothing happened. Those kinds of Government agents who perpetrate such activities need to be arrested and arraigned in court. Why should we take somebody for Golden berg? We have cases in court now; Commissions for Pattni and other people in Golden berg, and people who degrade our environment, which will take many years, are not being taken to court. This is double standard and must be stopped immediately.

Last, but of course not least, I had much more to say, we have said that in Article 22(41), that anybody wishing to take court action against these perpetrators of environmental degradation can be taken to court. We need to state in the Constitution that the fund for such court cases will be free. That is the only way we can get people taking others to court for this kind of thing because this is the environment. Because of time, thank you very much, Mr. Chairman.

Hon. Delegate Elkanah Odembo: Thank you very much Honourable Delegate. In the next section we are looking for a District Delegate, and I am looking for a delegate who can speak particularly to the issue of wildlife management, community involvement, and the ecological disasters that are taking place in the nation; Delegate 364. (*Clapping by Honourable Delegates*).

Hon. Delegate Osoi Kamwende Daniel: Thank you Mr. Chairman. Before I give my-- I am number 364, Ole Osoi from Kajiado. Before I give my points on this, I would first of all like us to save this forest here which is lacking water and chlorophyll and it may perish.

Number one, I just want my fellow Delegates to know that one million acres of forests are in Maasai land, that is Samburu. Therefore Maasais are the biggest forest conservationists in this country. I want to start by talking about wildlife. The greatest threat to wildlife conservation is the Government. When I say the Government, I mean so because, right now in our group ranches, wild animals are running for refuge, because the Government is giving out licenses for people to poach and sell game meat to carnivore and many other places. Others have also pretended to know how to keep wildlife so much and since time immemorial we have been living with these animals, we take care of them like our cows, we stay with them, they take water from our dams and we have existed with them since time immemorial. And therefore, I suggest that

first of all, KWS is disbanded, and the running of the National parks be given to the locals. We are more conversant with the animals than anybody else in this world.

Second, there is the issue of compensation. These animals have come out of parks; they are chased by poachers, because the poachers are the KWS themselves. They come, they bring ticks to our cows, they kill our people, they destroy our crops and there is no compensation. If an animal kills a human being, imagine the compensation is just thirty thousand. Surely, that is a price of a goat. I am requesting that we have a constitutional protection measure and we put a deadline on this, to five million if an animal kills a human being. And for a cow or goat, hundred thousand shillings, so that they are taken care of properly.

Now, let me come to mining; if Professor Wangari today went to a place called Kibini or in Girgiri, or Bisil in Kajiado District, there is mining of Gypsum. And there is mining of-- I don't know what they call this thing they use for making cement. And I am telling you, when you go there, you will shed your tears. There are very very big trenches, and we have even an incident of two school going children falling in those pits because they are not rehabilitated after use. And the land is really useless, and there is no compensation to the locals, because of treaties signed I don't know how many years ago. And I just request that after adoption of this Constitution, those treaties cease to be there, and we rewrite them a new. I also want to say this, and it is a pity; Portland cement is getting 100% raw materials from Maasai land. Not even one Maasai is employed in that Company. Even the watchmen are picked from Nairobi, the so-called Security Firms, so that our Children are not employed. Very soon we will say, "No lorry will go there for those raw materials," and we see where they get cement. (*Clapping by Honourable Delegates*).

Now, let us go to gold in Lorgorian; there is some little gold there in Lorgorian and they have chemicals they are using there. My dear Delegates, if you taste something, or even a bird tastes that chemical it dies. Even cows die. And even human beings you can imagine. And nothing is being done to protect people, their lives, the wildlife, the domestic animals and everything that is there. The KenGen, Olkaria, the geothermal products emit sulfur; in fact they cause miscarriages. Human and livestock, and nothing is done. In fact, let me tell you the truth, the children born around those areas are children with deformities, because of those dirty chemicals. And the Government is doing or has done nothing to that. We want that taken care of.

Go to Farkera, Baringo; the land is destroyed, visitors go to lake Baringo, our poor Njemps don't get a single shilling. They don't get a single shilling from there. Go to Lodrish water from Loitoktok, poor Maasai. Water is tapped from their mountains, their animals walk on top of the pipe, the pipe pass underground and it feeds some flowers here in Athi River and we do not get water. And that is the only natural resource we have. This is why it was very, very painful for us to be denied a chance to talk on this Chapter. That is the only resource we have, we are not getting it; some flowers somewhere are watered and we are dying because of lack of water in our place. Another one, my dear friends, is, we want to give the Government three months to do that otherwise 'tunabomoa hiyo pipe' because if we do not get water and it is feeding some flowers here, what do you think? That is very painful.

Okay let us go to Rivers whose sources the River Siapei, Narok, Mara, Makalia Rivers are drying because their sources have been destroyed by people because of deforestation and therefore the lakes like Lake Nakuru, Naivasha, Elemeteita, Baringo, Bogoria they are all dry because no water is reaching there. Their sources have been destroyed completely. Mau forest is completely destroyed and it is the Government doing this. *(Clapping by Hon. Delegates)* Where is the survival of these people, gentlemen? People will die if these things are not taken into account. We therefore propose that the National Environmental Commission be at the national level, purely for policy and standardization, nothing more.

The local people should be involved in re-forestation and the taking care of forest on the ground *(Clapping by Hon. Delegates)* We also propose that people at the water sources, water catchments areas, should be evicted and this is not a secret. They should be evicted if we are to survive. Some Hon. Delegates said here that we want people to survive at the top and even down stream. How can we do that, if some people are not-- Plantation of trees should be there. Again no construction of very, very big lodges in the parks, because they will scare away animals. We have an example in Mara, a whole lodge with 200 beds, surely, if 2000 people come out of those lodges and they go, 'kwenda kuangalia simba moja' that 'simba' will run away. Honestly, let us have small lodges, small, small with very little bed occupancy.

Hon. Delegate Elkanah Odembo: Asante, asante

Hon. Delegate Osoi Kamwende Daniel: To make the last point which is very, very important some species are being taken to foreign private parks, some species; very soon, visitors will not go to our National Parks, they will go those private parks, Mara is an example. Thank you, Mr. Chairman.

Hon. Delegate: Elkanah Odembo: Thank you very much Hon. Delegate. In the next Section, I am looking for someone from the third category, NGOs, Religious Organizations, COTU, someone who has not spoken. If there is a person who has not spoken in any of those categories. Looks like you have all spoken. The third category is what I am look at please. Can I call on Delegate 468 from NGO's to speak?

Hon. Delegate Hellen Jepkerich Too-Yego: Thank you Mr. Chair, my names are Hellen Yego, NGO. Thank you for giving me this opportunity after all those years. I want to commend the Commissioners for the --

Hon Delegate Elkanah Odembo: Order please, order.

Hon. Delegate Jepkerich Too-Yego: --good Draft. My deep concern is on the community participation. From the Draft, I am seeing that in Article 239 (3), there is a lot of weight given to the Government Officers, all State Officers, exercising power and functions of the environment. I feel that is very unfair because that is not giving participation to the community as opposed to what the Draft says that partly participation shall be encouraged.

I would like to make a proposal like this: That Article 239 (3) all States Officials should be moved down to Sub-Article G. States Officials should start their functions from where it says, "establish and ensure the efficient functioning of a system of Environmental Impact Assessment," that is where the functions of the official should start. Participation by the community should start right from Article 3 (A) "Protect the wildlife, genetic resources biological diversity of Kenya" and it continues up to sub-Article F. I hope the Commissioners will take that seriously because we know according to the Act, we were told about the

Environmental Act of 1999, a lot of effort has been on state officials who have frustrated community in conserving the environment.

I am particularly talking about the tropical rain forest on the North Rift which picks the rain and the Rivers that go to Lake Victoria. Government officials, have taken that forest to be like their own personal property chasing community, even those who go and graze along the forests and even all Mamas and Women who go to look for their firewood, for those herbalists who go and look for their herbal medicine and having to be chased by people called forest guards. These people have frustrated this nation and so we should have the communities protecting our environment.

Secondly, I would like that a Sub-Article, should be added which constitutes that bio-degradable product should always be used in our environment, so that plastic should be prohibited. We use bio-degradable product for our baskets and all this kind of things. Also, pirating, pirating of our medicinal plant, should also be prohibited and that should be in the Constitution, because we have found that communities protect the plants which are the source of medicine, but we have experts or pirates, who come and pirate our product and export them. So we should protect all our life product and no patenting from our community. Thank you, Mr. Chairman.

Hon. Delegate Elkanah Odembo: Thank you very much, Hon. Delegate: Moving to the next section, District Delegate one who has not spoken is 277. I recognize you. You have the floor. 277.

Hon. Delegate M'Thigaa Godfrey Mbumba: Thank you very much, Mr. Chairman, I am happy you have recognized me after almost a century. My names are Godfrey Mbuba M'Thigaa, District Delegate from Meru South. Mr. Chairman I will be very fast. Mr. Chairman we are talking of environment and Natural resources--

Hon. Delegate Elkanah Odembo: Order please, there is a lot of commotion in the room, please, please proceed.

Hon. Delegate M’Thigaa Godfrey Mbumba: --but we are not talking of how to improve them. Mr. Chairman, I would propose that in all our Rivers banks, there are empty spaces and these Rivers are drying because we have cut all the trees, we have made a lot of funny things there. There should be an order that it becomes compulsory that a space 20 meters from River banks be spared for a forestation to spare the water. Mr. Chairman, I would also say that more trees should be planted there to make sure that our wildlife has their home, because right now, we have already started chasing monkeys and other animals from those areas.

Secondly, Mr. Chairman, I happen to come from Mount Kenya, whether it is Mafia or a place is nothing. Mr. Chairman, in Mount Kenya, there is a wonderful up-coming natural resource called ‘Bhangi,’ and the Government of Kenya has been unable to establish the owner. Since it grows there wildly, why can he Government not come up with an order that the ‘Bhangi’ which grows there is taken over by the Government, exported to other countries cheaply and-- (*Noises from the Hon. Delegates*) it earns this country foreign exchange? It is a natural resource now of Kenya, since for the last twenty years the Government has been unable to establish whose farms they are. Mr. Chairman, I think I have finished that one.

Mr. Chairman, let me come to rain water. There is a lot of waste of rain water and this water especially during rains like now is just destabilizing people from their homes and also destabilizing animals. I would propose all the water is tapped from these towns, then stored in reservoirs or dams then used in the drier parts of this country to irrigate and also for fish keeping, and crocodile rearing. That one can keep our communities busy.

Mr. Chairman, without wasting a lot of time, I would also say that there are some crops which need a lot of water. We have already forgotten that only those irrigation schemes that were introduced by the Colonial Government are in existence and still we have a lot of running water which is useless from Rivers and many parts. I believe if Wajir is irrigated with water from Mount Kenya, the relationship between the Somalis and the Mount Kenya Mafia can be better (*Clapping by Hon. Delegates*) rather than us killing one another, thinking of only ‘miraas’. They can also grow ‘miraa’ . Thank you very much, Mr. Chairman.

Hon. Delegate Elkanah Odembo: Thank you, thank you very much Hon. Delegate. In the next section I am looking for a Member of Parliament. Next section, a Member of Parliament. Number 106 Member of Parliament?

Hon. Delegate Mohamed Abu Chiaba: Asante sana Bwana Mwenyekiti--

Hon. Elkanah Odembo: Order, order Delegates, 106 has the floor.

Hon. Delegate Mohamed Abu Chiaba: --kwa kunipatia nafasi hii, Jina langu ni Abu Mohamed, MP wa Lamu Mashariki. Bwana Mwenyekiti, Environment ni jambo ambalo limewasikitisha watu wengi. Na kila eneo pembe la Kenya kuna environment inayo lingana na watu wanaoishi sehemu fulani. Ikiwa Maasai wanapiga kelele, wanalia kwa sababu environment yao, huishi na wanyama na hali nyingine, imeingiliwa na KWS, sina shaka watu wa Lamu wamepata shida sana kuingiliwa kwa mambo yao, environment yao na KWS (*Clapping by Hon. Delegates*) si tu na idara ambao inashikilia Wizara ya Environment, kwanza tuanze na mambo ya KWS kufunga eneo kubwa sana mahali ambapo watu walikuwa wanaishi kwa mashamba yao. Sehemu ninayoizungumzia ni Dodori National Reserve. Ni watu ndio walikuwa wakiishi hapo, leo KWS akikaa hapa Nairobi ameamua kupinga kwa kalamu tu eneo hiyo yote iwachiliwe wanyama. Kwa hivyo watu wa kulima wa sehemu hiyo wamepata shida, walikuwa wakipeleka watoto wao shuleni kulingana na kazi ambayo walikuwa wanaifanya kwa mashamba yao huko.

Jambo la samaki, KWS, bila kutilia maanani wavuvi wa sehemu hiyo, wamefunga area kubwa katika Kyunga Marine Reserve, wanasema. Watu hapo walikuwa wakivua samaki na wakifanya biashara kupeleka kila mahali. Leo wameambiwa ya kwamba hamna haki ya kufanya biashara hapo kwa sababu tumeifunga kwa watalii ambao tunawatarajia kuja baada ya miaka yote. Kufunga hapo eneo hiyo leo ni miaka ishirini na tano na sisi sehemu hiyo hatukuona faida yoyote ya utalii sehemu hiyo.

Mali asili ni kitu muhimu. Tunataka kuzungumza mambo ya mikoko na ikiwa bahati nzuri waziri msaidizi yuko hapa, tunamuomba aende aangalie sehemu ile ambayo mikoko inamea. Mikoko haina mbegu ya kupanda; inajikuza, kila ukikata ikianguka inatoka kama mara kumi. Mikoko ni kama kichwa na nywele, kila ukikata nywele ndio zinazidi kumea zaidi na ukiwacha

ndio nywele zinatiririka na zinakufanya uonekane sura nyingine. Kwa hivyo waziri msaidizi tunakuomba uende sehemu hiyo uangalie vizuri. Kwa hayo machache ninashukuru.

Hon. Delegate Elkana Odembo: Asante sana Mjumbe. Inayofuata ni sector ya disability, tulipowapitia mara ya kwanza walikuwa kwamba hawana mtu lakini ninaona kuna mtu sasa hivi. Disability 462, halafu tutarudi hapa chini tena.

Hon. Delegate Samuel Tororei: Asante sana Bwana Mwenyekiti. Mimi ni Arap Kurure, number 462. Ningependa kuchangia mambo matatu hasa kuhusu uhusiano kati yetu binadamu na mali asili yetu. Mimi ninaona tunapoimba wimbo wa taifa baada ya kumuita Mwenyezi Mungu, maneno ya kwanza kwa Kiingereza tunasema “bless this our land and nation,” halafu baada ya hapo tunasema kwamba “haki iwe ngao yetu.” Sasa mimi sijajua haki gani ikiwa watu wengine hawawezi kupata access kwa kutumia rasilimali zilizoko ama mali asili iliyoko. Kwa mfano mimi huona uchungu sasa wakati serikali inasema ni sawa sawa ng’ombe ya Wasamburu kufa ili wageni wetu walio na mashamba makubwa waweke wanyama wa porini na walete private visitors ambao pengine hata hawalipi kodi. Wanasema ni sawa sawa ng’ombe wa Wasamburu kufa, hata tunaweza kutumia askari wetu kuenda kuwapiga ili wapatie starehe hao wageni. Sijui hiyo ni haki gani kwa sababu sisi tunasema tunataka access to grazing kwa sababu hata katika jadi zetu hata wale jamii walikuwa wanazozana wakati wa shida wanasikilizana na wanasaidiana. Ni kwa nini sisi hatuwezi kusema wakati wa shida ng’ombe waruhusiwe kulishwa palipo na malisho kwa sababu hawa ng’ombe sio ng’ombe tu ni maisha ya wafugaji. Juzi walienda waka-freeze huko Mt. Kenya huko msituni, wakashikwa na homa ya mapafu wakafa pamoja na ng’ombe wao. Na sasa tunasema sisi ni taifa huru ili mgeni afurahi na aweke seng’enge iliyo na nguvu ya umeme. Yaani sisi ni wachafu kabisa mpaka iwe ni lazima tuwekewe umeme utuchunge tusingie huko?

Jambo la pili Bwana Mwenyekiti, ningependa tuwe pro-active. Wakati huu katika dunia hii kuna pressure kubwa sana ya nchi zilizoendelea kutupa takataka zao hasa za ki-nuclear. Na mimi ninafirikiri tusipochunga hivi karibuni nchi hii yetu itafanywa kuwa jaa la takataka hizo. Na mnajua hiyo ni radioactive. Tutaanza kupata taabu ikiwa hatutachunga na mimi ninajua pengine mnafikiri hiyo ni mbali sana lakini sio mbali, si mliona ile silaha juzi juzi ilikuwa inapasuka?

Jambo la mwisho Bwana Mwenyekiti, ninafiriki hizo dakika tano hazijaisha, ni kwamba environment yetu na natural resources, ikiwa tunataka kuishi kama taifa huru, ni lazima tusikilizane na mataifa jirani yetu ili tuweze kuchunga mali fulani fulani kama wale wanyama na kadhalika, yaani trans-border management of our environment. Nafikiri tukisikilizana namna hiyo tunaweza kupata mafanikio. Asante sana Mwenyekiti.

Hon. Delegate Elkana Odembo: Asante sana Mjumbe. Ninaomba sasa hivi tumsikilize Mjumbe number 104 ambaye anawakilisha Wabunge na hajazungumza tangu tulipoanza kongamano. 104 has not spoken.

Hon. Delegate Mohamed Abdi Haji: Thank you, Mr. Chairman. My name is Honourable Mohamed Abdi Haji, MP Mandera West. I want to congratulate the Commissioners for the precise and well-done work on this Chapter on Environment and Natural Resources. Having said that, Mr. Chairman, I want to say the following.

In our present Constitution we have a provision which says that every Kenyans be entitled to a clean and healthy environment, but we the people of North Eastern Province feel that our Constitutional rights have been infringed. By that I mean, Mr. Chairman, the idea that minerals and oil are available in North Eastern Province and that idea has been sold to the people, that we will get you people who will explore these natural resources. That what they have brought are people who come there to bury nuclear waste and other radioactive materials. Mr. Chairman, that is manifested by high incidences of cancers, incidences of animal diseases, and environmental degradation whereby we don't have grass and trees growing any more in those areas.

Mr. Chairman, North Eastern is well known for its problems and one of the problems is the incidences of diseases especially TB, but we have never heard of incidences of cancer being declared the number one disease in Kenya. For the last fifteen years, I would say, incidences of cancers and mysterious diseases have been on the rise. Mr. Chairman, I would like to propose that the Government sets up an Environmental Assessment Commission with a view to unearthing the truth, compensating the affected people and bringing to justice the people who commissioned these acts of atrocity.

Mr. Chairman, on the issue of boundaries between North Eastern Province and the Coast, we have a situation where instead of that River Tana forming the boundary, we have the boundary three kilometers inside or on the side of North Eastern Province. As we know, Mr. Chairman, this was brought about by the secessionist ideas the North Eastern had after independence and the Government thought it right that if this boundary is placed some three kilometres or more away from that river and if that secession idea worked, people of North Eastern or the Somalis for that matter will remain without water. I want to state that in fact that has created a lot of problems between the people of North Eastern and Tana River. We have a lot of wastage in the sense that the area around the river on the side of North Eastern is not being cultivated, the fertile land is just being put to waste because the Coastal people have a claim and the North Eastern people are not allowed there. So I will give assurance that this secessionist ideas are not there anymore so this boundary should be brought to the river so that the people of North Eastern make good use of it. Thank you so much.

Hon. Delegate Elkana Odembo: Asante. Thank you very much. In the next section I would like to recognize District Delegates and one who has not spoken throughout the Conference is Delegate 325. Delegate 325 has not spoken at all at the Conference, karibu.

Hon. Delegate Lopetakou William: Bwana Mwenyekiki, kwa majina naitwa William Lopetakou—

Hon. Delegate Caleb Juma: Point of order.

Hon. Delegate Elkana Odembo: We will take it up after the speaker has finished.

Hon. Delegate Lopetakou William: --nambari ya mia tatu ishirini na tano kutoka wilaya ya Pokot. Basi nataka kuchukua nafasi hii kushukuru Commission kwa kutoa muongozo bora ambao uko katika Draft na nafikiri implementation kama ingefanywa hivyo ingekuwa vizuri. Basi nungependa tu kusema kwamba mambo ya mazingira hasa sehemu kama yetu ya Pokot kuna mashimo ya gold yaani ruby na gold, ikichimbwa inawachwa wazi, baada ya wao kumaliza kazi yao wanayawacha namna hiyo watu wanaendelea kuumia na wanyama vile vile. Kwa hivyo

Waheshimiwa Wajumbe, ni mpaka tuwe na sheria ambayo inalinda mazingira yetu ambayo ni kamilifu; la sivyo hatutaweza kuendelea na tutazidi kuangamia na kuumia. Mfano tena ni Turkwell Gorge ambayo tangu ilipofugwa hayo maji yana-generate electricity, na nyinyi ndio mnayatumia hapa na wenye pale hawatumi. Na chini mtoni, down-stream, imekauka na kuwa jangwa, na tuliahidiwa kwamba pengine baada ya kufunga hayo maji irrigation itafanywa upande wa chini. Lakini mpaka leo tumeona kwamba tumenangwanywa na sijui kama tunaweza kusema serikali ni warongo au namna gani.

Kwa hivyo kuhusu mazingira kwa jumla kuna sehemu ninayotoka kule West Pokot, kuna miti imeharibiwa na wenye kuharibu ni watu wenye mamlaka. Kwa sababu ikiwa gari ya polisi au ya DC inaweza ku-transport mbao, ni nani mwengine atamshika? Raia wanaangalia wakipeleka wakipeleka lakini wanaambiwa wasikate misitu na hao wenyewe ndio wanakata. Kwa hivyo hapo tunataka tutengeneze Katiba ambayo italinda hata yule raia na inaweza kumshika hata yule mwenye mamlaka. Kwa sababu kufikia sasa huko maji yanaanza kuisha na ninatoka sehemu ambayo inateremka Victoria, maji inalisha Turkana na kila mahali. Na ikiendelea kuwachwa namna hiyo hivi karibuni nchi yetu itakuwa jangwa na sisi wenyewe ndio tunasababisha jangwa hiyo. Kwa hivyo kwa hayo machache nasema asante sana.

Hon. Delegate Elkana Odembo: The next category and I am looking for people who have not spoken. Everybody there seems to have spoken and the only person in the third category there is 495. So 495. Point of order 385, 385 you have the floor. Tupatie point of order tafadhali.

Hon. Delegate Caleb Jumba: I am Caleb Jumba, 385. The Honourable Chair, you have given him time to speak, he is not a Delegate. He is a Honourable Member of Parliament. *(Laughter from Honourable Delegates).*

Hon. Delegate Elkana Odembo: Just for your information, the Honourable Delegate who I have called upon is Delegate 495 and she represents Women Organizations.

Hon. Delegate Martha Koome: Thank you, Mr. Chairman, I am Delegate number 495. My name is Martha Koome representing the Women Organization. Thank you Mr. Chairperson for giving me this opportunity. I wish to associate myself with all the sentiments that have been

expressed on the importance of the Environment. But with respect Chair, I would like to state that the drafting of this Chapter has not been given the weight that this Conference has given to the Chapter on Environment. The language used Mr. Chairman, is not compulsory. You will find the language of the Government is encouraged, the Government officials are encouraged, the society is encouraged; if they don't take the encouragement seriously, then they will not take the agenda for Environment where this Conference wants it to go.

I would propose, Mr. Chairman, that in this Chapter of Environment, we need to understand what is natural resources, so we need Articles that deal with our key Environmental substances such water, water catchment areas, forests, natural resources such as minerals, wildlife and ecosystem. You know, Mr. Chairman, when it comes to the other Chapters that we have dealt with, the Commissioners have taken time to give justification and a preamble. When it comes to the Environment there is even no preamble to show the justification of why we should put emphases on the protection of our Environment. I will look at the National Environment Commission that has been proposed.

Mr. Chairman, it is my humble submission that this Commission, we are not even told what it is. In other Chapters you find a Commission is formed, we are told it would have Chairman, it will have Vice-Chairman, it will have Committee of so many people. This particular Constitutional Commission on National Environment which is so critical, is just left hanging without any definition of who are even the people. In other Commissions we are told the person to be appointed will be persons of integrity of this knowledge. This is just left like that.

The other issue Mr. Chairman, that I would like to comment on, is about the processes of protecting our Environment, especially the court process. Speaker after speaker here have said how our Environment has been degraded, from the water catchment areas to the wildlife to the destruction of the forest and there is no court or tribunal that has been created by this draft to oversee the protection of the Environment. In this regard, Mr. Chairman, also when you look at the provision of this Chapter on the Compensation what is envisaged is only protection or compensation of persons who have suffered pollution. Those persons who have suffered other Environmental processes or their rights have been infringed upon, especially when the wildlife

comes into conflict with human being, there is no compensation that has been envisaged in this Chapter. That is my contribution Mr. Chairperson.

Hon. Delegate Elkana Odembo: Thank you very much Honourable Delegate. Moving to the next section, I am looking for a Delegate from the Religious Organizations category, 523 has not spoken throughout the Conference.

Several Hon. Delegates: Point of order.

Hon. Delegate Elkana Odembo: Can I take your point of order? Who is the point of order, 228?

Hon. Delegate Raphael Livu Kilonzi: Thank you Chair. My names are Raphael Livu, Delegate 228. I have two points of order Mr. Chairman.

Hon. Delegate Elkana Odembo: Just one, please.

Hon. Delegate Raphael Livu Kilonzi: Allow me, if you don't mind. Number one, I would like the Chairman of this Commission to advise whether it is necessary for the Delegates who have already taken oaths to be gazzetted and if it is, why it has taken over three weeks to do that, number one.

Number two Mr. Chairman, I would also like the Chairman to direct us on the actual scope of debates vis-à-vis issues arising from the draft Bill that we have, whether we should confine ourselves to that or introduce other issues that are not in the draft Bill. Thank you.

Hon. Delegate Elkana Odembo: Thank you. That we will ask the Chair to respond to as we close the session. 523.

Hon. Delegate Ruth Wanjiku Kamau: Thank you Chairman. I am Wanjiku Kamau representing the Religious Organization.

Hon. Delegate Elkana Odembo: Please proceed.

Hon. Delegate Ruth Wanjiku Kamau: Yes. I would like to say that the Environment is our heritage and we ought to protect our Environment for many, many years to come. It is true man's lifespan is around fifty years, which is greatly influenced by the Environment in which he lives in and that is why it is necessary to protect our Environment, perhaps this would increase man's lifespan. I recommend that we come up with a clear definition of natural resources and Environment. There is need to come up with a clearly defined policy that protects our Environment and this policies will concentrate on specific issues like land, pollution, water, air and noise, global warming and forests. If these policies are not followed then, measures should be taken on such people. I recommend that a provision for Natural Environmental Day be made in the Constitution and this day everybody will need to honour by either planting of trees and cover grass, carrying out of sanitation work, feeding programme for the unfortunate, who are part of the Environment.

I also suggest that any other National Day observed should also be characterized by tree planting. I support the idea of setting up a Commission in place, whose work will also need to include the monitoring and evaluation of our Environment time and again. Setting up short and long term goals that can look into now and then calamities e.g. earthquake, El-nino, famine, wild fires, volcanic eruption and make informed decisions to the Government, so that the Government can prepare itself and make provisions before and when these disasters strike. Thank you Chairman.

Hon. Delegate Elkana Odembo: I thank you Honourable Delegate. I would like to recognize District Delegate 417, who has not spoken in the Conference. 417. (*Murmurs from Honourable Delegates*)

Hon. Delegate Ali Amey Dubat: Point of information.

Hon. Delegate Elkana Odembo: Who do you wish to inform, 252?

Hon. Delegate Ali Amey Dubat: You seem to favour certain people and if one of us speaks, you are taking us like the other Delegates, which is very unfair. We are only five.

Hon. Delegate Elkana Odembo: Honourable Delegate, we have given the disability sector three opportunities to speak today.

Hon. Delegate Ali Amey Dubat: No, no.

Hon. Delegate Elkana Odembo: You have taken one of them just a few minutes ago. So please allow the Delegate who has not spoken to speak. Nimekusikia asante. 417 you have the floor.

Hon. Delegate Gaudentia Agoko Atonga: Thank you, Mr. Chairman, I am Delegate number 417 from Suba by the name Gaudentia Atonga. Now, Mr. Chairman, I am glad that I am able to open my mouth after that long silence in Bomas of Kenya here. Now, while we all agree that everything in Kenya is entitled to clean Environment, I am also proposing that all past land injustices be sorted out first and if possible, the quickest mechanisms for resolving land disputes be used. I say this because in our place, we find that most of us have not even seen what a Title Deed is and if this one is put in place, we shall be able to get Title Deeds. I am therefore advocating for joint Title Deeds to land for husband and wife or wives.

Mr. Chairman, I also propose the establishment of land--

Hon. Delegate Elkana Odembo: Order please. Order. Delegates please when one Delegate is on the floor speaking, can we please give them our undivided attention? There is a lot of movement and talking going on while a Delegate is on the floor. Please proceed Delegate, I am sorry about that.

Hon. Delegate Gaudentia Agoko Atonga: Thank you Mr. Chairman, I also propose the establishment of Land Commission which will hold all Titles to all public Land Boards at the National and Local Government level. This Commission will also be required to have women as a third of the membership. On Article 239; 3 (a) and (b), first of all Mr. Chairman, I will

(inaudible) this department officially. Significant incomes are generated from fishing for local consumption and export. In my place, our people derive their livelihood from fisheries directly or indirectly through supplementary services like fish processing, marketing,

boat building et cetera et cetera. In this case, there must be sufficient safeguards on the utilization and management of fisheries to ensure sustainability. The Government should provide fishing equipment and skills for fishermen in such places.

When I go to wildlife Mr. Chairman, it should be protected from poaching, that is very true, but National Parks and Game Reserves should be fenced and any damage brought by wildlife to the communities around should be compensated. A third of the revenue generated from the Game Reserves should be retained for the local areas.

On forests, Mr. Chairman, forestland should not be allocated to individuals and should not be illegally acquired. It should be gazetted and clear demarcation be done. I am saying this because in my place, there is forestland and no clear demarcation has been done and it has not been gazetted. Local communities should have a role in management and protection of such forests.

On water, Mr. Chairman, we find that women suffer a lot especially the rural women who have to go for long distances in search of water. These women get fatigued to an extent that it is difficult for them to settle on other activities afterwards. So, I propose that the government takes the responsibility of providing clean piped water for all its citizens.

Mr. Chairman, exploitation of minerals should benefit the communities around such resources and 50% of the income generated should be left in those areas to develop them. Communities residing where minerals are discovered should be properly compensated. With those few remarks Mr. Chairman, thank you.

Hon. Delegate Elkanah Odembo: Thank you very much Honourable Delegate. The next section we will be looking for the third category and if we could get someone from the Special Interest Groups, Delegate number 626. Some numbers are upside-down, I cannot read them.

Hon. Delegate Mamo Abudo Qonchoro: Thank you, Mr. Chairman. My name is Mamo Abudo from the Special Interest Groups. I have the following to submit. Article 240 on National Environmental Management Commissions is just left open and so if we could be told who the members are and which other questions have been highlighted about it, please.

The forestland grabbed should be repossessed. I am reminded that one time a list of shame was voted in our Parliament and it should be revived so that the forestland and other resources grabbed can be repossessed and used by the landless people. This land will be repossessed from the practicing politicians or the ones who have failed. If the resources are remitted, then we will have a lot of hope in our environment.

All minerals, water bodies and natural forests should be the property of the communities as stated in the Bill of Rights, so that people would own and control their resources. I think this would help us to eradicate poverty, support the Government in free primary education, pay teachers salaries and even cater for secondary school education.

Mining policy should also be reviewed so that the Government would put more research on mineral exploration and exploitation for the benefit of the people. I have a case example, in the Northern part of this country where there are plenty of minerals, there was no research done on this. I believe that 60% of income from minerals that are (inaudible) should be left to develop such areas.

On wildlife, the sizes of National Parks should be reduced because we have very vast land, large tracts of land that is left unused. For example, the Sibiloi National Park is so wide with only few animals and so it has no purpose and thus it should be specific since the few that are there have at one time been beaten, punished and even killed and I have a case example on that. Therefore, to avoid this, the Government should provide specific areas for wildlife and not large tracks of land.

Finally, the Government should own natural resources but management, revenue collection, preservation and protection should be entrusted to the local communities. Thank you very much.

Hon. Delegate Elkanah Odembo: Thank you very much Honourable Delegate. Can I call on a Member of Parliament, an MP? Honourable Delegate number 211.

Hon. Delegate Amina Abdalla: Thank you very much, Mr. Chairman, for allowing me to make a contribution to a subject that is very close to my heart. First, I would like to mention the issues

related to the language in this Chapter which the Honourable Delegate Martha Koome has already mentioned, in that the language is very light, it is not reinforced.

Hon. Delegate Elkanah Odembo: Please introduce yourself.

Hon. Delegate Amina Abdalla: My name is Amina Adballa, Member of Parliament. I was talking about the use of language which is very non-scriptive and in the process we are going to make the contents of this Chapter very difficult to implement. For that reason, I would like to suggest that stronger words such as 'shall' be used in order to make the Chapter stronger.

Secondly, on the issue of the Preamble, the Kenyan economy is fully dependent on natural resource production system, basically agriculture, pastoralism, fishery and tourism and if we do not link productive systems with environment, we will be losing a point. I would like to recommend in the Preamble that sustainable management of natural resources be linked to all economic endeavours. This is very necessary because if we are going to ask very poverty stricken people to conserve the environment, we must also add a point for them to link their economic endeavours to natural resource management.

I am very happy to see the inclusion of public participation in environmental management in general as stated in Article 239 (a), and this would resolve the problems that we have heard Delegates raising against KWS because a lot of the issues that communities have against actions of the KWS are linked to lack of involvement of communities in the decision-making process. So, I hope that this will eventually be translated into legislation and the working culture within KWS.

The other element is something that I have been noticing since I entered the environment field, that we as Kenyans have a very narrow definition of environment. We only define environment as close canopy forests by diversity of international significance such as the lion and the big five and leave out the important biodiversity in 70% of our country that is arid and semi-arid. We do not appreciate the fact that there is a lot of resources in arid and semi-arid land, and in our environmental conservation efforts these are not looked into. My recommendation is that if the word 'forest' is confusing people to 'close canopy forest', then we should use tree dominated

ecosystem so that those few areas in the arid lands where there is more woody biomass could also be taken into consideration.

I think this focus is a very serious one, in that in addition to just forgetting the size of that area, natural resource products for arid lands are also ignored and in the process, the country has narrowed productive activities from arid lands to livestock production at the expense of other more economically enriching items from these areas.

Finally, on the National Environmental Management Council as mentioned by my colleague, the individuals within this Council, their qualifications, I am saying that it has not been mentioned probably because of the low interest or focus that the environment has been receiving. On that, I would also like to mention that in addition to just who is there and how this Commission is to work, we also need to link the relationship between that Commission and the Natural Resources Management Institutions that is supposed to be supervising should be. For example, if you are going to ask the National Environmental Management Council to supervise environmental impact assessment of new industries, yet its position is inferior to the specific ministry involved in that particular sector, then you will just be playing environmental musical chairs, an activity that is very popular in this country. Thank you.

Hon. Delegate Elkanah Odembo: Thank you very much Honourable Delegate. Now, Ladies and Gentlemen, Commissioners Dr. Nunow and Zein Abubakar will wrap it up for us. Thank you very much. Com. Dr. Nunow.

Hon. Delegate Martin Shikuku: Point of order.

Hon. Deleгат Elkanah Odembo: After they finish we will take your point of order. Please allow them to wrap it up for us. Delegate number 595.

Hon. Delegate Martin Shikuku: My point of order--

Hon. Deleгат Elkanah Odembo: Some one else is on the floor, number 252.

Hon. Delegate DubatAli Amey: Asante sana Bwana Chair, jambo hili ni la muhimu sana. Nimelisikia katika ukumbi huu mara kumi, zaidi ya kumi, kwamba kuna nuclear waste ambazo zilifukiwa kule North Eastern Province. Sasa haiwezi kuwa ni propaganda, kama ni kweli Bwana Chairman, hili ni jambo hatari sana na tunataka Waziri ambaye anahusika na mambo kama hayo atuambiye ni kweli ama si kweli. Na kama ni kweli nani alileta hatari hii kwa wananchi wa North Eastern Province? Na wale watakojibu wanataka kujibu saa hii, watueleza kinaganaga twende tukijua watu wetu wa North Eastern Province wako katika hatari. Na nani alilete hiyo hatari? Na alilipwa kiasi gani kuleta hiyo hatari? (*clapping*)

Hon. Delegate Elkanah Odembo: Asante sana Mjumbe. Sijui kama tunaweza kulijibu swali hilo sasa hivi. Waziri yuko hapa lakini labda tutampatia nafasi baadaye ikiwa ataweza kulizungumzia hata kama ni kwa ufupi lakini sidhani kama ni kwa sasa hivi. Haya, Commissioner Nunow.

Com. Abdirizak Nunow: Thank you very much, Mr. Chairman, thank you very much Honourable Delegates for your very enriching contributions to this Chapter since yesterday. What I would like to say from the onset is that most of the reactions from the floor are extremely important and will inform the relevant Technical Committee when the Committees will start analyzing and considering both the Report and the Draft Bill line by line.

But suffice it to say now that I would go through some of the key issues, not all because of time, that have emerged. It can be said that the traditional management mechanisms should be recognized and secured in the provision in this Chapter so that those mechanisms that have stood the test of time should be honoured and utilized.

It was also mentioned that ownership and control of resources are in the Report but not in the Bill. I would like to mention that the purpose of the Report and the Bill being together particularly at this time in the Conference serves two main purposes. One, the Report should show how much people told us and how much we took in, so that we cannot have everything in the Draft Bill. It is only the core principles that are in the Bill but the background from which these were derived from are in the main Report. So when you read the Report and the Draft Bill together, then you know or you can account for the views of the Kenyans.

It has been said that the benefits from wildlife conservation outside protected areas should accrue to the local communities which then means basically, the cost of conservation outside protected areas ordinarily is borne by the local people there and therefore the benefits that accrue from there should also go to these people who bear the cost of conservation by not killing the animals and by living with the conflict with the animals.

Complete protection of endangered species has also been mentioned, both Flora and Fauna and that is in the Report as you heard yesterday. It was mentioned that Environment Impact Assessment should not be used to block development projects. Much as that is agreeable, also the principle of equity has to be taken into account also so that as we improve the welfare of one lot; you don't do that at the cost of the welfare of others within our society.

In the case of Hydro Electric Power, it has been argued here on the floor that it comes to the national grid while the people from whose place electricity is being tapped live in the dark. So these are iniquities that need to be addressed.

Hon. Delegates, the issue of pollution has been repeatedly mentioned particularly in the case of plastic and polythene and the concept of 'polluter pays' is meant to take that into account but it was also further said that the plastics, the waste that is not biodegradable should have their sources indicated so that whichever authority has been entrusted with that obligation of ensuring that the polluter pays can actually pinpoint who is polluting and producing what kind of waste.

It was also mentioned that - and we also pointed out - there needs to be partnership between the local people and the government in terms of conservation. Arguments were advanced that there is need to have the responsibilities of the Environmental Commission decentralized. The details of structures and if it is devolved, the province, will be mentioned by my colleagues. But for me, it is sufficient to say that environmental resources in their own form naturally appear in a decentralized manner. You cannot have environmental resources centralized to one place, they are all over the country and therefore, it is of necessity whether directly or indirectly through the people, any agency entrusted with overall responsibility for the environmental resources shall have to have tasks at the grassroots level.

The case of extraction of water, the upstream/downstream relationship is critical, the upstream harvesting of water can deny the downstream beneficiaries the right to water, the principle of equity in distribution of water. One Delegate mentioned that water should not be privatized, I couldn't agree more. But the principle underlying here is the responsibility and management of water resources cannot be left just that loose. Even for the mere reason of ensuring equity in distribution there must be some authority to regulate it. And that is probably why you see now a bit of hussle on the control of water, but what will at the end of the day, count is that form of management that will ensure that everybody has some access to water and that there is equitable distribution of that resource.

The issue of waste, toxic waste in rivers, in the sea, arid and semi arid lands-- The issue of compensation was repeatedly mentioned and it is critical that some of the things that came on the floor of the House be paid more critical attention because it might be a disaster for the nation. If nuclear waste is buried somewhere in our country it will spare nobody. Whether it may be at the border in North Eastern or any other part of the country, at the end of the day such a disaster will be a disaster waiting to happen and it is slowly happening now as effects have already been mentioned by a number of Delegates.

Honourable Delegates, the issue of environmental conservation being tied with different productive eco-systems is critical. We cannot have uniform mechanisms and procedures for conserving environment in different eco-systems. So different productive eco-systems should have their own specific methodologies for conservation, if the general principles may not be applicable. So that the conservation practices that might be critical for forest land might not be useful as much in marginal environment. And the same might not be useful in marine environment. So these peculiarities should be borne and as I had said, the details of this information should be brought forth in the relevant Technical Committee. Thank you very much. *(clapping)*

Hon. Delegate Elkanah Odembo: Thank you.

Com. Abubakar Zein: Thank you, Mr. Chairman, I would also like to thank the Honourable Delegates for the very important contributions that they made to this subject, to this Chapter. And I would like also to be brief to my response, but identify key and critical areas in the Draft Bill that we felt that Delegates have identified as areas of work for the Technical Committees.

I think the first one, Mr. Chairman, has to be that when we go to the Technical Committee that Committee will have to make a decision if this Chapter and the Chapter of land need to be merged or they need to remain separate. Because that is something which kept coming from the delegates about the inter-relationship and overlapping nature of the Chapter of land and this Chapter we are dealing with, which Environment and Natural Resources.

The second thing, Mr. Chairman, is that we need to go and look again at the language in this Chapter so that when we are scrutinizing articles we do not leave this language open ended, leaving too much discretion to the person who is applying the different Articles; whether these Articles are establishing obligations on the part of the Government and the different agencies which are charged with Environmental protection. The point has been made by a number of Delegates that some of the language for example encourages community participation. 'Encourage' can be interpreted in many different ways. There is therefore reason to go back and look at the language in this Chapter.

Again, Mr. Chairman there have been specific inputs on some of the Articles and as we had said when we were making an introduction to this Chapter, there are some Articles which are in different Chapters but must be seen together with the four Articles which are in this Chapter. Reference has been made to Article 63 which leaves the Environmental rights in the Bill of Rights and specific suggestions have been given in that area, such that what we are saying is that when we are giving a brief to the Technical Committees, the brief to the technical committee dealing with Human Rights or the Bill of Rights must also include the inputs of the Honourable Delegates concerning how to strengthen the Environmental Rights.

However, Mr. Chairman, allow me to spend a little more time on a specific Article which many Delegates have given useful information on and this is Article 240 which establishes the National Environmental Management Commission. If I was hearing correctly, what the Delegates are

saying to us is that one of the fundamental problems with this Commission is that it does not have teeth. The Delegates want this Commission to have teeth. They want the mandate and the jurisdiction of this Commission to be expanded to include oversight and regulatory powers, so that they can also be able to enforce some of the rights which are given in this Draft Bill.

Secondly they want this Commission to have a clear membership defined and some have even gone further and said that this membership has to be on a fifty fifty basis, based on gender but also the qualification of those who are to serve in this important device and mechanism to protect our environment and enforce rights need to be clearly defined.

Mr. Chairman I would like also to mention two other things: one, the duties of a citizen. Many Delegates appreciated that but they said that the duties have to go together with rights so that we should think on how to put them together rather than have them reading separately.

On the last point I would like to make my contribution on, Mr. Chairman, we have been challenged as a Conference that when we take this work to the Technical Committee, the principle of participation of the people in the Environment and Natural Resources and its protection needs to be expanded and clearly defined. Therefore, we might also need to inform those who are dealing with other Chapters including devolution where, in the list which I had made reference to in the seventh schedule, the shared jurisdiction on matters of Environment and Natural Resources between the National Government and the District-- This needs to be clearly defined and no loopholes should be left but clearly defined in terms which empower the people to participate in that decision making. Thank you very much, Mr. Chairman, and thank you very much the Delegates for listening to us. (*Clapping*)

Honourable Delegate Elkanah Odembo: Thank you very much Commissioner Abubakar. There is a point of order 611?

Honourable Delegate John P. Nyakundi: Asante sana Mwenyekiti kwa kunipatia nafasi. Kwa majina najulikana kama John Peter Nyakundi, nawakilisha vyama vya kisiasa kutoka Kenya Social Congress. Mwenyekiti ni shukrani kubwa sana. Tangu tulipoanza kujadiliana, tumejadiliana sura kama kumi na mbili na nilikuwa nataka kujua lengo letu ni nini, na

tumekubaliana nini. Kama kwa mfano sasa tumemaliza hii Article 239, si tungepiga kura tuseme tumepitisha 239 kwa sababu tumeenda sote bila kujua tumekubaliana nini, na lengo letu tunaenda wapi. Si tungekuwa tumekubaliana hata provision moja pekee yake?

Honourable Delegate Elkanah Odembo: Sawa, asante sana Mjumbe. Sasa hivi bado tuko kwa sehemu ya kongamano ambayo tunajadili kwa jumla na baada ya hapo tutakapokwenda kwa makamati ndio tutaanza sasa kuamua sehemu ambayo tunaita adoption. Kwa hivyo hiyo itafuatilia baadaye. Sasa hivi bado tunazungumza kwa jumla tu. Point of information?

Honourable Delegate: Point of information. Nimekuwa Bwana Mwenyekiti nikisikiza kwa makini mchango wa waheshimiwa Wajumbe wote walioko hapa kuhusu habari ya mambo ya mazingira, kuhusu wanyama, kuhusu miti, kuhusu uchafu, bahari, lakini sikusikia watu wakizungumzia uharibifu wa mazingira wa tabia na tunaona our Draft did not touch on the issue of the spiritual aspects and it is very important to be highlighting our society as a religious society. Our culture has been spoilt by having people begging for the environment, due to these films, cassettes and other material which are coming to our society and spoiling our society such as drugs and alcohol and so on. I do not see why this issue including immorality was not touched on. This is also spoiling the society, the environment which is not only material involvement but also includes spiritual environment. Thank you very much.

Honourable Delegate Elkanah Odembo: Thank you very much. If you can put those in writing Honourable Delegate, we can pass them to the Commissioners as they are doing their revisions.

Thank you very much Delegates, you have been very good and very patient. I know it has been a long afternoon and a long week. I would like to hand over now to the Chairman of the Review Commission Professor Yash Pal Ghai, to summarize or close this session for us.

Professor Yash Pal Ghai: Thank you very much for your excellent Chairing and for guiding the discussion so fruitfully. I was asked two questions a little while ago and I want to respond to them. The first question was whether we need to gazette the Delegates after the taking of the oath; the rule is that members have to take the oath before they can participate in the work of the

Conference and the gazettelement took place before the oath was taken and indeed you had to be gazzetted before you could take the oath. Nothing further is required once you have taken the oath. This matter is dealt with in Regulation 6 of the regulations of the Conference.

The second question was that the debate we have had should focus on the Draft Constitution or other new issues can be introduced. Strictly speaking the debate of the Conference should focus on the Draft Constitution and this is clearly stated both in the Review Act and in the Regulations. Of course members are free to criticize the proposals but it is not possible to introduce totally new proposals but the difference between modifying an existing proposal and a totally new one is sometimes hard to draw. However, I would urge Delegates to focus on the Draft and not to introduce a lot of new issues and this point is particularly important when we get to the committee stage because the role of committees is to discuss and recommend changes to the Draft and therefore the focus should be the Draft and I hope you can be a little bit more disciplined when we get to the committees. This is a general debate and its not unreasonable to make general comments but when we get to the committee stage you must be very disciplined and must focus on the Draft Constitution.

I have no further announcements. I just want to remind you that next week is our last week on this round but we still have a lot to cover. I know that every member wants to contribute to every Chapter and that is a good sign of your engagement and your commitment but I think we initially need to be a little bit better disciplined next week if we are going to finish all the Chapters of the Constitution. I shall therefore plead for your cooperation, so if the chair says that after further assessment all the points have been made and we are now repeating, I hope you will respect that and allow us to proceed to the following Chapters, otherwise we will not have completed even the first complete consideration of the Draft and I am sure the people of Kenya would feel let down. I therefore please plead with you for your cooperation next week; meanwhile I thank you for your engagement. The people who are still in this room are the ones who are most committed, they stay long hours and I am truly grateful to those who are in this room now. *(Clapping)* I wish you all a very pleasant long weekend and I look forward to seeing you on Tuesday morning. The Steering Committee meeting is still on at 8.00 o'clock and the Plenary at 9.30. Good bye. *(Clapping)* **The meeting adjourned at 4.30 p.m.**

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