

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

VERBATIM REPORT OF

CONSTITUENCY PUBLIC HEARINGS,

DAGORETTI CONSTITUENCY, HELD AT

KENYA SCIENCE TEACHERS' COLLEGE

ON

28TH MAY, 2002

**CONSTITUENCY PUBLIC HEARINGS, DAGORETTI CONSTITUENCY, HELD AT KENYA SCIENCE
TEACHERS' COLLEGE ON 28TH MAY 2002.**

PRESENT

1. Com.Domiziano Ratanya
2. Com. Mutakha Kangu
3. Com. Pastor Z. Ayonga

SECRETARIAT STAFF IN ATTENDANCE:

- | | | |
|----------------------|---|-----------------------------|
| 1. Peter Kanyi | – | Programme Officer |
| 2. Lillian Momanyi | – | Assistant Programme Officer |
| 3. Jacqueline Nyumoo | – | Verbatim Recorder |
| 4. Eunice Kasisi | – | Sign Language Interpreter |

The meeting was called to order at 9.30 a.m. with Com. Ratanya in the Chair.

Rev. Macharia: Good morning everybody, we want to start and I will ask everybody to be ready for a prayer so that we can start.

Our Father and our God we are before you this morning because you made it possible for us to be here. We are here for a

purpose God and we want that purpose to glorify thee and that is why we are committing ourselves in your hands as we start this process and we pray all this in that precious name of our Lord and Saviour Jesus Christ. Amen.

We want to start the hearing and I will introduce my team here and I will let the commissioners introduce themselves. My name is Rev. Samuel Macharia Muchoga, I am the minister of the Presbyterian Church of East Africa and this is my area. I also happen to be the chairman of the constitutional committee for this constituency and the team here is the team we work with. There are others because we are ten of us. They have not arrived and the one who is close to me is our coordinator Esther Walya of this area. She is also in charge of Lang'ata constituency and there we have got Enoch Kiche, and we have got also Douglas Gakuo who is also in charge of our documentation center. These gentlemen will be with us, one or two may go out but we cannot all go out and we are going to have labels so that you can identify us in case you need any help from us. We welcome you all and we hope you feel comfortable while here and you will be able to give your views freely.

We also welcome the commissioners. We have Mutakha Kangu, and the other gentleman I'm not so familiar with but he will introduce himself. You are also welcome and we also welcome your team who has come with you to assist you in this work. We want you also to feel welcome in this constituency.

Com. Ratanya: My name is Domiziano Ratanya, one of the commissioners.

Com. Kangu: Mimi naitwa Mutakha Kangu, ni mmoja wa ma-commissioners na vile mmelezwa, kuna staff from the secretariat bwana Peter Kanyi is a Programme Officer, Lillian and then Jacqueline and the Sign Interpreter Eunice. Those are members of the secretariat at the commission. Siku ya leo tukikuja Dagoretti constituency ni siku ya wananchi wa Dagoretti kupeana maoni kwa tume ya kurekebisha katiba. Leo si siku ya makamishina kuzungumza mbele yenu, ni siku ya makamishina kusikiza nyinyi mkieleza vile mngpendelea katiba irekebishwe ama iandikwe.

Ni vizuri mjue huu mradi wa kutengeneza katiba ni mradi wa muhimu sana kwa waKenya ikiwa waKenyahawatatumia hiyo nafasi kutengeneza katiba wangependelea baadaye wenyewe watakuja kujilaumu. Kwa hivyo hii ni nafasi yenu ya kutoa maoni yenye tutaangalia tukitengeneza ile report na draft bill. Na kuna mambo machache tungependelea kuwaeleza kama hatujaanza mpango wetu wa kuchukua maoni.

Jambo la kwanza ni kwamba vikao vya tume ya kurekebisha katiba vya kuchukua maoni, kulingana na utaratibu wetu vinatajikana vianze saa mbili kamili na viendeleo mpaka saa kumi na mbili jioni. Mimi niliingia hapa saa mbili na niliona wengi wenu mlikuwa hamjaingia lakini kama mngokuwa mmeingia tungeanza saa hiyo. Na tutaendelea ikiwa kutakuwa bado watu mpaka kufika saa kumi na mbili.

Jambo la pili, maoni inatolewa mbele yetu kwa njia karibu tatu. Njia ya kwanza, unaweza peana maandishi (written

memorandum) na usiwe na lingine la kuongeza. Njia ya pili, unaweza peana maandishi na uongezee maelezo vile umeandika ama upeane highlight ya yale umeandika. Na ya tatu, ni kwamba unaweza kuja mbele yetu bila maandishi yeyote na ueleze mambo yako kwa mdomo (oral submissions) mbele yetu. Na kuja mbele yetu tena ziko sehemu tatu.

Unaweza kuja mbele yetu kama mtu binafsi na upeane maoni yako kibinafsi. Ama uje mbele yetu kama mtu mwenye anasimamia kikundi chenye kimeandishwa na unatoa maoni kwa niaba yako na kwa niaba ya hicho kikundi. Ama unaweza kuwa mbele yetu unasimamia kikundi chenye hakijaandikishwa mahali popote lakini utuambia natoa maoni yangu kwa niaba yangu na kwa niaba ya kikundi fulani ingawaje hakijaandikishwa mahali popote. Hayo yote yanakubaliwa.

Jambo la tatu, nataka nigusie mbele yenu ni kwamba kutoa maoni mbele yetu kuna lugha tunakubali itumiwe. Unaweza tumia lugha ya kiingereza. Tutachukua maoni yako. Unaweza tumia lugha ya Kiswahili, tutakusikiza na tuchukue maoni yako. Lakini ikiwa hizo lugha mbili hutaki kutumia, unataka kutumia lugha ingine yeyote ya mama yenye inatumika hapa nchini kwetu, tutakuruhusu lakini utupatie information mapema wakati unaandikisha useme ningependa kuzungumza lugha fulani ndio tuweze kutayarisha mtu wa kutafsiri ndio mambo yako iweze kusikizwa.

Na lugha ya mwisho ni ile mnaona huyu msichana tuko naye hapa kwamba ikiwa kuna wale hawawezi kutumia zile lugha sisi tunatumia za mdomo, tuko na hiyo lugha ya ishara na tumekuja na huyo kusaidia hayo. Huyu mama mnaona anapatiwa maelezo na ikiwa kuna mwingine anaingia mnajua ako na hiyo shida, mnamsongesha karibu hapo ndio apatilie yale maneno tunazungumza ama watu wanazungumza mbele yetu, na wakati ikifika akitaka kutoa maoni yake atasaidiwa tuweze kuelewa anasema nini.

Na jambo la nne, ni kwamba ukikuja kutoa maoni ya maandishi na unataka kupeana maelezo tunapeana dakika tano ya wewe kueleza juu juu yale umeandika. Na ikiwa unatoa maoni bila maandishi tunapeana dakika kumi ya wewe kueleza yale uko nayo na saa ingine tena inategemea wingi watu. Tukiona watu wameanza kuwa wengi na tunataka kila mtu apate nafasi ya kujieleza huenda tukafungua saa kidogo. Kwa hivyo tuelewane ndio tuweze kuendelea sawasawa.

Na tujue ukitaka kupeana maoni, utaenda kukaa pale, tunaandikisha na tena tuna-record kwa tape ndio baadaye kama tunakaa kutengeneza mambo ya record tunaweza fikia tujue mtu fulani alisema nini. Kwa hivyo yule atazungumza atakuja hapa mbele ndio aweze kueleza yale ako nayo. Na kama hatujaanza, kuna neno moja nataka mwenzangu aeleze halafu mwenzetu mwenye ameingia atajjulisha kwenu halafu tuanze na yule mtu wa kwanza.

Com. Ratanya: Jambo lingine ningetaka kuongeza kwa hayo kamishina ameeleza ni kwamba wakati unapeana maoni yako, tukiona kwamba kuna kitu ambacho tungetaka clarification ama kufafanua, kamishina yeyote kwa sisi watatu angeweza kukuuliza hiyo swali. Kama hakuna kitu ya kufafanua halafu umemaliza mambo yako, if there is any need of clarification we shall may be ask you something.

The other thing is sisi tutakuwa tunafuata this list. First come, first served. Lakini tukiona kuna sababu yoyote ya kutofuata hii pengine mtaturuhusu tutumie hiyo, power yetu ama tuseme exemption tuifanye. Na hiyo ni kama kwa mfano, kama mama akija hapa ama baba ambaye ni mzee sana na hawezi kukaa hapa wakati mrefu kusikiliza, pengine tungekubaliana tumruhusu hapo. Ama mama akija hapa mjamzito na pengine anaenda hata haraka sana clinic, pengine hata huyo pengine mkubali tumsikize aende badala ya kufuata hii list.

Na tumeenda pahali pengine tukaona watoto wa shule pengine wangetaka kuja kupeana maoni yao wakiwa katika team na wapeane wakiwa na representative wao. Kwa hivyo kama tukiona situation kama hiyo pengine mtaturuhusu tukubali hawa watoto pengine kama ni wa shule wengi wawili watoe wale representative wao halafu tuwakubali waende masomoni kwa sababu pengine mmetoka katika classroom.

Kwa hivyo kitu kama hicho nafikiria mtakubaliana na sisi tutumie hiyo njia ya kuwaruhusu watu kama hawa. Mnaona hapo ni mzuri. kwa hivyo hiyo ndiyo ingeweza kutufanya tuondoke kwa hii list ama njia nyingine ambayo chairman ataona itafaa. Okey, thank you very much Mr. Chairman.

Com. Ayonga: Mimi ni kamishina pastor Zablon Ayonga, Hamjambo.

Com. Kangu: Fine, jambo la mwisho tunawasihi wale wako na simu za mikono, you switch off ndio isilete interference na our recording programme. Na tutaanza sehemu ya this morning mwenye ataanza kuchair ni mwenzangu bwana Ratanya halafu tukifika kiwango fulani, we will be able to change.

Com. Ratanya: Asante sana kamishina mwenzangu bwana Kangu na sasa ningetaka kuanza kwa kumuita Virginia W. Mathenge. Na Virginia akiwa anaingia, pengine tulisahau kuwaambia hicho ni kiti cha yule atatoa maoni. Huyo ndiye anatengeneza katiba kwa hivyo ni mgeni kama wa heshima kwa sababu anatupatia maoni yake kurekebisha katiba yetu. Naona amewekwa hapo. Na akitoka hapo, ataenda mwishowe pale. Kuna registration ingine, si hii peke yake. kutakuwa na ingine ambayo ukimaliza, utaenda pale u-register na u-sign. Ukitaka kwenda unaenda, ukitaka kukaa hapa usikilize wengine ni sawasawa. Kwa hivyo Virginia W. Mathenge uendele.

Mrs. Mathenge: Thank you very much Mr. Chairman, commissioners and wananchi wetu. My name is Virginia Wangui Mathenge, I come from Loreto church, I am the chairlady of the woman's guild there and the views I am going to give are the views of the woman's guild, Loresho congregation. I will read and explain where possible. Memorandum to the constitution of Kenyareview commission.

One, Christian religious education. Globally, there is general / in the society. This more so in the countries where religion has

been wiped out in the country school curriculum. 80% of Kenyans are said to be Christians. This can be attributed to the fact that most of Kenyaschools have a Christian background. If Kenyawas to propagate an upright society with a practical society tomorrow, the constitution should look into it.

The bible says in proverbs 22 verse six, train up a child in the way he should go and when he is old he will not depart from it. Recommendation, primary school curriculum should be given ample teaching time for CRE and other nationally accepted religious doctrines to safeguard our society of morals.

Judges should be involved in learning of schools. Advocacy of society, moral through all state and community structure. Use retired, experienced Kenyans citizens of moral repute to revive our moral values.

Number two, abortion- abortion is taking away life and life belongs to God. One of the Ten Commandments to man is thou shall not kill (Deut 5:17). Legalizing abortion is giving a licence to take away another person's life for which he or she has no right. Recommendation, in the eyes of Christians, abortion is a crime and should not be legalized. The new constitution should prohibit abortion.

Number three, homosexuality and lesbianism. God created a man and woman in his own image that is (Gen 1:26). God knew the biological need of the animals he created and therefore paired them as male and female so that each kind can fulfil each others sexual needs. By legalizing homosexuality and lesbianism we are correcting God and allowing misuse of the organs he gave us for our pleasure and procreation. This is also prohibited in the bible (Levi 18:22) do not lie with a man as one lies with a woman. That is /. Recommendation, Kenyashould not hate the so-called developed countries. The constitution should preserve the good element of a culture and set good examples for other countries. The new constitution should prohibit homosexuality and lesbianism and other sexual pervasion. Those with these tendencies should be encouraged to go for counseling. This homosexuality and lesbianism should not be legalized in our constitution.

Number four, some of the films that are shown in the many TV channels we have today are very bad for our young children, and contribute to the moral decay in the society. A child brought up in this environment will grow up thinking that this is the way life should be. What will change him or her in future? Recommendation, our new constitution should prohibit all pornographic, films magazines and books. Religious bodies should be included as members of the films / boards.

Number five, freedom of worship – while we agree that freedom of worship should be entrenched in the constitution, this freedom should not be allowed to inflict on other people's rights. An example is the retrogressive hostilities of the religious sects like Mungiki, tent of the living God, who's believe and activities are up to cause bodily harms to non-followers. Recommendations, the constitution should protect all minors against Acts of religion that would inflict on their rights. The constitution should outlaw any groups, which do not worship a living God. They should also outlaw women circumcision or

Female Genital Mutilation (FGM).

Number six, care and protection of children less than 18 years. in all matters, this should be subscribed to the children's Act.

Number seven, protection of the environment. The current generation is the custodian of the national heritage for the future generation. Let us not live as if there will be no future generations from our /. Recommendations, the constitution for ensuring the support of the livelihood of the society, should ensure protection of our forests by making any malicious damage to the environment punishable by law.

Com. Ratanya: Virginia, let me remind you, if you have a memorandum just give the highlights, the most important points and then you hand it in, we shall read your memorandum. That is why we give you very few minutes and now you have only a minute to go because you have a written memorandum. Just a minute please.

Mrs. Mathenge: Number eight, is the revival of the economy. Kenya is an agricultural country and to revive the economy, the necessity will depend on the performance of the agricultural sector. Recommendations are many, we have said it should create structures, infrastructures, we should create the neighbouring climate, we should fight poverty by creating programmes which specify for the poor so that they can contribute to the revival of the economy.

Number nine, single persons rights. We feel that all single persons should have the rights to inherit and own property. Recommendations, there should be no discrimination on inheritance and property ownership. No discrimination on the ethnicity, religion, creed, gender or stability. Opportunities, we have said that each man should have one job and it should be based on merit, countries leadership. In Kenyawomen have not heard a fair share considering the Kenyan culture the political environment has not been very friendly with women, yet given a chance women can contribute to the running of the country as well as men. Recommendation, women should be given a good environment and encourage to vye for political position.

Requirement for presidential candidates, the country's Presidents should be a patriotic person with a nationalistic principles and neutral with respect creed. He/she should be a God fearing person, true follower of a known religion and well educated person preferably a graduate.

Com. Ratanya: Wind up, you have no more time.

Mrs. Mathenge: Recommendation, ballot boxes should be clear and transparent, votes should be counted at the polling stations, the leaders vying for party positions should bear their property and that is all Mr. chairman. Thank you very much indeed.

Com. Ratanya: Thank you very much Virginia Mathenge. Wait, there is a question from com. pastor Ayonga.

Com. Ayonga: Mama Virginia, you have presented a very good paper and your points are very very useful but I would like to know why did you say, ample teaching of Christian religious education. And what do you mean by ample is it because now we don't have so many periods of religious education or you would like more of their religious be taught in schools.

Mrs. Mathenge: The group represent said that we should consider Christian religious education as a subject that should be taught in all schools for the children who are Christians and those who are not Christians should also be given ample time to be taught their own religion.

Com. Ayonga: Another thing you mentioned about church involvement. Would you like to expand on this?

Mrs. Mathenge: From history Mr. chairman, we know schools like Alliance, Mang'u they were started based on Christian education and those schools have done very well. Most of our leaders have come from those schools and so we feel that all the other schools should be able to imitate such schools.

Com. Ayonga: In other words, you would like the schools to revert back to what they used to be.

Mrs. Mathenge: We feel it is important that they should revert to what they were before. Because the products of those schools were very good.

Com. Ayonga: Thank you Mama.

Mrs. Mathenge: Thank you very much Mr. Chairman.

Com. Ratanya: Thank you very much Virginia, there is one more question. You talked about abortion. It was not very clear. Are you saying that should be outlawed or it is not very clear that point. Now, the other one when you talk about abolishing circumcision of women, maybe you want men circumcision to continue. Why do you discriminate? Can you clarify?

Mrs. Mathenge: In abortion, I said abortion is taking away somebody's life, it is killing, and we said that it should be prohibited because we should not kill. Life starts at conception and should be protected from there on until God sees it is not the right time for that person to live. So our recommendation is that the constitution should prohibit abortion and should not legalize it.

The other one was, sorry I have forgotten please remind me.

Com. Ratanya: It is about circumcision. You say only one gender should continue and the other one should not. Can you clarify? Why not both?

Mrs. Mathenge: I said female circumcision because medically it has been proved that it is of no use. It doesn't benefit the person who have circumcised, so we should not have it. With men we are told it is good because people become clean.

Com. Ratanya: Asante sana Virginia, hayo ni maoni yako na una right ya kupeana maoni yako. Now, another thing I would like to remind you, switch off your mobile phones, you can see mine is already off and you were told if it is on it is going to be recorded and it is going to interrupt our proceedings. Now, the other thing I still remind you about time. If you have a written memorandum we only give you five minutes or below five. So, don't read your memorandum please. Just highlight the points and then you add in for us to read. Now, Mary Njiraini. Mary you have only five minutes because you have a written memorandum.

Mrs. Njiraini: Mine is very much on the side of the presidency that the President should be elected from grassroots and the Vice President too. Then about labour for women that in homes we find that women are overloaded by so many duties, maybe in the family, clothing and even educating and we find that our fellow men or husbands spend most of the time in buying centers just idling. We would advise that they are advised to work for their families, married or not married. They should work for their daily bread.

Women beating that women are partners of their husbands and so they have a right to contribute to without harrasment and to be listened to because they started life as lovers and this whatever comes around their way that we should not lose the struggle to maintain our marriages without beating or harrasment that women will be able to be productive in their sober minds. Abortion that this should be stopped or not legalized because it is a / action even to the person who is doing it.

We have found people, we have seen girls die or made infertile because of that action. Again about marriage and if I went up there, that the first wife should be allowed or given the right to inherit the property they have acquired during their married life or force with the husband or before or herself and the other wife should be given their due for the husband is alive if they have any at all outside. That is all Sir.

Com. Ratanya: Thank you very much Mary and that is a very good example you have kept time and now maybe we hear from the commissioners.

Com. Kangu: Now, Mary have you given any thought on how we should make the men work. I agree with you, if you go in the rural areas, the women are really overburdened. Men wake up, they go to drink chang'aa and my understanding has been

that the biggest problem has been the / system of ownership of land. Many of them will give the argument to their wives that ‘wewe hukuja hapa na shamba’. ‘Nimekupatia shamba lima tu’. So how do we get them to work in those circumstances?

Mrs. Njiraini: The worst bit about that owning of the land and that women come to dwell with the man is that even after all that labour in the rural areas, the money is taken to the drinking place, if it coffee, after they have harvested or given money or tea and the man will come back after the money is finished. So the labour from children and women is in vain. So it is good to educate our men that they have a duty to do with their families.

Com. Ratanya: Nafikiri umemaliza Mary.

Com. Ayonga: I had you say that women are harassed and beaten. Did you use the word beaten?

Mrs. Njiraini: I meant beaten, bodily harm.

Com. Ayonga: You did not tell us what you would like see in the new constitution that could stop this. Did you so take thought to think about men who are beaten because these men you see around, some of them are beaten but they are ashamed to say that they are harassed and beaten.

Mrs. Njiraini: Yes, that one I

Com. Ayonga: Just because they don't say they are beaten does not mean that they are safe. Wouldn't you like to tell us how you would like people live in such a way that nobody is beaten, nobody is harassed. Give us a solution.

Mrs. Njiraini: I think the solution is understanding dialogue because when those people got married, they were happy together and they had never thought that they would lay a hand on somebody and I think it is quick action that people don't stop to think why they are beating, whoever they are beating if it is wife or husband because if one, maybe if you had counted ten or twenty or gone out after anger gone out just to the fresh air you would come back and even if anywhere at all if you don't have the stick in your hand what you are going to use if you are going to look for it you will think twice.

So I think education should be taken round to our men and women in understanding as to why they should bear with one another. We are not copies of one another but understanding one another and if at all it comes to beating I think I would advice the wives just to run away behind the house or in the banana trees as it is today because the following day will be a different day.

Com. Ratanya: Asante sana Mary kwa hayo maoni yako. Sasa utaenda pale u-sign our register na tena tuna Nicholas Kimani

endelea. Nicholas Kimani.

Mr. Kimani: Thank you very much Mr. Chairman, my views are divided into three groups and I shall be very brief. My presentation is oral. My first recommendation relates to vulnerable groups and I shall speak about deaf and handicapped and women. In the present constitutional arrangement, I guess people do not seem to be receiving any attention whatsoever and the same goes to handicapped. It is as though they do not exist. Now, my feeling is that they may have particular views which are not represented at all in any forum whatsoever. The same goes to women. I also believe that women have a lot of relevant issues for example the right to property and other things that affect them like domestic violence.

Now, I personally believe that women should have a certain number of seats in Parliament reserved. Maybe 30% rising up to 40%, maybe we just leave it at 40%. Whatever it would be I do believe that women should have a guaranteed place in Parliament, where they themselves can at least have a strong enough voice to air whatever views they may have, whichever they may feel irrelevant.

I also believe a similar arrangement should be made for the deaf and handicapped people, perhaps they may be nominated MPs or gain a certain guaranteed representation. Secondly, I am also very concerned about the environment and the fact that despite having the environmental management in coordination Act of 1999 we seem to find that nothing like Mau forest seem to be still in danger or even closer here Ngong forest, I believe that Kenyans should have a right to environment, a clean and healthy environment and this should be enshrined in the constitution and particularly because this present generation are custodians for the next generation and we should not be allowed to cut down forests simply because the due processes of law has been carried out in this generation. I believe forests and rivers and lakes are things that should be enjoyed by all generations and we should have this enshrined in the constitution.

Thirdly, my last comment concerns the rule of law. I am a bit concerned whenever I find concerning things like the appointment of judges. All of them are pointed by the judicial service commission which itself is composed of people who are appointed by the president, by the Executive. I believe that the appointment of judges should be done by the President but on recommendation by a revamped judicial service commission. Meaning that it should be made up of a large group of people perhaps the law society of Kenya should be allowed to come in and law lecturers perhaps and other people who are representative of the society.

The same goes to the appointment of the Chief Justice. I also believe it should be done by the President but acting on advice of the judicial service commission. Now, on the role of the attorney general, I feel that perhaps part of the reason he is accused of inefficiency or ineffectiveness is because maybe his roles are too big and I feel that perhaps the office of the attorney general should be divided into two.

The director of public prosecutions and then the attorney general remains as the chief government legal advisor. I think that arrangement would split the law to something more manageable. There is also something that I feel that has been, the power of the attorney general that has been abused in the past. The power of knowledge procedure. You know he takes over proceedings and terminates. I think that this power should be regulated and should only be used in certain define circumstances so that wherever there are fears that it has been used for political purposes I think that that would be minimized, if the attorney general was allowed to use those powers in certain circumstances.

Finally, it regards to the constitution I also believe that the Presidentby the grassroots and whenever the issue comes up for example the extension of the term of the presidency. A time will come when we will be so happy with the Presidentwe get that we find that two terms is not sufficient. In such case I believe we should have a referendum and the people should decide whether one as a Presidentshould be allowed to seek another term and such like this.

I don't think we should have bind ourselves with this constitution to such a point that we cannot make minor amendments where we feel it is necessary as time goes by. Thank you very much.

Com. Ratanya: Thank you very much Nicholas. Now we go to Zuhura. Is there any question for him? Okey, just hold on Nicholas.

Com. Kangu: Now, Nicholas why do you recommend reserved seats for women in Parliament and you don't recommend such in the local authorities yet local authorities play a major role in governance?

Mr. Kimani: Well, I suppose it is something to do with a rather narrow background. I am a lawyer, so I think as a lawyer I seem to see things in a narrow perspective. I agree with you that would be a solution as well. I just hadn't thought about it.

Com. Ayonga: On the same you say about 40%, bwana Nicholas, did you take into consideration that in Kenyathe larger population is women. They are 52% and if the women wanted to get their kind into Parliament that they would flood into Parliament with women. Why should they be given seats or be reserved for them when the women by one vote one person they can get their women into Parliament so easily.

Mr. Kimani: Well, I am very concerned, the reason I say that is because of what is saw in the East African Parliament where I think there were three seats but only women were given those seats because party politics seem to take.

Com. Ayonga: Don't you think that we should encourage our women to fight rather than, you know when we keep giving them, we are lessening them. They are not lesser beings.

Mr. Kimani: Encouragement is a very open mode of concept. I think it is open to manipulation and be subjective in interpretation. I think it should be enshrined consecutively.

Com. Ratanya: Asante sana Nicholas kwa hayo maoni yako. Sasa tunaenda kwa Zuhura Amani. Zuhura naona ya kwamba una written memorandum kwa hivyo ni dakika tano tu ya kutaja yale ya muhimu. Endelea.

Mrs. Zuhura Amani: Asante sana bwana mwenyekiti. Ningependa kupendekeza kwenye katiba inayokuja badala ya koti kubwa tunasikia kwamba tuwe na koti ya jumua ya nchi za Afrika ya mashariki ambayo itajadili shughuli ya koti kuu. Ningependekeza kuwa na utamaduni wa kikatiba, kuwa na koti ya kikatiba.

Ningependekeza majaji na maofisa wa mahakama waajiriwe na tume ya huduma za mahakama na wanaojiriwa wawe na shahada za chuo kikuu akiwa hakimu, wawe na sifa nzuri, wawe na umri usiozidi miaka sitini.

Kuhusu kadhi- kadhi na kadhi mkuu wawe na vyeti vya uakili vya chuo kikuu na cheti cha sheria, wamehitimu chuo cha sheria cha kenya. Kadhi waajiriwe na tume za huduma za mahakama. Koti ya kadhi iwe itajadili mambo yafuatayo, ndoa, mambo ya watoto, usimamizi wa shamba la waislamu, mali ya umma na koti ya kadhi ipewe mamlaka ya juu.

Uwezo wa serikali, katiba inafaa kutaja sifa za urais, awe mwanachama wa kenya, awe na umri wa miaka thelathini tano, awe na sifa nzuri, tabia na umri usiozidi miaka sitini na tano. Na muda wa ofisi uwe mara mbili usizidi miaka mitano. Katiba yafaa kupunguza uwezo wa rais. awe na uwezo wa kuhukumiwa iwapo atavunja sheria.

Com. Ratanya: Okey, asante sana Zuhura. Ngoja kidogo swali moja.

Com. Kangu: Na umeelezea tuwe na koti ya kikatiba ama ya katiba constitutional court. Ungependekeza iwe na majaji wangapi na hiyo mahakama iwe na uhusiano gani na hizi mahakama zingine tuko nazo kama tuseme hiyo na court of appeal. Nadhani itakuwa juu na ni mambo ya aina gani hiyo mahakama inatakikana itakiwe, vile umesema kadhi's court iwe na maneno fulani. Constitutional court ita-deal na mambo gani?

Mrs. Zuhura: Ningependekeza koti ya kikatiba iwe na majaji kama itawezekana wawe majaji kama wanne hivi na umeniuliza gani ingine? Uhusiano wao yaani itakuwa kabla ya jambo lolote mahakama kupitisha lazima koti ya kikatiba iwe inahusishwa.

Com. Ratanya: Asante sana Zuhura kwa hayo maoni yako. Na sasa tutaendelea kwa Elizabeth Naliaka.

Mrs. Elizabeth Naliaka: I am not able to speak thus I wont be able to sit properly since I am using my hands, so culturally deaf people would like to talk while standing. Thank you commissioners for giving me this opportunity. My name is Elizabeth

Naliaka, I am deaf. Before I go on to my memorandum I would just make a request, you say that we will probably use five minutes but since I am using an interpreter I would just like to ask you to just add me a few minutes on top of the five minutes. Is that acceptable?

Com. Ratanya: Elizabeth ni sawasawa, endelea mpaka umalize.

Mrs. Naliaka: This is a recommendation from the Nairobi deaf women group. I will talk first of all on citizenship. There should be no discrimination of any person or lady who is married to a foreigner being given citizenship. And also their children should be given automatic citizenship.

On basic rights- the constitution should ensure basic rights of every Kenyan, free health care for deaf people – interpretation services, water, food and education. And when I talk of free education at least it should be free education from primary to university for people with disability. There also should be access to employment for people with disability, therefore there should be a percentage in each company that should be given to people with disability. There should also be..... women with disability should be represented in all decision-making bodies within the country.

There is also the women with disability should be given a right to own property whether they are married or single. Whether they have a disability or not but all women should be given a right to own property. For deaf women they face a lot of harassment and discrimination. They should outlaw all kinds of discrimination against women with disability.

There should be affirmative action for women with disability especially in areas of politics. They should have their own constituency and also have their own day to do their election, preferably they should be given at least 10% of the seats in Parliament should be for deaf women.

All the polling stations should be accessible to people with disability. Political parties should also include women with disability in their area and when they are going for election they should have at least women. At least a percentage of each political party should have women with disability. ‘

Out of that I would give an exact percentage maybe about 5-10% should be women with disability and in the local authority, they should also be given equal seats with people with disability and these seats should be shared equally between the men with disability and women with disability in the local authorities.

Then also still on local authority there should be free licence, they should be exempted from paying taxes or licence for business, especially for deaf women. Also in the traffic Act, deaf people are not allowed to drive and they can be drive so this law should be changed and they should be allowed to drive.

In budgeting, there should be an equal budgeting thinking of people with disabilities especially their institutions and rehabilitation centers. All boards or committees or commissions that work with the development of budgetary issues must have a person with disability, taking into account of the various disabilities.

In our government of the country, people with disability should be given equal representation. Family protection and rights- the constitution must have clear policies and also the constitution should come up clearly saying who a child is, a definition of a child.

They should outlaw sexual harassment on women with disability. Sign language should be recognized as the first language of deaf people and the deaf child. On property and land rights, especially there should bethe child with disability especially the girl child should be given equal rights to inherit property from the parents, and also women with disability should also be given a right to own land. They should own land, both from the parents, that is from their home and also for those who are married should also own land from their husbands.

Of course, the property of the family should be shared out equally. Be it land, be it whatever the family has should be shared equally between the children taking into account the child with disability. All the polling stations should be accessible to people with disability. There should be an interpreter provision for deaf people and the interpreter should be paid for by the government.

For deaf blind women, they should be allowed to bring their own guide and interpreter to the polling stations. In court, deaf people should be allowed to bring an interpreter of their choice not chosen by the court and also they should be given free legal representation when they are in court. When a deaf woman is arrested, there should be an interpreter available before as soon as possible before they make any statement in the police station.

Each police station should have a sign language interpreter. If two deaf people have a conflict the interpreter should be a neutral but has no relation of any of those deaf people who are in that conflict. Then there should be protection again in the police station, there are always sexual harassment and also in our public vehicles, you know the men like harassing women sexually in the public vehicles. There should be a law to protect them from that.

I will move on to public service. All public offices or institutions should have a sign language interpreter like hospital, post offices anywhere where there is public services there should be a sign language interpreter for the deaf.

I will move on to information and technology. Sign language should be recognized as the official language of deaf people.

Com. Ratanya: Elizabeth, you were entitled to five minutes I thought you will complete but I have given you double. I have already given you ten minutes and so try to summarize.

Mrs. Naliaka: There is just one more point and I will be through. All TV stations should either have captions for the deaf or have an interpreter inset. In all important programmes e.g AIDS awareness, education, family life, politics, political agendas, and of course the payment should be done by the government. and there should also be provision for sign language development and interpreter training and all teachers of the deaf throughout the country must be fluent in sign language.

There is something else that is not quite in this memorandum, just one point that I also want to put across, just one. There should be a way to stop the attitude of the society towards people with disability and the society should see people with disability as an equal. I am talking this out of experience. When I arrived here in the morning, I found hearing people here and when I said I was deaf, the feedback I got was very surprising. Okey, I know you cant communicate with me but you should respect me as a deaf person, don't give me an attitude. You can write down something for me. So this is a message to the society, so don't take deaf people to be, I am not a lion, I am just a human being like you, I can't eat you. So please when you see a deaf person don't be... treat them equally. I can write, I can read, I am a working lady myself, so please don't have a bad attitude towards people with disabilities. Thank you.

Com. Ratanya: Thank you very much Elizabeth, just hold on may be we have something to ask for clarification.

Com. Kangu: Now, Elizabeth you talked about citizenship and said that women should not be discriminated against. They should be able when they marry to confer citizenship on their spouses and on their children. Now, my experience along the border areas in Kenyais that even as we currently allow men to confer citizenship on their wives, some of them leave with their wives for ten, twenty years before anybody agree to give them ID cards. And the complains there are that so many people are / from voting because the don't have ID cards, they are not recognized but the law says that the husbands could confer citizenship on the wife.

So even if we allow women to have the same rights, they will suffer the same consequences because. Would you tell us what you think should be done about the procedures and the stages that should be followed before a spouse acquires the citizenship.

Secondly, Kenyahas different systems of marriages.

Mrs. Naliaka: On citizenship, okey, I know we always have this kind of problems especially when we are having other people from foreigners. So I think you see once you are married you know that this person is a Kenyan. I don't know about the hearing people but for the deaf, I will talk for those people who are deaf. You see us we know each other like let's say I marry

a deaf man from Uganda, probably he was schooling here in Kenya, so I would just say that they would get some sort of satisfaction from either the school or where they come from in that country their marriage certificate, I think either their marriage certificate something like that, that is what should be used now to...

Com. Kangu: That is the next question I was coming to, we have different systems of marriage. For those who go to church, at the end of the ceremony the pastor declares the man and woman husband and wife and everybody knows from there that they are married, but the majority of Kenyans marry under our customary system which are processes. Sometimes you never know at what point in this long process, the man and woman become husband and wife. So when addressing this issue of a foreigner who marries a Kenyan becoming a Kenyan. When dealing with such marriages at what point do we say the other person has become a spouse and should be given citizenship.

Mrs. Naliaka: I think maybe if they can go ahead and register maybe with the AG just to once they decide is formalized so that they get a certificate.

Com. Kangu: So are you suggesting that we say that all marriages even if they are done under customary law that some kind of certificate should be issued at a certain stage probably through the chief's office so that we know these are husband and wife or what do we do because there are many marriages in Kenya that are done under customary law and in some communities a woman may have lived for thirty years that he will be told because they haven't finalized in ukambani, they haven't paid three goats, she is not yet a wife. How do we address this?

Mrs. Naliaka: I think the only way you could, you don't have to have a wedding in order to have a certificate but I think just as we propose like a chief would give a certification of somebody in authority.

Pastor Ayonga: One more question, you talked about women to have a right to own land and where I didn't follow you correctly is when you said they should have land at their place of birth. From their parents and then you said when married also they have a right to have land from their husbands. Did I hear you correctly? If that is correct, why should a woman have land at the place of her parents where she was born and then have a land at the place of her husband. Is she having allegiance to all these places or is she doubting her stay at the husband's place. Why shouldn't the man also who married from your place have land there? Isn't this discrimination or lack of trust? How do you explain it?

Mrs. Naliaka: The reason I said this is that some people stay unmarried and then when they die where do they are buried or what would they could their own if they have children? And when you get married it is not a guarantee that you stay married so once that marriage breaks up when do I go to as a woman? And then also of course you know that there are those people who never bother about marriage at all. I am an example. I have never been married and I don't think I will be married. And if I don't have further, let us say my parents passes away, I have children and let's take for example I don't have a job, then how do I

take care of my children and myself. So this is why I thought that if my parents give me a piece of land, and especially once you are not given and your parents die, what happens to you. You know that is another question that I was thinking about when I am talking of this, especially where am I buried that is another issue, very important. I don't know where I would be buried if like now because I don't have a husband and I don't have land. So if I just have land in my small families home it would be better for me. If I get married and get another piece, it is good for me.

Com. Ayonga: Thank you mama. You can go now this side and have your name registered.

Mrs. Naliaka: I hope my views will be enshrined in the constitution.

Com. Ratanya: Okey, thank you very much Elizabeth. You have given your views and will be considered alongside others. Therefore we go to Sofia the next one. Sofia you also have a written memorandum, don't read your memorandum through but only highlight the main points because you have only five minutes.

Mrs. : This is the Muslim network and we have the following proposals. I am Sofia Kikato. The first one, to proclaim Kenya's political philosophy and principles, the constitution needs a preamble which should also state our commitment to safeguard and secure social, political and economic justice for the minority and marginalized groups especially women.

Two, all Kenyans regardless of their gender should have equal citizenship rights and should be allowed to automatically / on their children and spouses. Duo citizenship should also be a constitutional right. To uphold the rule of law and principle of separation of powers the Judiciary must be strengthened through the establishment of a constitutional court and an independent judicial service commission.

The appointment of commissioners and judicial officers should be subjected to Parliamentary approval but should have the security of Kenya once appointed. The kadhi's court should also be strengthened through elevation up to the court of appeal level. This will facilitate development of a distinct money legal system. The qualification of a kadhi should be clearly stated and should include a degree in Islamic study and a diploma from the Kenya school of law. To ensure that the rights of vulnerable groups are clearly addressed, the constitution should provide, procreation of special/ to cater for special interest groups such as women, youth and disabled persons.

The current provision for nomination which address quantity than quality, should consequently be scrapped to ensure adequate nomination without (inaudible). The new constitution must guarantee the rights of all citizens to legal interests through creation of the (inaudible) of criminal matters to provide legal aids to the poor and vulnerable groups. To uphold constitutional supremacy, and to ensure that constitutional amendment are not abused a constitutional commission should be set up and any amendment should be made through a referendum commission by Parliament on advice of the commission. And finally, to ensure

implementation of the current constitutional amendment, we suggest that the commission should also suggest corresponding legislative and administrative amendment in their draft.

Com. Kangu: Now, Sofia you have also touched on the issue of citizenship, would you kindly tell us about what kind of rights and obligations citizens should have. When you say spouses should confer citizenship that rises the question of deferring types of citizenship. That rises the question for deferring types of citizenships and I would like to know whether it is your position that therefore the rights and duties that accrued to citizens should also be differentiated for instance if I were to get a good lady from another country as a wife can that lady be entitled to becoming a Kenyan President or something of the sort.

Mrs. Sofia: No, because there are some persons born in Kenya,

Com. Kangu: (Interjection inaudible).

Mrs. Sofia: I just reckon the issue of presidency because in our memorandum we said one of the qualification is that they should be born in Kenya because we don't want /. Okey, just one thing there is a question here and you asked about the constitutional court. I just wanted to clarify that the constitutional law should be at the level of the high court and should have as many judges as possible and if possible they should be more than one. We should have like in Mombasa or in Kisumu and other places so that it can be closer to the people. Thank you.

Com. Kangu: A question on that, the current position is that actually our high court is the constitutional court and Kenyans are dissatisfied with that. Why should we have a constitutional court as a middle-run court instead of being the highest court. If the constitution is the most important law I would have thought that it should be interpreted by the highest court in the land. That is the final court.

Mrs. Sofia: Our suggestion is that we should have a two levels of the constitutional court. At the high court level to make sure that all citizens regardless of the geographical have access to the court and running at the supreme court level for matters which cannot be reported at the constitutional court level and should be permanent instead of the Parliament instead of the / we have at the moment.

Com. Ratanya: Thank you very much Sofia for your views and then we go to the next person who is Daniel G. Wambiri.

Mr. Wambiri: Asante sana bwana chairman. Mimi nilisema sitaandika kwa sababu nilikuwa tayari. Daniel Gichuchi Wambiri. Nilikuwa nafikiri maandishi yangu ililetwa hapa.

Com. Kangu: We are recording Verbatim. Tunataka kunasa jina lako.

Mr. Wambiri: Mimi nilikuwa nataka kuona vile ambavyo ningetaka maoni yangu kwa constitution iangalie. Nchi yetu imekuwa na rotuba nyingi miaka mingi na tumekuwa watu wa kupata mapato kutoka kwa nje, kupewa loan na serikali ambayo iko wakati huu haingeweza kulipa loan ambayo walikopa. Na kwa vile nchi yetu ina rotuba ambayo ingeweza kutosheleza sisi kama waKenya kuwa na utajiri hata ya kusomesha watoto kama vile tumewasomesha na ambao sasa hawapati kazi.

Kazi kama ya maziwa haijahudumia watoto wetu ambao wako katika taabu na wamesoma katika university, na degree wamepata na hawapatikani. Ningeonelea constitution ambayo imekuja tuangalie mambo ya kukopa na kukosa kulipa. Unawezaje kwenda kwa benki ukope pesa na hauna resources za kulipa. Na ikiwa una resources kwa nini nchi yetu iendelee kukopa. Hiyo ni point ya kwanza.

Point ya pili, kuna mambo ya vichaka. Serikali ya uingereza ilichukua vichaka vyetu, na vichaka ambavyo walipendelea zaidi ni kama upande wa Rift Valley pahali rotuba iko nyingi na mavuno ni mengi, malisho ni mengi na watu wetu wengine ambao wako katika serikali hii wengi wako na vichaka kubwa na watu wetu wanateseka. Hata wakati wako sasa ni kama Kibera, wanakaa kwa sababu hawana kichaka. Na nasikia wengine wanaenda 'ushago' (rural areas) kupeleka mtu akifa mahali anakufia wazazi wake ni acre kama mbili na ni watu wako na mabibi karibu tano na watoto ni zaidi ya kila bibi, ana watoto ishirini.

Hii inatakiwa iangalie sana kwa sababu wengine wana vichaka karibu acre million moja au mia tano na wengine hawana kichaka. Hii mambo ya review kutoka kwa commission of lands kama ile iko iangaliwe katika constitution yetu hii kwa sababu watoto wetu tunaendelea kuzaa na ndio kwa ajili labda kunaletwa mambo ya /. Watoto wasizaliwe wengi kwa sababu wengine wana vichaka na hawataki kuachilia. Tunaona hapo kuna kitu tunataka kuangaliwa na constitution ile mpya.

Com. Ratanya: Daniel hapo kwa sababu unapeana maoni yako, ungependekeza nini kwa hayo mambo?

Mr. Wambiri: Ningependekeza hii mambo ya commission ya Njonjo ishirikiane na commission yetu ya vile tutashirikiana katika constitution mpya.

Com. Ratanya: Nilikuwa nauliza utapendekeza acre ngapi kwa kila mtu?

Mr. Wambiri: Ikiwezekana kwa sababu wenye kupata pesa hawana pesa ya kutosha kununua kichaka hii maneno iwe ni serikali yetu hata kama ni forests tukiangalia mambo ya forests mambo ya jangwa isiweko lakini nayo commission iangalie watu wetu wangepatia vichaka allocation of land zaidi ya kama mia mbili kwa kila mzazi ambaye ako na watoto zaidi ya miaka sita. Nimesema mia sita ndio wagawanye kiasi ambayo wanaweza kuishi wajipatie mapato.

Com. Ayonga: Mtu anaweza kuwa na watoto mia sita?

Mr. Wambiri: Nilisema tu kwa mfano kwa sababu saa ingine unasikia kuna watu ambao hata siku hizi wanaoa mabibi nne na kila bibi ana watoto ishirini. Anaweza zaa hivyo kwa sababu hata wengine wanawachiwa watoto na wasichana ambao hawana mahali ya kuolewa, watoto wao wako katika mama na ukihesabu hao watu ambao wako katika hiyo homestead ni zaidi ya hiyo mimi ninasema.

Com. Ratanya: Pengine sasa huna wakati mwingine lakini commissioners watauliza maswali kama kunayo. Daniel asante sana, peana memorandum yako kama iko na halafu tutaangalia hayo maoni yako. Asante sana. tuende kwa Macharia Mwangi na Macharia kumbuka kwanza kupeana jina lako na una dakika kama tano hivi kumaliza. Umeambiwa uendelee bwana Macharia Mwangi.

Mr. Mwangi: Thank you very much Mr. Chairman and my names are Macharia Mwangi and I would like to present and I would like to present today's constitutional review committee because I am a born again Christian in our law and in our law enforcement officer I know that there are laws of the land which are against the word of God and for this reason I want all these secular laws if possible to be rectified as far as Christianity is concerned. For example in section 151 of the CPC or the Criminal Procedure Court, it states that any witness in a court of law before he gives evidence must be sworn in. When we come to the word of God, and this is written in the book of Mathew 5:33-37 Jesus Christ saying do not swear with anything, either by this world or by heaven or by your head. When you are talking let your yes be yes and your no be no.

When we come to the law of the land, we see that we are forcefully compelled to swear when we are in the court of law. And when we swear before God, there is no difference between us and a murderer or a thug who has stolen because the God who said do not steal is the same God who said do not swear. So as far as Christians are concerned should be removed completely by our constitution.

Secondly, as you are here as the commissioners of this review you are undertaking a very good job, perhaps they are repaying. But could I have been appointed I could not have taken the job because at one stage or the other I would be compelled to swear and I cannot swear because I wont be faithful my God. So that is one thing. The other one is, when we get into the courts of law, we are supposed to bow down in honour of the court of arms which is normally placed ahead of the magistrates or the judges seats but going back to the word of God, in the book of exodus 20:1-4 this is the first commandment of God. The bible says that I am your God.

Com. Ratanya: Hebu ngoja kidogo Macharia tungetaka utupatie yale unayo ili yaingie katika katiba tunayorekebisha lakini mambo na mafundisho mengine kama yako kwa memorandum yako tutasoma. Just give your recommendations lakini si kufanya kama seminar utueleze, utuwekee mapendekezo yako.

Mr. Mwangi: Nafikiri mmesikia hayo kwamba habari ya kuapa kotini ama kuheshimu hiyo vitu iondolewe kabisa kuwe na msaada wa kikatiba kwamba mkristo hatalazimishwa kufanya hivyo. Kitu ingine ya pili ni kwamba mamlaka ya rais yapunguzwe na awe kwamba akifanya makosa ya kisheria pia anaweza akafikishwa katika kotini. Na muda wa rais kutawala ningependekeza iwe tu ni term mbili kama vile katiba ile ya sasa inasema na isiongezwe ama isipunguzwe.

Kitu kingine ningependelea kusema iangaliwe sana na katiba ni anti-corruption authority. Iingizwe kabisa katika katiba, itambuliwe na katiba ya Kenya tena iwe kwamba in mamlaka ambayo hakuna uwezo mwingine tuseme kama Executive powers inaweza ikaandama hawa wale kwamba wanafanya kazi kwa uoga. Na kwa sababu ya insecurity iliyoko katika nchi hii, sasa askari hata nikiwa mmoja na polisi wamekuwa pia ni mikora mimi ningependekeza katiba itambue kama committee ingine haitakuwa na uwezo mkubwa ya kuangalia vitendo vya polisi na kuwachukulia hatua na iwe katika katiba yetu ya Kenya.

Kitu ingine ningependa katiba ya sasa iangalie,

Com. Ratanya: Sema sasa ya mwisho bwana Mwangi.

Mr. Mwangi: Wale watu ambao wamekuwa disciplined wakati wa clashes, wakaondolewa sehemu zao na ikawa hawawezi kurudi pale. Ningependa katiba iwaangalie na iwapatie mamlaka ya kurudi pale mahali ya mashamba yao ni hiyo.

Com. Ratanya: Okey, nashukuru sana bwana macharia na sasa peana memorandum yako ama u-sign kwa register. Kabla ya kuita mtu anayefuata ningetaka kuwakumbusha kitu kimoja, pengine wale wameingia sasa, tulipoanza mkutano wetu wa constitution of Kenya review commission hiki ni kikao chetu cha hiyo commission si kama baraza ya kama chief ama wengine lakini ni kikao cha kurekebisha katiba. Na msilogope lolote, hata ukisema yoyote ni maoni yako hakuna mtu hapa anaweza kushtaki ukiwa hapa ama hata ukiwa nje, kwa sababu ya maoni yako. Kuna hiyo freedom na hiyo assurance nimewapatia kwamba useme lolote ambalo linahusu kubadilisha katiba usilogope. Na sasa ningetaka kumuita Rachel Wachira.

Mrs. Wachira: Asanti sana na mimi naitwa Rachel Wanjiku Wachira, I am here to represent the PCEA that is Presbyterian church of East Africa, Presbyterian council of milimani. The presbyterial council of milimani composes of the various parishes who have submitted their submission Karen Parish, Loresho, Kibera, Kangemi, Riruta, Nairobi West, Langata, Dagoretti, and St. Andrews Parish. So the views are contained here in, they are written, and they are documented. I just want to highlight a few of them, about appointment of public officers, the recommendation of public officers should be appointed in a transparent manner and they should be qualified for the job they are appointed to do. Appointments in they are appointed to do. Appointments in the Judiciary should be the same, they should be people of integrity and people who qualify to be judges and to be magistrates.

The quarter system to be abolished because our view is that every province has been given equal opportunity in every respect

and the quarter system appears to give an added advantage to some provinces.

Liberalization of the economy- we are suggesting that liberalization be abolished because it has caused collapse over industries because of cheap imported products. It has also caused the liberalization of the interest rates in the banks. We are suggesting that it be abolished because our interests are very high it has caused people to take loans, which are reported to them and their properties being sold. Prosecution of offenders. We are suggesting that justice should appear to be done in our cost. Offenders should be punished and prosecuted accordingly. Irrespective of their social status.

The cost should also ensure that there is / to funds embezzled by public officers irrespective of their social standing. We have officers who have embezzled and caused corrupt over parastatals and those people are still in offices, some of them are ministers today and yet they have caused collapse of parastatals.

Appointments of the President– we are suggesting that the tenure should be two year terms of five years and he should be a person of integrity, he should be a family man that is married, and he should also be mature between the age of 35 and 75 and we are also suggesting that the President should not be above the law. And he should be prosecuted for crime committed while in office.

Drug abuse and alcoholism, we are suggesting that our government should look into this, because there is a lot of drug abuse and alcoholism and this has made our youth of our men to really become like gabbages. We are suggesting that the government should keep that instead of our government perpetuating growth of drugs like bhang in Kenya and things like that. inheritance of the widows, we are suggesting that the government should enforce the shortage of that income of the type because it has perpetuated the (inaudible).

Retrenchment - we are suggesting that if the retrenchment has to be done the people retrenched should be compensated adequately. We are also suggesting that Kenya should not be like a haven for terrorists. Kenya has appeared a place where terrorists can hide and where we are also being used like people who are fighting terrorism. The quality of women in appointment, we are suggesting that women should be considered in public appointments. We realize that we don't even have even a single woman minister in Kenya unlike our neighbours like Uganda and Tanzania where we have such.

We are also thinking about the street children and we are suggesting that the government should look into the issue of the street people and provide adequate accommodation for them. On abortion, we are also suggesting that abortion should not be legalized, homosexuality should not be legalized in our country, those are foreign cultures, westernized cultures which we should not adopt. On agriculture, we are suggesting that agriculture is the main stream of our economy and it is the support for many of the families and we are suggesting the organizations that used like KFA, like the KCC which we are sure helped many of us here to get adequate education, they should be put in place and safeguarded so that our people can get adequate support, both

in the villages and also in the economy.

Com. Ratanya: Rachel, try to wind up.

Mrs. Wachira: Child abuse- we are recommended that your commission should look at it in a very very transparent manner. We are also suggesting let me just read a bit the forwarding letter, we say during our deliberated upon by your committee with the seriousness they deserve. It is our sincere hope that you endeavour to achieve the deficit if the committee was set. You wouldn't want your commission to be like the famous commissions which have been forced to form in the past and we have never known what they decided or what the recommendations were.

We shall continue to pray to the almighty God to help your commission with speed and efficiency and courage and remember that we can only succeed if we are attended by the Lord Almighty. Thank you.

Com. Ratanya: Thank you very much Rachel. Just hold on.

Com. Ayonga: Thank you mama for praying for this commission, we want prayers because we want to come up out with a document that Kenyans would say it was a good constitution and we were part of it. this is why you people have come here this morning, but before we do that I want to ask you some two few questions and we want you to expand on what you said. You talked about embezzlement of funds that have taken our country and our government into poor kind of economy because someone sitting there has embezzled their funds and yet the same government leaves this particular person, higher offices elsewhere. You talked about that?

Mrs. Wachira: Yes, I did.

Com. Ayonga: But mama you didn't tell us what should be done. A person has embezzled, yes, a person has eaten the funds, what would you like to see done about this chance that have been taken. You haven't given us suggestions whether you want to see those funds brought back, you didn't tell us whether you want to see this person prosecuted in a court of law.

Mrs. Wachira: I did that and I have written down here that there should be / and all the funds should be refunded, the person first and foremost should be taken to court so that the funds which they have taken are brought back or the person is jailed if he cannot refund the money back.

Com. Ayonga: Thank you, if that is there, thank you so much. Second question, this is regarding the street children, you said that we have many street children and that the government should take care of it. now, in order for the government to take care of the street children, you and I must be taxed highly and yet up to now you and I are taxed very high. Where does the

government get funds to care for these street children because the government is you and me.

And before you answer, wouldn't you suggest a way through which we can get rid of street children in a much natural way because these children somewhere, they have a mother, somewhere they have a father but they have found that coming to the streets and there are those who encourage them go to the streets and at the end of the day you bring something. And as they grow looking at the people in the streets, they begin to know that you are carrying some money in your bag, you are carrying this, you are carrying that, then they turn into thieves.

Can't we look for another way, a natural way, humane way of kicking this, and this is a kind of view we want because the government has been trying to care for them and yet we have not succeeded. You and I have tried to pass a few coins to these street children when they come and say mama sijakula kitu nataka pesa ya mkate. You give them something for mkate but that is not a solution. We want a long-term kind of solution and this is what you talk about.

Mrs. Wachira: I believe that we are taxed highly already; unfortunately the money that we have been taxed has not been put into proper use. We keep wondering where that money goes because we are very very highly taxed more than any other African country probably more than any country probably in this world. So what we are suggesting is that the money which has been put or brought from tax should be put into the right queue. We have put it down but also we are to think about the problem we have right now. The street children and the street people are there so even if we are going to think about the long term plans of getting people to be responsible and discourage them also from coming from the streets we have to think about those who are already there and we are suggesting that the government have to do something about relocating them and also of starting projects for them, encouraging them to move from the streets.

A case in point is where the St. Andrews church has started a home for the street children in kitengela. We already have many boys there who have forgotten about the streets, they are going to school, some of them are already in secondary school although they came to the home with small children. So, why can't the government do something like that? I know also that the chief problem is caused by poverty. Some people have been forced to be on the streets because of poverty. So if the people's standard of living is upgraded I am sure that this problem of the streets will not be there. Why was it not there in the 60s and in the early 70s? it is because of poverty. Some of us feel like we want to go to the streets to beg also because we don't have money. So the government still has a responsibility.

Com. Kangu: Please don't go. Now, when you talked about the President you said that he should be a family man (married) and our women are aspiring to becoming presidents. You didn't say what should be if a President is a woman and the reason I am saying that is because I know very many women have told us, Naliaka was telling us there are many women these days who choose not to get married and these days it is not a must that you should get married and we know of very many Kenyan women well educated, capable of a lot of things who are not married.

Now, if we say that if anyone wants to be a president, he or she should be married. Would we be looking out certain people who are capable to we know we come from a religious organization, you know your brothers and sisters in the Catholic Church, they believe in sisterhood and brotherhood. I am imagining a day when a judicial Ndingi Mwana a Nzeki will say words with the president. With that rule you will be telling that you are not incapable to be the President and the question will be what is so special about marriage that will stop Ndingi from being a President if he wanted to.

Finally, there are those who marry and the marriage doesn't work. Sometimes they tried as much as they could but it can't work. Sometimes not for their own, not because they are to blame. There are women who have left their marriages because their husbands are battering them day-in day-out. Not that they wanted to divorce. One of the most respected African leaders we know of Nelson Mandela divorced while he was in office as the president. he was not told to quit the office because he had stopped. Can you tell us what is so important about this issue of marriage?

Mrs. Wachira: We believe that what we have seen that is on the example we have seen is that there appears to be, if somebody divorces and we don't even know why the person divorced, we don't know what is going on. There appears to be a bit of irresponsibility and as a matter of fact those are my own views and what we have seen now for the last several years we see cabinet ministers going for meeting, going for functions alone because probably they are not allowed to go with their wives and the kind of behaviour we see is not the kind of behaviour you would expect from cabinet ministers. So we don't want to take the recommendations wholesale.

We are taking it because of the cases in points of rape and your right when you say that some of the people we have like ladies are very responsible and who can also take a position of the President but we are thinking that a lot of time when women are single, they tend to be more responsible than single men who may have divorced or who have decided to be single and that is why we said that the person of the President should be a married man.

We actually say that he should be married. If we are saying that he should be married just like that, it would include the woman but we are talking about the men because I believe that you also appreciate that a man who is married with a family will tend to be more responsible than these single men who have chosen not to married. In the case of Ndingi really we should not be thinking about that because that is an unusual case. That is a person heading an unusual case.

That is a person heading a religious group and / in his own life, he is actually supposed to be unmarried. So in that case it is not acceptable but for women we are not including women in this particular category because a single woman, a single mother will tend to be more responsible than the unmarried men.

Com. Ratanya: Rachel I think that there is something just very slightly. You know the President is the senior post public officer

that is how we take it, the nation and head of state. Now, would you like to extend the same favour or the same qualifications to other public officers like ministers, even the Chief Justice, all those public officers who are below the president? Would you also recommend that they should be married men and women, to be maybe AG or Chief Justice or minister?

Mrs. Wachira: That would be our recommendation but also we have said that the person should be a person of credibility. Credibility includes many things. It includes social credibility, political economic and everything else. So let us not really narrow ourselves down to the marriage thing because there are factors that will qualify somebody leaving a person the marriage situation, but we had put this down because of what we have seen in the years.

Com. Ratanya: Thank you very much Rachel. Unajua hayo sasa ni maoni ya Rachel na women organization yake na nilisema kila mtu ana right kusema lolote. Na wakati tunauliza mtu kama Rachel, we are not actually harassing anybody, but we would like clarification so that it will be useful in the amendment of the constitution.

Now, I would like to remind those who have just come that if you have a memorandum, you have only to highlight the main points because we want to save time. We don't want to be here up to midnight and we are going to allow everybody all those who have registered to contribute. If you have a memorandum again you can just present it you sign there in our register and go without even saying a word but if you like to highlight points take only the time we have given you. Oral presentation has got more time. So let us try to keep time now. The next one is Zuhura Wangui.

Zuhura Wangui: Asante bwana mwenyekiti, kwa jina naitwa Zuhura Wangui kutoka Muslim sisters network. Nataka kuzungumzia kuhusu uraia. Mtoto yeyote aliyezaliwa nchini Kenyaau mtoto wa mzazi mKenyaau mtoto aliye pangwa na mzazi mKenyakama, kwa mfano wasomali, watanzania, waganda hata waburundi. Kwa mfano mtoto aliyezaliwa uingereza huwa ni raia wa uingereza.

Idara ya mahakama – vyeti vyapaswa kuwa vikiangaliwa. Shahada ya chuo kikuu wawe wanasifika kwa uzuri. Majaji, wawe wanazungumza lugha ya taifa, wawe wana umri usiozidi miaka sitini. Pia kadhi na kadhi mkuu wawe na cheti cha uakili cha chuo kikuu, pia vyeti vya Islamic sharia pia wawe wamehitimu kutoka chuo cha sheria cha kenya. Pia waajiriwe na tume ya huduma za mahakama kwa pendekezo ya vyama vitatu vya kiislamu, young muslim association of kenya, bilan muslim of kenya, supreme council of Kenyamuslim.

Tunapenda ya kwamba koti ya kadhi ijadili haya mambo ya watoto, mali ya ndoa, mali ya wakfu, usimamizi wa shamba la mwislamu aliyefariki, waislamu wafurahie uhuru wa kuabudu na kutekeleza sheria itakuwa muhimu, koti ya kadhi ikipewa mamlaka ya juu. Ni hayo.

Com. Ratanya: Asante sana Zuhura, ngoja kidogo.

Com. Ayonga: Mama Zuhura, umesema juu ya uraia na ukasema mtoto yeyote aliyezaliwa kenya. Sasa mama hebu tuangalie hivi, kuna wasafiri, tuseme mtu anatoka Tanzania na kwenda Uganda na mama unajua yale mambo yanatokea wakati wowote na huyu mama alikuwa ni mja mzito na akazalia mtoto kenya, yuko safarini. Sasa huyo mtoto aitwe mKenyakwa maana aliyezaliwa kule ulaya, uingereza ameitwa mwingereza?

Zuhura: Hapana, sio hivyo. Kwa mfano tuna wasomali hata huko kwa kijiji tunaishi. Hao watoto wamezaliwa huku na hao watoto sasa wameambiwa waende wakachukue ile Somalia. Wazazi wao ni wasomali lakini watoto wamezaliwa kenya. Na wazazi hawana uraia wa kenya. Wazazi wao hawana uraia wa kenya.

Com. Ayonga: Na habari gani juu ya hawa refugees ambao wamekuja hapa nchini wakizaa mtoto awe mkenya?

Zuhura: Sio hivyo.

Com. Ayonga: Itakuwaje? Si na yeye ni mtoto amezaliwa?

Zuhura: Yeye ni mtoto amezaliwa lakini hao sisi tumewahi kuwaona ni wale wamezaliwa kwa kijiji. Yaani mamake ameishi muda mrefu sana huko muslim.

Com. Ayonga: Ndio lakini mtu akizaliwa kwa kambi ya refugee anakuwa tofauti aje na aliyezaliwa kijijini ikiwa wazazi si wakenya?

Zuhura: Sasa hao wa kutoka hao ma-refugee wao walikuja Kenyalakini huyu ni mtu ameishi Kenyatangu sisi tukiwa wadogo.

Com. Ayonga: Jambo jingine, umesema waislamu wafurahie uhuru wa kuabudu umemaanisha nini?

Zuhura: Wafurahie kadhi akipewa mamlaka ya juu.

Com. Ayonga: Huo ndio uhuru wa kuabudu? Asante, unaweza kutuachia maandishi hapa na uweke kidole.

Com. Ratanya: Zuhura asante kwa hayo maoni yako na anayefuata ni Hussein Mohammed.

Mr. Hussein: Asante mwenyekiti, mimi naitwa Hussein Mohammed hapa KenyaScience, katiba yangu tu ni madogo tu mafupi tu. Katiba mimi naona Presidenttuwe term mbili isiongezewe tena. Nafasi yake, yeye mwenyewe achague, si eti wananchi

wachague kwa maoni yangu. Upande ya kimila, mtu asiwache mila yake iwe ile ya zamani. Sababu ya kusema hivi, nitafafanua kindani, kwanza hata mimi ni mwana Kenyahalisi, ni msomali lakini ni mwanakenya, nimezaliwa Wajir. Mtoto yeyote ambaye ni mwanaKenyaamezaliwa hapa. mimi nimezaliwa kenya, wazazi wangu wamezaliwa Kenyalakini mimi nimetoka kitambo sana, niko rift valley.

Kipande changu sikukata wajir, nilikata mahali inaitwa / na zamani zilikuwako wakati mtu anakata kipande mtoto yeyote amezaliwa kenya. Kama wewe uko kakamega, kama wewe uko wapi, unakata kipande unapatiwa kipande lakini unataja mahali unataja mahali umezaliwa lakini siku hizi imekataliwa.

Mimi nimezaliwa Wajir na watoto wangu hawajui Wajir, wamezaliwa Rift Valley wamezaliwa mahospitali kubwa kubwa, leo wanaambiwa wanaambiwa waende Wajir wakate kipande. Hiyo ni haki? Mimi naona hiyo ni ubaguzi. Kama wewe ni mwanakenya, kipande yako ni mwanaKenyamimi najua wewe una freedom ya kukata kipande kila mahali. Kama wewe uko mahali na serikali inatoa kipande ukate mahali wewe uko lakini taja mahali umezaliwa.

Nisiambiwe sasa mimi nakaa Rift Valley niko na farm yangu niko na shamba ya acre kumi yangu na watoto wangu wanakaa tangu 1976. Leo wamesoma, wako shamba yao leo waliambiwa waende wakakata na sio mimi peke yangu. Hata wale waluhya, wale wa kabila zozote. Wale wako hapa wanaambiwa sasa waende warudi nyumbani au wakate kipande. Ni haki kweli mtoto ataenda wapi kwa nini hapana patiwa haki yake kwa sababu amezaliwa hapa Rift Valley na hajui mahali pengine? Na amezaliwa hospitali ako na certificate, aliambiwa aende nyumbani mahali baba yao amezaliwa na baba hajui huku, hajapeleka.

Mimi nataka iwe freedom mtoto mwanaKenyayeyote akate mahali yeye yuko. Mambo ya barabara, mimi naona maoni yangu, irudishwe ministry of works ya zamani. Si eti mtu binafsi apatiwe barabara atengeneze. Youth, national youth service na ministry of works ipatiwe nguvu irudi ya zamani vile ilikuwa tu zamani, kwa maoni yangu. Mambo ya utajiri wa mchanga- tunaomba chakula watu wanasikia njaa na tuko ardhi ya kutupa. Kwa nini ministry of agriculture haitoi land ya kulima na watu wapate kazi?

Haya mashamba ya serikali ipatiwe land, ministry of agriculture ilime. Mambo ya nyumba ya serikali, mali ya serikali yote irudishwe. Hii ya kuuzwa ikae, serikali iwe kawaida yake.

Com. Ratanya: Umemaliza sasa Hussein?

Mr. Hussein: Bado nakuja upande wa akina mama. Upande wa akina mama, mambo ya kusema mwanamke na mwanamume iwe the same, yes, we agree sababu tumeoa, tuko na watoto, tunaheshimiana lakini we never come together. Mimi najua mwanamume ndiye yuko kwa nyumba na kwa sababu ya kusema namna hii, unasema mama apatiwe shamba. Okey, shamba

nitakupatia shamba, ni yako. Watoto nimezaa, wote wako kwa shamba. Mimi najua wote wako nayo kwa hiyo shamba yangu. Shughuli tofauti ya hiyo mama ni mimi nilitoa mali. Wakati mimi naenda kuoa, mama halipi mali kwa wazazi. Mwanamume ndiye analipa wazazi kwa mali. Sasa imekuwaje, leo mimi na wewe tuwe grade moja.

Kama sisi tuko waafrika, sisi sio wazungu, basi tukubaliane sheria ya tuwe pamoja, kama mama alipwe hata wazazi wangu nusu lakini kama hakuna shares pia tuna-share mimi na huyu mama katikati mimi ndio nalipa mali yoyote kwa wazazi napiga magoti. Napiga magoti nasema nipe mtoto wako huyu nataka akue bibi yangu. Mimi ndio natoa mali yangu yote, niliua shamba yangu. Je, sasa hiyo ni heshima itakuwako sasa kama mama anaye hata pia akina mama watoe mali kidogo kwa wazazi.

Com. Ratanya: Bwana Hussein, jaribu kutupatia mapendekezo yako yale ungetaka yaingie katika katiba ambayo tunarekebisha.

Mr. Hussein: Basi mimi nataka iwe heshima iwe ya wanaume tu. Yangu ni hiyo.

Com. Ratanya: Asante sana Hussein. Pengine commissioners wangetaka kuuliza. Asante sana Hussein. Sasa nenda kwa register yetu uweke sign yako hapo. Asante kwa maoni yako. Na kuna huyu anaitwa Ng'ang'a Atinga. Mtanisamehea kwa sababu majina mengine ni mapya ama yameandikwa vibaya lakini ukisikia limoja tu uingie. Huyu ni Ng'ang'a Atinga. Ng'ang'a Atinga yuko? Okey, mwingine ni John Kinyanjui. John Kinyanjui yuko? Hata Kinyanjui hatomwoni. Simon Kamuyu. Miriam Ambetsa. Okey, Miriam endelea.

Miriam: Thank you. My name is Miriam Ambetsa. I would like to recommend the following things. On civic education, I would like to say that it should be continuous even beyond the constitutional review process. Citizens of the country benefits and what we are treated for as citizens.

My second point, the media bill should be outlawed. It was passed in the government recently and it was recommended as a Parliament bill but as we can see it restricts the country's independence and freedom of expression.

My third point, caning of children in public schools should be restricted. It was done last year, but some schools still continue caning children. Some of them do so thoroughly that children are injured in the process. Luckily as a way of poverty eradication there should be equal distribution of land. Equal in the sense that at least each family should have two acres of land and maximum of 80 acres. Thank you.

Com. Ratanya: Sasa Miriam, asante kwa hayo maoni yako na upeane kama una maandishi upeane pale. Na u-sign register yetu. Na sasa tungeendelea kwa huyu mwingine, anaitwa Isaiah Kinyajui. Isaiah hayuko. Okey, mwingine ni Moses P. Imonje.

Mr. Imonje: The commissioners, my names are Moses Paul Imonje. Now, I feel that the constitution should have a preamble to create a one party state because we have seen the mess that has happened since 1953 and I hope Kenyans will not go back to that situation.

The presidential term should only be two terms. It does not matter whether he is a good man or a bad man because he is not going to be there forever whether he is a good President or a bad one, a maximum of two terms and the seat is left for somebody else.

The President should have a minimum education of a bachelor's degree. We don't want fellows who are manipulated because they cannot understand what is going on. The age of a President should be limited between 35 and 75. That means the oldest President at the time of retire should be 80 and not more than that.

I feel that we have run into problems because of individual worship. National resources being used to bribe individuals for loyalty. We must create a system whereby these appointments if we are talking about permanent secretaries, if you are talking about Chief Justice the persons must be recommended by the President vetted by Parliament and has to be $\frac{3}{4}$ of MPs to approve before that person is finally appointed, because in Kenya as we stand, we have people who don't know what they are doing.

Holding jobs, messing up when we have indigenous Kenyans who have experience and knowledge walking on the streets. As far as Parliament is concerned, I think we should put a seat on the number of seats that we should have in Parliament. I don't think that is so important that it should be draining public resources that increased up to 2 something, it has made no difference, and the increase in number is just to create room for individuals. We should limit the number of seats than it is now. I think it is 222 or something, or 210 not behold that.

The nominated MPs should be only five, to be nominated for a specific purpose, not for voting purposes but to bring in talents that may not be within that Parliament. Not bring an illiterate guy who cannot read and write because he is your support.

Now, if in the course of Parliament an MP defects, that MP should not be allowed to start until that Parliament period is over because if defection is causing the public offers a lot of money just for the purpose of individuals making money. If someone decides to defect, he must go and wait until the next election, not a by-election so that hopefully it can minimize the number of defections of fellows changing parties because they are being paid. And then basically I think we have really to put institutions that will stop the President from misusing the other arms of government because you cannot have three heads.

If the President is the head of state, with the present structure he can manipulate the judiciary, the Legislature and that independence is not seen to be there. We should have systems that hopefully can have that to be seen to be there. I personally

feel also the President should not be an MP. If one has to stand as a president, he should just stand as a President and not an MP because being an MP causes a lot of confusion, you have a man or a woman who should be looking at the country as a nation, at the same time he has to worry about a small pocket. His constituency should be the nation not a smaller area.

Com. Ratanya: Thank you very much Moses, just hold on.

Com. Ayonga: Bwana Moses, you have a beautiful name. The name Moses as we know from the Christian point of view was of a man who led the children of Israel from Egypt into the promised land, even though himself never entered the land. I have something heard something here that you said that I need some clarity, you said the president's education should be a minimum of a bachelors degree. Was that correct?

Mr. Imonje: That is correct.

Com. Ayonga: Then that being correct, why should leadership be tied with this kind of requirement? I know education is very important and education we should not look at it from the bookwork education. There are so many things that we learn as we live. There are so many things we can learn from our grandfathers and ancestors that if they were put into a book, they would lead you into a PhD. Now, for you to say a bachelor's degree should be a minimum requirement, I have some two people that I would like to mention to you who are being good leaders, who have led their countries and their countries are so advanced more than ours.

You remember the man Wilson Churchill. He never saw the gates of the university and yet many of us have always wanted to have a degree from Britain. When a person says I am from Oxford University, you go slowly, you don't talk too much. When a person tells you, when you when we sat for Cambridge school certificate, that person is no joke. Because we have been thinking that good education has come from that country, but when it comes to leadership, this is another another area that you and I should give consideration.

Churchill led his country during the time of war, during the time of despair and he got the UK out of the problem. Another recent person I want to remind you is Mr. John Major. John Major doesn't have a bachelor's degree but he was a great Prime Minister . The reason I am saying this, not that education is bad. But I would like for you to tell us why you think it must be a bachelor's degree then we can find solace of good leadership from a degreed person.

Haven't you seen some people who have made their parastatals of a degree people. Is there any magic in having a degree when it comes to leadership?

Mr. Imonje: Let me say this, you are right in one way and not the other. Major was not....to me he didn't achieve very much,

although it is a question of debate. The reason some of those fellows have been seen to work well is because they have civil service structures that have those and he never interfered with them. But we have situations where when the fellow who is at the end doesn't understand and you have given them so much powers like we have done and he destroys the very supreme of the government structure then you are dead.

Then we have also statistics, if two out of a million did well, you cannot use that to say it should be the law. That's basically what I am saying because if you are a well educated person even any advice you are given, makes sense to you.

Com. Kangu: Now, mzee Imonje you have told us that the President should have a degree and of course at one point you lamented that people are nominated to Parliament. You didn't give us the qualifications you require from MPs, the qualifications you require from councilors at the academic level, would you like to touch on that.

Two, you emphasized the preamble should emphasize that we will be a multi-party state throughout. You also said that if the MP defects he should be not allowed to participate in the by-elections but I understand as a people who really strongly believe in the right to associate with whoever they want. I am imagining a situation where the constitution states that we must be a multi-party state but we reach a point where all the parties is reduced to one. Will we say that we cannot have one.

I can see Kenyans are now moving in that direction we recently read that the party is in the national alliance and now looking forward to forming one party. Will we be interfering with the people's rights to associate if we reach a point when we want to be one party and then of course the issue of defectors, will be tying an MP to one party for five years even if he feels he has a right to associate with such other issues. He should move from one to another.

Mr. Imonje: Mr. Commissioner, what I am trying to address here is, an MP is supposed to be a leader, an MP is supposed to think about the future. What does he stand for? He is not to be a man who is looking for money. Purely, he is not there for money, then he is not providing the right leadership. If I am going to join a party I must know what that party stands for and I should not be swayed tomorrow that change the party without any substance.

I know my MP changed the party but he didn't know what the hell he was doing. He was just going to make money. He didn't even make good money anyway because he didn't have it. When you have a by-election, you are actually causing the / a lot of money. So, an individual must make up his mind. If he is not sure if he is wants to be reserved, he should not go into that. If he hopes to be a leader or if he thinks he is a leader.

Qualifications, I think basically even at councilor level let us have at least form four. Form four should be the minimum for whether he is a councilor or an MP.

Com. Ratanya: Moses, there is also something else we would like you to clarify you mentioned about natural resources. What would you recommend. Can you give specific recommendations. That is one, and another one, you recommend only 210 MPs. Now, because you know these are based on number of constituencies, in future this can be increased to 300 constituencies, can we go by that.?

Mr. Imonje: Actually Mr. Chairman, as I said, I don't think MPs as such had a lot of value. For all I care, you could have 10 MPs for the whole of Kenya. We must try to educate our people that not every small clan or village should be represented. If we have a system that is just, then my brother, my cousin doesn't have to be a President but people are clammering for being President because they know, if my villager becomes a President I will be the next chief secretary, I will be the next chairman of whatever parastatal. And that is why you even the heard handicapped wants to be represented in Parliament.

Com. Ratanya: Let me interrupt you Moses, instead of explaining that, can you specifically say as we have, as you have said 210 constituencies and that will remain and then you try to clarify how do we go about getting those 210 incase in future we are going to get more than 210 constituencies and with this the elections of the MPs on constituencies. Do you recommend any other system or how do we go about getting there?

Mr. Imonje: If we have to increase the number of constituency, there has to be something to be invented and approved by probably 80% of the MPs with justification of the MPs with justification why it has to go behold that.

Com. Ratanya: Thank you very much Moses, we have heard your views. Incase you have any written views you can present if not, sign our register. Asante sana. The next one is George Mwau. George hayuko. Aggrey Mwalo, hata Mwalo hayuko. Mary Njiraini, hayuko, Grace Ndung'u. Grace G. Kuria, Rachel Chege, Veronica Njoroge, Margaret Kinuthia, Naomi Njeri. A number of these are from women's guild so it appears they came only to observe. Naomi Njeri and then we come to Margaret Wangari, Mary Sembe. Mary endelea ni wakati wako na uanze kwa kusema jina lako.

Mary Sembe: Good morning everybody, the commissioners and my fellow sisters and brothers. My name is Mary Sembe, I am here as an individual but I am coming from a catholic church here in Dagoretti called Guadalupe. My views are, the first one, the Presidents should have two terms. The MPs also should have two terms. I am also saying that civic education should be a process, should not be stopped just because of the elections.

I am saying that the attorney general who is spread in the Executive, judiciary, and Parliament should be independent or we should have three attorney general's one for the Executive, Judiciary and the Parliament. The other one I am saying the constitution should be written in a language, which we understand. If the bible is written in other languages, also the constitution should also be written in the main languages and also in a term which we understand not the term of the present one, I don't understand it, maybe it is because I have not gone to the higher school.

The other one is that the constitution should not be altered by the Parliament if the people make it. If it is the people who have made it, it should not be altered before the people are consulted. The other one I am talking about the street children. The street children should be a government issue in that the taxation, which we say, we are heavily taxed but I am sure if it is managed well by the Executive I think there will be a body in the social security fund which should cater for the street children.

The other one I am talking about the public commission. The public commission, the service commission, teachers' commission, electoral commission, commission for the anti-corruption should not be interfered with by the Executive therefore I am suggesting all of them should be independent. The other one which I have is that the Presidents should be elected by rotation. In this one I mean that each province should have their own President whom they have chosen but will be chosen by the people. If they choose the three people whom they want us to choose and then it is chosen by the nation, so that we don't have tribal clashes which have been for the time being because now, it is who is the president, is it the tribe that is all that but if we choose by the province, whether you are a Luo in coast but you have been brought up in coastal province, then you can be chosen as a President so that we avoid this thing of ethnic clashes. Thank you.

Com. Ratanya: Hebu ngoja kidogo.

Com. Kangu: Sembe, if we have two terms for a President and we have a rotation of president, province by province, will each province if their person can manage two terms be allowed those two terms or do we move to the next province and if so, what do we do with the person who may be winning?

Mary Sembe: In my view is that the two terms is for every province. There is no increasing of the terms. Each province should have two terms, like we have already have the central, we have already have the rift valley so now we can go another province.

Com. Ratanya: Okey, Mary hayo ni maoni yako na Mary enda pale uandikishe na u-sign register yetu. Anayefuata ni Mrs. R.W Agola. Mwingine ni Irene Kairo, George Jaoko, are you the one? Sasa Jaoko ni wakati wako.

Mr. Jaoko: My name is George Jaoko, I am an economist although I don't work here. I work in South Africa. I want to present my views particularly regarding the transfer of power. I wish our new constitution identify clearly the transfer of power. To my view I would like the speaker of the national assembly, to be in-charge of the Executive when they are in the election and after the elections results are announced which should be announced from the polling stations.

Each polling station should announce the votes cast. The speaker and the Chief Justice should be swear in the incoming President after seven days when all the votes are counted and correctly accounted for. Another area is when a member of Parliament or a councillor passes away in other words if he passed or he dies while in office.

I wanted to suggest that instead of having a by-elections his wife should take over to simplify everything so that we don't have any extension and if an MP decides to defect, it should be handled on the floor. There should not be any by elections.

I was feeling that MPs should satisfy the public with the following principles, about seven principles I have identified. First, they should be objective, accountable, openness, honesty and they should have a leadership. I also feel that our President should be a man of having a wide experience of knowledge, not necessarily a university degree but we should have a President running from the age of forty years to a maximum of 70 years and if a President happens to be with any health problems while in office, the Vice President should take over.

Lastly, I would like to state that all the ministries should be headed by the non-MPs. In other words they should not be MPs and they should be appearing in front of the Parliament select committee every six months. Thank you.

Com. Ratanya: Okey, hebu ngoja kidogo bwana George.

Com. Ayonga: George you said in case an MP dies, his wife should take over. I don't know whether you gave thought about that and I think that you also meant if an MP was a woman and he dies, her husband takes over. Now, knowing Kenya what it is and we being human beings, don't you see a chance of someone aspiring for a seat like that? It may be a husband, it may be a wife would like to eliminate another so that he or she takes over.

Mr. Jaoko: That could be in a very remote part.

Com. Ayonga: And also before you answer that, you were talking of the qualifications of the people who go to Parliament. Supposing the husband or the wife does not meet that minimum requirement in education, what do we do?

Mr. Jaoko: According to what I have come to know from my own experience, most of our MPs whenever they get that opportunity to be in Parliament, they tend to marry women who match with the new status.

Com. Ayonga: And if that is the second wife?

Mr. Jaoko: It's alright.

Com. Ayonga: And you leave the first wife? Don't you think women will come up in arms against that?

Mr. Jaoko: No, I think this one should be put in writing. If the MP and before, in case of anything happens to him, the second

wife or whatever the wife will take over.

Com. Ayonga: Does this make it.....

Mr. Jaoko: A good example was our late Tom Mboya. When he got his new post, he married Pamela but before that he had a wife. Pamela was marching status of his new appointment that is why she took him, because you find another good example again is like Bill Clinton. When he was the president, his wife was playing a very big role towards his office. So in case of anything he could still act very nicely because he knows what the husband was doing.

Com. Ayonga: Now, I want also to take you to the presidency. You said when a President is not well during the course of his time of office, that is a Vice President should take over. Why not his wife?

Mr. Jaoko: Because the President is not....

Com. Ayonga: What difference does it make?

Mr. Jaoko: A president, what I was trying to put across is that a President should not be an MP. This only goes to the MPs but a President should not be an MP.

Com. Kangu: Now, Jaoko I was not aware that Mboya had another wife but I would like to consult with you to hear about that. Supposing my wife has no interest in politics, will we impose the position of being an MP on her.

Secondly, you said that during elections, the speaker of the national assembly should act as the President and after the elections they swear in the president. I want you to give some thought the powers this speaker should exercise that interim period because my worry is that if you give all the powers of the President to that person, someone can cause havoc within that period of within one month. I could allocate the entire country to my brothers and sisters before I quit. How do we limit the powers the speaker will exercise during that period and to which ones and who exercises the rest?

Mr. Jaoko: According to what I understand is that when you are acting, you have got very little powers to allocate anything because you are not truly on the job. You are only holding it briefly. In other words, very little you can do even that appointment allocation of anything you can't do that one. Unless there is some war, I don't think we should go to where you can allocate anything during that period because the government is on transit, we are on elections. So I think we have to wait and that is what I think.

Com. Ratanya: Thank you very much Bwana George Jaoko, so just sign our register. Hayo ni maoni yako na yatachukuliwa

kama vile yamepeanwa. Tena tunaendelea kwa Oloo Charles. Oloo yuko karibu hapa. Okey, ni wakati wako Oloo Charles.

Mr. Oloo: Thank you very much the commissioners, my name is Charles Oloo on starting I will start with the Executive, that is where our dear Presidentis and more so the head. Okey, about the qualifications which had been said, the Presidentshould first of all be God fearing and should be somebody who respects human rights in order to serve after the moral requirements of a human person.

Presently we find that the Presidentin one case or the other happens to have more that enough powers and this we find that it really affects other sectors and arms of government especially when we talk of the Judiciaryand the Legislature that is the Parliamentary. In this case I tend to recommend that agreeing with other speakers, the Presidentshould not be an MP and not restricting to that incase he should be an MP then he should be entitled to attending all the sessions in Parliament as requires other MPs because presently we find that the Presidentattends the sessions very less times.

So I tend to wonder who represents his constituency when he is not there. Also when we look at the kind of modern management in our society, I would recommend that the Presidentshould not be just a mere leader but should be a leader and a manager in that when I talk of management here I would not mean the kind of bureaucratic management we see around in our society.

It should be a management where there is consultation and the flow of power is not more so from up to bottom as this would, in one point or the other you will find that the rights of individuals are always being violated in one way or the other. When talking of the terms. I would also agree with the others that it should be two terms that is five years each and when we talk of the terms, many of us only talk of the president. What about our MPs? In order to create rooms for leadership, I think also the MP should be restricted to two terms of five years each. By that I don't mean that maybe if the people feel that he person the elected is not serving their interests well, when the first term that is of the five years come to an end they have the opportunity to elect another person but the person should not go for more than the two terms.

Talking of the people of kenya, they should be given some authority and power over the constitution they are making. In that it doesn't happen that the ruling class tend to use the very constitution to rule as in to overrule the people in that their voice is not heard. Someone talked of when it comes to making the amendments. I think the consultations should be made with the people before these are done.

I will also propose of the clear checks and balances within the judiciary, Executive and the Legislature inorder to avoid situations where people work under pressure from those whom we may call the bosses in the public offices because you will find that if for example the Presidentappoints the Chief Justice, it will be very difficult for the Chief Justice to work independently because working against your boss may mean that the boss may wake up in the morning and in the afternoon, you are no longer

in your office.

Coming to the Attorney General,

Com. Ratanya: What do you recommend there? Appointment of top priests. What is your recommendation?

Mr. Oloo: Thank you. I would may be recommend that while appointing these people in the public offices, there be if the President then wants to appoint then the Parliament should also come in maybe let's talk of $\frac{3}{4}$ so that they can confirm the appointment and the person who is appointed has the powers to exercise in his office in that the President doesn't come up and say that maybe the appointment is cut so the Parliamentarian should also be contacted before this person is rendered out of his office. I was talking of the Attorney General. This is a very important post and we find that presently it tends to work out that the attorney General is the, I can say the lawyer of the public servant, at the same time the prosecutor.

So, looking at it that way, it is very difficult for one to defend you and at the same time prosecute you in another way and mainly it has been working under the pressure also from the Executive. So cases where there are things like corruption or looting in government offices, has never been exercised that these people are brought to law and maybe prosecuted for what they have done.

Com. Ratanya: Sasa wakati wako ni kama umeisha.

Mr. Oloo: Can I have may be one minute?

Com. Ratanya: Yes, just one and make it clear whether you would like the attorney general to have the two roles as a lawyer and a legal advisor and also as a prosecutor. So you have not made that clear.

Mr. Oloo: Okey, I would recommend that these services be, if he is the prosecutor let him be the prosecutor and if he is the lawyer, let him be the lawyer.

On the local authority, we have the mayor and the town clerk who are very important people to the service of the society. So, I would recommend that these people if possible, they be elected by the people so that they can be answerable to the people.

On elections, to ensure free and fair elections which maybe we've been talking of each and everyday and in one way or the other has never come to part. There should be an independent commission which is free from any influence or intimidation from any party during campaigns, there be no use of government assets like the vehicles, there be equal opportunities from the campaigns that is if it is through media, let the Kenyans see the opposition and the former ruling party in equal practice and also

the political parties if possible let them be two in that the party which has been ruling and the opposition because having many parties we see people coming each and everyone wants to serve his or her own interest and not the interest of the Kenyans.

Thank you.

Com. Ratanya: Asante sana Charles, just hold on Charles.

Com. Kangu: Now, Charles you want the term of office for President and MPs limited, you don't think that for councilors should also be limited.

Interjection (Com. Ayonga) If one comes up with a party he thinks that he or she thinks that he is the one who is going to offer, he is the one who is going to deliver. A mechanism I think you were asked was that how do we go about that to bring it into two?

Mr. Oloo: It might look a little bit complicated at this level because maybe...

Com. Ayonga: Okey, you need to do some homework.

Mr. Oloo: Maybe I will talk of the registration of the parties. It has to start from there because if they are already registered it might be very difficult to do that but then if it can start from the registration itself it can work.

Com. Ayonga: Thank you.

Com. Ratanya: Thank you Oloo Charles. Now, the next one is Anne W. Maina from Woman's Guild and I think she has a memorandum. Is she around. It appears your memorandum has been handed in or not, if not so then it will come. All the other members of the guild are just observers. Is that not correct? You are just listening. Joseph Obege. Now, it is your time Joseph.

Mr. Obege: Thank you very much commissioners for this chance to present my view on the constitution of Kenya. My first point I am going to take issue is with the constitution itself. As I am talking today I even don't know how the constitution looks. I would say and encourage the government to be.....

Com. Ratanya: Joseph, tupatie maoni yako, mapendekezo yako yale ungetaka yaingia katika hii constitution ambayo tunarekebisha.

Mr. Obege: Okey, my recommendations would be the constitution should be taught even if it is not an examinable subject from primary level to higher institutions, that will help when it comes to review like this there has been a lot of hoolabaloo you

could not understand what the condition is and it is going to be put in the hands of a few people. So, I would say people have to grow up understanding what the constitution is.

Secondly, I am going to present my recommendations regarding the budget. The budget being what it is supposed to be the ageing of the development of any nation, it has not been given a very good focal point, they say the budget is drawn according to constituencies. I think it should go to sublocations and sublocations have to be identifying one project for implementation within that sublocation and if we implement those projects within the sublocations then Kenya will be developing. I tend to understand that a lot of emphasis is put on urbanization and this is giving Kenya loading.

I am coming to talk about the third, point regarding appointments to public office. These appointments, a lot of them the powers have been invested with the president. These appointments should be by a Parliamentary service committee. It should be vetting whoever is supposed to be appointed to any public office.

Lastly I will talk about the presidency. The presidency should be rotational, it should go province by province and this will harmonize a lot of issues in the land. Thank you.

Com. Ratanya: Okey, that is Joseph. Do we have any question?

Com. Kangu: Can you clarify what you mean by saying that urbanization has given Kenya road hill.

Mr. Obege: When I say urbanization it is being tied to the budget. A lot of resources within this nation are going more or less to urban centers rather than the rural areas.

Com. Ratanya: Alright. The next one is Samwel Bisimbu. Then we go to Edith Minayo. She is an observer, Florence is also an observer, Joyce M. Nduku. Stephen Ndungi. Okey, Stephen ni wakati wako sasa.

Mr. Ndungi: Kwa majina yangu naitwa Stephen Ndungi kutoka Kawangware. Ningependa tu kutoa maoni yangu kuhusu upande wa chief. Naona kwamba ma-chief wawe wanatoka katika ile area ama ile location ambayo wanafanya administration.

Ya pili, ni kwamba upande wa mavazi. Mavazi ambayo yanatumiwa na wanawake wetu wakati huu, ningetaka yaweza kuangaliwa kwa sababu mengine yako na aibu wakati inavaliwa.

Pia upande wa malipo ya MPs ambayo wanalipwa. Naoni kwamba, katika maoni yangu, ni vizuri ma-councillors wawe wanalipwa pesa nyingi kwa sababu hao ndio wako katika quotation kwa sababu hao macouncillors ndio wana-deal na mambo ya maharambee katika mitaa yao. Kwa hivyo kwa upande wa MPs kupatiwa pesa mingi naona hiyo ni hasara. Pia naona ya

kwamba hawa human rights, ni vyema wapatiwe powers na kusema mambo ya powers ni ya kwamba, wakati huu human rights haina power kwa sababu ikipeleka jambo mbele kwa hizi ofisi kubwa pia Inaweza kunyanyaswa ama inawekwa chini kwa hivyo ningomba ya kwamba pia human rights iweze kupatiwa powers.

Pia, ningetaka niseme kwa upande wa polisi. Ma-polisi ambao tuko nao ni wazuri sana kama wanaweza kupatiwa pesa mzuri na makao mazuri kwa sababu hao wengi wao ndio hata wanakuwa wezi na wakora. Kwa hivyo lazima waangaliwe kwa upande wa mishahara na upande wa kukaa. Nafikiria ni hayo tu.

Com. Ratanya: Okey, asante sana Stephen Ndungi kwa kutumia hata masaa yako vizuri. Kwa hivyo, baada ya hapo kuna maswali hapa bwana Stephen.

Com. Ayonga: Stephen umetwambia juu ya mavazi ya wamama. Hukutuambia unataka wavaaje.

Mr. Ndungi: Katika maoni yangu, nilikuwa naona ya kwamba kila mtu anajua ya kwamba kuna mavazi mengine ambayo ni ya aibu ambayo ni ya mikato.

Com. Ayonga: Sasa hiyo ndio tunataka utuambie unaona hapa tunataka utuambie kuna hivi na hivi ndivyo tunavyotaka kufanya. Usiwe unazunguka round. Utuambie na utuambie dawa ni nini.

Mr. Ndungi: Nafikiri dawa yake ama maoni yangu ni ya kwamba...

Com. Ayonga: Kwanza yaseme hayo mavazi. Ni mavazi gani usiyotaka, ni mavazi gani unaita mabaya.

Mr. Ndungi: Mavazi ambayo nasema ya kwamba ni mabaya hasa kuna skirt zingine zinapigwa mistari pande ya nyuma na ni fupi sana. Sana sana huvaliwa na hawa ma-secretary wa hawa watu ma-advocates. Hizo ma-skirt fupi fupi ni mbaya.

Pia upande mwingine, mwanamke hastahili kuvaa longi katika desturi ya kiafrika na kwa hivyo tuache kuiga mambo ya mzungu. Hiyo ndiyo nilikuwa naona.

Com. Ayonga: Ndiyo Unasema wanawake wasivae longi?

Mr. Ndungi: Yes, katika maoni yangu wanawake wasivae longi ama hizi nguo fupi fupi.

Com. Ayonga: Tuliweza kuelewa juu ya nguo fupi fupi lakini ma-longi hayo ni mawazo yako, na kwa hivyo umetaka sheria iwekwe wanawake wasivae longi, wasivae nguo fupi.

Mr. Ndungi: Ndio, wavae nguo ambayo ni ya heshima.

Com. Ayonga: Hiyo ni nguo gani?

Mr. Ndungi: Nguo ya heshima ni nguo ambayo haionyeshi miguu ama 'huku'.

Com. Ayonga: Tena unaona aibu?

Mr. Ndungi: Sio aibu.

Com. Ayonga: Mbona umefunika macho?

Mr. Ndungi: Hayo ndio mavazi yale yako. For example, nguo kama ya dada kama huyu.

Com. Ayonga: Asante bwana, njoo ujiandikishe. Hayo ni maoni yako, wengine wataona tofauti.

Com. Ratanya: Okey, huyu Stephen amemaliza na kwa hivyo anayefuata sasa kuna naona hapa hawataki kuongea kama James Kanene, Pauline Nduati na yule angefuata ni James Kanene. Are you the one? Endelea Kanene.

Mr. Kanene: Thank you very much. My name is James Kanene Kinyanjui. First of all, what I would like to be put in our new constitution is about police force. I would like the police force in all ways a police officer stay in one station for more than a certain period, and I would recommend not more than one year. My reason being the more they stay in one station, the more they collude with criminals in that area so that even if you report any case to them, giving them the real criminal, you will see him the following day because they are friends. So my recommendation is that no police officer should be in one station for more than one year.

Secondly, I would like to talk about the public servants. The President should not be having any powers to appoint any public servant and I mean by that I mean in parastatals. That should be done by a Parliamentary committee which should offer the post and then interview the candidate and give the job the most qualified person. In any case if that person is caught in any corrupt deal he should never ever be allowed in any other public office or to serve the public again and should also be prosecuted. I think I don't have any more to say.

Com. Ratanya: James, just wait there. I think you are through, you go and sign our register, we don't have any questions for you. Pauline Nduati from the woman's guild. I don't know whether Pauline wants to say anything or she is just an observer.

Then Masese Richard. Masese is coming. Start by telling us your names.

Mr. Masese: I thank you the commissioners for having given me this chance. My names are Masese Richard and I am coming here to represent the street children. I am one of the rehabilitators of street children. My view will basically come from land. The problems that we are facing in this country today all of them come from land, about more than half of the reproductive land of this nation is owned by one community. So my recommendation was that the land should not be classified as a property. This should be a present given to us by God under the skies. So land should not be sold or bought. Land should be given to the Kenyans equally.

The remaining parts of the land may be for the government and if we have some Kenyans who want to invest in farming they should release it from the government. it is unfortunate that the President is the custodian of Kenyan land. I am imagining of one day having maybe a President has flown out to US and decides to sell the Kenyan land, let us not assume that cannot happen.

If he goes and maybe sell the Kenyan land we may not have our nation. So the land issue Kenya should be owned by Kenyans. We we look at the maps maybe we are out of the nation what you look at that map is the land not the vehicles, not the houses nothing else.

Right now we have very many street children. They have turned to become street families. These are just refugees in their own nation but they don't have camps where to go to. Madam said here that they are on their way to the streets because they cannot cope with life. So for us to clear all the messes of having street children people going to the streets, land should not be sold because I know even you commissioners some of you after getting this much money we always read on the papers, you are thinking of going to buy land from one poor Kenyan, maybe to go and ...some have even sold their land so that they can transport corpses from Nairobi to their rural home. So if this trend goes on, in fifty years to come, Kenya will be owned by less than 100,000 people and all of us will come to the streets and I don't know what will happen.

The second thing, is on the president. When we mention a President coming from any region of Kenya other than some regions, people talk about tribalism. I believe the independence which Kenyans got in 1963 they said we gonna share the independent cake equally. I see presidency as one of the cakes that has to be shared. So if we can say a good leader comes from whichever region due to democracy, I think in the constitution we should have a provision that the President should come from various regions, like if he comes to central province to two five-year terms, every region gets President because it is as a result of independency.

The third point I would like to talk about is the appointments. the President is currently the one who appoints big men in parastatals in government services. I would like this to be done by Parliament. Parliament should seat in committees and appoint intelligent Kenyans to various positions and after appointing them to various positions you know it is better when a group of

people appoints other than one person appointing. I think mine is that way.

Com. Ratanya: Asante sana bwana Masese. Just hold on.

Com. Ayonga: Bwana Masese you have told us that land is a gift from God and this land and this land should not be bought or sold. How do you see the distribution of this land that has been inherited for so many thousands of years and some people tell us millions of years those who don't believe in creation. How would you get this land, which you have said is the problem? We have already settled in this land, we are here at KenyaScience Teachers' College, this land has buildings, whatever and everywhere. How would you get land which you say this is a free land anybody can settle, you can settle and go and whatever. How do you plan for it.

Mr. Masese: I don't say that anyone can settle anywhere. I am saying when we look at the migration of people, it was natural. People moved from wherever they were to their present homes and when they came they did not buy this land. They just settled on it. They sub-divided. Somebody said before 1960s and 70s there were no street children. So if these people were left to settle naturally, there could have been no problem but right now people have been deprived this right of owning land by the constitution which puts land as a property and if it continues to be property I am sure in let us say a hundred years to come, very few Kenyans will own land.

I don't see why we should be citizens be just owning a small property or no property in a country. When you look at the map you say that is my nation but for sure you own nothing in that nation. So I would like land to be a government owned land. Everyone to be given a piece of land at least which can do some any practical thing then the remaining parts of the land which will be under the government's arms should be there for leasing to people who wants to invest in farming. Other than for example, we have a few individuals here. After independence they have owned more than a whole district. If you put that land together, one man owning more than a whole district.

There are the same men who sit in boardrooms discussing about eradication of poverty and when they sit there, they are chewing money of these poor people who are highly taxed. So the best thing, I could not value a title deed as anything. Let land be sub-divided to Kenyans equally and the remaining parts of the land to be given to the government and the government should be leaving it for anyone who wants it in a leasehold not in buying it.

Com. Ayonga: How does that help us to get the street children out? They are children, already they are children, and how do you help your group from the free land.

Mr. Masese: If right now we had some land, like Kenyan land which is set aside government land, the government can easily go there build a home for the children and the children will grow there, most of them will be taught maybe farming and they will

be given small pieces of land and they start their lives from there. For instance the rehabilitation center in which I am in. We have put the children in various fields. Some of them were running out the day we saw them and we were coming in. we are trying to put them to where they can... you know we cannot teach them how to dig because they cannot get land but we can teach them how to run because there are fields which they can use.

Com. Kangu: Now, I want to take you back to the earlier question. You said if things had been left to go on naturally, we would not be having a problem. Unfortunately that was not done and we have a problem. We want to solve that problem. The one of the problems we have is that now Kenyans own land privately as individuals. There are those who already have what are called vested interests. How do we revert to that natural state. Do we take away land from those who own everything and give it to the government and then ask the government to distribute it equally to the rest of the citizens or what do we do. And if we do so, do we take from those who own without compensation or do we say the government will be required to compensate them?

Mr. Masese: I suggest because also the ones who are owning land may have gotten this money through hardship and others may have gotten this money through corruption but what I could suggest is these people who own junks of land they be re-compensated by the government then they leave this land to the government. then if they want to develop, to invest in farming they leave it for the government and that will help because this document is for us for our children and for our children's children, but if the trend goes on like this, I am sorry we will be making more poor people other than rich men.

Com. Kangu: Now, you also said that it is wrong for the President to hold government land on behalf of the rest of the Kenyans and you said the land should belong to the people. Now, the problem we have in law is normally that you must have what we call a juridical person who will hold and can visit out the way you are saying to other people and so on. Now, you cannot just say the people. The Ugandans are having this problem, they wrote a constitution and say land belongs to the citizens then when the investors came in and they said now we want to buy land to invest, it turns out that this person called citizen was (inaudible). Now, exactly who is going to the juridical person who will own land on behalf of the Kenyans who will be able to lease it out to those who want to farm, who will be able to do all other things could be half of the rest.

Mr. Masese: I would suggest that not the President but the government did the custodian of Kenyan land. So, because the President is one but the government....

Com. Kangu: The government has the Executive, the government has the Judiciary as part of it, the government has Parliament as part of it, the government are the Kenyan people and is an amophase body.

Mr. Masese: The three bodies of the government forms a body.

Com. Ratanya: Okey, Masese I think these are your views. Although we are trying to ask you we just want clarification therefore you are entitled to your views and you go to our register and sign before you go. And then we have Monica Kimondo. Is Monica around? Monica is not there. Samuel Kirui, this one to be just an observer, then David Nthinji, Gathoni Gachanga, then we come to John Karanja, Nkoroi. Nkoroi it is your time.

Mr. Nkoroi: Thank you commissioners. My contribution to constitution review is as follows.

Com. Ratanya: Start by telling us your names.

Mr. Nkoroi: My names are James Muthuri Nkoroi, I am a teacher by profession. My first contribution is in the issue of freedom of worship. The constitution allows us to worship but my contribution is this worship should be reflected. My views for this commissioners is that there are times, some religious groups where people converted to those groups do not accept even basic medical attention and some do not allow people to think that you do not need medical attention because sickness is as a result of a illness. Some bacteria or viral kind of a problem.

So, the other groups like Mungiki who claim to be baptizing people, I think that freedom should be withdrawn from them because also they are infringing on the rights of other people because if Mungiki is going to circumcise girls, they can only circumcise those who are willing to be circumcised but not forcefully. So that freedom which you have given us should be withdrawn bwana commissioner.

Land ownership-

Com. Ratanya: Now, James what is your specific recommendation. Withdrawal of freedom of worship or what.

Mr. Nkoroi: It should be reflected. The other recommendation is the issue, which have just heard about land ownership. Commissioners, I think this land is an exclusive issue particularly ownership because the population of Kenyais increasing time and again and if as a parent myself I have a small piece of land which I have inherited from my father. My father has given me one acre and I am expected to give this land also to my children who may number two or three boys or four children including girls. What shall I divide to my children and what will children divide to their children and so on.

So land ownership, commissioners in due respect this land issue I recommend that the owner should be the Executive or the government here so that nobody claims to be having title deed. The land belongs to the government in general and nobody would own a title to distribute to somebody else. What should happen is, we should live in towns or in small local villages and those people who are willing to / because you will find particularly men, do not like farming, they want to be makanga and all that. So land tilling is left to women. So instead of a man owning land, which he does not till, why don't we ask those people

who are interested with farming who are called to farm do the farming and they should lease the land from the government.

Indiscipline in schools- I have observed that in Kenya indiscipline has come as a result of government bureaucracy where if you want to chase away a student from a school. Secondary school X the board of governors must sit, the headmaster first of all suspends the student, the board of governors sit, the BOG recommends to the director of education to pick action all this bwana commissioners is waste of time because the director of education does not interact with this student on daily basis.

It is the headmaster and the BOG who should decide this matter. Otherwise if we go to the director, the director here is irrelevant because he has not interacted with these students to know exactly what is happening. There is that clause which says it is only the director who can expel. No, let us give power to the BOG who are on daily basis on the ground to expel a criminal.

Quarter system- the quarter system of sharing out schools in this country is depriving. It denies the students chances of going to good schools. During our time, and your time commissioners even if you came from Meru, you could go to Maseno national school or you could go to Shimo La Tewa national school for your higher studies.

Today, if you are a mmeru, you will read in meru and remain a localized mmeru there with tempers. I am a mmeru and that is why we argue that merus are highly tempered, why? Because they have not interacted with luos. They think a luo is not circumcised he is like a small boy. Schools have lacked that exposure. A luo is an adult like a mmeru who is circumcised. So can we ask our children to go round to read in Kisumu, to read in Meru everywhere so that we remove this feeling that if I were a mmeru and we are circumcised, you are above the rest. My recommendation is let the quarter system be abolished.

Then the cooperative clause. I want to state a recommendation that the cooperative movement bwana commissioners have been abused. I am saying this because I have seen very many societies failing..

Com. Ratanya: Okey, James just try to sum up. Because you have not time. So where the delegates stream themselves allowances without any control that should be removed. Finally, not really finally but the common language Kiswahili should be used as a common language to all the Kenyans.

Mr. Nkoroi: The other recommendation is KICC is not a property of KANU it should be a property of the government because when it was being built in 1974 KANU as a party did not use only their own funds, they used the government funds and the funds were actually borrowed so why should it revert to one party?

Finally, licences bwana commissioners is what is killing Kenyans. A simple lady or a simple man like me to get a licence from the Kenyagovernment you require so many stages to satisfy in order to get a licence even to run a kiosk and that licence is also

very high. The fee is about a thousand shillings or more. Why can't we make licences very simple so that Kenyans don't jump the law by hiding so that they don't pay. This is why we are even bribing because if your car doesn't have a licence on and a licence is about two thousand, you want to pass this 200 and bribe the police. Why can't the government make the licences very cheap and avoid the bureaucracy and the steps. Thank you commissioners.

Com. Ratanya: Okey, James just waits.

Com. Kangu: Now, James I agree with you that land is an exclusive issue in our country. Sometimes I say the first mistake we made is when said turudi mashambani and assumed that anybody can be a farmer when infact farming is a profession that should be engaged in by people qualified in that area.

As you said we have actually sub-divided to very uneconomical units and now every Kenyan can boast of having some title deed and the country has not food. I have always been of the view also that when we say that we will give Kenyans piped water, electricity in the rural areas when they are settled the way they are in the villages, we are cheating them. Another twenty years will come and go, we cannot afford that cost and that it might be advisable to move Kenyans to townships where it will be cheaper to give these facilities but the question is at the attitude level, the Kenyans have become so attached to the issue of having some title deeds. How do we deal with this because the realities are that at the economic level the system we have is not going to be sustainable in the next few years?

Mr. Nkoroi: The best alternative is that the title deeds could be withdrawn and termed and on entity in this country where people are fighting for them so that you don't have to secure loans by offering at title deed. You can secure your loan by having other collaterals other than title deeds.

Com. Ratanya: Okey, nasema asante sana bwana Nkoroi, you have given your views and you just go there and sign our register. Now, the next one is Ruth Wairimu Githegi. Is Ruth around? Then we have members of the woman's guild who appear to be observers, Eunice Mbarire, Mary Gachunge, there is Joyce Ngugi, then we have Maina J. Komen. Then the rest appear to be observers, Owosi Mutuku, Ronald Mbuku Kilonzo, Joshua. You see I am reading even the names of the observers incase they have changed their mind then they would come to give their views. So we have also Emmanuel Okello. So you are ready Emmanuel. It is your time now. Start by telling us your names.

Mr. Okello: Thank you commissioners. I am called Emmanuel Ochieng' Okello. My proposals I am going to give them in two phases. First of all I would like to highlight the shortcomings I think are evident in the current constitution so that when the new constitution comes about, the shortcomings are not repeated.

First of all, at the moment the Kenyans citizens fundamental rights should be guaranteed by the constitution, not only by the statutes but also in /. At the moment no Kenyan in this country is a free man or woman because if the state wants to find fault in any individual, it will.

You find that every mwananchi at any time in violation of one secure law by another. The Kenyan citizens fundamental freedoms are not only guaranteed in books but in practice they are not guaranteed. The / of Kenyan citizens who confined by state machinery and there is no shelter in that infringement for the enemy.

The new constitution should guarantee Kenyans their fundamental freedoms in practice for example the contention that a person is innocent and proved guilty by a competent court of law is observed wholly in the bridge the current constitution and law does not satisfy Kenyans rights to basic education and the rights to know what is happening in the country. The law should be passed to force government to pass vital information to the Kenyan public without having to be asked to do so.

So am going to give my recommendations. So my first recommendation is that judicial staff presiding over court cases should be empowered and be required to automatically penalize investigating officers and complainants who bring malicious or unsubstantious charges to court. Immediately if they notice that such charges are an abuse of the court process.

Secondly, the judicial officers should be required to automatically recommend commencement of proceedings towards compensation to accused persons. When it becomes clear to the court the charges brought before the court are malicious and I would recommend such penalties and awards include the cost of the proceedings and be at minimum equivalent to the bill terms for the accused persons and the penalties and awards should be bond by both complainant and the investigating officers from the police department.

My fourth recommendation is that forgery especially committed with the play intention of adversely affecting the outcome of the criminal proceedings against accused persons should attract stiffer penalties. I would recommend that such penalties include confinement, corporal punishment, fine and that labour. And then night courts should be established in urban areas to expedit petty offence proceedings and to congest in the justice system. This will guarantee that justice is not delayed and hence not denied. The maximum period a person is held in police custody should be reduced to 12 hours except for capital offences and cases of police officers holding Kenyans in police cells longer than the stipulated periods should be criminalized and penalized.

My sixth suggestion is that collection of cash bill by police should be outlawed. Instead IDs and other documents should be confiscated and the tickets showing the items held in the police issued. The collection of cash bill encourages the police to harass innocent Kenyans of financial motivations.

My other recommendation is that multiple litigations should be criminalized and the complainants should be held accountable when they prefer same charges in more than one court. The police and the Judiciary records should be centralized to be able to detect such cases.

Another recommendation has to do with the government accountability.

Com. Ratanya: Emmanuel, try to sum up. That is the end of your time.

Mr. Okello: Okey, I have only three points to go. I think government ministries should be compelled to produce quarterly financial statements by law. This statement should be posted on website specifically created for the purpose and the statements should be available to the public for scrutiny even at a fee, people will be willing to pay so as to get this financial statements.

When the annual budget is being presented to Parliament, the ministries should be compelled by law to present financial reports, detailing income and expenditures in the previous years. The reports made in the annual budget estimate should be based on audited accounts and this should help to put checks in place and to avoid the cases of the auditor general (inaudible) after a legislative bills are done. It will also protect people who are holding public offices from unfair criticism.

And then my final point is, I think Kenyan rights to earn a lawful income should be guaranteed by abolishing all licencing bodies other than the local authorities and the Kenya bureau of standards. I think the trade (inaudible) an impossible number of licensing bodies which are a neighbour in corruption and they don't add any value to the Kenya's standards of living. I think I will submit my written memorandum.

Com. Ratanya: Okey, thank you very much Emmanuel, just hand in your memorandum there. We have Salome Maina, this appears to be an observer, Meeme. Let us have that one as the last person and then we can break for lunch,

Mr. Meeme: Thank you Mr. Chairman, commissioners, ladies and gentlemen. (inaudible) they give their fellow tribesmen or their family members. Another observation is that it is not uncommon to see a public like the provincial administrations like the DO or the DC or are either high school dropouts or primary school dropouts.

Another observation is that we have so many foreigners in this country who are taking up jobs which are supposed to be taken up by qualified Kenyans. I would like to make the following recommendations to the public service commission which is basically empowered to appoint Kenyans who are qualified at different positions.

The public service commission should be / and this should include members of the COTU, organization of church employers, church elders and even the civil society. All these members must be approved by Parliament and must be answerable to the

Parliamentary service commission. Even the Parliamentary service commission should also act as a / disciplinary body. Then all graduates from tertiary colleges including universities and other middle level colleges should be registered by public service commission and all public recruitments should be done from this body so as to enhance accountability and transparency and all these recruitments must be, even the private recruitments must be vetted by Parliamentary service commission.

Another recommendation is to the public service commission is that it should be mandated to market students even in other countries like in Europe and in America. You know actually there are a lot of jobs in those developed countries but you realize that unless our country markets these students who have the relevant qualification they end up being jobless because there is no one to market them. So basically the PSC should be mandated to market these students abroad and any other country. I think those are my recommendations.

Com. Ratanya: Okey just hold on there bwana meeme.

Com. Kangu: Now, bwana Meeme I would like to think that one of the most important resources we have are our human resources and we spend a lot to prepare our children up to university. Of course as you say we have heard in the past our graduates being told to look for jobs abroad. You are now telling us the public service commission should be mandated to market these people abroad. Are there any arrangements as a country which we are going to make with the countries which employ them that will enable us to earn something from these resources, we have spent a lot to prepare or are we just going to give them away for free to serve other countries?

It is only that I believe it is that when it comes to people from our country are working in a particular countries abroad, the money they earn is basically supposed to enhance the wellbeing of this systems and at the same time to enhance the well being of their families who are left in this country. So basically these people they are not just going to serve this country where they go to work. They are supposed to bring the income they earn and then of course they are supposed to kind of develop their motherland. When for example I am working let's say in Britain the money I earn I can bring that money in my country, maybe I can come to develop my family, I can buy land here and educate even my brothers and sisters. So in other words you are contributing to the well being of your country. You are not just going to work abroad and this can help those people, you are basically enhancing you well being and at the same time you are also enhancing the well being of your country by either educating your brothers and sisters and at the same time even investing in your country.

Com. Kangu: Let us take it at a personal level but as we speak now, Kenyans are growing to become sufficient doctors and there are so many Kenyan doctors working in other countries South Africa, Zimbabwe, Namibia and so on and of course they may be sending some little money home to their parents but as a country which has brought them up, educated them to that level aren't they resources that belong to us? I keep even asking we talk about university loans are there any arrangements through which we can recover these loans from these people who go to work out there?

Mr. Meeme: When we come to that, there is one thing I believe in, the moment you at this office and that is just one case. Now, consider other cases like teachers who have been educated up to university level, B/ED, science and art teachers and even other graduates, B.As and so many other middle level colleges. It would be pointless for a country to keep this people here idling around doing nothing / a lot of money, it would be advisable to look for kind of market these people in foreing countries and then maybe try to kind of look for ways of taxing this amount of money so that the country....

Com. Kangu: Those are the ways I want to hear from you. How could we get taxed from there.

Mr. Meeme: Probably maybe the government can fix a particular tax on the amount of money they earn while they are working abroad.

Com. Ratanya: I think now ladies and gentlemen we have come to the end of our morning session and I would like to hand over the rest of the programme to my fellow commissioner Kangu and announce when we are supposed to come back and then continue with the programme. Commissioner Kangu.

Com. Kangu: Now, we realize we still have a number of people who want to talk, we will take a break of about 45 minutes or so and that should bring us to say maybe a few minutes to two. We will continue with the list the way we were going and so you can have a quick break and be back 10 minutes or so to two so that the latest we can be able to begin is at exactly two. Thank you very much.

AFTERNOON SESSION

Com Kangu: I think some had not arrived. If there are those who had arrived would you kindly introduce yourselves before we continue with the afternoon programme. The constituency committee members.

Mr. Kuria: I think there is only one who was not in the morning. I am James Kuria and I am one of those who represent the commission in this constituency. I am the councillor for Uthiru.

Com. Kangu: Thank you very much bwana councillor. Now, we now have to continue from where we stopped and can we have William Kingesi. He is not there. Catherine Kimani, not there. Ann M. Mbugua, Susan Mwangi, Sarah Kweno, Lillian Ngatia, Jairus Ouche, please take the stand.

Mr. Ouche: Thank you very much, my names are Jairus Ouche and these are my suggestions to your committee.

Number one, appointments by the President must be vetted by Parliament and the only persons with proper qualifications and high integrity should be appointed public service positions. Their employment contract should then be protected from Executive interference. Recruitment into civil service must be done in a very transparent manner with the best being recruited regardless of tribal background.

Number three; the war against corruption and nepotism can only be won if it is started from the top. Fighting corruption in the lower ranks while disregarding practices at the top will never succeed. Corrupt junior officers can only change if they witness their corrupt seniors paying for their sins.

Number four; looters of public property must be forced to pay back or else their property impounded. The reason why so many people are poor is because all the state resources which could have been used in improving the common persons welfare are finding their ways into individual pockets. That is why even though poverty levels are increasing the number of luxury vehicles are increasing and / buildings and other expensive properties belonging to individuals are being developed.

Number five; mechanisms must be put in place to curb high-tech looting from public companies and parastatals by highly influential people. These are people who claim to be government lawyers while in the real sense they are formed or back up companies whose sole aim is to supply services and products to the public institutions at exorbitant prices.

Number six; programmes must be put in place to make sure that the necessary infrastructure for rural development is put in place. Many people have migrated to the urban areas because the infrastructure in the rural areas e.g roads, electricity, telecommunications etc cannot support adequately rural business set-ups.

Number seven; a way must be found out for the government to get some pay back from Kenyans working abroad. So as to boost the current resource status.

Number eight, the minister of labour must wake up and examine all employment contract especially amongst informal employers. Many workers are underpaid and yet the farms they work for make millions of shillings per month.

Number nine; finally there must be a clause in the constitution which emphasizes that the constitution must be implemented. The current constitution may have the capability of serving equally well but the implementation is very poor and biased. Infact, failure to implement the constitution by any person empiles to do so e.g the Attorney General should be declared a very serious offence, thank you.

Com. Kangu: Thank you very much Ouche. Give your memorandum there and sign. Now, can we have Ndakoe Jack, he is

not here. John Ongute.

Mr. Ongute: Good afternoon commissioners. My names are John Benson Ongute. I want to make my proposals and I want to start by saying that the constitution is related to the damaging power. So, the problem in our current and our previous constitution has been the government in power and the government in power has to do with the individuals occupying those positions that constitutes the government.

I want to say, all the register political parties must be regulated by our constitution and by so doing we will expect this constitution to come up with an ideal type of government that will be suitable for all Kenyans. That is to say I am comfortable with the current system of government but I am not comfortable with the official indoors institution. I am saying this country has a good but I am proposing for changes in the constitution and so that that system can be effected. I want to target the presidential position. I would say that the constitution would come out clearly and define / the President of this republic. Those duties should be very specific and the President should work within those duties.

I am also saying that the following voting stretch when a President has to be voted for, you have to go through the normal procedure of nomination that is in place now whereby political parties are to be given an opportunity to nominate presidential candidate and eventually the electoral commission has been given the powers to sanction that and then we go to the elections. I am saying only the candidates with the highest votes cast countrywide should become the President of this country. In other words I am opposed to the clauses that say one must get something like 5 to pass in five provinces.

This sharia is that the highest number, the votes casted should be deciding factor who becomes the President of this country. That should be the same with the Parliamentary and the civic. Now, having gotten the president, he should be in a position to appoint his Vice President, cabinet and assistant ministers. I would prefer the constitution to come out clear here and limit that because that area has been abused and I am saying the constitution needs proper direction we would be in better place. When it comes to the government has to be formed, I am of the opinion that the first sitting of the Parliament should be able to make appointments for permanent secretaries and other government professionals. Those will be the officers charge to run the government for that life of that particular government.

I am also of the opinion that the qualifications should be an issue but I will defer with a lot of the first seater who seem to be looking at the university degree as a qualification. I would rather put in wisdom because we have been talking about leadership. Leadership has a lot to do with wisdom and merit.

I will also like the government to come out with a provincial strategy and in this provincial strategy we know we have go eight provinces, I want the constitution to come out clear. Instead of having to many ministers to represent almost nothing we should have ministers representing provincial aspiration and that will limit us in having too many ministers who most of the time are not

performing and I am saying maybe there should be about three ministers per province whereby you could have one cabinet minister and the remaining two are being assistant ministers. That will eliminate the element of tribalism that has blamed this nation for a long time.

I also want to address the land issue. I am of the opinion that the ministry of land should be abolished. It's is not serving any useful purpose. It has helped in the corruption of this country and we should have provincial commissions to handle land issues and these provincial commissions should be answerable to the director of planning, who should be appointed by the Parliament. That is when we will be able to know who should have what where but as of now I think we are in a big mess and just to say, the commissions would now operate under the ministry of local government because in the ministry of local government you have the urban centers and you have the local authority. They should be able to what land is picked for what.

I also want to address education. The constitution should be very clear because education is a public service. Being a public service we would like to have clear policy of education. Now, this policy should be put in place and there should be education commissions to implement the policy because what has happened in the past is that we have had ministers some of whom could not interpret and as a result we had a lot of problems.

Finally, I am of the opinion that we should have a clause that should put national issues above other issues. This country seems to have / so much to the extent that people seem to be worshipping in communities instead of the nation. That's all.

Com. Kangu: Now, Ongute you emphasized that there is no problem with the constitution with the current system. The problem is with the people. Now, unfortunately even as we write a new constitution we don't have an opportunity to load all these on some lorry and go and pour in an ocean and get a new set of Kenyans. How do we get things moving the correct way with the kind of Kenyans we have, because if we say the people are the problem, then many will say then we should not be writing the constitution, we should maybe just remove the people from office but there are others who say that the constitution we have can actually avail an opportunity to anybody else who gets to that office to abuse power. So how do we deal with that?

Mr. Ongute: I think that is a challenging issue but the point is whatever constitution we are going to come up with from what we are doing now, I am 100% sure we will not very different from the constitution that there is. I can see a lot what people are saying is almost the same but they are saying in different phrases.

Com. Kangu: Just go there and sign and give your memorandum there. Can we have Wycliffe Osore, he is not there. Odenyo Ochieng', is it Ochieng' or Odenyo? Is there anybody called Odenyo? Caroline Nyakundi, not there, Peter Mutua, he is not there, Joe N.E Ochieng' please take this chance.

Mr. Ochieng’: Thank you honourable commissioners my names are Joe Naaman Eddie Ochieng’. I am from the Jua Kali sector. My views, suggestions, proposals for consideration and inclusion into the proposed new constitution of the republic of Kenya are as follows. Number one, national social welfare. I am proposing that in the new constitution the government to set up a social welfare fund to serve and accommodate the day-by-day social welfare need and activities. These will be done via the establishment of a national social welfare fund. The fund sourcing will be from as follows; employers, companies, local authorities, employees and the re-introduction of the charges to supplement the sourcing.

Number two, education. I am proposing that in the new constitution, government to set up a basic education fund, same sources as above for the funding to cater for general education from nursery through the primary level education that is KCPE.

Number three, environmental and public health. I am proposing that in the new constitution the government to set up an environmental and public health police force to monitor, prevent, control and prosecute offenders. This is in view of the seriousness of the environmental pollution and neglect and non-observers of public health rules and regulations. To add on, this proposal on environmental and public health police shall create thousands of jobs countrywide. Some funds sourcing as in one and two above.

Number four, self-employment creation. I am proposing that in the new constitution the government to set up more land facilities and financing for jua kali sector. This will be in location withing the major urban towns, urban centers, rural townships, etc.

Number five, political. I am proposing that in the new constitution peace and stability shall be paramount and above opposition politicians interest. The current KANU leadership has maintained peace and stability with development since independence.

Wananchi will be empowered in the new constitution to vote out of Parliament any opposition MP or MP whose conduct in and out of Parliament undermine national interests for example wananchi peace and stability. This process of voting out such will be via a national referendum because the opposition MPs or any other MPs were elected by the people and the people have the right to vote them out of Parliament. That is in my opinion what I call democracy in practice which the opposition and the elected MP must respect as wananchi’s decisions.

To add on, just incase the constitution review commission process is not finished for a new constitution to be ready before the general elections, then in my opinion as a citizen I propose the current KANU national leadership should continue to serve the wananchi as the government until the new constitution is ready. The KANU government has maintained stability and can continue doing so with wananchi support via a national referendum for continuation with the current leadership.

The four vice chairmen and the secretary general can serve as rotational presidents, each serving a one year term until the year 2007 when the constitution of Kenya review commission may have perfectly completed its work.

The office of the national interest and welfare should also be created and headed by any retired president, minister because their administrative experiences shall always be needed for national consultations. Thank you for giving me the opportunity to be heard. I am available to be contacted for more proposals.

Com. Kangu: Thank you Ochieng' you sign our book and if you have any written memorandum you hand over. Now, can we have Kahura David, he is not there. Mburu Julius, he is not there. Fred A. Maranga. Joseph Nyamwanda, Michael Ojende, Jackson King'ori, Njenga Thairu, Robert Mugambi, Florence Wanjiku, Nduta, Wambui Njenga, John M.G.

Mr. Mugo: Namsalimu adhuhuri njema. Hamjambo. Kwa majina naitwa John Mugo Githinji na niko na mapendekezo kadha nataka kutoa mbele ya tume. Kwanza ni habari ya land issue. Kulingana na vile haki ya lands iko, kwanza kabisa nilikuwa na demarcated land ambayo nchi yote kwa jumla iko na map yake na tunaitumia kwa kugawa ardhi. Kunazo ardhi zilizoachwa kama public utility. Chukua na kama upande huu wa Dagoretti ama sehemu zingine za nchi wakati tulikuwa demarcated, kulikuwa kumeachwa sehemu kama za soko, ama makaburi, ama parking, ama road reserves na hizo zote tukiziangalia unaona zimepatiwa individuals kwa njia ambayo sisi hatuelewi labda ile Serikali tuko nayo yaweza jua zaidi sisi kama wakaazi wa hapa tunalipa kodi ya ardhi kama niko na title deed, niko na duty ambayo ninatoa kwa Serikali. Na tukiangalia hao watu watoe hiyo court sasa unaona tunafinywa kwa upande huo. Ningependelea hizo ardhi zirudishiwe watu, yaani iwe ya manufaa ya watu kwa ujumla kama public ndio tunaona kuna shida sana ya masoko hatuwezi pata ama road staff, ama mahali pa kujengea kama dispensary.

Pendekezo yangu ya pili kuhusu freedom of worship yaani vile tunatakiwa kuabudu. Katiba tuliyo nayo haituonyeshi tunaweza abudu nani kwa sababu kuna makanisa mengine yanaabudu hata shetani. Kuna watu wamejitokeza kuabudu hata shetani, ningependelea tuwe tunamwabudu Mwenyezi Mungu kama tunaabudu lakini sio kiumbe chochote.

Ya tatu, ni kuhusu kuchaguliwa kwa president. Presidentasiwe above the law. Awe ni mtu ambaye anaweza kupelekwa hata kwa mahakama kwa sababu yeye amepatiwa jukumu ya kulinda mali ya umma na kuongoza watu. Sio awe kama bwana mkubwa.

Ya nne, ni kuhusu elimu. Ningependekeza elimu iwe free kwa wote, watoto wasome bila karo, hata mpaka university kwa sababu sisi tunatoshwa ushuru kwa njia hii na nyingine na tunafanya kazi, Serikali inatutosha ushuru ambao nataka nao tuone inafanya kazi gani. Elimu tunayo sasa, the current 8-4-4 system imekuwa mzigo sana kwetu kwa sababu vile ilianzishwa, hakuanzishwa na watu ambao wali-consult watu kwa ujumla ili tuone kama itakuwa burden, kama watu watoe maoni yao kuhusiana na hii elimu kwa sababu tumeona imekuwa mzigo sana hata kwa sisi wazazi.

Ya tano, ni kuhusu free medical services. Tunatakiwa tuwe na mahospitali ya kuhudumia watu na hasa kwa sababu tunatoshwa

ushuru na Serikali tungependelea tuwe na dispensary. Free na medical services ziwe free.

Ya sita, ni security for all na ianzie katika location level ambayo tuwe tunalindwa kutoka kwa vijiji hata kama ni polisi tupatiwe, kijiji kiwe na police post ili security iwe inaangaliwa.

Ya mwisho, ni kuhusiana na city councils na councilors zinasimamia miji. Hizi councils ziwe zinasimamia na ma-councillors ambao wamechaguliwa na wananchi na hasa mayor ambaye amechaguliwa na wananchi, na zile ushuru zinatoshwa kwa kila location kwa mfano kama ni hapa dagoretti, zile revenue wana-collect kutoka kwetu ziwe zinatunufaisha sisi wakati wa hapo, zisiwe zinapelekwa upande mwingine, ili kila location iwe na maendeleo yake na hasa tusaidiane hapa ma-councillor nao tuone wanatufanyia kazi gani. Asanteni.

Com. Kangu: Sign your name there. Councillor Mohammed Nyutu, he is not there. Josephat Kabathe, Paul Ohanga, please take this chance.

Mr. Ohanga: Hamjamboni. Majina yangu naitwa Paul Ohanga, mimi Ningependa kutoa maoni yangu nione kama mnaweza kusaidia sheria mpya ambayo tunatengeneza. Maoni yangu ya kwanza inahusu land ambayo tuko nayo hapa kenya, mimi nikiangalia ninaona viongozi wa Serikali ikianza kwa ma-PC since 1963 na MaDC hao ndio wako na land mingi kwa maana unapata mtu mmoja alifanya kazi kwa upande wa Mombasa, ako na acres zaidi ya thelathini. mtu ameenda upande wa Machakos, ako na land na hakuna sheria ambayo ililinda ma-land kuhusu land na wafanyikazi wa Serikali, wametumia sheria ile ya zamani mbaya. Hizi vitu wanachukua ambayo hawakuwa wanajua kwamba tutajua na tunajua hakuna watu wengine ambao wako na land mingi kama wale walikuwa wafanyi kazi wa Serikali ya zamani na mimi Ningependa kusema ikiwezekana, sheria tunatengeneza mpya ipatie Serikali sheria ambayo inaweza kumpa mwananchi yeyote asiwe na land zaidi kama ni acre mia moja asiwe nayo zaidi kwa sababu kwa sababu ministry tuko nayo ya lands ni moja na ikiwa hii mtu anaonekana ako na / Mombasa, ako na / Machakos, ako na / Kakamega, hiyo inamaanisha nini? Na ministry of lands tuko nayo ni moja. Hii itengenezwe sherial kwa maana hii ndio kitu moja ambayo imeleta shida sana. Land imechukuliwa hata Serikali kama inapenda kupatia watu acre kumi kumi haipatikani. Wafanyi kazi wa Serikali wale wa zamani walikufa wameacha watoto watoto wao na land mingi ambao hata wengine wameshindwa kujua ziko wapi. Hiyo ni kwa upande wa land, mimi nimetoa maoni yangu hivyo.

Upande wa polisi, mimi kama niko mtoto nilikuwa nasikia baba yangu ananiambia kama wewe hapana soma nitapeleka wewe polisi kwa maana polisi hiyo inaonekana kama ilikuwa kazi ya mtu yule ambayo mjinga hajasoma. Na sasa polisi imekuwa chombo ingine ambayo mtu yeyote akiandikwa kwa polisi kazi yake ni kuiba pesa. Akishika mtu, lete pesa, hata kama unafanya nini, lete pesa. Sasa sheria ilivunjwa na polisi, hakuna mtu mwingine amechangia wizi hapa Kenyakama polisi na imekuwa hata polisi akiwacha kazi, anakuwa chombo ingine ambayo hakuna kazi inaweza kukupatia. Hata kama ni ndugu yako umepatia polisi, umepeleka yeye aandikwe kazi ya watchman, huko unasikia ameiba kwa maana amezoea.

Polisi iwe na muda ya kufanya kazi ya polisi kama ya jeshi. Kama siku yake imeisha, asiongezwe ingine. na wakati ako kwa polisi pahali yote ambayo anapelekwa polisi asikae hapo zaidi ya miaka mitatu, shauri hatuna wananchi wengine tutaandika aje afanye kazi ya polisi ikiwa sio sisi wenyewe. Sisi wenyewe ambao tuko na tumeona ile tabia ambayo polisi anafanya, siwezi kuambia wewe eti mimi nikiandikwa polisi nitaiba. Nitaiba shauri nimeona vile wanaiba.

Tusipokuwa na system ambayo tupatie Serikali wanaweza kutumia hii polisi tulinde nchi yetu kwa maana maovu imeingia kwa nchi yetu kwa njia mingi na lazima tuangalie kila mmoja aangalie ni njia gani tunaweza kuendesha nayo nchi yetu kwa maana unaweza kusema ile iko pale ni mbaya. Hata wewe ukiwekwa pale itakuwa mbaya kwa maana hakuna mtu mwingine, hutapewa mtu wa Uganda utumie naye. Hata nilisikia juzi kama wanaongea Tanzania pia hii mambo ya hongo imeingia.

Kwa hivyo mimi ningesema hivi, upande wa Presidentmimi sana sana singependa Presidentanyang'anywe mamlaka. Unaweza nyang'anya Presidentmamlaka mpaka hiyo kazi iwe useless na hakuna mtu anaweza kuihitaji. Unaweza kusema mfano kama chief, kuna sheria ilinyang'anywa chief mimi naona huko nyumbani sasa imekuwa hata mtu anapigwa hapo na chief anasema mimi hapo sheria yangu haiko hapo.

Kuna mambo mengine ambayo haitakikani itolewe kwa president. Isipokuwa kama tunaweza kutengeneza sheria ambayo Presidentama mtoto afundishwe kutoka kwa primary school ama nursery ajue kwamba mtu ambaye anafaa kuwa kiongozi awe mtu aina gani, na wakati inafika mahali ambayo anaweza kugombea kiti cha rais tuna-refer mambo yake kutoka kwa primary level, secondary mpaka university ili tupate kiongozi ambaye anaweza kuwa mzuri kuongoza wananchi. Yangu ni hayo.

Com. Ayonga: Unasema mtu asiruhusiwe kuwa na shamba Mombasa, tena akaja akanunua ingine Machakos, tena ingine wapi. Unasema hivyo? Je, itakuwaje kwa mtu anayenunua duka? Ukipata duka, uwe na duka Mombasa, ingine uwe nayo, ingine iwe Machakos, ingine Nakuru, pia hiyo ni mbaya?

Mr. Ohanga: Mbona iwe ni mtu wa kufanya kazi tu?

Com. Ayonga: La, mimi nasema ni kwa mtu yeyote mKenyakwa maana (inaudible).

Mr. Ohanga: Kama wewe ni baba ya watoto na wewe unataka kupatia mtoto mwingine shamba itakuwa na shida. Kwa hivyo Serikali (inaudible) hata ukitaka land huwezi kupata. Wengine wale walikuwa wafanya kazi kwa Serikali wamemaliza land. Wacha kusema hivyo.

Com. Kangu: Tuambie, tuwafanyie namna gani? Ni kweli wamechukua mashamba, wako nayo na ukienda kotini saa hii tena mKenyaatabeba Katiba aseme ni protection of property. What do we do with them.

Mr. Ohanga: Sasa tunatengeneza Katiba na wakati wa kutengeneza Katiba na tunajua ni pahali gani ambapo tumeendela vibaya, lazima tuangalie ni kitu gani, ile baba yetu na koti yetu ndio tunatengeneza kwa maana hiyo ni shida ambayo tuko nayo na lazima everybody aone ni kitu gani tunaweza kutengeneza kwa maana hata hiyo kubeba bible, ilitengenezwa iwe ni sheria, mtu akienda kotini afanye hivi na hivi na wakati huu ndio wakati wetu wa kutengeneza hiyo.

Com. Kangu: Can we have Peter Makau? Sofia Barongo, Orina Nyabeta, G.M Mageto.

Mr. Mageto: Thank you commissioners. My names are Oluoch Mutunda Mageto. I would like to give my proposals regarding the following;

One, the security system of the country. Kenya has experienced a lot of insecurity in the present times and the police are doing a very good job but then we have had another problem with the police and that is insecurity. We have had various security companies who are now doing the work of the police. These security companies are the security guards who are doing a very good job but then these security guards are working under terrible conditions. One, they are working harmlessly. A security guard is working with a rungu and if a that protects property worth millions of shillings, when these thugs will come, they come with the machine gun. Now, I would like the constitution we are making to arm the security guards and that is when they will be able to perform their duties efficiently so that they can reduce the number of criminals within the country.

Two, I would like to talk about beer. Illegal beer, all Kenyans are very poor and they cannot afford even a glass of tusker ama pilsner. That is why they have an option of what is called the illegal beer. Why can't the government or the constitution we are amending put in place or legalise all categories of beer so long as they pass through the necessary process. Kenyans are importing a lot of beer from outside and strong whiskeys are being imported from outside while we are making chang'aa which is a beer which is illegal in the country, why can't it be made in such a way that it will pass under these conditions so that it is also one of the whiskeys. It can easily cause the economy of the country to grow up.

Thirdly, I would like to talk about traditional customs and beliefs. Every community has its own beliefs and customs. Every tribe in Kenya has its customs. For instance we have the rite of passage in African traditions. Some communities have performed the piercing of the ears, the removal of the teeth, circumcision of boys, girls etc.

I would like also the new constitution to put in place every tribe should be let alone to perform its customs and beliefs as if it were being done from the beginning we are now going to western culture, which is almost living as nowhere. For instance some communities do circumcision of girls which has been / and now has been able, but then it has gone underground. The constitution should put in place hygienic conditions under which such practices are carried out.

The other one is the land issue. Many parts of the country lie idle and are very fertile. Every Kenyan should be left free to travel and do farming wherever land is lying idle because we cannot afford to import maize and other cereals from outside while our land is lying idle. Thank you.

Com. Kangu: Thank you very much. Can we now have Scholastica Akinyi?

Mrs. Akinyi: Thank you very much for giving me this chance to present my views. I am here representing women caucus. In the first place... my names are Scholastica Akinyi, I am here to represent women caucus.

In the first place, I would like to talk about affirmative action. Women should be given equal chances in Parliament as men and their basic needs should be looked upon. In the first place, women are the greatest population in Kenya and yet they are the fewest in Parliament. We can do this by if there are no many women in Parliament, we can nominate some like each constitution can nominate a woman to go into Parliament.

Another thing I could also like to talk about the issue of polygamy. I think this thing should be outlawed. A man should marry one wife. That is because when someone goes marrying, he gets one today, give her children and then come back, go somewhere else, get others, this may add to a lot of poverty because maybe you go to the rural area, you take someone daughter you marry. Without informing her of your position and then you give her children, you go dumping her, leaving her in poverty.

Another thing is on basic needs, especially dagoretti we have water shortage. Every now and then we don't have water also about school. I think primary education should be free because if we make it so expensive for people, most children will not go to school. They will end up in streets. We should at least make it affordable for these kids to go to school. That is all I have.

Com. Kangu: (Inaudible)

Mrs. Akinyi: I think the city council should look at each and every place turns water because we pay for the water, they don't give us for free.

Com. Ayonga: Can you tell us if there is no piped water what should we do?

Mrs. Akinyi: They should take action that they should make the broken / so quickly so that people may get water.

Com. Kangu: (question inaudible). Do you have an idea about (inaudible)?

Mrs. Akinyi: I think these locals, we should put very strong people who can look at the issue of / instead of them assuming, they look at their own needs and get others accompanied.

Com. Kangu: Inaudible.

Mrs. Akinyi: They should be paid.

Com. Kangu: (Inaudible)

Stella Muthoni: Good afternoon. My names are Stella Muthoni. First of all I would like to talk about... women caucus association. I would like to talk about the affirmative action and this I think is the empowering of women to participate in different fields and if they are allowed to participate in Parliament or the elected more women issues are likely to be represented. These include the battering of women who don't know that they have a right not to be beaten and in the education capacity, women will be able to be employed in higher places and to manage bigger organizations, but now we see that they can't be let to manage things because people think that they are the weaker sex.

About the human rights, I think women are free and have the human rights to wear whatever they want and go wherever they want. This issue about women can't wear trousers because it is not the traditional rites or whatever. It is your right to wear what you think you are comfortable in.

The police should be told to arrest people like the mungiki because they don't want women to wear trousers and then they practice what is illegal. They organize those illegal meetings of theirs. And then about the basic needs especially in Dagoretti as my friend has said about the water shortage if the city council cant be able to put the water piped they should then dig boreholes and then the people will be able to get more water.

On the health issue especially in 'Dago' (Dagoretti) we have because of water-borne diseases e.g dysentery, cholera and typhoid and that is because people are drinking contaminated water. That is all I have for now. Thank you.

Com. Kangu: Can we have Patricia Wambui?

Mrs. Chege: Jina langu ni Patricia Wambui Chege. Nafikiri mambo yale yote nilikuwa nikitaka kusema, mengi yamesemwa lakini nitasema yale yamebaki. Na yale yamebaki ni mambo kama ya allocation of land. Kwa mfano tumeona vita nyingi kwa sababu ya jambo allocation. Mahali nyumba imejengwa kwa mfano niseme niko na shamba langu ama nimepewa title na nimejenga, nyumba inakuja na ikabomolewa, kwa sababu huyu mtu mwingine ako pia na title deed na mimi niko nayo. Sasa mapenzi yangu na maoni yangu wakati wowote, the land commissioner giving the land or allocation of any plot in the republic of

kenya. Nafikiria kila location ama constituency tuko na wazee ambao wanaweza kutoa recommendation na kusema hii shamba haijapeanwa na inaweza kuwa allocated to somebody else. Ikiwa sio hivyo commission of land kwa vile mgogoro hii ya mashamba ni mingi kwa nini zamani hatukuwa na mgogoro ya kupeana mashamba na pia kwa nini hatumi watu kuangalia hiyo plot kama iko watu wako pale. Hiyo ni mambo tu ya ploti.

Ya pili, ile ingine ningetaka kuongea juu yake ni juu ya transport. Vile magari huchukua wananchi lakini wakati tuko kama public holiday wananchi hulipishwa kiasi kile ambacho hawangeweza kulipa. Kwa hivyo hata hawataenda nyumbani. Kwa nini wakati huo tuko na public holiday, wakati wa Christmas, wakati wa furaha kama hivyo hakuna watu kama Serikali inaweza kutuma watu wale wanaweza kusimamia na kusema gari ya kwenda Kisumu ilikuwa inalipisha mia tano na hata ikiwa na Christmas ni mia tano. Kwa nini iende elfu mbili, kwa nini iende elfu mbili na mia tano?

Kitu ile ingine ningetaka kuongea ni juu ya watoto. Hasa watoto wale wako na wale akina mama katika mitaani. Hawa akina mama ukiangalia Uzima wao, hakuna kitu hawawezi wakajifanyia. Hakuna sheria ingeweza kutengenezwa ili kuweza kuondoa hawa akina mama hapa na watoto wao katika town. Wengine wanasema ni kutoka molo, ni kutoka wapi lakini kuifanya uchunguzi kamili hakuna kitu kama hiyo. Kunaweza kuwa na sheria ya kufunga vitu ya bure.

Tusiwe na watu wanatoa msaada kama hiyo wakiketi kwa barabara niwe mimi wa kwanza, ndio natoa mahera ya kuwapatia nguvu wakae pale. Mimi naona ni mzuri kuwe na sheria ya kuwaondoa wale wote watu wanakaa humu humu kwa mitaa kwa sababu wengine unaweza kuona mtu mwingine ako na wheelchair. Tuko na wengi hata hapa Dagoretti. Unaweza kuona huyu mama anateremshwa na mtoto wake na nyumba tumempatia ya bure ashiriki. Lakini kwa vile najua akiteremka huko chini mtampatia pesa ndio wanakuwa na nguvu za kuteremka. Kwa hivyo naona kungekuwa na sheria fulani ambayo ni ya kufunga mambo kama haya. Sina mengi ni hayo tu. Thank you.

Com. Kangu: Ungeonelea tuwe na sheria ya kufunga watu kutoka sehemu hii na kwenda sehemu hii kwa sababu ile umesema ni kama kuna wale wamama kama wale Unasema kuna wale wamama Unasema wanaenda kuomba, wanadanganyana wametoka Molo lakini hawakutoka Molo. Ni maoni yako kwamba sheria iwe ile imeturudisha zile siku tulikuwa za kipande ya kusema kwamba you cannot just move from here to there ni lazima ujulikane unaenda kufanya nini na nini ama unasema namna gani?

Mrs. Chege: Nasema katika city council wako na pension ambayo ni ya social workers ambao hawa social workers, sometimes back walikuwa wanafanya uchunguzi kamili na kuona huyu mama ametoka wapi na walikuwa wanawarudisha kwa sababu wengine wametoka kwenye rich families. Kwa hivyo hii naona si eti ni kufunga lakini kuwe na kitu ambacho kinafanya uchunguzi kamili wa kurudisha hawa watu mahali wametoka.

Com. Kangu: Na tupate Aggrey Atetwe.

Mr. Atetwe: Asanteni. My name is Aggrey Atetwe Matula. My proposal I will first say, the President be a man or woman of 50 years, not less than that and the president's elections should be done separately from Parliament and civic.

Two, since Kenya is a multi-party country I think all parties represented in Parliament and civic bodies should be funded by the government.

Three, elections violence and bribery common in Kenya, my proposal here, the concerned parties in this violence should be disqualified in the board in the whole district not in the board or in the committee, in the whole district. I also suggest, we have a problem in Kenya, mothers producing labour inakuwa ngumu, they die. So I think maternity hospitals should be guarded for mothers' plea.

Mayors and / should first be councilors and then elected directly. President in Kenya should get 55 votes and not 25% per province majority votes. The powers of him should also be trimmed. The powers should be trimmed to make him not above the law.

My other contribution is on street families. I think children who lose mothers or fathers, they should be allowed to own property of their parents. Those children don't have a hope, maybe the mother is lost and the father marries another woman so the child will have no say in his father's property so he should be protected. Maybe the mother may marry another man, he may not have the power so in this case I encourage the constitution here, these children must be protected or should be protected. I think I can't put more information, this is what I had. Thank you very much.

Com. Kangu: Can we have Duncan Gitonga, he is not there. Esther Kariuki is not there. Mary Ng'ethe is not there. Waweru John, Ramadhani Hamisi, A. Mwangi Njihia, Nicholas Obiero Banda, Isaac Masiza.

Mr. Masiza: My names are Isaac Masiza and my proposals are just two. First of all I would like the Chief Justice not to be an appointee of the president. Or in other way not to be appointed by the President and if he is appointed he should be among the court of appeal serving judges. Not like now where a Chief Justice is just appointed maybe he has been prosecuting and tomorrow he is going to be the boss.

My other proposal is we should have a law that is not allowing foreigners who come into this country and start engaging themselves in small businesses e.g like matatus. These small businesses. We should have a law which should forbid these people and also if foreigners are coming in this country. We should also have a law that is not allowing them to have as many children as they feel as if this country is their country because if you move around here you will see some brought forth to many children that they cannot be able to take care of and at the end of the day they become many in our society. I think those are my

proposals.

Com. Kangu: inaudible.

Mr. Masiza: I would feel that these appointments allowed to give birth maybe one to one child.

Com. Kangu: How many are they?

Mr. Masiza: Many are like four children to eight children. They are foreigners in this country who are having so many children. They can't even take them to school so we should have a strict law that should not allow these people.

Com. Kangu: On the qualifications of the Chief Justice, you say he must be a serving judge of the court of appeal. Experience shows that in other countries in America some of the best judges and the Chief Justice are people who are appointed from universities to people who have been lecturers some of them being. Don't you think that might be restricting so much so that we may not be able to tap some of our best friends?

Mr. Masiza: If we compare our country because of corruption, when you appoint the Chief Justice somebody who has been prosecuting, he is a corrupt person and this person is involved in so many bad deals. At the end of the day...

Com. Kangu: Inaudible.

Mr. Masiza: He should be vetted.

Com. Kangu: Can we have Simon?

Mr. Murimi: Good evening. I take this opportunity to highlight some few words concerning the things I would like them changed in our society.

I will start with corruption that is from the judicial. There is a time Kenyans took a point that the prosecuted for example they prosecuted the former town clerk and also the Kipng'eny concerning the corruption but when they appeared in the court. The court termed the king as the null and void because it is unconstitutional. So I would like us to make a certain king that will be able to taking at as a ruler of those people and prosecute them.

The other thing that I would like is security. Particularly I would recommend on the police. Right now we need to have a supreme body that will govern the police, for example in the armed forces we have the military police. It is usually governs the

forces itself. So we need a body that is not answerable to the President but if at all the police misbehaves or happens to kill somebody without the right because sometimes they behave in a cool manner, they are supposed to be taken and be prosecuted without being questioned by the President because the President might say or this is my person and don't just take him just the way he wants. So we need a supreme body that is not answerable to any body.

The other thing that I would condemn is the swearing in the court. This I take to be very uncouth to the Christians as we are not supposed to swear with the bible, because you see even a thief is prosecuted with a bible or somebody will do other evil things, and you swear him with a bible and literally that person is a murderer, why? When you look at the book of exodus chapter five starting from 36 to 37, it condemns that.

The other thing I would also like to talk about when you enter the court of arms you have to bend or if at all you are a police you have salute. Why salute to a statue and how are we supposed according to the bible we are not supposed to bow to any nature or something made by any person. We are supposed to adore only God Himself, nobody else. So that one I will say that we are supposed to be entering in the court anyhow and not by bowing. You are not supposed to bow.

The other thing that I would like to talk concerning the President term. The President term is supposed to be two terms. He is supposed to be elected twice, after five years. After five years, that is all. Then after the other one that is all. He is not supposed to be elected that time like nowadays the people are trying to say that Moi is supposed to be back at the third term. No! Let him serve the two if people decided it is two.

The other thing I would like to talk is concerning the clashes. Like the 1992, particularly I would like to suggest that those people that happened to be in those clashes in 1992, they are supposed to be covered by the council. They are supposed to be given back their land because it belongs to them. They bought the land, they were not given. So I would like to say that they are supposed to be covered and be given back their land.

The other thing that I would like to say is concerning the social amenities, like hospitals. I do suggest that people are not supposed to be paying cost, because not all people will be affording to pay, because you may happen to get a child. If a daughter happens to go and get a kid out of marriage that is out of wedlock and maybe the parents may decide that this girl is not supposed to be in this house, then they chase the girl. Where do you think that girl is going to get the money to pay the bill for the hospital and you know in Kenya you are not given things for free.

The other thing I would like to talk about is concerning the costumes especially on women. There are sometimes that you shall get women wearing mini-skirt, why? That usually tempts the men and they happen to complain that they are being harassed or they are being raped. So I would suggest they are supposed to be wearing something presentable that cannot make a man happen to think evil things.

The other thing that I would like to talk about is the power of the president. The President is not supposed to be given powers. He is not supposed to be above the law. He is supposed to be just a common mwananchi. So if at all he happens to do any evil things, he is supposed to be prosecuted.

Also the other thing that I would like to say is concerning the regulatory board. We are supposed to have a certain regulatory board that he should be controlling either the matatu. Sometimes you get the matatu they are hiking the fare or when it comes to the side of products you get that there are some people, they are selling some sugar at 200 bob and it is supposed to be at 50 bob. Why? I would wish that you people are supposed to consider those things. That is all I have.

Com. Kangu: You say that women should not dress in a manner that will tempt the men. Now, our history shows that our forefathers would put on nothing, our foremothers would put on nothing but they were not raping each other on the allegation that they have been tempted.

Mr. Murimi: Look here, the phenomena nowadays is changing and as you see people are becoming educated. If at all you go to back to the kid you have at home. Right now, he exactly knows what you are doing, don't think that he doesn't know. He exactly knows what is happening, so as the culture is changing you are being coming to a modern way. So we need to check some things.

Com. Kangu: We are asking ourselves, what is it that our forefathers used to do which we are not doing today that would not make people not feel tempted. You are telling us our little daughters now know these things earlier. What is it that we are not doing that makes them to know these things earlier?

Mr. Murimi: Now, what I will say is this. The only thing that I would just say, we are supposed to wear in a more casual way that is presentable to avoid those things.

Com. Kangu: Now, two, you say that Christians should not be required to swear in court. Now, the last two weeks we were in ukambani, a lot of people told us that today very many people go to courts, alleging to be Christians, they swear with the bible how they are going to tell the truth, and they immediately start telling lies because they don't take the charge seriously and people in ukambani were telling us if only you can give us a constitution that can take us back to the traditional which they call 'kithitu' we would be better because people take that seriously than they take Christianity. What do you say about that?

Mr. Murimi: What I suggest is this, you don't need to be if at all you are telling the truth, just tell it the truth. If you want to lie, just continue lying.

Com. Kangu: But the truth is that the people are not telling the truth.

Mr. Murimi: So, the only thing that I would like to say, is concerning the judiciary, let them decide.

Com. Ayonga: Always remember that the truth will make you free.

Com. Kangu: Can we have Joseph Wanjala? He is not there Muyala James, he is not speaking, Karanja P.M.K. He is not speaking, Ken Okeyo, please take the seat.

Mr. Ken Okeyo: Good afternoon ladies and gentlemen. My names are Ken Okeyo. I would like to present my proposals to the repeal of the constitution. First of all, I would like to give my views on the repeal of section 2A, the Kenyan law. I think some fundamental aspects should have been included, in that repeal. In that, as Kenya introduced to the multiparty system and we fail to understand why some other political parties are denied the licence to go and gather so I think some of those things should also be included. And we also fail to understand why they should get a licence from the police.

I think they should just approach the police when at least for security purposes but not to get licences. Secondly, is that we Kenyans we think that some police units should be abolished like the G.S.U units. Kenya has been a very peaceful country for a very long time and if we have the police unit like the G.S.U that deals with the riots, there is no any other country that has a G.S.U unit in the world except Kenya and like at the moment where there are no riots you fail to understand what the G.S.U people are doing because they are just earning money and yet there is nothing they are doing. I think if they should be received in the general duties like any other police force to perform general duties.

My other aspect is that the Kenyan government should abolish the issue of cost sharing. This has led to the loss of many lives due to the fact that many people are very poor and cannot meet the costs that pertains to the health cost.

Then we should also have the equal distribution of the national cake like the infrastructures and development structures. In every province in the republic of Kenya. Another aspect is taxes. I don't see any other country that taxes heavily like Kenya. This has always driven away foreign investors who would like to come and invest in the republic of Kenya at least to open doors to the issues of unemployment.

Then the press. I think by the press should be left to regulate themselves because some of the press organizations are owned by individuals and I don't see how the government should be given the powers to regulate them.

Then the issue of gender equality. There should be equal distribution on matters pertaining to the affairs of this country in that women should be given equal chance to perform engage in the access of the country but the women should not take it that this issue should always come in a silver plate. Everything has to be fought for. If they cannot manage then the men will take it. So

they should not misinterpret the issue of gender equality. Everything should be fought for.

I think we should also have people who represent the minority groups in Kenya like the Indians, since they were given land into this country, we declare them as Kenyans and they should also be given a chance to have their own representatives so that they may also participate in the national affairs of the country. Then the powers of the local government should also be curtailed in that at the moment the local government has a lot of powers and if you walk into the street of Nairobi you can see how they harass the hawkers and I don't know, they have not even set aside a land where they have said that the hawkers should go there and conduct their business. I think that is all from me. Thank you.

Com. Ayonga: I want to ask you a question. You said taxation here in our country is too high. Now, is it just taxation that is too high or it is taxation without services that you can justify it?

Mr. Okeyo: It is taxation without services.

Com. Kangu: Now, one last question Okeyo. You say that we don't need G.S.U since they do nothing when we don't have riots. We have been having a permanent standing army since we got independence and we have never been to any war and I don't think we are about to because Kenyans pray very hard and their prayers are heard. What do you say we should do with this army? Are we making good use of it? Do we need it? And can we make use of it in some other way?

Mr. Okeyo: You see like the Kenyan army, this is a very important issue and any country like Ugandans you know they have always wanted and they are eager to take an advantage of us. So if we abolish the Kenyan army, a lot of countries are going to take an advantage of that. So I think the people like the Kenyan army and the G.S.U should be given other jobs to perform. Like the Kenyan army is supposed to build bridges and such things, and also the youth service unit should also be given some other duties to perform because like when the G.S.U at this particular time, they are just there, the only duty that they are doing is to protect their gate and yet they are earning salaries every month. So I think if they have no particular jobs to do they should be filled into the general duties. Thank you.

Com. Kangu: If we put there some of our strongest men and women, we should think of other things they can do as they wait for the day of war. Thank you, go and sign our book. There is J. Karinga, Githinji Gachunga, please take the seat.

Mr. Githinji Gachunga: My name is Githinji Gachunga, I will try to be as brief as possible.

Okey, I will start with the presidential powers. In our government, our President has a lot of powers. He has the power to dissolve Parliament. The President should not have the power to dissolve Parliament because he is more like controlling or manipulating the general elections. In a constitution dissolving Parliament goes to the general elections.

The other power is the power to sack or dismiss government officials. In this Moi regime, we have had seven finance ministers. Some of them have run for one year only and yet they were experienced, for instance in the finance process. In the process, unqualified persons are elected to the post. This also applies to the other ministries. All ministers appointed to head a certain ministry should be qualified enough to head the said ministry. What I recommend is that they should be put in place a commission that has to consult the President before taking such drastic actions. That is such actions should not be based on individuals.

Something else is the independence of the judiciary. In our government, the Judiciary is not independent in the sense that most of the courts truly favour the government. One notable case being the 1997 general elections. Immediately after the elections, the results were announced. The opposition led by the official opposition leader Hon. Mwai Kibaki rejected the results and thereafter keep the appeal but what happened is that the court struggled the appeal claiming that it he should not be a teacher to the law.

The last point is the election of the mayors. In our current system the mayor is usually elected by his fellow councilors. Why can't be elected by the people because he is not only serving the councilors. He is serving the people in general. And also we should also hand in his fellow constituency and despite their different political parties so as to boost development in their region. Thank you. That's all.

Com. Kangu: Is there anybody else because your name is not in our list. Is there anybody else who wants to speak?

Mr. John Karinga: My name is John Karinga. I want to contribute my views to this commission about corruption in this country. We are being condemned internationally, here in our country by the church members, and everybody is complaining this corruption and in my views it is a tree that has taken root and very hard to uproot. If we start with let's check with our police force. It is one of the corrupt institutes in this country and I think our police force is one of the corrupt in the world. To abolish this corruption I have decided to air my few points of how we can wipe out this corruption.

First, you see a police force is there like our police station is Riruta here. Police officers are sharing one single room, five of them. One, their salary is very low. If we want our police institution not to be corrupt, first they must be given a good salary.

Com. Kangu: I think you should only give us the recommendations on what you would like to see in the police force.

Mr. Karinga: Good salary, good accommodation they must be equipped with good vehicles because when we need them, we don't need to go to the police station you just call them and they will come. Like in our area here, the big problem is the police force. You call them, they don't do what the courts will be doing. They just go there, start harassing people on the road, dropping them, beating them and then they say what you call them for is not done.

Check on the roads, it is an open game. We have got wanyee road in our area where you get about six police officers everyday. When they stop a vehicle, they don't go to check the vehicle, they just go around the back and the driver come out, he gets something off and then he goes away. That one should be at least wiped out and by doing this they should be checked well. Given good salary, equipped with good vehicles and I think we are going to stop that one, that is all.

Com. Kangu: Mr. Karinga, I think without denying the fact that the police officers are not well paid and the fact that they work in very difficult circumstances, our country seems to have evidence that some very corrupt people not necessarily the police officers are the kind of people you cannot say that they don't have enough. They just want to take. How do we deal with such people? Many corrupt senior government people are people who are damn rich. They have more than they need, even with their families.

Mr. Karinga: This is a country where you see like the PS, when he messes up with a ministry, instead of being dropped, he is transferred. We need to have a government that when you mess up with the economy or when you are caught with any act of corruption, you are dropped the way and you are charged in a court of law. With that one, I think we can stop corruption.

Com. Kangu: Thank you and sign our book. Kuna watu wawili wanasema walikuwa wameandika majina bwana Orina Nyambetsa. Please take the seat.

Rev. Orina: Majina yangu ni pastor Orina Nyambetsa na langu lile ambalo ningependa kuchangia ama kusesitiza zaidi ni katika hali ya corruption ambayo imechukua mizizi sana.. Maoni yangu kuhusu corruption, kama wakati huu unapata corruption iko mahali kwingi sana katika nchi yetu na aswa kwa upande wa polisi. Unapata ya kwamba badala wapate kufanya kazi inavyotakikana, unapata ya kwamba mara nyingi mtu ameiba kweli na ameonekana ameiba na amepolekwa polisi kule na baada ya hiyo unapata ya kwamba yule mtu amechiliwa na ameweza kuondoka hata bila hata kuadhibiwa, ili kwamba inaonekana ni bure tu basi angeachwa bila hata ya kupelekwa mahali pale na katika Kenyayetu tunaamini ya kwamba polisi ile kazi anastahili kufanya ni kwamba mtu akipatikana na makosa anastahili kuadhibiwa ama kupewa kifungu fulani ili akapate kunyorosheka kidogo lakini mara unapata kwamba hata mtu amepiga hata mtu mwingine huko kwa barabara hivi na wote wanaona na kuna ushahidi wa kutosha lakini akishapelekwa kule, ni kwa sababu ana pesa akishaongea mahali pale pesa unapata ya kwamba yeye ameshapeana pesa na ameweza kuondoka na ukiangalia kila mahali kweli hata upande wa makanisa hivi katika hali hapa unapotaka pengine ungependa kanisa ifanye kitu fulani, unapoondoka hata kuingia kwa ofisi unaambiwa toa kitu kidogo ili tukapate kufanya hii kazi. Hivi ni kwamba hata kazi ya Mungu watu wanataka tu wapewe pesa. Kile kitu ningependa ni kwamba corruption iwe na chapter yake, yaani itiliwe Mkazo ndio mabadiliko yakapata kuonekana kidogo na Nikiingia kwa upande mwingine katika Serikali ukizungumzia upande wa rais katika Kenyayetu unapata ya kwamba rais ako na nguvu kila mahali. Utapata yeye katika kila idara yeye ndio ako na jukumu za kupata hata kumchagua wale ambao wanastahili kusimamia ma-minister wote ni yeye anachagua.

Ukiingia kila mahali katika hata katika upande wa hakimu, yeye ndio anastahili kumchagua hakimu mkuu na unapata ya kwamba wale watu wanaingia mahali pale hata hawana knowledge yoyote kuhusu ile kazi wameweza kupewa. Na kwa hayo unapata ya kwamba kazi mingi inaweza kuharibika kwa sababu yule mtu amewekwa kwa ile ofisi hajaenda hata shule, ama hata hitimu kwa hivyo kazi unapata ya kwamba imeharibika. Kwa hivyo kile kitu ambacho ningependa kuchangia mahali pale ni kwamba katika upande huo tupate ya kwamba wale watu ambao wanastahili kupewa zile maofisi ama ile kazi, wawe ni watu ambao wamehitimu na wanaelewa ile kazi ambayo wanafanya na hiyo ingekuwa vizuri, tume ya bunge kama hatukufanya hiyo kazi na tukapate kufaidika.

Ile ya mwisho ambayo nachangia katika kutengeneza Katiba ni kwamba watu wengi haswa sasa tuko katika town nyingi lakini mashambani watu hata hawajaelewa ni nini katika upande wa uchaguzi. Unapata ya kwamba watu wakisikia tu ni fulani kwa sababu wamepewa kitu kidogo ama wamepewa pesa huyu ndio watapata kumchagua. Kwa hivyo ningependa tume ikapate kupewa muda zaidi ili wakapate kuingia ndani na kuelimisha watu wa mashambani ili wakapate kuelewa. Unapata ya kwamba kuna wazee wale ambao ni wazee kabisa wakongwe lakini hawaelewi kumchagua kiongozi mzuri ni kitu gani kinatakikana. Wakasikia wakisema ni mtu fulani, na yeye ndio huyo anachagua, hajui kama yule mtu anaenda kusaidia namna gani. Kwa hivyo wakipewa muda zaidi wakapate kuelewa nafikiri tutapata kusaidika. Asante, ni hayo niliyokuwa nayo.

Com. Ayonga: Ngoja kabla hujatoka, umesema wewe ni Pastor Orina Nyambetsa

Rev. Orina: Naam.

Com. Ayonga: Na ni pastor wa kanisa gani?

Rev. Orina: Ni pastor wa Christian family worship center, ngando.

Com. Ayonga: Na ningalitumaini kwamba wewe kama pastor na kama ingawa umechangia mambo mengine juu ya Katiba pia ungalichangia mambo pengine shida fulani fulani ambazo makanisa yanapata. Sasa usipoyasema hayo maneno ni nani atakayeyasema. Unatuambia mambo juu ya polisi na umetuambia juu ya rais lakini hukutaja chochote juu ya kanisa.

Rev. Orina: Pale niliongea kitu, nikasema ya kwamba corruption inakuwa ni nyingi sana hata katika upande wa makanisa wakati unaenda hata katika registration unapata mtu anaitisha pesa mingi sana ili kanisa lake likapate kusajiliwa na huyu mtu anataka kusaidia watu katika hali ya kiroho, anataka kusaidia watu pengine katika hali ya kuwa pamoja na kupata kuendelea na ako na nia nzuri lakini unapata ya kwamba ni lazima atoe shillingi kama shillingi elfu mia mbili namna hivi ndio kanisa lake likapate kusajiliwa. Kwa hivyo katika upande wa kusajili makanisa nilisema ya kwamba pale kuna corruption ambayo inaendelea kabisa na wale ambao wanasimamia katika zile ofisi huwa wanahitaji pesa nyingi.

Com. Kangu: Thank you and sign our book. Let us have Makori.

Mr. Makori: Asante sana, kwa majina mini naitwa peter makori natoka upande wa lenana. Niko na machache ya kuchangia and I could want to start with the Parliament. Parliament in amendine the constitution that is we should have the Parliament getting the power from the public or the authority whenever something, the constitution has to be amended. We should have the authority from the public. The public has to understand that there is a nature issue that needs to be amended in the constitution before it is it is taken by the Parliament to do the same.

The main clauses of our constitution should never be changed unless we are just talking of the some clauses which are the minor that can be changed any time but the main clauses of the constitution should never be changed unless it is something that is sourcing or a given law is deleted or has become out of date.

About citizenship I would want to say that we should be very careful and that has to be put in our constitution that a person to be a citizen of Kenya has to be a person who must have been born by the time maybe Kenya must have gotten independence. Secondly, a person whose maybe foster parents are Kenyans and a person whose maybe one of the parents is a Kenyan or an indigenous citizen of kenya.

This one we have already experienced a lot of problems in the sense that our country has been so much relaxed in terms of giving registration to anybody and we have just evidence like other people may be foreigners sneak themselves into our country and just get themselves the assistance making our country to have even a problem of employment, we just find foreigners are employed in our offices and our own Kenyans who are supposed to hold those positions are suffering outside so that something has to be looked into so that we give our indigenous Kenyans or our chief people first preferences.

Another thing is that the right that we are supposed to have citizen. We just have experienced that the rights are just written in the books but practically is like we don't have the rights existing. Like the right to live, rights to freedom and all the other rights we should just, like now we were talking of the other day about abortion and maybe wanting to legalise abortion something that is totally against the human kind of, as I can say it is against the law or against the natural justice of human beings.

A person or a woman has no power or we should not just give them power to just abort. This is because that infant has also a right to live because if we do this we are just encouraging like prostitution, we are encouraging things like, because somebody can just marry come out of marriage in time because she knows that I can just even get pregnant even if I get married, I can just come out of my marriage and I can even do abortion and just stay without any problem. So such kind of things should be looked into.

Com. Ayonga: Just a moment, you should not tell us we should look into. We want you to give us your views what should be

done because we know those things do exist and you have come here today to tell us for this I want this and that.

Mr. Makori: Thank you. So in regard to abortion, my recommendation is that abortion should never be allowed in our country.

Concerning presidency, we have always experienced that our constitution must have given the President a lot of powers as most of our members have just suggested, the President almost appears in every department. It is like he is just the overall boss in all departments and all the three arms of the government. Like now he has the power to choose appoint the judge of the high court and all the other judges.

Something that makes the judges to fear whenever they just want to pass a sentence. Like now we had the other day ministers were supposed to be prosecuted in a court of law but because the president, this minister is chosen by the President and the President is in favour of this minister, he could not want him to be convicted and so the three arms of Parliament should be independent should have independence of Judiciary and the other arms of the government should be independent from the Executive and the period of the term of office our President should be exactly two terms. That is it should be one term and if at all he has performed so well then he should go in for another term then two terms must be the maximum number of terms for our president. Thank you.

Com. Kangu: No questions for you thank you. Can we have Isaiah Chepkonga. You have a written memorandum, then just highlight the main issues.

Mr. Chepkonga: Mr. chairman, good evening. I am called Isaiah Chepkonga, I am a teacher that is the principal of Kenya Science. Now, I am recommending the following to the commission.

One, we should have a federal system of government in Kenya because that is more participatory and can even be owned by the public, by the Kenyan people. It is going to foster unity and also the federation so that the jimbos are likely to take care of the interest of the people of Kenya because they know those things right at the background. We have the federal government and the unitary government which is operated in Nairobi led by somebody from one region of the country. And the other regions are not represented. I know they are represented by the final decisions can be made in a manner that will not favour the conversations of those heritage and the government will be near the people so that divisions can be made in North Eastern and Garissa, some can be made in Kisumu, some can be made in Mombasa and when you simply come to Nairobi only for few but very important matters that can only be done in the headquarters of the country.

Two, the head of government and state I propose that we have an Executive Prime Minister in this country who is directly elected by the Kenyan public and may not necessarily be a member of Parliament and that could be the head of government but

for the state we have are the President who is going to be the head of the state and this President be elected by the upper house of Parliament and therefore in this case I am proposing that we have two houses of Parliament. The lower house, which is supposed to make the laws and then the upper house which is supposed to...every government is accountable to the public so that in case of anything he can be charged and sworn that we have a head of state who is surely the head of the country.

For the local government, this to me should be strengthened very much so that they become the custodians of the local communities cultural heritage. In this case things like property, are the things they value and so on. He should be taking care by the local government.

On land, I view this one as a very sensitive and very important aspect in this country and has been a very touchy issue. I propose that the land should be held in trust by the elders of every community in this country because suddenly this country is regionalized in nature and even in regions we have got people occupying given areas locations and so on. The elders of the individual community should take care of their land. In case of anything the next party should be the local government.

Finally the federal government, it should never according to me be managed at Nairobi. Land should not be managed by the central government, they should have business to the planning but the land should be managed by the elders of the community, the local authority and under limited conditions, the total government that you don't have anything to do with the federal government.

On urban centers, what we have witnessed in Kenyans that councilors decide in their own meeting and say that they are expounding and if a town is expanded you find a sign written somewhere and it is such and such a town council. To me Mr. chairman I think we don't need to expand towns unfairly because for one first of all is that it takes the owners of land next to the town to a less / section.

Two, they lose the natural ownership of the land and so to me there is no point of expanding towns unnecessarily. We don't have to have big towns so that we can develop. Some people want to be mayors of big town councils and so they work out their way to maneuver and then finally we have an expanded town centers, which is not necessary. So today, a town should be small, as much as possible and let it be developed to accommodate the interest of the people of the area.

On ethnic tribal values, to me each tribal each ethnic community and tribal group are very important to the Kenyan cultural development and heritage. To me the constitution should keep equal emphasis to the protection of all cultures in this country. One of the very important cultures is language. I propose that for us to keep on maintaining our culture and for us to identify the Kenyans. Identify one of another tribe or sub-community or ethnic groups, our language should be protected and therefore they should be allowed to be trained. Our children should be trained to speak our language and they cram off the language in school. So to me primary education, vernacular should be there. To our national unity we can have Kiswahili and English as the

national language.

Finally, is the natural resources. This again is related closely to the land system and here I just wanted to center to things like forests like water system, like minerals. If there is any resource like this, then such resource should be owned by the local communities where the resource is because for one we have to agree here that most of those forests you may find will have been converted by a given community which cherishes its resource but suddenly when comes over to the government you find that this does not turn there to be responsible and this does not cherish the importance of this heritage and you can find them exploited and naturally the public loses the benefit of their conversation. So I think that the local community should be in-charge of the such resources and the local government should work with the elders or do we say the local community so that they can take care of these resources. So local government should hold in trust and that hold government should involve the local community fully. Anything else coming out of these resources should be closed back to the community. So that if it is a forest and timber has been harvested there should be a percentage of the output going back to the community. Anything else can go back to the state, and then it can go to the country in general. Otherwise I want to say that we have really thank our Kenyagovernment especially the Parliament and the President for having considered in constituting these commission and the people and the people can say what they feel should be done in this country and hopefully if they are put together into consideration and a new constitution is drawn because the constitution should have an aim of helping Kenyans regardless of any disparity, gender, ethnicity and so on.

The constitution should be cherished and if it is cherished then we shall have all these things I believe that we should have to weigh out in the country and we shall be loyal to the apparatus that are existing in this country so thank you very much, those are my proposals.

Com. Kangu: Mwalimu Chepkonga, maybe you should not come down because I have a number of things that I would like you to clarify to us. you proposed that bi-cameral system that we should have an upper house and a lower house. How do you want us to style them, what do we call one house, what do we call the other. In composition and constitution how many members should be in the upper house and representing which interests and how many should be in the lower house and representing which interests and then the division of function. The division of functions, the legislative functions between the two houses. Have you given any thought to that.

Then three, that is why I said you write because I have quite a number of them. I have proposed a federal system of government and I would like you to tell us, this should be a system with how many levels of government because there are those federal systems that have two levels and other systems have three levels. For instance we have the local authorities, you have the regional authorities and then the central government. So how many levels of government do you want us to have in this federal arrangement and then what should constitute the units. What should be the units that constitute these levels for instance when we move from the central government to the next level down. Should that level be the provinces we have, should they be

the districts or should we embark on a process of drawing new boundaries that will constitute the state and if so how many units. We are going to have how many states or regions that constitutes the state of Kenya.

Then, having identified this, how are we going to share out the functions to the different levels of the government? You tell us which functions should be left to the central government, which ones should go to the next level of government and which ones will probably go to the last level. And then probably having allocated the functions, you also should address for us how we allocate the resources, the revenues. How does each of these units or levels of government raise revenue for running the functions that are allocated to each? You need to note that one mistake that Kenyans make is that we must not give more functions to a level but less resources. We must make the resources of the revenues available to the level of government commensurate to the functions that particular level of government is supposed to perform.

Finally, you have said in your reasons for federalism is that it will enhance our unity and there are Kenyans who are passionately opposed to this system and their main argument is that this will divide the country and bring disunity. How do you propose to address these expressed fears so that we don't go for a system that will not serve us well.

Com Ayonga: And before you answer I just want to help you. Maybe you were not prepared for these questions because maybe your memorandum is sketchy and maybe and since you are in Nairobi these pertinent questions that Mr. Kangu has made they need thorough consideration. If you feel that you cannot answer them now because you were not prepared for them, we are still around. You can have the option of going back home with your sketchy memorandum and give it puzzles and in addition answer those questions the way they should. Now the choice is yours. You are a mwalimu and you can do the way you want but I wanted to tell you that this option is there, you can re-do your memo.

Mr. Chepkonga: Mr. Chairman I think, the fact that it is sketchy it is true because to me I was supposed to point out what I think should be the appropriate system of government we have in Kenya and putting the / to it, of course it will be necessary, I thought possibly that writing a long story could have been appropriate because the presentation could have taken a lot of time. This federation question according to me the President and the formation of the government if I may start with the last question here, you know the question of unity in this country, our heads of state and those who are movable and have been always talked about, unity in our country and so on.

When it comes to the element of federation, people have tended to fear but this according to me is not there. The way I am saying that it is supposed to put to give us more unity in this country is that those who will be holding office, I say for example the governors in the provinces will have been elected by the public. Who have loyalty to those people. In case of any issue they are able to address the matters and address it with few details knowing the aspirations and the things which their people like most and in the process through these people whom I can call governors of the regions, the government therefore can get access to the people and the loyalty will be among them all. You can see for example in Kenya, this is a very simple evidence for

example in 1992 when they started about multiparty system there was a lot of friction by the day we got multiparty coming, the day the got Oginga Odinga being the party leader for the ford Kenyawe got Mwai Kibaki for DP, and so on, this competition for power now came in suddenly we experienced some two and up to date there people who are in that.

People are loyal to them and they say so and so is the chairman of the party. They don't even call them by names. They call them chairmen, so if we have such people as governors in the region who takes care of the interest of those people? If these people are going to be honest in their leadership to the central government that they are loyal to the country, that they are expressing the interest of their people. They are not expressing their own personal agenda, and then secondly we shall have the two we expect in the country. Because they have the people they call the communities and they express their interests and so on.

Com. Kangu: And on the honesty on leadership, a mechanism should be established to ensure that some of them do not become /

Mr. Chepkonga: Of course the law should be there.

Com. Kangu: Are they honest?

Mr. Chepkonga: Yes. But the laws should of course take care, should hold them in place. Two, about the revenue. You know I believe that people are supposed to generate the revenue, the land is supposed to generate the revenue. There is no part in this country, which we may say, that cannot have the resources. The problem is the resources available.

Now, if these resources are a given percentage which can be walked now by the central government in the liason with the regions and so on, a revenue is given to the central government, a revenue remains in the region and a revenue remains in the local authority. So, this tells you now that I am proposing for three governments where we have the central government, the regional government and then we have the local authority and this about the boundaries you are asking about whether we should go by the provinces or the cooperative districts or we go by the regions. I would propose that the systems of the provincial boundaries at the moment may serve as a kind but should it be necessary, because should it be necessary, because when these provinces will form, some communities will have split into two and so on.

It can be amended so that if these people want to stay together as a community, there will be no harm, we can have a block of given communities because what is important here is that sense of help and belonging. Their people belong to a given region and they do their work. I must add here and say federation as said should not be a reason to draw out people. Kenya should be a Kenya for everyone and then the federation should be filled as the administrative mechanism and even when one you have any business to do in any region of the country.

That person is a Kenyan citizen, he can do business wherever he is and therefore they see our people have heard always is the formation of federation, people will be sent away if they are migrated to given areas. That should not be the issue. Wherever people are, that is their home and the business they are doing, they do it and they pay the taxes to the particular federation. And there was something else you asked about the composition interests legislative functions.

Com. Kangu: You can leave a copy with us and sign our book. Now, we have Joshua Alambo. Try and be brief and the point.

Mr. Alambo: Good afternoon, I basically have one main concern. I am a student at the university and I am mainly concerned about one thing. The fact that most of us graduate from the university not to many of us are joining the civil service. This could also be due to the way it is run and I was just of the opinion that it would be good if we set at least some educational standards such that civil servants must have attained a certain level of education, especially beginning from the top like / we need to push them at least to have a masters' degree. I was just of that opinion.

The next thing I also have to say is that there are some aspects of our constitution that is do support of our laws and I would just like to point two particular ones, the first one is that abortion should not be legalized. The second thing is that whether or not we adopt federalism my main concerned about federalism is especially what I have seen like in Nigeria and also several countries is that what turns out laws becomes for a specific state because specific state have different laws, but one law that I think should be maintained whether or not we adopt federalism is the freedom of worship. I don't think it is fair for us to say that people of this region must abide by the sharia law. Thank you.

Com. Kangu: There was that lady from the 3Cs. Is there anybody else? Na mmetokea wapi wakati tuliita majina?

Fatuma: I don't want to take time.

Com. Kangu: Who still wants to speak? Songa hapa, na wewe. Wewe anza na wewe kaa hapa. Utuambie majina yako.

Mr. Karimi: Good afternoon, my names are Kingstone Karimi and I am the security officer KenyaScience Teachers College. I would like to talk about security. There is a lot of insecurity in this country and I would like to bring forth the following as a way of curbing insecurity. One, I would start with the police force and the training because the way the police are selected for training is not the proper way.

My opinion is that if the police are to be employed instead of going round for recruitment, those who are said to be policemen

should be vetted by the local church elders and then be recommended for employment with the police force because in the past, I have been in the force myself and the force had recruited people who are of questionable integrity because those people have been brought by big people in the government offices and they end up in the force and the work they do they are not there to do the police work but they are there to steal from other people. They take that advantage of being policemen.

So the recruitment of police should be done by the local people, the local church elders should be included and they get those people and then they recommend them for training at kiganjo. The training of policemen should not go for nine months only because nine months is very sketchy training. They should go for two years and they should learn things like development, swimming and other things because in other instances for example when you have been electrocuted and you send a policeman there to go and access the field and he knows nothing about electricity he will end up being a casualty himself. So the training should be enlarged to cover very many subjects. Now in the police stations when you go there, you have to report on time and then the people who you meet there are very arrogant.

I was of the opinion that in all the police stations there should be an elder of that area an elder could be a church elder or somebody who can be able to direct people and as to what they are supposed to do and at the same and simply there should be a group of people going round the police station to seek views from those people who are in cells because some people are implemented and put in cells for nothing and they don't have any way of communicating to the outside world. If there could be a way that those people could be able to communicate to the outside world it could be a better way because some of them are just put they have not committed any offence, they are discriminated and they end up being set to court and even some end up in jails for no reasons at all.

I am also of the opinion that there should be regional police. In a region like in Nairobi if we have selected our policemen and they have been vetted by the church elders and they are trained and they have not / Nairobi, let them remain in that region where they can be monitored by those ones who recommended them to be trained as policemen. The police Act itself should be changed and it should be overall because it has a lot of colonial mentality in it. The commissioner of police at the same time should not be a civil servant directly under the ministry but should be a person of unquestionable integrity and should also be vetted. Those ones who are also incharge of provinces and in districts should also be vetted before they can be given work like security work. That's all.

Com. Kangu: Thank you very much. Go and sign our book.

Mr. Masini: My names are David Masini and I have a few points to make about the change of the constitution. One is that the armed forces instead of just sitting, it should be made to have some kind of social work or construction of roads so that they are paid for their maintenance. That is the first point.

The second point is that we should have in Parliament partiless or independent candidates.

The third point is that presidential powers should be reduced and all government property should not be misused especially when it comes to vehicles. They use limousines instead of that they should use vehicles that are cheaper so that we don't spend the taxpayers money on that.

The next one is about the municipality or the cities. What I suggest is that the city if they are too big to be managed by a single city they should be put into smaller municipalities so that they are managed properly.

The next one is that we should have more education for the police force so that they are able to interact properly with the mwananchi.

The next one is about the civic education. Before any view whether it is in future or not there should be a proper educational system of educating the mwananchi so that he understands. For example if you ask me any part of the constitution I do not know.

I think lawyers don't know any other thing in the constitution so it should be an education so that each and everybody understands what he is going to review and it should be done by non-partisans so that they educate the mwananchi in a non-partisan manner.

I suggest that there should be a review of the constitution after a number of years which means that after a number of years we should be able to sit down and review the constitution.

About corruption I would like to suggest that they educate mwananchi about the badness of corruption, about the ills of corruption and what it can do to the economy and in all the other areas of the society. It should be continuous so that if it has just a unit or a government department that educates every other day it includes they should do it using every other resources in the government, let us say chiefs and many other government resources but they should be non-partisans so that they give the public the best idea. And about the appointment of the judges and many other people or public servants there should be a poll an opinion whether to reject.

Let's take for example when the President appoints somebody and the public doesn't like that person. There should be a way that the public can force the President to drop that person so that the public has people good integrity.

About the immigrations laws, there should be immigration laws that restrict anybody who is not a citizen to work here unless that person has an expertise, which is not available here. Which means that anything that somebody is qualified to do should not

be allowed on any given foreigner.

The last one is that they should have a difference between the government and party so that the party function the government should not use the government resources for party functions. So there should be a clear distinction between party and government. Thank you.

Com. Kangu: Thank sign, our book.

Fatma Anyanzwa: Mr. chairman thank you very much for the commission to organise this forum. My name is Fatma Abeid Anyanzwa, representing women and children. I would like to thank God for giving me the time to come here today because this is the time we have longed for a long time. When we were fighting for our independence, we fought to gain land, education, eradicate poverty and reduce diseases to have good health. I would start with land. Land is the most crucial element and the most important issue that we all rely on. Without land we cannot have food and today we see that our problem is that we don't have land. Before the independence, the land we had was owned by white settlers.

Today, the land that is there was only transferred from the white settlers to black settlers. The black settlers today have many hundreds of acres while many Kenyans are on the streets serving without food or shelter so I would like to recommend that the land should be given back to the state, and controlled by the state. This is the only way that we can solve the problem of poverty in this country to give land to the wananchi.

Two, the problem of corruption I would say that it is because of mismanagement of the government funds. For example the tax that we pay, we don't know in which pocket it's going, there is no accountability. So it is important for us to eradicate corruption in the highest positions like the courts, even in the medical, for example we have very stupid case of probably a nurse who may decide to give full prescription to a patient and keep the anti-biotics and go to sell it somewhere. Or a doctor who is in a public hospital to take the medicine to his private clinic. It is very sad to see these things happening and it is only now we can change these problems. The problem of corruption in the police is very obvious you have seen it and one of the suggestions that I would recommend in terms of service of the police, the prison, the national youth service, all those uniforms, personnel should be reviewed so that they are given enough salary, because if they are not given enough salary and they are leaving in very pathetic situation, we have seen our brothers yet nothing is being done. If their terms are reviewed, they are given proper salary, there will be less cases of problems.

Violence in this country is mostly brought because of the western influence of bringing in films that are violent, video shows that are violence, the foreign ideas that are taken by us wholesomely. So we have to educate our people on our culture. How to choose good culture so that they can be proud. When we are talking about Kenyans, we have to be proud as Kenyans not to think that we are human being somebody. So these things should be outlawed.

Ownership of land should be limited just for few and if land is possessed by the government it can be controlled. The preamble of the constitution to emphasize on who is a Kenyan so that one is proud that I am a Kenyan.

Inheritance of history in the Parliament for example if somebody dies from one tribe you put another one, if somebody dies we bring his son, something like that should not be allowed in a development country such as Kenyans.

Then we have this court of appeal where the papers are taken to the court after a case has been finalized. The court of appeal sits there with just the papers, they don't see the complainant to be able to see the kind of person it is. So they keep the wrong judgements, and they are not there to see but they are just there to get papers and those papers when they go to the court of appeal this person has already made arrangements and some of these papers to be pulled out of the file by the time they go to the court.

I hear that there is a very big strip of land along Kwale, Mombasa region hundred thousands of acres, I would this coastal strip which is owned by the government, we fill that this should be given to the districts or to the provinces so that we do some agricultural useful work there, then the money can go to the provinces.

Tribalism is a very big problem in this country. We have heard of the tribal clashes in Molo, in Subukia, even in the city here we have heard like recently we had in Langata and another one with the mungiki. So, this should not be allowed to continue, the government should think of it as an internal problem and it should be dealt with by the internal security. It is not just the small issue. It is a very serious issue which should not be allowed to occur and I would like to say here tribes like the /, there are other tribes like the dorobos; they should be recognized by the constitution of this country.

The problem of the street children is mostly because they don't have their parents. The parents are there maybe they are very poor they don't have land. The problem lies on the land. So it should be made somewhere in the constitution that any woman or man having children should take responsibility so that the woman doesn't say that it is the responsibility of the man and the man says that it is the responsibility of the woman. The two should be put to serve. We should have something like rehabilitation; we should have children hospitals to cater for them. The Presidents should have a minimum of 40 years of age.

Free education should be given to the children all over the country and if one of parents is the breadwinner and has been jailed, the government should be able to take care of these children and it should also be made mandatory for people who are in prisons, they can have jail terms, inside the jail or they can go for rehabilitation so that they change their character through exercise so that they change them so as to fit in the community.

Independent candidates should be allowed to take part in the elections. National awards should be open opinion people should

give out names of people that they want to be nominated for an award that is given by the public and then education again the foreign idea.

Prostitution, abortion, euthanasia that is mercy killing, homosexuality should not be legalized in this country. We should promote culture and religion, drug abuse is a major problem and there should be internal security and the men and women should commit themselves to looking after the children so that they don't go carelessly and have children so I must thank you very much.

Com. Kangu: Thank you very much. Now, who is here and still wants to talk? You are going to be the last person and I will give you 2 minutes so that we finish what we have.

Mr. Gichuki: My names are Reuben Gichuki and I would like to present this proposal to the constitution of Kenya review commission on political and civil rights. The constitution of Kenya should offer the following rights to its citizens. The ruling government should put them into practice. They are God given rights.

Security, diligence and liberty to their lives. Freedom of residence, expression, press and assembly. Work protection of social security, the family, education and health. An adequate pay to salary earners to hand them as / living that they can be able to meet their basic needs.

Discrimination, not to be discriminated on the following, birth or heredity, origin, ethnicity, class, sex, status, colour, race or political opinion. Not to be subjected to cruelty, torture, inhuman, treatment, right to own property in any part of the country. the government should protect its estates from selfish leaders, workers and workers' rights.

In a democratic society the following should be exercised. The rights to free trade unionism, the right to be wrong to a political party of the Kenyan citizens' choice, the same to the government employees.

Workers should exercise the right to choose through free and fair elections. Elected leaders should first and foremost be accountable to the wananchi who elected them. They should represent the interests of this country and not their own interests e.g we have MPs salaries and allowances which are too big compared to the basic salary or the basic wage earners which was increased in the last day which is just a very small fraction of what we know MPs earn. Workers should exercise the rights to demonstrate and ask for their rights without harassment or suppression by the state organs e.g the laws and the police.

The Kenyan citizens should exercise their human rights, freedom of speech, freedom to association, freedom to movement etc. Civic and political liability to be proclaimed and to be protected by the national constitution and practiced inwards and indeed.

The Kenyan farmers should be protected by the government and the national constitution on their farm products since

Kenya relies on agriculture and we know very well that Kenya is an agricultural country. Its economy mainly relies on agriculture.

Civic education to Kenyans should be a continuous exercise to Kenyans. And finally, national social security funds contributions to employees should be paid to retirees in full after the retirees retire. I would also wish to propose that a pension scheme from those who benefit from national social security fund be started since the employees will earn the national social security fund and are not pensionable do not benefit from any other amount of money after there is employment. Thank you.

Com. Kangu: Thank you very much. If there is nobody else who wants to assist us in writing the constitution we are pleased to say that now it is 5pm and that the session for today is officially brought to an end and we request I see the district coordinator is not around but we ask one of the constituency, constitutional committee members to lead us in prayers to close this session so that we wait for tomorrow's session. Tomorrow we are still in Dagoretti constituency and if there is anybody who didn't get an opportunity to speak here today we will be at Waithaka tomorrow, you can make efforts to come there and your views will be heard so that they contribute to the process. Before we pray let me ask my colleagues to say a word or two if he pleases so that we can close.

Com. Ayonga: I want to thank you all of the patience. I know some of you have sat here since we started. People have come, people have gone but we are still around. God bless you as you go back to your homes till tomorrow when we meet.

Jane Gathoni: (Prayers) Let us pray. Oh God our Father, we thank you for being with us from morning up to now. We thank you for this day for the people who have come to present their views and we hope that all will be good. God we thank you for this day that tomorrow we will be together as we are today. We ask you to guide us with your holy spirit when going to our homes and we ask you to be with us always. We ask this through Jesus Christ our Saviour. Amen.

Com. Kangu: Thank you.

The meeting ended at 6.00 PM

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