

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

**VERBATIM REPORT OF**

**CONSTITUENCY PUBLIC HEARINGS,  
EGERTON NJORO CAMPUS CONSTITUENCY,  
HELD AT (KILIMO HALL)**

**ON**

**16<sup>TH</sup> JULY 2002**

HALL ON  
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**Present:**

Com. Mutakha Kangu  
Com. Kavetsa Adagala

**Absent with apologies**

Com. KeriakoTobiko – at Kiligoris Venue.

**Secretariat in attendance:**

Programme Officer - Maimuna Mwidau  
Assistant Programme Officer - Joyce Njoroge  
Verbatim Recorder - Emma Kamunga

The meeting started at 10.35 pm

**Herman Thogoto:** Yangu ni kuwakaribisha na kabla sijaendelea mbele ninge muita pastor aje hapa atuongoze na maombi ili tufungue mkutano wetu wa leo. Inaonekana alikuwa mbali kidogo. Kama yuko mbali tutamuita professor Gathuri atuongoze tafadhali.

**Professor Gathuri:** Let us pray. Our heavenly father, we thank you for this beautiful morning. We thank you for the life that you have given us. Lord we thank you even for our country. We thank you for the jobs that you have given us and various responsibilities that we have to carry out, as men and women in this country. This particular time we want to thank you for our colleagues here who have accepted to spend a lot of their time collecting views for the Constitution of our country. Our heavenly father we thank you for the wisdom that you have given them. Even the many other dear Lord who are in various parts of the country. We want to pray that dear Lord as there is so much talk on what and the work that is going on. We want to pray that your wisdom may prevail. That at the end of it all we shall thank you for the good job that has been done for the welfare and the future of this Nation. How much we thank you that in the past you have given wisdom and knowledge to those who have been with us before. The policies that they set up, the Constitution that they set up which has carried us far. Father we have been able to enjoy the peace that we have had. We look forward to even greater peace as you give us men and women of wisdom. Men and women who are ready to sacrifice their time. Men and women who are ready to sacrifice their

good time that they would be having like many of us, so that dear Lord we can have a better future. May you bless what is going to be said here and else where, for the welfare of everybody in this land, and the future children in this land and we pray this in the name of Jesus Christ our Lord, Amen.

**Herman Thogoto:** I now take this opportunity Commissioners to just again introduce myself. My names are Herman Thogoto, I am the chairman Molo Constituency, Constitution Committee. Commissioners we are here in Egerton university today, as a recognition of what we have done as pertains to educating those in this institution and those around this institution. Much has filtered from here to us and it is (**inaudible**) since your gratitude to the entire community of Egerton University and we hope in future we shall have this help, this knowledge that has been filtering down to us to those people outside this community and as a Molo Constituency Constitution Committee we thank you very much. We would like to move on because I think we are late, but I would like to recognize the presence of the Deputy Vice Chancellor, I will give him this opportunity to invite us here officially, so that I can hand over to the Commissioners and we move on with today's business. Welcome.

**Vice Chancellor:** Commissioners Mr Kangu, Dr Kavetsa, the registrar, participants, ladies and gentlemen. I want to take this opportunity to welcome the Commissioners and thank them for having considered us as one of the venues where they will take views from for the process of the Constitutional reforms. I understand it is a demanding process, they have a difficult job to do.

Collecting views from all over, different valid views and marrying them and coming out with something that will be acceptable to all Kenyans regardless of the station in life, regardless of the ethnic background and something that will serve all of us. You are welcome to give your views, I am sure they will tell you, feel free to say what you think should done. Whether you are doing it at individual capacity or representing an organization, am sure they will give you the chance and you will be heard. I think because it is not my day we don't need to take a lot of time all we need to say is that on behalf of the Vice Chancellor you are welcome to the university. Carry your business the way you do, because I am sure you have a plan and feel free to take the time you need. If you require any extra facility please let us know and we will help you. With those few remarks everybody please feel very welcome to Egerton University and present your views thank you.

**Herman Thogoto:** I now take this opportunity to hand over to the Commissioners who will give us directions on how we are going to present our views, and any other views we may have for the rest of the day, welcome.

**Com. Kangu:** Egerton University and the community around the university, I would like to welcome you to this meeting which is supposed to be a meeting for the collection of your views regarding the kind of constitution you would like to have. Before we begin I would like to introduce ourselves and our staff, so that you know who is dealing with you. From the Commission Secretariat we have the Programme Officer, Maimuna Muidao, she is in charge of the Secretariat department. She is assisted by an Assistant Programme Officer Joyce Njoroge who will be rapporteuring. I think the other lady has gone out she is supposed to be the Verbatim recorder, she is Emma Kaga. We are two Commissioners before you, who are going to take your views, with me is Kavetsa Adagala, she is a Commissioner, she is also a lecturer at the university of Nairobi, in the

department of Literature. Maybe she should greet you a bit.

**Com. Adagala:** Good morning everyone, we are very glad to come to Egerton University. We were also at Moi University in a different panel and collected views, very enlightening views. We hope we will have a lively session here also. We have not done Nairobi University yet, even Kenyatta University we have not done. Moi we have done, Marseno we have done, so we are moving through like that. I am a kind of grandmother here because half the department of literature are my former students here. I am a type of dynasol.

**Com. Kangu:** Thank you very much mwalimu. My name is Mutakha Kangu, I am a Commissioner and I also teach at Moi University in the faculty of law, among other subjects constitutional law and human rights. As I said today's function is your function for purposes of giving your views. You shall do the talking, we shall listen and record what you are talking about. I want to mention a few things that constitute the ground rules for a function such as this one.

We take views from different types of persons. We take views from individuals. You can stand before us and speak on your own behalf as an individual. We also take views from representatives of organizations. You can stand before us and speak on your own behalf and on the behalf of the organization you represent. Whether it is registered or not. When you come before us it will be useful to specify the capacity in which you speak.

We take views in different forms. The first form is written Memorandum, you may have a memorandum written and you do not want to say anything in addition or about the memorandum you have written. In that event, if you have something you want to go and do, you quietly walk to that desk and you hand in your memorandum, register your name and other details they will ask you. If you want to go, you can go, if you want to listen to what other people are saying you can stay and listen. We receive views in the form of memorandum, but there those who would want to speak about the memorandum they have. We allow you to do so, but we do not encourage your trying to read through everything word by word, because time will not allow us to do that. We insist that in that event you simply highlight the most important aspects of that memorandum. We shall read the details in the process of analyzing the views and we shall be able to know what you have said in the memo. We therefore in such circumstances give five minutes or so for one to highlight the memorandum.

We take views in oral form. In fact I would like to inform you as Kenyans the greater the bulk of the views we have received from Kenyans have been oral. You come before us and speak orally what you have. We shall record both by writing and verbatim so that those views will be analyzed. People speaking in that format are given ten minutes or so to state their position. I wish to add that we have some discretion on the issue of time, because sometimes you see someone who has a memorandum that seems to be representative of a larger group of people, an opinion leader, we may consider giving a little more time. We also consider the number of people before us. When we still have few people we maybe able to give you a little more time. But as time starts running out and the number of people increases we maybe forced to reduce the time we allocate. Of course that again is affected by the fact that after a number of people have spoken, many realize that what they had has already been

covered. We say try and touch on those points that have not been raised. Or at least show us the new perspective of the point that has already been tackled by other people, so that we can find time enough for everybody to express themselves. I want also to say that this being an institution higher learning and taking into account the experience we have had in other places and the large numbers of people who turn up and the fact that some times some people walk away before they have been reached. I will encourage you if you find that time is running out you can pick you pen and paper or if you have a computer go somewhere, and I think in a few minutes you can be able to put your ideas on paper and come and hand them in and go. We don't want you to go away with your ideas which maybe very useful. Try and bring them to us. We have expressed concern in the recent past that the elite in the Kenyan Society seems to be unbothered with what is going on. I do not want Egerton University to fall into that kind of category of people. Please come forward and give us your views in whatever form.

- 1) This project is a project belonging to all the Kenyans and everybody ought to know that in this meeting you are completely free to speak your mind without fearing that anybody in the meeting may victimize you. I have told people this in many places that even the presence of the DC or the DO or whoever, should not intimidate anybody who wants to state their view. Even is they want to say that Provincial Administration should be abolished, you are free to state your mind.

This being an institution of higher learning I want to say the presence of the Deputy Vice Chancellor in this room should not intimidate you from speaking your views. Even about the administration of our institutions of higher learning. You are free and the administration of the university is also free to express their own views. So feel free. We take views from everybody, we insist on tolerance, you must tolerate the views of other people. If someone comes before us and he or she is talking about things you do not agree with, we do not allow you to start heckling or disagreeing, noisily. We say you hold your peace, when your time comes you can eloquently tell us how you don't agree with what the person has said and give us your own proposal instead. Let us exercise tolerance because we are hoping this process at the end of the day should be able to produce not only a new Kenyan Constitution but also a new Kenyan people who know how to disagree in ideas, without necessarily declaring each other enemies that must go to physical combat. We must appreciate that.

The language, in many places we have been in the rural area we tell people before the commission you are free to use that language which you think will enable you to express your self properly. I am hoping that here we may not so much need to switch to any other language rather than English, but in the event that you want to, you are free to do so, so long as you let us know so that if there is need for translation, we can organize for that.

When we finish taking the views, you need to know we are a Commission operating under an act of Parliament that has specific provisions on what should be done, where and when. So you need to know that this process being based on the philosophy of people driven, when we finish this process of taking views. The law requires us to prepare a report, to prepare recommendations based on that report and to prepare a Draft Constitution.

Instead of reporting to Parliament or reporting to the President, the law requires us to report to the people of Kenya. We are

required to publish those documents and disseminate them in the country so that the Kenyan people have an opportunity to study them, discuss them, debate them and see whether or not they reflect what they have told us. See whether or not we have recommended what they like or what they don't like. The law requires us to give the Kenyans people 60 days to do that. When the 60 days end, the law requires us to go back to the people at the Provincial level and hear their comments about those documents. If they want us to change anything we hear that from them. Once we finish that we go and revise the documents and then sermon the National Constitutional Conference which shall discuss, debate and adopt or reject those documents.

The National Constitution Conference I think you people are aware, will comprise about 600 people. The members of the Commission, Members of Parliament, three representatives from each district and representatives of civil societies. The philosophy behind that was that the Kenyan people cannot trust Parliament and so they wanted a more representative body. That is why they proposed a National Constitutional Conference of that nature. When that Conference finalizes it's business, in the event that there are issues that the conference has not been able to agree on. Those issues will be taken back to the Kenyan people to determine by way of referendum. It is only after that, that we shall submit the final documents to Parliament for enactment. I am making those comments because we have been criticized all over for trying to delay the process. I want you to know that, that is what the law says. If they change the law, we shall change and follow the new law. But before they do that, we are bound to follow law, the existing law. Because one of the cultures that we are trying to move away from is the culture of making law and then refusing to follow it. Are we together?

We shall go by the list. When you come in' there is a desk out there you record your name. We go by that list and we call people you come forward, you come and sit here, you give your views, when you finish you sign our register there. You can go away if you want, you can stay in to listen to the others. Our list has the first person as Stima George Onyango.

**Stima George Onyango:** Thank you very much the Commissioners. I will take five minutes because I have a written memorandum. Among the key issues that I would want to talk about. I will base my argument on the current Constitution. My first point is section 9, part 1 and 2 of the same. Which says that the President can only go for not more than two terms. I would besitch you that this section should not be changed under any reason whatsoever. Section 14 and part 1 of the Constitution, protects the Presidency from any impeachment, civil and criminal law. We realize that this section has always been used to create a dammy god in the name of a President. I would request that the President can be impeached like any other President under the sun. Section 25 also states that any person can hold office at the mercy of the President. I don't believe so, I think this one should be changed.

I also have a problem with section 21 and 31 which says that the Attorney General can terminate any case at any point, otherwise known as nolle-proseque. We realize that this has been used in several occasions to protect the fat cats which have actually reaped this country. I think this one should be deleted totally. Section 5 part 3 and F, which states that the winning President must have 25% in five provinces. I think it should be changed to read that, in addition you must gather 51% of the

total casted votes. So that you can have a government of majority not of minority as it has been in the Kenya situation for the last two elections that you have seen. Section 31, I would like to state that at least a third of the seats in Parliament, should be reserved for women and this one should be entrenched in the Constitution. We saw in the East Africa Parliament when another party came and I am not afraid to say Kanu, they changed the rule and for that matter only one woman went to the East Africa Parliament.

I have problem with section 58 and part 1, which says that the President can dissolve Parliament as he wishes. This one should be left for the Parliamentary service commission. Section 18 and 19 of the current Constitution which states that the President has the power to appoint the Ministers, Assistant Ministers, the Vice Chancellors and Deputy Vice Chancellors, this one also has always been used for own political gains. I think it should be abolished, this should be done by the public service commission.

Section 22, I think the Permanent Secretary and the Ministers should have security of tenure so that they are not manipulated by the Executive. When I am about to finish I want to talk about the police and the Provincial Administration. That is section 8 and part 1 of the Constitution. Always when an opposition leader organizes a meeting, I will use Kamukunji for example, police always come and break up and beat people, then they claim it for security reasons in quotes. But when a government officer goes there in fact, the last time the President was there, he did not even notify the area OCS. I think this security reason thing should be done away with.

Lastly, I would like to talk about arresting of people. You find that when a poor Kenyan walks at night and meets a policeman, the next place he will end up is a police cell. Then the next time if you don't bribe them he will be charged with behaving in a manner likely to cause a breach of peace. I think anytime that you have a National I/D, driving license or voters registration card, he should only flash that to the policeman and you should be left to go your way. For that matter, there should be no torturing in the name of getting evidence. They say the police can use reasonable force. I have never seen a reasonable policeman in my life.

The Provincial Administration should not act like the youth arm of the government. They should be facilitators but they should be answerable directly to the people of Kenya. With me is my memorandum, I will leave it there but I would have talked more but since I want to follow the law, I have only used five minutes. Thank you very much.

**Com. Kangu:** Thank you very much for starting us on well. I forgot to mention that after one speaks we may have 1 or 2 questions for purposes of clarifying one or two issues. Any question? We have no question for you. Can we have Christopher .W. Ngugi.

**Christopher .W. Ngugi:** I have a written memorandum. My name is Christopher Wainaina Ngugi. I want to highlight on a

few things on what I have written and what is my opinion. The first thing is that I think that the current democracy that we are practicing in Kenya is very synthetic. Whereby it is very plastic for it denies the rights and privileges that we expect in an authentic democracy. I believe the right governance ought to be the government of the people, for the people, and by the people. Our democracy is not like this, the big question that I have is this, What kind of democracy is this where a destiny of 30 million people is determined by a collection of 200 people in a legislature. The other thing about the 200 people is that their only qualifications is nothing more than the mere ability to verbally (**inaudible**) to masses than in the concreteness of their characters, ideal values, inability to steer this Nation towards development and growth.

Judiciary: It is very unfortunate that the fate of Kenyans whether an individual or a group like the Ogiek community is decided by a judge or a panel of judges. The major problem is with the criteria that we use to choose decision makers in Kenya. Which is highly lacking in originality and in essence. I feel that the tentacles of foreign ideologies, systems, ideals and values are so much entrenched so deeply to every aspect of Kenya. This is my proposal, the fact that I say the structure of the Nation is what is wrong, I feel we have a responsibility as the architects of the new Constitution to understand that Africa is unique in design and character in nature.

Therefore whatever structure that you adopt for the new Constitution, should promote the African syke. This is the kind of structure that I propose. Where we design a Constitution like it is an organism and the issues in this Constitution offer an opportunity whereby instead of us using the legislature to make laws and then the Judiciary to interpret the laws and the Executive to implement the laws, the bulk of responsibility be on individual. I have used an imagery of the human body, because it is the only thing that we find it is universal and every tribe in Kenya has. Whereby we know that the cell multiplies into a tissue and then the tissue multiplies into an organ. Therefore being an individual person as the cell, I think it is possible to delegate all the power of the Nation on individuals not on the government. Because I am afraid that the government is going to interpret the power wrongly. The bulk of the Constitution should not be on the letters. Whereby the judges and the lawyers due to their expertise manipulate the letters. I think the spirit of the Constitution is what matters. The spirit should be with the people.

Instead of a hierarchy structure whereby power is delegated from the government to the people, It is the people who are supposed to tell the government what to do. For somebody to qualify to go to Parliament, they are not supposed to go to parliament on the basis that they go outside Parliament, collect a few signatures and then they are qualified to be possible candidates. They are supposed to have structures which come from their Constituency whereby an MP if he is qualified he should be in a position to get like 10 people. Out of this 10 people he shares his vision and each and every individual goes to another 10 people and share with the 10 people. Such that during the time of being voted in this person is supposed to come over with a written piece, which shows he has support people. If the government is able to implement the kipande system then I think the government is also able to implement such kind of a structure. I also think that if this is the way we are conducting our Constitution by gathering facts and ideas from people regardless of whether they are educated or not. I think also



governance should be like that. Whereby instead of an MP going to Parliament to represent the people and just speaking their own minds. Like the way they have been doing, in deciding on their salaries and such kind of things. An MP is supposed to first consult with the people. For instance if they want to pass a motion on abortion, instead of the MP going and voting without any view from the people, the MP is supposed to vote a vote that is followed by signatures of the people who are behind him. I think that is the major thing and that is what I feel is democracy. Thank you very much.

**Com. Kangu:** I have one question for you. You have put emphasize on the people, power should go to the people and this is a concept which history shows us has been abused. I would like for the sake of the new Constitution to define who are the people. Can you give some thought to that?

**Christopher .W. Ngugi:** I also think that is manipulation of words, because basically when we talk of the people, I am a person, you are a person and therefore the people in my interpretation should be the citizens who should not be manipulated by experts to mean anything else apart from the citizens. Whether they have the voting ability or not.

**Com. Kangu:** You have introduced yet another concept of the citizen. Many times many Constitutions say, they are written for this generation and posterity. Are the future generation subsumed in your definition of the people.

**Christopher Ngugi:** The fact that I have used the imagery of the body of which whether it is male or female, we believe it has the potential to propagate another generation. It means that it is embodied in what I embrace as the citizen. I have viewed an individual as a cell which is able to multiply and that means it is able reproduce and come up with generations.

**Com. Kangu:** Thank you, you can sign. Can we have Martin Osok

**Martin Osok:** My names are Martin Osok, facilitator with the foundation for dialogue. Peace building organization and a Civic Education provider in Njoro division. As a peace building effort from my organization, we used to call the following be included in the new Constitution.

The Preamble: The preamble in a Constitution should serve to state why the document is being enacted. Since Kenyans know very well they need a new Constitution, the Kenyan Constitution Preamble should have the following:-

An introduction that begins with the words, We the people of Kenya, a short history of the country up to and since independence. A vision of the united tolerance in a democratic nation. A clear statement that the ultimate quality of the country is the people. That no person or law or even the Constitution is about the people. Finally a brief description of the borders of Kenya and the people that live within it. About the directive principals of state policy, we referred to say that such basic political

or directives might constitute the following.

- Democratic principals
- Unity and feliderity principal
- Citizenship principal.

On the citizenship currently, Kenyan men are allowed to marry from outside and their wives become legal Kenyans. For the sake of gender equity, we are saying let the Kenyan women be allowed to import husbands from outside the country.

On the Executive: It is noted that currently the Executive and especially the President has powers so wide and so many that by only acting within his powers the President can become a despo. As wide reforms on the Presidency we propose that all Presidential appointees or appointments should be vetted and approved by Parliament. For the sake of these institutions, we propose that the university should be left alone empowered to organize themselves and elect themselves to the various positions including that of the chancellor. Because the political appointments of the Vice Chancellors, deputy Vice chancellor and principals of colleges have introduced academic sphere, political patronage that if repugnant academic development.

Senior Civil Servants; such as Attorney General , Audit and Controller General, Judges of high court and other such senior staff, should be given security of tenure to prevent them from being manipulated by the executive arm of government. We also propose that the concept of the contact judges is repugnant Justice and should be done away with.

Parliament: We propose it should have a fixed term so that it may make its own calendar of activities and should not be arbitrarily scrapped, consequently the election date could be fixed by the Constitution to ally those ( **inaudible**) in the election period.

Our election system: We are of the opinion that currently, it is the most corrupt institution within the country and we propose the following reform package for the Electoral Commission of Kenya. The Commission should be made independent and impartial. Appointments of members of that Commission should be done in a process involving all political parties. We should have a free hand in adjusting election boundaries dictated by representation per population. Not the jereymandering we have been having around. The voter registration and the register should be computerized to ease the work of the Commission. In this way we feel it will be easy to update them and yet be well protected from manipulation. The voter registration exercise should be a continuous process. Finally on the Commission, it should be empowered to enable it to take charge of all electro processes, including the issuance of National Identity Cards, the control over security aspects of elections, continuous vote and civic education and issuance of public permits. This will be able to enforce the sanctions of those who trespass in this routes.

Participatory Government: My group said that the office of the prosecutor general , or public prosecutor I mean or the Parliamentary Ombudsman, who can impartially investigate and report on Constitutional aberrations and those violations of laws

and to protect the public against the arbitrary legal interference by the government should be established. This is because the Attorney General as political appointee with the state functions of the chief legal adviser of the government. We also feel that Kenyans should be allowed to access to all public files which do not disclose personal or confidential information. Likewise various forums should be established where the general public can generally take part in various policy making decisions. This should be decentralized to all administration levels and should cover all aspect of governance.

National referendum should be held in making certain decisions and when changing certain fundamental principals of the Constitution, such as abolishing certain Constitutional bodies. On the same thing the National referendum on the new Constitution as provided for in section 26, 28-6-7 and 27-31. We realize this is going to take place at the current Electoral Commission which many Kenyans do not have faith in. I ask the Commission to tell us how this is going to be so, because we believe the ECK at present is compromised and the referendum will have to take place under the ECK rules presently. How are we therefore going to come up with a clean process through an organization which is compromised?

Lastly, we want competent Judiciary officers to be empowered to carry out Judicial review on certain landmark legislations. We still remember what happened to Kenya Anti-corruption Authority bill and we do not want another legislative recreation as happened with this bill.

Lastly on higher education; we would like to commend the government for funding the higher education. But we would like to say, once you have been given the loan, why shouldn't a student be allowed to study in Dar es laam university or Makerere University, using the loan that you we given. I believe if the higher education laon board has a well gazzetted plan of recovering the money, then whether you learn in America or in Australia with that money it has still helped you and it has helped Kenyans gain large academic experiences. Thank you.

**Com. Adagala:** Thank you for your presentation. On the issue of citizenship part of the reason why the man presently, the man can confer citizenship on his wife and a woman cannot confer citizenship on her husband is because of the universal patriarchy that we have. If we do this, which is okay to confer citizenship by marriage, the children also of the Kenyan woman become Kenyan citizens. Then lower down in our local patriotic we have that if a woman gets married she goes to her husbands place. That is actually what is working at the international level also. So perhaps we shall reach at a stage where we will have children who will be saying I am a Nandi-Luo, or I am a Luhya-Kamba. So that we can break down the tribal barrier. Can the children also have citizenship?

**Martin Osok:** My comment is, that what you call the universal patriotic system is actually one of those processes that has confined women to a lot of oppression. We are saying that in the new century, we are seeking to empower our women. We are seeking to have equal rights for all citizens. It is in my opinion that currently very many married couples choose to go and look for a neutral land to stay. It might be the wife buying the land, so I still maintain that wives or Kenyan females should be

allowed to legally import husbands from outside Kenya.

**Com: Kangu:** Still on that issue of citizenship, at the moment you pointed it out that men are allowed to bring in their wives and get citizenship. That is the provision in the law, but my experience with the communities that live along the borders is that in practice there are no proper facilitative mechanisms. So that men live with their wives for 20-30 years before they even get the I/D card and therefore they cannot get employment, they cannot vote. Are you in position to give us some thoughts on the facilitative mechanisms that we should put in place to support that?

While thinking about that we have this other problem of a multiplicity of types of marriages in our country. Kenyans who go to church or go to the marriage registry are declared husband and wife at the end of the ceremony. Everybody knows this is so and so's wife and this so and so's husband. But the majority of Kenyans marry under the customary law systems which is a process. Are you able to make some comments on how we should deal with this because in some communities this process can take even 10 years before you have paid all the dowry if she is not your wife. At what point in this long process are we going to be able to say now this is the wife of this is the husband, and the citizenship should be confirmed?

**Martin Osok:** I do think for the sake of a man coming from outside Kenya, married to a Kenyan woman and becoming a Kenyan citizen, he will have to perform a Civil Marriage. This is because we can not rely on the community at that time, because of probably the long process that you are talking off. If you are a man going to marry in another country, I think the first recognition you should make is that of the political state, so that you should gain civil marriage. If the family of the girl or the girl in question wants you to go through any other form of marriage, then it should come second to the civil marriage.

**Com. Kangu:** Thank you. Can we now have Raymond Ligali

**Raymond Ligali:** My names are Raymond Ligali, facilitator for center for conflict resolution. I hope that my recommendations are going to be as simple as possible and I also recommend that the Constitution be as simple as my presentation. First let us focus on the youth mostly:

**Youth:** Health institutions where most of the youth get their help for example drugs and sexual abuse rehabilitation centers should be established and funded by the government to ease the strain they undergo by merely depending on unstable donors. Young up coming traders should not be subjected to heavy taxation in form of trade licenses and market fee by city council. At least young hawkers should also enjoy the protection from being harassed by corrupt city askaris.

The institutions of higher learning for example colleges and polytechnics should be established in the rural areas with the help of the government and will also ensure that youth further their education at relatively low fees. Education bursaries should be effectively used in helping the less privileged bright children to establish their dreams.

Entertainment industry in which many youth strive in should be given power to protect its artists from being exploited. The industry should also enjoy funds from the government to make certain the young talent artists have a smooth way towards their goal. Young artists and groups should be given equal access to the public mass media to promote their talents. For example young musicians should be broadcasted more than the foreign musicians to promote local talent.

Youth clubs and rural groups should be sponsored to ensure the youth's, where growth that will reduce unemployment and crimes. Thus enhancing rural development. Youth should be given equal opportunity in the government. At least among the elected or nominated MPs, there should be a young Minister who represents the young people.

The youth should have vacancies in job markets. No employee should be allowed to extend the year beyond their required retirement date. Still no one should hold more than one post. Many youth who die as a result of being denied admission in public hospitals due to lack of money should be considered as poor clients who need help and thus waive. The high hospital fees. Anyone found guilty of inhuman act of abusing youth's rights should not escape being brought to justice. Thank you.

**Com. Adagala:** On education you started off at higher learning, what should happen at primary and secondary?

**Raymond Ligali:** Commenting on the primary, I think education at the primary level should be free for all.

**Com. Adagala:** and the secondary?

**Ramond Ligali:** Secondary to be fifty, fifty, part payment by the students and part by the government.

**Com. Adagala:** Thank you very much.

**Com. Kangu:** Can we have Thomas Rope, if he is not there, Mibei Korir, is that Thomas Rope? Then come forward. I did not mention when we started, that for purposes of verbatim recording when you come forward, you first mention your name before you start giving us your views.

**Thomas Rope:** Mimi ni Thomas Rope. Yangu ni kusema machache kuhusu mambo ya elimu katika huko reserve ambako tunaona kuna shida nyingi. Katika elimu, tunaona elimu ya sasa ni ya watu ambo pengine ni wa juu sana. Unapata watu ambao ni wa chini huko ata ingawa watoto wao wamepita wanashindwa na kulipa caro ambayo inahitajika kwa standard 2. Na hataweza hatakuendelea na masomo. Tunaona ya kwamba masomo ya leo si ya watu ambao ni wachini, ni ya watu ambao wameendelea na wataendelea sana. Tunashindwa kwa nini sisi ambao tuko katika huko reserve tunaendelea kwenda chini, chini zaidi. Mara nyingi tunaambiwa hakuna bursary funds. Utakuja kuta kwamba wale watachukua hio bursary ni wale wale

tu ambao ni matajiri. Utakuta ya kwamba ukienda huko utapata yeye huko tayari ana jaza form ya bursary. Mimi kama mtu wa reserve huko ninaambiwa ngoja form zimekwisha, kuja kesho, kuja kesho ukutwa mpaka hata mtoto anakosa kuenda shule. Mara mingi tunaona ya kwamba watoto wetu wana pita vizuri sana, lakini ya yule ambaye ni tajari unapata mtoto wake anaendelea na hata hakupata points za kutosha kuenda shule hiyo. Lakini wangu ambaye amepita zaidi anakosa kuenda shule.

**Com. Kangu:** Sasa mzee kwa mambo ya bursary, proposal yako ni nini? Unasema management ya kupeana hiyo bursary sio nzuri. Proposal yako ni nini?

**Thomas:** Ningeona ya kwamba Serikali ambayo tuko nayo sasa, ambayo tunaendelea nayo sasa, ni Serikali ambayo tunaona hakuna msimamo wowote kwa sababu ukienda huko ni hawa tu watu ambao wanasimamia Serikali hiyo ndiyo wanachukua hizo pesa. Kwa hivyo ningenelea ya kwamba tupate Serikali ambayo inaweza kusaidia mtu yeyote kutoka juu mpaka chini.

Neno langu la mwisho. Serikali ambayo tuko nayo sasa ni Serikali ambayo tulianza 1963, na kwa sababu tulianza 1963 wale walianza ni wazee sasa. Lakini hao wazee na ona kama Serikali hii sasa bado wanatumia sheria ambayo ilikuwa ya wa colony kwa upande nyingi sana. Ningeona ya kwamba kama tungepata Serikali ambayo sisi wenyewe tutaunda, kama watu wa sasa, hii generation ndogo ambayo watalinda mahitaji yao, itakuwa vizuri sana. Najua ya kwamba mara nyingi tunakuwa na shida ya pale na hapa. Mara nyingi hii pesa tunaenda kuomba nje na tukipata inakuja kwa Central Government. Na ikifika hapo, katika Central Government unapata huko juu ndio wanajigawiya hiyo mali yote, ata kama ni ya agriculture, ama ni ya elimu inakuishia huko juu kabisa. Haiwezi kufikia kwa yule mtu wa chini sana. Ningeona ya kwamba kama tungepate Serikali ambayo inaweza kuja mpaka mahali mwananchi wa kawaida yuko ingekuwa vizuri sana.

Kwa mfano mimi kama mzee ama mzee yeyote anaweza kuwa na shamba na ako na vijana watano hivi kwa mfano. Hawa vijana hawatakuwa na uhuru wowote kwa sababu title deed ni ya mzee. Hawawezi kukopa loan mahali popote kwa sababu title deed ni ya mzee. Sasa mzee ndiye anakuwa overall ya kila kitu. Kwa hivyo kama tungepata Serikali ambayo yenyewe inakuja kama sehemu za America.

Federal Government, ambao kwa mfano, President atakuwa tu akikaa huko juu peke yake lakini mambo mengi yanafanywa katika Jimbo. Ingekuwa vizuri zaidi. Kwa sababu hiyo Serikali itakuja kuwa karibu na wanachi. Vile Serikali yetu wakati huu wanasema tunataka mambo yote yawe karibu na watu. Lakini haifiki, inafika wapi? haiwezi kufika kwa sababu ni mdomo tu ama ni mambo ya kisiasa ambayo inaendelea. Mtu akitaka kuangalia ya kwamba mambo yanaendelea vizuri, anasema tu mambo ya magazeti na mambo mengine. Kwa hivyo tukipata Serikali ambayo inaweza kuja karibu na watu halafu President awe tu akialika wageni wake huko juu, lakini mambo yetu yanaendelea hapa nyumbani. Asante sana.

**Com. Adagala:** Asante sana mzee kwa maoni yako na asante kwa kufika kwa sababu tunahitaji maoni kama yako, ambayo ni ya wazee ambao wameona mengi. Unasema ulitangulia na elimu, lakini mwishowe ulisema kitu general( kwa jumla).

Ungependa vipi kwa elimu?

**Thomas:** Mimi ningetaka kwa upande wa elimu ili kila mmoja apate kusoma, tungetaka Serikali ambayo itapatia pia kila mtu elimu ama kuleta free education.

**Com. Adagala:** Okay. Halafu hi ya kusema Federal; Federal nikuleta Serikali karibu na watu, lakini pia ni kuhusisha watu. Unajua ni tofauti sana Serikali kuwa karibu na watu kuhusika kwa Serikali. Kwa sababu watu wakihusika ndio wao wenyewe wanatoa uamuzi. Ukiwa wa kodi, nyumba, shule, hao wenyewe kwa jimbo lao wanatoa maoni na wanaamua. Sasa ni zaidi, umeeleza ungependa iwe karibu, lakini pia watu wahusike.

**Thomas:** Ndiyo.

**Com. Kangu:** Ni signie pale. Can we have Mibie Korir. Mzee unaweza tu kama uko na maneno usirudi nayo nyumbani, kuja uzungumze.

**Com. Adagala:** Mzee Mibei yuko wapi?

**Mibei:** Niko hapa

**Com. Adagala:** Njoo mzee utuambie, ni maisha. Katiba ni maisha na maisha ni Katiba.

**Mibei Arap Korir:** Mimi ni Mibei Arap Korir, na ishi hapa Njoro. Haya maneno mimi naona ni magumu sana kuzugumza hiyo. Mimi siwezi hayo maneno. Kile kitu mimi nataka ni majimbo peke yake.

**Com. Adagala:** Mzee si magumu, ni maisha. Sasa wewe unataka Majimbo. Ungetuambia unaonaje maisha ya wazee? Maoni yako tu. Wazee wanaishi vipi? Wangefaa waishi vipi?

**Mibei Arap Korir:** Mimi sijui.

**Com. Adagala:** Asante, Mungu akubariki.

**Com. Kangu:** Hiyo tu, weka sahihi hapa. Rekodi yetu itaonyesha wewe ulisema unataka Majimbo. That is something. Tupate Siteti Wangero

**Siteti Wangero:** My name is Siteti Wangero, I deal with languages, linguistics. I don't have a written memorandum. My



presentation will be a oral and as brief as possible. The Commissioners, one of the issues that came to my mind and has always been proding me is the creation of a Constitution that recognizes indigenous religions. I say that because we have been talking about the freedom of worship. It has all been actually pegged on the exotic types of regions, as demonizing African Indigenous Religions.

On education; Well we talk about the idea of free education, actually there is no free education but since we are used to referring to what we get through tax payment as free education. I will suggest that we have a situation where there is a tax, for instance like the one that was introduced even kerosene. When you talk about kerosene we are talking about the light that almost all of us have been using for reading. That can go straight to education such that there is now what we are kind of referring to free education right from Pre-primary to the university. So that no students can fail to achieve their dreams because they can not access any loans.

On the land tenure system in this country, we have heard what we may call absentee landlords, almost a system propagated. In France before the French revolution. I think we should come up with a at least some safety valve here saying that any land that is five acres and above that lies idle for one year should be reposed by the government, appropriated accordingly by being leased to serious farmers only to alleviate the problem of food shortage in this country.

Kind of government I prefer for our Nation. I feel that Federalism will ensure equitable distribution of wealth, which is either generated at any higher level tricules down to the common man. The common man will equally take part in the generation of the wealth. We have heard cases before where the first instance was about creation of the National schools in this country. Strangely enough almost 90% were taken to one Province at a time. There are other glaring examples which probably maybe occurring at the time I am talking now. About the structure as per..... We talk about the structure, this could be my preference, we get a directly elected President with a Vice President who must be a running mate. So that these people get direct votes. A Prime Minister and two deputies. The Prime Minister and his two deputies must be elected by Parliamentarians or the MPs in Parliament. Up to that point I don't want to take the whole day. Thank you.

**Com. Adagala:** Thank you for your views. It is true people think there is free education, but free education at the beginning where we were taking loans. Those are the loans we are paying now from the National body. I wanted to ask you, you are from the department of linguistic, I think it is an oversight, tell us a little bit about languages for the next 50, 100,. 200 years.

**Wangero:** Thank you very much. About languages actually we realize that we have been more talkers than doers and it has really impacted negatively to a point that we have not developed a National language so far. Strangely Kiswahili is being recognized by other people than the Kenyans. This is the cradle of Kiswahili and this is the place where nobody has respect, especially the powers that be have never ever recognized Kiswahili, I am glad though that the African Union has at least recognized this language which seems as if bibilically saying the prophet has been rejected at home but kind of is being accepted



elsewhere.

**Com. Kangu:** I have two questions, the question regarding land that is not being put into use. I would like you to give more details because we would require to zone land in this country and know which kind of land is useable in which form. So that we can know idle land we have just come from Kajiado and the Maasai's are telling us we are pastoralists and when we move from one piece then take our animals to another pasture some people think that the one we have left is idle. So give us some details on when we know land is not being used? There is the concept in our country of people buying land and simply using it as security to take a loan from a bank, is that use of land or how do we deal with that?

The Federal arrangement, I would like you to give us some more details. How many levels of government should we have? There some people who have two, the Central and the Regional. Others have three the Central, Regional and the local? Which unit should we devolve power to? Should we revolve to the existing Provinces, to the districts or should we draw new boundaries? If so, what should be the factors we should take into account? On that issue of Federalism give us some guidance on what powers should devolved to the lower levels and what should remain at the center. The System of sharing resources, because they will need to commensurate to the functions depending on how they have been allocated. How will the resources or revenue be shared between the levels we will have created.

**Wangero:** How I wish you had allowed me to take your questions in installments. Because out of my lists I might not get them very clearly. Starting with the land tenure system when you talk about the variability. It also (**inaudible**) the kind of government we have because there are various forms of uniqueness in terms of ecological zone. For instance when you are talking about the pastoralists. You can not set up ranch that has no animals unless otherwise. When we talk about fallow land, when land is under a crop like coffee, tea that may take a long period of time we know it. I have hadly seen a crop of maize or beans that stays on the land for two years. Which means if there is a piece of land that, you know there are people who are just speculating splicing for loans. Simply as a matter of derelative, I have the land and that is all. This is the kind of land that should be put into proper use and poverty will be history to this country.

When we are talking about the levels of government, we are saying the regions as it were. Kind of we live in the regions already. The regions are curved out already. There might just be some additions but the regions have been existing. That is why everywhere I have always been writing about my village, my sub-location, location and I reach the Province. Even the recruitment, we already know the zoning has already been existing, except that it was never put in black and white. I think once it is put in black and white then we will know what our rights are. We will know our boundaries, what we should actually go for and what we can't go for. I would prefer we have the regional assemblies, we, have them at the National level, that's where we will have the Supreme Parliament. We have the regional assemblies, from the various regions we can have an assembly of the MP's and definitely the local councils will ever be there. Those are my levels as as see so far. I don't know whether my heart

disc recorded all your questions though.

**Com. Adagala:** I think you are very good at the instalments in your head and I am afraid I don't want to pass out this chance my fellow lecturer, because you have given me a professorial answer on language. But really I want a proposal, you have given me the state of the art but give me a proposal because that is what we need for the Constitution. The Maasai say they want the Maa language taught up to standard 4, because they don't want their language lost. Other people have told us English and Kiswahili should be taught. There was one person who said that only English should be taught and used as a Language in everything. We are in a bit of a muddle over languages. Definitely because of our colonial past, but what should we do? Should we, I know that our neighbours do better, but then are you giving us the Tanzania example? Are there any impediments in it? that we should look out for. What would you give us? If I pass out this chance I am unlikely to get another professor of linguistics who can tell me about this.

**Wangero:** I think you have equally provided some directions actually over your questions. One thing that I have to say here and repeat it elsewhere if need be is that I won't mind our indigenous, I don't want to use native, indigenous languages taught from actually from Pre-unit to standard 3. Kiswahili must ever be compulsory being a National language and being the International language that we have which is equally home grown. We can even postpone the teaching of English if possible.

**Com. Adagala:** That is the kind of direction we would need. I am wondering whether we are making progress or we lost our way somewhere, because in rationalizing language we would have to really...; because I want to colonial schools and we learnt in our mother tongue (indigenous tongue) until standard 3. Then started English, after that, I think that is the kind of proposition you are talking about. Sometimes there are a couple issues which are coming like the election of the Chief. The Chief needs to be elected but now they are appointed, now we want them elected, it seems as if we are going a little bit like that. On National language and the language of instructions. It would be good if we had a little bit more proposal from you. Then we have some languages in Kenya which people are claiming are inter National languages also like Kiswahili. Like the Turkana say their language is international. The Maasai say their language is international. Just a little bit more on National, what we should be used in bunge and what should not. Where should we go for the next 50-100 years.

**Wangero:** Labda itanibidi sasa niongee kwa Kiswahili kwa sababu.

**Com. Kangu:** Let me add, put that in the context of the Federal arrangements you have proposed. Can we associate a certain Jimbo with a certain local language as the official language.

**Wangero:** Labda katika kiwango hicho nitaanza na lesi la mwisho. Ampapo ukiwa utasema kwamba wale wenyeji watajiamulia mambo yao, itakuwa rasi sana kuteua lugha. Si thani kwamba kutazuka zahama mahali popote. Kwa sababu katika Majimbo fulani tuafahamu ni lugha gani zitumike moja kwa moja sisi wenyewe. Tunapo Regelea swala lake

anapozugumzia juu ya ladda Waturkana wanasema lugha yao ni ya kimataifa, Mkikuyu adai vile, Mjalu, Mluya pale sawa sawa . Tuna mambo kadha kadha ambaye ya tahusiana na lugha kwa sababu tunazingatia jambo fulani ule utaifa mpana na ule utaifa mfinyo. Na wale ambao wanasitiza kwa sababu wa huu mpaka wa hapa karibu tu. Halafu wanaona nikisha kuvuka kutoka Kenya ni kafika Uganda basi tayari mimi huo ndiyo umataifa wangu. Nafikiri kwa mlengo huo kutakua na ule utaifa unaweza kutufikisha kote kote. Saa hizi kwamba kwa sababu Mluhya ambye ni msamia waweza kusaliana na mjalu pale anasema kisamia kinafaa kufunzwa kwa Wajalu kwa sababu, asiseme hivo. Nafikiri lugha ambazo zinaweza kuenezwa kwote kwote zimeshafahamika. Kwa mfano, nchini Kenya sioni kwaba kuna tatizo, Kiswahili cha weza kuongewa kwote kwote. Ampapo ukienda Japan Kiswahili kiko. Na hili jambo la kuweza kujinasibisha na lugha fulani ndilo limesababisha mataifa ya kule upande wa ashia kwendelea sana. Ampapo wachina wanasema kwambo wenyewe wanajifahamu kupitia kichina. Lija la kutotumia kingereza bado ni wa china na wameendelea. Umasikini wachina hawana. Sisi tunaenda kuomba kwao, haya.

**Com. Kangu:** Thank you very much. You can sign our register. Can we have Dr. Rose Othiambo.

**Dr. Rose Othiambo:** Thank you Mr Chairman, Mr Ole, thank you the two Commissioners, the secretariat, ladies and gentlemen. I am Dr Rose Othiambo, I am representing Molo Constituency Seventh day Adventist Churches, although I am a lecturer in ziology department but I am representing a religious organization. This is a membership of over 10,000 within the Constituency and a student body over 500. I am representing the religious organization as a minority group. I would like to give their proposal as it is and I am also a member of that group.

Thank you so much I said I am a member of that group. We are proposing that there should no fake religion. In other words we are saying we expect the Constitution or a government that is of the people, by the people and for the people. Therefore we are requesting that the state shall not make any law isolating or defringing the church or prohibiting the free exercises of the church. We are also proposing that the religion, the freedom of worship that is in the current Constitution should be practical to the effect that the members of this group, the minority group should be allowed their own freedom on Sabbath worship which is Saturday as it is written in the book of the commandments of God, that is from Genesis to Revelation. My paper has all the quotations. We believe the Sabbath belongs to God, it belongs to the creator, it has been sanctified by God and we should all be obedient to it together with the other commandments. Therefore we feel the church has a right to keep this supreme law of the most high. We feel that as a group this freedom of worship has not been given. As you have heard several occasions, where the church members have been locked out during election days, (**inaudible**) activities, school open days, public market days, public holidays, school examinations and even demonstration days. As loyal members of this Nation we feel we should be given the freedom to participate in all this activities. There is also a proposal on dignified livelihood.

We feel that all the members or all the people of Kenya should have a right to medical health because we are all created in the image of God. This should a government responsibility to give medi-care to all the members/group.

We also feel as a church that there should be no discrimination on sex, religion, or mental or any other disability. We feel that as written in the book of the law every member should have an advantage to be protected from any form of exploitation or degradation from the advantage group.

We also feel that every person should have a right as recorded in the book of God. The right to live and make a living in any part of Kenya without any discrimination and here within Molo Constituency we sight cases of land clashes 1992 and 1997. Which has affected the members together with all the people of the Constituency.

We also propose that it was God's intention that natural resources should be protected and taken care of. I read that from the book of Deutronomey 20: 19, which says that we should protect the natural resources. This has not happened because we have seen in Molo Constituency, example of destruction of the forests together which has led also to the drying of rivers. For us to be spiritually sound we also need to be naturally sound.

I would also like to talk about the maginalised group within the Molo Constituency.

**Com. Adagala:** Do be giving specific recommendations as you go along, because your describing a problem and a situation and your leaving..., you have to give us the proposal even if I know the Molo forest has been destroyed, I can not say it, you have to say it.

**Dr Rose Othiambo:** I was summarizing because everything is in the paper so I hope you will be able to get our proposals and everything. I am just sighting on the major points. We have mentioned even the forests that have been destroyed.

Finally we also wanted to talk on the marginalized group, I think some of them have been represented here. That the Constitution should guarantee and protect the rights of the churches and other marginalized groups of Molo. This should be the right to employment, property allocation, representation in Government and appointment to services. This also includes the marginalized groups as of yet and even the women. I would want to finish by saying that this is the view of 16 committee members who are supposed to have been here but they are not here. But together representing all the churches within the Molo Constituency. On that note because I may not have another chance, I would like to say for the university the center for women studies they are preparing a memorandum which is going to come to you in writing. Thank you very much.

**Com. Adagala:** Thank you very much for a very articulate presentation. I would like to ask you, to give us how our Kenya work will be. What do we propose our Kenya which should look like. We have muslims who worship on a Friday, We have S.D.A who worship on Saturday, we have the rest of the Christians who worship on Sunday.

**Com. Kangu:** The last speaker has asked us to recognize indigenous religions. Looking at the regiosity of the Kenyans I am

imagining so many of them crowding with different principals on their day to worship.

**Com. Adagala:** What we want you to do is consider for us, the S.D.A one which should be affirmed and protected and the other religions how do we work out the week.

**Dr. Rose Othiambo:** I am not going to give you the considered work which but I am giving you the paper is wholly taking on the Bible and the Bible only. I am talking about the day of worship which is written in the Bible from Genesis to Revelation. I would like to say that it is possible if you reset and protect, you will give provision for all the people because they believe in the worship of God who is a universal God. You will be able to take care of them without infringing their benefits. You would have alternatives for them. I am not going to be biased to choose on one day. I am protecting the Sabbath of the Bible.

**Com. Adagala:** My sister, it would be good if we were in a Nation where there were only S.D.A. The part of the reason why we are doing the Constitution is because we have to coordinate. This is not the first submission we have heard from the S.D.A, or from the muslims or from the Christians, and the highest freedom of all is actually spiritual freedom. So we are saying we work together we live together. There is someone who has opened this door on Saturday, open it on Sunday, open it on Friday, open it on Monday, Tuesday, Wednesday, Thursday. Will that person open it for all those days for everybody or will they also have their day of worship. How should we co-exist? You really will not be able to get away from it because you yourself said freedom of worship to be at practical level. We have prove, where children are saying they are forced to do activities on Saturdays. We have Muslims who are saying they are being forced to do such and such. We have situations which arise like you have said the day. Please help us, because that is why we have come to you. If you throw it back at us again, and you know you have presented this issue in a very articulate way. I am begging you to please say the which, not the work with. The Kenyan which can look like this because we have to co-exist. We can not just go and say, we can, the Sabbath shall be honoured the day of God. Then there are two three other days of God.

**Dr. Rose Othiambo:** Thank you so much,

**Com. Kangu:** Can we look at it this way. Are you telling us that the Sabbath should be a none working day for us to make it practical for the S.D.A to enjoy their freedom of worship or are you telling us that it is possible for us to find another way of allowing them to enjoy their freedom of worship without our making Saturday a none working day.

**Dr. Rose Othiambo:** Thank you so much. I think practically what is happening in Kenya we say we have freedom of worship. We have situations where students have been chased for refusing to do even exams on Saturday. That was in Kagsabet Girls I think we have that situation. We have situations where people have been sacked from work before they have refused to go on Saturday. We have situations where people have been denied employment simply because they can not work on Saturday. What does the Bible say? Actually I said I am giving this a biblical perspective from Genesis to Revelation. If all

of you believe in the Bible and not the Koran. It says the Sabbath should be holy. What am I saying?

**Com. Adagala:** My sister you will have to be cautioned. You are infringing on other peoples belief now. You are infringing and belittling other people's religion. The Koran is a holy book, the Bible is a holy book. Christians who belief in Sunday follow the teaching of Christ. I think if you are not able to give us a practical, regular solution to this, thank you very much for your contribution.

**Dr. Rose Othiambo:** I am proposing that you look at what is convenient for all the people. I will not propose for you a working day.

**Com. Kangu:** We will look at this, I have read it for your information, with the other speakers in other places and I have said I am very sympathetic and I would like us to find a solution. The reason we are asking this is because we are saying we must worship and we must also live. If I may quote the Bible, the Bible says by your sweat you shall live and we are saying Kenyans must develop this country by their sweat and yet find room for worship. So we want to get a solution to this problem. I understand what you are saying. Supposing we to say in schools if there is an exam on a Saturday, S.D.A's can be allowed to do it on a different day. Would that be a solution.

**Com. Kangu:** Can we now have Joseph Laboso, is he here? If Laboso is not there Talam .R., he is also not there. Can we then have Chesire .J., isn't there. Fedha Naomi.

**Fedha Naomi:** The Commissioners, ladies and gentlemen, my names are Fedha Naomi. I am a student at Moi University, I am here to present fellow colleague who are around for attachment and here are our views.

First I would like to address the office of the President. Under section 3 sub section 24 of the current Kenya Constitution it states that , subject to this Constitution and any other law because of Constituting and abolishing offices of the Republic of Kenya, of making appointments to any such office. Terminating and such appointments shall rest in the President. Now we were looking at it and we wanted it to be revised such that there should be experts to come up with a criteria especially for the qualifications of appointment to such offices. Such that we will not like anointment but appointment. The criteria shall include appointing people into public offices. Criteria constituting such public offices. Abolishing and terminating of such offices and officers. There should also be a provinsion for the impeachment of such officers incase of misuse of power. Such appointments and terminations shall be endorsed by a body which shall be the Parliament. This will ensure fairness and transparency.

Secondly I would like to address the current Constitution and how it is being carried on. We would like the Constitution to be supreme. Should be written and interpreted in simple language to be understood and accessible to the people. This one is addressing the fact that, the current Constitution if I were to present it to any Kenyan. It is so much full of law language such

that not just anybody would understand. Also I would like to look at we should also have a bridging preamble which shall consist of the highlights of the current Constitution. The origin of the Constitution, the procedure of how the Constitution was drafted, summary of what it entails and why it is or has become necessary to come to come up with a new Constitution.

We also need a link up to the process of writing the new Constitution hence to what the people are expected or expect. There should be a relieve of a new Preamble with firsthand information of the whole new constitution such that we know that this is the Constitution that the people wanted. Such Preamble be readily available to the people through the Commission instead of what went around as in civic education.

I would like to address Members of Parliament, the fact that we need people who are literate. We need 'O' or the equivalent, age between 21 & 55 years. Members born in that Constituency, accessible to the electro. This will be (inaudible) the terms of attending Parliament session the reversed if not changed. Such that this MP should visit their Constituency at least twice a month if not strictly following , justice be ad Ministersed. The same way if they miss Parliament sessions at least three times justice is ad Ministersed. There offices be located in their Constituency and this should be paramount, and not in Nairobi. Because they were elected to serve the people and if they can't be accessible then I don't see the need of an MP.

Education: I would like to address the primary education. The subject G.H.C, it would be proper if it were revisited the part of civic. I feel that Civic be revised such that it should emphasize on law. Such that people grow up aware of the law hence reduce ignorance and early sensitization.

I also would like to address the Provincial Administration, we will not like the Provincial Administration to be scrapped off. We have seen practically it is very necessary. It is a machinery that is so close to the people. Therefore we need the work being regulated by an act. The Provincial as a machinery to enforce their duties which shall be mandatory because this is a government machinery that is so close to the people to address their problems. I am also going to address the press. We need an independent body such that we want free.....The press should be free from intimidation of any party whatsoever. We also need press that is not witch hunting that will give vague accusations. That is my presentation thank you so much.

**Com. Adagala:** Thank you very much. The Preamble you are proposing in the memorandum have you put the principles which you are saying. Just read that part about the Preamble again.

**Fedha Naomi:** We shall have a bridging Preamble. It will consist of a highlight of the current Constitution, the origin, procedure of how the Constitution was reached. Summary  
Of what it entails in simple language. Why it is or has become necessary to come up with a new Constitution.

**Com. Adagala:** You have just put it like that?



**Fedha Naomi:** Yes.

**Com. Adagala:** I would first suggest that you do a further amendment to your Preamble and write exactly what is there. What is the origin of it? You write it.

**Fedha Naomi:** I wouldn't believe this should be what I am supposed to do because I am not an expert in law.

**Com. Adagala:** We are not looking for experts on law we have talked to thousands and thousands of Kenyans who have told us about the Preamble who have never even gone beyond standard eight. They know what in their hearts want to be there. All I am saying sister just beat it up, because you have some idea. As you were thinking about it you have some idea. Believe me your idea counts. Later on you could sit down with your colleagues from Moi University and then post it to us.

**Fedha Naomi:** Madam, how do I address it? Let me put it this way. We are told that we have a Commission which should address shocks that are going to deal with the Constitution. We need a body that is going to teach people things that are supposed to be addressed. Also I feel that writing what should be included in the Preamble. We have refused questionnaires from the Commission. What is the problem with coming up with what is supposed to be the origin in the Preamble?

**Com: Kangu:** What we are saying is this, people have told us the Preamble should have the vision and aspiration of the Kenyans. So we are asking as a Kenyan what is your aspiration? So that if we draft a Preamble ( **inaudible**) but when they tell us let the Preamble have the aspirations of Kenyans and they do not tell us, what those aspirations are then they are not helping us.

**Fedha Naomi:** But for this matter I am so specific that we need the origin, which I am very sure it is written.

**Com. Adagala:** This not a defense kind of thing. We are just picking out the views of people. Otherwise the act could have said we sit in Nairobi and write it. Believe me most of the problems we are having now with the politicians, with what, wananchi, would not exist. The Constitution would have been written long time ago. But we have come to you, if it is not what you want to do, someone else will do it, so it is okay. We don't have to push that one. I don't want to push it. Do you want me to push it.

**Com. Adagala:** Let us have an amicable way to move on I said when we started we will be seeking clarification here and there and that is what we are trying to do. Of course I also say that the philosophy of this process is that it should be people driven. Ideas must come from the people. So that is why I was saying if you tell us the Preamble should have the aspirations of the Kenyans. Then you try and tell us as Kenyans our aspirations are this and this. You could mention one and the rest of the



people will add something. We can go out there and imagine the Kenyans are aspiring to this when in fact in their hearts they are aspiring to something else. So that is what we are doing. Anyway let us move to the next person. Grace Wambui, is she here. You are giving a written memo? Fine. Can we have Chepkwony .K. K.

**Chepkwony .K. K:** Okay thank you for this opportunity the electro Review commission. I am Kennneth Chepkwony Chepkwony, just a student in this university. I chose to dwell on issues one concerning the administration. The Government Structure, I would propose the following:- Jus for me to repeat what my fellows had said about the security of Kenya, I would only like to add that those people who have been empowered to a point like the President, Ministers who can sometimes be asked to appoint government servants. During termination of those servants should be effected. The powers of termination of their tenure should be empowered to some other bodies not themselves again. Like for example the PSC, Public SerViceCommission. I think they should be empowered to terminate the tenure of those who have been appointed by people like the President, Ministers and the rest.

How I would like to ( **inaudible**) President impeachment. I will not suggest the President to be answerable to the court because that will reduce our honor before other Nations. I would like to suggest that the President should be answerable to the Parliament and the provision to be provided for the Parliament to have more powers or more assessment to the President. Like the case of voting on the vote of no confidence, I think such provisions should be provided only. Because such an area to the court without taking the President to the Parliament. The court will actually make him,. Will not have such independence or freedom to lead the country the way he had promised the people.

Another thing is the Provincial Administration: I would not like or see the Provincial Administration to be elected. I would to be appointed the way it has been appointed at the moment. Under the rules and regulations provided by the Public Service Commission. If we have to elect sight people again we might read a point whereby everything will be in political atmosphere even some situations will be political. Once we start elections that means it will depend on the political situation of such person. That means the person who would have been able to lead the people might not have such a backing of the political circles.

Concerning economy, particularly budgetary allocation. I would suggest the following during the budget period. The week following the budget should have... The Ministers of finance should provide in booklet form or vultures the breakdown of the budgetary allocation right to if possible Constituency level. I would to say that I believe in the budget that has been given every now and then in the Parliament but the problem is the implementation of it. The implementation of it has been harbored by loopholes in those allocations. For example you might find that 3 billion have been allocated to real roads or whatever amount. After sometime because it can not be broken down to that particular maybe tenure tenders. Like 28 kilo meter road construction maybe Molo Constituency or whatever. Because it can not be broken down and made public you will find that the executive and all those people and those auditors might change the political atmosphere or to seek political will of the President or the administration in place. In that budgetary project I would suggest that full freedom of individual unity or department be made in bullet form and supplied to the district level for assessment.

Concerning education, I would like to suggest that discipline to children should be provided up to secondary level. I believe some of us here, that really one time under went some discipline to change our behaviour. If discipline like it is has been adopted by the Koech Commission. It will hamper the performance of the throat of a self and those children who are still growing.

Concerning marriage, I would suggest that in polygamy set up the couples the wife and the husband should have written agreement that they have agreed to wed the second person into the marriage. Because we have reached a point where. Okay I am not actually trying to keep ours to the woman so much, I am making that idea. You find that every now and then we find people in the rural areas getting another wife because of some reasons maybe they would have been solved. Another thing is that polygamy has added up to the poverty in our areas. This is because the husband would just decide and irrespective, of course the new wife has to have children. Having children in this economy of Kenya where we have problems with the land it is a real problem.

General elections; I would suggest the following that elections should be done, starting from the civic to the Parliament and to the President. During Presidents elections or polls I would suggest that two running, for example, we may be having around 10 political parties in our country at the moment. During elections maybe two vying for the post of the President, have a small difference in votes. In case the first one does not get over 50 votes from the electors, then another poll should be conducted whereby only those who had majority, the first two should rewind to go to the second poll.

**Com. Kangu:** Just a moment. I was very clear when we started that even if you don't agree with what he is saying keep your cool, when you come before us you can give your perspective of the issue. Let us give him time to finish so that we can go to the next person.

**Chepkwony:** Okay just to finish about the general elections. If the President can not gather up 51% votes then another poll should be set whereby the first two to get the majority votes should go for that poll only. We have been having problems whereby those who are running for the President has no power and cannot proceed and get enough votes for Presidency. Thank you.

**Com. Kangu:** Thank you very much you can sign our book Chepkwony. Nyageri .E.M

**Com. Adagala:** While Nyageri is coming up, we are taping this proceedings and there proceedings which are going to be in the archive for many years to come, so if we have a soko atmosphere if it is a market atmosphere where everybody is talking the tapes from Egerton will just be full of that background noise. When we go to get the material typed that has been taped it will be very difficult for the people who will be typing and therefore your records for here which will come back to you, of what transpired today will be very sketchy. There is a Constitutional right to speech but there is also tolerance. Please have respect

for the person who is speaking there and presenting because really as far as we are concerned that is the only person in this room presenting. Please have tolerance because when you come up and other people laugh out there, talking, you will feel not so good.

**Nyakere Evans Manyara:** My first representation is on the court system. My name is Nyakere Evans Manyara and I am presenting in my personal capacity as an individual. Now my first presentation is on the Judiciary System of the country. As you realize currently the Judiciary is a , the state of somebody especially in very serious cases is normally determined by the one so called individual and learned person in the name of a Judge or a Magistrate or whatever. Where somebody goes there for example murder charge, he's case is normally done by the Judge who due to human errors of corruption and whatever bayesness can decide the fate of a particular person not as it is supposed to be but because of his own human weaknesses. I propose that in our Judicial system we should have a provision for Jury System where the person who is facing grave sentences for example murder, rape whatever can be judged by a jury. A grip of his own tears and this people will declare him or her guilty or not guilty as per the particular charge that will be facing that particular person.

If you are guard I propose that the Judge be there or the magistrate be there but he or her own should ensure that the proceedings of the court systems are a dear to the legal provisions that are provided.

Secondly I am also proposing on the admission to the public institutions for example the universities. The diploma colleges and whatever. What I am saying is we know that the admission to this particular public institutions is based on the forms of a person in the K.C.S.E. What I am saying is that if the cut off point for the admission for the public universities for example are B plain. Then those ones who get a C+ up to a B for example who could not go to the university but do not get chances to go there. They should be allowed to apply to public diploma colleges as a preference. So that all those who go to the public universities but who miss chances in the university should be allowed first and foremost to get access to this particular public diploma, colleges and institutions, for example the medical training colleges, the Tcc, Kenya Science teachers and the like. So that this can eliminate cases where somebody who has got a C plain who did not qualify to the public university, can corrupt his way through this particular clauses, to get chance to be in a particular places without necessary having qualified properly than the other person who missed narrowly to go the university. I am also saying in this particular regard the privileges that should be allocated to people who qualify to this diploma colleges for example those ones who go to the university to do diploma colleges and those ones who go to the Kenya Science teachers colleges. All I am saying is that those ones who are coming to the university for example Egerton are normally allowed to apply for the loan system from the high education loan board. Why not the same for those ones who are going to the other diploma colleges. Which is important here is it where you are doing a particular course or what you are doing? I am saying that all those who are going to the university should get the same privileges as those who are also going to this other diploma colleges for example the Kenya Science Teachers College and whatever. The emphasis should not be where you do something but rather what you are doing.

I am also proposing that the remuneration of the MPs. We realized that in currently the situation is for the MP's to sit in

Parliament pass laws that allow them to increase their remunerations, salaries and whatever without further approval from any other body. All that I am saying here is that the MP should their remuneration and the like should be party to approval by the people or for example the Public Service Commission. They should not be allowed to allocate salaries to themselves and then approve the salaries and they ensure that they get those particular salaries. We have developed situations where the MPs are meeting in Parliament, for example the speaker has been complaining about lack of quorum in Parliament especially for certain days. All I am saying this is that if we tied the remuneration

Of the MPs to the number of seating that they normally attend in Parliament. This people will be under obligation to attend Parliament punctually and in so doing we shall ensure that we do not have this problem of lack of quorum in Parliament as it is the situation currently.

I am also saying that in matters that relate to the structure of the government, I am proposing that the state government should be in a manner that we have put an Executive President. But this particular Executive President should be elected directly by the people. He should not be allowed to nominate a Vice President as it is the situation currently. The Vice President should be a running mate of this particular President. Such that when the people elect this particular person as the President, they also know for sure who is going to be the Vice President, so that in the event of some misfortune but before this particular President we are not unnecessarily thrown to go back into a general election to vote for a President. The Council who run as his running mate and who by virtue of having won that election become the Vice President. Then him being voted directly by the people then should a misfortune befall a President God forbid, I am not condemning for such. But then should a misfortune befall a President then the Vice President should take over immediately for the duration, until the five years is over. That is all I am trying to say.

**Nyakere Evans:** I am saying that in the issue of a Constitutional appointment, for example the appointment of the Attorney General the Chief Justice, the justice of the high court. This appointments should be made by the President whom I said should be an Executive President

By then the appointee of the President should be subjected to approval by our Parliament. The people who have been appointed by the Parliament should see office on condition that they have been approved by the Parliament. Should there be a situation where these people are supposed to be removed from office then the removal should be through a legal procedure of Parliament. Thank you that is my presentation.

**Com. Kangu:** I have two questions,

- 1) The security of the President, do you have any thoughts about that? Because when you are the Vice President and you know you can take over for the remainder there can be the temptation to clear him.
- 2) People are telling us that the President should have two terms of office. When the Vice President takes over for the remainder of a term, do we count that as a term in respect of that Vice President or not?

**Nyakere Evans:** Thank you for the questions that you have presented. Concerning on the security of the President. I believe even in the current Constitution in the current Provision, we had a Vice President who has been elected as the President. If he had that malicious intentions of terminating the life of the President he would still do so because there is provision for him to be acting President for 90 days. Within which period he could establish himself, use all the machinery for ( **inaudible**) of the governor. Then rig the elections that will be ( **inaudible**). All I am saying is this that should the Vice President be tempted to terminate the life of the President, we have got the machinery, there has got to be a motive, we have a machinery to detect actually this case it is the Vice President who was behind the marchination of the killing of the President and therefore he will be disqualified on such grounds. I believe that should not be so much of a problem because there are even if chance arrived, they went and killed President, there must be some indication as to that particular effect.

Concerning the second question where you are talking about the term of the President. All I am saying is that should the Vice President in event of a calamity assume the President then his term should be counted as from the period he has seen office and from there if we normally say that he should assume office for a term of not more than 5 years, then he's term should be counted as from the time he assumed office to the time he is 10 years if he is lucky to be elected the second time round.

**Com. Kangu:** Assuming that if we get a President who is in office, he has been elected to be in office for five years, then he dies when he has served say for 3 years. There is a remainder for 2 years. My question is you are saying the Vice President takes over for the remainder, I am assuming at the end of those two years we go back to election. Then he wins another term for five years at the end of those five years do we say he has finished two terms or do we, because from what you are telling us you are saying if it is supposed to be two terms that the total 10 years he goes (**inaudible**) then that would mean after the other five years he goes back to the election and if he is elected he serves for 3 years and then what do we do after that? Because his term will end before the term of say Parliament ends.

**Nyakera Evans:** All I am saying is that should the whole President assume office unless such time after the other President had served some part of that particular term. There is nothing in a Constitution that says that the elections of the MP's that of the Councilors that of the President should be tied to that of the President. Let this particular President assume office as from that particular period. Give him five years, we can hold the general elections for the MP's and whatever separate from that of the President as from the time he assumes office to the extention of five years then you can hold the elections for President, if he wins again we can give him another five years. That is all I am saying. We separate the election of the MP's from that of the President completely.

**Com. Kangu;** Thank you, you can sign. Kennedy Kiathe, is he available? He is not there. Jarso Harrow,

**Jarso Harrow:** Thank you very much the Commissioners, secretaries, ladies and gentlemen. My names are Jarso Harrow of

Northern Kenya specifically Isiolo district. I am going to give my oral presentation. It is not representing any globe. My first point is about social security at all edge of the public servant. As you know very well that the public servants are poorly paid in this country. As such when they go retirement most of them do suffer a lot and we have an institution called N.H.I.F. The N.H.I.F cater for public servants while they are in the service. I would like this Commission to put it that this N.H.I.F translated to take care of this old people both spouse at their old age. We don't really need so much of security of health when we are very strong. We need a lot of care when we are old. Therefore N.H.I.F relevant to take care of this **(inaudible)** during their old age.

Secondly, I would like to say about distribution of land in this country. Land is the major and most important production unit and as such it should be well allocated and distributed. I am suggesting that in high potential areas we should have a minimum of 5 acres per house hold. In other marginal areas we should have about 50 acres. We should not have a Kenyan, a household, an individual should not have more that. Like present you have heard of Criticals having half of Kwale. Another friend of ours having half of Machakos and so many other guys having almost half of Rift Valley. This is very serious. Ladies and gentlemen what you are seeing now in Kenya today we were talking about poverty eradication. How do you eradicate poverty ladies and gentlemen when a few Kenyans are owning the rest of the land. There is no way you can eradicate poverty when the major the prime factor of production is totally under the hands of few people who are not even utilizing it properly. They are just ringing from Nairobi to ask about their few animals whether they are doing well, a micro country somewhere. So this thing should not be allowed. Such that Kenyans should not be allowed to own more than 50 acres of land anywhere in this country. Of course the location of land matters, potentiality of the land matters. Especially in the high potential areas. The land is cozy, the limit to the land hold should be very much limited. And as we go to marginal land you can get up to 50 acres per land. Of course you don't need more than 6 by 6 when you go and join your grand-grand father somewhere.

In line with the same I would like to say that most of our land be it in urban areas, be it in rural areas is very idle. An idle land is of no economical use to anybody. As a result it can only be useful when it is put into production. I am therefore suggesting that any land be it in the urban centers, or be it in rural areas should be heavily taxed if it is not under production.

In the same tone I am suggesting that Kenyans should be allowed to live anywhere to exploit any resources anywhere in this country without any inpendment from any quarters. There is no way you say that Kissii's should not go to Marsabit or where to go and exploit. While we are having Britons and Americans coming and exploiting our own resources here and you are talking about such and such a tribe should be evicted. That is nonsense.

In the same tone, I came from an area which is called Asal, means arid and simi arid land. These area actually constitutes the biggest junk of the land in this country which is totally under utilized. It is not that this area is not fertile or it is a desert. It is simply they have been marginalized. In that tone, marginalization has been done by the colonials and even the present government. I am trying to propose that there should be some sought of property ownership, property right. Which should be

written to this communal land. Right now we are pastoralists, we are moving from one area to area simply because of our nature of survival. We do not have anything to say, we own this land. You can not be protected by any law because we don't have property rights. Although I am suggesting that we should be given some form of property rights. Be it a group, be it a community, be it whatever, we should be given property rights. That ( **inaudible**) not a Kenyan. So that some people should not come from somewhere and say there is a (**inaudible**) can you vacate.

Chiefs: I am suggesting that chiefs have become so notorious and tools for manipulation. I am suggesting that they should be elected and not imposed on people.

District Commissioners: They are alien to the people, they should not be supervising or chairing development matters since they are alien in that area. Therefore I am proposing that the Council Chairman or MP or any other respectable or responsible person should be elected or appointed to do that business of development issues in a locality or an area.

Passports: Passports is becoming a very big issue in this country especially for Northerners who come from those sides of LVD, loader volunteer district. Most of us actually take a whole of our lifetime to get a passport, which in other countries is supposed to be issued like I/D card. I am therefore proposing that there should be no barrier whether it is because of your colour, because of your race, because of anything. The Passport in Kenya should be issued like I/D card. As long as you have an I/D the passport should be given to you without any prediction.

Crime: We have been getting a lot of problems on our roads. Our roads have actually become a very big problem to all of us. Killing so many people per day. In fact killing more than the AIDS. The biggest problem is corruption with our police. People have suggested many ways of trying to cap this problem. I am suggesting one point, the Kenya military police, the traffic department should be moved to Kenya Military police. They be commanded by the commandant whoever is going to be in and the military discipline.

My other point is Bwana Commissioner; We as a pastoralists, I mean pastoralism is a way of life. Especially the northern Kenya we contribute about 20% of these to this country. Maybe almost 78% of beef in this country. Unfortunately we don't have any market outlet for beef. What we have is a lot of market outlet for tea, coffee and all this kind of thing, pyrethrum call it. Why is it that we pastoralists have been marginalized so that our animals, we can not even fetch market for our animals. That is the only livelihood we have. Even the KMTC which was there it is closed, simply because it has just been grabbed by some few individuals. While coffee and pyrethrum has got clean market outlet. We need a market outlet for our produce. This is the work of the government which should actually provide the market for our animals. The KMTC and other outlets should be reinstated.

Our parliament has actually grown very far this days, I mean they have grown institutionally. They have what you call public



service, Parliamentary Public Service Commission. Recently they had increased their salaries 10 folds. This is not very healthy if we are actually, we can not afford that. It looks like this people are too selfish that they do not mind about how they are going to increase their salaries and what have you. I am therefore suggesting that there should be some checks and balances. I don't know how to state, about this checks and balances. There should be some checks and balances to this Parliamentary Service Commission, because if they are not under the President's checks and balances, then there should be some form of checks and balances, to check their **(inaudible)**.

Another point Bwana Commissioner sir, There are some tribes who are very few in this country, I mean they are the minority. I am suggesting that, as this might not take minority group should be given some affirmative action. Whereby if I am a graduate, for example Maasai or lets say Boran with a Kikuyu graduate having the same qualifications and everything, I should be considered first. My other point Bwana Commissioner sir is decentralization of power at the district. We believe in the slogan of saying we saying we bring the service closer to the people. Then the services which are being done in Nairobi should be brought closer to the common man. He might not even have that money to go and say this and this in Nairobi. So why can't you bring the facial service closer to the people by bringing to the district.

The other point Bwana Commissioner, I will want to suggest that all the executive positions or appointments should be vetted by the Parliament of the people. Whether it is a Chief Justice, whether it is managing director, all this executive posts should be vetted by the Parliament. Appointment of Ministers also should be vetted by the Parliament, because we are getting bogus Ministers and a Parliament who can not even answer very simple questions. Bwana Commissioner sir, we should also have not Assistant Ministers but a Deputy Ministers, who can actually deputize the Ministers when he is not in or is recapacitated. He should also equally be qualified and he should not be just assistant. He should be deputy who can act. Currently in Kenya if a Ministers is sick or recapacitated then you call another Ministers from another ministry to come and act. This is not the way. It should be deputizing at anyone hidden time.

Another one Bwana Commissioner sir, free education for every child up to fourth form. I want to say the last one.

The Structure of the Government: I will say we like an elected President, and no Vice President. That one is an elected President but elected Prime Ministers and two deputies. The first deputy will be in charge of finance. The second one should be in charge of administration. That is enough because you cannot pay for all this people. The President should be empowered to dissolve the Parliament and to fire the Prime Ministers when it is necessary.

My last view is that, the winning President should gather at least 25% from five Province as it is. This one Bwana Commissioner sir will save guard the issue of majority against minority. That if you are a majority, you can get 60% by yourself, you don't need luyas or whatever. This one should be put in place that if you are to win, you should have 25% that will save guard against dictatorship of majority on minority. This is because democracy can also mean dictatorship of majority on



minority is not the other outright way. Otherwise thank you very much ladies and gentlemen.

**Com. Adagala:** Unless you are visually impaired I think that you can see that there are two Commissioners and of both gender. The Commission is very gender sensitive so we are proud of this. I wanted to find out your from the up town areas and I am glad you have presented. The people in that area are saying, because you have talked of idle land. You we actually asked this question earlier, I don't know if you were in. When is pastrolists land idle land? Because it has been assumed to be idle land then people come and divide it up. The Lakipia Maasai were telling us that there sacred ground, which is a huge enormous field, many many acres was decided that it was idle land and so someone in Nairobi got a title deed. He got people to come and sub-divided it, that is sacred ground. The other one is the movement of the pastrolists people when they move with the rain. When is pastrolists land idle land? The other one is you said affirmative action for employment. This one I just wanted to tell you that is actually how Africans got to get jobs at independence. They were preferred because their Africans to Europeans with similar qualifications or better. If people think this is a ridiculous idea really, this is how we got where we are. Otherwise it would have stayed with the white people. I think that is all for now.

**Jarvo Havo:** When is pastoral land an idle land? Actually when I was trying to put the idleness of land I actually never meant the pastoral land. Pastoral land is never idle. Our way of survival is graze here, utilize properly and move. Our biggest problem is mobility, our survival depends on mobility and migration from one area to another to another one. As we leave from one area to another one we leave that area to regenerate and come back latter. We make sure we utilize the resources there and when they have gone down, we move and this is one way of also taking care of degradation of environment. We know this is an indigenous knowledge that is inbuilt in their culture. What I was trying to say about idle land is the economical land. Our land is not very economical as such, the economical land which actually can help the rest of Kenya. Like in the high potential area, where you have thousand and thousand of land and the pipe pass there, that is illogical and irrational. Another question I don't know you were saying? Okay.

**Com. Kangu:** Thank you very much for your views on various issues, including the quality of Ministers. I must say I was recently intrict when one Ministers was hurt to complain about the quality of his colleague. Thank you very much. Can we have professor F.M. Ituria.

**Prof. Francis Musyoka:** Ladies and gentlemen, Commissioners and my fellow colleagues, my name is Professor Francis Musyoka Itulia, and I am a professor of agriculture here at the university. My presentation will be personal and my views are personal. I would like to start by looking at the situation where we are and I will take just five minutes because I am going to present a Memorandum, so I will not take more than five minutes. The reason why most of us complained about the previous Constitution was because of the way it was designed. We all know those of us who are old enough during the colonial times and later when we were getting our independence the Constitution we had was handed over and it was a model of the British whereby the executive which was supposed to be the queen or the king of England was just handed down to us as it was. If

you look at the old Constitution the current one it has everything to do with executive and very little to do with human. The people the executive is supposed to lead. I would like to see a Constitution by the end of the day which gives emphasis to the citizens who are actually the most important people in a Nation. By so doing it will create what the President has been asking for patriotism. Patriotism does not come by being told, to be patriotic. It comes by feeling that you own the country and if you feel that you don't own it then you can not be patriotic. Most of the young people are flying all the way to America. Why? Because they are not happy about this country. Simply because they don't have a future. The future comes in that they really don't view that they are important. My generation we felt we were important because we were taking over this land so that we can manage it. Looking back many years back, 39 years back I say that sought of type has been watered down. This Constitution that we are going to have, it has to emphasize the citizen more than the President or the Executive. In so doing my Commissioners I would like you to realize when you come down to write the Constitution the first instead of starting with a chapter which deals with the President. You start with dealing the human rights. What are our protection? What are our rights and freedom as individual? I would like to very quickly because of the five minutes that I have been allocated, I would like to go through a few items which I would like to be highlighted.

**Com. Kangu:** Professor I will give you more time. Give us details, I tell my students it is not easy to change a name in academic and you have changed yours. We want to hear more.

**Prof. Francis Musyoka:** Thank you very much Commissioners. I would like to go through some of the most important things that I would like to be addressed by the Commission.

Protection or rights and freedom of an individual: First is the issue of citizenship. I would like us to have several categories, actually 3 categories of citizens. I am proposing three;

- 1) Citizen by birth; this should be those Kenyans who are born inside Kenya and outside Kenya, by at least one parent who is a Kenyan. You know the current Constitution discriminated Kenyans who are born by women who are already married. That is not fair as far as I am concerned it is a parent. Some of us maybe having only daughters and they end up having no grandchildren who are Kenyans, if they are all married outside.
- 2) Citizen by Nationalism; this is of course a category which is after you reach 21 years and your born outside Kenya, or even born in Kenya by parents who are not Kenyans then you would like to be a Kenyan. This people will have to apply and of course check their records and whatever just as it happens in other countries. They should be given that category, and it still exists in the present Constitution.
- 3) The third Citizenship I would like to request the Commissioners is that of dual citizenship. This was denied during independence because we thought Kenya was so important and we had so many of the foreigners, like the whites and the Indians those days. There were 60,000 indians and we did not want them to have citizenship in India and also citizens of either Britain or whatever. We wanted actually to enjoy the natural resources that we had. One of them

was labour, work and position. Now it was found out that actually we are the ones Kenya, we have produced so many people who don't have jobs. Our children are going to America and America accepts the dual citizenship. Now even having to denounce your Kenyan citizenship, yet we still insist that you must denounce the citizenship of Kenyans if you take up another citizenship. Yet we are the ones who need other countries. We need African labour. If for example South Africa allows us to become citizens without denouncing our birth rights why can't we also allow that and of course other countries like the U.S and others allow that, European countries allow that. This is the area that we would like to look at, not for our own self defense, because we have nothing to protect. We don't even have (**inaudible**) we would like to gain from other people. Other countries without losing our birth rights.

The other thing I would like to look at is the revocation of Citizenship. This can or should only be done to those people who are Nationalist Kenyans. This is because sometimes you can be Nationalized for a purpose so that you can start sabotaging the security of the country. If proven in a court of law, then this can be revoked. There should be no revocation for a Kenyan who is a Kenyan citizen by birth. This is because we never choose where we are going to be born anyway.

Rights: We have heard and I think it was revised but I would like it to be engraved in a Constitution, there is this what we use in detention without a....., I think it is a very human thing. Whereby you decide because you have the power to arrest your colleague, you lock him up for as long as you want. You release him when you want. We know some people who have lost their careers. (**inaudible**) of this country. Just because you expressed your opinion differently. Detention without trial should not be allowed because it is inhuman.

Right in legal defense; we know in Kenya today only the rich, the rich will get away in the court of law and that we know. A poor man can be arrested, locked up and since he has no representation he has nowhere to go. I would like that every Kenyan who is a Kenyan citizen to be entitled to legal defense. If he cannot afford the government should employ a good advocate, so that at least we don't have those people who get away with murder and others just because they are poor they suffer.

I would like to go back and say, in terms of you feeling like you are a Kenyan. You should also be protected whether you are in Kenya or outside Kenya. We have had situations where Kenyans, overseas have had problems, yet they were born Kenyans, they are still Kenyans holding Kenyan passports. They go to embassies and they are told, we have no money and whatever. If you look at what the foreigners do here. If there is a man who dies here, he is shipped back to their land. If I feel that my country loves me so much that wherever I am, I am protected or if I am arrested my country, my ambassador can walk over there. I would feel more patriotic than most of us are today. Those of us who have been overseas we know you go to an embassy if you are really, your friends if not your relative or your tribesman who is there, you will not even see the ambassador.

You cannot even wait there in the embassy and some of us have suffered that. We should be protected and that should also be in the Constituency because such protection is not there.

I would also like to look at trial in a court of law. We know of late, people can sit in awaiting trial for as long as the pleasure of the police. During colonial times those who were adults then we knew that after you were arrested you could not be locked up for more than 24 hours without being brought before a court of law and charged. I would like that one to go back. If the colonialists could protect us, that you could not be locked up for more than 24 hours, why are we locking ourselves for 14 days in the cells? I would like the 24 hours to be reinstated. This is in my memorandum.

The other thing the Commissioners I would like to look at is that those people who are holding senior positions and this is a way of trying to motivate corruption they should be required to declare their wealth every year they are occupying those senior positions. I have seen people walking, without even a car and they come out of offices with Mercedes and I would like to know how all that money comes about.

I would like now to look at the next most important section of the Constitution I would like you the commissioners to look at, this is the National Assembly. The house I would like, instead of having two houses because I don't think Kenya can afford two houses the way we started. I would like to have one house, where people are elected directly. Not to have nominated members because this facility has been abused. That was provided for so that people of special interest could be nominated. What has been happening is those who are favored in some parties are the same ones who go there. So the party ends up having more MPs.

Then the other thing which I think Commissioners is very important, is that Parliament should not just be where we don't know when they will end and when they will start. We don't even know when we will have elections. So I would like elections to be conducted, in my personal proposal or election to be fixed for November 15<sup>th</sup> and then bearing in mind of the election on 1<sup>st</sup> February. That will give us enough time for petition and finish all those business before people are sworn in. So that we don't have people who are sworn in. If you know the elections of 1997 their cases where people petitions and up to know they are still earning salaries but the cases have not been transacted. We learnt a lesson from America where there was a petition against Bush and it was transacted within weeks. We would like chance of petition to be finished before people are sworn in because it is unfair that a case is finished when Parliament is over and the person has earned the term.

I am proposing parliamentary session. I am proposing 2 sessions. Session 1 which will start on 1<sup>st</sup> February it goes all the way to 31<sup>st</sup> May. So that we don't have this business where members of Parliament just adjourn and go home whenever they want. Yet their business is to enact laws to govern this country. Then 21<sup>st</sup> after people have been sworn in up to May 31<sup>st</sup>. Then the second session should be 1<sup>st</sup> July, we have a break of one month. They can now go and meet with their people, because weekends they can be going home. Then 1<sup>st</sup> July to 31<sup>st</sup> October, that is the second and final session in the year. Then we have a long vacation from 1<sup>st</sup> November to 1<sup>st</sup> January. That gives them enough time to go and meet the people rather than just breaking off whenever they want. Therefore they will be working for us for eight months and that way they can justify their

income and enact the laws that govern the country.

Number of Members of Parliament Mrs and Mrs Commissioners, I would like to propose that the Members of Parliament should not just be haphazardly decided upon. I coming up with a formula, and I will give you a constant which if you adapt this Commissioners you will have to give me credit for it, but you can modify it. I would like it determining a Constitution which will be represented by one MP. I would like those who are doing it to consider the number of registered voters because they are going to represent voters. So that we don't have this excuse that we don't know the population because sensors is done every 10 years. Voters of course we register everyday, ( **inaudible**) The large areas those voters are occupying in square kilometers divided by a constant. If you adapt the constance Commissioners you will have to give it my name. This constance I have worked on it, I have done calculations and I have found that if you divide by 1.5 billion, as a denominator you will come up with a rational sort of allocation of constituencies rather than negotiating for them. So that those places with big areas, they will only increase their MPs by reproducing more people or by attracting more people to migrate. You can have more people migrating to provinces and if you use that formula it can actually it can actually ( **inaudible**) in a manner that is, and it should be done every four years. That is a year before the elections, I have also recommended that. So that we know which areas have lost their representation and boundaries can also be reorganized and boundary consolation also should consider fixed boundaries like mountains and the rivers. So at least we don't have people who have decided they cannot cross over to the other members.

The qualifications of MPs, Commissioners I think we are now well educated, the mean average education in Kenya is I think a secondary school K.C.S.C. I think that should be the minimal a person of 21 years and one who has successfully completed secondary school. We do not want situations where people can not even understand the laws they are passing because there are other areas where they can also, people who don't have that competence can also be represent the Nation, not necessarily in Parliament.

Attorney General: The Attorney General in the past has been a member as an official Member of Parliament. I would like him now to be an ex-official member he is actually a Civil Servant and should remain in executive. The speakers of the National Assembly I would like the speaker to be elected but this man should not have ran for elections during that period, when he is vying for the post of speaker. The deputy speaker unlike the current practice where they just get one of them, should also be elected so that he can deputize for the speaker and it should actually be a permanent job, just like the case of the speaker. We have seen in Parliament where if they want one motion which favours the whole group the speaker walks and goes to the toilet and then another person sits. We would like some contunity thing.

The vacation of seats in Parliament, Commissioners I would like, once a person and this is very critical. We have seen this crossing over and people take us back for elections and it costs us a lot of money. I would like once a person vacates his seat either in writing to the speaker of the National Assembly or he crosses over to another party, such a person should not be

allowed to run for by elections. He should wait until the next elections. Why should I sell a seat I got from people for several millions, 6 millions, cross over the other side and still stay in the same Parliament. What will I tell the people who elected me in the first place, denied their representation. So we would like to put that as a Constitutional condition, so that you wait until next elections if you feel that you can not represent us the way we elected you.

The next thing Commissioners I would like to propose that this should also be in our Constitution, we didn't have it during colonial time, with the Civil Servants and then when we put it, it has not been very comfortable. We would like to have a Chairman, Vice Chairman, Secretary, Four Members and all this members should be appointed. Of course they are appointed by the President and subject to approval by Parliament. So that we just don't have anybody and then they wouldn't be able to respect them.

The next I would like to look at is the executive, and I am going in order of priority, I started with Human Rights, Parliament and then Executives. This are the people servants of the people. I would like the head of state to be an Executive President. Elected directly by the people and his Vice President to be his running mate at the time he is running so that he doesn't have the authority to appoint and fire the Vice President when he wishes. So that we can have **(inaudible)** in the country. So that if you now know who is your President, who is your Vice President, if anything happens and the Vice President is removed, then the President can appoint. If he appoints a Vice President, he must be approved by Parliament, not just he walks in there.

Then I would like to look at the issue of Cabinet Ministers. The Cabinet Ministers should be appointed from among any outstanding Kenyans who are elected to Parliament, regardless of their party affiliation. This is in the current Constitution and I would like it to be retained. You might find very outstanding people who really may not be in the right party, the party that is forming the government. That should be a provision. We know even in the United States very senior people from opposition are also taken in by the President to help him run the country. The Deputy Ministers, I would like the issue of Assistant Ministers removed from the current Constitution and we have Deputy Prime Ministers who should deputize for their Ministers because the current Assistant Ministers their functions are dubious. All this should be approved by Parliament, whenever they are appointed by the President but approved by Parliament. I actually omitted one portion, this is the issue of the Prime Ministers.

I am proposing that we should have a Prime Ministers and he will be the head of government. The Executive President will be head of state, the top man, but the head of government will be the Prime Ministers and he should come from the winning party, that morally gives some courage to those people who win the election. This is my own personal proposal that the Prime Ministers should come from the winning party and he should be head of the government, he can be he or she.

The other group is the Jury lecture which is Judiciary. I am proposing that we have a Supreme Court, it should have seven judges and this judges should be appointed from the judges of the court of appeal. I am actually proposing a Supreme Court,



Court of Appeal, the High Court and of course the Magistrates Court. The judges of Supreme Court should come directly from the Court of Appeal. This will be experienced people. Not just from anywhere, they will have been tested and they should also be subjected to approval by Parliament. The Judges of the Court of Appeal should also be appointed from the High Court. This should have been tested people, with experience and they should also be approved by Parliament. The High Court of course the Judges should be appointed by the President but in consultation with the Law Society of Kenya, Judiciary Commission of Kenya and also subjected to approval by Parliament, so that we can respect them. Then of course Magistrates will be anybody who is qualified to be an advocate to the High Court of Kenya. The most important appointment in the Judiciary is of that of the Chief Justice. He should come from the Supreme Court and he should be somebody who will have to be approved by the Parliament once nominated by the President.

I have touched on the most important but I would like to go to the Civil Service function and it touches on a very critical area, which is personal to me and I would like you people to bear with me. This has to do with the Provincial Administration. The Provincial Administration ladies and gentlemen and the Commissioners, this is a position which was started by colonialists. It is none existent even in Britain and it was intended to help the British to rule the 90's. It is my view that Provincial Administration has outlived its function and as far as I am concerned it should be replaced. If we need representation at lower levels this representation should be by elected people but they should not be called the same names, like this or whatever. They should be representatives for the people. If you look at the Provincial Administration initially was to collect taxes, it was to make the African disciplined and today the same proceed after independence. In fact these are the people we wanted out, the Chiefs. We see the same Provincial Commissioner and the same Chief with the same powers, if not higher. If you remember the time that a DC Commissioner canned a man in Kiambu because he was bearded. You can imagine how much I felt those days. Commissioners I think the Provincial Administration has outlived its life.

Police: All of us know that the police service today is not providing the service it was intended to. I would like us to retain the police but at a different level. Commissioners I would like us in this confusion to put police at the local level. The local level whereby they will be employed. If it is in the case of the city of Nairobi the police will still be trained in Kiganjo wherever you want to train them. They will be appointed, they will look for jobs the way teachers and other people and other graduates do. Just the way any profession, police force is a profession even in America and Britain. They would look for jobs and they will be interviewed and appointed. The City of Nairobi will have their own Police, Kitui district will have their own police, paid for by the County Council. Municipality of Kitui where I come from will also have their own police depending on how much they can pay. So that the police we know who they are so that they are not just people who harass people at night. Because if you know if you have a case with police, you know what happens. I don't want to be quoted for attacking everybody, I will suffer. We will need accountability and we would like them to go that level. If America have a police at the ground level, if Britain has the police at the ground level, why should we retain the police who are answerable only to the Commissioner of Police and not answerable to the lower level. If we can put it in our Constitution nobody else will change it.

The other one is I would like to retain the Central intelligence as the Central government because of the Central sort of intelligence collection. General service unit to help when their problems at the Central level. The army should remain at the Central level.

The last and not list in important is the finances: I am proposing Commissioners, since I am not for Majimbo, I am proposing that 70% of the taxes collected by Kenya Revenue Authority, and this should be the only body that collects any income or collects taxes of any nature. 70% should be retained by the Central Government and 30% goes to the Local Authority. If the money came from the County Council 30% goes to the County Council and the County Council would do what they want with it. If it came from the City of Nairobi, 30% goes to the City of Nairobi and they will do what they want with it. Then of course I am also proposing in that line we should have functions which are Central Government and functions which are Local Government. I have picked on a few:

- 1) Education for Central Government, up to secondary school, that should remain within the Central government.
- 2) All health services should remain within the Central Government.
- 3) National defense, Army and General Service units should remain in Central Government and of course Intelligence.
- 4) Social Welfare of the people, old age and others may remain in the Central Government.
- 5) Roads which are linking neighboring countries, linking major urban centers and linking districts to remain in the Central Government.
- 6) Revenue collected at all levels, County Council should not just be collecting but the Kenya Revenue Authority should be the empowered body so that we can be able to know how much has been collected. Then 30% can go back to where it came from. Revenue collection remains in the Central Government.
- 7) Local Government: Education up to Primary school that should be their function. They can use the 30%. Local Police of course I have said, water supply, sanitation and local public transport like city buses, should remain within Local Government.

Last Commissioners and I thank you for bearing with me, is about land. I would like to say that land should remain under 3 ownership. By the individuals, groups of individuals and state trust land. The state trust land should only be used for public good and no land that is state land under trustee should be allocated or converted to private use without approval by Parliament. Thank you very much for being patient with me.

**Com. Kangu:** Thank you very much. I told you I was going to give professor time, because I tell my students when someone has a PHD, he has done permanent head development.

**Com. Adagala:** Thank you professor. One question, when we talk to people in Local Authority they say that they may generate revenue of million, then it goes to Central Government, then Central Government delay and deelay darling and then



eventually sends them like  $\frac{3}{4}$  of a million or a million. Mean while the services are collapsing and so fourth. If indeed we want the Constitution to empower people should it not be the other way round? I am not saying you change your idea, but in the way the money is distributed, should it not be what is to be retained even if it is 30%, to be retained at the Local level and the 70% as you have said goes away. They say the problem is the waiting and the begging and sometimes of course the money is lost, somewhere. There is a road which is ear masked and then it is lost.

**Pof. Francis Musyoka:** In my memorandum Commissioners I have also indicated that this money collected should be collected by the Kenya Revenue Authority. So that we have one Central Body. If we have one Central Body which we all respect and which has experience it will now remit directly, and I have also indicated in my paper to remit directly to Central Government 70% and the 30% goes directly to the Local Government. So that we do not have a situation where the Central Government takes the money and then, if they don't like a mayor somewhere, they say let him suffer. We want to have the right to our taxation. Actually the only way you can enjoy it is the local level. That is where the functions are. I am proposing money goes directly, but you have to have in authority that can collect the taxes, and that is the Kenya Revenue Authority.

**Com. Kanga:** Two questions:-

- 1) Can you try and consider the Local Authority for us, because today, the kind of Local Authorities are some very confused units. You have cities, you have municipalities, you have urban councils, you have county councils, do we continue with this state of confusion or do we redefine what we mean by Local Authorities within the arrangements you are proposing?
- 2) On the Judiciary, you are saying that the Judges of the Supreme Court should be appointed from the Court of Appeal. That is good for the future. I would like you to give us some transitional measures for this transition period, because the quality we are looking for and discipline, and lack of corruption, in the Supreme Court may not be found in the Court of Appeal today. The South African's had a similar problem, when they were writing the Constitution and people were saying the apartheid Judiciary was conservative it could not be trusted with the implementing the new Constitution. They argued some were saying fire all of them. Others were saying no we can't. Eventually they said let us establish a Constitutional Court but to which we will approve new people, who will start in stealing discipline downwards. Give us some transitional arrangements for the current situation?

**Prof. Francis Musyoka:** Let me start by the Local Authorities. I think a Local Authority that has reached the level of urban council, that is an authority that should be able to manage their affairs. That is the smallest authority. We have two systems of Local Authorities in this country. We have the County Councils and we have the Urban Units, this is where people are settling in the town. I think I see no problem if you have a bench mark that a town or an urban council to be recognized for that money.

Collections should be in Urban centers, it is fairly sensible, because from urban council you go to Municipality. County Councils are well established, this have been there and in fact they were the ones which were doing our functions before, during

the colonial times.

About the Supreme Court, although you're a learned gentleman I don't think Kenya has a shortage of highly qualified the seven people I am proposing. In fact you can get them from the Court of Appeal today and if you want the names, I have about 3 or 4 names of very good people who qualify and I think we should still move the same way so that the person to be appointed they don't have to be all seven, but the first three will come from the Court of Appeal. Having a Constitutional Court now we are really not in a crisis, I think Kenya in terms of lawyers, I think being a lawyer you know, our market is over flooded in terms of Judges. Judges of High Court, there are several good Judges of the High Court who can be moved to the Court of Appeal.

Maybe as a transitional measure there will be few who will be moved from the High Court who are denied a position to move to Court of Appeal and who can move to this Supreme Court, which will be the funding. When you are funding and organization, is there is no competence from where you are drawing you also bend the rules and you can have the people who are available but meeting the minimum qualification. One is lack of corruption, and we all know, I think even the lawyers are asking who should be in the Supreme Court of law. In Kenya we know everybody, we know even who should be ruling us where and whatever. I think that will not be a problem as far as I am concerned.

**Com. Kangu:** Back to the Local Authority question. You know the situation we have today is that there some Local Authorities that overlap. You find a district, because County Councils are based on districts. You find a district that is a County Council. That district the whole of it has been declared a municipality and in some cases you find parts of a district that have been made urban councils or town councils and a lot of confusion arises. This is something found I think in Kuria. They told us that the whole of their district is also a Municipality. So you wonder whether the Local Authority there should be the Municipality or the County Council or you should have both?

**Prof. Francis Musyoka:** In a situation like that one where the Municipality has swallowed the County Council, you know like the City of Nairobi is Swallowing both Machakos and Thika. Where that happens of course the body that is swallowing the other one becomes supreme. If it is the Municipality that swallowed the County Council and that is natural development. We start with County Councils through our areas and people who migrate to the cities and the cities grow and swallow the rest. So when they grow for example if you take Los Angeles which is, you can drive about 60 miles one way and close to 100 miles and it has swallowed so many Counties and when it swallows a County, it now becomes the city of Los Angeles. If Kihanja has swallowed the rest of Kihanja district, then the Kihanja becomes the City of Kihanja.

**Com. Kangu:** You can sign our book. Can we have Joseph Githinji, if he is not there we have Chepchiror .K. E, if he is not there David .N. Kariuki, if he is not there Nyamai .P. N, he is not there, Robert Ouma, Njoroge Antony Ngige, Okuthe .J. K, Maritim Mosop, are you the one?

**Com. Adagala:** May I remind you all that when you are presenting your making your presentation to the Commission. It is not

to a wider audience here. We are saying this because some people come and say, some politicians who are aspiring for take advantage of that. When you are addressing you are addressing to the Commissioners.

**Maritim Mosop:** Bwana Commissioners ambaye wako wawili hapa, vijana, wazee wenzangu, nishukrani kubwa sana. Yangu ni machache

**Com. Adagala:** Mzee vile tulisema, nilisema kwa kingereza, ukizugumza unazugumzia tume. Sio wazee wenzako na vijana. Okay. Kwa sababu wanasiasa wengine wanakuja halafu wanaanza campaign. Sema jina lako halafu uendelee.

**Maritim Mosop:** Kweli kweli, jina yangu mimi naitwa Maritim Mosop, natoka sehemu za mountain. Ningetaka kutoa maoni yangu kwa tume. Maoni yangu ile ninawachia saa hii ata ingawa sisikii kiswahili vizuri. Mahali nitakuwa kona huko muyoroshe nyorosheshe huko.

Ninaanza na watoto wa machokora. Hawa watoto wa machokora kwa Kenya huko mbele itakuwa ugonjwa kubwa tusiporekebisha saa hii. Maoni yangu kuhusu hawa watoto ni iwekewe ministry kwa hiyo Serikali ambayo itakuja. Ikiwa itpewa ministry nafikiri hiyo ndiyo itakuwa dawa ya kutibu ugonjwa ambaye inakuja baadaye. Halafu itaanza kushugulikia hawa watoto.

Kurekebisha mamlaka au sheria ambayo inawezesha mwanamke kutawala mwanamume. Sisemi mwanamke akitawala mwanamume ni mbaya lakini kwa Mungu ni machukizo. Hiyo sheria ni vizuri iangaliwe sana. Kwa sababu ispoagaliwa sana na irekebishwe hapa nyumaye muji itaharibika na itapotea na ita yumba yumba. Nikiongezea maoni hiyo, kwa maoni yangu mimi nataka mwafrika tukae vile tulikwa hapo hawali. Kwa sababu tukipatia nafasi mwanamke atutawale watamaliza watoto vile wanamaliza saa hii, kwa sababu inchi hii sasa inatawaliwa na vijana na hatukatai ndiyo ni vizuri. Lakini ikiwa ninasomesha mtoto mpaka university, akienda huko akutane na mschana yule anapenda. Wakati watakuja nyumbani, wanakuja na mavazi ile atatukizugumza wazazi wenzangu tunapindwa uso kuagalia kando. Hatutafunga macho kabisa kama vile tulikuwa zamani. Kwa sababu mavazi yake ni ya aibu kwetu, ama mavazi yao. Mimi na sema hivo kwa sababu ya hawa watoto wetu tunawapenda sana, na tuntaka wawe na heshima ya kutosha. Kwa maoni yangu, watoto wetu wakija nyumbani kwetu, mahali mimi niko na mama yake na shemeji yangu na wale wengine wangu, wakuje huko na longi ile imekaza muili yake. Wakuje huko na marinda ile wamepasua mpaka karibu na mahali mbaya. Hiyo sheria tubaki naye tukiwa mafrika katika Kenya.

Maneno ya President, mtu kukuwa President ni vizuri sana kuchunga raiya akiwa ameunda Serikali. Mwanzilishi mzee Kenyatta wakati aliunda Serikali hapo alikuwa na nia nzuri sana. Lakini watu wale walikuwa karibu na yeye ndiyo wamemaliza hii nchi kabisa. Niko na sababu nyingi ambaye siwezi kusema kuhusu hawa watu. Wakati muanzilishi alipo enda Moi naye akaingia. Wakati Moi alishikilia ugongozi katika Kenya wale watu walikuwa karibu naye wameharibu nchi. Mimi nasema hivo nikilingisha na (**inaudible**)

Naye ni wanachi wa Kenya kama watu wale wengine. ( **inaudible**) mokitaka kujua jina lao ni Ndorobo, wakiwa ni wachache hawawezi kupata district apate ata division. Kwa sababu kabila zote Kenya ziko na district yao. Ni vizuri aweke kama ni wachache, hii Nakuru district hakuna kabila, itengenezwe hii district ya Nakuru iwe ( **inaudible**)

Ya mwisho kabisa ni kuhau Majimbo. Majimbo ni mzuri sana ikitumiwa kwa njia inayo faa. Haimanishi ati tukiwa na Majimbo mjaluo tufukuze aende Kisumu. Mkikuyu aende Nyeri, ama Maasai aende Narok. Haimanishi hivo. Tukiwa na Majimbo kazi ama misaada ambaye itapatikana kwa Serikali ile itakuw ni rahisi sana kugawiwa watu wake. Halafu ya mwisho kabisa ni kuhusu Machiefu.

Hawa Machief na assistant yao, na DO wa area ya mashambani wa Kenya nzima. Kwangu maoni yangu naona ni vizuri waende nyumbani kabisa. Maoni yangu hiyo haimanishi ati nimevunja Serikali. Ichukuliwe wazee kumi kumi kwa kila sub-location, wa kusimamia viti ya assistant Chief. Halafu wakisha fika quoram asongezwe aende afike ya Chief. Akifika sabini awe ni ya Division. Hawa watu watakuwa wakifanya kazi na PC. Vile vile kina surveyor, watu wa surveyor kwa Kenya,. Wale surveyor ambao wanaendaga kwa mashamba ya wananchi wabaki mmoja katika district. Kwa sababu huyu real surveyor na Assistant Chief na committee moja wa sub-location halafu na Chief, halafu na DO wa mashambani, hawa ndiyo wameleta shida kwa wananchi. Wakipenda kunyakua pesa amakufanya magendo wanasikizana, Chief, Assistant Chief, DO, iende itolewe beacon, kwa shamba ya mweyewe. Na kusongezwa kwa mwingine, mpaka shamba ambaye haina mwenyewe ipatikane halafu wanauza. Sitaki kusema mengi kama ningekuwa na nafasi nzuri tungeweza tuzugumze, nizugumzie nyiyi kwa sababu mimi ni mzee.

**Com. Adagala:** Basi mzee ukiwa na mengi ambiya chairman wa kamati akuletee tape ili uweke maneno yako na utume kwa tume. Nigependa kuliza tu unataka ministry ya street children (watoto wanaranda randada hapa) ifanye nini?

**Maritim Mosop:** Nigetaka hii ministry ya watoto ambao wanaranda randa itengenezwe halafu ikishatengenezwa, kuna maplot ambazo zimebaki ikiwa hazijaporwa. Wajengwe shule.

**Com. Adagala:** Hawa watu unazuguzwa wenyewe wanjieta nini? Wanajieta Okiek or Ndorobo.

**Maritim Mosop:** Wana jieta Akiek.

**Com. Adagala:** Sasa ukiwaweka Nakuru district vile unasema, na Nakuru district itwe Akiek, na Wamaasai wansema arthi yao ni kutoka kule chini Namanga mpaka Nakuru, mpaka Laikipia, Nairobi pia.

**Maritim Mosop:** Hiyo maneno ama msemu hiyo. Hiyo ilivunjwa zamani.

**Com. Adagala:** Kwa division wazee kumi kwa sub-location. Ni kitu kizuri umepropose ndiyo nataka kuchukua. Wazee kumi kwa sub-location halafu kwa location?

**Maritim Mosop:** Utaongeza kila sub-location iko na ngapi halafu wapate kwa Location.

**Com. Adagala:** Nani atasimamia Division.

**Maritim Mosop:** Ikiwa kuna hawa watu watachaguliwa chairman ambaye ni kama Chief lakini to stay on there own, sababu (inudible)

**Com. Kangu:** Asante sana mzee. Hakuna swali.

**Maritim Mosop:** Nataka uniruhusu ya mwisho, ya mwisho ni mpaka. Mpaka ya mawilalya na ya Province. Ikiwa kuna wilaya imesongezwa becon yake kwa wilaya zingine irudishwe mahali ilikuwa zamani. Kwa sababu hiyo inchukiza mbele ya mwenyezi Mungu. Ikiwa kuna beacon ambaye, mfano Rift Valley na Central. Ikiwa kuna beacon ya Laikipia ilisongezwa halafu ipatikane district ya Nyandarua iregeshwe pale halafu watu wa Laikipia wapate kupona. Kwa sababu hiyo ni ugonjwa kubwa kwa watu wa Laikipia, kwa sababu kun wenyewe. Asante sana Bwana Commissioner.

**Com. Kangu:** weka sahihi pale na hiyo zima. P.N Wafula, if he is not there, Wekesa .B. W, P.K. Chachir, he is not there, Gideon Korir, Joseph .N. Ruiru, Haron .L. Okuiru, Oliech Omondi, Murugi Daai, you are who? Murungi Daai.

**Murungi Daai:** Thank you. My name is Murungi Daai, I am a student here and am also a registered member of young leader network. I am not representing anybody, this are my views. First I would like to say that it is important for our new Constitution to have a Preamble and it must have our common experience for independence. It must also have our mission to live in equality and to bring about security which is the most important thing a government can provide. The preamble also should state that the Constitution is the supreme source of law. Unlike the current Constitution which states that in section 3.

The second issue is about the Political parties. I would like to say that the current status of our political party which runs up to 40 something is unnecessary. Let us have a Constitution that will try to bring about unity by coming up with a maximum of 3 political parties in our country. This will eradicate triblism which we are having. Every community with its own Political Party. Then this Political Parties should be funded by the government. This is to avoid internal interference. We can have a party which is being funded by outsiders. Like America may have interest in Kenya and decide to fund a Party. So let the three Political Parties be funded by the government.

Members of Parliament: First of all currently we have got Regional Constituencies which comprise of around 210 MPs. What I am suggesting is we eradicate this issue of Nominated MPs completely. In place of this we can borrow a leaf from the

Egyptian Constitution, whereby Agriculturalists, farmers, this is the backbone of our country. We should have representation by farmers as members of Parliament. Like for instance we should have a person from Mumias to come and represent. To come and say the plight of the farmers in Mumias as far as sugar is concerned. Let us not have members of Parliament just some computer engineers talking about sugar. Let us also have a Member of Parliament representing the coffee. Let us have a Member of Parliament representing tea. All the major cash crops in Kenya should be represented.

Something else is the issue of Prime Ministers. Kenyans are excited to have a Prime Ministers. I don't think this is necessary at all. What we will be doing by having a post of Prime Ministers, we will be simply be transferring power from one office to another. Let us have a government structure where the President is the head. Who is elected directly by the people. On that issue I believe Prime Ministers will just increase the expenditure of the civil servants. There will be the Prime Ministers, two deputies, their drivers and their big vehicles. We don't need this in Kenya.

Something else is about the Executive, I would like to tell the crowd gathered here that currently we have more than 20 Ministers in Kenya. What we are supposed to do is let us have a defined number of Ministries. This defined number of ministries with Ministers appointed by the President but vetted by the Parliament.

Let us have Deputy Ministers and not Assistant Ministers. Each Ministry to have a single Deputy Ministers in place of four or three that we are having in Kenya.

Permanent Secretary should also be appointed on merit by the Parliament and not to be answerable to the President as it is today. About the Judiciary, let us have a situation whereby the Judges, Magistrates and such should be vetted by the Parliament before taking their offices. Their C.Vs should be presented to a special committee of Parliament.

Local Government: Currently our Constitution doesn't have any clause coming up with the Local Government. We only have an act of Parliament, talking of the Local Government. Let us have a Local Government whereby it is decentralized. Let us not have a Local Government getting its resources, taking its revenues to the Central Government and then the same to be redistributed back to them. This is becoming unfair, we are seeing some districts like Nyandarua district, they are producing too much but they still suffering due to poor infrastructure and such. Other districts are poorly developed, yet their revenues are high.

Councilors: Let us have councilors who are serving for only three terms and not five terms as Members of Parliament. Mayors should also be elected directly by the people and not by the councilors, so that they maybe answerable to the people.

A situation of Majimboism or Federalism, this is not necessary. What we will be doing by coming up with Majimboism and Federalism is we will be creating a conducive environment to promote tribalism. When we come up with Federal Government

we will have the Luo people having their own kind of Government, the Kikuyu their own and such. This will only destroy our country instead of bringing the people to one board.

**Land:** I will echo those many presenters who were here said that the number of hectares a person must own, must be fixed. I am proposing that the maximum number of hectares an individual is supposed to own is a 100 hectares and not more than that. Why I am saying a hundred is that we are not trying to create a kind of socialism but equality.

**Human Rights:** The current Constitution provides a number of human rights running from section seventy onwards. We would like to add some of this protection. One of the human right I would like to be put in our new Constitution is about health care. Health care should be provided free for all. Clean water should be provided free for all. Education up to basic level, which I mean up to standard 8 should be provided free. Shelter, let us not have people who have turned out to be vulgar bones sleeping on the streets. Let us have shelter for this people. Food being a basic and I believe the supreme basic should also be provided free. I am saying food should be provided free for those people who cannot afford to buy their own food, like the street children. They should have some centers where they can go and eat. With that I believe on my side I have exhausted the points. Let me hope that the Commissioner will not be offended. The Commissioners will not shelf this things that we are giving you, trying to put them in action, it will be necessary. Let us not talk and they are not going no where. Thank you.

**Com. Adagala:** Your reason for Political Parties and for Majimbo, there is the tribal element, you are reasoning about it. I can understand in the present circumstances if it is like that. But what we want to do is create a situation which doesn't have a tribalism as a basis. Both for Majimbo and Political Parties. For Political parties you would have to give us a method by which we would reduce 48 Political parties which means some ethnic have more than one and some have none. What method shall use to reduce to three? Then on Majimbo because it also has tribal basis. Majimbo is a type of Federalism, the one in Kenya the boundaries were drawn even now the Provincial Districts were drawn with an ethnic group in mind. There are some people who are saying they want to pursue that, because they feel ethnically they are threatened into extinction, like the Maa people.

The other one is that there are many types of Federalism. Supposing it is not tribal, and their other reasons for Federalism like someone said we are bring the government closer to the people and then the participation, education meeting and so fourth. How would you consider that because it has become a thing of throwing the back with the baby because the water is dirty. Is there a way we can consider our society so that the system is more friendly. More participation, more benefit by the people because as it is now, what people are complaining about most is we don't benefit. From the electricity in Kiambere, because the pipe passes our houses. Nobody asked us if they want to build an airport in Lokichogio, they just come take our land, evict us and build an airport, that kind of thing. Do you think if it were not just a matter of tribalism, is there a way you can see a government in which people participate more than now?

**Murungi:** Okay thank you let me try to answer the second question about Federalism. Federalism I think is a nice kind of



governance because it will create competition in various regions. If at all the Constitution can up with safety checks. Some safety valves whereby tribalism will not be an issue here. I am not sure what way but the Constitution itself, you are experts in that. If at all it can come up with such safety valves then Federalism is one of the best governance. Why I am against Federalism is because we have seen Kenyans being tribal.

I go to the Political Parties, currently you will all agree with me that we are moving into a kind of three forces in our country. There is the ruling party, the opposition party, the NSC and also we have another radical group, which is also coming, let me quote the group that is under Muite and such people. This is a situation whereby we are seeing we are moving towards this three parties. The same thing should be provided in the Constitution that we have the ruling party, we have the opposition party and of course there is also a party of radicals. I am sorry to say so. That is my way.

**Com. Adagala:** So the method is kind of negotiation and merger. I am just saying because that is what people are doing now,?

**Murungi:** Presently that is my argument.

**Com. Kangu:** The moment we have three your saying in future the rest of Kenyans are stopped from imagining forming a new party? You can only form another one when there is a vacancy.

**Murungi:** I did not get your question. You are saying that

**Com. Kangu:** I am saying we now have over 40, we reduce to 3. When they are 3 supposing a group of Kenyans somewhere say we want to form our own and they have got very good reasons, shall we stop them because we already have the maximum of 3? What are the conditions that this three parties must maintain throughout? So that if they are not maintaining them we can deregister one and create a vacancy for those who may want to register another one?

**Murungi:** Yaa in simple terms, any other group which should be coming after the three parties it will be unconstitutional as per the constitution that will be having. I don't see a reason why other people should come and say they want another party, yet the Constitution says that we need three and we have three.

**Com. Adagala:** But you know the Constitution guarantees freedom of association, freedom of expression and I just wanted to let you know that there is nothing to apologize about radical, this people are very proud of what they are doing. It is the mission of their life and they are very proud of it. Would we not contradict a Constitutional right? The right of association then other people can come up and form another party. Can we have another criteria to guide us.

**Murungi:** What I am seeing this freedom of association being is that this is the freedom to associate. This something like trade union and such things. Let us have a clause saying that political parties are the supreme. Whereby if any person wants to express himself, of course as a human person he must be falling under this three categories. If not so then let him join trade union or such things like nuts. It is okay you can express yourself from such places.

**Com. Kangu:** Can we have J. Rungi, is here? No. Nelson Nyagao, he is not there. M. Mtoto, no there, Chelegat, Maina .P, Benard Othiambo Molo, William Soi, J.N Gatu, Imbio P. N, Kibet Cheruiyot, Musonik .P.K, Kosgery B.K, Patrick Macharia, David Kirok, Brenard Awondo, Abdi Ahamed, Dr S. Keino, Mwiti Murithi, Nguri M.P. Muleli M.S, Wekesa E.S, Akach J.b, Otero J.B, Francis Kamau, Mwangi Patric, B.K. Pang, Meto K.S, Muriuki P.M, Waigajo John, Anthony Irungu, Munala Padok, Erick Wamalwa, Erick Too, S.K. Mwingi, J.M Nzumbi, O. W. Waweru, Erick Opiyo, Odeyo Benson, Vincent Ondari, Mwangi Wachira, Okelo Ogega, Mulinge G.M, Ndathore A.M, Karanja Benson, Linus Korir, Onyango Nyamua, Ajode L.O, Okoth E.M. Otieno S.K, Rogers Muthie, Joel Giru, Mukonjo Isaiah, Limbus P.Kok, Mbuya Wiclyffe, A Awour, Ondiri Mathew, F.K Wachira, Grace Kibue,

**Grace Kibue:** My name is Grace Kibue and I wish to challenge the Commissioners, having said that they are collecting views and in a way they are analyzing them and therefore we have taken much time. Well I will start by some points that I do not wholly agree with.

**Com. Adagala:** Excuse me you know, we are seeking clarification and actually we need some analysis from the people so that we go. If we go with an idea which is just hanging then we cannot defend it. Where there is no problem we just leave it go, but is there is a stage where if you say something, there is a cause or effect. We have to know the cause or what will happen and how ( **inaudible**) but I apologize if you think we prudent and we are not collecting views.

**Grace Kibue:** I will start with the point of worship, that was raised by an S.D.A lady. I did not really understand her concern but I was wondering whether, we have a problem with the Supreme Being or the day that we worship? If sacking occurs because of perhaps not abiding with the laws as per the employer. If you are convinced in your heart it is because of that Supreme Being, well it is okay and if God provides for the birds in the air, even you who have been sacked because of his name will be provided for.

**Gender:** Being a woman or a man is physical condition and has nothing to do with thinking. For the men who are much worried about power with women. I will just advice them to feel their opportunities. Post are based on merit. If we want a director of an institution who qualifies and happens to be a women,

**Com. Adagala:** Now may I criticize you?

**Grace Kibue:** Please do.

**Com. Adagala:** Just give your proposals to us because you are now engaged in a debate. You are in a debate mood now. Just like people come here and they go into a political rally. Address us and give your views because you have had this views before today, isn't it?

**Grace Kibue:** Yes I have.

**Com. Adagala:** Just give us your views, your proposals which are the most important.

**Grace Kibue:** Now to my point.

Nomination point and affirmative action: I believe that if it were not for the gender motion, that brought it to the open. There has been affirmative action where the Provincial Administration has been based on nominations from the President. It can only be fair if such nominations are to continue that equal seat. Out of the eight seat, four seats given to ladies and the other four be given to men. Or those posts are let open for elections to be held in other legislatures like the Parliament and the Civic. I also want to note that it has been unfair also because the candidate is at the mercies of the President and therefore this makes the President have more powers. He is just too powerful and his powers should be trimmed by elections in other posts.

The act of violence: When it comes to execution of punishment based on act of violence, I think it is only right for the Constitution to have equal forms of punishment for any act of violence. Currently if we have a case of robbery where somebody robs you your vehicle or something it is even more heavier than an act of violence which would be manifested in rape.

Also in the Penal Code, we see there is some clarifications of a rape whereby there is felony, defilement, incest and all that. I believe it can only be fair if there is equal punishment for rape or so ever. Whether you raped a 14 year old girl or a 80 year old woman. Let it all be classified as rape and the punishment be the same.

About Federalism, I oppose it because it will encourage tribalism and marginalization. This is because of an uniform distribution of resources. You wouldn't compare some parts of, for example Northern Kenya with Nairobi, or Central or another area that is full of resources.

Finally, it is on this 1/3 seats in Parliament being reserved for women. I highly oppose it because it will amount to incompetent. We shall have more appointees or nominees rather than people elected to present a district. I would also wish to make it known to women that this rule will discourage them from a spirit of struggle and competition. The spirit that has built men to

their posts and therefore make them feel that the struggle is not about their life. I can in this contest only support equity motions because in any one forum, there will be no inclination based on any form. I think that is all I have.

**Com. Adagala:** I would like to clarify something, earlier on you said there is a 50% something, that is if they forced eight seats polls should go to men. Then you are saying you are against affirmative action of 1/3. I didn't understand what you said about (inaudible). You didn't?

**Grace Kibue:** What I said about the 50% is that, in this for example in the Provincial, where we have eight provinces, therefore we will need eight Provincial Administrator.

**Com. Adagala:** In the appointment they should be 50/50 which is called prolata, by the balance of the population. With the elections you think there should be no affirmative action. I wanted to know what would you suggest we do about the imbalances that happen to boys and girls. That is what makes women be empowered latter on. What do we do earlier on in life where there is an imbalance between boys and girls.

**Grace Kibue:** About the imbalance I feel that this is about a training at childhood and even in school. You would take a case of a boy child who has scored an A and other girl child who scored an A. The teacher will congratulate the girl child for having worked hard and the boy child for having being brilliant so that in our minds we know that being a woman is about working hard and men are just brilliant. They will just get it whatsoever. When we get up we also train, teachers also train that there some subjects that have been feminized and others have been masculinised. If you ask a girl in class in class three what she would want to be, she will say a secretary or a teacher. A boy will say an engineer or a doctor. In our childhood, the training we receive is very important and I would ask in future even as we become parents, let us train our kids to be responsible and take any duty because service is not a gender issue.

**Com. Adagala:** Not only in the school system. In the family there is disparity between girls and boys. How should we handle that? This is something that happens very early when you are born. Then you grow up with it and there is a disparity. How should we make that disparity left of disappear all together? In order for competition to be fair. A level playing ground letter on in life.

**Grace Kibue:** I believe that back at home, we have roll models, who will include clergy men, MPs and teachers. Sometimes it is a disappointment to the society to have this role models are the ones who will encourage the retrogression of some of this policies. When you get a preacher perhaps who would preach with the male chauvenism in him and because the man of God said the whole society believes in it. We will have to change starting from our role models to the young ones. Education is a continuous process as you said.

**Com. Adagala:** What about the very real one of inheritance or bride price does that affect how you function later on? Inheritance of property or land or cattle.

**Grace Kibue:** About bride price, I feel that one will not give a very clear cut opinion because there are some men you would tell that you take this lady and for no exchange in return and they feel you have given him a useless girl. So they would wish to continue paying bride price. At the same time there are ladies who would wish perhaps they are not exchanged for a few cows and a few calabashes of things. They may not feel that they are married. Therefore I would leave it open, generally speaking that was my perspective but in my personal opinion. It is not fair because it continues oppressing the lady even later. Nowadays bride price is like a command. People are looking for a man to please and at the end of the day for him to reconnect with life it is too short. We are told in fact our life expectancy is below 45 years. This man may die poorly.

About property I feel that if you have been given the necessary conditions like education and all that. People should be trained to acquire property on their own and what the parent has, respective of gender, marital status, all children should inherit their parents.

**Com. Kangu:** Thank you very much, you can sign our register, can we have E.K. Waiyaki

**Easter K. Waiyaki:** I am Easter Waiyaki, a representative of Egerton University Christian Union, and I am born again. Constitutional Review, we must acknowledge the fact that it is a large and intricate problem but the sooner we put ourselves in position to sturdy it with a vast and increasing area of the past and we carefully guided and momentarily take the effort the sooner we shall find ourselves citizens of this country and its slaves. It is therefore simply a matter of ordinary common sense that all of us citizens should grow together in spiritual sympathy and interlectual co-operation to see what can be done for the freedom of human spirit which happens to be incased in dark skin. As the Christian group in the university we choose to be part of this noble responsibility of deciding the destiny of this country and with request address as follows:-

The Preamble: A Preamble be constituted whose purpose shall be define the Constitution and introduce it's contents, express the National goals and vision as we Kenyans seek to be guided by this Constitution to eradicate illiteracy, poverty, diseases and corruption in order to attain social cultural economy and political development.

Directive Principals of State Policy: That this be reflected as follows:-

- Statements capturing the National philosophy and guiding principals be formulated.
- The Kenyan value for example, honesty and spiritual dependency be included.
- The principals and philosophy herein formulated be enforced by the law.
- The statement of purpose and mission statement of the Kenyan people be included

Constitutional Supremacy: That the current 65% majority vote be retained and that other parliamentary procedures be executed as follows:

- Parliamentary powers to amend the Constitution be limited
- The **(inaudible)** mentioned should be beyond the powers of Parliament to amend unless it is done by a referendum.
- Chapter five that relates to the protection of fundamental rights and freedom
- Chapter eight that relates to the public service.

Executive: The current qualifications for Presidential aspirants be maintained. However with an addition of the clause academic qualification or qualifications. That he or she must have a tertiary education with a proven track record and of good moral standing.

The right and duties of the President shall be reduced and in particular

- he or she shall not be the chancellor of the public universities
- shall be the head of state and not head government
- shall appoint the secretary of state while he is running mate during elections shall be the automatic Vice-President.
- That the head of government shall be the Prime Ministers who shall be elected by the assemblies. He or she shall have such powers vetted upon him by the Parliament and in particular shall have the prerogative of appointing the Cabinet.

The Judiciary: The judiciary shall have its own independent guideline autonomous from other arms of government and in particular:-

- the Chief Justice shall be appointed by his or her peers from the law society of Kenya and then approved by the Parliament.
- the Attorney General shall be the legal adviser to the government, appointed by the Parliament and shall not give consent to prosecution.

An issue that concerns the legislature. The Parliament shall be Supreme over all arms of government and in particular shall have unlimited powers to control its own procedures through standing orders.....

**Speaker:** Resource itself and an operational calendar drafted by the Standing Order Committee.

- c) That the concept of nominated MPs which shall be executed by the Prime Minister, be retained specially to serve the needs of alienated group such as the physically disabled among others.
- d) That MPs shall have a minimum of tertiary education with a proven track record. More so, MPs shall have

full-time occupation with no changes on age requirement. I think he will live in this area, whether you are a Pastor, whether you have a lecturer or a manager somewhere and you vie for a seat and you succeed being an MP, you resign all the posts and this will facilitate the efficiency of the working and serving the human nature.

The people of Kenya shall have the right to recall their MPs with a 65% votes from his constituency of representation. More so, the MPs shall act in conscience, conviction or instructions from their constituents and not parties.

This goes to the electoral process: that the electoral process shall be handled as stated hereunder:-

- i. Registration process shall be continuous with every Kenyan obtaining an ID card, being an automatic voter, only de-registered after his or her registration as dead. This one will cut on the cost. We realize that every time they announce that there will issue of voters' cards and then the process is closed down, it re-opens again, I think we are spending too much money which we do not have.
- ii. The electoral process be computerized, allowing voting from any location. I don't need to travel all the way to Mombasa, while I am in Kisumu, to go and vote. At least I can vote through the computers.
- iii. The Electoral Commissioners be appointed by the Parliament and not by the President as it is currently.
- iv. Then, that a Presidential aspirant gathering over 50% of total votes cast, shall be declared a winner. In case all the aspirants gather less than 50%, then the top two candidates shall go for a run-off.
- v. The President shall not a representative of any geographical area. What we mean here is that, once you get the Presidency seat, you move out from your party wherever you are affiliated and you serve the interests of all people.

Political parties: that there be proper registration on political parties, and in particular, there shall be a maximum of three political parties.

Two, all political parties shall be financed by the ex-chequer.

And three, that all political parties shall be accorded equal security by the Government, especially during their other parties.

Finally, they have an issue that they are referring to as "others":-



- i. That the Kenyan Constitution be written in not less than two languages. That is English and Kiswahili.
- ii. That there should exist two national languages – English and Kiswahili.
- iii. That there should exist security of tenure for civil servants in office.
- iv. That all public officers declare their wealth before and after they take over the offices.
- v. That the whole chapter on education be included in the Constitution with clear government policies on the same.
- vi. And finally, that the Kenyan Constitution be made accessible to all and sundry.

In conclusion, we believe that Kenyan's need is healing, enormous, restoration, serenity and sustainment in ..... (inaudible) nationality. We therefore, rest in hope that our views shall be treated with designed thought, that they deserve.

And this report was prepared by quite a number of members, and we hope that it will be given the consideration it deserves. Thank you.

**Com. Kangu:** Thank you very much. It will certainly.

**Com. Adagala:** It will and it has some very good details also. What I would probably propose, not while you are seating there, because you represent, if you could articulate a little bit more on the Preamble and the philosophy. You know, we are saying to define. If you sit down again, you can move a step forward and define. It will help in putting the views together. And also the philosophy, you just say, what would like our national philosophy to be as a citizen union. Okay.

**Com. Wambua:** Okay, thank you. You have been guidance, if you want to go and think about, you can go and make a further write up, but you can give us that. Then we have Mataria Aluaka. Mataria Aluaka. Charles Ombongi? Kigomo J. N.? Kipsang R. J.? Kuria R. K.? Richard Omolo?

**Richard Omolo:** First I would like Kenya to have a Constitution that guarantees the following to Kenyans:-

On the Executive: I would like we Kenya to have a President with minimum powers and who will only serve for two terms, that is ten years.

Secondly, I propose that the Parliament be given more powers to govern the country. These powers are:-

- a) The power to impeach the President and possibly take him to court in case of any crime he may commit.
- b) The power to set a probe committee such as that of Commission of Inquiries whenever the need be, and the result brought to it for necessary action.
- c) The power to select an interim President in case of certain departure of the President in place.

Three, I would like that the Constitution that we will have to give disabled a chance in our Parliament so that they can also be represented and their rights taken seriously.

Four, see to it that there is no tribal monopoly of Presidency, as all the tribes are eligible for the ..... (inaudible).

Five and the last one, to repeal all the colonial laws that maybe still in use. And the most notorious one is ..... (inaudible). As we know, all these were set by colonial powers. So, this time, we want to have a free Kenya where everyone is free to be anywhere, so long as, he doesn't break anything. Thank you.

**Com. Wambua:** Thank you very much. You sign our book.

**Com. Adagala:** Omolo, ..... (inaudible) may not be the most serious one. If you remember from the Miriu, we have had to ask the Egyptian government for confirmation for it to be constructed. So, virtually, all our inland waters are ruled by the Egyptians. That is the Nile Water's Treaty, 1928. We are under colonial. Okay, thank you.

**Com. Wambua:** Thank you. Joseph Musyoki? Lokopiyo Samson? Richard Meteti? Jared Omao? Eng. Joab Owuor? J. G. Ngugi? John Kiprotich? Karumba N. M.? Sipha F. K.? Okibo R. M.? Noor Y. A? Francis Lesingo? Paul I. K.? Langat G. K.? Nobody coming forward? That is Francis? Fine.

**Francis Resingo:** I am Francis K. Lesingo. I am coming from the Ogiek community, which has been mentioned earlier on. I have something to represent here.

The Ogiek community, since time, they have living in this Kenya, they have been identified as a tribe like the rest of the Kenyans. So for now, what they want, they want to be identified as the forty-two tribe. And their home be designed. That is missing. Their home district to be defined. And also, they be allocated a home.

Since independence, the tribe has not been allocated a reserve like the rest of the tribes in Kenya. So for now, they need to be allocated. And what they want in this reserve, they want a communal title for the whole tribe.

All minorities should be considered in giving them opportunities for public resources, like employment, education and be approved right to venture to both civic and Parliamentary without the interference of administration.

Also, Ogiek be recognized as self people of Kenya, as their lines of living and the operation were within the forest. And their tradition, practices be incorporated into the Forest Act.

The employment be conducted at the local level to reduce corruption and bribery.

After elections, our political representatives, the documents of certification should be given at our presence.

If land is to be issued to the members of the public, first priority should go to the local community, rather than, importing the favoured communities.

The production of illegal title deeds used for land grabbing should be checked, and the relevant people be sacked and jailed. That is all I had.

**Com. Wambua:** Thank you, please sign our book. Paul I. K.? Langat P. K.? Otieno W. O.? Luhonzo F. K.? Eliud Okumu Onguku? Ayim O. Lukas? Rimba Kok?

**Peter Kok Rimba:** Thank you very much the Commissioners, and I count it to be very great privilege to be ..... (inaudible) People. Though I had said much in a particular Commission, that possibly I believe has been presented, I was out and of course, I have got this to present orally. Thank you very much.

Now, this is on the question of the security of the students in campuses, and it so happens, that probably these are the good assess of this particular country, that probably from the youth, they got the vision of possibly promoting development and each and everything that so happens in the country. And it so happened that some times, the policemen just take out of their egos and even shoot them dead. We know, under visit of the archives of this particular ..... (inaudible), and if at all you visit.... Thank you very much. A visit to the archives of this particular institution down at the library, you will find the names of those particular students that possibly have been shot dead. And this is one particular institution, I can remember, the ..... (inaudible) confessing one, that he never called the policemen to shoot anybody, but just to disperse or probably do something.

I would recommend that you include in the Constitution, this particular time round, because you can curb this particular

problem, that will provide perfect security and to the students who in the campuses. (*clapping*)

**(Interjection) Com. Wambua:** Ndugu you mention your name for recording purpose. Our verbatim record is missing your name. Mention it.

**Peter Kok Rimba:** I am Peter Kok Rimba. The next thing that I believe is very important that we should look into, that I believe is very important and worth looking at, is the issue of the Constitution. It is written this particular time, and looking at the past Constitution, you see to it, that there are some parts that were probably proving worthwhile, but so ancient that in the offices, they were never implemented.

So, I would recommend, that in the Constitution, there should be a provision for the office of the Ombudsman that will look into the implementation of all that is going to come. And I believe that is all I have orally, though many have been said. Thank you very much.

**Com. Wambua:** Peter Moturi? Peter Moturi? Is moturi there? Fine, if he is..... Peter Moturi, I understand he is disabled, yaah. What you do, take the mic for him down there. Let him just be there as we bring the mic. Move him here. Yaah, there.

**Peter Moturi:** I take this opportunity to thank all of you who are here. My names are Peter Moturi, and I am going to present personal views on the Constitution and people with disabilities.

Statistics of the World Health Organisation conservatively estimate that, 10% of the world's population is disabled. The disability may be either physical, mental or visual. Here in Kenya, this figure rounds up to 3 million people, languishing in abject poverty with the rest of the society, remaining indifferent to the applied and ..... (inaudible) altogether.

So, the first thing is the disabled and education. I propose to move that free education should be provided to the disabled people at all levels in Kenya. This is because, preference on who to educate in the family, is given to able-bodied child over the one with a disability. This notion is born out of the belief that the able-bodied child will be of more benefit to the family in future.

The sign language should also be prioritized by the Ministry of Education, in language teaching sessions, since the number of hearing and deaf persons is very high. This will enhance interaction and communication between the group of able-bodied and disabled persons.

There is also need to sensitize the curriculum. For example, those disabled people taking science-oriented courses, they encounter a lot of problems, when it comes to the experiment. I being an example, I encountered a lot of problems before I came here. I had to perform poorly in Physics and Chemistry because of the experiments.

There is also need for the Government to have a change of policy. I move to propose that, laws should be enacted to ensure integration of the disabled in education. For instance, the Joint Admission Board, should ensure that a certain percentage of disabled people join the university.

The Government should encourage the establishment of the integrated system of education, where both able-bodied and disabled persons learn under one roof. This is to enable both groups are just earning life and dissolve a good rapport.

There is also accessibility to public amenities. It should be made mandatory that, storeyed buildings for public us have lifts or ramps.

The National Assembly should lead the way in providing a means for disabled persons to enter Parliament either as observers or honourable members.

Standing Orders prohibiting the carrying of weapons should be relaxed, because those using wheel chairs or clutches, those are not offensive weapons but disability aids.

Banking institutions should provide ATMs that a disabled person can access.

Another point is on representation: seats should be set aside in the National Assembly for disabled persons. You realize that, being a 10% minority, that is, over 3 million people they need representation and people may not necessarily elect them into Parliament through popular votes.

Disability aids: then create to ensure that disability aids such as wheel chairs, clutches, .. (inaudible) are easily acquired in the country. The Government should note the national funds for the disabled, more relevant, by entrusting to the sources and the distribution of disability aid. This aid should either be free or highly subsidized to ensure that they are affordable.

Health-care: a scheme should be devised well, health-care for the disabled should be free.

Also, labour laws should enshrine equal employment opportunities for both able-bodied and disabled persons.

Finally, stringent measures on the registration and views of organizations catering for the disabled should be undertaken, so that, only organizations that are committed to working with the disabled are allowed. People have exploited the cause for the disabled, only to make themselves rich.

In conclusion, I would like to ask all the people around here, to come to the aid of disabled people, because, we are so few,

we are very few people who are educated, and these people, since they compose over 10% of the population, they need to be helped. Thank you. (*clapping*)

**Com. Wambua:** Thank you very much Bwana Moturi for your views, and, get him to sign. Then we move to Eliud Okumu Ongongo? Ayim Lucas? Joyce Laboso Abonyo? S. K. Omar? Mwalia S.? Ngunjiri C.? Ms. Rodha Ngutia? Mr. Ong'ondo Asanga? Okumu C.A.? I think Moturi P. K. is the one we have been dealing with. Aemba David? Atandi Sam? Daudi Mangua? Is that Daudi?

**Daudi Mangua:** Nachukua wakati huu kutoa shkurani kwa wote ambao mmefika hapa, hili kujadiri mambo ya Katiba yetu ya Kenya. Jina ni Daudi Mangua.

Nina mapendekezo machache ambayo ningependa kutoa siku ya leo. Nayo, kwanza, inahusu Tume ya kuchunguza Katiba ya Kenya. Na ningependekeza kwamba, iwe ni Tume ya kudumu. Wahudumu wake wawe ni watu wenye hadhi na sifa nzuri. Nasema kwamba wahudumu wake, wawe ni watu wenye hadhi na sifa nzuri, na wanaotoka katika viwango mbali mbali vya maisha, kama vile wafanyi biashara, wafanyi kazi waliostahafu ama kungatuka kama vile ma-balozi, wakuu wa mikoa, makatibu wakuu, wakuu wa wilaya, na kadhalika. Wabunge wa zamani ama wana-siasa wa zamani, wanafunzi, hata wa vyi vikiu, na wanataaluma mbali mbali kama waalimu, wana-jeshi na wana-sheria. Wahudumu hao, wasiwe wakifanya kazi yeyote ya Serikali. Ikiwa unahudumu katika Tume hii, kusiwe na kazi nyingine. Kazi yako iwe tu ni ya kutuchunguzia Katiba yetu ya Kenya.

Shughuli ya kuchunguza na kurekebisha Katiba, iwe ikifanywa kila baada ya miaka minane, na isuhusishwe na uchaguzi mkuu. Iwe tu ni shughuli inayofanywa kila baada ya miaka minane, tujue kwamba, baada ya minane, tutachunguza Katiba yetu. Sio jambo tu la kuamkia asubuhi, la kulala halafu unakuja kuamaka siku moja kwamba turekebisha hii Katiba. Tuwe na muda maalum, kama vile, hata census tunatujua tunafanya baada ya miaka kumi.

Urais: iwe ni office inayoheshimiwa kabisa katika jamii zote za nchi yetu. Masharti yafuatayo yatekelezwe, iwapo mtu atataka kupigania kiti cha Raisi:-

Kwanza, mtu huyo awe raia wa Kenya mwenye akili timamu (*laughter*).

La pili, awe na umri zaidi ya miaka thelathini na mbili, na chini ya miaka, nasema ya kwamba, miaka ya chini kabisa iwe thelathini na mbili, lakini awe chini ya miaka themanini. Asije mtu wa miaka wa tisini, aseme anataka uongozi wa Kenya.

Awe na elimu kuanzia shaada ya kwanza na juu. (*laughter*) For you to stand as President, uwe na shaada ya kwanza, ama kuendelea juu.

Na awe, amewai kuwa Mbunge wa kipindi kimoja na zaidi. Mtu asitoke tu, anasema anataka kuwa Rais, bali hajawai kuwa hata Mbunge. Kwa hivyo, awe amehudumu kama Mbunge kwa kipindi angalau kimoja au zaidi.

Awe na shamba, si chini ya acre mbili. (*laughter*) Na mali mengine ambayo gharama yake anaweza kuwa na shilingi million tano. Kwa sababu, kama aliwai kuwa Mbunge, na Mbunge anapata nusu million, kwa hivyo tutagemea kwamba, at least amekuwa a-keep about 1 million per year. Kwa hivyo, atakuwa na at least, 5 million wakati anaposimama kama Rais.

Asiwe ameshindwa zaidi ya mara mbili kupigania kiti hiki. (*laughter*) Ikiwa amesimama leo, ashidwe, kipindi kingine anaweza akaingina, akishindwa, haende.

Na ni lazima awe na chama cha ki-siasa kinachomuunga mkono. Hili kuwa Rais, itambidi mupigania u-Rais afananikiwe kufanya yafuatayo:-

- Ashinde zaidi ya sili mia amsini ya kura zote za u-Rais kwote nchini.
- Ashinde angalua asili mia ishirini ya kura zote kutoka mikoa, mitano.
- Na asipigania kiti cha Ubunge. Wakati anapopigania u-Rais, Ubunge hauwache. (*laughter*)

Masharti mengine ni kama ifuatavyo, mpigania u-Rais yeyote, atakayepatikana na hatia ama kosa la kuwahonga wapiga kura, afungwe kwa miaka mitano, na chama kilichomsimamiza kipigwe marufuku. (*laughter*)

Akishinda, achague Baraza la Mawaziri litakalohithinishwa na Bunge, kwa asili mia sitini ya Wabunge wote. Kwamba akishachagua Baraza lake la Mawaziri, alipeleke Bunge na lihithinishwe huko. Sio mwenyewe anachagua, halafu anatuleta.

Halafu, ma-waziri watakaochaguliwa wawe ni wanashitaaluma, wenye ujuzi ulinganao na Wizara waliowekwa. (*laughter*) Ma-Waziri hawa, wawe ni Wabunge waliochaguliwa kutokana na kura. Sio wale ambao wanateuliwa, halafu wanakuwa Rais. Anateuliwa na Rais, halafu anapewa u-Waziri. Nataka apigania kura, akishashinda ndio apewe u-Waziri.

Vyama vya Ki-siasa: Idadi ya vyama vya ki-siasa nchini ipunguzwe, hili viwe angalau vitano. Na vyama hivi, chama cha ki-siasa chochote, kiwe na Wabunge angalau watano na kuendelea juu. Halafu na ma-diwani thelathini kote nchini. Nisiwe mimi, mwenyewe nimeshinda u-Bunge, na mimi mwenyekiti ndiye kila kitu wa chama hicho.



Vile vile, vyama vyote viwe na wana-chama halali wasiopungua elfu mia tatu kote nchini. Ndio tukijue kwamba ni chama cha ki-siasa.

Mbunge: yeyote atakayetaka kuwa Mbunge, atimize yafuatayo:-

Awe raia wa Kenya mwenye akili timamu.

Mwenye umri kuanzia miaka ishirini na mbili, hadi sabini.

Awe na elimu ya shule ya upili, kidado cha nne, na awe na alama ya C+ and above.

Ajue kuwasiliana kwa kutumia lugha ya Kiswahili, ama Kiingereza. Lakini, Kiswahili kiwe ni lazima.

Yeyote anataka kupigania u-Bunge, asipigania bila kufaulu kiti cha u-Bunge zaidi ya mara tatu. Nina babu yangu ambaye alianza kupigania mwaka sabini-na-nne, na kila mara anakuwa wa mwisho, na hata wakati huu nafikiria atasimama tena. (*laughter*) Kwa hivyo akisimama mara ya kwanza ashindwe, ya pili akishidwa, ya tatu aache.

Awe mwenye hadhi na sifa nzuri.

Anaweza kupigania u-Bunge binafsi, hau kupitia chama cha ki-siasa. Katika u-Bunge, ikiwa hauna chama cha ki-siasa, mimi ningependekeza ya kwamba, naweza kusimama mwenyewe ikiwa napendwa kule kwao, basi achaguliwe.

Kuna masharti zaidi, anaweza kupigania u-Bunge kutoka sehemu yoyote nchini, mradi awe na mali hau biashara, hau awe mkaazi wa sehemu usika kwa kipindi kisichopungua miaka saba. Ikiwa mimi nitapigania kutoka hapa Njoro, nimekaa hapa Njoro miaka saba, nina biashara, ama nini, naweza kusimama kutoka hapa.

Asitumie hongo kujipatia kura. Na ikiwa itabainika kwamba amefanya kosa hilo, apigwe marufuku kushiriki katika uchaguzi wowote ule, na awekwe ndani miaka mitatu.

U-Diwani:

Huyu naye lazima awe Mkenya mwenye akili timamu.

Umri kuanzia miaka kumi na tisa hadi sabini.

Awe na elimu ya shule ya upili, alama D+ na kwenda juu.

Aweze kutumia Kiswahili, ama Kiingereza katika mawasiliano yake.

Na asipigania u-diwani bila kufaulu zaidi ya mara tatu.

Sasa nitaongea juu ya dini. Tunachua kwamba katika nchi yetu, kuna dini mbali mbali, na tuna uhuru wa kuabudu vile ambavyo Katiba yetu inavyoturuhusu. Lakini, mara nyingi, jambo hilo halitekelezwi. Tunataka uhuru wa, na haki za Mkenya zidumishwe katika dini.

Uhuru na haki zilizopo, sasa, zirekebishwe na kuimizwa zaidi. Kwa mfano, Waislamu, wapewe siku ya Ijumaa. Kuwa ndio siku yao kamilivu, kimuabudu, Hala-wataala, ipasavyo. Isiwe ni siku ya kazi na ibada pamoja. Waruhusiwe, kama ni Ijumaa, wamuabudu Mungu, muumba wa vile wanavyotake.

Kuna hapa tena shida moja. Kwamba utakuta katika shule, baadhi ya wasichana wa Kiislamu, wanaambiwa wasivae, vile inavyotakikana kulingana na dini yao. Nafikiri hapo ni kuvunja haki zao. Waruhusiwe kufanya vile dini yao inavyotaka.

Kwa upande wa Wakristo, kuna wale wanaoabudu siku ya Jumamosi. Wao ni Wakristo wa Sabato. Wapewe uhuru kamili, wa kuabudu na kumtukua Mungu siku ya Sabato. Wasilazimishwe kufanya kazi yeyote siku hiyo. Wafanye kazi wakati ambapo dini yao inawaruhusu, kama dhehebu lao.

Siku ya Jumapili, nao wapewe uhuru kamili na kuabudu bila kubugudhiwa. Usije ukaambiwa leo ni Jumapili, njoo tu tufanye kazi kwanza, hapana, wapewe uhuru wao. Muumini wa dini ama wadhehebu yaliyotachwa hapo juu, wasilamishwe kufanya mambo yasioruhusiwa na imani yao. Siku yao iwe ni kwa manufaa yao, kwa ukamilivu wautakao. Waumini fulani, wasiruhusiwe kuvunja haki za wahumini wengine.

Elimu: napendekeza kwamba, elimu iwe ya lazima na bila malipo katika shule za msingi. Ya lazima, na kusiweko na malipo.

Karo na hatha zinginezo katika shule za upili, ziwe chini ya mamlaka ya Serikali. Serikali itibidhi malipo yeyote katika kiwango, ndio itakayoweka malipo, sio vikundi vya watu kuweka kila shule inakuwa na karo yake.

Ningependekeza ya kwamba, mfumo wa 8-4-4, uhimalizwe, ama kama inajulikana, huondolewe, na ule wa zamani uweze

kurejeshwa. Na hata huo wa zamani ukirejeshwa, masomo ya ki-science na ufundi yapewe umuhimu zaidi.

Tume ya kutoa mikopo kwa elimu ya chuo kikuu, itoe mikopo ilio sawa kwa wanafunzi wote. *(laughter)* Mara unapata mwingine amepata elfu mbili, mwingine ishirini, mwingine amepata arobaini na tano. Sasa hapo tunatumia nini? Hakuna midhani. Kama ni elfu thelathini, wote wapewe elfu thelathini.

Mtindo wa lipa kabla ya kula, uondolowe na mvumo wa thamana urejeshwe. Hapa nitamaanisha kwamba, kuna mipango maashushi ambayo Serikali iwe ikifanya thamani. Kwamba inatoa ma-kazi, inalipa chakula, mambo ya tuition, halafu inayobaki, mwanafunzi anapewa, na ilikuwa ikiitwa boom, hata wengine tulisomeshea wenzetu – ndugu zetu. Sasa siku hizi inakuwa vibaya sana. Kwa hivyo, siupendelei.

Na jambo lingine ambalo ningependa kuhimiza ni juu ya haki za wasiojimudu. Hawa wasiojimudu ni kama watoto. Watoto wadogo hawajui lipi la kufanya. Haki zao zijunguzwe kabisa, na wapewe.

Vile vile, vijana, vijana bado hawajitosheleza. Wakati vijana wanapoambiwa, wafanye mambo fulani, hawajimudu. Kwa hivyo, Serikali itenge kiasi fulani cha Fedha, mipango maasuzi ya kuendeleza vijana hili waweze kuchukua ma-jukumu yao katika taifa.

Vile vile kuna wazee na wakongwe. Tuwe na mpango maasuzi wa kuweka akiba kwa ajili ya hao watu. Kama ni mchango ama ni nini, Serikali iwe ikiwaifadhi hawa watu. Kama ni kuweka kodi katika wale wanaopata mishahara, pesa zinakatwa, zinapelekwa katika hii akiba ya wazee ama wakongwe, halafu wanalishwa kutokana na... unajua tunalipa mambo mengi sana ambayo hata hatuyaoni. Kwa hivyo, kufikia hapo, sipendi kuwajosha, nawashkuru.

**Com. Adagala:** Asante kwa maoni yako. Inaonekana unafuata Nyayo za babu yako, lakini, pengine utafaulu. Elderly, hawa wazee wakongwe, walindwe vipi? Unasema wapewe miaka, kutoka miaka gani?

**Daudi Mangua:** Hapo pengine ni kwa sababu ya muda, wazee wakongwe ningependa wawe ni miaka tisini, hata sitini ikiwa hawajimudu. Unajua kuna wengine wazee, na bado wanaweza kujitunza, ama wana familia ambazo zinaweza kuwatunza. Lakini tunajua vile vile, kuna baadhi ya wazee na wakongwe katika jamii zetu, ambao kwa kweli hali zao ni mbaya sana. Kama Serikali ingeweza kuwa na akiba maalum, ambayo pesa zitakuwa zikitolewa hapo, zinapelekwa ni kama tarafa, ama katika kata, hili ziweze kuwahudumia hawa vikongwe na wazee.

**Com. Adagala:** Wale wale walifanya kazi na wale hawakuwa wanafanya kazi?

**Daudi Mangua:** Naam, hapo ningependa nijirekebishe, kwa sababu, kama niliwai kufanya kazi na nimezeeka, na pengine, unajua unaweza kufanya kazi na mwisho nisiwe niweka chochote, kwa hivyo musinitupe. Serikali iniangalie. *(laughter)*

**Com. Wambua:** Thank you very much Daudi for your original ideas and in express, you kindly sign our book. Akoo Benedict? Benedict Akoo? Kennedy Juma? Cheruiyot Rono? Jared Odhiambo? Musakali Martin? Kirui Victor? Kalobai Michael? D. K. Chacha? M. A. Mohammed? Omondi A. M.? Gitau Njoroge? Daniel Bett? Mulu C. C.? Sankui K. Mulu?

**Chrispine Mulu:** Let me take this opportunity to thank the Commissioners for this opportunity. My name is Chrispine Mulu.

My first issue here will be about elections. Elections are very crucial because they change the destiny of a country. So, we should always try to have a fair and democratic elections. So, in order to achieve this, first and foremost, the Executive should be completely be delinked from elections. Any election affairs, this should be a day, the President not to be appointing the Commissioners has been the case. And, I believe the Commission should comprise of neutral groups such as civil society and church organizations.

Another issue here in the election part of what I am talking about, is the date of the election. I think the election date should be set by the Commission and not the President as has been the case. The day should be strategic. In this I mean, it should be convenient for all to vote. And should be devoid of any ill-political motive. For instance, our usual voting date in the last two general elections, the 29<sup>th</sup> December, I feel has some element of ill-political motive, because, as you know, this is a festive season, and most of the people in the urban centres, travel to upcountry between the 24<sup>th</sup> and 1<sup>st</sup> and 2<sup>nd</sup>. So, these people, most of them have been registered to vote in the urban areas, find themselves away, and so, they cannot even vote in the elections. And this explains the low turn-up of voters in the urban constituencies, notably, the Embakasi Constituency, where we had the highest voting registration, I think over 100 thousand, but only 30,000 managed to vote. So, I believe the issue of date of election, of this country should be well mediated and set to avoid a situation whereby there is under-voting.

Another issue I want to talk about is the vulnerability of the Constitution. I believe the Constitution of Kenya should be protected. I should not be exposed to the greedy, selfish individuals that have characterized our political system. Out of experience, we have had so many amendments that are just unnecessary. That mostly, I can read some ill-political motive. (*end of side*) doing some amendment to our Constitution is bad. All what I am saying is that, it should be done when and when it is necessary.

In order to avoid history repeating itself in terms of so many selfish driven amendments that are characterized in our current Constitution, I suggest that the minimum number of MPs required to amend the Constitution, the new Constitution should be erased from the current 140 to 178. That is, in terms of the fraction, from two-thirds to four-fifth, this is because we have no alternative, and we cannot rely our selfish and greedy MPs to safeguard this document.

Another issue, is that our Constitution should line with our African culture. We should not have a lot of influence from a lot of exotic influence/pressure, we should not have common ..... (inaudible) itself, demanding that our Constitution should be this and that in order to fit in their organization. So, but anyway, I believe that, we have a lot and ..... (inaudible) a lot in this country of ours.

People who come as second, third, fourth, I think these people have suffered a lot, and you see when you are marrying somebody and you agree, you are marrying a second wife, I don't think there is any problem, because it has come as a result of agreement. I believe these people, due to lack of some legality in that kind of arrangement, as they have been exposed to a lot of suffering, especially when it comes to inheritance, these people have always found themselves being side-lined. When their former dies, they even find themselves being chased away, mistreated, that kind of stuff. So, I believe it is high time we came to the rescue of this lot, and I think, we can do that by re-defining, restructuring and re-designing a legal marriage document to accommodate them, so that we don't have a situation whereby, when the first one signed, the rest are locked out. There are so many, and we must accept the reality, there are so many second, third, fourth and fifth wives in this country. And they need to be safe-guarded, they belong to this country. We can't allow them to be in this kind of a life where they are vulnerable, they fall victims of exploitation. That is the much I had.

**Com. Wambua:** Thank you.

**Com. Adagala:** Thank you for your views. On the Constitution, if we don't trust the MPs, two-thirds of four-fifth is what makes much of a difference.

**Chispine Mulu:** Okay, I mean...

**Com. Adagala:** Are there other ways we could use to change the Constitution, in your view?

**Chispine Mulu:** Kenya is a third-world country, and most of the third-world countries, in ..... (inaudible) the kind of visits, leaders, that is, the point of good governance, peace for the leaders, and such ..... (inaudible). So, what I am saying is, we cannot rely on these people, because, most of them, a big lot of those people, in there, are just driven by selfish end.

**Com. Adagala:** But what I am saying, is two-thirds of a rotten potato is not left bad and the ... (inaudible) of a rotten potato. And is there another way? There is a time we stuck in this situation.

**Chrispine Mulu:** There maybe some other ways, but I believe, right now, because we still have some ..... (inaudible) there, the likes of ..... (inaudible) with other people. So, these people can still stand their ground, and you see, it be a big ..... (inaudible) selfish lot.

**Com. Wambua:** Thank you very much, you can sign. Sankui K. W.? Misoi D. K.? Okongo V. D.? Peter Otieno? Mohammed Sher? Japheth Muthamia? Abdul Noor Musa? Sammy Ngugi? Judikas N. Thiongo? That is Thiongo?

**Joseph Mwangi:** Thank you Commissioners for the opportunity you have given us. I am Joseph Mwangi, representing Judikas Thiongo, because, we are presenting a church document. This is for Catholic Church, Njoro Parish. I am not going to say much, but just to highlight on one or two issues. Otherwise, I have the document to present.

One, is on education: I would recommend or the Church would recommend the whole of primary education to be free and completely free. We have been saying that, our primary education is free, but, when you go to these primary schools, you find that, parents are paying a lot of money, while, we are saying officially, it is free.

Take for example a new parent. The child of a new parent to be registered, you find that a parent is asked to pay about Kshs.5,000/- for registration or new parents. Now, this is a lot of money. Taking for example, these days, we have our young girls who are getting children home, they have no employment, and this child has to pay Kshs.5,000/- for registration. They have no that time. So, that what happens next? If the grandparents of the child are not in a position to raise the money, you find the young child will not be brought to school. So, we are saying, let the Government not only say that education is free, but let them find out and know that it is totally free.

Now, other than registration fee, we have some other money that the parents are asked to pay. These are building funds. Let the parents agree on how they are going to build their school.

That let it be stated in our Constitution that, no child, one day will be sent home. Because, the parent has not raised the fees. Let the headmaster and the parents know how to go to about it, because, some children are sent home because the parent has not paid the building funds. The parent cannot raise the funds that time, the child stays at home for a fourth-night, till when the little money is got, and he or she comes to talk to the headmaster, and then the child is allowed to continue. Now, that child has lost a great deal in the fourth-night that he or she has been at home.

So, I am appealing to the Commissioners, to see to it that, our document reads that, no child should be sent home, any one time, because of lack of fees.

Now, we have some other children who go up to Class Eight, and when it comes to registration of K.C.P.E., the parent did not have money. And you find that, after the eight years course, that child does not sit for the exam, because, he did not or the parents did not afford to pay the exam fees. All the eight years have been wasted for that child. I hope, education will be free from now on in our primary schools.

Another level, that I would like our education to be free, is secondary school Form Three and Form Four. You might ask me why? This is after primary level, the parent who is economically handicapped, is able possibly to raise some money to take that girl to Form One. Taking a child to Form One, well, it is a big task, so, ..... (inaudible) to the parent gather nearly everything that there is at home, the child goes to Form One. After first year, second year that is Form Two, with a lot of trouble, the parent is able to raise the fees. But coming to third year, you find that, that parent is completely exhausted and cannot afford education for this child. So what happens? We have so many drop-outs in Form Three, who cannot go to Form Four. Present Kenya, without that minimum education of Form Four, then, one cannot present himself or herself anywhere without that Form Four certificate. This is the one, that possibly, will make him proceed to campus, the one that will make you proceed to colleges, and without that, you are no better than that drop-out in primary Standard Eight.

So, after the parent has struggled in trying to pay the fees in Form One and Form Two, let the Government take over the fees of that child in Form Three and Form Four, to make sure that, that child who managed to go to secondary school has finished at least Form Four or has acquired Form Four level of education.

Doing away with education, I would come to health-care. On health-care, I would like our present Constitution that we are trying, now, to write, to think of some diseases we have in our country. I am going to give an example, of somebody Mrs. Nabwoya, a lady who has very big breasts that they have growth. Now, thank you to that Priest and the community of that area, because, they made us see Nabwoya on TV and the good samaritans did what they did. Now, we are losing so many Kenyans who cannot afford that big fee in the hospital, because, we cannot take that patient to Kenyatta National Hospital, to Mater Hospital, or even to Nairobi Hospital, because of the fees. And this disease cannot be treated in our university clinic, in our Nakuru General Hospital, and when it comes to that level, the family is left to cater for such a patient.

**(Interjection) Com. Wambua:** What do you propose?

**Joseph Mwangi:** My proposal is that, with such diseases, the Government to be taking over, because they have the facilities. Even if it will mean, taking that patient to abroad for heart operation or kidney transplant, let the Government take over where we cannot, and our Government to help us. I have also finished with health-care.

We have some people in our country, who have looted merely all that we have had in this country. Let the Constitution state that, any loser of public resources, is bound to pay to the public. This is, if you are so powerful that time you are looting, that



we can't get hold of you, let God provide us with time or just one minute, when you will not be in that position, and, we shall be in a position to follow you, and follow you up to the hole.

In Nigeria, all that was looted by the former dictator – Sammy Abacha, is being retrieved. Let it also happen in Kenya. I have finished with what we were to present. Well, there is some lot of it, I am not going to highlight on everything. Thank you.

But, I have one point to make on my own. Mine is on personal security. I would in the Constitution that we are writing, the firearms to be easily provided to whoever feels that his security is endangered. I know when I say that, most of us will say that, now we are going to kill one another every minute. That might not be the case. Dear Commissioners, this is why, let us look at it, somebody will come to you and tell you that, well, I am going to box you, just because he feels or he finds that he is so huge, thinks that he is stronger than you. Power imbalance.

Those people who are coming into our houses at night, they are coming, because they know I have nothing. Through the window, if I spot that person, and I have that poisonous stick and just point it at him and there he falls down, he can not be near my gate neither my door. But these days, these people just come into the house, even some of them are coming with toy-guns, because they know we fear these things so much. Supposing I have a real one, while he has a toy-gun, I will overdo him.

Now, we have so many firearms all over with people who are not using them legally. We have the firearms with our policemen.

Well, that is for our protection, but we have others. You know I am talking about of the carjackers and the others. Now, I think, I will be in a position to help the flying squad. When these people try to push me in my car, and just pull it, and before he puts his, he is down. Now, I think, if today I knew that, in your house, you have a fire-arm, I think, they will have a very big task to come near your house, because, I know, anything might happen.

You see, when they have legalized, and cheaply acquired. After all, we have Eldoret factory to manufacture bullets, firearms, in fact we need to, also make use of that. After all, where are the guns that they are making there going? It is going also to revive our economy, because, we are going to buy them, so long as, our Government sells to us cheaply.

I am for example, we have some community who are use bows and arrows, and they stay them. Actually, the don't misuse their ..... (inaudible), or they use them, when necessary, and particularly, when at work. In this point, I am trying to say, figure out the example I gave.

A certain police officers was coming from Nairobi, having withdrawn Kshs.100,000/-, and he was noted by some thugs that he had withdrawn Kshs.100,000/-. So, they followed him into the matatu that he boarded on his way to Rift Valley. So, just reaching somewhere, the passenger next to him just pointed a gun. He ..... (inaudible) and told him, bring what you withdrew in a very soft voice. Well, what next? Just went back to his pocket, removed the Kshs.100,000/-, gave it out, and

kept quiet. But, his was also in a pocket. So, when the colleague passenger thought that everything was well, the officer withdrew his without being noticed, and pointed it at him, give me back my money. What did he do? He just gave back his money there and then. What does that result to? There was no shooting, he got back his money, and into the next thing, all of them were taken to police station. So, you see, game short. So, in case we are allowed, I think we shall be in a position to protect ourselves. Thank you.

**Com. Adagala:** Thank you mzee. Wait for a moment.

**Joseph Mwangi:** I am Joseph Mwangi.

**Com. Adagala:** Thank you Joseph. You have a concern for the single mothers, who cannot afford the school fees and also the grandparents with whom they live. There is something called, the Affiliation Act which in many ways is very African, that a man who fathers a child should bring up the child. And this Affiliation Act, Members of Parliament, they didn't start being bad just now with salaries. They threw it, and said that, we don't want this. That is why you see so many single mothers around because they have nothing to go by. Would you want to reinforce a little bit more, so that there is a way in which the pre-conceptuability for a child born by two parents? Because, if it is that we have accepted single mothers are there, and they are struggling and they suffer and the children die or they go to school, and the children may die because they don't have money to take them to hospital and they may not go to school, they may go to school, but somehow, we don't think of the father of this child. What do you think should be done?

**Joseph Mwangi:** Thank you Commissioner. Now, I have a lot of concern, yes. I am a grand-pa at that age. I am sorry, I don't the father of my grand-child. So, you find that, these daughters of ours, now we are here in the campus, others are somewhere. When they come home, they are heavier. When you try to ask them, there will be only two alternatives, my dear Commissioner. If you ask me again Daddy, I am going to take something that you will never see me again, so please Daddy, can you let it stop there? Now, as an old man, who would like to be seeing his daughter in the years to come, I don't go bestering into the question. Otherwise, I might go to an extent of losing her. Thank you.

**Com. Wambua:** Thank you very much

**Com. Adagala:** You know, part of the reason they don't tell you, is already they have been humiliated by the man. They have humiliated, and now they think if they tell you – it is too humiliating, because they are told, that is not my child, s it really – you know we have women groups that men also need to also do something about the youth for them to be responsible. I am not saying all of them. Some of them come and say this is my child, but actually, we have children going through really difficult growing up, just because, both parents are not there to support. Then they end up with psychological problems, then they end

with social problems, then they end up with rebellion. It has to stop somewhere. Although I sympathize with you, I am also about to be a grandmother, and if you are the one who asked, it becomes a problem. But there must be a way of counseling and guiding, because, the society is falling apart and children are suffering.

**Joseph Mwangi:** I propose our ..... (inaudible) have got a role to play, and also, the grandies who are there. We talk to our children. Thank you.

**Com. Wambua:** Thank you, you can sign. I hope they have heard the young men and women. Some of these things we will not a Constitution, you can just do them yourselves. Johnson Nderi? Mamak J. O.? Dr. James Muchiti? Is that Mamak? Who?

**Johnson Nderi:** John.

**Com. Wambua:** Johnson? Okay.

**Johnson Nderi:** My name is Johnson Nderi. I am here to present my views, and I will start with the Judiciary. First of all, I feel that the evident laws should be reviewed. We have too many cases of evident being filed in court and people going to jail all the time.

There should also be set up of small ..... (inaudible) courts. Such that, instead of taking some cases to chiefs who we know will be biased, we can take them to competent officers such as magistrates, people lower than magistrates to be handling these cases.

About the President. First of all, he should not be a MP. I feel he should not be an MP. He should be elected – him and a running mate, so that the running-mate becomes the automatic Vice President.

The President and the Vice-President and the Cabinet should be obliged to attend at least 70% of the time in Parliament, so that they can justify their salaries.

The President should get at least 25% votes in five provinces and at least 50% of total votes in Kenya, so that he also becomes a popular leader, and not just, let us say ..... (inaudible) that a President is elected by only 33% of the population.

The Government should be in two levels – Central Government and Local Authority. Power should be devolved such that, the Local Authorities get some, they should be quite strong.

First of all the Constitution of the Local Authorities should be such that, councils should have councillors elected and some special interest groups should be represented in the local authorities.

Councillors themselves should have minimum qualification. Mayors and Deputies should be elected by the people directly.

These Local Authorities among others should be able to, the Registrar of Societies should be under the Local Authorities.

Land Registration Boards should be under Local Authorities so that, each, say that, we know Kajiado is basically pastoralists. So they can have a different land tenure system from places like Central. Other departments under Local Authorities should be education, health, and even the police, to bring police closer to the people. Police shouldn't be allowed under Police Commissioner. The Police Commissioner takes away a lot of power from people. So, they should be under the Local Authorities, under the Mayor.

The Central Government should be constituted of President, Vice President and the Cabinet. No Prime Minister as Prime Ministerial will be too expensive for Kenya.

As I said, the Central Government should be constituted of the President, Vice President and the Cabinet.

The Constitution should set a maximum and a minimum number of Ministries. Some functions of the Government like taxation should be subject to Parliament.

For every job in the civil service, there should be a clear job description for everyone in the Government. There is no overlapping roles, so that we don't have duplication of roles and everybody can justify their salaries.

Budgeting should be subject to Parliament.

Civil service job should be one-man-one-job. No appointed man from the Government, say, should be more powerful than elected leaders. For example, the Provincial Administration. There is no way the DC can be telling the MPs not to talk to the people. They should be free to do that.

And on monetary policy, there should be a committee set up, much like, what Donde was proposing, to fix Treasury Bill rates.

There should also be a Cost of Living Committee set up, to recommend salaries for public officers including Parliamentarians.

About the Constitution itself, to amend the Constitution, there should be a national referendum which should be held. It should

be allowed by a popular voting in Parliament.

Bill of Rights should be protected expressly in the Constitution. Among other things, there should be freedom of press.

Protection of people's investment and other properties. Actually, property rights should be guaranteed in the Constitution.

There should a national calendar for elections.

In the Preamble, I would it to be stated that, "the State is sovereignty".

Other things are like, dual citizenship should be allowed. Our right to legal defence. There should be a complete separation of powers, such that, nobody in the Executive should be in Legislative Council or neither in the Judiciary.

MPs should represent proportional constituents. The constituencies should be proportional, such that, when we have an MP from Kiambu representing 40,000, the MP from Baringo should also represent close to that figure, between 35,000 – 45,000.

I feel that we should have as many political parties as possible to guarantee freedom of association.

Criminal prosecution should not be bound by time, such that, we should be hearing cases of somebody being sued. Ten years later, that he cannot sue because too time has elapsed. That is it.

**Com. Adagala:** I am asking this because we are at the university. Because, sometimes, wananchi tell us things and then, they can't quite explain. There is a specified percent rule – 25% in five provinces. Isn't it?

**Johnson Nderi:** Yes.

Then, it is said, by people who are proposing the 60% like they are here, that it is, this ends up being a minority government. Because it is at least 25%, say it could be 75% in each province. That one.

Two, we have a situation where 50% could come easily from a region, and what we are finding out now that we are nearing the end of our hearings, is that, it is the big ethnic group that are suggesting 50%. They want the big five and the big six, those are the ones who are saying that. And then it becomes something of self-interest, that we know we are many, so we know we can vote 50%, and get others to vote for us. Then, we have an issue which is called, "first-pass proposed". The person who gets the most votes, he may not be majority, the one who gets them, becomes a winner, and the winner then there is also the other concept of the winner takes it all. So, here, if you are in a classroom, and it is number one, number two, number three, number

four and number five. I find it difficult to say that number one was not number one, because if we put the marks of number two, and number three, and number four, and number five together, they are more than the marks of number one.

You know, this is how people are reasoning. And this idea has settled down into the society, but they are convinced that we have a minority government like now or even before. So, what happens is that after multi-party, the voters are cut up so much, that the person who gets the most is the one who rules. But the way of putting it, 25%, to me looks like it is a way of national distribution and the way of popular.

But the way we are now, we know the Lake Basin can rule this country forever. If you put the Luo, the Kuria and the Kisii and the Luhya together, and, they will take it all.

**Johnson Nderi:** The thing is, if we are going to protect from big tribes, we should also protect it from small tribes. And, about the 50% is supposed to take care of that. Probably they could produce a good leader, but if they do, we will be able to see that. All of us being rational.

And about the winner takes it all, I would like to think this is not a ..... (inaudible). I mean we are thinking about nationality here first. Say, we are thinking about it as a ..... (inaudible), then I think we are lost. We should be looking at this, as, whom we are giving consent to run, whom we are endorsing to run. Such that, a person getting 40% has not been endorsed by most of the country.

**Com. Wambua:** Thank you. But, the question I have kept asking people is that, this logic is applied to the President, and when you ask people, shouldn't the MPs be also subject to that? Shouldn't the councillors, because we have so many MPs who are minority MPs. Someone gets to 3,000 votes, and several other candidates against him get a total of 10. If we are applying this logic to the President, we don't want a minority President. Why should we allow minority MPs?

**Johnson Nderi:** Cost.

**Com. Wambua:** The cost?

**Johnson Nderi:** Yes.

**Com. Wambua:** Thank you.

**Com. Adagala:** Because we said, this is someone we are giving a mandate, so cost should not come, because, democracy is expensive.

**Johnson Nderi:** No, the thing is, we can reduce cost, but, practically, the President is much too big to consider cost, but for an MP, I mean.... kwanza that is the most expensive one.

**Com. Adagala:** But also, the other thing, the thing of population. If we had a country that had the same ecology or environment, then people could settle evenly all over the country. But there is no country like that which has just ..... (inaudible).

So, there is the Australian case, where they have worked out a formula for the arid areas, and they have worked out a formula for the places which are densely populated, it is really because of rain. And so, it comes down to, that, I don't know we have taken the constituency to be only for voting, and yet it can be for so many more things.

For instance, if you have a national park in Narok, which brings in a lot of revenue, shouldn't there be a consideration for the people who live there, who may not be dense, but they have a mine somewhere, where it may not be densely populated, but they are taking care of a certain natural resource. Because, we have been told, elephants and dogs don't ..... (inaudible), when they become very ..... (inaudible), that is what people have said. But again, if we go by population, we are trying to, we are not interviewing you but we are trying to reason also with you. If you have areas with a high population, then you are rewarding the people who are over-populated in the country.

**Johnson Nderi:** When I was talking about local authorities, I was thinking in the lines of that local authorities will handle development and Central Government will be handling much. The population was in constituencies. Okay, if we are talking in terms of development, we can give that to local authorities. But in terms of representation, I don't see how a leader who is representing 10,000 people can speak at the same level with somebody who is representing 50,000. It is just not right.

**Com. Wambua:** I think there is a question she is raising which you are not understanding. There are those who have argued, we don't want people who represent wild animals. Yet those wild animals could be a game reserve that is bringing a lot of revenue to the centre which they want to benefit from. Why do you dismiss at the representation level, but at the benefit level you want to get? Some people have come before us and said, we don't want people who represent trees, but in the next step, they are saying, we must protect environment. So, what are we talking about?

Anyway, think about it, that some of us have now gone round the country and realized that many Kenyans don't understand the country they live in. If you go to North or constituency of Mheshimiwa Dr. Godana Bonaya, from one end, the furthest end at the tip of Lake Turkana at ..... (inaudible) to the other end down this way, it is 800 kilometres. So, you can imagine what we are talking about. And, if he is looking for votes, while someone in Nakuru can secure 20,000 votes in one day, he might take a month to secure 1,000 votes, because of those distances.



Anyway, we are not challenging you, but, some of the things we are having to deal with, and what is interesting is that, we are receiving very diverse views from all corners. Very contra..... *(end of tape 4)* they are getting worried when we sit to analyse and make decisions. We don't know how we will please all the Kenyans. Thank you, go and try it.

Now, before we move on. Time is now running out and I had said at the beginning, although some of you may have come after I had said that, that those have written memoranda, so that you don't go back home with it, you can just come and present it here, record your name, we will read through it. Now, for those who are still waiting to speak, we are now just about a quarter to five (4.45p.m.), and our seatings normally go upto 6.00 p.m.

So, we now have to cut very short, go straight to the specific points and I had said at the beginning that, of course when we come to this hour, we normally say, there is no need to repeat what other people have said, unless you are giving it a new perspective. So try and identify those things that have not been mentioned which should not slip our minds. So, those who are coming, be that first, and we now reduce time to just two minutes, two minutes, so that we can hear more in the remaining one hour.

Can we have Cllr. Githu. Cllr. Githu?

**Cllr. Michael Githu:** Commissioners, sorry I came in late, I don't know what has been spoken, I was held up in another meeting, but I will just give my views very briefly, and I hope you can them into ..... (inaudible).

I have to briefly talk about maybe the local authority where I serve, and I have to start by saying that, my short experience in the council, is that, these councils have been managed through a lot political patronage, and we have no consideration for merit. Such that, Mayors or Chairmen for that matter, and even councillors are mostly ..... (inaudible), and have often been in many places by the chief officers to ..... (inaudible) the councils actually. So, I still feel that we should have councillors who at least have a minimum of K.C.S.E. form of education.

**Com. Wambua:** ..... (inaudible)

**Cllr. Michael Githu:** My name, I have been asked to mention, is Cllr. Michael Githu, I represent Njoro Location, and Egerton happens to be in Njoro Location.

Now, elections for Mayors or Chairmen for that matter, must be removed from the councillors. Because, this is what the Cap 265 requires now. We have had very sad experience, and we don't choose the Mayors or the Chairmen according to their ability. We choose them because they have talked to us nicely, and when I say nicely, you know what I mean, and we end up

having very bad leaders in the councils.

Now, I would propose that, the interested Mayors and Chairmen and people like that, be ..... (inaudible) by a panel before they offer themselves for election, through ..... (inaudible) of course.

Councils must enjoy autonomy if they are expected to deliver. Now, and then councillors should be empowered to directly ask on errant officers of the councils. Because what has been happening in the past, we find them with a lot of misdeeds, but we cannot punish them. We have to refer them to Nairobi, where they go and negotiate, and instead of being punished or disciplined, they just come back and continue with their bad work.

Then, councils should take over, in my view, the role of the Provincial Administration which should be scrapped altogether. Even then, chiefs should be retained but placed under local authority. That is in my feeling, I have worked very well with chiefs, I represent a ward which has about 44,000 people, and I realize it has been very difficult and it would have been very difficult without these chiefs.

The resources in the councils. In my view, should be distributed according to the population. And I have just said that, I represent about 44,000 people, and when the council is giving out money or dispersing money to the locations, we are treated equally, and we get equal share. I wonder whether the need of 44,000 people can be the same as for 3,000 or few hundreds for example. So, in my view, I think, these funds for whatever there, should be extended according to the population.

Now, this on elections, especially defection, this must be discouraged through maybe a requirement for the recipient party to foot all the by-election expenses, because, I think this way, it will be very expensive for parties and for people to defect and that way, we may retain them in their elected parties.

Parties are not, the Electoral Commission must be empowered to act on any member who conducts himself or herself contrary to the party ideals. We have seen cases here and there, people defy their parties, but the parties cannot take action, and they would go to the extent of abusing their own party chairman and so on, but the law requires that, only Electoral Commission can punish such a leader. So, I feel, I consider it important that the parties be empowered.

Now, there is this resource on election, in my view, elections by acclamation, I think should be avoided altogether. And we should come up with an agreed mode of electing leaders even at the lowest levels, even if it is cattle dips, it doesn't matter really where. Because, we have had that experience which is not very good, and it has given us bad leaders. Now, we think maybe, secret balloting should be allowed for all elections.

On security, I may say this, we have had experiences in Molo for example, where certain people are allowed to carry arms and

others are not allowed to carry arms. We have had clashes, and I think it is only fair if we allowed anybody who feels threatened to be legally allowed to arm himself or herself adequately for that matter, so that he can always defend himself. This selective authorization of carrying arms and all that, should apply to all. We either be armed all of us or we are not armed all of us altogether. Thank you very much for those few remarks. (*clapping*)

**Com. Wambua:** Thank you. Nahaman J. O.? Dr. James Mutiti? Mr. Ogongo Vidi? Mr. Ng'ang'a K. F.? You are? Please.

**Dr. James Mutiti:** I am Dr. James Mutiti, Egerton University. I come from the Faculty of Arts and Social Sciences down there.

It has been quite an interesting afternoon, especially, hearing views from all our colleagues, and, it is interesting that, it would seem we are coming up with a Constitution this afternoon. What I feel I should contribute at this point in time, has to do, for example with the Preamble that people have been talking about.

I suggest that you could put something small in the Preamble, especially when it comes to the definition of the Kenyan we are talking about. Earlier on, of course, colleagues suggested that in the definition of Kenyan, we have to think of those who were born within and those who were born without by Kenyans. We also thought of those who would want to apply to be naturalized, to become Kenyan citizens. So, that notwithstanding, I also felt that, especially because of the Ogiek people, it would be good for us to define the Kenyan in relation to the various ethnic groups that are in Kenya, so that, some may not feel to be left out.

So, maybe in our Constitution, we should actually list the cultural entities that we have in Kenya -- the 42, they are maybe 43 I don't know. But, what we can do is, we identify these groups and we even identify their languages and maybe we call them sub-national languages. That is, we appreciate them. We appreciate this thing, the diversity that is in Kenya, but again, we should also seek for what I call unity in diversity. So that we can achieve unity in diversity, we have to establish a national cultural ethos, and this has to do with, maybe, the establishment of ideas and points that can be picked from here and there, in relation to our culture and how we related to one another.

Earlier on for instance, somebody was mentioning that, we are having many children who do not have fathers, but who have what we call single mothers and things like that. I am saying that, maybe we could borrow from our sub-cultures, what they do with such children. For instance, I have the Luhya in mind who always insists that the father has to be responsible. So, what I am saying here is that, we can have a blend of our cultures, our sub-cultures into what I call a national cultural ethos, and this national culture, is supposed to be delivered in a language that is maybe a national language.

And here, Ladies and Gentlemen, I recommend Kiswahili. Kiswahili should actually be corded as our national language in our

Constitution. This has not been there, although we have always said that, there have been pronouncements by, of course Kenyatta in 1968, that maybe Kiswahili should be a national language. But, I believe, that at this point in time, in our history, we have put in our Constitution. So, in this way, we will actually define the Kenya, and in this way, we are going to establish a kind of national culture, and this culture should actually be related to national aspirations and goals.

And, in the national aspirations and goals that I have here, things like, we should all identify the groups that I have already mentioned, we should know that these groups are part and parcel of Kenya, they have equal rights, both as groups and as individuals. And these people, (the groups that we are talking about), will also be given the right to maybe land, right to representation, right to even proper law and proper health-care, etc.

So, when we have established those national goals, it is actually, comes or. ... (inaudible) down to a situation where, we know where we are going as a nation, we know what we have, and even when we talk of a President, a person whom we are going to mention as a ..... (inaudible) for the country. As one representative who represents all the national interests and aspirations. Then, it will be possible for us to get a senior citizen, an informed citizen, a non-partisan citizen, who can really represent Kenya for what it is.

And that actually, leads me onto the type of government that we should have to represent this national aspiration. We are saying that, we don't have money, and it is true. We are a poor country, and we are always thinking of aid and things and so on, despite the fact that, we say by 2020, we should be fully industrialized. Now, what I am saying here is that, we require in order for us to reach these national goals, we require a system that is very efficient. A system that is cost-effective and efficient and it is a system which throws a lot of plan overboard and remains with the only simple things, the only few things that we can master so that we run the economy.

In my proposal, I said that, we need to have a non-partisan President, that is what I have said. Now, this non-partisan President, we might even establish a name for him. Tunaweza kumuita kiongozi, labda, we should think of any good, even "Laibon". Say we have a "Laibon" in Kenya. A nice name to be borrowed from the Maasai. We say, "Laibon" is now the leader of Kenya, and the leader of Kenya will be non-partisan. The "Laibon" will be non-partisan. And as such, he is going to represent the national ethos that we are thinking about. And in that national ethos, we have the goals for all Kenyans – health, right to life, all these things will be there.

And then, we are going to have what we call a Parliamentary democracy. And this Parliamentary democracy will of course recognize the "Laibon". He will be recognized by the Parliament, and within this Parliamentary Democracy, of course, we will have contending parties. And I suggest or propose that, we have very few parties. Already, people have recommended that we have something like three political parties.

I think that is okay, very much okay. These fellows need to be checked and controlled. Because, on the one hand, we might say that they are representing us, they are representing their own ..... (inaudible) things, that is, their own whims. (*clapping*). But, this is at the expense of our national goals.

So, what we recommend is, I think we should have three political parties. The one political party should be at the helm – the one forming the government. And then, two political parties, just like in the other democracies elsewhere, one will be actually identified as the main opposition. Maybe, the parties had lost to the party in power. And the other parties will be a party that can indeed be used as a check against the opposition party. So, that would be very good. (*clapping*)

And, within the government that has been formed in this Parliament, I recommend that, there be a Prime Minister. Most likely, the head of the winning party, and this winning party, of course, we are not saying that the Prime Minister, the Prime Minister has to be elected by the whole of Kenya. All we are saying is that, the Prime Minister is actually a leader amongst equals. That is, he is supposed to be, together with the other Ministers, but, they all as a Cabinet identify him as their leader, the ..... (inaudible) from amongst them. That is what I recommend.

And, I am saying that, we should trim down all the Ministries to something like ten. I recommend that we should have Education, Agriculture, Local Government, Health, Finance, Infrastructure (that is the currently Public Works), Commerce & Industry, Foreign Affairs, Environment and National Resources, and then, Culture & Social Services, for the sake of establishing our unified culture. With these Ministries, of course, the PM will be their leader. The Prime Minister's office will also be regarded as a kind of Ministry in itself.

And then, we will also have a twelfth one, which will be referred to as the Attorney General's Chambers. So, that is all we will have, and I think, we can really have a system that is running, rather than having a lot of cakes to give to different individuals.

And then, I still agree with those people who said very ..... (inaudible) things about, for example, the Presidency and issues to do with eligibility to become a President. He needs to be regarded a senior citizen of this Republic, having attained certain levels of education, and of course, the level of education we should be talking about is, somebody talked of 'O' level. 'O' level education should be good for our surge at that point.

And then, we should also think of, those who should run. For instance, somebody suggested that, once unsuccessful, a Presidential candidate should not run for it twice. And I agree. That is very true, because, it would mean that, you are just trying your luck, looking for a job, always and always. (*clapping*) That is not good. So, maybe, these people should just run for the Presidency once. If you win, fine. If you are not able, you should also back others to run for the Presidency.

From that point on, I also wanted to talk of how the President will relate to the Prime Minister. I think I have already talked about that. I have said that he is non-partisan, and would somehow, the PM report to the President. I do not recommend a situation where, we have a President who is a banana of some Republic down south. Who was supposed to be ceremonial, and maybe, being powerless. That is not the type of President I recommend. I recommend a President who is really powerful and who is able even to unite, to forge all the political parties together for instance. When they see him, they see a bigger profile than the other leaders. So, that is the suggestion that I have Ladies and Gentlemen.

I also suggest that, for instance, the other arms of government such as the Judiciary, should actually be more or less independent. It has to be independent and it should be run by the JIC. The Judicial Service Commission should be given more powers, where maybe, we are even able to establish a cohort of professionals who are able to function, the Judges can say that, these are the senior-most people we have in the Judicial system, and we recommend them for the various dockets that there are in the Judiciary. So, I say that, they should totally be independent, especially, because, the cases have to be decided even between and amongst the various parties and even the leaders themselves. So, I suggest that it is important that we de-link those aspects to the leadership itself.

I had something else to say about the provinces -- that is the Local Government. I think the Local Government has done us quite good in certain situations. But there should be ways, we should actually explore ways into linking up Local Government from the provincial level to this other things. I don't know what to call them. These other contractions. The representations kind of -- the councillors, etc.

Somebody has suggested that maybe, we should not do away with chiefs. And, again borrowing from cultural ethos, we always have chiefs, and we should take the chiefs, not as the colonial remnant that people have taken it to be. But, I would want us to take the chiefs as the other chiefs that we used to have before the absent of colonialism. And in that way, actually, chiefs can actually be established in a different perspective, and in a way that, maybe, they could help. So, whether, we would want to call them chiefs or maybe something like councillors, we should link chiefs and councillors somehow, and link them up with provincial administration. And in that way, we will do ourselves a lot of good.

And maybe, as a ..... (inaudible), I don't believe in Majimboism. But, I agree that maybe, the regions, especially represented by the provincial chiefs, that is the Provincial Commissioners, I think it is very important, it is very good, because these PCs should somehow establish law and order under of course the President on the one hand, and administratively, under the Minister for Local Government. I beg to move. Thank you.

**Com. Adagala:** Just one thing. Thanks for your ..... (inaudible) lively. You said the President should has the national ethos, and also, that he should be a senior citizen.

**Dr. James Mutiti:** Yes.

**Com. Adagala:** Then, you didn't give us the age range.

**Dr. James Mutiti:** Ooh, the age range for the President. Okay, we have always been talking of something like 35 years and so on for the current President. But, now, at this level, at this moment, maybe we should not think of such age. Maybe the 30s and so on and so forth, should be defined in relation to one acquiring the status of a Minister serving under the Prime Minister. Because, I think that, even for the Minister, we don't need toddlers, in that regard. We really require people who have what I call political ..... (inaudible), that is a kind of wisdom in decision-making.

For the President, who is supposed to be kind of senior citizen, I think we could talk of, something like an age of 50. Anyway, from the age of 50, you could reduce or minus just a bit. Age of 50, because, for such a President, we are calling him a senior citizen because he has seen many things, and in relation to that, maybe, I better mention one of your colleagues, God rest him in eternal peace – Dr. Ooki Ooko Ombaka. He is a senior man. You can think of what he did for this country. Many people may not have an idea as to the things that he has done, but, such people, and I even have fellows like Prof. Anyang Nyongo, people who have some vision. Those are people who can be regarded as senior citizens at some point in their life. That is what I am saying. *(clapping)*

**Com. Wambua:** Thank you very much Daktari, except to mention that the Maasais are very productive of their culture. They are saying other communities are copying their culture and misusing it. So, they may not be happy for us to call the Kenyan leader “Laibon”. In fact they say, that the colonialists confused “Laibon” for a leader. To me “Laibon” is a spiritual leader, but they had political leaders different from “Laibon”. Thank you.

**Dr. James Mutiti:** That is good, but there I would say that, if only we can incorporate the Maasai into our national culture, they will say, yaah, yaah, we want “Laibon” .*(clapping)*

**Com. Adagala:** Dr. Mutiti, I wanted to know, is it just because Majimbo we have ..... (inaudible) it, I am trying to find out many things from these educators. Is it because you have given it, like you give a dog a bad name, and then you kill it. Is it the prejudice that we have or is it, are we limited in our ..... (inaudible) federalism, and he has very many..... (inaudible). One of them, which we call Majimbo. But there are other types which also can apply. I don't know, because people think so forthright about this. I never whether it is a prejudice or whether indeed the content of it all, if there could other forms of federalism. I have not understood.

**Dr. James Mutiti:** Actually, federalism or majimbo in our local context is not entirely bad. But in its contexture, that is, in its historical perspective within Kenya, majimbo had everything to do with protecting some regional groupings. I think that is why



many people associate it with a bad thing. But for my case, I am just ..... (inaudible) Majimbo, to give it a local name. Otherwise, even for federalism, I already don't admire it especially for Kenya, given that Kenya is small. Kenya is small, and even in the other democracies, America for instance, and even places such as Nigeria, the area is ..... (inaudible) and maybe, the particular regions, that is the different regions that the country is divided into, can really become efficient-social-economic units in themselves.

**Com. Adagala:** What if we divided the country into efficient-social-economic units because they can be done. Katiba can do anything. And also, size, Switzerland is very small, but they have worked out a federal system which has all kinds of checks and balances. What I think I see is that, although I was very young then, but the country was divided into tribal entities which was not useful. So, there is also the element of federalism, which is participation by the people. The government being theirs. Their decision-making being there, benefiting from their natural resources, and so forth. Because, we have heard cases, we have powerful imagery of unitary, like the Kiambere, where they said, a tyranny passed over their electricity, and they don't have any.

The Coast people say, everything from the hotels and harbour comes to Nairobi. Not even one school is supported by the harbour or the hotels. You have the Turkwell people who are saying, all these ..... (inaudible) and we don't have any. So, there is that aspect of, before ..... (inaudible) Sondu Muriu were fighting about, that if you a hydro-electric dam here, we must benefit first. That kind of thing. So, maybe, we are at a stage where we can't quite..... but there is also the element of Shirikisho – the participation. Anyway I am not changing your...

**Dr. James Mutiti:** I agree the issue of, especially, shirikisho, making people participate. It really goes with federalism. But the problem here, would be the issue of the national cake. When you think in terms of the most productive regions in the country, and maybe those of our people who are not endowed with very good productive natural environment, we are going to do them in. For instance, what is going to happen to Wajir? No, that region?

**Com. Adagala:** What if we didn't do them in, and realize that, we need to do some affirmative action for them, because they are our sisters and brothers. And they don't consider themselves, they consider themselves deliberately, and maliciously, and ..... (inaudible) left behind, in a war, according to them they really didn't create. So, they be gunned emergency for all these years. So what ..... (inaudible) had done for instance, you do affirmative action for areas like that, and you say, okay, North-Eastern has only 3 kilometres of tarmac in the entire province, let us put at least the roads from Garissa to Mandera become up, and then it opens the area. Then North-Eastern is just like Botswana, but Botswana is rich. Botswana is dry, dry than North-Eastern. And the Botswana meat is the meat of choice – pig, in Europe. So, people are seeing that they have been deliberately left behind, and the national cake has, in fact been divided unevenly.

**Dr. James Mutiti:** Maybe the problem, the main problem here would be in the definition of that federalism. Because, it might

happen that the national cake is shared out to those regions that are producing, and hence, we leave out those people. But if we a strong national unit, it will be possible for resources to be taken to that area. Thank you.

**Com. Wambua:** Thank you very much Daktari. The point she is raising is that, since you talked culture and try to go to the roots. Where I come from, they say, you have a child who steals vegetables from the cooking pot, the best thing is to put it on “onungo” – very up there, where he cannot reach until the mother comes back home. That is the problem Kenya is in. We are saying, the system of Government we have today, we have left the pot accessible to a few people. How do we take it out of their reach, so that they cannot be able to squander. Thank you.

**Dr. James Mutiti:** Thank you very much.

**Com. Wambua:** Okongo V. D.? Ng’ang’a K. F.? Kirioba, is that Ng’anga? Ooh, please come.

**Johnson Silas:** I am Johnson Silas, and we have the same views with Ng’ang’a. I am actually surprised how someone who has never entered the doors of this, can be the Chancellor. I was just wondering how someone has never entered the doors of the lecture halls, can be Chancellor of all the campuses. Actually, this is very unique because, he does not even understand how the life here is, and how actually we are oppressed. So, I think the President should not at any one particular time, should be the Chancellor.

Another thing is, the interests of an individual should be considered when joining the public university. For instance, I shouldn’t be count or rehabilitated in Egerton if at all my sole choice was to study in Nairobi University or KU. That should be in consideration.

Another thing is, the Commissions of Inquiries have been the natural homes of ..... (inaudible). Actually, someone should not wake at any one particular time and then say, I am going to form a Commission of Inquiry, sijui to look for something which after looking for it, I will be having some considerations, we do not see the deliberations. So, these Commissions of Inquiries should be formed based on strict scrutiny and necessary concentration for the ..... (inaudible).

The other issue is the appointment of Ministers should be based on professionalism. That is merit. For instance, someone who has been in the Airforce shouldn’t be the appointment the Minister ..... (inaudible). Actually, how is he supposed to know the medicine the patients are supposed to get, and such like things. So, this should be basically on merit.

The other issue which has been erased which I think I need to emphasize, actually not repeating but emphasizing is the number of terms the MPs should serve. For instance, if at all the MP has run consecutively for two terms, he should not pick a third term. That is, we have had some areas whereby an MP has been there since 1954. 1960 upto now, he is the MP. That is actually jeopardizing other people’s abilities, because, maybe he has mugged a lot of money, and he can easily confuse the

electorate for him to be elected. So, there should be a limitation of the term the MP should run, just like the President.

The other issue is about the many churches which arise in Kenya. Not that I am against the religious activities of these people, but we have to be critical at a time. Someone just said something in the morning, and says, they have Jehovah..... kind of a church. This is very serious. These people are just there, just to get money out of these churches. So, what I should propose or what should be there is, before one forms a church, there should be a strict kind of procedure to be followed. And, they should also be taxed. These people are enjoying a lot of money. *(laughter)*

Another issue is the foreign preachers who come to Kenya to preach. Some people, just say, because someone is White, he can just bring them closer to God than a Black. This should not be the case. For instance, there are some crusades which have been in Nairobi, and another one I remember in Nairobi University, there was a certain preacher from abroad, he made a lot of money, millions actually. He is ..... (inaudible). If at all he was supposed to come and preach to us, to pray to God so that we get money, first he should pray for himself. So, at least, these people, there should be a scrutiny of the foreigners who are coming to preach in Kenya. That is, this religious aspect should be looked into. Not that I am religious, by the way, I am born-again.

Another thing is about taxes. Sincerely, this issue should be looked at. Actually, you see, we have seen a lot of taxes, yet we do not see the returns. I am just putting a humble appeal. Look at the state of the roads. We should be forced or we should pay for something that, in return, we can see the return out of it. There is no way we can pay a lot of taxes, yet, everything is just in shambles. This one, please just consider this issue of the taxes.

The last point which I think I have is about the universities. Okay, this is about introducing degrees or us students, we have courses in the campus, actually, when you connect what you can do after that, you even don't know. Why should we have courses which are actually not even marketable? There is no way you can get anywhere out there.

So, the Government should consider a way in which we are forming an education system, whereby it is catering for these people. Otherwise, they should cater for wasting our four-year term here in campus. We cannot just come here to read, and later go for other eight years to look for jobs which are not there. We will die looking for jobs.

The proposal on employment is that, the kind of degrees to be offered should be proportional to the base of employment in the country. In other words, if at all someone will come here, study and then not employed, there should be some compensation or a way which should be incorporated.

**Com:** ..... (inaudible).

**Johnson Silas:** Yaah, there should be an employment allowance. Yaah.

**Com:** ..... (inaudible).

**Johnson Silas:** Okay, what I mean by job creation is, you know the economy might not be providing for this. In other words, hizi vitu ziwe sambamba. If at all we are hear, we are actually doing a course, and then there is no such job provision, depending on the kind of government which should be in place, then, there should be a compensation for that.

**Com:** ..... (inaudible).

**Johnson Silas:** Yaah.

**Com:** ..... (inaudible).

**Johnson Silas:** Sure. (*end of side A*)

**Com. Adagala:** ..... proposing that the Government needs to pay a tithe to them. Let us say in the Judicial Act, and the ..... (inaudible) churches are saying the Government needs to pay tithe – 10% to God.

And then, the other one, the choice of courses, in my view actually, this has liberalized a lot, and you can also change your courses. So, it helps that some people, on the limited number of positions, sponsored by the Government. So, what you would propose here, some of these funds sometimes are not there, there should be more Government sponsorship like it used to be before, upto C+.

**Johnson Silas:** Maybe, first, to go to the first point of churches. We have said that the Government should pay tariffs to them, yet they are the people who are earning a lot of money. No, it should be vice-versa. Let the church pay some kind of tax to the Government, because, in any case, if at all you formed a church, there is nobody who came and told you to form a church. It is only that you were interested in some goals. In any case, they can preach to people without necessarily having a church.

Okay, the kind of sponsorship you are talking about. I agree and concur with the other people. The Government should actually be sponsoring us through, because, ..... (inaudible) is actually difficult. Like you people I know you enjoy it a lot when you are in campus. (*laughter*) You were not here? Thank God you were such a privileged person. Otherwise.....

**Com. Wambua:** Thank you, thank you. At least I did enjoy, although the boom was not enough. P. M. Kirioba? Omondi S. O.? Khaemba J. W.? Is that Omondi?

**Shadrack Omondi Ouma:** I am Omondi Shadrack Ouma, and I am going to have a formal presentation. So, I will start by the type of government. In my mind, we would need a government of national unity. But, 'b' of that one, we shall have Central Government with autonomous local authorities.

The local authorities be headed by governors that are elected by the people. The local authorities be empowered, utilize upto 70% of their resources and submit 30% to the Central Government .

Provincial Administration should be abolished altogether. The Government be comprised of upper and lower house. Upper house having upto 40 representatives, and lower house having upto 200 representatives. I have now to the Parliament or the Legislature.

The Executive: the powers of the President should be limited. Those are powers like Presidential appointments, should only take onto the appointment upon the approval by the Government. Then, there should be no post for a Prime Minister.

The Judiciary: the Judiciary should be independent.

Then on the part of elections: a person shall only be declared President of the nation upon scoring 51% of the casted votes. All Presidential aspirants should be funded by the State, and if they fail to win 15% of the votes, they should be made to pay upto Kshs.5000,000/-.

All the Presidential aspirants should be given live television coverage.

Education: all people should be entitled to basic education, funded by the Government.

On the higher education learning, in the event of the closure of public university due to unavoidable circumstances, it should only remain closed for two weeks. Not the case we have been having the university being closed for a month or three months, some going for eight months. It is a waste of time on the student's part.

Also, touching on the universities. The thing in my mind, we should outlaw the district associations in the public universities, and instead, put in professional ..... (inaudible) to aid in researches. In these professional ..... (inaudible) can be funded by the Government depending on their contribution to the society, or in the task of nation building.

Another one, touching on the university students. In my mind I think, all the graduates should be paid tarmacking allowances. At least of Kshs.10,000/- per month as they look for the jobs, which shall be refundable later, if they get the job. Thank you.

*(clapping)*

**Com. Adagala:** What would replace Provincial Administration?

**Johnson Silas:** When we take out the Provincial Administration, we are going to have in place the local authority that should be doing the work that all along they have been doing. Actually, we have been having duplication of duties. The councillors, the chiefs and the DCs doing almost the same thing within a place.

**Com. Wambua:** Can we have Khaemba J. W.? Kahinga A. N.? Mbuthia P. W.? Samuel Kimani? Ayub Omenya Abong'o? Kilach M.? Kulubi W. V.? Maranga M. R.? Is that Maranga? Gitau Mburu? Mulindi P. M.? Isaac Bett? Induswe Moses? Evelyn M. Wachira? Noordin Abdi? Kwayela E. N.? That is Kwayela? Noordin? Okay.

**Noordin Abdi:** I am Noordin Abdi. I will start on the environment. The environment is our heritage, and according to current statistics, it is that, if Kenya goes at this trend, by the year 2020, the ..... (inaudible) industrialize in will be endangered. So, the Constitution of Kenya should protect the environment. Not only in writing but in practise. In practise I mean, we should have things like the police – environmental police, instead of them soliciting for bribes on the highways, they should be deployed in the forests, so that they can guard, they should also arrest those people who lit around and such things.

The other issue is employment. Most of the Kenyans are complaining that there are no openings or vacancies for them. I assure you that there are enough of them. It is only that, you will find so many individuals who are well connected having many full-time jobs, both in the private and the public sector.

Kenya is just training exactly the number of human resources it needs. It is not training more than it needs. So, what we would be having is one-man-one-job.

**Com. Adagala:** ..... (inaudible)

**Noordin Abdi:** Man stands for both. Okay, one-person-one-job, okay. Also, retirees re-appointment to a post like chairman of parastatal bodies and such things should be abolished. You will find someone who has served in the civil service for long, he has retired, instead of going to ma-shambani, he is re-appointment for another post. This denies the young generation the chance to serve the country.

Education: the Government should also provide equal educational opportunities for all. Currently you find that, there are national schools, provincial, district, harambee, etc. These schools vary in terms of equipment and facilities. So, it is unfair for those people who came from schools which are ..... (inaudible), and they end up in the university by one way or another.

In the university, you will all start afresh, though, he might never have seen a ..... (inaudible) or a ..... (inaudible) somewhere in Wajir. You will come here, instead of being introduced to such facilities, you will kick off with the rest who were advantaged in other schools. Thank you.

**Com. Wambua:** Thank you very much. You can sign there. Kwayela? Mutambuki P. M.? Miriti J. M.? Ntombari M. M.? Kipngeno Collins? Ngeno Bernard? Choti Bernard? Wasena Joseph? John Kariuki? Leonard Odongo? Francis Omedo? Makhokha R. K.? Wafula A.? Bunde G. W.? Maseke N. D.? Rabando P. N.? Mungundu K.? Simon Muchira? J. K. Nkanatha? J. M. Otuke? R. K. Thuku? Jamal Owuor? Enock Sugut? A. N. Omondi? Kaguya Peris? Chege Wangare? Ochieng S. O.? Ruth Wanjiru? Wamae Andrew? Jacinta Ndambuki? Prof. W. K. A. Langat?

**Jacinta Ndambuki:** Commissioners, Secretaries, Ladies and Gentlemen, thank you for this opportunity to present my views. They are oral and they are personal. My names, as you have already said are Jacinta Ndambuki, I am a Lecturer, in the Department of Languages and Linguistics, and I teach English. I would like to just focus on three major issues. They have been dealt with, but as you said, I will try to be brief and to look at only the aspects that have not been talked about.

The first, is the issue of Basic Rights: the current Constitution guarantees civil and political rights, but does not really make provision for social, economic and cultural rights. One of the most important social/economic issue pertaining to human right, that is particularly having a heavy tone on the Kenyan economy is healthcare, and this HIV/AIDS, it was that pandemic. With HIV/AIDS related deaths in our country, soaring to 500 to 700 daily in our hospitals, and even in our homes, I would propose that there be a mechanism in place to ensure a provision for medical allowance for even the unemployed in order to realize the basic right of health.

This could be done by the Ministry of Health in collaboration with the Ministry of Finance, so that, appropriate apportioning of tax can result in provision of even a merger medical allowance of, let us say, Kshs.500/- per month for everybody who is not employed in the country.

Secondly, I would like to look at the issue of the rights of the vulnerable groups. Some Constitution makes special provision for the rights of groups of people who have suffered from marginalisation, due to historical social-cultural practices or other reasons.

I would like to focus on women, because, in Kenya like many other parts of the world, they are classified as a vulnerable group. Their significant gender disparities in women and meant access to key development resources, especially in education. With women being fairly marginalized and consequently poor, this has resulted in very many young girls, not getting education, as well



as boys, but this more so, affects women, because of our socialization process whereby many families would rather have the boy go to school, and the girl at home. And this has resulted in very many of our girls not going to school and becoming house-girls.

And therefore, I am proposing that, this issue be taken very seriously, because, I don't think there is a single Kenyan family, that has not a house-help, particularly it is the girls. But, it is not really possible to have a home run freely without that, and it is nobody notices this girl, only very young, they get into the family way very early, probably because the man of the house has made her pregnant, nobody looks after them, nobody even cares that they have these problems.

So, I propose, that house-girls and house-boys be recognized as a vulnerable group in Kenya. And with that, there be a system in check to make sure that they have a scheme of service for them to be paid salaries that are defined on the basis of experience, work quality and they should also have benefits. The scheme should also have disciplinary measures, regarding both the employer and the employee. Because, it is a very common practise to hear of somebody saying, I told the house-girl or house-boy for that matter, to pack and go at midnight, and that is very common in country. So, I really, truly believe that, something should be done about that group, that we should call them house-girl/house-boy vulnerable group.

And lastly, I would like to look at women in relation to participatory governance in the electoral process. Our electoral process should be designed in such a way, as, to increase the participation in Parliament and the local authorities.

And my proposal is that, women should at least, from 30% of Parliamentary representation, they should be done, I wouldn't want to say, you know, straight, let them be nominated or something like that. That will be giving them positions on a silver plata, and we don't want that. What we would like, or I would propose is that, women being the marginalized lot, and we do agree that they are, because of the kind of responsibilities they have in the social set-up, there should be more done on their enlightenment and education, especially women as home..... (inaudible) because they make the majority of the electorate.

And this could be done, okay it is already being done, but I don't think it is enough. And I propose it be increased, a lot be done on that to enlighten women on their rights as voters and the power of the vote, as well as to make them aware, especially, being a linguist, I would really focus on language because of the power of language as a tool of governance, to try and make women realize that the kind of language that is used against them sometimes, is a hindrance to the kind of choices they make.

That someone should not come to you, and give you 2 kilos of millet or something and you vote for them. They should be made aware of the rights and to be able to make informed choices. That is important for them.

I therefore propose an identification of the various factors contributing to the marginalisation of women in the democratization process. As we know, democracy is the form of governance that is equipped to facilitate human development in regard to the

major categories of human rights. Be they economic, social, political, legal or cultural.

And, I propose that the issue of language used, be treated as one of those factors that ..... (inaudible) affects the kind of voting behaviour that we see, especially with women.

And, I propose also, that language used by politicians be doctored. They don't just use negative language against women.

Thank you.

**Com. Wambua:** Thank you very much.

**Com. Adagala:** Thank you for your presentation. I agree with you, better wages for house-girls and house-boys, but there are really girls and boys, the ones we are talking about are actually girls and boys, isn't it?

**Jacinta Ndambuki:** Alright.

**Com. Adagala:** No, no, let me go on. There is a certain age where something can be done for them.

**Jacinta Ndambuki:** Maybe, I didn't make that clear. In fact child labour is not allowed, but let us be realistic, very many.....

**Com. Adagala:** It is okay, they are already in a vice, and they are working. But since you are connecting with education, I thought you would have talked about what they call transitional educational or information education, or, because there can be a system set up in the whole country, realizing that, many people have fallen through the fabric of the society.

**Jacinta Ndambuki:** Actually, what I had in mind was that, maybe the Government could look into ways of establishing, putting it maybe under the Ministry of Culture and Social Services, in collaboration with the Ministry of Education, and try to see how they could establish some colleges of some kind where they could be taken, and ..... (inaudible), so that when they will..... you know, they come to handle children at the affirmative ages, because there is no way I will fail to work, and leave the child with nobody. That is the setting in Kenya, and we have to deal with that.

It is not like the western world where there are centers where you simply take your child and come back in the evening, and come and pick. We have to have those people in our families, and have to have that role.

**Com. Adagala:** It is true, we are also ..... (inaudible), but if it were that they finish their next level of education, at least, because the certificate is important.

**Jacinta Ndambuki:** At least, maybe they finish Standard Eight, and then after, that, maybe the Government can.... I know, if we are not serious, our graduates will be maids. Ooh yes!

**Com. Wambua:** Now, lastly, you are saying we improve their wages, but you haven't addressed the fact that most of them in fact don't even review those wages. It is the parents who take, so this has left those who are working... how do we deal with that?

**Jacinta Ndambuki:** Okay, it is a complicated issue really. I was of the opinion that, maybe there be some system in check, to make sure that, when you are employing a house-help, you are in a position to pay that house-help. It is not going to be the story of the mother coming to pick the money, it is not benefiting the house-girl or the house-boy for that matter.

**Com. Wambua:** Thank you very much.

**Jacinta Ndambuki:** Thank you too.

**Com. Wambua:** Is Prof. Langat here? No. Dr. T. K. Serem? Mr. Sophiten Tanui? Joseph Kipkurui? Isaac Musyoki? Moses Otieno? Ibrahim Hassan? Nyandika Geoffrey? Makunja Charles? F. N. Kamau? Murungi P. M.? Muringi K. S.? Njoroje V. K.? Simon Wachira? Who is that coming? You are who? Ooh you are not coming for that, okay. Daniel Boit? Kimani Chege? Geoffrey Ayieko? Osman Gwiyo Gwako? Naituli? Wachira W. G.? Is that Kitile Naituli?

**Kitile Naituli:** My name is Kitile Naituli, I am a Lecturer in the Department of Agricultural Economics and Business Management, teaching Accounting and Finance.

I have a list of points which I want to raise, but, first of which is the current constituency boundaries. I am proposing that you re-define the constituency boundaries, whose a population you would say 30,000 to 40,000, because the current boundaries are not properly defined. The representation does not uphold the principle of one-man or one-person, one vote, it doesn't. So, a major population measure should be employed to make sure there is equal representation.

For instance, North Eastern Province, total population is 60,000. That province should probably have one or two MPs. But currently, they are more than 1 or 2, and this is because, maintaining an MP, it costs money, and so you can't really have people representing trees, they have to represent people. I am recommending that there be some measure of constituency representation.

Two, I would propose that you separate government...

**Com. Adagala:** Excuse me!

**Kitile Naituli:** Yes please.

**Com. Adagala:** The people of North-Eastern have said, if you keep referring them like that, that we can't have MPs representing trees, they will ..... (inaudible).

**Kitile Naituli:** Yaah, but that would be okay, if they can ..... (inaudible)

**Com. Adagala:** Yaah, then they can have their own country.

**Kitile Naituli:** Sure, no problem.

**Com. Adagala:** Yaah, this is very discouraging.

**Kitile Naituli:** No,

**Com. Adagala:** It is very discouraging. And before the Commission, everybody is equal.

**Kitile Naituli:** I was just giving an example. Yes, I think I would also recommend complete separation of Government from Parliament. Because right now we have a mix of two, which is confusing a great deal. So, I am proposing that no Member of Parliament should hold any civil office. In other words, once a President and his Vice President is elected through universal sa..... (inaudible), if they so choose to nominate one of the seating MPs to the Cabinet, then that person should resign his Parliamentary seat. Because, once you are a member of the Kenya Government, you should serve the Kenya Government. You should not represent any constituency in the Republic. So, there should be a complete separation between the two. The Parliament and the Government.

The people should directly elect the President and the Vice President. I propose that we maintain the current set-up of constitutional political offices. The proposals about the Prime Minister and all that is not economically justified. It will probably, because it looks like it is being driven by desire to cater for various tribal groupings or even individuals, it does not need really address a critical need. So, the current political offices are sufficient. It is important that we maintain them, or rather I propose that we maintain them.

Elections cost money. So in case of the removal of the President from office, either through death, resignation or inability to discharge the powers and duties of the said office, the same should devolve on the Vice President. The business of election, say, within 30 or 90 days, is costly, it should not be there. Because now we are in a multi-party system, so if it is a KANU

President or a Democratic Party President who is dead, his Vice President should take over, and serve the term of that office. Once that term is over, he can run on his own right, and he can be elected for two terms after that, because he was serving the term of the dead or the President who had resigned or removed from office for whatever reason.

No sitting Parliament should have power to revise their own compensation. They can revise compensation for the incoming Parliament, but they cannot revise for the sitting group. In other words, the abuse we are seeing now, Members of Parliament increasing their own salaries and all that, that should be forbidden Constitutionally. No sitting Parliament should have the power to revise their own compensation.

To deal with the current state of official corruption, the new Constitution should bar civil servants, MPs and Ministers from trading with any government department, directly or indirectly.

The office of the Attorney General should be made independent. It should be independent. Because right now, the Attorney General is a Member of Parliament, he is also a member of the Executive, which is confusing the roles. It creates role conflict.

Any Kenyan to be elected President should get a minimum of 50% of votes cast, plus 25% in five provinces. The new Constitution should maintain the current Constitutional political offices (I think I said that). There is no need to expand them by creating offices of Prime Minister etc, because doing so is expensive, and brings no real value to the nation.

There should be a limit on the number of Cabinet Ministers and their Assistants. Right now they are just too many for no real reason. All we hear is a question of balancing tribes and all that, but we really don't hate tribes. So, we want the economy in appointment and all that. If it is 25% of the electors, sign a petition to recall their Member of Parliament, and present the same to either the Speaker or the Chief Justice. That member should be considered recalled. This is because, we elect our MPs, once they arrive in Parliament, they change. But there is a contract when we elect them, there is some identification with their ..... (inaudible), national or otherwise.

Yaah, 25% of the electors. It is 25% of the electors, sign a petition to recall their Member of Parliament, and then present it either to the Speaker or the Chief Justice or whoever the honourable Commissioners choose as a vocal person, then that Member of Parliament should be considered recalled, and a by-election ordered. And that will avoid the problem of our Members going there and changing, and playing some other games which is not what we agreed when we were electing them.

The last point is on federalism. I believe federalism is a good idea, but I would recommend a federal system based on the current districts, not on provinces. Because, federal system is a very good idea. Right now, most of us are not working, have been sitting here and listening a lot of people complaining marginalisation. We can't really marginalize anybody. For people to

remove that concept, they should have responsibility for themselves in their own areas, to remove the idea that somebody somewhere is marginalizing them.

And therefore, federalism based on districts is workable. It will not create conflicts. But federalism based on provinces will create a lot conflicts, because, you may even have to re-draw provincial boundaries. But the district, you don't have to re-draw those boundaries. Thank you very much.

**Com. Wambua:** Thank you. I would like to comment that we are interested in thinking a bit wider. The Americans, I think faced this problem we are facing of equal representation. Their device was to have an upper house and a lower house, and so in the house of representatives, they go on the basis of equal representation as you are saying. But in the senate, they say, population does not matter, the size of the state does not matter, the poverty of the state does not matter, the richness of the state does not matter. Every state has two senators in the senate. So, that is supposed to balance the fact that, in the house of representatives, they go by something close to population, let us think a little wider. Because, every Kenyan wants to feel accommodated in one way or another.

If we have population, what mechanism do we put in place as protection for those who feel they are few? Thank you.

**Kitile Naituli:** It is my opinion that, I think on the representation upto today, following the American, I feel it is okay. The American decided that the minimum number of people required to form a constituency is 30,000. And that applies to house of representatives. And then to represent the state, they say the state should produce two senators. I believe we can do the same, because, as it is now, we have a constituency like Kisumu Rural, 180,000 votes; and then you have Garsen at the Coast, I believe the people of Garsen is in Parliament with 750 votes, something like that, not more than 5000 votes. That really violates the principle, because those two people have equal votes in Parliament. One is in excess of 100,000 thousand, the other is less than 10,000. That is unfair. It cannot continue for very long. So, that has to be addressed.

But there is even a more critical point here. The Americans decided on 30,000 so that the state can go out of their way to attract people to come into their state. Now, here, we allow any area, when you are dividing these constituencies, some very small areas have a lot of MPs, eight, ten, twelve.

Now, when you look at the productivity, because these MPs means money, so, you can't pay your way into Parliament, I don't mean the people who are elected, but the population where you are elected. The total contribution of that election per year is probably can't even maintain that MP there. I don't believe those people should have the MP. The contribution is critical here.

This is how people will stop this business of simply wanting representation or wanting one of them to be the Prime Minister, or wanting one of them to be the President, because for you being the President, if you come from my place, it means exactly nothing to me. I don't know, whether you can fix the country economically. That way, people won't mind who is the

President. So, because it is economic implications of the number of Members of Parliament, then, there has to be a population measure.

The centres of concentration of population, they are also the productive centres, as it is and other areas.

**Com. Adagala:** You know we were not objecting to your idea, just the discouraging remarks. But you know, there is also the fact that some people, some areas are productive, “it is the chicken and egg”. Some areas are productive, because they have been favoured with infrastructure. Then the other areas, say, yaah, if me I didn’t say infrastructure, even more people would come and settle here, and even they say, even our women will give birth to more babies.

**Com. Wambua:** Can we have Wachira W. G.? Muniu R. K.? Ome S. C.? Mecha A. G.? Onchwati J. K.? Elijah Nginia? Barasa S.P.? Langat R. M.? Kiplangat Daniel? Maituta Richard Omae? Moturi Samuel? Kamau R. M.? Muturi S. M.? Hassan Ali? Geoffrey Mutai? Phillip Muchiri? James Kigaria? Justine Bikundo? Dr. Okuk O. K.D.? Phillip Korir? Jimo Biko? Kaburua Jerald?

**Gaylord Amukobe James:** Okay, my name is Gaylord Amukobe James. I had been called earlier, not now.

**Com. Wambua:** ..... (inaudible.)

**Gaylord Amukhobe James:** I had been called earlier, but not now. So, I will the following views, they are my views. These are my views, I don’t represent any group. I have the following views.

The first one is about education. I would education in the coming Constitution to be universal and mandatory and again free, the basic education up to Standard Eight. And the issue of having people educated, like the amendment that said that, it should be upto 16 years, you see, if some people go upto secondary school upto around Form Three, and they are still 16 years, the Government will not be able to cater for their education in secondary school. So, we can only say that they go upto Standard Eight, even if it is 20 years, but it reaches Standard Eight, you should be educated free of charge. And it should be free and mandatory for everybody upto that level.

Then, educational opportunities, after Standard Eight, should be based on employment opportunities that are available in the country. The idea of training people so that they can be able to look for jobs, some jobs which do not even exist in the country right now should not be encouraged. It should be abolished.

Then, schooling should be free and take care of different learning abilities for students. You see, right now, learners, regardless of their different mental abilities, they are all subjected to the same examination system, the same curriculum. Some people are



slow-learners, other are fast-learners, but they have to go through the system within the same time, and they have to take the same exams. That should be taken care of, so that, those people who cannot answer those particular questions within the stipulated time, can be given some alternative questions to test their mental abilities in other areas.

Then higher education, should be guaranteed and institutions of higher education, especially universities should be autonomous, so that we don't have the President appointing Vice Chancellors, because, if they become political appointees, then they will be serving the interests of the post people who are appointing them, and not the interests of the students and the community.

Then, secondary education should be controlled. And in this case, I mean, especially the costs. So that, I agree that the boards have to stipulate the amounts that students are supposed to pay. But still the Government should come in to regulate the amount that students are paying. Some secondary schools are going upto even Kshs.50,000/- per year, others are Kshs.8,000/-, you see the disparity goes even upto the teachers that the schools can be able to maintain and the students. So, this one brings about imbalance in the schools. And you see the students have to be subjected to the same exams at the end of the year. This one is not fair for other schools, especially in rural areas.

Then, another issue is that, honorary degrees should be limited or if anything, they should be non-existent. Because, you find somebody maybe a Form Four leaver or a Standard Eight leaver, but after some time, he is presented with a honorary degree. Of course, if it is just one or two, I don't have any problem with that. But you find somebody gets a PhD, one thing from one university, another thing from another university, and the person is not even competent, he doesn't even have information, he doesn't even have knowledge about that thing. So, he should not be awarded so many honorary degrees.

The second thing is politics for the Government. I would recommend that we have a political system, where we have a maximum of three officially registered political parties, and those ones should be financed by the Government as other people have said. And I think, the best criteria we can use, is to have the first three political parties at an election, taking the three that we would require. So that, those ones that come in after the third one, will be able to be amalgamated in the first three, whichever they would like to join.

Then, members of a constituency should have the power to recall their MP or 25% voters that are from his constituency, can have the power to call him back. So that, if he has been recalled, maybe through the Speaker or any other person, he should cease being paid by the tax-payers. *(end of Tape 5)*

We should have maybe the Deputy Ministers taking over from the Assistant Ministers. Because Assistant Ministers are just are just assisting but deputies can deputize in the absence of their senior Ministers in the ministries.

The Attorney Generals office should be delinked from the ruling government so that we will have the Attorney General being

just an adviser to the government. He should also give powers to give consent of prosecution in certain matters. He should also be delinked from that office so that if somebody has an issue with somebody and you want to take him to court. You should be at liberty to take the person to court.

Federalism should be taken as a representation in decision making only and not the idea of distributing resources because other places are marginalized they don't have any tangible economic resources. Still going to Federalism on that ground then you will find those places will still be disadvantaged. But if it is because of decision making so that things like you will find some places like the army will want to take those semi arid areas to do their **(inaudible)**

We should have a representative of the area who should be able to talk to the government and tell them that when your doing such things in my area, you will be affecting the life's of the people in such ways. Not people who will be saying that the place has fewer people.

I will the Civil Service, people who are going to serve the Nation say teachers or other employees the police, should be employed and interviewed and employed by the Local Government so that the idea of bribes and godfathers with a somehow minimized.

The last point is on Provincial Administration: I would like the Provincial Administration especially from the Provincial Commissioner down maybe to the Assistant Chief and Chiefs should be abolished so that they be replaced by governors. So that we have maybe governors like that, and they will be answerable to the public. This so that they are not appointed by the President but they are elected by the people they are representing in their own Province. Thank you.

**Com. Kangu:** Thank you very much.

**Com. Adagala:** ( **inaudible**)

I am saying that they should not be appointed because if they are appointed, they will serve the interest of the person who has appointed them. If they are elected they will serve the interest of the electorate.

**Com. Kangu:** Now it is 20 minutes past 6.00 pm, we shall take only 3 more people, the rest you will have to reduce your views into writing and give to us or give to the chairman of the Constituency committee who can pass over to us. I think we will still be in Nakuru by tomorrow. Can we have Meto Cyrus.

**Meto Cyrus:** Thank you Commissioners and the rest of us. It happens that I am one of the many unfortunate Kenyans that this far I have come, I have not managed to have a copy of the Kenyan Constitution and therefore I propose that every Kenyan upon attainment of 18 years and on issuance of the National Identity Card should be given a copy of the Kenyan Constitution in

the language of one's preference without cost. I have in mind this happens in the United States of America and right here in Africa it happens in South Africa and we are not an exception. This will reduce what we have now in the name of Civil education which of course I don't believe it does us good.

**Public National Holiday:** I am observing the current trend to be kind of worrisome in the sense that in every sitting President makes his or his birthday a National Public Holiday at the expense of tax payers, I strongly believe that the poor Kenyans who are heavily laden with taxes are going to crumple. Therefore I propose that let there be only 3 public National holidays. Namely, Jamuhuri day, Madaraka day and maybe a heroes day. I will be honest here to say I am not putting much emphasis on the heroes day but I am laying much emphasis on the first two.

**Land and declaration of land in this country:** It happens that I come from the granary of this country and I want to conquer with many speakers who have been here before me. That the government should be empowered to reposes and lease those lands that lie idle. Here I want to give a word of caution. To my thinking the government is not morally obliged to take away that farm from a particular farmer which in the first place it has never taken a step of faith to assist this farmer to put this farm into utilization. By this I mean that the government should put in place effective loaning systems and ensure that all the agricultural officers are put to work. If all this are done and the farmer still cannot put the very farm into utilization, then I agree that the government should possess that. Failure of which I want to believe the government has no right to reposes this land in the name of it is under utilized. Thank you.

**Com. Kangu:** Thank you very much you can sign.

**Com. Adagala:** Maybe this is a question we should ask at Egeron, Is there a way of making more than a land in the country arable. The problem is the certain quarter which is arable then the rest of it all.

**Meto cyrus:** If only the resources of this country are well channeled then in fact we can have irrigation. For example a country like Israel is basically a dry land but right now Israel produces much more than we produce in this country and yet we have part of our land being arable. Therefore I believe if only we had taken into managing our resources well we can put more land into agricultural use by indication. That is basically what I can say.

**Com. Adagala:** We could do it where there rivers but there are places, any way it is probably something to think about because we can engineer. We should not just think of what is now and what can be tomorrow, but 100 years. Like Los Angeles is a desert but somebody diverted a river and it is a city of 20 mile across.

**Com. Kangu:** Can we have Wakonga Washama, Njugana G.N, Mwangi Oscar, Ngugi S.K, Mushiria .D.A, Chege Waithaga, Benard Cheruiyot, J.G. Murenge, Mathenge A. Key, Kangewi .T.T, Yegon P.K, Ongweya P.N. Kirui .W. K,

Richard Langat, Wachira G.K, Moroko Sammy, Simon Ogutu, Eliud Mushira, Nduto Issac, Mwaura Charlies, Towet Joseph, Musembi J.K, Cyikilu J.R, Omar .M. K, Mwangi .G.M, Mbuao P.A, Karanja .J.N, Nyaga P. Ogembo .H.P, Avira .E.O, Collins Ooko, Timothy Kigora, Mwangi .P.S, Arobo S.O, Mark Ooko Ken, Joseph Kingi, George Othiambo, Paul Ngeno, William Chelaga, Ndugu Kamau, Kipkorir Nickson, David Lagat, John Cheruiyot, Wafula Abel, Keror Jacob, Abdinur Adan, Isaac Kariuki, Ukuayo Henry,. Anyanswa J.E, Mupapele Braian, Otunga .N. P, Hachar Munga, Joseph Kinyua,

**Josephat Nzioki:** I am Josephat Nzioki and I ( **inaudible**). The first one is touching directly to the powers of the Parliament and I propose that the powers of Parliament should be trimmed by an independent body and according to my views I think the Constitution Review Commission after reviving the Constitution should remain under the name Constitution Commission but not Review Commission. It should have a legal recognition whose full mandate is to check the implementation of the Constitution. But not punishing the wrong doers. In so doing it will have the responsibility to oversee the powers of the Parliament and after they pass a bill to be a law it has to be brought before them so that they could recommend it as a law.

The issue is the Bill Rights: It was my proposal that the Bill of Rights should be expanded and the responsibility should be owned by the government. It should be expanded to include education, health, water, shelter, security, credit and education.

The disabled people should be taken care of. For example we have our neighboring country Uganda whereby 10% of its population is consisted of the disabled people. With rightly to that they found that the 10% can fit in five Constituencies. In their Parliament they usually leave five chances for nominations of disabled people who are elected by the disabled people on regional basis. Why should such an issue not apply to Kenya so that they could take care of the disadvantaged people with reference to the disabled.

Local Government: It should only solicit taxes at the account for the tax extension. There should be a Nationally agreed rate of purchases ( **inaudible**). For example you find that some areas are heavily taxed and no services are seen. I come from one of the destitute in Kenya and that is Makueni. From my home area to the DC office is a distance of not more than 65 kilometers. All the same due to the poor infrastructure we have to pay 300/= . With 300/= it can take me from Emali, that is a nearby town that is Emali up to Egerton University. It is a distance of not less than 320 Km but yet I can cover the distance with a transport fee of 300/=. There is an irrational irrationality in the way taxes are allocated. The taxes their should be defiled methodologist of taxes this people ( **inaudible**) and laws governing how this money will be distributed all over the area.

Vice President: He should not belong to the ruling party. What I mean here is, in a general election the second person who has majority votes should take the power of the Vice President. So that he can shake down the powers of the President from the ruling party.

Attorney General: He should not be appointed by the President but a special commission quiet independent should be set in place to appoint the Attorney General. It is my view that the Attorney General should be elected or appointed by a commission drafted by the Law Society of Kenya. He should be legally upright.

Almost the same case applies to the Vice Chancellors. They should not be appointed by the President but by a Commission set in the Ministry of Education, comprising of chief academicians and Professionals and properly some members colected from the university which Vice Chancellor is going to be working.

Freedom of Association: There should be a universal method of registering and deregistering community organizations. For example in a district you might find that before you are given a certificate to a operate as a certain group, the form must be signed by Chief, the DO on behalf of the divisional social development officer and ( **inaudible**)

So that it would be certified by the district social development officer. In other areas the form is not supposed to be signed by the Chief or the DO. We just wonder which criteria we should follow. Otherwise some people are not very much conversant about developmental issues. For example the Chief. According to my view I think for you to be registered as a civil group you must undergo an interview at the district social development office. Which should be comprised of a Professional in Culture and Social Services. So that at least he could question the legibility of your programme to that area. Try to question you about some professional backgrounds of your undertaking. The aspect of the Chief and the Divisional Social Development Officer, they are not working out clearly.

Voting: People beyond 50 years should not vote not unless they have a certain level of education and the minimum qualifications according to my view should be a diploma.

This is because from the area I come from there are quiet some illiterate wazees there and they do not even know the essence of voting. What they just ask is who should we vote for? I think that can be very much controlled if at all the voting age can be cut short. That is beyond 80 years and you don't have certain qualification like a diploma you should not be able to vote.

There should be a divined and Constitutionally recommended way of implementing inter national convention. For example the convention to combat certification. You find that Kenya might have been assimilated such a covenant but at the ground it is not implemented. I have a very good example a few kilo meters from Egerton here you find there is a Mau forest there which is heavily being destroyed. We just want if at all the convention is working, what is really happening at the ground such that the area is encountering a lot of climatic changes according to the data I recently collected from the (**inaudible**) here in Egerton University. According to that data of 1928-2001, there is a huge climatic change and it is usually attributed to the environmental degradation and yet Kenya is a signatory of the Convention to Cobalt Certification. Again the signatory of the real agenda 21 of 1992. At the same time there are some other some charter like the UN charter on children rights. Which at all are not implemented at the ground. I think there should be a defined ways of implementing this things.

Ministers of Finance: He should be allowed to serve for a period of not less than one financial year. This is because every Ministers of Finance comes in with various qualities and as the methodologists of implementing those policies. Before the year lapses you find that there is a reshuffle in the Cabinet. The Ministers of Agriculture has been said to be the Ministers for Finance. There is no continuity of the implementation of this policies. At least if the Ministers of Finance should be allowed to serve his year and implement the policies at the end of the day he can be answerable for whatever mess or success which has happened in the ministry. Thank you.

**Com. Kangu:** Thank you very much. Nazakayo Ndunda, Joel Yegon, Keino L. K, Koech .E. K, Ochieng James, someone is coming? Fine if he is not coming we, Ogata .G. O, Wagatha .Z, Imani Johnson Cyrus, Ondunya P. N. Mutiso Mutua, Sauti .E. W, Nderia .K., maybe lets say, lets get one person from the crowd to come and speak as the last and then the rest you have to write.

**Morris Atito:** On the bench is Morris Atito, a student in the faculty of education. First of all I want to touch on the issue about Ministersial appointment and Ministersial (**inaudible**). I will start by saying Ministers to be appointed by all Members of Parliament so as to build National trust and confidence in the Ministers appointed.

President should only sack the notable dignitaries only after consultation with other Members of Parliament and this should be subject to a lengthy debate. Again I am saying this no Party chairman should be given the right to endorse a Presidential Candidate. This is one should be a subject to all the MPs within the Party and should there be anything to that effect the law should take action towards that direction.

I want to attack on the consent of criminology. We find it has been a routine for the police to rein bullets on top criminals. I am proposing let the government pardon top criminals and instead incorporate them in the relevant sectors within the government. Maybe a top criminal can be inco-oporated in the armed forces or the police force and let the public be aware of it.

I want to address the concept of right and accessibility. We find citizens have been denied almost total access to the top administrators like the DC and maybe the PC. I am saying we should get direct access to this people especially the orphans should get direct access, not through Assistant Chiefs. As this as element of corruption might crop in. I am proposing this let any Assistant Chief who tries to sabotage the deal be subject to interdiction or further questioning.

I want to talk on preference to government contracts. We better give university students but not retirees more preference to government contracts. We find some contracts come during the course of the year. Things like censors you find, retirees or people who have been working in government are holding very critical posts which can be held by the students. I am seeing this one can be a way of compensating students.

Let maybe people who run for the post of Members of Parliament have this as a minimum qualification. At least a degree holder with a minimum of upper, second class, so as to have competent leaders who can lead the country to proper development in future pursuit.

I am proposing these in the side of orphans and the senile probably people with 65 years of age and above. Let the government allocate some funds for the senile. Let them try at least a way of earning a living. Maybe something like 1,000/= per month, for people who are more than 65 years of age. Let orphans be subjected to further education and until they reach the terminal point. In this context orphans should have just a direct link to the immediate person here who is the DC or the DO and not the Chief or any other person. As this might build up some aspects of corruption.

I want to touch on something to do with the police. The police should be barred from touching the general citizens. Any police who shoot innocent citizens should be sacked or either brought to probation or justice.

Ill fated people: People who die in clashes this one has been common in Kenya. Somebody dying in a clash or somebody finding himself shot down illegally. I am proposing the government should heavily compensate this people. At least 100,000/= a minimum for these people. So as to recognize the pain they have bared.

There should be a Commission appointed by the public, which should check and balance the powers of the President. From there I would like to put down the whip, thank you.

**Com. Kangu:** Thank you very much we have no questions for you. We must say that today's session has come to an end. We would like to thank the membership or community of the Egerton University for finding time to come and give us very informative views. Those of you who have not had an opportunity to present their views, we urge you to reduce them into writing and send them to us so that they can form part of our process of analyzing what the Kenyans want. As I said in the morning we are required by the law to go and analyze your views, prepare a report, recommendations and drafts Constitution and we shall bring that back to the people to study, discuss, debate and be certified that it reflects what they would to have. We then shall come back for your comments and thereafter we revise the report and call for the National Constitutional Conference. We shall have Commissioners, the Members of Parliament, 3 representatives from each district and of course representatives of the civil societies. If you are interested in participating in the National Conference you should be able to know even if you are not an MP as a person from Nakuru District you could be noted to be one of the three people the district will send. So that they can participate in the debating of the final document before it goes to the referendum if there will be need for it and finally to Parliament. Otherwise thank you very much and may God bless you. You want to say something? Before we go out you are all aware that we lost our first Vice Chairperson. We shall take a minute of silence and thereafter I don't know whether there is anybody to pray for closure and then we go. We can stand and have a minute of silence. Thank you very much, someone can lead us in prayer.



