

**CONSTITUTION OF KENYA REVIEW COMMISSION**

**(CKRC)**

**VERBATIM REPORT OF**

**CONSTITUENCY PUBLIC HEARINGS,**

**KANDUYI CONSTITUENCY,**

**AT BUNGOMA COUNTY COUNCIL**

**ON**

**1<sup>ST</sup> AUGUST 2002**

**CONSTITUENCY PUBLIC HEARINGS,**  
**KANDUYI CONSTITUENCY,**  
**HELD AT BUNGOMA COUNTY COUNCIL ON 1<sup>ST</sup> AUGUST 2002**

**PRESENT:**

Com. Bishop Njoroge  
Com. Ibrahim Lethome

**SECRETARIAT STAFF IN ATTENDANCE:**

Triza Apondi	Programme Officer
James Macharia	Asst. Programme Officer
Lydia Moraa	Verbatim Recorder

The meeting started at 9.15 a.m. with Com. Bishop Njoroge in Chair.

**Com. Bishop Njoroge:** Sasa tunataka kumuomba mtu moja aweze kutuombea tafadhali. Na useme jina lako kabla hajaomba.

Rev. Francis Wahusokor: Hebu tuombe. Baba katika jina la Yesu, wewe ni Mfalme wa wafalme, Mungu wa miungu. Umetenda miujiza Mtakatifu uka wapa uwai watu wako wamefika hapa Bwana. Nataka kuchukua fulsa hii Baba ni kaidhi mkutano huu mikononi mwako. Commissioners wote ambao wamefika hapa na wakaidhi mikononi mwako na wananchi kwa jumla ambao wamefika mtakatifu hapa, kupeana maoni yao mikononi mwako. Hewe mtakatifu utawale mkutano huu tangu mwanzo mpaka mwisho. Ni katika jina la Yesu na omba na kuamini.

**Com. Bishop Njoroge:** Nataka kwanza kutangaza kikao hiki kama kikao cha kuchukua mawazo ya watu kwa ajili ya kutengeneza Katiba, kwa hivyo natangaza kikao hiki rasmi, kama kikao cha kazi hiyo. Mimi naitwa Bishop Benard Ngoroge na ni Commissioner kutoka huko Nairobi, na nina mwenzagu ambaye pia nitampatia aweze kuwasalimia.

**Com. Lethome:** Hamjambo, jina langu Ibrahim Lethome Athman. Hiyo ndio ile kibukusu najua, sijui nyingine hiyo peke yake.

**Com. Njoroge:** Pia tuna secretariat kutoka huko ofisini mwetu Nairobi, na ningetaka kumuita mkubwa wa secretariat, ili atujulishe watu wake. Yuko wapi Triza? Na akiitwa ningetaka pia coordinator atujulishe wale watu ambao anafanya kazi na wao.

**Coordinator, Walinywa:** Hamjambo nyote, kwanza kabla sijawaita committee members wa Kanduyi, ningependa kusema hivi kwanza, ningependa kusema watu wa Kanduyi, asante sana kwa kufika hapa mapema, huu ni mfululizo wa mambo ambayo tunafanya ilituanze kutengeneza Katiba yetu. Najua kuanzia wakati tulianza Civic Education, tukafika mahali tumefika, nyinyi mmekuwa mkiwa watu ambao mnakuja kwa wingi. Naningependa tu kuwambia, tumefika tayari Sirisia, tumejukua maoni huko Chwele, tumechukua maoni jana Mabanga, tukachukua maoni Kimilili, leo vile tunaendelea tuko na maoni inachukuliwa Naitiri, mimi kwa sababu ni coordinator wa district mzima labda nitakaa na nyinyi kidogo, halafu niendeleo na Naitiri, kuangalia mambo yuko na tena kupanga mambo ya Nzoia kesho, lakini nasema asante sana kwa kufika kwa wingi, Commissioners wamekuja, yale maoni ambayo tumezungumza kwa muda mrefu myatoe ili tuendeleo kwa mambo mengine.

Kwa hayo machache ningependa kuuliza committee members wa Kanduyi mahali walipo wasimame. Bwana Commissioners, huyo mama anaitwa Rose Chemko, anatoka Kibabii, Chairman wa Ndabwa, yeye ni mwenyekiti wa kikao cha committee ya constituency ya Kanduyi, Bwana Wawhili anatoka upande wa East Bukusu na yeye haswa atahusika sana kesho wakati mtaenda Nzoia Sugar, kuchukua maoni huko. Chairman labda baadaye Commissioners wakipata nafasi watakupa uzungumze lakini kwa sasa uketi chini. Ningependa pia kuuliza watu wawili, wapi Richard? Ningependa kuwaonyesha Bwana Wyclif Baraza wa Silwa, ambaye ni mwanakamati wa Sirisha, lakini ambaye amekuwa akifanya na mimi kazi kwa ofisi yangu as a volunteer. Tumetembea na yeye na ametusaidia sana. Asante sana, Triza now it is your chance.

**Com. Bishop Njoroge:** Nataka kuwajulisha huyu mama mnayemuona ndiye mkubwa wa officers wote ambao wamekuja kutusaidia, mimi na Commissioner katika kazi hii, atujulishe watu wake.

**Triza:** Hamjambo, mimi kwa majina naitwa Triza Opondi nafanya na Constitutional Review Commission. Asanteni.

**James:** Hamjambo, naitwa James Macharia, mimi msaidizi wa Programme Officer.

**Lydia:** Hamjambo, mimi naitwa Lydia Moraa ni Verbatim Recorder.

**Com. Bishop Njoroge:** Mimi nataka kuwaeleza vile tutaendelea. Tutaanza kuchukua maoni kama vile mlivyojiandikisha katika makaratasi haya. Kuna njia mbili ya kutoa maoni, unaweza kuwa na memorandum iliyoandikwa na ukiwa na memorandum, utakuja uketi hapa mbele yetu na tutakupatia dakika tano tu, na hizo dakika tano usisome memorandum yote. Kwa sababu ukisoma memorandum yote, tutachukua muda mrefu. Lakini nataka you highlight, useme yale maneno ambayo ungeona ni ya muhimu katika memorandum hiyo. Kwa hivyo, hatungependa usome memorandum yote, na ninataka kuwajulisha kwamba katika ofisi yetu Nairobi, tunawatu zaidi ya hamsini, kazi yao ni kungoja hizo memorandum na kuchukua yale yote uliyoyasema na kuweka mahali inapohitajika. Sio lazima usome karatasi yote, kwa sababu kuna watu wanaoingojea Nairobi ili kuchukua haya maneno na kuyaweka katika computer na kuyaweka mahali panapofaa. Unaweza kuja kuzungumza bila

memorandum na ukiwa huna memorandum pia tutakupatia dakika tano, ili uweze kutueleza yale yote ambayo yataingia katika Katiba. Ningewaomba msirudie shida, sisi kama Commissioners sisi ni Wakenya. Tunajua zile shida ziko Kenya. Kwa hivyo tungetaka tu mapendekezo. Ikiwa watu hawawezi kulipa hospitali, unapendekeza nini. Wengine wanatwambia tunataka matibabu ya bure. Unaona ukisema hivyo tutaendelea haraka haraka. Ikiwa watoto hawawezi kupata karo ya shule, tunajua hata uko kwetu ni shida sana. Mapendekezo yako ni nini. Unaweza sema tunataka masomo ya bure. Hii shida haitaingia katika constitution, ni ile mapendekezo ndio itaingia katika Katiba. Katika vile tunavyoendelea ni kwamba, tunaita yule aliyejiandikisha kwanza, na tunafuata orodha hiyo.

Lakini kunawezekana kukuja wanafunzi na waalimu na tunahitaji kuwapatia nafasi, ili warudi kwa shule. Hawa tunawakubalia, ili wapita wengine, ili waweze kurudi shule. Kunaweza kukuja mama mjamzito, na hatutaki kumweka hapa. Tunaweza kumkubalia apite wengine, au mzee kabisa, au mlemavu ambaye tunaona ameumia. Huyu tunaweza kupitisha. Mbunge wenu anaweza kuja, kawaida tunafanya akae asikize zaidi ya watu ishirini, ili tunampatia nafasi, kwa sababu hata hivyo ni kiongozi. Sasa situmekubaliana hivi. Kwa hivyo tunataka tufuate sheria hiyo, ili tuweze kumaliza kikao hiki katika hali ilio nzuri. Nataka kuwaomba mtu akitoa maoni yake na usikie hupendezwi na maoni hayo, husizungumze, kila maoni iheshimiwe, sawa sawa. Utakuja kutoa yako, mkifanya kelele mnaona kuna ile tape recorder. Ile tape recorder kazi yake nikunaza mnayo yasema. Nairobi tunawatu zaidi ya thelathini. Kazi yao ni kwenda kusikiza vile mlisema na kuchapa na kuweka kama kitu ilioandikwa. Mkifanya kelele, kelele hizo zitaingia kwenye kile kitu na maoni yenu hayatatokea., na hatutaki hivyo.

Kwa hivyo nitamalizia hapo na tunatumaini Mungu atatusaidia na tutamaliza. Bwana DC amekuja, kawaida kila mahali tukienda kwa sababu hii ni kazi yetu wote, tunampatia Bwana DC ruhusa ya kutukaribisha na kuzungumza machache.

**DC: Muthui Katee:** Asante sana Commissioners, Bishop Kariuki na Mwenzako Ibrahim na wenzetu wote ambao wameweza kufika asubuhi ya leo watu wa Bungoma, hamjamboni. Yangu ni furaha kubwa kuweza kuwakaribisha hao Commissioners wawili, ambao kwa jumba hili lote watakuwa katika wilaya yetu kwa kazi hii ya kupokea mapendekezo kutoka kwa wananchi jinsi wanavyotaka Katiba yao iwe. Sitachukua muda mrefu sana, lakini jambo moja ningetaka kuimiza hasa kwa wale ambao memuudhuria, na wale wengine wote wataweza kuja baadaye, ni kwamba hii ninafasi ya kipekee sana katika historia ya nchi yetu. Ya kwamba wananchi wamepatiwa nafasi ya kuweza wenyewe kupendekeze jinsi wangependa Serikali yao iundwe na itengenezwe watu watawale katika maisha yao. Na hii ni kuwakikisha ya kwamba tutatawaliwa kulinga na jinsi wenyewe mlivyopenda. Kwa hivyo nafasi kama hii ningependa ya kwamba tuichukue kama sehemu muhimu sana ya maisha yako. Jinsi wewe mwenyewe ungependa utakavyotawaliwa, ukitazama hata mbele vizazi ambavyovitakavyo kuja. Tunashukuru sana jinsi hii Commission imeweza kujigawa, kwa sababu tunapoketi tunahesabu sehemu zingine za nchi yetu saa hii watu wanaendelea kutoa mapendekezo yao. Naingawaje tumekuwa na mazungumzo mengi kuhusu hali ya gharama na matumizi ya fedha, lakini ukitarajia mtu aliye Manderu na mtu aliye Loikitoktok, hawezi kupata nafasi ya kutoa mapendekezo yake yaandikwe katika Kenya itakapokuwa, nadhani tujue ya kwamba tunapendekeza Katiba ambayo itasimamia utawala wa nchi hii, si utawala administration, yaani vile Serikali itakapoundwa kwa miaka mingi ambayo inayokuja. Vile tungetaka kusema ni kwamba Katiba

ni yetu, hii ni siku yenu sio siku ya DC.

Tuwe na heshima wakati wa kutoa mapendekezo yetu. Tujali wakati, kwa sababu kuna mwingine atakayekuwa na nafasi ya kuzungumza na tukifuata hiyo heshima yote, utapata ya kwamba tutaweza kupatia watu wengi, kwa sababu democracy ni kuchukua maoni mbali mbali lakini baadaye watakao enda kutengeneza Katiba ndio wako na utahalam wa kuunda Katiba jinsi itakavyokuwa. Kwa hivyo sisi hapa tunachukua ya kwamba wale wote ambao wamekuja hapa, ni watu wamekuja na maneno muhimu na toa maoni yako bila madharau, bila matusi yale ya kusaidia. Mwenzangu akitoa maneno yake watu hao ndio watalaamu ndio watajua yalimo kwa Katiba ni gani. Sikitiko kidogo ni kwamba, akina mama sijawaona hapa na tumezungumza na wao. Ni wachache lakini tunatarajia ya kwamba watakuja baadaye. Labda Commissioner hii ni jambo moja kudhiirisha hali ya kijamii hapa, kwa sababu akina mama waamuka asubuhi, kutayarisha watoto kwenda shule, lakini wazee wanaamuka na kutoka. Sasa hii ni njia moja ya kuonyesha vile tunakaa kwa manyumbani mwetu. Kwa hivyo tusiwalaumu sana mini najua watakuja. Otherwise kumaliza, ningependa kuwashukuru Commissioners hao wawili, tayari wametembea sehemu za siriswa na leo wako katika sehemu ya Kanduyi na nitachukua nafasi hii kwa sababu sikuwa na nyinyi juzi na jana, tulikuwa na safari ya Rais katika Mt. Elgon na Lugari, lakini kirasmi leo ingali nimechelewa ni kwamba, ningependa sasa kirasmi kuwakaribisha katika wilaya ya Bungoma. Bungoma kuna watu ambao najua wanaweza kutoa mapendekezo ambayo itafaidi katika kazi yenu ya kutayarisha Katiba ambayo itakayotuongoza kwa miaka mingi ijayo. Kwa hivyo sitaongeza mengi wacha nafasi tuwachie wale ambao wamekuja na muwe huru katika mazungumzo yenu. Lakini tuwe na heshima na tuwe na kujali ya kwamba, Commissioners wapewe nafasi wasikize maoni mengi ndio waweze kupatia kila mtu nafasi. Asanteni sana. Nikiwapatia baraka za Mwenyezi Mungu.

**Com. Bishop Njoroge:** Nafikiri Bwana DC amewambia kwamba muwe huru na tunakushukuru Bwana DC, katika sheria inayotusimamia kila mtu anaruhusa ya kusema yale anayopenda kusema, bila kuogopa kwamba nikisema hii nitafuatwa au nitafanywa lolote. Hakuna mtu ambaye anaweza kushikwa au kufanywa lolote, kwa yale aliyosema. Kwa hivyo mkiona DC akiwa hapa msiogope kila mtu ana uhuru wa kusema, kakini tusitumie uhuru huo kwa kumtukana mtu. Unaweza kusema katika ofisi ya Rais tunataka ipunguzwe madaraka, tunataka ifanywe hivi, lakini hauwezi juu ya mtu katika office yake because we must not be personal. Sawa sawa? Kwa hivyo tunauhuru, lakini tutumie huo uhuru kwa kutengeneza Katiba. Tumuite Reuben Khaemba. Tafadhali Reuben njoo hapa mbele na ningetaka kusema pia ukimaliza Commissioner mwenzangu anaweza kukuuliza maswali au mimi. Sisi tu wawili ndio tunaruhusa ya kufanya hivyo. Kila mtu atasema jina lake na ukimaliza utakuja hapa kwa Programme officer ili uweze kujiandikisha katika orodha tulionayo. Karibu.

**Reuben Khaembe:** Asante sana Bwana Commissioner, DC na wenzangu hamjambo, mimi kwa majina naitwa Reuben Khaemba, nina memorandum hapa nimeleta kuwapatia Commissioners waende nayo Nairobi, nanimeandika na watu karibu wanne, kutoka West Analo Ward. Na memorandum iko karibu page kumi na tano. Na kwa maana wakati sitasoma kwa kuwa nitapresent hii memorandum, halafu waende nayo Nairobi, watasoma ndani yake.

**Com.Bishop Njoroge:** Thank you very much, nakuhakikishia kwamba hiyo memorandum itafanyiwa kazi. Asante sana Bwana Khaemba utajiandikisha hapo na tupate Kibisesei Sobet. Ni wewe? Karibu

**Godfrey Kibisesei Sobet.** Asante sana Bwana Commissioner, majina mimi naitwa Godfrey Kibisesei Sobet. Na nimekuja hapa mbele ya hii Commission. Nashukuru mwenyezi Mungu kwa vile ametupatia hii nafasi. Mimi naonega hapa kwa niaba ya watu ambao wanaitwa Bongomek Indigenous Minority. Hii jina Bungoma ni corruption ya hao watu wanaitwa Bong'om, wakati Wakoloni walikuja hapa miaka za elfu moja mia nane na thamanini na tisa, waliweza kukuta the indigenous minority, who are called the Bongomek, and by 1950's when the district became a full district from Elgon Nyanza, they named Bungoma after the indigenous people. And the really indigenous people are called Bong'om and I am one of them here. From those years we have never had a representative. If you look at the chairman there of the county council, starting from Mr. Godnon, Mr. NaBwana upto now, we have never had even a single representative in the council. Bungoma has five Members of Parliament, the Bong'omek people have never had a representative in Parliament. This one applies to the Tachonis. Tachonis are our cousins. There have never had a representative. Tachonis occupy Webuye.

Your Commissioner sir, I would like to have some suggestions, the first suggestion is:

- We want to be considered among indigenous minorities in Kenya.
- We would like the United Nations, human rights conventions relating to indigenous groups, to be incorporated into the new constitution. That is very important for us as a community.
- We would like to propose proportionate representation, to cover minorities like us. You do not expect us your Commissioners sir, to reach the number of the Bukusu, the Bukusu are around one million here in Bungoma, and we are about 20,000 people and we can't raise an MP, we can't have somebody at the council, we can't have a councillor, we can't have a Chief. We can't have anybody we are nobody here. And we would like you Commissioner sir, that the new constitution is able to cater for us also. We have lost all the land, most of our people are assimilated, because that is the only way we can survive and we are saying the constitution must protect us. We are suggesting for two Chamber System. The house of representatives and the senate. We would like to have minorities in Kenya, like the Suba, the Waswahilis, the Elmolos, Okiek, we would like them to have representatives in the senate, so that there able to represent their views.
- Mr. Commissioners sir, we are asking for a Prime Minister and a Ceremonial President.
- We would like the powers of the President to be reduced, because our present Government has been too autocratic.
- We would like the rights of indigenous people to be incorporated in the constitution. They're several articles in the universal declaration on the rights of indigenous people. There is article 2.3, of the UN general assembly resolution 45/164 of 1993 and there are specific articles like article 2.3, article 12, article 13, article 14, article 15 and 16 to be incorporated in the constitution. Above all, we want affirmative action on minorities. Affirmative action also includes women. We want women to be also represented. We also want the disabled, so that they also have a say in this country.

- To end, your Commissioners sir, we would like the minorities, because I am speaking on behalf of the Bong'om, Bong'om is a community that is oppressed. We have no say. I am nobody in this house, and yet Bungoma is named after us. The colonialist found us here, they called this Bungoma because of us. We have no single leader even now. How can we survive in this country? For the next coming years we may assimilated. Right now 40% of my people are assimilated. There is no way they can survive. How can the Government help us. We want a quota system. A quota system that can help us in employment, a quota system that can help us in education, we also want a quota system that can help us in representation.

**Com. Bishop Njoroge:** My final point sir, Bungoma is a corruption of Bong'om, we want all names corrupted by colonial Government be re-changed to the original names. Bungoma must be changed to Bong'om. Kimilili must be changed to Kemilili; Malakisi must be changed to Molgisi. There so many names in this town, that belongs to us, all are corrupt names, and in Kenya they have to be changed. Thank you sir.

**Com. Bishop Njoroge:** Do you speak your own language, which is not the same with Bukusu?

**Godfrey:** Your Commissioner Sir, our language belongs to the Southern Nilotic group, we are part of the Kalenjin language and our language is closely allied to Saboti dialect, but we are indigenous of Bungoma.

**Com. Bishop Njoroge:** Thank you very much, can you register yourself. Z.M. Mola tafadhali uje haraka, tunataka twende haraka haraka.

**Z. M. Mola:** Goodmorning Commissioners, I am called Zablon Maluche Mola, I represent Bungoma land plotters association. We have a memorandum to submit, but I will just highlight a few parts of the constitution, that have importance to us. We members of Bungoma land plotters association wish to submit our proposals to the constitution review of Kenya, on proposed constitutional review as follow:

- Kenya being a country composed of many tribes with different social, cultural, traditions, beliefs and norms, it is our feeling that these form the backbone of the constitution.
- Kenya being an agricultural country endowed with good climate conditions and being known introducing competitive, form and industrial products. The Government should guarantee market for these products by discouraging importation into the country, of similar products of inferior quality.
- National wealth and development should be equally distributed all over the country.
- To avoid monopoly of a ruling party, diverting development to areas it dominates politically, the President shall not belong to any political party, for the above named reason therefore, we recommend the following:

- (i) Quasi Federal Government for our country. We have attached United Nations Universal Declaration of Human Rights at clause 20-23, this is self explanatory.
- (ii) Kenya should establish viable regions in order to speed up social economic development in the country.  
It is our considered view also that the country be divided into 13 regions. Namely; Western, Masaba, South Nyanza, South Western Region, Lake Turkana Region, North Rift Region, South Rift Region, Mt. Kenya Region, Marsabit Region, Coast Region, Eastern Region, Machakos-Kitui Region, and Nairobi. It is an agreed fact that political parties play an important role in this country, in the democratic process. We feel that the political parties can raise money to finance activities from within and outside.

Structure of the Government principles: in order to introduce checks and balances the Government structure, should extend from the village level to national level. We recommend that such levels be established with institutions serving people at village constituency, district urban authority, regional and national level. Such institutions are namely; village elders councils, constituency councils, urban authority councils, district councils, regional assemblies, prime minister and cabinet councils, national supreme council. We are dealing with political and administrative structure. In order to harmonize relationship between political structures suggested and the present Executive, that is Provincial Administration roles, we recommend the integrations of the roles of these institutions which are; village elders council, shall play the role of an integrated and harmonized manner of all functions of Chiefs. Constituency councils shall take over the duties of district officer. Urban authority councils, shall perform the functions being currently done by the municipal town and urban council. District councils shall carry out functions and duties of district Commissioners, regional assemblies shall perform functions being done by Provincial Administration.

Land and property rights: Land is a burning issue in the livelihood of a Kenyan.

**Com Bishop Njoroge:** You have one minute, you have already spend five minutes, I give you one minute to finish.

**Mola:** Lastly, we have village elders council, we have constituency council, we have urban councils, we have Judiciary, Judiciary we are recommending two types of courts, national courts and regional courts. At the lower level we are recommending community courts. And community courts shall deal with among others the following: marriages, inheritances, burial land disputes and then other disputes not covered above. Then we have Prime Minister. We have functions of the parliament. We have functions of the National Supreme Council. Then we have the functions of the President. This is what we have compiled and I am going to submit it to the Commission.

**Com. Bishop Njoroge:** Thank you very much, we are very happy with your document, I am sure it is going to help us when we analyze it. Thank you very much. Can we have Mingi Temoi, Na Joseph Machande ajitayarishe. Haraka tafadhali.

**Mining Temoi:** Your Lordship, the sitting Commissioners today., my name is Mining Temoi and I am going to talk on behalf

of the indigenous of Bungoma, the Bongomek. The most neglected people in the district. Way back before the colonialist, Bungoma was seated by Bongomek, but when the colonialist came they interfered with the peaceful running of the Bongomek by imposing leaders, I would like therefore your Lordship, the new constitution to take care of the minority. The minority to be represented, perhaps, this was inherited during independence, but it is high time your Lordship, that we scrape the idea of majority rule. The minority must also be represented. Your Lordship the seating Commissioners, the Bongomek following the imposed leaders not of their chose, failing to be represented at any level of representation, force them to fly off and reduced some of them as soon as 1992, to squatters. This idea, the sitting Commissioners today, I would like the new constitution, to compensate the Bongomek who lost land not by their own making. Yet, this is their indigenous home, the sitting Commissioners I would also like to say something about our own neighbours, the Banyala, the Wanga, and the Samia. Way back before the colonialist came, those were the people we were bordering with. But when the colonialist came, they forced people like Mumia from Wanga, Sudi mamachanya from Samia who were not any of our Neighbours. The seating Commissioners, I would like also to suggest that, for the Bongomek to be given representation in the county council. On nomination given that there are few in number, they cannot stand any election of a leader of their choice. The new constitution to cater for the.

I would also suggest that, few have two houses, that is the Senate and the House of Representatives, so much that the interest of the Minority are well cared for in the Senate. Sharing with the other minority like the Okiek and any other minority in Kenya.

The minority will also be safeguarded in the new constitution. With me, is a memorandum, prepared by three of us, I presenting it Mining Temoi, Morris Keboi and Maraka Samuel, to that end I say thank you very much.

**Com. Bishop Njoroge:** You can be assured that we are going to take care of that memorandum and thank you very much for your presentation. Can we have Joseph Machani.

**Joseph Machani:** Majina yangu naitwa Joseph Machani, mkaaji wa Kanduyi constituency, Bukusu asili. Naongea juu ya national security ya nchi hii yetu and recruitment of workers.

Commissioners, DC wetu na DO na wale wote ambao tumekuja, ningependa kutoa hii.

**Com. Bishop Njoroge.** You are wasting you time go to the point, do not address, we want to here what you have in your memorandum.

**Joseph:** Sina memorandum lakini nitazungumza. Watu wa Bungoma district, tunakuwa na shida kubwa sana wakati wanakuja kufanya recruitment ya kazi, sasa kwa hivyo security lazima iangaliwe katika parliament. Parliament itoe uamuzi, wale watu ambao wanakuja kufanya recruitment, na watoke sehemu ya mahali wanapokaa. Si kutoa watu kutoka North Eastern halafu wanakuja kufanya recruitment hapa na wanakuja na majina mengine. Sasa mimi nataka hii ichaguliwe kutoka mahali hapa. Point nyingine, President asiwe commander in Chief of the armed forces, parliament ihusike, ndio ichague mtu ambaye

atasimamia hiyo. Political parties to be reduced to three, kwa sababu ninaposema namna hiyo, zikiwa tatu, ziwe financed na public funds, ndiposa, campaign yetu iwe kamili na political parties, ikiwa President atasimama katika chama na aje na makamu wake. Sio kufika kwa Bunge, halafu achague cabinet halafu ndio, atoe hapo. Mimi maoni yangu ningependa kusema atoke nje kwa party kila mwananchi ajue ya kwamba huyu ni President, makamu wake ndio huyu, waje pamoja.

Ya watatu ni upande wa akina mama, tunataka tukomeshe kitu kinaitwa Aids, unakuta ya kwamba akina mama wengi wamevaa trousers halafu wana-attract watu wengi sasa ndio tunapata mambo ya Aids. Unajua lazima tufuate vile bibilia ilivyoandikwa. Bibilia inasema mwanamke asistahili kuvaa long, na hiyo tangu zamani ababu wetu walikuwa hawatembezi na trousers, nyanya zetu walikuwa hawavai trousers na walikuwa wanaishi muda mrefu. Lakini sasa hivi unakuta wasichana, akina mama wanavaa trousers halafu unakuta ukahaba ni mwingi sana. Kwa hivyo sheria hii muangalie hapo, ili wamama watoke katika nguo zile ambao sio zao.

Kitu kingine, wakati Commissioners walipo tembea hapa niliuliza hii swali, upande wa rail, sheria ya railway, inasema namna hii, wewe ukigongwa na gari la moshi, hao watu wa-rail wanakushtaki, halafu wewe unalipa faini. Lakini ukigogwa na gari, huyo mtu mwenye gari anakulipa, hii sheria ya rail ya beberu, hatuweze kuondoa halafu tupate ya kwamba, gari inapogonga mtu lazima pia railway ilipe, kuliko wewe uende kulipia railway. Na ni hayo tu ambayo nilikuwa nayo.

**Com. Lethome:** Asante Bwana Joseph kwa maoni yako kuhusu mavazi ya akina mama. Chapter 3A of the laws of Kenya inatwambia, tuzungumzia habari ya equality au to balance pande zote. Tusiwe tunaumiza upande mmoja, unamapendekezo yeyote kuhusu dress code ya wanaume, kwa sababu tunaona wanaume wengine wanavaa vipuli, wanakwenda wanafanya curl kit kwa nywele na wanavaa mavazi ambayo yanavutia akina mama, nimeenda mahali wamama wanasema wanaona uchi ya wazee wanawatamani pia, unasema nini kuhusu hiyo?

**Machani:** Hapo nitasema na maeneo kwa sababu mimi nimuubiri, na nafuata sheria ya Bibilia sana. Hata mwanamme anapovaa hivyo vitu anamakosa pia, awe disciplined an Katiba, kuliko kusema akina mama watoke kwa hiyo, halafu tuwawache wanaume wajihike kwa akina mama. Lazima yeye akipatikana kwa hiyo, adhibiwe na sheria.

**Com. Bishop Njoroge:** Asante jandikishe pale. Ningetaka kuona wale ambao wamekuja kama observers, ambao wamejiandikisha hapa ni observers, tafadhali wasimame. Wale wote wameandikisha observes, sitaki kutaja majina yao, observers wote wasimame, wale ambao hawatoi maoni. Ningetaka muende kwenye viti vile viko pale juu tafadhali. Hebu nendeni pale. Observers wote tafadhalini haraka. Asante sana kuna viti. Ningetaka kuona wale wote wametoa maoni, hebu wasimame, tafadhali ningetaka muende pale juu, tafadhalini, kwa sababu watu wengi wanakuja, wakitaka kutoa maoni, na wanarudi kwa sababu ya kukosa nafasi. Msione vibaya ni kwa vile kuna watu wengi na ni lazima tuwapatie nafasi hiyo. Jina lako ni nani, George Wafula, umeandikwa observer. Okay fine, tutakuita. George Wafula? Wale watu ambao wana-memorandum na hawataki kuzungumza, wanaweza kuja hapa kwa programme officer na kutoa memorandum yao na

kutoka pole pole. Okay karibu.

**George Wafula:** Kwa majina naitwa George Wafula, yangu ni memorandum, ilikuwa pamoja na lile nyingine ambayo ilisomwa hapa na zablom Mola, ziko pamoja. Yangu ilikuwa ni kusesitiza tu kwa upande wa culture. Sitaki kuendelea kuzungumza upande wa utamaduni kueleza ni nini, ijapokuwa kule kitu naweza kusema tu, ni kwamba kama mnavyojua, mtu ama nchi yeyote ama nation ile ambayo haina utamaduni wao, ni kama watumwa. Mimi hapa katika Kenya, kama mmesoma inasemekana ya kwamba tuko na 42 tribes. Na hizi 42 tribes ziko na utamaduni wao, na zote ingawa ziko hivyo, kunako utamaduni mara tatu ambayo inatabuliwa kama traditional norms, traditional laws na traditional beliefs. Katika norms, katika traditional norms ni kwamba hapa tunaweza kuzungumza kama upande wa marriages. Ni kitu gani inawezakufanyika ili kuolewa iwe imekamilishwa. Unajua katika kila tribes wako na mambo fulani ambayo wana-perform, ili maneno ya kuolewa yawe yamekamilika. Kama upande wa inheritance, vile vile hapo, lazima vile vile, kunazo sheria zake ambazo zinatawala.

**Com. Bishop Njorge:** Tupatie mapendekezo tafadhali.

**George:** Mapendekezo yangu ni kwamba, hizi ziendeleo kuwa katika Katiba, yaani to promote culture lazima kuweco na article fulani katika culture, ile ambayo inaweza kusukuma hizo mbele na watu waishi na traditional zao, na hii inawezekana kama tuko na Federal Government, tuko na courts kama zile za zamani zilikuwa zinaitwa African courts. Maana tukija upande wa divorce, divorces na separation, mwaafrika hajui hizo sana. Ile kitu anajua ni kwamba ikiwa kama tuko na divorce lazima kama kufuatana na mila za Kibukusu ama Kiluhya, ni Bwana aende achukue ng'ombe kutoka kwa msichana zile dowry ambazo alipeleka huko, lakini kufuatana na mila za Kizungu separation katika matrimonial home, wewe unakaa mbali na yeye anakaa mbali na hii inaleta watoto kuzaana katika njia ile ambayo tunasema wanakwenda on streets, maana hawajui wanakaa kwa nani. Wanakaa kwa baba ama kwa mama.

Kwa hivyo langu, ikiwa ni divorce iwe divorce, ikiwa hakuna divorce wazee waende wakae na wakamilishe, hii mambo ya kupeleka kortini mwanaume na mwanamke peke wazungumze huko, haifai, inatakiwa akina mama, wazazi wao vile vile wakuwe karibu ili wasaidiane kusuluisha jambo la kuolewa ama ya marriage, kuliko kusema ya kwamba hao wawili wanaenda kortini na hii imelata maneno mengi ya divorces and separations na kutupa watoto katika streets, so to avoid this, lazima tuone ya kwamba hawa mambo ambayo yanasika na marriages yawe yanasuluhishwa na afrikan courts themselves na watu wapate kukaa pamoja. Yangu yako kwa memorandum na yataenda kusomwa, nimeandika katika detail kidogo lakini nawaomba ya kwamba itaangaliwa na ikiwa itawezekana itaweza kuingizwa katika Katiba.

**Com. Bishop Njorge:** Thank you very much, ngoja kidogo, kuna swali.

**Com. Lethome:** George umetilia mkazo sana mambo ya utamaduni na mila, lakini tunajua mila ni dynamic, yaani inaendeleo kubadilika kwa vile wakati unavyobadilika, je unaona katika Katiba yetu tuweze kuzunguzia juu ya baadhi ya mila ambazo

zimepitwa na wakati ama au harmful customs. Kunazo ambazo ni harmful na zinafaa ziondolewe, ama mila zile zilizoanza ziendelee hivyo hivyo.

**George:** Mimi nafikiria ikiwa itawezekana wale watu wenyewe, community wenyewe watakaa chini na watajadiliana kwa kimila na kuona mambo fulani yanatolewa. Kwa mfano, tuseme mambo ya kutairiwa, kama Waluhya, lazima wasimame nyumbani, ukienda hosipitali, hiyo ingekuwa mtu ambaye nikama umelaaniwa. Lakini siku hizi watu wenyewe wanaweza kwenda hosipitali.

Kama mambo ya kutoa meno, kama Wajaluo, imekuja kwa mafundisho, naimekamilika sasa hata Wajaluo hawatoi meno, hata wanatairiwa na zamani walilikuwa hawatairiwi, kwa hivyo ni jambo ambalo linaweza kusuluhishwa na watu wenyewe, kuliko Serikali ku-force, maana wakati Serikali inaingia na ku-force, hayo mambo, ndio unaona msuko suko hapa na pale. Lakini wacha community wenyewe wakae chini na watajadiliane na mimi nafikiri mambo itasuluhishwa kwa njia ile ya amani na hapa ndio sababu tuna-recommend ya kwamba, all traditional laws zile hazikuandikwa ziwe tuna-set a separate courts, to deal with such matters instead of allowing courts to deal with the British or English courts.

**Com. Bishop Njoroge:** You have made your point, Mr. Wafula, present your memorandum, I want again to mention, if you have a memorandum, and you do not want to address us, you can come here to the programmer officer and present your memorandum. Can we have Eric Wambasi.

**Eric Wambasi:** Distinguished Commissioners, my names are Eric Wambasi, I am the programme officer, for the catholic dioceses of Bungoma, Mr. Chairman the catholic dioceses of Bungoma Comprises currently of four districts, namely Mr. Elgon, Bungoma, Teso and Busia. We have in there 25 parishes, with about 480 Christians, who actively participated in putting up this memorandum. Commissioners I would also like to point out, that the catholic church has been a stakeholder in this dioceses right from the Ufungamano time, we have been following this process, we have invested a lot in it, we have produced a number of materials to support this process and we have confidence in you that you will bring a change. We have also been giving our annual campaign at least two pages or so to talk about this process. So Mr. Commissioner we are so concerned. No Mr. Commissioners before you start timing me, I have a small fear I would like to put out. Because when we met you in Kakamega, when you came for the first provincial induction meeting, we gave our views, and I think we were very clear that we did not want this process linked up with the parliamentary calendars for that time. So Mr. Commissioners, we are a bit perturbed to see the Commission a bit politicized and it really erodes our confidence. Are you serious Commissioners that the views we are giving are actually going to reflect our views? Nevertheless we have some confidence and we believe you are going to take us very seriously.

**Com. Bishop Njoroge:** There is so much that is being written in the press, but Commissioner Mudae would probably add to what I am saying, is that we are not politicians. We are technical people, we have our timetable, and we are following our

timetable according to the act, we are now finishing our provincial hearings, with the Western Province. And we are going to go for a month in seclusion to write our report, write the constituency report and write the draft bill, after that we will publish it and it will come back to you, to see whether what you said is represented in the report for 60 days, after that we are going to have a National Conference, so we are within our timetable, but whatever is said in the press that is not part of us, and we cannot stop people talking what they feel they want to talk.

**Com. Lethome:** I will speak in Kiswahili ndio kila mtu afahamu, because this is very crucial, you know when you are asked whether you are serious or not in a national process like this one, you have to assure everybody that all is alright. Wakenya wenzangu jambo ambalo ningependa kuwaambia kuhusiana na kazi hii ambayo tunafanya ni kuwa, ni kazi ambayo tupende tusipende inaingiliana na siasa ya nchi. Utakuta kila mwanasiasa ana-interest fulani katika kazi yetu, kwa sababu anajua yale mapendekezo ambayo tutakuja nayo, yanaweza kubadilisha hali ya nchi hii, pengine imfaidi au isimfaidi, kwa hivyo ndio unaona kila mwanasiasa ana interest fulani katika kazi hii ambayo tunafanya. And we cannot stop people from making political statements. This is democracy, watu wanafanya statements zao, hata chairman wetu, wakati mwingine anafanya political statements, but we do not go by the political statements, we work as per our programme. Tunasheria ambayo imetulazimisha kuja hapa leo. Na ndio mimi nawambia watu kila mahali tukienda, it would have being more comfortable to sit in Nairobi and write this document from there, badala ya kuzunguka nchi mzima, for three month me and fellow Commissioners we have not sat down in our homes. Tunazunguka Kenya mzima. Kwa sababu ya nini? Sikwambii ni kupenda kwetu, sheria imetulazimisha, so we are following the law.

Swali lingine ni kuwa, tunahakika gani yale maneno ambayo mtatoa hapa tutayapuuza, kwa sababu mimi najua, historia ya nchi hii ni kuwa Commissions ni nyingi zimefanya kazi, ama sivyo? Matokeo yake yako wapi? Kwa hivyo Wakenya wanashaka na kila Commission, there doubtful and skeptical about every Commission, lakini sisi tunawambia tunafanya kazi chini ya sheria, sheria inatulazimisha. Kila awamu ikiisha tunafanya nini? Kwa mfano kama nilivyowaambia Bishop, Commissioner mwenzagu, baada ya nyinyi maoni yenu kutolewa, sheria imesema ili kuwakikisha kuwa maoni yenu hayapotei lazima tuandike report na turudishe katika constituency, kwa hivyo watu wa Kanduyi, mtakaa mtaona report ya yale mliozungumza hapa leo, tumeyapuuza ama yameandikwa. Baada ya hapa mtachagua waakilishi watatu kila district, viongozi wa kidini, viongozi wa kisiasa, youth organizations, akina mama mtawaleta Nairobi, conference ya watu mia sita na zaidi, kukaa chini kujadili ile report ambayo itapelekwa parliament, sio sisi, we are your servants, we have to obey what you tell us. That is why we have to take everything that you say very seriously na ndio maana tuna record pale kila neno ambalo unasema. Kwa hivyo we assure you, sisi tunafanya kazi yetu. We cannot assure you that politicians will make statements. There are free to make statement. They are free even to debate about the extension of parliament or no extension of parliament. We have nothing to do with that. Rest assured of that. Thank you.

**Erick:** Thank you very much, I am building some confidence, now Mr. Chairman today you are in Bungoma, and I think there is one incident I would like to draw to you, that about 107 years ago. There was a war here formerly known as the Lumboka

Kitambe War, you were here in August and it is very significant, soon people will be remembering those heroes, Mr. Chairman, those people fought the white man in that famous war, because of this issue of land. 1895, when Kenya was declared a protectorate the first people to rise up and oppose that kind of colonialism were right here a few kilometers away on our East, is the famous Kitambe fought. These people were fighting for land, so when I come in my content, we are concerning that right now so many years after uhuru, and you see our slogan was Uhuru na Mashamba. That was the first slogan our wazees told us.

Then later on it was going to say Uhuru an Kazi na up to now we still have squatters, we strongly recommend to you that the issue of land is contentious and we do not want this new constitution to let anybody be landless. We would like all Kenyans who have no land to be given land. Mr. Chairman, we are aware of people who have thousands of acres, ranches and we doubt where an individual, actually he got that land.

Our recommendation is that no individual should hold more than five hundred acres of land. We have made some recommendations here which you will read, but we believe that there should be a ceiling on the acreage of land somebody should have. Those so many acres should be repossessed to the Government. I come to part one, Mr. Chairman, whereby our constitution is a bit funny, where it just starts by saying Kenya is a sovereign state, it has forgotten the people of Kenya. It is our strong contention Mr. Chairman that in this constitution you have a very clear preamble, describing the vision of the people of Kenya, mission and the rest of that. We have captured a few things that the people of Kenya fought for independence together, we are actually struggling for the national unity, we have the political stability which we thank God, because we are not better than some of our neighbours, who went in to anarchy, we should thank God also our constitution says nothing about God, we believe that we shall have a preamble, which captures some of these things together. In our memorandum we have made a sample for you, which you will have a look at.

We also, when writing this memorandum answered some of your questions in the pamphlets you were giving us. And we have also given something on the directive principles of state policy, we believe that although section one declares Kenya as a sovereign state, the constitution does not say where suzerainty lies. It does not bring the people of Kenya being above it. We believe this time around the constitution will belong to the people of Kenya and they should be above all the organs. More so the constitution should be supreme, we have also gone ahead to talk about citizenship, Mr. Chairman whereby it has double standards. We make recommendations that a person born of Kenyan parents, should be regarded as an automatic citizen of Kenya. Spouses of Kenya citizens regardless of gender, should be entitled to citizenship, no more double standards where our women are discriminated.

We have also talked about the defense and the national security and we believe it is the duty of Government of the day to protect its citizen. There is a lot of in security around the country. Mr. Chairman on that note we would like to recommend that all those people who were thrown out of their land during the ethnic clashes, some environment be created to have them going back to their land. My church at the moment, it is accommodating 177 families on a church compound, we have thinking the situation will improve so that they go back to where they came from, but it is still a problem and we believe the Government

is not serious on it. This constitution should compel the Government to do so. Mr. Chairman I want to talk about uniformed officers. One behaviour lacking on the constitution is the behaviour of the police force, the national security intelligence, which we are now told it is autonomous, and even the military. It is not news to you that you have seen senior police officers attending party affairs, it is bad. So we believe this constitution will clearly create the forces and let them be answerable to our parliamentary committee and not to one individual.

I have talked about the Legislature and we are saying parliament should have it's own calender, it should not be controlled by the Executive. We have also talked on the Judiciary, where we have made a lot of recommendations as you will read in, we would like to have the constitution creating a supreme court, a constitutional court, and we would like to have some very clear administrative control, the issue of (inaudible) church assigning cases has been very well known and I think there is some loopholes over there, we would like that direction. Law report, the last time law reports were produced in this country was 20 years ago. Our procedure is that cases are decided on other matters that took place. Churches magistrates do not have these reports. So we wonder where they can get these if they are to read them and be on the epoch about it. We want the law report produced. The last point, is amending this constitution that we are going to make. We believe that, the issue of amending this constitution, there should be some sections of the constitution, which would be beyond any amendment, like the basic rights, we have talked about the right to life, we are against the death sentence and we believe that Parliament should not have any authority to amend these constitution, if there is any need for any change, they should refer to the people through a referendum. We have detailed all these things here, we hope you will read. It is a 22 pages memorandum and please hope you will take us seriously. Thank you.

**Com. Bishop Njoroge:** You do not have to worry, I said we have over 40 people working on these documents, you would be surprised when you come to Nairobi to see all that you said. Nataka kusema ukiwa na memorandum na hutaki kuisoma, utakuja kwa programme officer na kumpatia. Henry Juma Obiro.

**Henry Juma Obiro:** My names are Henry Samson Juma Obiro, here are recommendations and views on the right and needs of the disabled as presented to the Commissioners.

Disabled rights:

- Declare and honour all rights of persons with disabilities.
- Education: provide free and compulsory basic education to persons with disabilities.
- Provide loans, grants, scholarship, bursaries to persons with disabilities, in tertiary institutions. Establish special institutions in all provinces. University and college councils, PTAs, BOGs, DEBs, Trust Boards to have persons with disabilities represented. Award structures, that is graduations, price giving days, to honour the achievements of persons with disabilities. Increase integration of persons with disabilities in learning institutions. Research in culture, language, law, economics, etc, to propagate the welfare of persons with disabilities.

- Economic sector: access to credit facilities by persons with disabilities and their organizations on favourable terms. Abolishment of taxes or gains from schemes questioning the welfare of persons with disabilities. Subsidies the cost on goods and services that are offered to persons with disabilities. Compensate institutions incurring losses, from schemes that benefit persons with disabilities. The budget to provide better and higher allowances to ministries that are directly concerned with persons with disabilities. Abolish trade licenses and tax on investments by persons with disabilities. Create special allowances for disabled persons that are employed. Benefits from trust land and compensations be accessible to persons with disabilities.
- Legal and Judiciary: heavy sentences fines and compensations to person with disabilities and the abuses that are incurred by them. Special courts and tribunals to be set up for persons with disabilities. Banning of retrogressive cultural practices and linguistic stereotypes against persons with disabilities.
- Architectural construction and building laws, enacted to enhance access with ease by persons with disabilities in houses, offices and social places.
- Legal provision for prerogative of mercy to disabled inmates. Inclusions of persons with disabilities in Judicial Service Commission.
- Political: provision for nominated persons with disabilities as councillors and Members of Parliament. Creation of the ministry of disabled, including persons with disabilities in Commissions, public service and Electoral Commission, that will include even the Presidential Commissions. Support to NGOs trade unions, religious organizations, that is the third party, to champion the right of the persons with disability. Improve the ability of the media, entertainment, sports and support them as genuine crusaders of persons of disability rights and awareness. Realistic manifestos for parties in relation to rights of the persons of disabilities. A public holiday or a calendar day, be established for persons with disabilities.

To you the Constitution Review of Kenya Commission, you owe Kenyans,, you owe persons with the disabilities to mourn genuinely and sincerely the departure of the late Dr. Ooki Ombaka, by replacing a person with disability, that is all.

**Com. Bishop Njoroge:** Thank you very much Henry, can you register here, can we have Christine Narianya, Christine is not there, okay, let us have Naibei Suguli, Naibei yuko wapi?

**Naibei Sunguli:** Kekurenani Naibei Sunguli

**Translator:** Mimi ni Naibei Sunguli.

**Naibei:** Ayeku ani mbongominte ak kyameny' kutokanee keny'

**Translator:** Mimi ni Mbong'omek an nimeishi hapa Bong'ong tangu zamani.

**Naibei:** Kikekuree boishok chi kibe keny'Bong'ong

**Translator:** Wazee wa zamani walikuwa wanaitwa Bong'ong.

**Naibei:** Kikyikikwa mono chumbek

**Translator:** Wazungu hawakuwa wameingia.

**Naibei:** Chii nyi kiye kuzeret Bong'ong ku murunga nyi kikitba kiyek boitoyintet mbu bosyosyokaab chumbek.

**Translator:** Mtu aliyefanya Bong'ong wakatawanyika ni Murunga, ambaye aliwekwa kama mfalme wao wakati wa Wazungu.

**Naibei:** Kiketine kokonye biiko isyet nyu uuli misiri kiyecho aret karkatia sikiriet ako isyonutek anak

**Translator:** Alitumia mbinu za kuwapa kazi ngumu sana ya kutengeneza barabara, kama punda na kazi nyingine.

**Naibei:** Kiimemuch boisyochu isyenoo kuyu kiakoi tuka

**Translator:** Hawa wazee hawakuweza kazi hiyo, kwa maana walikwa wafugaji wa ng'ombe.

**Naibei:** Kiiseret biiko misini ankiba woninoo.

**Translator:** Watu walitawanyika kwa kwenda mbali.

**Naibei:** Boitointet nyi kitinyekei biiko chaacheek kikekure sumbuli

**Translator:** Mfalme ambaye alikuwa wa watu wetu, alikuwa anaitwa Sumbuli.

**Naibei:** Kiibe aretaab kaaptai ankimenye kaptai

**Translator:** Alikuwa wa ukoo wa Kaptai na alikuwa anaishi kaptai.

**Naibei:** Mbu boshoshochoto kiibotyo biiko anake

**Translator:** Kwa siku hizo, watu wengine walitoweka.

**Naibei:** Kibaanake Kapenguria nda anak kuba Narok

**Translator:** Wengine walienda Kapekuria, wengine walienda Narok.

**Naibei:** Nto chiking'a limg'otunee yutuyu aabontekei

**Translator:** Na wale waliobaki, walibaki hapa nikiwemo.

**Naibei:** Boshoshokaab borointo nyi kiicho koje ankikekure sudi.

**Translator:** Wakati uhuru uliingia, mwenye alikuja akasimamia wakati huo alikuwa Sudi.

**Naibei:** Kiibebetoi mono Sudi kiibo amerekikonye isyiet nyi wui.

**Translator:** Sudi hakukemea watu, hakuwapa kazi ngumu.

**Naibei:** Ata mbu boshoshok chi kiutee nakwabu ibubustet

**Translator:** Hata wakati mtoto wake aliposhika usukani, parliament.

**Naibei :** Commissioners chi kiyeku chumbek kiwute mwaketaab hazini

**Translator:** Commissioners ambao ni Wazungu waliingia, mwaka wa hamsini.

**Naibei:** Kiibur koitinyi

**Translator:** Tukakaa nyumba hii.

**Naibei:** Kumwowech boitointet Sudi kule Bong'omek mekiibur keyeku kito aagenge.

**Translator:** Mfalme Sudi akawambia, kwamba Bongomek, tunataka tuwe kitu kimoja.

**Naibei:** Kumwoeuech kule ameahe kekurok mbu kanyet nyibo numek kechomiyo

**Translator:** Akawambia, nataka tuitwe kwa jina la Bukusu kwa kushikamana.

**Naibei:** Kuteis boishok kunam kaniano yo chonee Uganda.

**Translator:** Wazee wakakataa, kuchukua hiyo jina, ikiwa imetoka Uganda.

**Naibei:** Mebere kiikeyeku ache ushek.

**Translator:** Na sisi hatukuwa Wagisu.

**Naibei:** Keyeku Bong'omek ndo yo meche chito kaniano koyei wonee kiichonee.

**Translator:** Tukiwa Bongomek, ukitaka jina hilo, urudi mahali ulitoka.

**Naibei:** Ambu kenytabo tisaini ako ayeng' kubwa /kucho piretkyei, kuuisho biiko kent'etu biiko chi kisich kobt mbo anake mesini nwaa.

**Translator:** Kufika mwaka wa tisaini na mbili, clashes zikaingia, watu wakatoroka tukiwa wachache, na tumeona na watu wengi, wengine wamepoteza lugha kwa maana ya wingi wa ndugu wetu.

**Naibei:** Imuche kwiib ng'alacho koobot biiko utamachininek kwaa.

**Translator:** Hiyo inawezekana kuleta utamaduni ubadilike.

**Naibei:** Yo kewoneech kiyonge kekese kentaab kaskazini yaani woonee muokunee asista.

**Translator:** Wakati tunatairiwa tunaangalia kule juu kaskasini.

**Naibei:** Ndo mbo netabia numek kikese mwony kunyo kenemekei mono, kitamadunit nyoto.

**Translator:** Na ndugu zetu ambao ni Wabukusu wanaangali, chini na sisi hatushikamani, hiyo kitamaduni.

**Naibei:** Yo wokese Commissioners biiko chaachek cho king'etyo kenyitaab tisini ak ayeng' mii anake Trans Nzoia mii anake yutuyu kumenye kuu bonanuk

**Translator:** Commissioners mkisikia watu wetu ambao walitoka hapa wakati wa mwaka wa tisaini na mbili baada ya clashes, wengine wako Trans Nzoia, wengine wako hapa wakiwa katika wasiwasi, wakiishi kama squatter.

**Naibei:** Chang'numek miisini kuyu ite millionit akenge, nto Bongemek chi kiikng'ot ki ng'eri misin kunyo some waetyechi mameny ku bononuuk kuyu wui monyonoo misini.

**Translator:** Tunalia ya kwamba wenzetu wabukusu wamekuwa wengi kwa maana wako karibu million moja na wale WaBongemek wenye wamebakia ni wachache vile mlivyoambiwa, iwapo Serikali kupitia kwa Commission hii, inaweza kuwarudishia kitu ambacho kinaweza kuwasaidia wao wenye wameishi kama squatters, wafikirie mara ya pili. Kwa maana tunajua Kenya tunayotaka tuishi kama ndugu, kama dada, na ukiishi kama squatter itakuwa ni vigumu.

**Naibei:** Makemeche boryiet kemeche kemeny'mbu a ret nyiu kaaram.

**Translator:** Hatungependa tupigane vita, tunataka tuishi vizuri.

**Naibei:** Choto tukuni angatiinye ng'arakwek misin Commissioners.

**Translator:** Ni hayo tu shukurani Commissioners.

**Com. Bishop Njoroge:** Asante sana mzee, natumechukua hayo maneno yako. Ujiandikishe hapo, Robert Chebor, haraka tafadhali.

**Robert Chebor:** Mimi naitwa Robert Kipkuno Chebor, mimi ni Bongomek, kwa niaba ya vijana wa Bong'omek, sisi tumekaa katika ya makabila mengi. Kwa hivyo tukikaa katikati ya makabila mengi, tunaomba ushirikiano. Lakini wanatufinya sana, kwa sababu tunafundisha watoto, wanayo elimu ya kutosha, lakini wakati wanatangaza kazi, watoto wanapoenda interview, wakifika huko, wanauliza majina hayo, kama Cheng'or, Kipkuno, wanauliza majina yanatoka wapi? Na hiyo ni ukabila, kwa sababu tumeishi sote pamoja, lakini kazi ikionekana, wenye wanakalia panel ya kufanya interview, wanaangalia majina, badala ya

kuangalia qualification ya yule kijana ambaye amesoma. Kwa hivyo mimi naomba Commission ichukue hiyo sote tuwe sawa. Sisi wote ni Wakenya, kwa maana Serikali ambayo iko saa hii ilisema, tushikane na tukae pamoja. Mkikuyu akikaa hapa, Mjalu, Msaboti, tuwe kitu kimoja. Lakini wakati wa interview ya kazi, wanatubagua wanatuchagua sisi na kututupa nje, kwa sababu, hatuna msaidishi mbele yetu. Ukija kama kwa council kama mzee aliyetoka hapa, hakuna councillor yeyote ambaye anaweza kukalia kiti kama hapa, tangu zamani. Hakuna jina kama la Msaboti, sababu sisi ni wachache sasa wanatufinyilia.

**Com. Bishop Njoroge:** Can I say this, this is a very solemn moment na vile tunasema ikiwa mtu anataka kuzungumza sheria ni, ukitaka kuzungumza uende nje, uzungumze na mwenzako halafu urudi ndani. Is a very solemn exercise that we are doing. Endelea.

**Robert:** Kwa hivyo, mimi naomba Commissioners, mimi nakaa upande wa Malakisi, na nakaa katika ya ndugu zetu Wateso na Wabukusu, lakini majina wamebadilisha kwa sababu hao ni wengi, tena ni wakubwa huko mbele Nairobi. Majina kama, Kamnabare, imeitwa saa hii Tamleka. Majina kama Kapchengara, inaitwa Changara. Kwa sababu wametufinya sisi watu wachache. Lakini ningomba Commissioner wachukue masilahi yetu, hasa wakati wa interview watoto wakifanya interview, waangaliwe pia wafanye kazi. Pia kazi ya Serikali kama polisi, vijana wakiingia kwa line, wanakimbia mbio wanapita, lakini wakati wa kuiingia kwa medical wanawaweka kando na kusema una ndugu yako, sasa ukafikiria ndugu ni nani. Kumbe ndugu ni pesa. Wanataka pesa, ndiposa uingie kazi ya askari. Ikiwa hata GSU, police, administration police, hayo yote inafanyika ni hapa Bungoma tu. Na hali Serikali mahimiza ya kwamba tunataka kushikamana hatutaki ukabila. Asante sana.

**Com. Bishop Njoroge:** Tunakuaakikishia tumesikia njoo ujiandikishe hapa tafadhali. Tumepata chairman wa town council, ambaye ameturuhusu town council na councillors wake kutumia mahali hapa, kwa hivyo ningependa tu kumpatia dakika moja atusalamie.

**Wechira Simiyu:** Wale Commissioners ambao wamekuja kututembelea siku ya leo, our DO Kanduyi, wananchi watukufu ambao mmekuja kutoa maneno yenu siku ya leo, wananchi ambao mko juu kwa gallery, hamjombo? Nafikiria mimi najua nafasi hii kuwakaribisha hapa Bungoma County Council tukae huru, tufanye kazi pamoja, yale kila mtu anasema yasikike bila matatizo yeyote. Najua saa hii, kila mtu ambaye amekuja hapa, ako na haki ya kutoa maoni yake. Na wewe ukionelea labda ile maoni anatoa haifai, wewe ongojea amalize na wewe pia utoe yako. Najua sitaongea mengi, lakini wakati ukapofika pia mimi nitatoa yangu. Kwa majina ni Wechira Simiyu, ni council vice chairman, Bungoma. Thank you.

**Com. Bishop Njoroge:** Kuna observers ambao wemeketi chini hapa, tafadhali wasimame observes. Robia Daniel yuko? Edward Kalewa, Vincent Temwa. Lenard Changoli, aje hapa mbele. Wewe ni nani? Edward who?

**Edward:** I opted to give my meorandum, I did not want to talk.

**Com. Bishop Njoroge:** Thank you. Lenard Chengule, Edward Chepkotit. Karibu hapa mbele haraka. Na wale wame-present tunewaomba waondoke kwa viti na kwenda huku juu, ili wapatie wengine nafasi. Ukijua umepresent tafadhali uamuke uende huko juu, ilituwapatie wengine viti tafadhali.

**Edward Chepkotit:** I am Edward Chepkotit Arap Mungu, chairman Bong’omek university students. Honourable Commissioners I would like to seek your kind permission to give a brief overview of the problems facing our people and give realistic recommendation. The call of affirmative action in our constitutional dispensation is paramount, so as to effectively and expeditiously, to eliminate the harsh consequences of history that has affected our people. The Bongomek who are the indigenous inhabitants of Bungoma district have since independence received a bad check. There certain historical events that have occurred to our people, for instance the cadre Commission of 1932 article 1084, this is where the colonialist gave evidence of our existence and I quote “ we have evidence that Bongomek are leaving in the Ketesh location in the North Kavirondo district under Chief Murunga, there are understood to be leaving in conjunction with our Uasin Gishu Maasai. Other sad historical episode include the movement of our people, from Kenya to Uganda in 1932 article 1082.

**Com. Bishop Njoroge:** We are going to read that document. We do not want any historical, because we are going to do that. Can you give us specific recommendations which you have. Please without taking us through the history.

**Edward:** Okay, I say there certain things that people have gone through. In 1962, because I can not give recommendation without highlighting the problem facing our people, I request the chair please to give me one minute to go through the problems.

**Com. Bishop Njoroge:** No, what we need the historical part of it, is not part of what is going to be in the constitution, what is going to be in the constitution are the recomendations. Why do you spend all your time reading something which is not going to help. That will put as our report. So please give us specific like your people have done.

**Edward:** I will just go straight to the recommendation:

- We recommend that the next election should be held under a new constitution to give a chance to minority groups to participate in the leadership of this country.
- The constitution of Kenya should state all the tribes in Kenya.
- The Bongomek should be included under the category of minority groups in Kenya.
- As Bongomek Community, we recommend that we should have our correct identity and recognition. We should be respected by other Kenyan communities.
- Since Bongomek are the original inhabitants, they should be considered as follows. At least two automatic nomination to Parliament. Ten automatic nomination to the County council. At least 20 representative in the Provincial Administration, because as of now we only have one sub-Chief. During the colonial time we had one sub-Chief and still

we have one sub-Chief. Just see how many injustices our people have gone through. Special chances be reserved in all recruitment to civil services, colleges, militaries, police and other areas of employment; including court assessors, municipal and country council workers. The Bong'omek who were moved by the colonialist to Uganda in 1932 be called back home, because they are our clansmen, they are our relatives and we need them back. And also they have expressed their desire to come back home.

- Another point, the Bongomek who were displaced in 1992 tribal clashes and now reside in Trans-zoia district, they should be compensated and given a priority when the Government allocates lands in Trans-Nzoia that is the ADC farms. This are the farms that the colonialist, alienated from our people and still they are owned by the Government under the Government land act.
- On national issues, I recommend that the issue of torture, torture, malicious allegations by the police, should be a punishable or should be punishable offenses under the criminal law.
- I recommend that we should have only two political parties in Kenya.
- About the court procedure, I recommend that the court prosecutor should be a legal expert but not a uniformed officer. The prisons, the police cell and remand homes, must not breach international standards for the treatment of prisons.

Commissioners at that point I come to the presentation of Bong'omek university students associations. And we hope that due consideration will be given to our people at this very important moment in history of our country, thank you.

**Com. Bishop Njoroge:** Thank you, those are important recommendations, give your memorandum there, we can assure you that we are going to read everything. Can we have Kassim Simiyu, tafadhali.

**Kassim Simiyu:** Honourable Commissioners, I am here on behalf of the Jamia Mosque Bungoma, my name is Kassim Simiyu Werunga. The preamble, we believe that our constitution should have a preamble and this preamble we would like it to begin in the name of God. Because most Kenyans are Godly people and therefore this cardinal constitution should reflect the Kenyans being Godly. Also in this preamble, we would like Kenyans to reflect on their history like many other people have said, because there some parts of our history that are very painful and therefore our constitution must look at those painful areas, especially like the colonial times, the slave trade, the denial of the natives of their land by colonial masters and later by the Government of the republic of Kenya. So that the Kenyan, must have their rights to own their land which God gave them. So generally about the preamble, we would like it to cover, starting from God as the torch and our ultimate home and liberty from all kinds of oppressions, abhorrence of all sort of domineering, that is any one group domineering any other, so that we shall not have complains like the ones we have just being listening to. Avoidance of hunger for all Kenyans should be Government duty to look to it.

**Com. Bishop Njoroge:** You know you have now spend two minutes on a preamble, you have only three minutes, so go to other points, otherwise we are going to read the whole document.

**Kassim:** On our national policy, directive, this constitution as the preamble says, should recognize God to take the first place in all Kenyans conscious. All Kenyans irrespective of gender, colour, ethnicity should be equal in the eyes of the law and the eyes of God. This constitution should guarantee all Kenyans they best human rights that no one has the authority to take away. And the constitution shall protect all Kenyans and their property. It shall give the principle of fair play and thriving for wealth and power. Greed must be checked. This constitution must guarantee free of charge, every Kenyan a passport and a birth certificate and do away with colonial ID cards. The State should never disturb Kenyans with the carrying of Kitambulisho everywhere. The police must be restricted from further harassment of citizen in their own county. The travel document should only be for foreign travel and important functions like selling or transfer of property.

On Parliament, the organ should set a code of ethic and which shall make sure, good people represent the public. The organ must be a absolutely independent, of the Executive the Presidency, but answerable to the people. The parliament should state its own calender and budget and this constitution should seal it from interference. The elected members should have more authority than the President. The Presidential appointees. This constitution should do away with the colonial legacy of DOs, DCs, PCs, that is the Provincial Administration, instead the councillors and MPs should govern their wards and constituencies respectively.

On foreign policy, aid and loans and war and peace should be vested in the parliament not the President, The people should know how foreign loans and aid is obtained and used. The foreign military bases presents in Kenya must be vetted by the parliament of their importance to us or else the soverent is at risk, the constitution should change this. All arms of the security forces should be under the Parliament. The constitution should guarantee this, one man should not have to colossal powers of controlling all armed forces and integencier, those forces should be politically neutral and should protect all people political, economic and social and human rights. The judicially: the present structure is inaquent. The court should start right at the location level.

**Com. Bishop Njoroge:** I am giving you one more minute. So give us your last point.

**Kassim:** My last and as a Muslim, I would like to talk on Chief Kadhi and Kadhis which was in the book. We suggested that they should only be involved in judicial matters and that they should remain non-partisan in executing their judicial cases. And Chief kadhis must possess the required qualifications like other judges. But the Kadhis should have first the execellency in Islamic Madarasa with Mumtaz that this is the law part of the education in Islam in high school level. The Muslims should be responsible for appointing the Kadhis and Chief Kadhis through the national body Supkem and This Supkem should appoint the district Kadhi and through the national Committee this Kadhi should be presented to the Judicial Service Commission for employment. The Kadhi's court should handle other matters related with Islamic law, other than marriage divorce, and succession. The Islamic sheria is quite wide and covers many things, the Kadhis court should have a pallet jurisdiction. If the

conduct of the Kadhi does not merit the position, this constitution should give the Muslims, public powers to appeal against their remaining in power through the Supreme Council of Kenya Muslims to recommend for their removal from services after giving the Kadhi in question, chance to defend himself. And also the constitution should guarantee Muslims to solely be the ones to slaughter animals for the public consumption specially in markets, hotels, schools, hospitals and any other public places. This is because just last year, other people fed Kenyans with donkeys and dogs and so on.

The constitution should guarantee Muslims to be given in towns and municipalities plot for their places of prayer and graveyard. As the minority group, they should also be given a chance for nominations in councils and parliament, except in Coast and North Eastern provinces. What I mean in places like Bungoma and other upcountry.

**Com. Bishop Njoroge:** We understand please do not explain. You last point now.

**Kassim:** As a matter of policy, the state machinery should never interrupt our religious rights by directing policies contrary to our senator of preferring our sanctuaries, that is mosque, like it happened in Mombasa, immediately after the bomblast. Where askaris were allowed to enter the mosque and did a lot of harm. The colonial Government, dumped Muslims in one confinement or we could call like concentration camps, it has affected the Muslims so badly that we would request that this constitution make a point for the state to make some research in the Mijinis or in Muslim concentrations, like Majengo, like Kibera, Mjini in Bungoma here, so that they can come up with recommendations, so that they can bring the Muslims upto the level of other societies in Kenya.

**Com. Bishop Njoroge:** I think we will be able to read the entire memorandum. I have given you 12 minutes, which is along long time. Can you come and register please. Can we have Alfred Wabuire, a prison officer. Moris Juma to prepare to come, followed by Samuel Naibei, followed by Clement Mwanja.

**Alfred Wabuire:** My name is Alfred Wabuire, I wish to make the following points. I am talking about the Executive. The constitution should have a preamble as an introduction, because it is a people driven constitution, we propose also devolution or coalition of power, that is the Government of National Unity where powers is decentralized in every local authority. The President should not be commander in Chief, but instead a minister for justice to take over the docket. The President should not be the chancellor of our national universities but headed by qualified personned or professionals. We also proposal that, the President should be impeached, that is should not be above the law. He should face prosecution upon failing or acting contrary to the law. During electioneering period, that campaign we should have a neutral person, rather than the Vice President, who is also an interested party to lead the nation. When the President dies, the Speaker or the Chief Justice to act for Presidency instead of the Vice President. When the President is incapacitated or falls sick, he should be removed from office within two weeks, other than the previous three months or 90 days. The President should not have a say in determining a foreign treat. That is to say, African Union, Comesa, East African Community or Kenya entering into a war with another

nation, but a special committee from parliament to oversee and approve the same.

The President should not control the parliament calendar, that is adjourning or dissolving it. The President should also not appoint judges, for this is an independent arm of the Government. There should be separation of powers in the three arms of the Government such that, when one proves oppressive over the other, the two remaining arms gang up to fight the offensive one.

The President should not appoint the vice President and all Presidential appointees to be put under parliamentary scrutiny and approval. On the Legislature, the MP should lose his/her seat upon failing to give best services to his area of jurisdiction or failing to initiate any project or failing to appear within the constituency within a given period of time. Also during campaign all aspirant candidate agents giving out money to buy voters must be charged in the court of law, for corruption just like rigging. An MP who defects to another party after being elected to parliament must be charged or made to pay a big fine. This will avoid unnecessary Government funding in by-elections.

All farm inputs to be reduced or subsidized at affordable prices to enable a farmer benefit and hence boost the economy. On the education system, 8.4.4 system of education to be scrapped and replaced by the old system of 7.6.3, to meet global learning standards. Prisons: revenue collected from the prisons farms and industry, 50% to be remitted to the treasury and 50% to remain to the prison department to cater for staffing houses and other welfare needs. We also propose prison departments to be privatized or made parastatal and the name changed. Prison department to have a special unit or watch dog to be introduced in the prisons, to curb corruption among the staff and the prisoners. Vacancies to be advertised by the Public Service Commission depending on the availability of chances and applicants to submit their own application and hence attend the board before a given Commission with their qualification. The promotion board should be instituted comprising a Public Service Commission representative to be as a non-partisan chairman and other senior prison officers as members. The aim of this is to curb nepotism, corruption, political patronage, that is favouring certain groups of persons or individuals to appointment to public positions or mis-use or abuse of official powers for private benefits.

Corrupt public officers to face or be punishable by death sentence. Education to be a governing factor for any position of responsibility, this will favour the few elite who have neglected and who do not have the Godfathers.

**Com. Bishop Njoroge:** Can you give us your last point?

**Alfred:** All security personnel to be highly paid, this will help curb corruption and ensure efficiency by offering best services including security. All security personnel, that is Kenya Army, police, prisons, GSU, to be placed on same salary scale and allowance for the nature of their work they do, do involve security. Finally, immediately after independence prison department got an act and its service flag, but all the services have been neglected and dumbed. I propose that the department be vested with all powers to prosecute and arrest any culprit. The powers vested upon the police, they also be supplied with security aids like fire arms, radio calls, vehicles and other privileges vested upon the armed forces including courses, AFCO canteen, peace

keeping and regional participation. And all Presidential appointees, that is Commissioner of police, prison, and other service commanders, must be at least a degree holder in criminology, administration and much conversant with the law. And members of the security also to be allowed to be registred in a union to enable them solve their grievances. On that not without intimidation, mutiny among members of the force must be scrapped off, officers to be given a right to vote for the rightful candidate.

Allow me two minutes to talk about community values order please?

**Com. Bishop Njoroge:** It is okay.

**Alfred:** Community service order to be manned by qualified personnel and to be under a director for a efficiency and the period of sentence to be 3 to 6 months not three years. Prisoners: to decongest prisons, all petty offenders to be given free bonds and all capital or mandatory offences like murder, treason and robbery with violance who have stayed in the custody for more that one year to be acquitted and any person arrested should appear before court within 24 hours of his arrest. Therefore prisoners in custody should be funded by the Government back his area of conviction, and prison authorities to train their medics, that is doctors, clinical officers and nurses to cater for staff and inmates.

**Com. Bishop Njoroge:** Thank you very much, there is a question, can you seat down.

**Com. Lethome:** I would like some clarification from you, thank you very much, because it is a rare occation to have somebody from the discipline forces, talking about their place of work. We have had elsewhere people suggesting that under the new constitution prisoners who are serving long terms should be allowed either to be visited by their spouses or to visit their spouses to curb the problem, of homosexuality in prisons. I do not know what your comments are about that.

Prisons ideally are supposed to be rehabilitation centers, but now we know that once somebody goes to a prison, most likely you will come out a more hardened criminal, instead of being rehabilitated he goes there to be trained to be a worse criminal than he was before. I do not know what you say about that. Because the way prison warders handle prisoners, is so harsh, they make them harder than before. About the training of the prison warders, do you think the kind of training that you people go through, is enough to rehabilitate the inmates if not what do you recommend?

**Alfred:** On training, we are usually trained about (inaudible) and fire arms, and when it actually comes actual handling of the people we do not have full training. That is why you rembember having touched something about the elites, it is somebody who si learned and having a good certificate. But because it is not exposed to somebody who has an upper hand, what I am trying to say is this, there people who are able and by the nature of training, we only finish the initial training at Ruiru and that it the end it, and we are not exposed to courses. That is why I was proposing that we have courses that will train us to handle these

people in the right way.

On the issue of homosexuality, it is real it is there, but what we propose for this correction is that they be allowed access, because when you take statistics in the prisons, these prisoners who keep coming as normal prisoners, are the ones who spread the disease, because today they are in tomorrow they are out. How we handle them it that, we are also facing frustrations, because one thing we realize in prison is that, when a prison officers offends an inmate, he is taken to law court, but when we take this other issues for example when as a prison officer, I am supposed to be given good facilities which means I do not get that. And as I enter my place of work I am frustrated in a way and my nature of handling these people, of course will indiminate them, that is why I was saying that we should look into the human aspect of our prison officer, I as a prison officer, I also need the right to live a decent life. And because I am not exposed to that, that is why the whole matter ends up in frustrations. And therefore I propose that terms and conditions of prison officers to be looked into a way that it breeds, because we have families which we have to educate. We have to cater for our medical services, and therefore we are poorly paid and housed. When such things come to the limelight, then we shall be able to give a good service. Because if somebody who is not learned is leading you, and you are having a good certificate, at the end of the day you will just give the poorest service.

**Com. Bishop Njoroge:** One more question, you said the President, must not declare war or rather parliament must do that, for instance in Kenya is at war with another country, and you want the security details to be discussed in the parliament, is that not going to be very dangerous for our country.

**Alfred:** Somebody else suggested this one, I have just read it on behalf of the department.

**Com. Bishop Njoroge:** Thank you for those, we appreciate very much, Can we have Morris Juma. I want to remind you, if you have a memorandum, and you do not want to address us, you can come to the programme officer, hand over your memorandum, and that will give room for others to be able to fit.

**Morris Juma:** My names are Morris Juma; I am here on behalf of Kanduyi Agricultural Community Empowerment Programme. We have a memorandum and our views have been based on the guideline questions from the Commission. What I just wanted to highlight is that, because this constitution we are talking about is ours, then we should have a provision in the constitution to certify that this constitution is ours. Kwa hivyo tukisema katiba ni yetu, lazima tuwajidhibike kama Wakenya kuilinda na kuiheshimu. Katika hii constitution, tunataka iwe ya kwamba, hakuna yule ambaye yuko zaidi ya mwingine, lazima iwe at the forefront, kwamba kila mtu yuko sawa na mwingine. Halafu ijulikane, ama iwe wazi ya kwamba hakuna ambaye, yeyote anaweza kubadilisha hii Katiba kama sio Wakenya wenyewe. Tunasema kwa sababu ni Katiba yetu, sasa hatutaki mtu mwingine aje kuibadilisha kwa sababu ya sisi. Iwe ni sisi. Na nadhani hiyo itakuwa katika referendum.

I also wanted to highlight on something small about the political parties, and our politicians. Those political parties should play

other roles like for example, to mobilize people for generative income projects. And that the constitution should regulate the formation and right that there should be code of conduct, that the number of political parties should be limited to two. Political parties should be financed from public funds to carry our development activities, that is from consolidated funds. Terms and conditions to be imposed on financing of political parties, that each should draw their expenditure and after spending, should give returns of the expenditure to independent Electoral Commission, which submits, to the treasury. Political parties and state relationship should assist one another and respect one another. Upande wa Wabunge wetu, ningependa kusema kwa sababu hiyo ni kazi, sisi tungependa kazi ya Wabunge iwe full time kama kazi zingine. Tunatarajia wawe na ofisi hata kwa constituencies nyumbani. So that tukikuwa na maneno ya kuwataka na kutaka maendeleo, lazima tuwafuate katika maofisi zao.

Wakati wako Nairobi wako Nairobi kupeleka maoni yetu, na wakati wako nyumbani lazima tuwapata. We should have power to recall our MPs back.

My last point, ningetaka kuongea juu ya management and use of natural resources. The Executive should not retain raising revenue, management and distribution of finance and management of human resources within the authority of the area. Parliament should retain the powers to authorize rising and appropriate use of public finances. Justice is enough to raise public finances, mechanism to be ontroned in the constitution to ensure equitable distribution of national resource. Kwa hivyo kwa sababu tuko na memorandum si dhani kama nitaonge zaidi, lakini nataka kusisitiza zaidi juu ya political parties na Wabunge wetu.

**Com. Bishop Njoroge:** Kuna swali, kaa hapo kidogo.

**Com. Lethome:** Umesema watu wawe na uwezo wa kumuita Mbunge wao ikiwa wanaona pengine afanyi kazi vizuri, sasa na kwambia hivi, ikiwa mimi kwa mfano ndio nime-loose kiti cha Kanduyi, akienda tu Bunge nitaanza kufanya kelele kutafuta signature za watu tuweze kumrudisha yule Mbunge. That is witch hunting. So how do we take care of that?

**Morris:** Lazima tuwe na independent Electoral Commission, halafu lazima tuwe na percentage ambayo itaweza ku-recall huyu Mbunge wetu. Tunasema tukiwa na percentage ya 25% ya wale ambao wamejiandikisha kama wapigaji kura tunaweza-recall Mbunge nyumbani.

**Com. Bishop Njoroge:** Thank you, those are his views na tunaweza natumheshimu. Can we have Samuel M. Naibei. Yuko wapi? Tafadhali dakika tano.

**Samuel Naibei:** Commissioners niko na machache ambayo ningependa kuleta mbeleni mwenu. Mimi ni naibei Samuel Maraka, na nimetoka kwa kundi la Bong'omek, na nitaangalia kama educationist, kwani tunataka tuangalie kwamba Katiba yetu inaenda sambamba na wale wachache ambao wako Kenya na wengi ambao tunaishi nao. Jambo la kwanza ni ya kwamba, hatungependa kanisa lijihusishe na siasa mpaka lionekana ya kwamba ni mkono mwingine wa upizani. Tunataka

kuona kanisa ikiubiri na kuleta watu kiroho. Ili tuone kwamba maovu yote kama magojwa ya ukimwi hii, kabla ya Serikali kuingia kanisa itakuwa imetuliza. Jambo lingine ambayo tunaona ni ya kwamba elimu iwe bure, na wakisema ya kwamba hawalipi kitu, iwe kikamilifu bila malipo yoyote na itumike kwa watoto wa Kenya wote. Tunaona ya kwamba elimu hiyo haitajali msichana au mvulana. Hali ya maumbile yatawekwa mbele kwa maana hayo ndio yatapitishwa hapa Kenya. Jambo la tatu, ningependa kuangalia ya kwamba jamii ya Kenya kuna wale wenye wanavizia wanawake na wasichana. Rape cases I recommend that wasifanye maovu kama hayo. Kuhusiana na jambo hilo kuna hao wanawake wanaovisia wanaume, kwani nimekuwa wakati mmoja Kakamega, wakaniambia kuna msichana ambaye anavizia watu na ana HIV, napendekeza ya kwamba huyo afungwe maisha, kwa maana hakuna sehemu zingine ambazo tutatoa.

Jambo la nne ni ya kwamba, Kenya inastahili iwe na msimamo bora kuhusu ardhi, ni rahisi sana Kenya iingie katika hali ya Rwanda, ya Somalia, kwa maana Wakenya wote kwa hali ya mashamba, ni kitu ambacho kinaangalia hata wakati huu tunapozungumza hivi ni hatari sana. Tungependa transition nzuri iweko katika ya Serikali ambayo inaangalia ya kwamba mashamba yanapeanwa. Wale wenye wamekosa hasa the minority, Bong'omek wakiwemo na wengine. Na hata wale wenye hawana na wanatoka kundi ili kubwa na wapewe. Jambo lingine ni ya kwamba, life imprisonment iweko, bali death sentence iondolewe. Jambo lingine wananchi tuchague President, sio President kutuchagulia mtu ama kutupendekezea mtu, ili tuone kwamba tuna-exercise democracy as the people of Kenya.

Jambo la saba, tungependa Federal Government, kwa maana hiyo itasaidia yule mdogo ambaye anafinywa sana, kama Bomgomek. Jambo lingine tungependa parliament iheshimiwe, kwa maana inaonekana Wabunge wetu wameenda kule kucheza mpira kati ya Brazil na German, unaona ngumi zinatolewa kule, wamesahau yale ambayo walienda kutetea, ambao ni wananchi wa Kenya.

**Com. Bishop Njoroge:** Tupatie jambo lako la mwisho?

**Samuel:** Tungependa, m-screen Wabunge wetu wanapojadilia Bunge ili tuone ni nani hatendi yanayotosha na mwishowe atupe nje. Asanteni.

**Com. Bishop Njoroge:** Thank you very much, George ujiandikishe hapa tafadhali. Clement Mwaja.

**Clement Mwaja:** Bwana Commissioner sir, na wengine wengine waheshimiwa wa siku ya leo hapa na wasalamia na nawapigia asante sana kwa kunisiliza kwa hayo machache ambayo naenda kupeana recommendations kutoka kwa hii group yangu ya Saboti Indegenous Minority Agency, ambayo ni Bong'omek kutoka hapa Bungoma. Kitu cha kwanza, I would like to give is:

- We would like to have a Federal Government

- In representations; we would like to have two houses in the parliament, that is the house of Representative and the house of Senate.
- And for us, since we are very few in this district, Bungoma district, we would like us to be represented in just a simple way, by just being nominated. We would like two MPs to be nominated from our group or from Bong'omek, who are the indigenous of this region.
- Ten councillors to be nominated to represent our people in the Bungoma County council.

The third thing is that, most of our people were displaced during the tribal clashes 1992, plus the other times and we recommend that those people who are affected very much, some of them are in Trans-Nzoia, some of them have got land, so of them have gotten very little land, than the one they had before here, so those people should be compensated either in cash or they can be allocated land from somewhere else when the Government tries to issue land to people, especially during those times when they give to dignitaries like Commissioners or Ministers. In employment: when we considers our population is very low, we would like in every sector or when there is advertisement by the public service Commission, then out of those vacancies, for bungoma district we should be allocated a quota of those vacancies, or else we might not get anybody getting employed for so many years and yet we have also educated people.

**Com. Bishop Njoroge:** One minute to final point.

**Clement:** The other thing is on education, I recommend that, bright students be given sponsorship and for university intake, grade B is too high of our ladies, especially the girls from my group, and I feel that for our ladies it can be lowered to B-, for them to enter the university, that is for our indigenous Bong'omek group. Thank you very much.

**Com. Bishop Njoroge:** Thank you very much for those views, can also announce, if you have a memorandum and you do not want to talk, you can come forward to the programme officer and give him. Now I want to call mheshimiwa, first of all recognize him and ask him to present his memorandum. Mheshimiwa utaenda pale ndio mahali pa kila mtu, you will start with your name so that it can enter in the record.

**Wafula Wamunyinyi: Area MP:** Commissioners, ladies and gentlemen, my name is Wafula Wamunyinyi; I am a Member of Parliament for Kanduyi. You are in Kanduyi in the moment and I would like at the out set to welcome the Constitution Review Commission to Kanduyi, please feel free, feel at home and enjoy yourselves while in Kanduyi, I am sure that people in Kanduyi will present views that at the end of the day help you compile the new constitution. Other than just being a Member of Parliament, I am also chairman of the Public Investment Committee empowerment and I chair the committee investment powerment in terms of investiment and scrutiny of public expenditure and state co-operation and parastatals. I would like to give my views today, I have prepared a memorandum, which I will represent to the secretariat, but I will take you through within the shortest possible time.

I want to start by proposing a preamble within the constitution of Kenya. The preamble I am proposing should carry the denotation “Murembe”. Murembe to many is a greeting but it is more than a greeting as used by the Luhya community. This is in appreciation of the fact as Murembe as used by the Luhya reflect peaceful co-existence. Thanked to Murembe principles, the people of Kanduyi, especially has helped them in Bungoma town and its environs and even go beyond Kanduyi, Busia, Vihiga, Kakamega, Lugari, Mumia Butere, you have a triangle interaction, with people originally from without the are enjoying hospitality in this area. Enjoying to do business, religion, communal, marital and all the other activities worthy making. This would be more meaningful if the principle was inculcated in the preamble of the new look constitution of Kenya.

The other proposal I want to make is to the constitution: new law constitution is the issue of amendments. Amendments to the constitution:

- To uphold the principle of supremacy of the constitution as the supreme irreducible law of the land, it should be clearly stated in the constitution that, nothing less than the national referendum should cause its amendment. This should be stated unambiguously and in such a way to institute the national assembly from taking upon itself to alter, amend or otherwise change the spirit and letter of the constitution. For instance there have been constitutional self serving amendments between 1963 and 1993, to the independence constitution, the one that we had at the independence time, and the most damning of all the amendments was the one of 1992, which made Kenya de jure one party state. In just a few minutes in parliament, the Attorney General moved the amendment which was seconded by then Vice President Mwai Kibaki, in a few minutes, it was passed, there was no debate and the parliament was clapping for one de jure state. There should be no amendment without involvement of mwananchi. I want now to turn on the directive principles of state policy. The new constitution should be guided by internationally recognized human and democratic ideals, this should include the rule of law, regular, free and timely elections, equitable distribution of national and other economic resources and separation of powers of Government organs. The underlying factor in the above should be that all men are born equal and that the constitution should work in such a way as to reflect equality in matters of opportunities from both personal and communal well being.

The position of an ombudsman should be created with the view to maintain internationally recognized human and democratic ideas. As enshrined in international statutes as the universal declarations of human rights, the OAU charter, which is now African Union Charter, amnesty international and other specialist international statutes. I want now to turn to political parties.

**Com. Lethome:** Sorry for interruption, before you go to political parties, I would like to interrupt you by seeking some clarification, you are talking about free and timely elections, right now we know the date of election is only known to one person, we could be here today, but in the afternoon, you could hear that the parliament has been dissolved and it would be much within the constitution, because the President has the power under the constitution to dissolve the parliament. I do not

know what your comments are on those two issues?

**Hon Wafula:** It's for that reason that we are pushing for this amendment. We did not want the President to wield so much power that he can play about with parliament and Kenyans at any time he wishes. That is why we want to curb the Presidential powers. That is why we were saying we must have a timetable for parliament and the President should not have power to terminate parliament and dissolve it at any time at will.

Political parties, it will seem that the donor of my party democracy opens a political party forming frenzies; this it has come to be known, as has been political fluid to beat plural democracy. As such the new constitution should introduce stringent rules, aimed at avoiding formation of political parties. On as such sectarian concentration as family, ethnic, class or otherwise, the tread where political follow –out, lead to defection and eventual formation of new entities without reference to major ideological divergences should be avoided. Guidelines for formation of political parties should have this as an important facet. The ideal situation of three political parties should be stated clearly in the constitution. This is a situation where if you are cannot go by the conservatives you join the liberals. And if you are not among the liberals, you remain independent, a free kind of political party formation. But since we have many political parties in our country, it will not also anger well for us to say we will have three parties at this state. May be at a beginning point we can propose that as we get to the coming general elections, a political party which does not ganner 5% or 10% should be deregistered after election.

I want now to turn to the Executive: The President should remain executive and the President and his vice President should be elected directly by universal sugfrage, for a maximu of two terms of five years. The role of President to be played by the Vice President in his absence, if facing criminal charges or impeachment by the National Assembly. When the President has been impeached by the parliament, he is facing criminal charges, because we will be proposing for President to be charged for offences he commits. If anyone of them is facing criminal charges, the vice President should be acting as President.

**Com. Lethome:** Can I interrupt Mheshimiwa, on political parties, defection from one party to another one. Let us say if a member of parliament defects from the party that sponsored him or her to parliament, what are your recommendations, this days it is called political prostitution.

**Hon. Wafula:** Yes huu umalaya ndio hatutaki.

**Com. Bishop Njoroje:** Another thing, political parties are so active during elections, and we do not hear then again, so they are not building democracy, what would you say the role of political parties is going to be.

**Hon. Wafula:** It is for this reason, that I am proposing that, those parties that do not ganner a certain percentage of the electrorate of Kenya, should be dissolved after the general elections. For instance Ford Kenya is one of the parliamentary party and the performance of Ford Kenya is very clear, all of, even Commissioners know what Ford Kenya is doing in

Parliament, there are parties that are dominant, that are not doing anything, that do not receive any bit of the Kenyan voters. Should be dissolved. We want to encourage that we have strong parties, like I said earlier, that is a model of the West, and we should have two strong parties. If you have a little resistance to change, remain with the conservatives, if you want to be otherwise join the liberals. If you are not anywhere in the two you remain independent, we have those three parties and we will develop our country, we develop a strong democracy. If we limited the number of political parties and we only have three options, this business of political prostitution would have been dealt, with people who do not belong to conservative, you have only two options, and there will be no business about being bought. None, of them are paid some money, like that has been specialized agenda by Kanu, sometimes in 1992, but there would be no opportunity to buy and encourage defections. I strictly think that I should not waste time on that because you have heard a lot of views on this.

**Com. Lethome:** There is this MP who having been sponsored by a particular party, but he makes his statements, from the floor of the Parliament that could be interpreted that this man or woman is no longer in that party. But he/she still sticks there. What are your comments on that?

**Hon. Wafula:** If we are saying we are strengthening democracy along that line, if you want to move, like I said from the conservative to join the rebel, you can not remain sitting on the conservative side and enjoying that political party when you have defected. Kama wale wamejiiondoa in Ford Kenya, wengine wanacheza maftari kinyuma nyuma na wanasema wako Ford Kenya, wanatakikana wawe nje. Let them face the electorate again, if they want to defect. I want now to turn to the cabinet, and I propose that the cabinet should be drawn from technocrats' professionals, both from the public and private sector. Mr. Chairman, the central Government should be composed of co-functions in the following ministries. The office of the President, Defence, Foreign Affairs and Education. The headquarters of other ministries, should be based in areas where services are required most, for example the Ministry of Agriculture, say it should be based in Eldoret, Kisumu or Bungoma, where services are required most for agriculture. The other ministry of say Tourism should be based in Mombasa or Masai mara where the tourist visit most. And the ministry of Arid and Semi Arid land should be based in Turkana or where the DO comes from Garissa. The provision should be made for suitably qualified Kenyans to serve as ex-officio member of the cabinet discharging the duties of the Attorney General.

**Appointment of Ministers:** this should be a collective undertaking and there should be the element of vetting persons. Persons to be appointed Ministers must be vetted by an independent body and approved by Parliament. To uphold competence and stability of Cabinet Ministers. We do not want to have Ministers who cannot even answer questions in the parliament. Some Ministers who are illiterate they want to answer questions, and they cannot make a sentence in English and they want to answer questions in Parliament. Let now turn to the Provincial Administration. The Provincial Administration being a relic of colonialism should all together be phased out and its role and functions taken over by local Government. Where leaders will be elected under universal suffrage. I am not threatening the DOs job, but I am saying the provincial Commissioner and district Commissioner have no business being in existence, this was a colonial relic we should have possibly a reduced status to the

level of Chief and sub Chief and Mukasa who should be elected by wananchi not be appointed by someone else.

The Legislature: we favour the bi cameral National Assembly fashioned on the west minister model, the upper chamber would comprise of constituency representatives based on democratic concentrations that would make elected representatives at par. The lower house would be the vetting arm of the Legislature and composed of delegates drawn from local Government. What I mean here is, some of the MPs we serve together in parliament, represent constituencies whose population is less than one of my councillors, for example councillor of West Bukusu has about 9,000 registered voters and some MPs have gone to the Parliament with about 5,000 votes, we should not consider the area, but we should consider the number of wananchi in that particular area. Through our country there should be elected local Government representative to take charge of the local issues.

And the principle of affirmative action should be enshrined in the constitution with a view to setting aside representative positions on gender, disability and aged concentrations as well as indigenous minority. Some of the issues of women, the less advantaged, the disadvantaged, the disabled and aged. The President for sometime he is talking about Uhuru Kenyatta, but it is not on that spirit I want to talk about aged. But I am saying that the youth must be given a share, the women be given some small percentage say 5% of elected positions in the Country, should be given to the youth and women, both young girls and young men at the level of those attending college, at the level of those who have finished high school and women. Because some of them cannot compete on free and level playing ground.

**Com. Bishop Njoroge:** Mheshimiwa have already given you 25 minutes, I hope I can give you another five, so that you may wind up.

**Hon. Wafula:** I am about to, I am just coming to an end. In any case I have covered the most important areas. I want to turn to the Structures and System Government. The system of checks and balances should be created to avoid creation of domicile in public offices as it is currently evidenced with the Head of Civil Service, the Chief Justice and such positions. Appointment to such offices should be subject to vetting and approval by provision bodies and legislature. Central Government should be restructured, to be interterm with devolution of economic political and legal decision-making powers to the local Government. And the local Government structure of creation should take stock of the establishment of autonomous cities, municipalities and counties to return power to the grass root. The justification here is that uniquely local problems would receive adequate attention and that the people will take charge of their social economic destiny, rather than collegate election of heads of a for mentioned local authority a proposal is made for direct election of the positions. What I am saying is we can't have have district Commissioner who has no idea what the people of Bungoma are interested in. Embrahim Duale for example, Muthui Katee, they have no idea of our cultural activities, we should have a head so someone who is incharge here. And election of mayor and chairman should be direct by people, the Mayor of Bungoma should be elected by wananchi and chairman of the council should be elected by wananchi, not just the councillors seating there and saying they go for camp site somewhere for a treat and they come and elect chairman.

The area I wanted to address is the Judiciary: a Chief Justice should head the Judiciary and there should be a supreme court comprising other four courts of appeal judges and of unquestionable moral probity and (inaudible) legal capabilities. Below the Supreme Court will be Court of appeal and below the court of appeal would be High Court and Chief Magistrate Court. In a position of the imotive question of land, there should be land tribunal, which will include customary laws, and vested with day today running of the Judicial, will be the judicial service Commission. The terms of office of Chief Justice should be guarantee to a two-term limit of five years each. The Chief Justice should not remain in the office for 80 years or 75 years as it is provided now. Justice Chunga is just in his 50s if he becomes the most useless Chief Justice how do we remove him. He will have to undergo huge process to convince his removal. So we should have a Chief Justice serving two terms. If does not perform the first term, he is removed. If he performs, anarudishwa aendelee. To avoid a situation where Judicial Officers become hirelings of the Executive, Justice Chunga like I said is responsible to President Moi, because President Moi appointed him. There should be a situation where interest parties, an appointment committee specific to look at the qualification and stability of a person to serve as Chief Justice, not just to be appointed by President.

The electoral system and process: for the purpose of creating an independent Electoral Commission, the security of tenure, of Commissioners should be guaranteed. The source of money for the undertaking of Presidential, parliamentary and civic elections should be exclusively handled by the Commission in avoidance of obtaining a situation where the executive and the Provincial Administration have undue influence of the process. The Commission should, following legislature statutes involve the timetable and be on top of the situations during general and by election. The Commission in line with (inaudible) should ensure that creation of equitable constituencies based on democratic and cultural considerations. Currently I said earlier some constituencies with voters less than some of Councillor Issa, has higher votes than some MPs.

Defense and National Security: in recognition of important role played by defense forces, it is proposed that emolument commensurate for the defense forces and personnel to be put in place. The powers of the President and the Commander in Chief of the Armed Forces should not mean his over bearing on the establishment. Upwards mobility in the process should be subject to discussions in the cabinet. A vigorous training should be undertaken so as to enable our armed forces to March like those of international like America, Britain, like those developed forces. This can only be done if there are provisions in the constitutions which should enable the devolvement in terms of training. International relations and co-operations, with the understanding that some international treaties have had negative impact on our people, a comprehensive review of all instruments, that Kenya is parts of should be done. Such as appraisal will call for a revolution of one enemical to the well being of Kenyans with a view to deleading from them. A case in point is the fact that while many rivers from this region, Mt. Elgon region and our region flow into the Lake Victory, accnenonts from Lake Victoria such as the river Nile, generated power has not being forthcoming for this catchment. Watu wa samaki in Lake Victoria, kama Wajaluo, sometimes are control by the Government of Kenya, that they should not fish beyond certain areas, or should not fish Omena and some of the fish that grow up, inaenda kwa mto, inaenda Uganda waters and Tanzania waters ama hata inaenda kwa mto Nile, halafu inaenda kukuliwa uko. How are you helping Kenyans? Our people here also eat fish, and again what effort are we putting in place, to safe the

catchment area where the waters are coming from, we only have treaties that protects the Egyptian Government where the river Nile huko Misiri inaenda. And being a border constituency also, wananchi in this region in Kanduyi, when you come to registration of persons like the Muslim community in Bungoma, there have a lot of trouble registering for Identity Card when they want to look for passports and even when they want to involve themselves in some community issues, wanaulizwa maswali mengi sana. Kama Muislamu anaitwa Muhamed Shaban, unauliza yeye title deed. Why do you ask for title deeds when they want to be registered? Those are things that must be amended; iweze kurekebisha those people at border areas should be given special considerations. If there are known, there born here and they have birth certificates, why do you go into a lot of details when they want to register. Those are issues that I think should be be harmonized.

Then I think there is the issue of the local brew, which is very important. I do not encourage people to drink, but I think it should be enshrined in the constitution, there should be a provision for technological enhancement of local brews such as busaa and chang'aa, to bring them to internationally recognized standards. This would not only be income earner to the people, but through foreign exchange, but would also be a means of relaxation. Watu wakae vizuri, watulie wapumzike vizuri kama wanakula kitu yao. But at the same time, when you go to Scotland, sometimes when it is too called, if developed the Kenyan chang'aa waragi and for export purposes, tupeleke kuuza huko Scotland, wakati wa baridi Mzungu akikunywa ikipita hapa anapata joto tu. If we looked at it at the health point of view, itengenezwe vizuri, Wizara ya Afya iangalie, iende kwa Kenya bureau of standards, waone this is fit for consumption, it is fit for export, iuuzwe ng'ambo huko kila mahali watu wapate pesa.

You gave me five minutes and I will give the remaining bit of what I would have said to your secretariat.

**Com. Bishop Njoroge:** I would have wanted you to address the issue of succession to office. This is a very important issue, what role do the political parties have especially in the issues of succession and how can we promote democracy?

**Com. Lethome:** Right now the constitution is very silent about the question of succession. So what would you like to see in the new constitution in as far as succession is concerned? Mheshiwa you also proposed that you are also recommending that a President should only have two terms, suppose a President now is vying for a second term, should he campaign as a President or should he relinquish his powers to somebody who is neutral during the electioneering time, because of employing all the Government machinery in his favour.

**Hon. Wafula:** Succession in this country at this stage is not the kind of succession we went through, when President Kenyatta died. This is unique in the manner at a time, even before the death of Kenyatta was announced President Moi was being sworn in at State House. But this succession we have now, is one that President Moi will step aside, because his term is over and he has no choice, he cannot take the election again and we will be thinking about a lot of issues. What we propose there should be provision in statute very clear, that as of now, the provision is such that, until a new President is sworn in he remains in charge. But there should be entrenched in the constitution that, when the term of President is expired, when he is not supposed

to be in the office, possibly the Speaker of National Assembly, should run the affairs of the country, before a new President is sworn in.

And a follower to that, when the President is vying for his second term, this is very crucial because what we went through in 1997 is unbelievable, is amazing, because Moi used all the State machinery, all Provincial Administration, KBC, Government officials, department and so on, were campaigning for him. But a situation where he has to step aside, he should not be campaigning as President, he should be campaigning as one of the candidates, kama mimi nataka tunaendeshana na yeye, sisi wawili, not to run as the President, with all the bodyguards and everybody, PC na DC wanafuata tu kwa njia huko kwa mlolongo. He should be campaigning as a candidate. That should be brought about in the constitution. I do not know if have left our anything?

**Com. Bishop Njoroge:** You have, you have given us very important points and I am sure the Commission will really appreciate when we analyze. One issue is, if there is no democracy in the parties in terms of your nomination, you will not expect it to thrive in the system of the Government. I would have liked you to address the issue of parties and their nominations and help the Commission also to be able to address that issue when we write the constitution.

**Hon. Wafula:** Parties go through the nomination exercise and elect the candidates for the particular parties, and those candidates are the ones the parties sponsor to run for the positions, if it is parliamentary or Presidential or councillor or civic and there constitutional provisions of those respective political parties. Those parties are guided by the constitution, the constitution provide for provisions to be followed for elections before the candidates are sponsored. And other than Kanu, I think in Ford Kenya it happens.

**Com. Bishop:** Thank you very much Mheshimiwa we appreciate for your presentation and the fact that you have been with us.

**Hon. Wafula:** Thank you very much, I welcome you for something in the evening after work.

**Com. Bishop:** Tobias Makunja.

**Tobisa Makucha:** I am Tobis Makunja representing my personal views concerning the new constitution. I would like to request in the new Constitution, the youth affairs to be looked in, during nominations of civic leaders, nomination of MPs and also the affairs of women and the disabled. Such that a certain number of seats is set-aside for youth and women and disabled. Also in the parliament, a maximum number of sessions to set on each calender year, and every MP to be given a maximum number or session or a minimum number of session he has to attend. Such that if an MP fails to attend some certain number of sessions without some valid reasons, the MP should be put aside and by-elections to be called on active MP in parliament.

Also an MP, should be representing people views in Parliament but not individual views. That is to say an MP to be with his people during weekends and collect the views that he has to represent in Parliament rather than representing individual views in Parliament. Also the number of political parties should be limited to at least three such that we reduce the act of having self-interest in the Government. People with self-interest to be stopped by reducing the number of political parties to at least three to enhance competitive leadership in the country. Also, the new constitution should look into making use of available resources such as land, educated people like for example currently those who completed form fours, those from tertiary institution have not got employment yet there available resources to be used rather than just the Government wasting the resources. On land those areas that can provide food for the country for export and country usage, the Government to look into it that in the new constitution that land should be used accordingly such that there is no food crises in the country. In situations for water catchment areas, the new constitution should look in areas for usage of available rivers to irrigate farms in arid areas, such that they continue production of food, other than relying on importation and the act of “misaada ya chakula” so that we can develop a self reliant country.

The new constitution should use the national census exercise report in allocating the number of people or employees it wants to take from each district. Like currently those who are from Bungoma joining tertiary institutions, the number should not be equalized to that of Mr. Elgon, because Mt. Elgon consists of a single constituency rather Bungoma which has six constituencies and at least each district should have equal number of people, so as there is equal distribution of resources. Thank you.

**Com. Bishop Njoroge:** Thank you very much, those are very important views. Can you come and register. Every time you speak you have to register here and for those who have memorandum and do not want to address us, you can come and present your memorandum and then we are going to work on it. Catherine Wambengo, Christine Nalianya, Sera Mulisa, Alice Nabwera, please come.

**Alice Nabwera:** Mr. Commissioners sir, ladies and gentlemen, we have a representation, we went down to the grassroots women who were not captured by the CKRC programme. My name is Alice Nabwera, we call ourselves Bungoma Volunteer Women Caucus, who were formed when it was realized that grassroots women, were not being captured by the normal CEP programme, So you will bear with me to present the Kanduyi Women special presentation, because we went to 10 division, I will only take one and then the Bungoma combined. So let me start with Kanduyi and you will bear with me, these are very basic expressions by the women.

The view in consideration:

- **Health:** in the Bukusu culture mother is a highly respected person in the community to be treated with courtesy and care at all time. It is recommended there is need for a constitutional provision to protect the reproductive health of all mothers. We are talking about women sleeping on the floor in the hospitals, children being still born and nobody seemed to have this anywhere to care about.

- Politics: although women are the majority in the district they do not vote wisely, mainly due to ignorance, there should be extensive voter education and civic education geared for women to empower them to participate more meaningfully in political activities. Elected Members of Parliament should be made accountable to the voters and the voters should have the right to recall non-performing Members of Parliament. The minimum qualification of contestants for Member of Parliament and councillor should be form four education class and they should all be subject of an ethics committee basing for good conduct and moral uprightness. They should represent everyone, not just a few. The head of state should not be an elected Member of Parliament, should serve for a maximum of two terms and should not be in the office, beyond the age of 65 years. There should be provision in the constitution for the removal of non-performing or guilty head of state. The handing over of the office should not be a personal matter. The responsibility in that office should reflect service, should not reflect power. The President arrangement is not satisfactory according to the views of the women.
- Child abuse: the cases of child abuse in particular rape of children is on the increase and women recommend severe custodial sentence for the offenders without option for fine. The constitution of Kenya is also weak on child's rights. Consequently the abuse and harassment of children is rampant, with mothers being left hopeless. Orphaned girls should be given equal treatment by the community like orphaned boys, and mothers who escort sick children to the hospitals, do have a very difficult time, first thing it is not evidenced within the community and women and mothers are quick to notice it. It is our constitutional right for all young children and mothers to be clinically safe, even in the rural areas.
- Education: when cost sharing was introduced, the standard of education were compromised and girls in particular, their education was threatened. Everyone in the district in particular women are victims of poverty due to poor policy. The women recommend compulsory field training for all youth to promote sustainable income generating activities and disabled children must be exposed to compulsory skills training and education for self-employment as well as for fair competition for jobs.
- On equal opportunity we have what I would call, lamentation, this is for women, I will just summaries it, one of the issue is the use of bribes to solicit for votes, use of bribes to solicit for employment by women and the summary is the women of Kanduyi recommend: the formation of a gender Commission to handle the many problems that afflict women in the society.
- On justice: justice delayed is justice denied. It would appear like there is no justice in this country when it comes to women. The women of Kanduyi recommend that all minor offences be cleared within the shortest time period, like a day or a week and serious cases should not last longer than three months. The women deploy the unjustified injustices. For example; all traffic offences should be handled on the spots. All civic cases could be handled within a week. Murder and capital offences to be cleared within three months. Cases involving rural women should never be transferred to Nairobi courts. This tends to happen around here. Majority of street children who are begging from adults, some of them have been imported by rich and selfish people, the summary recommendation, the constitution of Kenya must be more strong on the rights of the child.
- The constitution of Kenya should also provide for family registration of property as opposed to the registration in the

name of the head of the household alone. This will discourage the family property being squandered by the men as happens on many occasions.

- An item by the Kanduyi Women is on widowhood: widows in Bungoma and in Kenya should be given an opportunity, like in the bible to make a choice to stay single or make personal choices of a new spouse. Widows should always consider the consequences of their marital choice on orphan children and funeral committee chairmen should be discouraged or stopped from assuming the role of husband to the widow. The arrogance and insolence of widow inheritance with focus on property and little consideration for the orphans needs to be controlled through a constitutional provision. Widows should be encouraged and empowered to be the legal holders of land title deeds for the family until death. The major recommendation is that the incidence of widowhood is so prevalent now, that the constitution of Kenya should consider its status for the good of a stable family, in particular the ever-increasing number of single parenthood.
- Land and property ownership and security and right employment and physical abuse and sexual abuse. The recommendation is any form of gender abuse be it physical, emotional, sexual, should be legally punishable and the freedom of all persons to be enshrined in the constitution. The lost African culture to self-respect and the respect for the spouse and the neighbour and the colleague should be revived through constitutional provision.

**Com. Bishop Njoroge:** I am giving you one more minute. You do not have to read everything, because it is going to be analysed.

**Alice:** The women of Bungoma recommend the formation of a gender Commission and the gender Commission to be constitutionally entrenched. We have a lot on the rights of vulnerable groups, language policy and land property rights. The right to life and liberty and the right to conscience and currently our constitutional provision for fundamental rights are inadequate and ineffective and we are saying Kenya is a signatory to the bill of rights contained in conventions in the United Nations, efforts must be made to domesticate these rights, for application to the local legal system.

**Com. Bishop Njoroge:** Thank you very much, some clarifications.

**Com. Lethome:** We have heard elsewhere about the girl-child and that if a girl gets married then she should not inherit from her parents. In other places they go to the extreme and say, whether married or not married, the girl can only benefit from the property of the parents but not own. I do not know what your comments are about this and whether you have discussed it.

**Alice:** This was extensively discussed by the women on the ground and they in fact said, if anybody in Bungoma goes to what we call "ilandii" I think Commissioners do not know them as much as the rest of us know them. These are cases of girl-child who has been abused, has a child and she is not allowed to go back to her parental home. She is rejected on the marital side and she is rejected at home, because there is not property for her and she is the one who is now building the squatter

community and the slum community in the township. It is unfair, their rights need to be constitutionally considered.

**Com. Bishop Njoroge:** So you are saying in other words, they should also inherit like the boys inherit.

**Alice:** We are saying the girls, should inherit at home where they are born and when they are married there should be legal custodians of the property until death. Just custodians, the property is not leaving the clan, the children are born there, those are family of the clan, but the custodian of it should be the mothers.

**Com. Bishop Njoroge:** In other words, if I as a husband, I have a wife, the property should remain in our two names. So that the title deed will bear your name and your husbands name. Is that what you recommend?

**Alice:** Yes.

**Com. Bishop Njoroge:** Okay, thank you, Caroline Wekesa, is she there? Are you Caroline, she is not. Let us have Tobias Makuja, he has spoken, Hezron Kipseret. And now because we have almost a list of almost a 150 people who want to speak, we have to be careful with time.

**Hezron Kipsereti:** Nina furaha tele ya ajabu ya kwamba mumekuja hapa kukusanya maoni yetu hapa Bungoma. Mimi ni Hezron Kipseret Arap Chekwesi, mimi ni Bong'omek wa hapa Bungoma. Wameongea sana juu ya watu ambao walitimuliwa mbio kutoka hapa nyakati za Murunga. Na kuna jambo moja, mwaka wa elfu moja na mia tisa na ishirini, watu wetu wengi walivuka mpaka wakaenda Uganda, Zaire, Sudan na Tanzania. Na kwa sababu ya hii Katiba mpya ambayo inaweza kuundwa, tuna furaha tele ya kwamba watu wetu wanarudi nyumbani.

**Pendekezo:** Madaktari wapewe mshahara sawa na Wabunge, kwa sababu madaktari wanatushugulikia sana, Wabunge wanakaa bure, hakuna kazi huko. Kwa sababu mnaona clinics nyingi zimechibuka kwa sababu ya madaktari kupewa mshahara kidogo kidogo. Hata wale ambao wanaendesha zile clinics hawana ujuzi wa kutibu. Wakianza kutibu magojwa wanaongeza. Madaktari wapate mshahara kubwa sawa na Wabunge.

**Utawala:** na pendekeza ya kwamba, kungekuwa na utawala wa majimbo katika Serikali ambayo inakuja. Ili kila kabila ndogo nao watatambulika. Na kila kitu ambacho kabila kubwa wanakula hata nao wadogo watakula. Watu watakaa sawa sawa na kupendana kwa sababu wako jamii moja, kwa sababu wako huru wakichagua vile wanavyotaka kukaa.

**Com. Bishop Njoroge:** Tupatie point yako ya mwisho.

**Hezron:** La mwisho ningelipenda hii Katiba, ikumbuke Bong'omek ya kwamba wako nje wengi wanarudi nyumbani,

Bungoma si mahali pengine. Asanteni.

**Com. Bishop Njoroge:** Thank you, tuite Patric Ndiema, Jafred Jemboo amfuate.

**Patrick Ndiema:** Asante sana Commissioners kuingia Bungoma, na mimi naitwa Patrick Kilongek Ndiema, ni Mbungoma haswa. Kwa hivyo nazungumza mambo ya kuhusu Bungoma na Bong'omek, wakati zamani Wazungu walikuwa wako, tulikuwa na uhuru sana, na wakati mwaka wa sitini na tatu tulipopata uhuru, sisi tukarudi chini bila majina yetu kuonekana. Na pendekeza ya kwamba, Wangoma pia wapate cheo, kwa sababu tunaumia kufuatana na Waluhya, kwa sababu hatuna kiti chochote au kazi yeyote na wakati wazungu walikuwa tulikuwa na councillor tulikuwa na Chief.

Inginge tunataka sisi pia tupate Chiefs, tupate councillor, ingine tunataka tuishi vizuri na Waluhya. Halafu kila kitu kikija, pia sisi tupate matunda. Ya mwisho ni tuishi tu bila ukabila ya siasa.

**Com. Bishop Njoroge:** Asante sana mzee, hautaki ukabila? Haya kuja ujiandikishe hapa. Francis Baraza yuko? George Munywa? Who are you? Francis Baraza, okay.

**Francis Baraza:** My names are Francis Baraza, I am here to represent the youth, I would like to talk about, first: the religious groups in Kenya, I would like our next constitution to be clear on that part, because you find that, these days somebody can just wake up any day and they say that he is starting a church. What we saw in the previous years like in Uganda, this people can mislead people and then you find they tell people the end of the world is coming in 2002 or 2005, that kind of thing, they tell them sell all your belongings and kill yourselves. So if the constitution can be a bit clearly. They can layout guidelines, they can say like some churches can be studied and then we say we have churches like the Muslims, Catholics, ACK, and Salvation Army.

The next one is about military recruitments: you find that recruitment in the past years in Kenya has not being very fair, some regions are sending very many people to the armed forces while other regions are not taken seriously. The next one I would like to talk about the Government: I propose the next head of state should not be an elected Member of Parliament and the Vice President during the election time he should be his running mate. He should not be appointed directly by the President. Also all the ministers should not be elected Members of Parliament, they should be technocrats and all of them should be vetted by the Parliament and we should have like, the Minister of Agriculture should be somebody who has studied agriculture, the minister of foreign affairs be somebody who has studied international relations. I would also like to talk about the Provincial Administration which should shelved and more power given to the local authorities, whereby we can have the mayors and the councillors taking the parts of the DCs and the DOs.

I would also like to talk about giving more power to the youth. Right now the constitutional age for somebody to stand for

presidency is 35 years, I would like that age to be lowered a bit to 30 years, because I believe that once somebody is 30 years, I think he has enough presence of mind to shoulder the responsibility. Also about the Members of the Parliament I think the age right now is 21 years, why cannot we have people of 18 years or 19 years. Another thing, head of state should be a very qualified person; I would like the next constitution to be very clear. You can see that a person standing for presidency should be a university graduate and a cabinet minister should also be a university graduate, a Member of Parliament should be a university graduate, and so with the other people like the councillors and the like. I am through.

**Com. Bishop Njoroge:** Thank you very much, you look youthful but with a very big head, Can we have Joseph Mengich.

**Joseph Mengich:** Majina yangu ni Joseph Mengich, ningependa kusema kwamba, hapa Bungoma mimi ni class ile ambayo wamesema kwamba ni Bongomek. Na pendekezo langu la kwanza ni kwamba katika nchi ya Kenya, hebu na Serikali ikaweze kutambua kila tribe ambayo iko katika nchi hii ya Kenya. Na ikishatambua every tribe that is in Kenya, kukaweze kuwa na viongozi kutoka kwa kila tribe, ambao wanaweza ku-present the requests, the proposals of every tribe to the President or wherever necessary. Kwa sababu kuna viongozi, wacha niseme kama MPs, hawaelewe sana shida, za watu wengi humu mjini. Lakini kiongozi wa kila tribe, tuseme kama ni babangu, ama kama ni ndugu wa babangu, ndiye aliyekaribu na mimi na anaelewa shida zangu zaidi kuliko hata mwakilishi wa Bunge.

**Com. Bishop Njoroge:** Tumepata hiyo kwenda kwa point nyingine.

**Joseph:** jambo lingine ni kwamba ningependekeza kwamba mishahara kama ya Wabunge ikapunguzwe na pesa ambazo walikuwa wanapata kama Kshs. 500,000, hizi pesa zingine ambazo zitakatwa zipelekwe kwa ministry kama ya health. Halafu hizi pesa zitumiwe kuleta dawa kwa hospitali kuliko kukokana na madawa katika mahospitali. Halafu jambo lingine ni kwamba kuhusu utawala; hasa hapa Bungoma, wengi ni Wabukusu na kuna Bong'omek ambao ni minority, ningependa kusema kwamba kama kwa location yangu ya East Bukusu, kuna Bukusu halafu kuna pia Bongomek, sasa ningependa kusema kwamba, incase the Chief is a Bukusu, let the assistance Chief be Bong'omek, to show that we love one another, to show that we respect one another, to show that we are important to one another. I have finished sir and God bless you.

**Com. Bishop Njoroge:** Rajab Obora, Rajab utupatie mapendekezo peke yake.

**Rajab Obora:** Asante sana Commissioners kwa kufika Bungoma ili kuchukua maoni, jina yangu vile mmesikia naitwa Rajab Obora, mwenyekiti wa chama cha wasioona, wengi wanatuita vipofu, na memorandum yetu iko na sekretari wangu ambaye atawasomea, kwa sababu siwezi kusoma katika prints, kwa sababu sioni.

**Com. Bishop Njoroge:** Nani atasoma, njoo hapa, karibu, utaje jina lako na utupatie mapendekezo.

**Jeremiah Simwa:** My name is Jeremiah Simwa, I am the secretary to the Disabled of Kenya. People with disability in Kenya, are highly discriminated and sidelined for any activities in Kenya, which are employment, training, promotion and education. This results to very many people with disability becoming street beggars. Our recommendation of this is as follows:

- The people with disability should be considered for employment, training, and promotion and be considered for free education, free treatment and free transport. There several people with disabilities with high education, upto university level, because of his/her disability, cannot be considered when employing people on higher post. We recommend that, when employment is being done, people with disability should be considered at 10%.
- We recommend there should be officers appointed by the Government from the people with disability themselves, to be responsible for the welfare of people with disabilities. We also recommend that department of social services, be managed by the people with disabilities, this we refer the Commissioners to study the rules of the UN page 15 which states, the situation of people with disabilities clearly. The most important section that we address to all is section S34C dealing with civil and parliamentary elections, which has greatly discriminated the peoples disability.

**Com. Lethome:** Jeremiah do not go into those details give us the recommendations. We ae going to read that memorandum.

**Jeremiah:** The recommendation is that we would like section S34C that deals with civil and parliamentary elections be scrapped, because it has discriminated people with disabilities to contest.

- We have recommended that the national funds for the disabled be managed by people with disabilities, because there the ones who know their problems, rather than being managed by people who have no disabilities.
- The present constitution does not protect disabled women and girls who are impregnated by able-bodied people. Therefore we recommend that, the present constitution should come in and assist this people when they are impregnated by able people and there are thrown, these people should be punished and be forced to take these women and marry them.
- The people with disability recommend that they would like to retire, when working with the Government or any parastatal body, at the age of 65 years.
- Protection of disabled person should be taken seriously. In their view they recommend that, security of the disabled people should be considered in that when police detains a person with disability, he/she should be treated with great care, and he should not be placed in the cell where people are crowded, as he will not manage to struggle with them. That's all.

**Com. Lethome:** Thank you very much Jeremaih, hand over your memorandum, do we have any students who would like to speak, because in our settings we give, preference to them so that they go back to school, okay can you come here, state your name and register. Your name, school, age and class.

**Kusimba Michael:** I am Kusimba Michael, a form student from Kibathi High School, ready to present to you our views from the student body. I am 18 years. I am going to highlight the main issues and some of them have already been talked about, for example, the President needs not to be an MP, because after all he is elected directly by the people. The Parliament: the President should not have powers over the parliament. For example, dissolving it on his own will, calling elections anytime.

Registration voters: The three arms of the Government must be independent of each other, so that cohesiveness may be enhanced. The media must be given freedom of operations to monitor the actions and speeches of the President and other leaders to ensure that the masses are updated with any move that they take. The system of education also must be put under scrutiny, because to some extent it has failed to meet the expected standards, for example, we have very many university graduates without employment, yet the country is having some resources that can be utilized, and this one has led to causing frustrations to them, that is why we have even increase in crime in urban areas. We recommend that this frustrated youth, should be given employment and may be some job opportunities, for example the Jua Kali sector should be enhanced and Maendeleo ya Wanawake organization, the NGOs should be funded to enable them go on with their activities. The new constitution should be able to crack down on corruption, tribalism and ignorance. There is a lot of insecurity, for example the recent killing of the university student, who was shot by a policeman, one wonders, do these policemen shoot to kill or to protect their lives from unarmed student, so that one should also be checked. To some extent let the women also be given a chance to take part in National building, like the Ugandan's have done. You find that their place should not only be in the kitchen, they should not be regarded as child bearing machines, give them also a chance as long as they have the potential to do it in all careers. The parliament should also have full control of the Government expenditure, by refusing to approve wrong use of the funds, e.g. in wars, for example in Kenya you find that every person who is being born now, you find that you are supposed to pay 32 thousands to the donors or rather the Western.

Also you find that, all Ministers, the way it has been suggested, and especially the cabinet ministers, should have university degrees or rather they should have some advance education. This one will change them the untold humiliation they cause to the Government. You find that honourable MPs failing to answer questions, is a set back to a society, on the side of education: let the new constitution check at the criterion of selecting books that are used for the examination, for example literature books, where books of our own country are not bothered, but the council decides to take books from outside the country, which, some of them are not even educative to students, for example, "A Man of the People". Also choosing students to join secondary schools and universities should be addressed. You find that you cannot expect somebody who is in a poor school to complete favourable with somebody in a school which has the facilities, so we recommend that the criteria of choosing those students to join should also be given consideration.

Kenyan prisons should have an intension of advising a criminal to change, that is rehabilitation and not just be a mechanism of torture or something to that effect. I think those are the major points we had.

**Com. Lethome:** Thank you Michael for your points, can mwalimu, Madam Teresia follow the student please? Just a minute what is your name? Okay.

**Fred Wamalwa:** Thank you very much, my name is Fred Wamalwa. I would like to highlight one or two things. In the first place, I will talk about our political parties. Political parties in this country should be financed by the Government during campaigns and there should also be difference between the ruling party and the use of state machinery. The Electoral Commission concerned, the chairman of the Electoral Commission should not be appointed by the President. This guy here, should not be a former employee of the Government and should have a good rapport as far as history of the country is concerned. He should also be a person who is certified by the international community to which Kenya is a member. Talk of the Common Wealth, IMF, World Bank and all that.

Also I would like to say something small about the National Assembly: my preamble is that all MPs in this country be holders of degree from recognized universities. Allow me to say that, the remuneration given to every MP in this country should be determined by them, or rather should be determined the same way all the civil servants are determined. Allow me also to comment something about the cabinet; my preamble is that all the cabinet ministers in this country should be non-partisans; they should not be members of the parliament. They should also be professionals in their respective ministries in which they are administering. The number of workers given to each ministry should be limited. My request is that we have one minister, who is going to be assisted by two assistant ministers and two permanent secretaries and the kind of state machinery given to each ministry should be audited by the Auditor General and subject to the parliament. Also want to talk about the President, who I want to say that he should be a holder of a degree, he should be someone who has a good rapport with the international community, talk of the IMF, World Bank, the UN and the Common Wealth, I also would like to say that this guy here, should not be above the law as it is now. He should be subjected to the court whenever he makes a mistake.

I will also like to talk about the Provincial Administration: I want say that the PCs and the DCs of this country should be appointed by parliament and not by the President. And I will also like to say that the citizens should elect the DOs, Chiefs, and Assistance Chiefs, Village Heads, from where he comes from. Lastly, but not least, I would like to say that the constitution of this country, should be part and parcel of the curriculum, also it should be translated to the indigenous languages, so that at least every person can be able to get it. I will also like to say that constitution should empower the NGO sector, religious organisations, to carry out civic awareness capacity building forum, so that it can empower the citizens of this country. Thank you very much.

**Com. Lethome:** Thank you mwalimu Wamalwa, can we have George Manuya, followed by Richard Sifuna, Sifuna yuko? Okay he has represented a memorandum. Kuna assistance Chief, Joseph Kiptorich, yuko? Okay utamfuata huyo.

**George Manuya:** Distinguished Commissioners, my name is George Manuya, from Kanduyi constituency I have a few things that I would like to put out, because most of them have been talked about, first and foremost the constitution should be the highest authority of the land and all other offices and institutions should function as directed by the constitution. Certain sections of the constitution shall not, once entrenched in the constitution, be subject to change by any institution or office, except through a national referendum conducted by a properly constituted Electoral Commission. Some of the clauses I am suggesting in this category are one:

- Tenure of presidency, which should be restricted to two five year's term.
- Kenya shall remain a multi-party state, and any suggestion to revert to single system shall be considered as being against the interest of citizens of this country.
- Any other sections of the constitution should only be changed by a 90% majority vote of the number of seats in parliament not the number of Members of parliament sitting at that time.
- Under the present constitution that provides for a unitary Government, or State, some provinces or regions have fared very poorly in matters of development because of their political convictions. We therefore propose that the republic of Kenya be a state within which are smaller Governments namely: Regional Government, we can call them Federal Government or Regional Government, whatever name we will come up with, but we need them. Under this arrangement, each region be headed by a popularly elected political leader, we may call him a governor or something like that and a regional assembly composed of elected members who should form the majority and a few nominated members from interest groups.
- Structure and Systems of the Government, we propose that Kenya should retain the present Presidential system, politicians are agitating for creation of the office of the Prime Minister, but with a very selfish motive, namely to share among themselves top posts. I therefore recommend that we have a President, and when he is running, as a Presidential candidate must name his running mate, who is going to be a vice President, so that each one of them is an important determinant factor in Presidential elections. I am also recommending that the powers of the President be shared between Central Government, Regional Government and even the vice President should also be given some powers.
- County councils and municipal councils should be the lowest political units, enjoying some little autonomy, but the so called town councils should be abolished and this wards be within county councils, because some of the town councils have only about four councillors and I cannot see what four councilors can do.
- The Legislature: the present one chamber parliament should be changed to two chamber parliament, having the house of representatives which is the Lower House, made up of only elected members and then the Senate which is the Upper House made up of Senators and interested groups, you know like the disabled, the district representation and that kind of thing. When a member is elected into parliament, I feel that he should be left to his conscious and to the wishes of the electorates.
- This point has being mentioned several times, my recommendation is this, like for example, an MP is not performing

well and we want to remove him. The constituents that is the voters, may petition Speaker of the House by appending their names, ID nos., voting card nos. and their signatures as they appear on voting card and in official register of at least 2/3 of the number of those who voted. The petition should be copied to the party that sponsored him or her and to the Electoral Commission. The Speaker shall then convene a meeting of the above interested parties and the MP concerned to defend himself. If found that voters have good reasons, then they may proceed to High Court and seek elections of another MP.

- We have also proposed the Speaker or his deputy should be not elected from parliamentarians, that they should be elected from outside. The President may not veto decisions of parliament except in wartime or in times of national calamities where upholding such a decision may jeopardize national security or deny the citizen so affected important amenities. In other times the President procedure suffices but a returned bill must be debated again within 28 days, that is what we are proposing. If again it is passed in his original form, the President must sign it, but to defend himself he has to append his views to the act to avoid future and fair accusations of the President in the office at the time.
- Members of Parliament should be full time workers so that when parliament closes and they go for elections as the President normally remains until a new President comes in, let them also remain MPs, without drawing seating allowances, but let them remain MPs until a new parliament is sworn in.
- Organization of political parties: in political term, party ideologies philosophies are either to the left, to the right or central to an ideal situation. Anything away from this can be described as eccentric and this accommodates all other political views. The new constitution should therefore regulate the number of political parties to three. A party may not be denied registration if investigation by national intelligent services does not reveal anything against them. Anyone who is a citizen of Kenya by birth and not by registration, naturalization of parliament approval may contest the presidency.
- A retired President shall not receive his or her retirement benefits and pensions other than accrued pension, until he or she relinquishes all state and political party position. I am also proposing that anybody who is appointed or elected as President he must relinquish all party positions, so that he cannot hold a position as secretary of the party and at the same time as the President.
- Finally, on citizenship: there is what we call automatic citizenship, a child or person born of parents who are both Kenyan citizens, that one should automatic qualify. We have also noticed that Kenyan laws are very kind on giving people citizenship, this idea of four years within 12 years of staying in Kenya I think that should be scrapped and be replaced by seven continuous years, before one can be accorded citizenship. And as I said, citizenship, acquired by methods of registration or naturalization should automatically bar such a citizen from running for presidency or vice President of this country. We are trying to avoid a situation that arose in Zambia and in West Africa. So that people come in when they know if you are an immigrant to this country you have no rights standing as the President of this country.

**Com. Lethome:** Wind up now?

**George:** Well have skipped very many, but I would like say something about lake Victoria waters because it was touched on. In spite of the source of lake Victoria waters emanating from our country rivers, we feel that treaty of 1929 between Britain and Egypt should be revived. It should be revived in the interest of Kenyans so that we can use such waters for irrigation and other uses. Now on land, we propose that there should be a ceiling on land owned by individuals. The maximum should be 100 acres or so although somebody proposed 500 acres but we also feel that any additional acreage should attract taxation, whether under use or not. Because there is not point having 1000 acres and they're other people who do not have any land and yet he is not paying excess land.

Something very small about the Electoral Commissioners, we feel that this people should enjoy security of tenure of office for five years, now the election of a new Electoral Commission should be done one year before the elections come. So that they're in the office for one year and they can see what there supposed to be doing. The judiciary we are proposing that the Chief Justice should be appointed from people on the bench.

**Com. Lethome:** Thank you very much, can we have the assistance Chief now, there is a lady who has been sitting here for long, I do not know whether she wants to speak, do you want to speak madam? We want to be gender sensitive, is there a lady who wants to speak? Halafu mnasema mnanyanyaswa, mama utafuata Joseph.

**Joseph Kiptrotich Cheng'oli:** Kwa majina naitwa Joseph Kiptrotich Cheng'oli naibu wa Chifu wa Bungoma Township sublocation na niko na mapendekezo ningetaka nipeane kwa ajili ya constitution review ya Bungoma. Asanteni kwa kufika kwenu leo. Jambo la kwanza ningesema ya kwamba, Provincial Administration iendelee isipokuwa ibadilishwe ifanywe jambo la kuongoza maendeleo kwa Kenya nzima, ipewe nafasi iwe kama gender ya kuendesha maendeleo Kenya nzima. Na tena waongeze mshahara. Mshahara ni duni kidogo, ningomba ya kwamba constitution review Provincial Administration yote ipewe mshahara na iongezwe na tena Wakasa wapewe allowances kidogo wakati wanapofanya jambo. Kama kuna mkutanao Wakasa wapewe allowances.

Jambo lingine ni ya kwamba, kuna watu wengine kwa mfano, naibu wa chifu, na chifu hawafanyi mitihani, wapewe nafasi ya kufanya mitihani ndio wasonge kwa madaraka yao. Ni wale watu ambao wamesoma sio hati hawajasoma, wakisema watolewe waende nyumbani, wanaenda kufanya kazi gani na bado wamesoma, wafanya kazi nyingine ambayo inaweza kusaidia Kenya yetu hii.

Jambo la pili, mimi ni Bungoma treasurer wa Jua Kali Association, ningengea juu ya Jua Kali kuhusu Kenya nzima. Pendekezo langu ni ya kwamba by 2020, Kenya hii inasema ya kwamba inataka Kenya iwe industrialized country, ningependa hivi all volunteers all over the world wawe observed kwa Jua Kali sectors in the whole country. Kama kuna Wazungu wamesoma, wangetaka kufanya Jambo Kenya hii, wacha wawe attached kwa vikundi ndogo ndogo za jua kali ambazo zimefanya kazi kwa zaidi ya maika nn utaona ya kwamba tutaweza kutengeneza vitu hapa nchini, hata tooth picks peke yake bado tuna-import na

bado tunaongea mambo ya siasa tangu asubuhi mpaka njioni. Wazungu ambao wangesaidia Jua Kali sector wakubaliwe waje na materials na machineries duty free. Jambo lingine la Jua Kali, ni ya kwamba kama kuna fundi ambao wamesoma na wako nyumbani hawana kazi na wangetaka to improve their sector, wapewe machinery na walipe loan pole pole kwa miaka kumi, kwa sababu wataanza kuuza vitu na hivyo vitu ambazo wametengeneza waone ya kwamba wamefanya kazi vizuri. Tunge-promote ya kwamba mtu wa Jua Kali akitaka to import machinery iwe duty free. Jambo lingine, kuna mambo ya COMESA industries, tuneona ya kwamba body iwe selected tuone ya kwamba Jua Kali imeanza kuuza vitu zao ng'ambo, ziwe standardized kwa njia nzuri tuuze na Jua Kali ipewe nafasi nzuri sana kuna walimu ambao wamesomo, watu wameenda university hawana kazi. Yule mtu yeyote ambaye yuko nyumbani na amesoma mpaka university na afanyi kazi yeyote, ajiingize kwa Jua Kali ambayo iko kwa ile course ambayo amesoma, asikae nyumbani.

Mambo ya elimu, saa hizi Kenya elimu yetu imeenda chini sana kwa sababu ukienda hapa town, watu wamesoma wengi mpaka university, lakini kuna wale watoto hawasomi kwa sababu they cannot afford nursery school fees. Ningependa Serikali ipeane masoma free kutoka nursery mpaka form four. Isipokuwa wakati mtu anaingia university na diploma courses, Serikali ilipe 60% of the school fees halafu parent alipe 40%, economy ya Kenya itaenda sawa sawa.

Mambo ya wafunngwa: kuna watu wengine hawajazaliwa Bungoma, wamehama Bungoma kutafuta kazi, baada ya kufika Bungoma ama town zozote za Kenya, wakishafika mahali penye anaishi, anakuwa criminal, wakati amekuwa criminal anaendelea ku-recruit watu wengine kuwaongeza kuwa crime leaders within the country. Ningesema hivi, kama kuna criminal yeyote ambaye ameshikwa na amepelekwa kortini na amefungwa jela, arudishwa kwao nyumbani asirudishwe penye alifanyia crime. Niko na mfano, kuna vijana hapa kwetu hapa wametoka district zingine, wamekuja tu hapa Mandizini na wamekuja hapa mteremko, wamekuwa crime leaders, wanagonga sisi kweli kweli, hata kwao hawajulikani. Baadaya ya kufunguliwa gereza baada ya hii mambo ya tarehe moja ambayo President anapeana nafasi ya kwenda nyumbani, wanakuja nyumbani na wanaanza tena kugonga sisi, na kwao wamewacha, si warudishwe kwao.

**Com. Bishop Njoroge:** Chifu jaribu kumaliza, kuna watu wengi sana.

**Joseph:** Nikimalizia nawashukuru sana, kwa kufika kwenu, na mambo ya masoma naomba ya kwamba Serikali ilipie watu school fees na baada ya kulipa fees tuone ya kwamba watoto wetu wamesoma na wapewe kazi. Asanteni sana.

**Com. Bishop Njoroge:** (inaudible)

Leunida Waswa: Asante sana Commissioners, ladies and gentlemen, my name is Leunida Waswa from Kanduyi constituency in a group called BBI that is Bungoma Balekura Institute. The first point:

- Our President and other many big dignatories have very many jobs and yet there is an outcry for jobs for our children in

this country. I recommend that one man should have one job.

- Poverty is on the increase, and the most affected people are women and children, so I recommend that any help coming in for the same, a woman should be involved in the administration of the same.
- We have a very big number of orphans and widows in this country, due to HIV/Aids. My recommendation here is that, the constitution should allow the doctors to come up with a diagnosis and say exactly what it is even if it is Aids. This will prevent people inheriting women who are infected and more spreading of Aids.
- Our Members of Parliament should have offices in their constituencies, this will make it easy for them to interact with the people who elected them to parliament. And to add on that, they should also be given some allowance to help them or to make it easier for them to assist their people.
- Many families have suffered because of retrenchment: we are recommending that the Government can look for another way out rather than retrenchment.
- Security: we have cases in police custody, for example rape, people do not get proper information, information is distorted because may be the person who is interviewing the victim, I recommend in such cases gender services should be recommended in police services. That is all that I had, thank you.

**Com. Bishop:** Please go there and register, let us have Justice Wekulo, Rogers Waswa, James Nyonje, and Councillor Francis Walusaka.

**Rev. Francis Walusaka:** My names are Rev. Councillor Francis Walusaka, former chairman Bungoma County Council. My points are as follows:

- Politics: election of the President should be separate from the other elections, that mean on the day we are electing President the MPs and the councillors should not be elected, we shall have a separate day for the President.
- The constitution should be honoured. The President should not be above the constitution and the presidential speech should not be taken as a law, for example, if the President talks or makes a speech on the roadside when he is buying vegetables, it should not be taken as a law. He cannot create a council without having budgeted for it. I am saying all Presidential speeches are just ordinary speeches but not law.
- Cap. 265 governing the local authority should be overhauled as a whole. The council, that is mayor and the Chairman, other than public service Commission, should interview all Chief Officers that is scale 1 – 8 which do not stay there. The local authorities pay these officers.
- The chairmen and the mayors should be empowered and should be the executives of the councils, right now they have no powers even to instruct the driver to take him anywhere, so the whole thing should be changed.
- We should have an increase in the allowances of councillors, that is the chairmen, should earn about Kshs. 250,000, committee chairmen, Kshs. 200,000 and ordinary councillor Kshs. 150,000. These are the people who stay with the people day and night including at the graveside. Let us have a standard qualification for the elected leaders, the

President and MP must be graduate at a recognized level, councillors must at least form four and above, this will encourage professionals to come and lead us or have a good council, right now we have illiterate councillors who can not make anything.

- Another point of nomination of MPs and councillors, we should have at least a panel to nominate an MP or a councillor, other than just an individual simply nominating a youth winger who was very active in his campaigns.
- The media, KBC and the rest, should not just come one individual or a chairman of a certain party, but should be non-partisan as far as coverage is concerned.
- Education: our education system seem to be failing somewhere because we do not even have a standard, for example according to what we hear and see is that C+ is supposed to be a required qualification for university, but right now we have B- students who are at home. So we should have a standard at least. About employment of teachers, this should be left entirely on TSC, because if we leave the BOGs and PTAs, this is going to encourage tribalism and nepotism and nothing is going to come out as qualified teachers, we are only going to employ our brothers and sisters.
- Subjects like agriculture and economics should remain as examinable subjects, because without these people Kenya can do nothing, learners and proper learning should have a good foundation. Kenya needs agricultural and economists to stabilize its economy. Many Kenyans are very ignorant about their own law, so I recommend that the law should start at secondary level to enlighten the Kenyans to know their rights. A policeman who has not gone to school, will handle a university student in anyway because that boy has no any knowledge about human rights. All those university students who are qualified must be accessible to the loans automatically like it used to be, without application system which is there, because it is so discriminative and cumbersome, you find a student from a rich family getting Kshs. 40,000 and poor child who is an orphan getting nothing in the university and therefore many are dropouts.
- Administration: we must have police brutality stopped, because the police are mis-handling people and they're the ones to give people P3 forms. If a policeman hurts you why do you complain? He is the one to give you P3 form and he cannot allow that one, because he is the one who has done it. In case of rape case, a woman handle a woman and a man should handle a man. I am going very quickly; also the police should be trained on human relations. Because a policeman going to somebody's home, he will mis-handle this man in the presence of the wife and children, without looking at the age of that person, yet the policeman is just a boy from Kiganjo two weeks ago.
- Corruption: There is a lot of corruption during the recruitment of anybody in Kenya now. Whether police post or even teachers and whatever it is. And the man found in corruption case must be handled with without any discrimination. We come to the point of corruption also. Contractors who are given jobs or tenders and do not perform to their expectation of the people who have paid them, why should someone get 90% or 100% full payment when he has not performed the job. I have a good example of Kavu TTC and Bungoma Kitale road, the contractor just abandoned the whole thing there and they were paid 90% and 100% full. Such a contractor should be deregistered.
- About our constitution we are now having, it is my suggestion and recommendation that the constitution be written in the local languages, just like the Bible is being translated in all language, so that a Bukusu can read in Bukusu and Saboti in Saboti and that will help something.

- Finally, my recommendation that the combination of DDC, DDC is combining people that have no interest of this district and the chairman is the District Commissioner, all other departments are there, no local person is there, so therefore no body is taking care of the district.

**Com. Bishop Njoroge:** Thank you very much councillor, those are very good views and I am sure we have benefited. Can we have John Misiati? Is he here? Can we have Bob Baraza, Michael Nabiswa, Fred Wamalwa, Kusiba Michael, Vincent Walaka, yuko? Martin Wanamisi, karibu.

**Martin Wanamisi:** Thank you very much Commissioner, I would be very fast, because from the look of things we must be very fast. I will start with political parties in this country, my name is Martin Wanambisi. Political parties in this country, there must be a condition for the existence of a political party, let us not limit the number, but let us set conditions that will control their existence. We have also looked at freedom of assembly: let us say for example for a party to qualify for registration it must have 50,000 registered voters, with their signatures, their voters card numbers and ID numbers, for a party to qualify for registration.

Let those parties that have qualified for registration and they are existing get their financial support, from the ex-checker, so that all of them could compete at equal levels. The nominations of MPs and councillors, during the elections is my proposal that the Electoral Commission conduct the process. Because they're some who are so close to the Chiefs of the parties and there nominated behind the doors and therefore leadership is imposed on the people. I will also talk of powers in the executive, especially the presidency as it is now. It is very clear Commissioners, that politics in Kenya is based on tribes. It is so polarised and we cannot run away from it and it may consider the opinion that we have the President and the vice President who are not belonging to any particular party. They should be above party politics and then we have the prime minister and his deputy, who will now constitute the Government. The elections of the President must be done very much independent from the parliamentary elections. I also want to say that this process must be completely detached from the general election that, we are going to face and neither should we look for anything like the minimum review to enable us go to the elections, because I think we shall be compromised somewhere. We do remember very vividly with what happened to IPPG and we do not want it to be the same.

I also want to say that the timetable or the calendar, of the parliament must be very clear, so that when it ends; the parliamentarians start walking back home. They start dissolving themselves immediately that time arrives instead of waiting for somebody to give them a signal and of course the education for the parliamentarians and the President of this country must be set at a certain level, that enables them to understand, international local issues, to understand issues at certain levels and like they have said a degree, probably somebody reached form four but pursued education another line, went for tertiary education, I think that one must also looked in and be put at that level.

I also want to look at the Agriculture sector: the agriculture productivity and marketing in this country has had to be run by policies of the ministries, and I think that is why it has been run down. The mainstay of our economy but the management has been very poor. It is my considered view that, the production and marketing of agricultural products be enshrined in the constitution, such that the years of over production, it is not the time for the farmer to suffer, it is the Government to buy these products and put them in buffer stocks so that the farmer is cushioned all through. That way the farmer will be catered for and I think will be given some security. The minimum amount of land that every individual should have, should also be set so that a few of us who cannot be able to get this land on silver platter, can also be catered.

In the education system in this country, any other time we say we want to review the education system it must go through very serious scrutiny, and even the parliament must vet it, for it to change. We are also saying that like we have stalemate between education sectors like teachers and the Government. Who is the arbiter? Because we have been made to understand the Judiciary, is partisan and cannot settle that issue very amicably, so why can't the parliament be the Chief arbiter in the event. That there is such a stalemate of that multitude and the one existing between KNUT and the Government so that we do not hold people at a bay. As I finish, I also want to say that shifting the powers of TSC or the responsibility of TSC, especially to agents, BOG, DEDs, I think it is irresponsible, because this is going to enhance corruption of the highest order. Let TSC continue having the responsibility of employing teachers, rather than bringing to the BOGs, after all they have their sons, they can't employ somebody else when their children are not employed. They will go for their children. Allow me also address the issue sponsorship in schools. There is religious affiliated schools, and I think that argument was entered 1968, but I think as per know, it is out of time and tune, because at that time there were supposed to provide teachers, train them, do a few other things, but know they are not doing either. Their role in school must be re-defined otherwise they are only concentrating on promoting even people who do not merit to run such schools, because of certain interest they are catering for. Let us re-define their role, and let it be enshrined in the constitution that the role of the sponsors in schools is this and that.

Devolution of powers from Central Government. It is my considered opinion that we enhance federalism and certain key ministries like defense, foreign affairs, education can be held up there, but the rest like agriculture and this small one, let them be put where they are relevant. Like agriculture if the headquarter is put in Kitale, I think it could serve the purpose. With those few remarks I would say, the Provincial Administration as well has not served its purpose, and the governors must take up their positions, more so if it has to remain, you will find that, let us equitably distribute the district Commissioners as per the tribes, as the way it is now, out of 66 districts looking at the names of the district Commissioners, mainly come from one community and I think that is not very fair.

**Com. Bishop:** Thank you very much, we also received very good memorandum, from the secretary of the KUPET, which means you people are working very hard, Edward Nyongesa, MuKenya John, Richard Walukano, J.S. Kakula.

**J.S. Kakula:** My name is Julius Sawenja Kakula, I am the secretary of Bukusu elders Group. We have the following recommendations to make:

- The new constitution should have a preamble, which should be first feature of the constitution and in the Preamble we would like to have this concepts recognition of the Godhead as contained in the country's current national anthem. A statement of our colonial experience and our desire for liberty within the diversity of our ethnicity and land ownership. A statement entrenching patriotism and statesmanship, a statement giving recognition to our past patriots heroes and sportsmen and a statement of national physilophy and guiding principles.
- We also recommend that there be a second feature in the new constitution, stating the supremacy of the constitution and in that feature, we recommend that the constitution should not be amended except by national referendum, debated for at least 90 days, by the nation. For the purpose of conducting that national referendum we are recommending that there should be a permanent constitutional Commission, comprising of nine members, chairmen of the Electoral Commission, Speaker of the National Assembly, the Chief Justice, Attorney General, a representative of religious groups, representative of the employers organizations, representative of workers unions, representative of the law society of Kenya and the head of the public service. The permanent constitutional Commission should also be responsible for appointments to all constitutional offices, other than those of ministers, Permanent Secretaries and the Attorney General. The Commission should also be responsible for resolution of other constitutional issues in the country. We are also recommending a third feature in the new constitution; this third feature should contain principles of state policy, incorporating the following concepts: All policy-making organs, Parliament, Local Authorities, should be constituted through popular elections.

**Com. Bishop Njoroge:** You have dealt with the preamble and spend three minutes.

**Julius:** No this is another feature; it is not based on preamble.

**Com. Bishop Njoroge:** Directive principles. Now you have spent three minutes and you have two minutes. What are you going to do with the rest?

**Julius:** I though: Mr. Commissioner I am speaking for a very large group.

**Com. Bishop Njoroge:** No every group is given five minutes. So please go to the other issues, because we are going to read that memorandum. Even if you do not read everything we are going to analyse it.

**Julius:** Let me just make highlights. Elective post should be for five-year terms and all elective positions should be renewed for only once, so that nobody should have to be elected to any place for more than two terms or two years. The President should be elected for only two terms. We should also reserve customary practices. Another feature we would like to see is

that, remuneration to all constitutional offices including the office of the President, an independent remuneration Commission should fix Members of the Parliament and all offices gotten by elections.

**Citizenship:** We find that the chapter now in the present constitution dealing with citizenship is okay, but identity cards should be issued automatically to all Kenyans, all citizens should have the same rights and we also recommend that there should be schedule or an appendix containing the names of all the ethnics groups that constitute automatic citizens of Kenya. Concerning national defense, at the present time, there is no statement of how the discipline forces of the country are constituted; we recommend that there should be definite statement in the constitution, establishing all the discipline forces. We also recommend that the commander in Chief of those armed forces should continue being of the President, in addition there should be an advisory council, which should be convened in cases of emergency.

Concerning political parties, we recommend that there should be definite machinery for formation conduct and management of the party. In view of the importance of national unity, we recommend that the number of political parties be restricted to only four, we recommend that the financing of parties should be by the parties themselves. We accept the current separation of powers in the Government structures, the legislature, the executive, the Judiciary, but we recommend that the current ----- presence of the executive in the appointment of holders of constitutional offices should be replaced by what we have already said, a permanent constitutional Commission. The current unitary system of Government, should be replaced by a system, which recognizes devolution of power to regions and local Government. Concerning the Legislature we are recommending, that parliament should have its own timetable, the time for elections should be fixed preferably between 15<sup>th</sup> November and 31<sup>st</sup> December of the final election year and this should not be a the whim of anybody. We do not recommend an additional national chamber, we do not recommend an increase in the present number of constituencies, and we think the remuneration that is being given to elected leaders is already too heavy for the country to carry. In Provincial Administration, we are recommending that the Provincial Administration is already too heavy, we do not see the necessity for DOs, we think that Chiefs should be elected by popular elections and they should be elected at the age of 45 years and retire at 65 years. The positions of these Chiefs, the areas of their jurisdiction should be expanded at it used to be in the old days, so that we do not need DOs to be in that place.

**Com. Bishop Njoroge:** Your time is up; we have to give to somebody else. That man behind you there, has he talked? Umezungumza? Bado njoo utupatie jina lako.

**Charles Recha:** Jina langu ni Chris Charles Recha, I thank you Commissioners for coming here to take views. Mimi jambo langu la kwanza, ningelisema kwa watu waliovipofu, ningelipendelea wazazi, watiliwe mkazo na Serikali, kuwa kipofu pia lazima akizaliwa na akiwa amekuwa apewe shamba na wazazi, kwa sababu kuna wazazi wengine wanafanya kama ubaguzi kusema huyu hana haki ya kupata shamba.

Ya pili, ningelipendelea kwa upande wa elimu, vipofu ama walemavu, wowote, waweze kupewa bursary kwa sababu hata wao wanajamii, saa zingine anaweza kuwa anaomba bursary kwa mtoto wake ambaye amelimisha. Tatu, ningelipendelea kwa upande wa wafanyakazi, kipofu yeyote mahali popote mfanyakazi, asiwe akipuuzwa kwa kazi anayofanya na kufanyiwa madhihaka, kwa sababu pia yeye hufanya kazi ya umma, hata kama ni telephone operator ama mwalimu, kwa sababu ndio kazi zinafanywa na vipofu. Asiwe akipuuzwa na atiliwe maanani na pia atambulike kuwa ni mtu. Ni hayo nilikuwa nayo.

**Com. Bishop Njoroge:** Asante sana Bwana chris. Ningeita Oguru Moses, Nelida Waswa, Masibo Wamalwa, anafuatwa na Charles Wafula, yuko?

**Masibo Wamalwa:** My names are Masibo Wamalwa, I am a pastor by profession and a Kenyan, and I just have this to say: The police act; cap. 84: in most cases fingerprints are taken of suspects at the police station. My suggestion is that, the fingerprints be taken at the conviction of a person when sentence is passed not at the police station, because the law says the fingerprints, should be returned to the person after if he is not convicted, but that does not happen. I also say in most cases we have people who are killed by hit and run vehicles and it takes quite a long time for one to know who is who. I suggest that the police be given the duty to take the fingerprints of the people and then they can go to the register of person, to trace that person it would be easier for the Kenyans.

I will also talk about Cap. 172, that is the immigration act, it is very hard for Kenyans to get passports, it is easier may to die or go to heaven, than to get a Kenyan passport. I suggest that things be made easier for Kenyans to get passports at the most available time. There is also the issue of a prime minister in Kenya. I talked to one of my grandmothers who is 82 years, and she said there is no room for that. I believe my suggestion is that, creating the post of a prime minister and the deputy is too costly, we would rather have salaries of the teachers increased and employ more teachers and more DOs. I also have this to say on the mayors, that the mayors should be elected by people and not by the councillors.

I will go Cap. 200, that is the education act, I commend that the CRE subject should be made compulsory for the sake of morals of students in schools. There is this subject called Social Ethics, I suggest it be done away with, I suggest that corporal punishment be re-introduced in schools, I was punched and I did well. I believe most of the teachers and others were punched and they're doing well. I also suggest on Cap. 200 that the 8.4.4. system should be done away with and we come back to the old system.

There has been a lot of talks on Majimbo and Mr. Commissioner you will bear with me that Majimbo brings back tribalism, I recommend that Majimbo should not be in Kenya or be mentioned anywhere in Kenya. I recommend Central Government. There is an issue on the issuing of the ID cards, I have had a problem as preacher, I have had to quarrel, have written letters, we have had cases where somebody mentioned the Muslims, I know people who are Kenyans, they own even passports, but it is very hard. Let it be in the law that anybody in Kenya should get an ID card anywhere at anytime.

I suggest also that the MPs should not be the people to make laws, especially on the constitution of Kenya, because today we have an MP, tomorrow he is an ordinary Kenyan like you and mean. But you are still there, we are still there, so the Constitution should be made by the people for the people, so that there governed by it, knowing that we made this not the parliamentarians. ECK coordinators they be employed on contract but not retired teachers. I suggest that there be a supreme court in Kenya. On the issue of defection, I believe that the jumpy politicians should be stopped. I also mentioned something on the succession. On the issue of succession, much has been said. The second term of the seating President, normally it is the people who will suggest, whether the President uses all the state machineries or not, I believe it is the people who will suggest that he qualifies. He should not use much of the state machinery.

**Com. Bishop Njoroge:** Thank you very much; do we have (inaudible) Joseph Choklili, then he is going to be followed by Gilbert Wanjala, then Sosipeter Omondi, Alice Nabwera, okay fine.

**Joseph Choklili:** My names are Joseph Choklili, a young democrat and one of those aspiring for parliamentary seat in Kanduyi constituency. May I commence on the nominated MPs, An MP is nominated, and then tomorrow is appointed to the cabinet and tomorrow is made heir of successism? On that issue a nominated should not be given a priority of holding fort polio of cabinet ministries, when the people elect others from their constituencies. Language test of political MPs must remain as it is. Form four and above should be capable of championing democracy to the people of locality. This should not be created at a career of academic of which is offered or is just advertised.

Another point, constitution of political parties must be followed as written under the law. This is where by as an aspirant, I may have people's support on cross roads within my political party but at the end it ends by nominating a candidate basing on relativity and I may be thrown out of the race. The Government must check this and if I am thrown out of the race I have to go to the court to protect my seat. MPs salary must be checked upon by the set up panel committee.

**Com. Bishop Njoroge:** Do not explain.

**Joseph:** The motto of harambee is not as it was before, during the rain of mzee Jomo Kenyatta, it was pulling resources together and now days it is just a political mileage. harambee is just

**Com. Bishop Njoroge:** I now you want to be a politician, but this is not a political meeting, if you feel that the harambee is not serving any purpose, you either say we abolish harambee or we retain it. Do not give us reasons. We are Kenyans we know what is happening.

**Joseph:** Current currency of Kenya should not be changing all the time as the head of state retires from the office. We need a

good local design for peace and stability of the nation, that should be enclosed on the currency note such that it should not be changing all over as the President goes out of power. How to curb children unrest, school prefect must be well disciplined, whereby they have to champion their rights and show their solidarity after then they go for the campaign within the institution and be elected by the students themselves. After the elections, schoolteachers can set for an institutional for teaching the chosen students on how to guide the others.

**Com. Bishop Njoroge:** Thank you very much, which constituency are you standing?

Joseph: Kanduyi.

**Com. Bishop Njoroge:** I wish you well come and register. The other gentleman come and tells us your name.

**Gilbert Wanjala:** My name is Gilbert Wanjala Masinde, I from Kayoto youth group, first of all I will start with Local Government: I recommend that the current two years for mayors is not adequate, I recommend that they may be given a period of five years to enable proper coordinations of administration. The minimum education qualification for councillors to be at least forms four for an aspirant vying for election on civic seats. Language test for local seats, recommended.

Electoral System and process: we should have reserved seats for specific interest groups. This specific interest groups should be married and stable married women who should be in country councils two and municipal should also, two. A youth should be 30 years and below. Disabled should be educated with KCSE certificate; this should be done both by councillors and MPs.

Judiciary: we need a supreme court, that is above the President, a Kenyan parliament plus members in the conference, should pass the bill to have Judiciary that has powers.

**Com. Bishop Njoroge:** Thank you very much, can we have Wamalwa Simiyu followed by Leonard Wekesa.

**Wamalwa Simiyu:** I am Wamalwa Simiyu, I am representing two groups, Nairobi University Bungoma Students Associations, secondly, I am representing the College of Agriculture and Veterinary Science of University of Nairobi. I have the following:

- The students of the public universities in Kenya, we wish that all organizations of students at university level be recognized. Secondly, we as the university students and students in general we want to be represented in the parliament. The university students feel that there is no justice in the way their cases are being handled and we wish that whenever a university student commits an offence, it is good for such a case to be heard in a court of law and not just a panel of a few individuals who make predetermined decision and we just appear to pass a sense which was delivered

long time ago. We also feel that students should be punished for offences which they have committed while in the university premises, and when while away they should face the law, like any other Kenyan. Student's leaders should be allowed to address their colleagues at any time without any intimidation or without any conditional ties. There is no reason to get permission from the vice chancellor or anybody when there is an agent thing to be discussed. We also feel that student leaders should be provided with facilities like free accommodation and they should be paid for the duties they are dispensing to the student community.

- The 8.4.4. System should be scrapped and we come up with a system, which is compatible with other East African countries, so that we can over inter-university transfer taking place. Currently when a Kenyan goes to Uganda or Tanzania, he must pass through the advanced level system in order to qualify for the university there, we feel that is more tedious and is stopping us from obtaining the potential outside. Also we feel that the police should not arrest students from the university premises, we feel the university premises should be out of bound for policemen and if a student commits an offence he should be handed to the police by the university security officers. In this case we want to avoid a situation where there is too much commodity and fracas between police and university students. We also feel that university students, when there not armed with guns, there is no need for police to compact them with guns, there should be other means of compacting riots in case there is need. Thank you, that is what I had.

**Com. Lethome:** I would like some clarification, it is good what you have said about what the police should not do to the students and the rest, is there anything you thing the university students should also not do? I come from Nairobi, when there is any problem at Nairobi University and Kenyatta University, because innocent, as we are our cars will be stoned and burned. Do you think there is a problem with discipline in our universities, if you think there is then what do you recommend?

**Wamalwa:** Oationally, actually university students do riot and cause damage in the city, but you find when an issue comes to the extend that it provokes the students to go to the streets, it is actually a matter which is of much concern, if I can point out an incident recently when an university student was killed in cold blood for reasons which are not known, you actually do not expect university to clap hands and say that is a good thing. They will have to be emotional, discipline cases are actually there, but we are saying if you have to address them we have to narrow down to individuals.

**Com. Bishop Njoroge:** Thank you very much for your presentation. Come and register here. Nilikuwa nimetaja mtu mwingine, Leonard Wekesa, Julius Wasike yuko hapa? Yuko, utamfuata. Na kilisa Immanuel. Okay endelea.

**Leonard Wekesa:** My names are Leonard Wekesa Gabriel, I am here on behalf of a group known as Bungoma Organization for Empowerment of Women, who have given me chance to represent them. Whoever should have represented this is abit unwell. They have told me that:

1. Women to have equal rights alongside men, to have opportunities in education, economic, political and social, since

women have been silence performance of Kenya development.

2. Women and men shall have the right to equal rights to inherit assets and control poverty in their household.
3. The law, customs, tradition practices that undermine the dignity status and physical integrity of women or prohibit women from full enjoyment of their rights and freedoms under this chapter are prohibited.
4. The word ----- and communication shall not be used to undermine or belittle the equality and opportunity of either sex.
5. The state shall protect women, taking in account their natural maternal functions in the society.
6. Every woman shall have the right to control her fertility including the right to decide when and whether or not to have children.
7. The minimum age for marriage shall be 18 years and above for both men and women and family life education shall be given by only the church for one year and all of them to have or be entitled to equal rights during marriage and its dissolution. Both parties to be tested for HIV/Aids virus before marriage.
8. All Kenyans are Godly people, God given, all marriages to be done in church.
9. Anyone divorcing, has to take the law to stop unnecessary pregnancies and leave the innocent child on the street to suffer.
10. Sex workers should be abolished by stopping or closing all bars and beers be sold and bought from food shops and people take them at home.
11. Affirmative action for the purpose of re-addressing the imbalances created by historical traditions, customs or laws and other practices that combine to deny women full enjoyment human right. This is the basis of politics and programmes that will promote equality between men and boys and women and girls and through the principle of equality and equity between the sexes.

To address poverty elevation, the state has to set policy programmes through women to fight this thing called poverty, by recognizing the fight, a national lady should be in charge of this project and should be drawn nationwide.

It is said when you educate a woman, you will have educated many and when you educate a man you will have educated an individual, so educate women and they shall educate more children. Women violence in the household, have influenced and eroded chances of corruption, which have given men and husbands to kill innocent women or deform them physically. We should have women Attorney General in the district or province to see and monitor women problems. Girl-child rape should be abolished; any human character found, should be killed, because he has also caused death to this innocent girl or child. He will have damaged her natural maternal functions, may leave her with venereal disease and mostly HIV/Aids.

The state, to make programmes to assist widows, to educate orphans. The state to stop or remove customary laws from removing widows houses especially permanent houses for sub-standard ones. Children are a potential resource, they need special care and promotion, they opinions and resourcefulness have been ignored in addressing issues affecting their lives.

Every child shall have the right to be protected from child labour.

With those few points, I say thank you.

**Com. Lethome:** Thank you, Julius Wasike, afuatwe na mama wa Maendeleo ya Wanawake Audrine Wanyama.

**Julius Wasike:** Thank your Mr. Chairman, Mr. Julius Wasike is my name, I am representing, the following retired officers: Mr. Julius Wasike my self, William Wabwa, John Simiyu, Henry Wekesa, Joseph Sati and George Wasila, some of them are here, we shall be very brief because I cannot go into details. Our main concern Mr. Chairman, is about the retired people. In view of the immense contribution to the development of a nation generally, we submit that the pensions of the retired people be increased to the standard where they can meet the cost of living that is rising very day. We also recommend that as they retire the benefits should be prepared early, so that on retirement the retirees goes home with his or her check, this will avoid or prevent the kind of frustration that the retirees go through today. That they shall be regular review of pension, we note that once the workers are assured of comfort in future, there will be no conflict of interest during their working days. The tendency as you know is for people to work to accumulate wealth while there are working, so that when they retire they leave on that wealth. To avoid this tendency of people having divided interest during their working days, they should be assured that when they retire, they go home and they will comfortable as much as they have been comfortable during their working days.

On the widows and children pension scheme, we submit that it should be given to those who are lucky to retire and not just the widows of the dead workers. When you have been contributing to this scheme and you retire, you should be given the benefit of that contribution while you are still alive, rather than waiting until you die, then they give to your widow. We also say that the state should take care of the retirees who are over 85 years of age and a willing to be accommodated in the old people's homes in their districts. This practice may not be very common but at the moment as soon as you become 85 years and above, you become a liability to your children, you become a liability to your grandchildren and you become a mis-treat in your own society. The retirement age to be increased to 60 years and compulsory retirement to be 65 years, compare this with judges who retire at even 75 years, the university lectures retire at 60-65 years. Why should civil servant and other public servant not to retire at the same age? that should be ironed out.

On political appointment we recommend that this should be done purely on merit and we recommend that the district boss recommend those people who merit to be appointed on various boards and other organizations. Therefore they forward their recommendations to the relevant authority and this will be vetted by parliament before they are appointed. This will avoid nepotism, tribalism and all forms of eeism; we have also said that no one person should hold more than one post at a given time.

On defense and security, we have said the President be the Commander in Chief of the armed forces but the power to declare war in any emergency in national disasters and in resurrection and break down of public order be vested in the national security council, to be composed of current Chief of General Staff and other senior armed forces officers, the cabinet, retired senior

armed forces officers and senior civil servants. They will form a council that will make decisions when it comes to issues of war and emergency.

The structure of Government will be as follows:

- The President and vice President should be elected directly by the electorate.
- The President should receive more than 50% votes in addition to the 25% in five of the 8 provinces as it is currently. Otherwise there should be a runoff for the two leading candidates to select the winning candidate.
- Where the office of the President falls vacant, the vice President takes over and completes the remaining part of that session. Instead of somebody acting for 90 days, there should not be a vacuum.
- Appointment to public offices be vetted by parliament so that important offices office bearers are not appointed on impulses or any other criteria other than merit.
- The President should not be the chancellor of public universities
- We support unitary system of Government in which national resources are distributed evenly but with devolution of powers to the districts. We have a national unitary Government, but powers of the President be brought down to the level of the district so that members of the district and also make their own decisions on their destiny.
- There should be a parliamentary committee to prepare the budget, which will be approved by parliament before, been presented to the public.
- Auditor General report should be treated more seriously especially in the event of misappropriation.
- Land ownership: this should remain an individual right of ownership and transfer for purpose of inheritance or sell should not attract high fees as it is at the moment.
- There should be a limit or a ceiling to the size of land owned by individual recommends 500 acres per person. There is need to have land and natural resources Commission to distribute state land and other resources to individuals to ensure its equity and fairness in this exercise.
- Only unmarried women should have equal right over land ownership from their parents. In other words if you are married and you go to your new home, you do not go back home and claim land. You claim land wherever you are married. But if you are not married, you come back to your parents will give you your share of land and any other property, if there is a legal divorce, you go back to your parent and you will be entitled to your share. Kenyans should own land anywhere in the republic.
- On education the Government in view of the crucial role they play, free, should employ pre-primary teacher and compulsory primary education should be implemented to the latter. There should be no question of cost sharing, the Government should provide all the teaching and learning resources through taxation of everybody whether with children or not, so that the burden is shared equally among all the people of the country. Selection to form one and teacher training colleges should be done purely on merit and not on quota system. The colleges and universities should be distributed evenly throughout all the districts of the country. Appointment of the Minister of Education and other senior

officials of the ministry, should be from educationist with proven track record. In other words if you are going to be made a minister of education, you should have a track record which is relevant to that ministry, so that your performance matches your track record. Rather than putting somebody from where ever and make him minister for education.

Those are the few points we were able to make, thank you very much Mr. Chairman.

**Com. Lethome:** The Maendeleo ya Wanawake lady.

**Dinah Khayota:** My name is Dinah Khayota, chairlady Maendeleo ya Wanawake. I have the following to recommends:

- Registration of deaths, we have so many death certificate and Chiefs have problems to handle the properties when they have such cases.
- Inheritance: The property should go to the widow, whether he has one wife or more, the property should go to all of them.
- Courts should not keep people for quite long when they have put their cases in courts.
- Speed of public vehicles: the drivers be 25 years and above to reduce the speed, the maximum speed should be 80km/hr.
- Rape cases, those who rape children under ten should get life imprisonment.
- Dowry should be negotiated and not forced.
- Women who are arrested should be done so by policewomen and not men.
- Every district to put up a big school to collect all street children from their districts and educate.
- Recruitment of any position should be considered within the district, but not to come to do recruitment when they have already taken their people, and also they should not ask for bribe.
- Public trustee: when somebody dies they force his property to go through the public trustee. The property should go through the Chief who knows the woman instead of the trustee.

Those are my points. Thank you very much.

**Com. Lethome:** Thank you very much, can you hand over your memorandum. I thought I called one, now we have two, who is Audrine?

**Andrine Wanyama:** To add on what Mama has just said, we feel that women should also have right to equal protection and benefit of the laws without any discrimination. We also feel that the constitution should ensure freedom of conscience, religion, expression in full, association and the right to settle and own property anywhere in Kenya without any gender discrimination. The constitution should also ensure the use of concepts that are gender sensitive in order to bring the required altitudinal

changes, whatever is intended should be clearly stated and should be left to different types of interpretations that would invariably receive the intention of the laws by the court.

The constitution should also outlaw, social, economic, cultural and historical practices that have continued to limit women freedom and equal participation in the development process of this country. Thereby reducing their continued absence of representation even where they are qualified, able and merit to do so. Cultural diversity, ethnic regional and communal right, the constitution should draw a balance between a positive and a negative whereby the negative do not harm and act as an obstacle to people especially women and children in girls development. Traditional harmful practices that are harmful to health and well being of a person, especially those have perpetuated the oppression of women such as inheritance of widows, their human rights and sexuality of women and girls, for example, female circumcision, genital mutilation, should be outlawed. Widows should be married out of their own choice and preference. In this period of sexually transmitted diseases and especially HIV/Aids, there should be mandatory testing before marriage is solemnized. There should be a mandatory health insurance; policy scheme subsidized by the state to ensure good health and cater for or cover the population especially the elderly and low-income families.

Good governance: we have said we should democratic system of good governance that shows transparency and accountability through rule of law especially in public governance. The constitution should also ensure that the principle of gender equality or equity is applied in appointment of sub-Chiefs, Chiefs, councillors etc. There should be a criteria used to ensure that certain percentage of elective post go to women. It is necessary that the constitution streamlines election process in order to prescribe and fix election date and amount of money that can be spend or involved on such kind of elections.

Girl-child education, despite non-discriminatory laws against girl's informal education, girls still lag far behind in their education, why? Because they're unequal practices that are allowed thrive and subject girls to inferior status. This practice later lead to their relegated to lower social economic and political status in this country. The constitution needs to outlaw also factors that are usually based on cultural, traditional practices that perpetuate discriminations against girl child education, early pregnancies, and force and child marriages of girls. The constitution should also ensure that there is compulsory and mandatory primary education to all children.

Land and property ownership, succession and inheritance rights: the constitution should address the concept of ownership and custody in matters of property control, access and management as well as the element of joined ownership where is applicable, as in marriage or cohabitation. Equity needs not only be seen or be done, applied, but should be ensured to occur.

Family constitution should also ensure the responsibility of parenting and that the security of defined family units. Citizenship: automatic citizenship to any children fathered by parents of this country.

**Com. Lethome:** Audrine, Wanyama register there.

**Nicholas Charles Khrisa:** My names are Nicholas Charles Khrisa; I am councillor of East Bukusu Ward of Bungoma ni Kanduyi constituency. I have a few points to make to the Commission. First I want to thank you very much for coming to Bungoma to give us a chance to air our views. The first point I would like to make is that: according to the present constitution, his Excellency the President has powers to appoint Commissions of inquiry on public matters other than when necessary. The point I would like to make here is that, if and when the President appoints this Commission of inquiry, when the report is finally represented, it should be mandatory on him as the President to publicize what the Commission has found out. These Commissions the Government spends a lot of money paying the people who undertake this Commission and yet when the results come out the resident may or may not announce the results. This is a waste of public funds and new constitution should direct him, to compel him to issue the result within a specified period of time. Possibly in one months time.

My friends here have talked about the qualifications of a councillor and they have rightly said that councillor should be of form four education and above. I have got qualifications and I am retired civil servant having being a district officer and an acting district Commissioner, but the kind of salary we are paid here, are impossible for those kind of positions. I recommend that the salary for a councillor should be over Kshs. 100,000 and they should be paid direct from the consolidated funds. Because this councils cannot afford to pay those salaries to councillors. Provincial Administration: at the time of independence in 1963 the boundaries of districts in Kenya were guaranteed under the constitution, but at the moment the President has acquired certain powers I do not know if he is entitled to them, where he has created political districts merely to give Kanu political mileage. I recommend that he should have no such powers at all. The district should be created by a body, may be parliament and they should remain so unless they are changed by the body who created them.

On prisons: there friends in prison, I know of one person, a Mr. Murunga, who has been in Bungoma GK prison since 1994, because of a murder case and judgment has not been delivered. I recommend a person, particularly those on capital punishment, when they are remanded in custody, it should not take any longer than two years to have them sentenced pronounced, and either they are sentenced or acquitted, but not for somebody to be kept in remand for over ten years and yet no judgment is made

A point has been made here to the effect that some MPs or councillors may be recalled during their period of time. Once you are elected a member of parliament or a councillor the question of recalling you should not arise, you should serve your five years, because when we talk about recalling them, the moment you get to parliament or to the council, people will begin wrapping you up and you will not serve the people who will have elected you, may be only those who defect once they go to parliament. We have a body called The Public Trustee Act, like mama wa Maendeleo ya Wanawake, I will say, this body is only centralized in Nairobi, it is my recommendation that the public trustee act, those who serve that department, it should be centralized in the district or in the provinces, such that old mamas are able to walk to it and put their case, because most of them are suffering because of land matters and they cannot go to Nairobi, those who are able to go to Nairobi, do rob them and do

all sort of things.

Finally, I would like to thank you for coming and I hope that whatever views we have given will be covered well.

**Com. Lethome:** Can we have now, Main Masabi, Bukusu culture. Jacton Odiko you will follow him. Wehuli Simiyu, George Wanyonyi. Hayuko, haya mtafuatana hivyo.

**Maina Massabi:** My name is Maina Massabi, I will only give recommendations because I have got a 9-page memorandum, but have picked only recommendations.

- Parliament will be on all the time, we have say 10% of the number of seats, say 300 gone for general elections and when they come another 10% will have time to go for general election and when you pick, the constituencies, each constituency should be in separation with each other, that is that parliament will prorogued, to be on all the time. Councils will not prorogue, will not be sent away for election, only certain percentage of the councillors like the MPs go for elections.
- No nominated Member of Parliament, all must be elected MPs.
- No nomination in any local council.
- Cabinet will be appointed from outside parliament but ratified by parliament, those to be appointed should be educationist and expedient and their names will be sent to parliament for ratification.
- There should be war cabinet incase of war, and this is where the President comes in as the Commander in Chief, elsewhere he is not Commander in Chief.
- President should not be an MP, once elected a candidate will cease to be leader of any other organization will concentrate on matters of state house. He will have no access to the treasury and central bank. The vice President should come in as his running mate and he is given the fort polio of defense. Other ministries go to regions.
- All public services and civil services be decentralized and each region will have all those ministries.
- President appoints the Chief justice but the name is satisfied by parliament.
- There should be a council to assist the Judiciary Service Commission to elect magistrate, to eliminate corruption.
- President will appoint police under regions; head of public and civil services but their names must be satisfied by parliament.
- There should be a monitoring body, known as Ombudsman office. Which will monitor the operations of all public and civil servants and even politicians and they have got power to replace them.
- There should be a regional assembly that elected members who will be known as deputies.
- There should be regional administration, which is equivalent to today's Provincial Administration, but all of them must be elected. That is regional Commissioner, county Commissioner and professional Commissioner, only three. That the allocation will take the area of today's division.
- Gender: women familiar membership of transferability does not allow them to inherit.

- No national days except Jamuhuri, no Presidential honours.
- Public servants like Permanent Secretary should not accompany politicians to rallies.
- Press should be encouraged to operate as it helps to fight corruption.
- Freedom of worship, but our Bukusu people have been denied access to their shrines, I recommend that a way is opened with security for our people to access to Masaba the highest shrine, there other shrines we call Malava, scattered all over the mountain forest, and in Teso district, you know it was our country, so our people should have free and secure access to these shrines.
- Land: we are running short of land for food production, I recommend that all land be managed by the state so that a few farmers can operate any acreage for mass food production.
- Education: we should introduce what we call industrial design for training of youngsters to become industrialist.
- Adopt Japanese system of education. Education should be free and university should be autonomous. Jua Kali should also be regarded as an educational institution where education should be considered how people can go and develop it.
- Economic areas: maize industry should have its headquarter in Bungoma like somebody else mentioned or Kitale, Tourism at the Coast, and wheat perhaps Endoret and so fourth.
- Nile water, we should discard those agreements which were made by colonial in relation between Sudan and Egypt, when we are struggling to manage forests and other environmental matters we have to use our water fully.
- Corporal punishments to schools, no.
- Brews: people should brew chang'aa, which is collected and purified by brewers.
- Retiring head of state should be considered in terms of how much or how far he destroyed economy, if he destroyed economy he should not be entitled, that means it is not automatic.
- Money export: the Government has allowed people to export money, for example Asians should not export money to London. Parastatals should revert to the mother ministries.
- Welfare state should be developed in Kenya.

**Com. Lethome:** Jackton followed by Leonard Mugaga, yuko? Anthony Soita, utamfuata.

**Jackton Odigo:** Thank you Commissioners; my names are Jackton Odigo, Agriculturist representing the interest of farming community. As you all know our country Agriculture is the backbone of our economy, and I recommend that the whole of agricultural facts should be overhauled, the modern challenges that we have today, for example idle land, those with idle land should be penalized heavily so that all the land should be put under production to enhance agricultural production. The other thing is, those practicing agriculture should practice it according to the technical recommendation, so that they can realize productivity of the land.

Socially, I recommend that Kenya as a country should have a national dress, our neighbours Uganda, Tanzania they have their national dress, also in West Africa, I recommend that the designers should design for us, our national dress so that we can have

our identity and dignity. Politically I recommend that the MPs of parliament should have a job description, being a Member of Parliament, being a Member of Parliament it is a very critical job and they should have a job description and when they are vying for the seat, they should have an agreement with the constituent, so that when they go to parliament, they should honor that agreement. The constituent should set targets for them. Because they just talk, but when they go to the parliament they forget what they promised. The other thing is we should set a task force to look into the remuneration of the MPs, packages. They should not be the deciding factor for their salary, because they might injure the economy. The other thing I will like to recommend is that, we should have an office of Ombudsman, so that we have a neutral person to look into the affairs of the country. Last but not least, I recommend that, as it has been said earlier, there should be one-man one job, or one-woman one job, so that we create more employment, because a number of citizens are suffering because of unemployment. I think that is all I had.

**Com. Lethome:** Anthony Soita, followed by Shadrack Wanyama, yuko, haya utamfuata.

**Anthony Soita:** Hamjambo? Kwa majina naitwa Anthony Soita, na ninashukuru kwa siku ya leo, maanake nimekuwa nikitamani sana siku ya leo ifike na mimi naye pia nichagie Katiba ya Kenya, ambayo inatungaisha sisi Wakenya kwa jumla. Hasa nikianza na Bunge, mimi naona ni kama Wabunge wetu wamechanganyikiwa, mimi naona kama hii Katiba iseme kuwa Bunge wote ambaye anayetoka chama kimoja kwenda kwa chama kingine, alipe fine kwa chama ambacho kilim-sponsor kwanza kuingia Bunge, ambapo tayari ametengeneza jina. Kitu cha pili, mimi nasema kama sasa hapa Bungoma tunaona kama wakati mwingine tunapata kwenda public rallies inakuwa ni shida. Ukitaka kuwa na mkutano halali wanakataa wanakwambia mpaka uende kwa DC, kwa Chifu, halafu uende kwa Mkasa, ningependekeza kama ingekuwa tu unaenda kumwambia kwamba unakuwa na public rally na anakupatia securing. Kitu cha tatu, naona kama our MPs ambao wanatoka nje wakienda kufanya harambee kwa wengine, wakomeshwe kwa sababu wewe ukienda kufanya harambee kwa mwingine kama mwenyewe hayuko, hauwezi kwenda kwa nyumba ya mtu, mkewake anakupikia chakula kama mwenyewe hayuko. Sasa naona heri wakomeshwe kwenda katika harambee ama functions zozote kwa constituency kama mwenye constituency hayuko.

Ingingine ni upande wa Pombe, kuna hii pombe tunaiita pombe ya haramu lakini haki kabisa sio pombe haramu, nasema kama hii Katiba ya sasa ingetusaidia, mimi sinywi pombe, lakini Katiba sasa ingesaidia wale wanakunywa pombe, na pendekeza kama hii pombe ingekubaliwa, watu watumie. Upande wa kazi ambazo hazitaji kusomea: kazi kama hizi za kufagia na watchman, sioni haja gani tu-import mtu kutoka huko mbali kama ukambani mtu anakuja kufanya kazi hapa na Bukusu wenyewe tuko, tunaomba kama Katiba ya Kenya inge-restrict watu kutoka kwa district wafanye hiyo kazi.

**Com. Lethome:** Na kazi ya watchman?

**Anthony:** Ndio kazi kama hizo.

**Com. Lethome:** Na wale Wabukusu wako nje ya Bukusu land, wasifanye hizo kazi huko waliko.

**Anthony:** Hatusemi kuchunga kesi ya mtu, kuna kazi kama county council, kuchunga kama kortini.

Na tena upande wa Kortini, tungependa kama Katiba ya sasa ingetwambia mtu akienda kortini mara tatu halafu anarudi huko anaambiwa file imepotea, ni heri hiyo kesi itupiliwe mbali kwa sababu hauwezi kuangaika huko mwaka mzima unapoteza wakati wako. Ni heri hiyo kesi itupiliwe mbali. Na tena mtu akishikwa sioni inamaana gani amalize muda wa zaidi wa masaa ishirini na nne kama hajaingizwa kortini. Hapa Bungoma tunaumizwa sana. Ningependekeza mtu apelekwe kortini, kama anashikwa asubuhi apelekwe saa nane, akishikwa njioni apelekwe kesho yake asubuhi.

Upande wa kura naona kama tungesaidia kura zetu zihesabiwe pale pale tunapopigia kura, hapana kura tunapigia hapa, wanaenda kuhesabia Kimilili, katika hapa hatujui kinachotokea, tunapopigia kura zihesabiwe pale pale. Upande wa professional officers: tungesaidiwa kama professional officers hawako active, tungesaidiwa kama chifu, ama Mkasa, afanye kazi ya professional officer. Kama sisi tunaumia sana, mtu anatoka Webuye anakuja professional officer Bungoma, unaenda kumuona, unamkosa. Sasa kama Katiba ingetusaidia wapewe locals hiyo kazi. Upande wa discipline shuleni, naona warudishe kiboko kwa sababu hata sisi kama sio kiboko hatungefika penye tuko. Security upande wa MPs, mimi naona ni afadhali MPs wetu wapewe at least police wawili ama mmoja wa security. Asanteni.

**Com. Lethome:** Lawrence Benda yuko? Okay Shadrack endelea.

**Shadrack Wanyama:** Majina yangu ni Shadrack Manyasi Wanyama, mimi ni mkaazi wa Kanduyi, nitaanza na Legislature, katika hicho kitabu, niliona kwamba wameandika members wamechaguliwa geographically, there is no geographical representation, na ningependekeza kwamba Katiba ichunguze na irekebishe kile kipengele ambacho kina sema constituency number ya watu ambao wanawakilishwa Bungeni izingatiwe, kuliko MPs fulani wanawakilisha watu wachache sana katika Bunge.

Jambo la pili, ile mishahara na allowances for MPs iko juu zaidi napendekeza iwe reduced by 50%. Rais, asipewe ruhusa kufanyia campaign mtu yeyote na aondoke bila kuangalia nyuma, nafasi yake itachukuliwa na mtu ambaye atachaguliwa na wananchi. KBC, ambayo ni sauti ya wananchi, should not be used up the the party in power, kama wakati wa sasa, KANU na viongozi wa KANU, ndio wanaruhusa ya kusikika kupitia KBC, vyama vyote vipewe nafasi sawa katika KBC.

Jambo lingine, the rights of prisoners: when a person is taken in the prison he does not loose fundamental rights. I recommend, hatua zote zichukuliwe, kuakikisha kwamba mtu anayetewa vilivyo kortini kabla hajafungwa na tena ningependekeza sheria ile ambayo inahukumu kifo itolewe katika kitabu cha sheria, kwa sababu Mungu peke yake ndiye anaruhusa kuchukua maisha ya mtu, na badala yake waweke life sentence for hard core criminals. Halafu jambo lingine, ambao liona lina kasoro ni kwamba,

handing over wakati Rais wa sasa anapoondoka, ningependekeza nafasi yake ichukuliwe na Commission au vikundi ambavyo vimechaguliwa kutoka kwa vyama vyote vya kisiasa mpaka wakati ule President mpya atachaguliwa halafu transitional Government will hand over. Jambo lingine kuhusu nominated MPs, there should be no clause about nominated MPs and councillors, kwa maana katika sheria ya Kenya, kuna constituency ambazo zina-represent watu kwa Bunge na wards, kwa maana hao ambao wako nominated, ndio wanatatanisha utawala katika ya wananchi na viongozi.

Jambo la mwisho, sisi kama wakaaji wa Kanduyi, sisi ni wa kulima wa miwa na ile sugar act is not enough, ya siku thelathini, when a farmer has delivered his produce to the factory. In addition waangalie vile mkulima wa miwa anavyotendewa, because at present they have sold seedlings without fertilizer, mimi nashindwa, how can you plant crops without fertilizer, you expect those crops to mature without fertilizer at a required period. Kwa maana baada ya miezi hiyo kumi na tano, hiyo miwe itakuwa bado haijakomaa, na utaona factory ina-blame mkulima, kwa hivyo mkulima ananyanyaswa sana. Na ile pesa ambayo wanamkata iko juu sana kwa maana gross payment of Kshs. 160,000, halafu mkulima apewe Kshs. 60,000, wakate shilingi elfu mia moja. Serikali itusaidie halafu sheria iwekwe ya kulinda mkulima.

Jambo lingine ni kuhusu elimu: elimu ya watoto wetu imezoroteka, kwa sababu Serikali imechukua kiwango kikibwa kusimamia elimu, ningependekeza wale wasomi wapewe nafasi kubwa, kuamua ni what type of education should our children have. Because the Government had taken that part, and it is forming policies that cannot help our children. Thank you very much.

**Com. Lethome:** Okay, next, Benard Wesonga, yuko? Joseph Sibakati? Njoo na Mr. Mavoga Simon yuko?

**Joseph: Sibakati:** Naitwa Pator Joseph Sibakati, nashukuru kupata nafasi hii. Kwa mambo machache nataka kusema kwamba kuna freedom of worship katika nchi yetu ya Kenya, lakini hakuna freedom ya Sabath. Mimi naabudu siku ya saba ya juma, inaitwa Sabato, pendekezo yangu ni kwamba wanafunzi katika shule, hata wale ambao wako katika training na wale wanafanya kazi ya armed force, isemekane kila mahali watu wapewe nafasi ya kuabudu Mungu, kaanzia Ijumaa jioni mpaka Jumosi njioni.

Jambo la pili, ni kwamba sababu ya corruption, kwa sababu ya HIV/Aids, kwa sababu ya pombe, ningewauliza watu wapewe nafasi ya kwanza katika constitution ya kusoma bibilia kama somo la kwanza katika shule na hata constitution ipeane nafasi kwa wananchi wasome bibilia zaidi sana, elimu ya afya iingie, wafundishe watu hata wale wanazungumzia mambo ya pombe maana inaua watu, waelewe ubaya wa pombe na waachane na pombe. Naomba Mungu awabariki katika kazi nzuri hiyo, kwa jina la Yesu. Asante.

**Com. Lethome:** Tumpate sasa Watuma Sitati, halafu Alfred Murunga utafuata, halafu afuatwe na Wanyonyi Alfred.

**Watua Sitati:** Mr. Commissioners Sir, my names are Watua Sitati, I am a former political detainee of this country, later I

became a political refugee outside this country, and I have also being a dean of political studies in a certain institution outside this country. I have few requests to make,

- I have come up with something very small, that is illustrative of what I am going to talk about, on offering a Government that restores faith among the people through service delivery, with special reference to quasi federal system and how it works.
- I would like the Commissioners to give me time to ask questions of what you have being gathering from this place. I would like to start with how we can be able to restore faith in our Government to the constitution. The major problem in this country is that we are not getting services, simply because of one very simple thing; the tax system in this country does not empower the taxpayers to demand for services. If we tax payers could know how much taxes we are paying, only then can we be able to demand for services. So we have to revive and revisit the former tax base collection in this country. By so knowing how much we are paying, we can be able to gauge human resource demand within the quasi-federal system and set up. Job creation can be created from within. Service audit can be done from within and this will address the poverty and what the community desires particularly environmental and economic manifestation of the federal union created within the constitution.
- Such a system within the Constitution, will check on corruption, whereby the tax collector and the taxpayers will be able to demand for services delivery from those holding service offices.
- Through such quasi-federal system, we shall be creating priorities drawn by the people themselves who are the taxpayer within that are and we shall realize direct participation of the taxpayers and service deliveries within the system and we will cut down on corruption and some tendencies that do not argue well with the current system.
- I would like to bring to the attention of the Commissioners and the citizens of this country that through the quasi federal system the sustainability of such system are very viable, and that brings to the first request I made, if we can be able to look at the Bungoma district population based on the 1999 census of 900,000 people, we have the upper cadre and the lower cadre, if 5,000 people within Bungoma can be able to pay an annual tax of Kshs. 20,000, that is net Kshs. 100 million shillings, 10,000 people to Kshs. 15,000 per annum as tax, we can be able to net Kshs. 150 million. 30,000 Bungoma residence pay Kshs. 10,000 per annum will create Kshs. 300 million. 40,000 to pay Kshs, 7,000 down to 1,000 who have to pay Kshs. 1,000 per annum as direct taxation, will add upto Kshs. 1.395 billion shillings, collected locally and I do not believe that the Government is spending an amount of money to this district. We can be able from this to offer better services. How is this tax going to be sub-divided? Like the Uganda system, local taxation is controlled from within where 60% of the tax collected remains within the location. 20% goes to the division, 15% to the district and only 5% goes to the central Government. Now out of this 60% that remains within the local area, it is when we can now come up with our priorities of how much should spend on education, and that is how Uganda has been able to offer universal primary education freely.

The other area that I would like to touch about, is the economy, the current economic base is not supportive to the desires and

demands of the people in this country, simply because it is centralized within the central Government. It is quite unfortunate that even the retirees who have never being to Nairobi at age 60 are still chasing for pension in Nairobi, in office there have never visited. A quasi federal system will demand that, the pension be made within the area such that there is no point of somebody going to a place he does not know and of course that routes the corruption and bribery tendency that is so much institutional in this country. The economy can only be sustained if we have a strict constitutional policy on natural resource management within the local areas.

**Com. Lethome:** Please finish up, whatever you have written we will read, what you are reading is wonderful and very original but because of the other people please finish.

**Sitati:** The economy is not stable simply because of one thing; we have vulnerable groups who have not been given time to assist during the economic mess of this country, Marjory the women and the youth. The constitution should create a fair playing ground where credit facilities is offered to the youth and women of this country, through micro and macro, credit facilities for national development, that the environment and the economy. The environmental degradation is something that is being fueled by the Executive. Recently the Executive wanted to exercise 170,000 acres of mountain forest, this is going to be a disaster in this country, that the Executive and current Government has tried to push the Kenyans into environmental refugees in their own country. What I would recommend is that the constitution should be very clear, and come up with very strict environmental management policies, which are controlled from the local areas, the local people should take charge of trust land, but a mass of trust land lying within the ambit of a few Executives like the President is a disastrous move within this country.

Another area that has not been touched is how to trim the powers of the Executives, the Executive privileges act is a disaster for this country, that the office of the Ombudsman should be formed. I will recommend apart from international role of the office of the Ombudsman, we give it extra powers, whereby apart from ---- the Executive, they should have also the power to impeach the Executives and any other civil servants and impeach anybody whose mis-use of power has been realized. This ombudsman office should come down even to the village level, at the regional level, whereby the people would be accessible to the office of Ombudsman other than having to decentralize the office of Ombudsman at national level.

I would like also to come up to the excessive use of the Executive in trying to appoint, Commissions of the inquiry, the Commissions of the inquiry for this country we have had so many of them, what I would recommend is very simple, that even the local and civil societies be empowered to seek for the setting up of their own Commissions of inquiry into what affects the people. Like there was a time, Bungoma district local leaders here, tried to set up a local Commission of inquiry over the days Mr. Wakulasiakama, the Government has to fight the family, so Commission of inquiry should not only be set up by the Executive or rather the President.

I would like also to talk about global regional international treaties, there is need for domestication of these conventions and

treaties and protocols, there is total need, this will be in line with a agenda 21, of the Rio summit of 1992 which Kenya has a country never respects international treaties, international protocol and whatever, we should have it come down to the grassroots level. Lastly I would like to talk about how the second constitutional review team will have to operate. I am not against the current review team, but this is how I would like to recommend it. The idea of forming up the Commissioners to review the constitution should not be vested in the honours of only one person or a few within the executive. The best example has being in Uganda, where parliament enacted that we should review the constitution, but the Commissioners to sit on the constitution review, should be elected by the people at the grassroots level to form what is referred as the constitution assembly delegates. Such that the constitution review team, should start from the sub-locational level, which will draw up its one sub-locational constitution review draft. Thereafter, it will now be compiled into a locational constitutional review draft, thereafter to the divisional and the district before we come up to the national draft constitution. This is now what should be drawn down to the people, to review if exactly what they represented entrenched within the constitutional draft before it can now be enacted into a full pledged national constitution and lastly on that note, the team that should be in this hall I would not like to imagine what will have happen if a young lady of 80 years who does not understand Kiswahili came here and wanted to give her contribution.

Lastly, people who have been talking of women be reserved parliamentary seats, parliamentary seats should not be reserved, but I would rather vote for a system where every district should have a woman parliamentary representative, just like in Uganda, a post of provincial youth representative, which who should also be an elective post, 3 posts for the disabled, which should also be elective post per province, 2 posts for the discipline forces and 2 post for the district men.

**Com. Lethome:** Please let us switch off our mobile phones. Please wind up you have taken 20 minutes.

**Sitati:** This posts should be elective, a question of reserving a place for women or disabled must not be on a silver platter, but should be on elective post. Lastly, the foreign policy should be denied the Presidential honours, but instead they should come up within the parliament to form the foreign policy committee, which should satisfy and draw up foreign policies that should be conversant and acceptable within this country. Unless there is a question, I am prepared to give some light on some of the recommendations given here.

**Com. Lethome:** Thank you very much for your recommendation, I wish we have more time, just hand and leave your document. Alfred Murunga? Can we have Moses Wekesa, Augustine Nyongesa you will be next, followed by Mwanzia, Wangoliko utafuata.

**Alfred Murunga:** Thank you very much the Commissioners of today, mimi ni Alfred Murunga, mimi ni mwalimu nataka kupeana pendekezo langu kulingana na Katiba ya nchi. Mimi napendekeza kwamba utangulizi ama preamble katika Katiba uwepo. Na ukiwepo uwe na mpangilio, mpangilio uwe na uandikishaji wa vyama vya kisiasa mbali mbali. Ufafanuzi wa

maswala muhimu ya kitaifa, kama ukulima, elimu, matibabu sheria, fedha na kadhalika. Napendekeza Serikali ya siku zijazo iwe ya mseto, yaani coalition Government. Hiyo ndiyo itachukua kula masilahi ya kila kabila katika Kenya. Tena natilia mkazo usawa wa vyuo mbali mbali katika nchi. Tunaona ya kwamba katika Serikali ambayo imepita, vyuo mbali mbali vya elimu vikubwa vimekuwa centralized mahali fulani fulani. Lazima ziwe katika provincial centers. University ziwe spread all over the Country, ili kila pahali pa nchi wapate kufaidika. Tena tuwe na vyuo vya ku-train watu wa matibabu, ukulima na kadhalika viwe spread all over the country. Tena kwa utangulizi, tunataka tuwe na maswala muhimu ya kila jamii ambayo iko katika Kenya hii, jamii yeyote ambayo iko Kenya iwekwe vizuri, mila zao na desturi zao katika katiba ya Kenya. Katiba iweke muda kamili wa kikao cha Bunge. Ikiwa miaka tano iwe miaka tano. Hatutaki kumaliza miaka tano, halafu wetu wengine ambao walienda kazi katika Bunge watafute kuongeza muda. Ikiwa muda wa Bunge umemalizika iwe namna hiyo na Bunge jipya ichaguliwe.

Tena kiongozi wa nchi ama Mbunge ahudumu kwa muda wa miaka tano mfululizo mara mbili, yaani miaka kumi mfululizo zaidi ya hayo astaafu watu wengine waende wachukue kazi hiyo. Kanuni za kuongoza dollar: tunaitaji kauli kwenye Katiba zinazoeleza kinaga naga kanuni za kitaifa kama uongozi, muda utengwe wa ki- Katiba juu ya maongozi ya Serikali. Ama wakitaka kugeuza katiba Fulani katika katiba ya zamani tuwe na Tume ama kikao maalumu ambacho kimechaguliwa kushugulikia maneno hayo yote. Tena tuwe na kiongozi wa kusimamia Tume kama hiyo na kanuni za kidemocracia mimi ningependekeza ya kwamba kila mwananchi mwenye umri wa miaka kumi na minane apige kura.

Serikali iundwe kama ifuatavyo:

- Serikali iwe na viongozi waliochaguliwa kuunda Serikali yao na iwe ya mseto, yaani coalition Government. Tuwe na Rais mteule kutoka kwa wale ambao wamechaguliwa na huyo Rais naye achaguwe Waziri Mkuu ambaye atasimamia Serikali, halafu chini wa Waziri Mkuu tuwe na manaibu wa waziri mkuu wawe wawili, viongozi wengine ambao wanaongoza regions ama mikoa waitwe governors, tutoe maneno ya provincial Commissioner tuwe na governanors wa nchi, yaani wanasimamia mikoa mbali mbali, kama USA ana Nigeria. Tuwe na mfano kama huo katika Serikali yetu ya Kenya, halafu hao watu wachaguliwe kutoka kwa wasomi mbali mbali ambao wanaweza kuwa impartial, hawawezi kupendelea chama chochote katika kazi zao za utawala. Viongozi wa wilaya waitwe assistance governors na wale ambao wanaongoza tarafa waitwe, deputy governors na wale ambao wanaongoza location waitwe, assistance deputy governors. Halafu, hali ya elimu kwa yeyote ambaye anataka kuingia katika uongozi, awe form four level of education au zaidi. Jambo lingine ambalo nataka kuongea ni kwamba kubadilisha sheria ya Bunge, Katiba ya sasa inaruhusu 25% kubadilisha kifungu chochote katika Katiba ndani ya Bunge. Lakini mimi ningependekeza ya kwamba iwe sabini na tano kwa mia. Wabunge wawe sabini na tano kwa mia, ndio wataweza kubadilisha sheria yoyote ama kifungu chochote katika Katiba. Halafu Katiba zingine haziwezi kubadilishwa zikae kabisa, kama uteuzi wa viongozi wa majeshi, ama mashirika mbali mbali ya kiserikali, hiyo iwe chini ya wajibu wa Serikali ama kiongozi wa Serikali, yaani Rais wa nchi.

Halafu kitu kingine ambacho nimeonelea ni kwamba uraia wa Kenya, nani anaweza kuwa raia wa Kenya? Nimeonelea ya

kwamba, yule ambaye alizaliwa Kenya, alizaliwa hapa Kenya bila kujali rangi yake, kabila yake, dini yake, au mahali wazazi wake walitokea, huyo aitwe raia wa Kenya, kwa sababu huyo ni mwananchi wa Kenya, alizaliwa katika Kenya. Mwingine yule ambaye alitoka nchi nyingine, akaingia Kenya na ameishi zaidi ya miaka saba, yeye vile vile akubaliwe kuwa raia wa Kenya na apewe nafasi nzuri ya kuendesha maneno ya Serikali katika Kenya. Ama mgeni yeyote yule ambaye anapenda kuwa Mkenya, kufuatana na sheria ya uhamiaji, huyo tena anaweza kuwa raia wa Kenya. Mwanaume ama mwanamke ambaye anaishi Kenya pia awe raia wa Kenya ama mtoto yule ambaye amezaliwa hapa, hao wote wawe ni raia wa Kenya na akiwa raia wa Kenya, lazima apatiwe vitu kama vifuatavyo: apate elimu, apate matibabu, apate chakula, apate mazao, hata apate kazi.

**Com. Lethome:** Maliza.

**Alfred:** Nipe dakika moja tu.

**Com. Lethome:** Hapana tutazoma hiyo memorandum yako.

**Alfred:** Okay sasa moja na namaliza, haki ya ardhi nimependekeza ya kwamba, wananchi wapewe ardhi na Serikali ya Kenya, kwa sababu ni wajibu wa Serikali kupeana. Radio ama station ya television kama KBC ama magazeti iwe isio pendelea upande wowote. Ihudumie wananchi wa Kenya kwa sababu hao ndio wanatoa ushuru ambao unawa-maintain. Kwa vile wakati umekwisha nitakomea hapo, asante sana.

**Com. Lethome:** Tafadhalini wale watakao fuata ikiwa jambo limerudiwa, hakuna haja ya kurudia lile jambo ambalo limesemwa, tuwape nafasi, tunawatu zaidi ya ishirini waliobakia. Endelea.

**Mr. Augustin Nyongesa:** Thank you Mr. Commissioner Sir, I am sure I am speaking to Commissioner Bishop Bernard Njoroge, and Commissioner Lethome, I just want to go direct on point. I am Mr. Augustin Nyongesa Tela, former mayor of this town and a resident. I have a very big memorandum, around 15 pages, I wanted to pray that I go through only in one part and I leave the rest for you.

**Policy and State:** my group said this me no individual with state power like President should be given status which are preserved for God, that is Mtukufu. All state workers are servants of people, that is, from the President down to the village elder, they should respect the respective offices in accordance to law. The constitution should be clear that no body is above the law of the land. The constitution should treat the gender issue with total equality, that both men and women are free to contest under any elective political seat or position, but in both cases men and women should be in stable marital status and with upright moral standards.

All culture of the natives of this country should be respected, that is circumcision of both female and male, we should respect

each communities culture, so to inheritance, it is very ambiguous to find that my father or grand father has lived in his or her own land for over a certain period of 100 years and when he passes away, it takes his child a couple of hundred years to get succession. This is ironical. Native Kenyans value land more than anything else, Mr. Commissioners, it is very difficult in Kenya to get a native of this country to dig even a mineral in his own land. But you will get a Mzungu is allowed to do that; we recommend that everything within that land is for Natives. Kenyans value and the principles can be upheld by respecting and maintaining our Kenya native cultures. Therefore the constitution should protect this culture against disintegration by:

- (i) Checking on the type of literature from foreign countries that may destroy our people especially through books and entertainment, media and film.
- (ii) Any immoral act e.g. commercial sex, homosexuality, indecent manner of dress; dirty language, etc. should be punishable.

Please kindly allow me to mention something small on the three arms of the Government. There is an excessive power in the Executive, and my group felt that more powers be taken to parliament than being invested into a person. The appointment of all ministers is within the hands of the President, but upon which there must be a committee in the parliament to fetch the qualification of such a minister before he takes off the office. Appointment of ambassadors, parastatals, chancellors, all parastatals and big officers of the Government, shall go through the parliament. We also felt that the Executive, the President should be the executive and the type of Government Kenya should have the current type of Government and we suggested that the President has a lot of work to do the current one, you will find that even his ministers have no work. We want ministers who are answerable to the citizens and ministers who should be nominated regardless of party affiliation and whether they were elected or not, people should be appointed from their own work, according to their integrity of those particularly people.

We felt that local authorities should be autonomous, and the local authority have suffered under the current constitution because of the law which is there; Cap 265, should be overhauled. Lastly we have recommended that everybody stands for impeachment whether President, Member of Parliament or Civic, but we created a method of impeachment, that we must have a referendum and this referendum his proposal must be vetted by the parliament. And for the MP we must have a constitution referendum, which would do the same to the civic body. Thank you.

**Com. Lethome:** Moses Wekesa.

**Moses Wekesa:** Thank you Mr. Commissioners, I would like to be very brief, because most of what I wanted to say has been said. My name is Moses Wekesa. I wanted to recommend the establishment and machinisation of a ministry of ethnic and integrity, which will deal with human abuse. Taking Kenya for example since independent, it seems that those who assumed power that time at their own interest and forgot interest of the rich, ethnicity of this country and another recommendation may be I will say is, rapists should get death sentence. We should have regional type of Government. About

land we found that the levy paid there is too high, I recommend that they reduce those levies, so that people acquire title deeds, whether they are poor or not. That's all I had.

**Com. Lethome:** We really have to stick to the time because so many people are still waiting. Francis?

**Francis Welaula:** Thank you Commissioners, ladies and gentlemen, my name is Francis Welaula Korito, I am a resident Langa, I am financial analyst and also a consultant with some donor agencies. I just want to say something about the credit in this country. Given that banking industry in this country is a gross industry, that means you have to apply for loans, I propose that in order to alleviate poverty particularly in this Bungoma district, being an agricultural district, I do wish to recommend that 60% of the deposits made to commercial banks, be retained within the district and be loaned to indigenous people of this district, then we can leave the 40% to go to Nairobi and Mombasa and elsewhere to balance international trade. Have also talked something about the interest rates, I do recommend that we adopt and taking in the Donde Act, because the Donde Act takes care of the weekly averages of special bills rates, which are worked out weekly, the same scenario is used by Central Bank of Kenya in arriving at the discount rate applicable to commercial banks, this practice has been going on for as long as I remember and we have no complain from the banking industry, be it Kenya Banker Associations, be it the treasury, be the Central Bank, be either World Bank or the International Monetary Bank, infact the same method and formular is used in Europe in arriving the London interbank of such rate, the same method is used in working out the prime rate in the US, so have never understood why we have a lot of problems with the Donde Act, it is a very good act, it takes care of the minorities and even the majorities, I think it is a middle of the road act, we should adopt it.

Thirdly, have also talked about why commercial banks only come up with the base rates, they flush in papers that their base rate is 16%, but they never tell you the margin, so why should they not do maximum disclosure, because it is an industry of utmost good faith, why should they hide you the margin. Infact they should go all the way and tell you your base rate is 16%, our margin is 3%, and so our effective rate is 19%. But commercial banks in this country have a bit of flushing out the base rate, but they never tell you the margin, they tell you come and negotiate. So I am proposing that we put in the constitution of Kenya that any commercial bank wishing to do practice of banking in this country should come up with a clear cuts, base rate and tell you the margin for a maximum period of say six months, so that you can be able to borrow those funds and if you are farmer plant your crop, harvest it and pay off the loan without undue risk.

Fourthly, I propose that we have been having a clash in agricultural sector, and yet we have banks, we have Central Bank of Kenya and the act is there, the cereals and sugar finance corporation act, provides that in times of excess supply of agricultural produce, they can go to central bank of Kenya and obtain break finance, they do not do it for cereal people, they do not do it for sugarcane people, but we have been doing it, I remember doing it for the coffee industry and the deal succeed and plus the Central Bank of Kenya even went up and established the break for finance scheme, which benefited lives of Kamlesh Pattin, why don't they call all the way also and establish agricultural finance scheme, to finance the agricultural sector, I am sure if they

did that we will have no problem with the sugar farmers, with the maize farmers and what have you. So I am proposing that the Central Bank of Kenya should be awoken from its slumber and they should come up with the scheme that is going to benefit the agricultural sector. That's all I wish to say, thank you for your attention Mr. Commissioners and ladies and gentlemen.

Com. Lethome: Thank you very much, Joseph Kimani from the Salvation Army, (inaudible)

**Captain Wekesa:** Asante Commissioners, ambao mmekuja kusikiza maoni yetu ambayo tunataka. Mimi kwa jina langu naitwa Captain Wekesa, mzaliwa wa hapa Bungoma, naninaongea kwa mambo ya kuhusu Katiba ambayo inayofanywa na Serikali yetu katika Kenya. Hasa ningelipenda nikiwa Bungoma, ninasema ya kwamba mwanaKenya wote ni ndugu, ningependa wananKenya wote, maneno ya kuweka district kuwa nyingi sana katika Kenya ndio zinaleta ukabila katika Kenya. Ninapendekeza maneno ya district nyingi katika Kenya iondolewe, kwa sababu tukiwa sisi sote ni Wanakenya hatuoni maana kuleta kusema Mt. Elgon ni district, Teso district, sijui wapi district, tungelisema ya kwamba Serikali itakayokuja kama tuna province, Western province tungelikuwa na district moja au mbili, ambazo zinaweza kuunganisha Wakenya kabila zote, tukiwa na problem tunatosheka na hiyo districts ambazo tulizo nazo.

Point ingine ambayo nimeona, sisi ni wanaKenya na sisi ni watoto wa mtu moja, hii mamlaka ambayo President anaye, niyakuja mara kwa mara, akija kama Mt. Elgon, akiongea katika Mt. Elgon anawacha kati ya Mt. Elgon na Bungoma, hapo ndani hatuelewani. Kwa hivyo ningependa President akija, anasema “watoto wangu wa Western province wote ninataka kukutana nao” lakini si kusema Mt. Elgon, hiyo analeta ukabila. Tunaomba Serikali itakayokuja, iwe na kitu kinachoitwa peace and unity, tukiwa na peace and unity, maendeleo yatakuwa juu sana. Ufisadi umekuja katika Kenya, ambao tunaona ya kwamba ufisadi umetokana na district hizi ndogo ndogo tunazoleta.

Sisi katika Western province au Bungoma hatuna factory, natungeliomba Serikali yetu, itakayokuja ilete factory ya mbogo katika Bungoma, sababu wale watoto walioko wadogo au akina mama wasiojiweza waweze kuuza hizo mboga zao, ili tuweze kijinua kwa sababu Serikali imetuwacha nje, hata wakati huu hatuna harambee ambayo inaweza kutuletea msaada katika Kenya, kwa hivyo tunajitegemea. Ya mwisho ningeliomba katika Commission yetu, mkienda au mkirudi kwa maoni yangu, ningependa hii mambo ya kusema kwa mfano, Uganda, Tanzania, tumejaribu kutembea huko, tunakuta watu wamepewa privilege yao ya Serikali yote, unakuta wakunywa pombe, wanafanya nini, lakini watu hawa, wawapigani, hawafanyi nini. Pendekezo langu ningelisema ile mjadala mheshimiwa alitoa hapa ya kusema ya kwamba pombe ikubaliwe ndio hata hapo zamani, Yesu mwenyewe aligeuza maji yakawa divai na wakanywa kwenye arusi, wakafurahiam, tungelisema hiyo pombe ingelikubaliwa kwa watu wasiojiweza ili waweze kufanya biashara, au wafungue factory ambayo itatengeneza Kenya waragi, sisi naye tuwe tukiuzia watu kutoka bure.

Ya mwisho kabisa, Ningependa ya kwamba hawa watu wanaotembea wakisema sisi ni kabila fulani, ni kabila fulani, tungependa yule rais atakayechaguliwa, tusingie mtu akisema mimi ni kabila fulani, yule tutaweza kumchagua, ni yule atakaye

sema Wakenya wote ni wangu.

**Com Lethome:** Andikisha hapo.

**Wanyama Wanyonyi:** Thank you very much, my names are Wanyama Wanyonyi, I am a lawyer based in this small town, I am also an aspirant in a parliamentary seat around this place called Kimilili. Much has been said about how we want the constituency to be, I will not want to repeat, may be I will just touch one technical area about the transition of Presidential powers to another person, I would like to say that the constitution is not clear on how the Presidential powers are supposed to be transferred from one holder of that office to another, and that is why we are having this noise about who is going to be where. I would like to say one thing about that provision, is that the outgoing President, at all time must remain very neutral. He must not take sides on whom he is going to hand over power and for that I recommend that he must sign a memorandum of understand with parliament over the following issues.

- He will not actively or in public campaign or holds his view on his choice for any one of the particular Presidential candidates.
- He will not use any state machinery, national resources to campaign for any of the candidate.
- That he will not interfere with the registered political parties machinery and organs of nominating their Presidential candidate.
- Lastly, in the event that his Presidential candidate of choice will look like he will not be able to make, he must make that standing understanding indicating that he is going to relinquish power whether to a candidate of not his choice of his choice.

I also want to talk about the wording of the constitution when it comes to in the event where we have a situation where we are having two Presidential candidates who have tired up. There is a word which use at the event when people tire up, we are going to have a fresh poll, with due respect to the make up of those words, a fresh poll is a wrong a word, we ought to have a repeat poll, or a repeat election, when we talk about a fresh poll, it means you are going to have fresh registration of voters. It means we are going to have a fresh inspection of the register. So in the circumstances of a repeat election, it will not be possible for the electrol Commission to be all those things. So when we are making this new constitution we must be very clear in the usage of the words and the terms, less somebody goes forward to challenge the election of somebody just basically on the usage of the words. Lastly I also want to state that, the Presidential powers must be reduced and not only should we state the academic qualifications of an aspiring President we must also have the qualification which comes to public role and the also have the credibility test, not just that he has a degree, he must be a credible person, so that we have somebody who is sound in academic credential but also who is sound in moral and public affairs. Thank you very much.

**Com. Lethome:** Who was the next person? Francis Wang'oliki.

**Francis Wang'oliko:** Commissioners, I am Pastor Francis Wang'oliko, I come from Grace Community Fellowship, I represent in the provincial children advisory committee, Western province. I have three points to make.

- Children rights: Our children have got to have right to education, protection, and health. The present law we have makes children actually they are molested and left like that, we want to recognize the existence of every child in Kenya.
- I will recommend that if there is any person violating the rights of our children, then the law should be very heavy on such fellows, because there cases that are never highlighted at all.
- I will also recommend that our constitution should highly look into the areas where disabled person, every disabled person who is may be trying to run a business of whatever nature be looked into so that they can be left without being licensed, as a matter of eliminating poverty. Also they're some offices where the disabled persons cannot reach. Some have high buildings; to reach those offices is quite hard. It should be the desire for Government to come up with some structures where by disabled of all kind could reach in all offices very freely. We should also have census for the disabled, to know how many have been involved in accidents and how many were born disabled, and when also it may you want to assist their programmes, it should also match with their ability. Some may not be even able to do carpentry work, but you will find when such offers are rendered, there others who meet the opportunity. Census will help us to know whether we are having a high rate of accidents on our roads, and what should be the problem and meaning that now we should have good roads. The census will also help us now, if so many children are born with disabilities and should be the problem and how can they be addressed.
- Every disabled person should have access to education, should also have access to medical care, and should be represented in all forum of leadership. You find somebody is not disabled, but he is may be standing in a position of a disable person. And so airing views it becomes quite hard or difficult to present some of the views, but should be the real people from local set up upto the nationals, we need to have these people airing out their views.

May I also talk education on the line of sponsorship, I propose that sponsorship should be left to the Government, whereby the Government will identify the teachers or the people that are supposed to do the guidance or counseling in schools. Or else, you will find some sponsors having just a name, but you find they do not visit those schools and as a result, you find we have very bad reports about what is going on.

Commissioners I am so glad that you are in our district, may God bless you, this indeed is a good endeavor.

**Com. Lethome:** Thank you, Solomon Muuch, Mona George, Wyclife Muthama, you will follow him. – Inaudible--, is there anyone seating there who would want to speak today? Nobody.

**Solomon Muuch:** Commissioners my name is Solomon Muuch, I am a social worker by profession and I represent Bungoma Farm Labour, I think many people have highlighted some of the points that I made, but I have around 114, but because of time,

I will have to highlight a few of them so that we can go home a bit early.

- There should be parliamentary Government system as opposed to Presidential system.
- Voters shall have a right to recall the MP or a councillor who will not be of any value.
- The parents with land should allocate to their children who have initiated to manhood, to have social economic development.
- Media system to be subsidized by Government in order to encourage many people as much as possible, to have faith in the effect of education, informing and creating awareness to the public.
- The other point our Commissioners, the Government should revive the programme of Agriculture Finance Corporation.
- Defilement of children under 8 years be sent to the gallons
- There shall be national Ombudsman offices in the republic, that every tribe, sub-tribe, clan writes a code of contact, which law courts could base their decision in case of conflict
- There should be community petty cases council to deal with family affairs and despites at locational level especially those related to local customs. Local leaders who should be retirees with good record under the Chief directive shall solve cases related to customs at locational level.
- Parents should share their property equally to their children regardless of sex.
- Affiliation act be reinstated to cater for children born out of wedlock and to curb the reckless casual sexual irresponsible behaviour.
- Intermarriage shall be encouraged as much as possible in the effort of reducing biases and prejudices in the society. That widowers and widows shall be given pension if any of their late wives or husbands, for 10 years.
- That every person shall have a right to survival, protection, and participation and development.
- The village and clan leaders settle all land cases.
- Beggars from urban areas be put in Mji wa Uhuruma or be taken back to their homes. All widows must be protected by law to avoid lose of property left by husband.
- Lastly, we thought it is good for us to have federal Government in Kenya, so that it can protect our rights. Thank you.

**Com. Lethome:** Thank you very much, say your name and present your views.

**Bramuel Kundua:** My name is Bramuel Kundu Wamasebu, I am a salesman by profession, thank you very much for visiting us today, the first presentation I want to make is that, I would like to recommend that ex-chequer funds all development projects in the entire country. The Government, I recommend that we have the Government of national unity. Women rights: in all forums we have, it is said women rights are abused, I recommend the Government pulls up its socks and enhance the development of women rights in the country. Human rights in general: in some instances we have been denied donor funds because of abuse of human rights. I recommend that because Kenya is a signatory to almost all UN corrections, I recommend that it enhances, promotes and develops moral standard of all human rights in the country. Corruption: especially I would like to

cite the traffic policemen and women, I recommend that, that unit be disbanded because it is doing nothing. To be replaced by any other force that will be recommended by the parliament.

The Presidential retiring package, we shall only allow the President to be given a good package, if his terms in the office and what he has done, has pleased the citizens of the country. I will recommend in case he has messed up the economy, there is no need of giving him a good package. Public service: I recommend that the parliamentary select committee on civil service development be created, other than all powers being vested in an individual. Donor committee: our economy has gone down because any person is taken to negotiate on donor funds. I recommend therefore that a special committee be set up to negotiate on donor funds and other activities that would enhance and develop the country. Because of corruption, a committee just like KACA that was disbanded let it be legislated, because it was said it is unconstitutionally in the country. Let it be reinstated and tough penalties and an organization KACA if it is reinstated it should have teeth to bite, hence corrupt culprits should be taken to court and if found guilty be prosecuted and jailed.

Competence, that in all sectors of the economy, people learning them should be competence and qualified. Nobody should be given a position in the Government or any other organization because of nepotism and tribalism. Investors confidence in the country: the Government should set up a special committee to promote investments, if possible an Ombudsman to oversee.

**Com. Lethome:** Your last point?

**Bramuel:** Presidential powers: He should only run the state house, but other appointments like vice chairpersons, parastatal Chiefs, all that should only be done by other people who have other qualifications. Thank you very much.

**Com. Lethome:** Thank you very much, I think we will have the last person to speak and then after that we close our meeting.

**Simiyu Wechuli:** Thank you very much Bwana Commissioners, our DO, and all these people who may have stuck here for a long period, because of wanting to know what is exactly going on. Bwana chairman I will be very brief, because most of the items have been touched. My name is Wechuli Simiyu, I am the vice chairman of Bungoma county council. My first proposal is that, the office of chairman and mayors. It is my proposal that the chairman and mayors should have a term of five years in the office, instead of having two years and then election takes over again. Salary increment, my proposals are, should the Government have increment in salaries, should at least consider all the ministries in the Government.

Boundary dispute: I propose that on the size of boundaries, the Commissioner in charge, should go directly to the people on the ground to get their minds before decision is made from above. Imports: to reduce poverty, the Government should not import items in large quantities knowing that it has what is enough in the store. So I propose that the Government should only import when knowing what it has is very little. To reduce poverty, I propose that the Government should come up with rehabilitating

industries that are corrupt instead of starting new projects while others are incomplete. With this new remarks I say thank.

**Com. Lethome:** One clarification, you said council mayors and chairmen should have five years in the office, who should elect them, councillors or the people?

**Simiyu:** This is a very powerful seat, whereby he is going to represent the whole district and therefore the people should elect him.

**Com. Lethome:** Thank you very much councillor, we now come to the end of the day and I hand over to the chairman. I thank everybody who came in today to present their views for your patience I know some of you have been sitting since morning, I can see some of you are very tired, like our brother there, you are the chairman of the 3Cs, I will come to that, we also like to thank all those who have made this day a success by may be arranging the seating and the hall, we would like also to thank the council for allowing us to use the facility here, thank you very much, vice chairman convey our thanks to the chairman of the council, we will also want to thank the Provincial Administration, the District Commissioner in absencia but I know the DO is here, we will give him a chance to say, because he is here.

We would like to assure you pass this message to those who are not present here, that everything that you have said here, will get into our records or is already in our record and if you are keen on the process within a short time you will see the report come back to the constituency. And the report will remain with you people for over a month for you to scrutinize and to a certain that whatever you said is in that report, because the law under which we are operating requires that we publish the report and send back to the people, so that there sure that whatever they said was captured. After that you have to prepare yourselves to nominate competent people to represent you at the conference, because if you send their maziwa lala all what you have said will not be defended. Those are the two stages that have been put in the act, to make sure that we Commissioners do not put what we want there, or politicians do not put what they want in the final report that will go to parliament. With that I will hand over to the DO to say a few words, then to the chairman of the 3Cs and then in the morning I think we had a Christian leading us in prayers, I can see one sheven here, you will close for us with a Muslim prayer. Thank you.

**District Officer:** Commissioners and the secretariat, Kenyans who have represented their views to the Commissioners, I think I will just say we are very much with you Commissioners, because it is a very important historical event and I want to assure wananchi that whatever you say here is useful to the country, to the Commissioners and to you. So I want to assure you on behalf of the district Commissioner, we are with you until you leave our district tomorrow will be with you in Nzoia and give you all the necessary support. I think with those few remarks I say, thank you very much.

**Com. Lethome:** Thank you DO, chairman 3Cs next.

