

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

Verbatim Report Of

DISSEMINATION OF REPORT AND DRAFT BILL,

NTONYIRI CONSTITUENCY, HELD AT LARE MULTI PURPOSE HALL

ON

OCTOBER 11, 2002

**DISSEMINATION OF REPORT AND DRAFT BILL, NTONYIRI CONSTITUENCY HELD AT LARE MULTI
PURPOSE HALL 2002.**

Present:

1. Com. Domiziano Ratanya - Chairman

Secretarial Staff Present:

1. Solomon Anampiu - Program Officer
2. George Kimanthi - District Coordinator
3. Assist. District Coordinator
4. Mary Babu - Verbatim Recorder
5. Members of 3Cs

The meeting was called to order at 10:00 a.m with Com. Domiziano Ratanya in the Chair.

George Kimanthi - District Coordinator: Nafikiri tutaanza, naona watu wanakuja halafu wanaenda, tuanze na wale wako, na wale watatupata tukiendelea mtawaelezea ama watasoma baadaye si ni hivo? Kwanza kabisa tutasema ya kwamba, mara ya mwisho tulipokuwa hapa ilikua mwezi wa tano, tarehe kumi na tano mwezi wa tano. Ndio tulikuwa hapa tukachukua maoni yenu, na kama mulivio ambiwa ni kwamba hayo maoni yenu, yametayarishwa, yamerudishwa katika drafts. Kuna wanaiita kichoro, Draft Constitution ama kielelezo cha Katiba, na hiyo Draft ilioko ni kwamba leo tuko hapa kwa ajili ya kujadili na

kisha nyinyi wenyewe, muache tuwasomee

(inaudible) kwa makanisa (interrupted by noise). Kwa hivyo leo

tuko na Commissioner na wengine kutoka headquarter ambao wanatengeneza hii Katiba, lakini kabla hatujaendelea ningeomba mmoja wenu atuongoze kwa maombi. A volunteer? Tuko na pastor.

Rev. Akule N’lthai - (prayer): Natuombe. Ewe Mwenyezi Mungu, mwenye rehema na

neema, twainua jina lako takatifu, kwa kuwa wewe ndiye mtakatifu pekee. Na kwa hivyo Baba, sisi tuko mbele yako watoto wako wanyenyekevu, tukiomba utusamehe dhambi zetu, ili nasi Baba ukatusafishe, na ukatuweka safi mbele ya macho yako kwa sababu unapenda kutumikiwa na watoto walio watakatifu. Kwa hivyo twakuita ili Baba uwe pamoja nasi, ukatuweka tayari kimawazo, ukatuweke tayari kimwili na kiroho, ili katika kazi ile iko mbele yetu ya Katiba yetu, Baba tutaichangilia, tukapeane maoni tukiwa tunaongozwa na Roho Mtakatifu, tukijua kazi ile tunafanya Mwenyezi Mungu ni ya kufanya nchi yetu, iishi vizuri, na hata mambo ya kuitawala iweze kutawaliwa kwa haki na kwa njia iliyo nzuri, na katika kukata national cake, Baba iende ikafanywe kwa haki, na kwa kila mmoja akatendewe haki yake.

Kwa hivyo Baba, twakuomba uwe pamoja nasi, ukatusaidie kwa kazi lolote lile tutakalo tenda hapa siku hii ya leo, ili Baba tukitoka hapa tuwe tumefanya yale yatafanya serikali yetu, ifanye kazi ile uli-iita ikawepo, ili nchi ya Kenya ikae kwa amani, iweze kufanya maendeleo yale yatafaidisha kila Mkenya, na kila Mkenya aone faida na hata akujue kwa sababu nchi hii ni yako, na vyoyote vilivyo ndani ya nchi hii ni vyako.

Kwa hivyo Baba kabla ya kufanya chochote twaomba ruhusa ukatuongoze nasi tukatenda kazi ile italeta sifa katika jina lako, na hata serikali yetu ikawa na viongozi, wale watakuwa wakielekezwa katika kazi zao, wakiongozwa na Roho Mtakatifu wako kwa kufwatilia Katiba iliyo ya haki, na iliyo na sheria zile zitaleta amani miongoni mwetu sisi zote. Utubariki kwa kuwa sisi ni watoto wako. Twaomba haya tukiamini hata yale mengine ambayo hatujayataja, unayajua na utatimiza yote kwa mapenzi yako, na katika jina la Bwana Yesu Kristo tumeomba Amina.

Audience: Amen.

George Kimanthi-District Coordinator: Asante sana. Kabla sija mualika Com. Domiziano Ratanya, ningetaka kutambulisha wana kamati wa 3Cs, ambao wako hapo. Tuko na Chairman Julius Gaithuru.

Julius Gaithuru- 3Cs Chairman: Inaudible

George Kimanthi: Tuko na Doris Mwendwa.

Doris Mwendwa: Inaudible.

George Kimanthi: Tuko na Nathan Kunja, na kuna Councillor pale ambaye ni a Amos Kiumo. Amos ni Delegate, yule ataenda National Constitutional Conference kutoka Nyambene. Kwa hivyo yuko pale. Then tuko na Beatrice Bario yeye ni delegate mwingine kwa upande wa akina mama ambaye ataenda kule National Constitutional Conference na amejiunga nasi leo. Amesema ni lazima ajiandikishe nanyi na aangalie huko.

Kwa hivyo sina mengi lakini nawaambia msikize kwa makini yale mtaelezwa na kama kuna swali, kama kuna mahali hamuelewi, Commissioner ako hapo, yuko na Program Officer, ndiye atawaelezea kwa uzuri, lakini hata nyinyi muwe mnaelewa zaidi, na muweze kufundisha wengine.

I want to go to Commissioner Domiziano Ratanya.

Com. Domiziano Ratanya: Okey. Asante sana Bwana Coordinator, wananchi wa hapa Ntonyiri Constituency, hamjambo wote? Siku ya leo, katika mkutano wetu, pengine nafikiria tukubaliane tutumie lugha ya Kingereza ama Kiswahili na ukiwa huwezi kabisa, unaweza kuongea lugha yako ya Kimama, na halafu tutakuwa tunatafsiri. Na ikiwezekana, nauliza ni heri mtumie Kiswahili badala ya Kimeru, kwa sababu tuna yule officer ambaye anafanya recording hapa ambaye nitawajulisha baadaye, hawezi kuelewa Kimeru kwa hivyo mnajua lugha ya Kiswahili ndiyo national language. Kwa hivyo ukitumia Kiswahili, ni vibaya kutumia Kiswahili? Mnakubali tutumie Kiswahili? Mkitumia Kingereza sana kuna wengine ambao hawataelewe, lakini una uhuru wa kuongea Kingereza na Kiswahili.

Kwanza ningetaka kuwajulisha ile team ambayo nimekuja nayo kutoka huko Secretariat yetu kutoka headquarters ya Constitution of Kenya Review Commission. Mmoja upande wa kushoto hapa, ni Solomon Anampiu ambaye ni Programme Officer wetu.

Solomon Anampiu: (inaudible)

Com. Domiziano Ratanya: Okey asante sana Bwana Anampiu. Mwingine ambaye tunaye ni Mary Babu ambaye anafanya recording na kuandika. Na hata ana tape recorder ambayo anatumia huwa ananasa mambo yote ya recording, yaani maneno yale mnazungumza. Na mimi naitwa Domiziano Ratanya, Commissioner, na ni mmoja wa wale ambao walikuja hapa kuchukua maoni yenu, nilikuwa hapa, sikuwa na Commissioner mwingine, na mimi nimetoka hapa upande wa Nyambene tunapakana na Imenti, upande wa Tigania ----, hapo ndiyo kwangu nyumbani. Kwa hivyo mimi ni mtu wa Meru North.

Na kwanza ningetaka, kabla ya kuendelea na mazungumzo zaidi, kuwajulisha ni kwa nini tumekuja hapa. Mnajua Commission imekuwa ikija kwenu wakati mbali mbali, na tena iliwapatia officers ambao mnatumia, ambao wanawatumikia nyinyi na mnafanya kazi pamoja. Wakati nilipokuwa hapa tulikuwa tunachukua maoni yenu, ili tuweze kuyatumia kwa kufanya

Constitution ya Kenya Review, ama kubadilisha yale wananchi wanataka yabadilishwe katika Katiba. Mkatupatia maoni yenu na tulienda Constituencies zote katika Kenya. Zote ni 210, mia mbili na kumi, pahali wabunge wanawakilisha.

Na tulipoenda kwa zote kabisa tulichukua maoni, tukaenda tukayaweka pamoja, tukayaangalia vizuri kwa wakati mrefu tukiwa Commissioners, na baadaye tukakubaliana yale tutaingiza kwa Katiba mpya kutokana na maoni yenu.

Ukiangalia hapa kwa hii file, utaona hapa kuna Constituency No. 48 ni Ntonyiri Constituency. Yale maoni mliyo tupatia yako hapa. Maoni yenu ambayo mlikuwa mnataka yawekwe Katiba. Tulifanya summary yake iko hapa na kwa kila Constituency ingine tulichukua maoni tukaweka pamoja na halafu tukafanya mapendekezo ya Constituency hii. Mapendekezo ya Constituency ama Katiba mpya, tuliyafanya kwa njia mbili. Pendekezo la kwanza, hii ilikuwa report ya vile kazi ilikuwa inaendelea. Na kwa hii Kitabu tunaita People's Choice ambayo ilitangazwa kwa magazeti baada ya tarehe 18 mwezi wa tisa na halafu baadaye tukaweka kwa kitabu. Hizi vitabu hazikuwa nyingi sana lakini pengine baadaye mtapata vitabu. *To Secretariat staff (Do you have any copies?)*

Secretariat staff: (inaudible)

Com. Domiziano Ratanya: Very few?

Secretariat staff: (inaudible)

Com. Domiziano Ratanya: Documentation Centre? Okey do you have for them here or there?

Secretariat staff: At the office.

Com. Domiziano Ratanya: Kwa hivyo tuli-produce copies tukaenda kwa Documentation Centres. Na hii ni copy ambayo ni report kuona ile kazi Commission ilikuwa inafanya. Na hii ilitokea tarehe kumi na nane mwezi wa tisa, ilikua Mombasa. Kutokana na hii repoti fupi, tukaanza tukaendelea tukatengeneza Constitution yenyewe ambayo tunaita Draft Constitution. Na hiyo Constitution tukaiandika, tukaitoa tarehe ishirini na saba mwezi wa tisa. So this is when we launched the draft. But I have told you we launched the report on 18th, ilianza wakati huo na hata ikaingia kwa magazeti, watu wakaanza kusoma kwamba Commission imemaliza kazi ya Constitution na sasa wanaendelea kufanya draft yenyewe.

Draft ni ile inaingia ili wakati itakuwa Kitabu na baada ya kuandaliwa na National Conference na Parliament, iwe ndiyo Katiba. Sasa yale mambo ambayo yako hapa ni yale ambayo yatatengeneza Katiba. Hii tu ni report kwa sababu ukienda kusoma hivyo ukiangalia kidogo hii, ukiangalia kwa hii pengine utaona majina ya Commissioners wako hapa na mipango yote, lakini hiyo sio Katiba, majina ya Commissioners siyo Katiba ni wafanyi kazi hawa na kwa hivyo ndiyo report.

Lakini hapa hutaona Commissioners, utaona mapendekezo ya kufanya Constitution yenyewe, utaona mapendekezo mengi.

Tutaangalia kidogo, utaona kuhusu utalawa, kama ni mambo ya mashamba, kama ni mambo ya citizenship, mambo mengine yote utayaona hapa kama vile mlikuwa mnazungumza.

Sasa tulipo peana hii kwa Kenyans tarehe ishirini na saba, na tarehe 30 September, tukapeleka Parliament, Commissioners wakakubaliana wakasema ni heri tuende kwa Constituencies zote pale tulichukua maneno, tuwaambie sasa waendeleo kuzungumza, ku-debate na kuongea mambo kuhusu mapendekezo ya Katiba. Kwa hivyo leo ni launching, tumekuja kuanza, muanze kusoma. Na hii nitasoma thirty days, kwa sababu sheria inasema, draft ikiwa tayari itasomwa siku thelathini kutoka wakati ilikuwa launched kutoka 27th September mpaka siku thirty, that is 27th October. Na tarehe 28th October, tutakuwa sasa na mkutano wa National Conference, mkutano wa Wajumbe wenu ambao wanaenda huko Nairobi, waketi mwezi mmoja wakikagua haya maneno ambayo yameandikwa na Commissioners kutokana na maoni ya wananchi.

Wakiona kuna hitilafu yeyote, hawa delegates, watabadilisha. Wakiona wachukue kama vile ilivyo itaendelea, wakiona wataongeza, wanaweza kuongeza. Mnaskia kwamba mpaka sasa watu wanazungumza haya maneno. Watu wa madini, watu wa business, politicians, wote wanaendelea sasa kuzungumza. Lakini tulisema kwa sababu tulikuja kwa Constituencies, Commissioners waje hapa hapa, wa-waambie sasa tunawapatia hii copy, sasa hata nyinyi endeleeni kusoma. Na mkisoma mkiona maoni yenu mtatuambia baadaye.

Kwa hivyo maana ya siku ya leo ni kuja kuanza kusoma hii draft, muanza na tunakuja hapa kwa Ntongiri Constituency, ili tuwajulishie kwamba iko tayari na nyinyi muendeleo sasa na mazungumzo yenu within the Constituency. Muungane na Wakenya wengine kuzungumza haya mambo yenye yako katika draft mpaka tarehe 27th, 28th ikifika, muwe mmemaliza na mmetoa mapendekezo yenu. Sasa hiyo ndiyo sababu kubwa sana ya kuja hapa. Sisi tukizungumza hapa kidogo tukiwaachia hii, mtaendelea kusoma nyinyi wenyewe na mtatoa maoni yenu. Na ningetaka kuwaambia kabla sijaendelea kuzungumza zaidi, si kusema yenyewe ni Katiba, lakini ni mapendekezo ya kufanya Katiba. Katiba itatokea baadaye kutokana na haya maneno yako hapa. Na ikitokea, ikikubaliwa na ikifanywa sheria iwe Katiba, itaandikwa kwa vitabu kama hili mnaona hapa. Kitabu namna hii ni kitabu ya Katiba ambayo tunatumia sasa.

Sasa hata hii mnaona iko katika karatasi ya newspaper. Commission iliona kwamba kwenda kuandika hii kwa Kitabu kama hiki itakuwa pesa nyingi sana na tena mambo hayajaisha, ni draft tu itakuwa pesa nyingi sana. Ama ukiandika kwa hii Kitabu yenyewe ile muundo wa kitabu ya sheria, itakuwa pesa nyingi na si mwisho. Kwa hivyo hii si mwisho, it is not final. Hata mkiona imeandikwa kwa gazeti si final, lakini kile muhimu ni kwamba iandikwe ile uone maneno hapa mkasome myazungumzie na ikifika wakati wa kuandika final, Commission itaona ule muundo ambao itaandika, kama ni namna hii, ama namna hii, ama namna ingine, ile ambayo itawezekana na ile itakubaliwa baada hata ya kutoka kwa Bunge.

Kwa hivyo msiseme Katiba iko katika newspaper ama karatasi. Mnaona hapa imeandikwa draft. Draft ni kama pendekezo la kwanza ambalo tutakuja kuandika mwisho. Yaani tuandike ile copy yenyewe ambayo ni ya mwisho. Hii ni ya kutusaidia tuanze

kusoma na tena tukaona hata kununua hii itakua rahisi kwa Commission badala ya kutengeneza kitabu kama hiki na hii mambo haijakuwa mwisho.

In Kenya every where pale Commissioners wako, kwa sababu leo kuna wengine wako huko Tharaka, kuna wengine Siakago kuna wengine Kisumu. Sisi sote tumeenda nje, hakuna Commissioners wamebaki huko, tumewagawanya mmoja mmoja ama wawili wawili lakini mainly ni mmoja mmoja, akiwa na Program Officer na Officer mwingine. Sisi sote twenty-nine tuko nje. Twenty seven Commissioners and two ex-officio Commissioners wako wote nje, na makaratasi haya yakienda Kenya yote hata hii lot yenyewe tulinunua na pesa nyingi. Kwa hivyo hii ikimaliza kazi tutakuwa na muundo wa Kitabu. Mkiuliza hiyo swali mtaona sasa kuna sababu.

Na kwa kuanza sasa hata nikiketi kwa sababu tutaulizana hata maswali. Nitaanza kwanza kuangalia hii. Yaani hii repoti yenyewe ingawa hamna hii, kwa sababu nawaambia hii si Draft Constitution lakini ni report kuwakumbusha vile tulianza kazi yetu. Na utaona kwamba sitakuwa nasoma page kwa page, hakuna wakati huo; lakini nikupeana ile high-light kuonyesha ya kwamba, kila point ilifanyika.

Na tukiangalia kwa hii short report, utaona ya kwanza watu wa Kenya walitaka Katiba ibadilishwe. Ukiendelea kusoma hapo utaona, na wakaamua wawe na Commission yenyewe. Kwanza kulikuwa na Commission ya Commissioners kumi na watano mwaka wa 2000. Halafu baadaye mwaka wa 2001, Commissions zilikuwa mbili, zikaungana 2001, zilipoungana kutoka June, 2001 ikandelea sasa ikiwa Commission moja ya wajumbe twenty-seven, na mimi nikiwa mmoja wao na ex-officio Commissioners wawili, mmoja ni Secretary P.L.O Lumumba na mwingine ni Attorney General. Sasa hayo yako hapa kwa hii report.

Na nikiendelea kwa background ingine ni kwamba, tuliendelea tukasema tufundishe watu, ikiwa stage ambayo tunaita Civic Education and that was preparing the people for participation. Commission ikaketi ikasema tuwe na Civic Education. Civic Education ni kufundisha watu wajue ni kitu gani kinaendelea. Kwa Civic Education, tulikuwa na taabu nyingi hapo kukubaliana, kuna stage makanisa walikuwa wanasema wanataka kufanya Civic Education kila pahali, kuna watu hata kutoka mbali kama Ulaya walikuwa wanasema wao ndiyo watafanya Civic Education, waingie kwa nyinyi huku waifanye.

Kulikuwa na maneno mengi ambayo watu hawakukubaliana, tukaona kitu kizuri ni Commission yenyewe iangalie ifanye Civic Education. Kwa sababu kama watu wangezunguka huko NGO's kama ni Wazungu kuja huku ingekuwa maneno mengi sana, sindiyo? Wazungu wangeanza mambo mengi, pesa pengine ingejaa huku, ingekuwa inamwagwa huku, lakini pengine tungepitia kweli Katiba kwa njia hiyo, na tumejitawala? Sasa tukaona kukubaliana na hawa ma-NGO's makubwa makubwa, watu wengi waingie hivi, haingekuwa vizuri, mpaka Commission yenyewe ikasema iulize watu wa-apply wale wanajua wanaweza kusaidia kufundisha wananchi, na wawe katika group and in that way involving everybody. Sasa wanaandika barua wengine wakiwa Youth Groups, wengine makanisa, wengine hata Njuri Njeke wali-apply na walimu retired na hata retired officers, wengi wengi wali-apply.

Kama Nairobi kulikuwa na providers kama, I think about (how many Bwana nani, Nairobi yenyewe?)

Answer: (inaudible)

Com. Domiziano Ratanya: Yes mnasikia, kama Nairobi ilikuwa karibu 2,070, one Constituency. Ha hiyo haikuwa mtu mmoja, ni groups. Na unajua group inaweza kuwa na watu kumi, ishirini na hata forty, hii ilikuwa Nairobi katika Constituency moja, na najua Nairobi ina nyingi kama nane hivi. Constituency kama hii, sijui kama walikuwa providers kama kumi ama kumi na---- (walikuwa wangapi hapa anake?) about nine? Si unaona ni tofauti tofauti. Sasa hapo walipoanza kufundisha na ningetaka kutaja hapa juu ya pesa ya Civic Education, pesa yenyewe ile Commission ilipata haikuwa nyingi ya kutosha ya kulipa hao wote, kwa sababu walikuwa wengi na tulisema wananchi wahusike, otherwise tungenesema yakae tutumiwe mabarua kama haya na mambo yaishe. Ama Commissioner aje siku moja azungumzie hapa halafu tusema Ntonyiri imejua. Si kama sasa mimi nimeongea leo, kuna providers wanaenda round kuwafundisha? Hii mambo itaishia hapa launching. Lakini kama Civic Education tungefanya hivyo, sijui kama ingekuwa vizuri sana kwa sababu mgetaka participation muendeleo hata nyinyi kuzungumza kwa nyinyi wenyewe kwa vijiji.

Tukasema ni heri muwe na hizo groups, lakini pesa ile ilipatikana na mkalipwa ndiyo ilikuwepo, ndiyo Commission ilikuwa nayo.

Na ile Co-ordinator alilipa ilikuwa accounted kule Nairobi na Secretariat, na ikaonekana alitumia kiasi ambacho alipatiwa. Haikutosha, na sio Ntonyiri pekeyake, everywhere haikutosha kwa sababu ile Commission yenyewe ilipata ilikuwa kianzisho na ikagawana kila pahali katika Kenya, lakini tuliwashukuru wengi waliofanya kazi kama voluntary na ikawa kiwango ambacho tulikuja tukakusanya maoni kama haya unaona tumeandika hapa. Kwa hivyo hiyo ilikuwa stage moja na ilifanywa vizuri, isipokuwa kama vile nawambia malalamiko yalikuwako ya pesa na haikuweza kutosha kwa vile ile iliyopatikana ndiyo ililipwa.

Then kwa hii report kuna “What the people told us” tukiangalia hapa utaona watu walitumbia, mambo mbali mbali na kutokana na maoni ya watu, yale ambayo yamewekwa hata kwa Katiba, yale ambayo wananchi walisema ni mengi na ndiyo tumeandika kwa kila Constituency tofauti tofauti. Nikiangalia hapa katika page moja “What does the Draft Constitution do for Women?” for example here tunaona inaandika it prohibits discrimination on grounds of sex, pregnancy, marital status, requires new laws to make this effective. Due account must be taken of needs to include women in public bodies and judiciary and so on. Political parties must be democratic including and getting the involvement of women.

Hii ni mfano tu ya yale machache ambayo yalikuwa yanasemwa, yalisemwa kwa kama kuhusu disability. For example hapa, discrimination on girls of disability is prohibited. This is a common consensus everywhere. It should not discriminate disabled people or people with disability. This ofcourse is a point that covers everywhere and we had a lot said about that one in Ntonyiri Constituency, if you go through what Ntonyiri people said.

Mfano mwingine about human rights, watu walisema mambo mbali mbali ya watu ambao ni maginalised. Walisema mambo ya

women, walisema mambo ya youth. Walisema mambo ya children, walisema mambo ya the aged, ama wazee ambao wame-retire, ama wale hawajafanya kazi ya serikali lakini wako nyumbani wame-retire hawafanyi chochote, ni wazee sana. Hayo yote, na hata right yako wewe mwenyewe, which is not given by the Constitution, but God given right should be protected and if I check an example here on this is page 18 of this book. “How is the New Constitution different from the old?” Wakati mwingine watu wanauliza ni mambo gani yamegeuka kutoka kwa old Constitution, yaani kitabu kama hiki nimewaonyesha. Hii ni Constitution yenyewe kwa sababu ilimaliza mambo yake yote wakati wake na ndiyo tuna-revise, ndiyo tunaendelea kubadilisha badilisha. Na nikisoma machache hapa kwa yale yamebadilika ama ni tofauti kidogo, nikichukua mfano mmoja hapa Parliament consists of two Houses, under the National Assembly and the National Council, that is about the new proposal that will appear in the new Constitution, that the Parliament is going to have two chambers, the Upper House and the Lower House. I will give you the names National Assembly and the other one is National Council. But what about the old Constitution?

There is only one Parliament, just House of representatives, that is National Assembly, lakini tulipo nyakua Uhuru 1963 and around 1964, kulikuwa na two Houses. Kulikuwa na Upper House ambayo ilikuwa inaitwa Senate na kulikuwa na Lower House, ilikuwa inaitwa House of Representatives ama Lower House. Naona sasa hiyo ilikuwa zamani, 1963 lakini kutoka 1964, 1965 kuendelea hapa, kulifanyiwa amendment kwa Constitution ya kwanza, hayo maneno yakaondolewa, nakumbuka kulikuwa na Mjumbe mmoja ambaye anatoka upande huu, alikuwa mmoja wa wale wa kwanza kuwa katika Regional Assembly. Though kulikuwa na Parliament ya Nyumba mbili huko juu na halafu kwa every Province, kulikuwa na serikali ambayo ilikuwa na wajumbe na ilikuwa inaitwa Regional Assembly. Mmoja wenu hapa alitoka hapa kuwakilisha upande huu wote, upande huu ulikuwa unaitwa wakati huo Nyambene North hapa tu. Yaani upande huu Ntonyiri and Igembe ilikuwa Nyambene North hapa tu. Yaani upande huu and Ntonyiri and Igembe ilikuwa Nyambene North, that time. Mlikuwa na member wa Regional Assembly not National Assembly only, National Assembly kulikuwa na Mjumbe, mnajua? ----- alikuwa wapi? Ni National Assembly? (*in vernacular*) Regional Assembly at that time. Lakini hayo maneno yalibadilika sindio? Hiyo Constitution ilikuwa amended hiyo ikitoka.

Nikichukuwa point ingine, a person does not have to be a member of a party in order to stand for elections. Katika Constitution ya sasa, hii ambayo tunatumia leo, though hakuna Constitution ingine imekuja ni hii hii tu tunaendelea kutengeneza mpya tubadilishe hii, lakini kwa hii ni lazima uwe unaletwa na party ili uende Parliament, ama si namna hiyo? Lakini mapendekezo yale utaona huku si lazima uwe unapendekezwa na party peke yake, you can also be an independent candidate. Si unaona hiyo ni tofauti? Na hata hiyo mkikumbuka wale wazee kama Julius, mnakumbuka zamani kulikuwa na independent candidate. Si namna hiyo. Elections za 1963.

Interjection: inaudible

Com. Domiziano Ratanya: Unaona mzee anakumbuka, ----- alikuwa independent na alikuwa symbol yake ilikuwa Simba, nakumbuka. So that was there in the past, lakini si baadaye iligeuzwa? Ilikuwa amended, sasa hiyo ni tofauti moja.

Tukiangalia lingine unaona kwamba, MPs will no longer have power to fix their own salaries. Katika hii draft yetu (laughs) hiyo maneno tumepinga, unaona? Hawatakuwa na nafasi ya kuweka mishahara yao na tukiangalia kuzungumza utaona kuna Commission ambayo tunaita, Salaries and Remuneration Commission of Kenya. Commission itafanywa kama hiyo. Hii itaangalia mishahara yote.

Si group hapa kuenda kufanya mambo yake ingine pale, ingine pale. Ukiona sasa watoto wetu wako nje kwa sababu wale wanawafundisha wanakatazwa pengine pesa, hiyo Commission itakuwa inaangalia kila mtu. Kama ni walimu, kama ni Army kama ni nini, wote na MPs na Ministers. Hiyo Commission itakuwa ikiangalia mishahara yote kutoka hata ya President, itakuwa Commission ambayo itakuwa na nguvu ya kufanya hiyo kazi. Siku ya leo kuna hiyo Commission? Hapana. MPs wanaenda wanaketi kwa sababu wana ile nguvu ya kufanya sheria, wanasema, si lazima tufanye sheria yetu? Na hiyo yetu ni ya kutupatia nini? Kamshahara. Sasa hiyo mambo yatakwisha.

Interjection: Inaudible.

Com. Domiziano Ratanya: Sawa sawa namna hiyo. Sasa hiyo ni tofauti, nilikuwa tu nasoma hapa kuwaambia, how is the new Constitution different from the old. So I am picking just a few examples.

If I get another example here which is also becoming a new thing here is that there will be a new Supreme Court at the end of Judicial systems with all the new Judges.

Interjection: Inaudible.

Com. Domiziano Ratanya: Okey umeenda mbali kidogo kwa sababu nitakuja kwa Draft yenyewe, nitazungumza hiyo. Hiyo nime mention, we shall mention about Commissions kwa sababu kuna nyingi. Kwa hivyo tukimpatia hiyo example ya hapa tumesema, another difference is there will be a Supreme Court. Leo hatuna Supreme Court, lakini kwa kutoka kwa hii Draft Constitution mpya ikija kutakuwa na Supreme Court of Kenya. Tuko sasa mpaka Court of Appeal, lakini juu yake kutakuwa na Supreme Court na mtaangalia maelezo yake yako hapa. Na kama kunaye angetaka tukiingia hapo kuuliza, unaweza kuuliza.

Kwa hivyo hata hiyo ni tofauti. There is also something else, kitu ambacho kinaonekana kitakuwa kitu mpya, President mwenyewe atakuwa impeached. There is that impeachment of the President, yaani kukaguliwa na kuangaliwa kama amenfanya makosa, atengenezewe procedure mpaka aondoke. Lakini siku ya leo kuna hiyo mambo?

Audience: Hapana.

Com. Domiziano Ratanya: Hakuna. Na hiyo impeachment itaendelea kuna procedure yake pengine Bunge, na iende kwa Wazee wa National Council ndiyo watakuwa wanahusika sana katika Upper House. Hata hiyo pointi iko hapa. Na hata MPs,

recalling MPs. Mkiona huyo MP hamtakaa naye miaka mitano, amefanya mambo ambayo hamtaki, so there is that power to recall that MP, aje kwa nini? Arudi nyumbani, na akirudi nyumbani mfanye nini, mchague mwingine. Kwa hivyo kuna hiyo procedure, lakini siku ya leo kuanyo?

Audience: Hapana.

Com. Domiziano Ratanya: Kwa hivyo unaona hata hiyo ni difference.

Tukiangalia hata kwa hata ingine utaona kuna Administration Police. Hata hiyo kutakuwa na tofauti. Administration Polisi itakuwa katika kikosi cha polisi. Hakutakuwa hiyo, itakuwa yote polisi. Tulipokuwa tunachukuwa views kutoka kwa watu, wengi walisema, kwa nini tunaendelea kuwa na Administration Polisi hapa, hata ingine inaitwa Regular, si wote polisi? Kwa hivyo tuliposikia maoni yote na hata pengine nikisoma hapa kwenu hapa kuangalia hapa nitaona watu wa Ntonyiri walisema hivyo wengine. Hayo ni maoni ya watu kila pahali, na kwa hivyo tukaamua Administration Police iingie kwa polisi yenyewe, pengine ile sheria yao Cap 85 Laws of Kenya iwe repealed ama itupwe kabisa na tutumie Cap 84 which is Police Act wote waingie kwa police. Hakuna mtu atapoteza kazi yake. Yule ataondoka ni kawaida ya kuondoka yaani umri ama umefikisha retirement, ama umefanya makosa discipline lakini kutakuwa na kitu cha Inter Transitional Provision. Hiyo tutaangalia baadaye, nitawaonyesha kule iko wakati wa mabadiliko. Kama tukibadilisha kutoka kwa Police Administration iondoke kutakuwa namna gani? Wataenda kwa police na wakuwe accommodated namna hiyo. Kuna pointi ingine inahusika kama hiyo.

Provincial Administration: Provincial Administration will be abolished. Provincial Administration si utawala wa kule Embu ama Nyeri, ni utawala hii tunaita Provincial Administration. That system inanza kutoka kwa subchief. Hiyo ni system yote namna hiyo. Subchief ama Assistant Chief, the correct official title, Chief, D.O, D.C. na P.C halafu P.S ambaye anaitwa kusimamia Provincial Administration. Hiyo laini yote ndiye nini? Provincial Administration. That will be abolished na hiyo ikiondoka, mtaona vile itarudishwa ile kazi walikuwa wanafanya haitapotea. Unajua kazi ndiyo ya muhimu. Ile walikuwa wanafanya nzuri ambayo inatajikana wananchi itarudi. Lakini kama kuna mambo mabaya wanafanya kama corruption, kama mambo mengine. Hayo hayatarudi. Wanainchi watapata utawala umepangwa kwa njia nzuri. Sasa system hiyo inaonekana itapotea kabisa na hayo yalikuwa ni maoni ya wananchi kila pahali.

Is there any point you would like us to highlight, I will not go through all of them. Now katika serikali yenyewe mpango kutoka Nairobi mpaka kwenda kwa wananchi, wananchi walikuwa wanataka sana kuwe na devolution of power yaani utawala uende kwa wananchi, uwe shared si ukae na mtu mmoja. Na nikiangalia hapa kuna pointi kama hiyo na baadaye tutasoma kwa draft yenyewe. There will be a system of the devolved government, which is entrenched in the Constitution and based on the districts, though this will also form a Provincial Council, there must also be a village and a Location Council. Hiyo tutaangalia contract yenyewe pahali na hata hapa kuna diagram ambayo nitawaonyesha. Mtaona serikali vile inagawana power kutoka juu, kutoka Nairobi inafika kwa district ndiyo itakuwa kile kiwango kikubwa sana halafu locations, halafu village. Maana yake ni kuhusisha mwananchi kutoka district level. Watu walikuwa wanalalamika eti serikali kila kitu inafanyiwa Nairobi. Ukitaka

kabarabara kadogo kajengwe, mambo yanaandikwa hapa yanaenda Nairobi. Sasa mambo mengi yatakuwa yanafanywa kutokana na wananchi wenyewe. Na hapa nina diagram ambayo ningetaka kuwaonyesha hata ingawa hamna hii kitabu I shall show you this one which I have, on page 45 mkisoma kwa Documentation Centre ambayo mtapata hiki kitabu huko, mtaona kuna diagram hapa imepigwa ya kuonyesha hiyo devolution of power. Yaani ku-share power kutoka Nairobi, kutoka Central Government. Hapa tuna-mean wale ambao wanatawala Kenya are the people, yaani mwananchi wa Kenya ndiye mkubwa zaidi. Ndiyo mnaona tunanza huko juu, the people. Kwa sababu hata hii Katiba imetengenezwa na nani? Ni wananchi, it's the people's Katiba. Ya kwanza ilitengenezwa huko London na viongozi, lakini imekuja hata nyinyi mnaketi hapa na mnaizungumzia kuitengeneza. This is why we say it is people driven na juu ikiwa people, hawa watu ndiyo wanachagua mtu wa kuwatawala kwa niaba ya watu, anaitwa President akiwa mtu wa kwanza. Below President, kuna Vice President, hapo chini kuna Prime Minister tena kutakuwa na Deputy Prime Ministers wawili na wataonyeshwa kazi zao, then ministers. Sisi tulionelea kulingana na maoni ya wananchi kuwe na only 15 Ministers na 15 Assistant Ministers. Na hata hawa Assistant Ministers, hatuwaiti Assistant kwa Draft yetu. Tunawaita Deputy Minister. Kama Prime Minister haitwi Assistant, anaitwa Deputy Prime Minister.

Na kutoka hapo, kuna Councils ambazo zitakuwa huko juu kwa Central Government, tutakuwa na Council moja inaitwa National Assembly, that is the Parliament. The Parliament will have two Chambers, moja inaitwa National Assembly na ingine inaitwa National Council. National Assembly itakuwa na 210 MPs kama vile walivyo sasa. From Ntonyiri, from Igembe, from everywhere, one, one, one kama vile walivyo 210, hao ndiyo watachaguliwa namna hiyo tukiwachaguwa tena, tutachaguwa 210 in Kenya, na kutakuwa na wengine 90 kuongezea hawa ile kuwakilisha sehemu mbali mbali ambazo haziakilishwi ama pengine zina baguliwa, kama akina mama, kama disabled, kama tribes ambazo ni wachache sana, maybe professionals, na hapa real number ni 90. kwa hivyo National Assembly itakuwa wangapi? 300 members. National Council, itakuwa na mmoja kutoka kwa every district. Na tunaona kwa ma-record districts ni 69, kwa hivyo watakuwa 69. Nairobi itachukuliwa kama district, hiyo ni moja. Kwa hivyo watakuwa wangapi? 70. Halafu kutakuwa na wengine 30 to represent women's interest, na hao watachaguliwa kutoka kwa province. Kila province one, provinces 7, hao ni 28, kila moja one. Na kutakuwa na wawili kutoka Nairobi alone, kwa hivyo ni 30. Sasa hii kazi itakuwa na 100 members. National Council ambayo is a sought of the Upper House.

Now still the Government will devolve down to the district. Kutoka Nairobi sasa ile itakuwa na nguvu zaidi, ni district ambayo itakuwa na district council. Sasa tunaiitaje? Ya district inaitwaaje sasa? County Council. Lakini unajua within the district leo, tuna hata Municipal Council si ndio? Kuna hata County Council, na mnaona vile vinaingiliana. Katika County Council inazunguka district yote, lakini ndani yake kuna town ambayo inaitwa Municipality ina mkubwa anaitwa Mayor. Sasa hiyo mambo itaisha. Kutakuwa na Council moja ya nini? Ya district. Hata district itakuwa na Council moja. Na wajumbe watatoka kutoka kwa wards zile ziko sasa ama locations, na wakati huo pengine kutafanywa regulations ya kuonyesha boundaries, kama kunayo intaongezwa ama ipunguzwe. The Parliament will make those regulations.

Kutoka district tutaeda kwa Locations. Locations nazo zitakuwa na Councils, itakuwa na elected people kutokana na zile boundaries ambazo zitawekwa na Parliament, kuonyesha what do we mean by a Location. Pengine Location inaweza kuwa ni present division we don't know, lakini itafanywa.

Na halafu tutaenda kwa village. Na hapo village, watu wengine wanafikiria village ni watu wachache pengine nyumba mbili, tatu, nne. Hiyo village itakuwa defined, kuna watu wanafikiria village inaweza kuwa na watu kama 3000 to make a village or 5000 to make what we call a village. Ile village mna watu wawili watatu, kama ni Julius na family yake na mwingine, hapana. Hiyo tu ni jina ya kuonyesha tunaenda kwa wananchi. Hata hiyo pengine inaweza -----

Na Province kutakuwa na Council. Lakini Province kutakuwa na representatives wa district ndiyo wataenda huko wata-form a sought of a Council katika Province. Kazi yake itakuwa tu kuunganisha ma-districts. Haitakuwa na nguvu nyingi kama hii ambayo ni ya district. Kwa sababu district itafanya hata sheria zake. Sheria nyingi ambazo zinahusika na watu wa hapo zitatengenezwa kwa district level. Kwa mfano nikifikiria sheria kama moja ama mambo fulani kama mambo ya miraa, hapa hapa tulisikia eti miraa ni lazima iingie kwa njia nzuri. Ni zao nzuri sana kwa sababu inatusaidia kwa economy tunapata pesa na maendeleo yanatokana na miraa. Hata Commission imeweka miraa kuwa na maana sana. Watu wengine tukienda huko upande wa Coast, tunasema mambo ya fish, samaki, kuna wengine wanasema mambo ya karafuu, pale iko. Si unajua kila watu wana vitu vyao. Tukienda huko Modogashe, wanasema lazima hii mifugo yetu tujue tutauza wapi. Wanataka Factory, ili tuwe na pahali pa nyama na wawe wanauza. Kwa hivyo mambo kama haya ambayo ni tofauti tofauti, hayo tumependekeza yawe yanafanywa kwa district level. Kwa sababu district ndiyo itafanya sheria nzuri ambayo watu watatosheka. Na hata hiyo itakuwa kwa Katiba na hata sheria ya nchi yote, yaani kwa National Assembly and so on.

Tuseme sasa mambo ya miraa yenyewe, District Council ikikutana, kwa sababu hii District yetu Meru North, tunahusika sana mambo ya miraa, miraa ni kitu yetu na tunapenda, watu wengine wanasema ni kama pombe, lakini sisi tunajua miraa ni kitu cha maana. Kwa hivyo District Council itakutana ifanye sheria. Vile wanataka miraa kama ni kuuzwa, kama kutengenezwa kwa njia fulani, kama ni kupeleka pahali, watafanya sheria kwa District level na hiyo sheria itaenda mpaka ikubaliwe kwa serikali, na watu wa hapa wafaidike kwa hiyo. Hatuwezi kuweka sheria pengine na kutawala mambo ya miraa kwa Mujaluo ambaye hana miraa. Kweli ataheshimu hiyo? Kwa hivyo kule Siaya, huwezi kuambia Council ya Siaya iketi ifanye sheria ya miraa. Itawezekana, huko watafanya sheria ya samaki kwa sababu wako karibu na lake. Mambo yao huko ni samaki, samaki. Tukienda mambo ya karafuu, na ingine, tukienda huko Mombasa, pengine watafanya sheria hiyo kali sana, kusaidia watu wao na economy ya area hiyo. Kwa hivyo usiseme miraa ya kwamba haikuingizwa katika Draft, imeingizwa sana sana na ndiyo itatengenezwa na hiyo Council ya District. Itafanya sheria na hiyo sheria itaheshimiwa, na watu watatosheka na watafaidika.

Nikitoka kwa hii sasa kwa sababu hii niliwaambia ni report ambayo ina-cover mambo generally, na nimesema machache yale tumechukua kwa Constitution, hii report ina andamana sana na yale mambo mlitwambia. Kutokana na hii report ambayo tuli-launch tarehe 18 September, na mambo yenu ambayo yametoka kwa Constituency, tulipo keti, tuliangalia vizuri mpaka

tukafanya mapendekezo ya Katiba. Sasa hii naguza hapa ni mapendekezo ya nini? Ya Katiba yenyewe. Haya yakipita kama vile yalivyo vitabu vitaandikwa vikiwa namna hiyo hiyo tu, na iitwe Katiba ya Kenya, nikimaliza all those things. Lakini hii niliwaambia hii yenyewe hatuwezi kusema hii ni Katiba siku ya leo. Haijakuwa Katiba, ni mapendekezo ya kutengeneza Katiba yetu mpya ya Kenya. Na siku ya leo nimewaletea ili msome muanze kusoma, kuulizana maswali, kufanya corrections pake unaona si nzuri. Pale unaona ni mzuri unakubaliana nao, pale unaona si nzuri unafanya amendment na baadaye utaandika report yako.

After 30 days kila mtu atakuwa amesoma ama group. Mtasoma in groups, kama mna makundi ya akina mama, makundi ya wazee, makundi ya walimu, makundi ya vijana disabled what, mtaketi mtasoma hii Katiba na hata ukiwa individual ama wewe ukiwa peke yako tu na family yako, mtaketi mtasoma na halafu mtafanya comment. Pengine mnaweza kusema kitu ambacho tumesema hapa kingine si kizuri, na uandike argument yako, uandike sababu yako ya kusema si kizuri. Ama useme ni kizuri ama useme mambo mengine yameachwa hayakuingia kama vile unasikia watu wengi wengine wanasema, mambo ya wafanyi kazi, labour haikuwepo sana, hiyo ni malalamiko itaangaliwa. Na mkiandika hayo malalamiko yataenda kwa Commission, lakini lazima yawe in writing, yakienda kwa Commission, Commission inatengeneza mkutano wa National Constitutional Conference ambayo itakuwa tarehe 28, na utakuwa na 30 days ya kwenda through hii, hii ukiangalia na ukifanya uchunguzi wako wote na ukifanya corrections ama kuongeza.

National Conference, wananchi wamechagua Wajumbe watatu kutoka kwa kila district na district zote kama ni seven, kama ni watatu watatu, unaweza kufanya hiyo hesabu haraka useme ni wangapi? 210 straight away, ile hesabu yetu ya zamani carry ----- computer ya kichwa, 210. 70 x 3 is 210. Hawa 210 wametoka kwa district watatu watatu. District ina watatu na mmoja ni lazima awe ni mwanamke. Na hapa hapa tuko kuna mjumbe mmoja ambaye alichaguliwa kwa Meru North. Mama ambaye ni mmoja wa wale watatu. Pengine mngetaka kumjua huyu madam Beatrice Mbario. Huyu pengine mnamjua sana, okey. Mnaona sasa hamjui delegate anatoka nyumbani? Huyo ni mmoja, kuna mwingine hapa hapa anaitwa Counillor, I don't know kama huyo yuko around, alikuwa hapa hapa.

Audience: Inaudible.

Com. Domiziano Ratanya: Okey, sasa huyo ni mtu wa kwenda Nairobi huyo. Mwingine ako hapa. Mwingine naye wa kufanya watatu kwa district hii ametoka Mikinduri huko karibu na ----- karibu na mpaka wa Tharaka. Unaona district imekuwa covered? Sasa hawa watatu wataenda Nairobi na ndiyo tunawaita delegates wetu, ambao wataakilisha Meru North District. Na kutakuwa na wengine kutoka makanisa na majina mengine ya hawa watu hapa lakini mtawajua baadaye. Kuna wakutoka makanisa, kuna wengine wa kutoka kwa groups za akina mama, NGOs, na tena wengine ambao watakuwa huko ni Wajumbe wenu wale wako sasa. Ni wangapi? 210 kwa sababu kuna 210 Constituencies. Tena wale Wajumbe wengine watakuwa huko ni Commissioners, sisi tutakuwa huko 29 lakini hatutakuwa na kura, hiyo ndiyo itakuwa tofauti. Kwa sababu tumefanya hii kazi yote ambayo mmetupatia kama wananchi katika Kenya, kufanya draft, na sasa kuwa na kura kwa sababu

hatuwezi kupigia hii document yetu kura. Wale watakuwa na kura ni akina Beatrice, Councillor huyu ambaye ako hapa na wengine, na hata MPs watapiga kura. Lakini sisi kazi yetu ni kufanya mipango ya hiyo conference iendelee na iwe inafanyika sawa sawa. Yaani kufanya pale wataketi, kufanya maybe documents, mipango hiyo yote, hiyo ndiyo ni kazi ya Commission na tutakuwa huko lakini hatutakuwa na uwezo wa kupiga kura. Sheria imetukataza hiyo, sheria ambayo inatutawala ambayo tunafanya kazi nayo hii Constitution of Kenya Review Act Cap 3A ndiyo inatueleza ile kazi Commissioner wanafanya.

Sasa group yote ambayo itakuwa National Conference watakuwa kama 600 hivi, around there. Hawa wakikutana Nairobi wataangalia hii draft ambayo inafanywa na Commissioners, na tena waangalie maoni yenu kutoka kwa hii draft, yale ambayo mtaandika mpeleke huko. Hayo ndiyo watazungumza na watakaa kama 30 days hivi, itakuwa ni kazi nyingi kwa sababu watakuwa wanaenda kutoka paragraph, kutoka page, yote wataangalia mpaka baada ya 30 days, wawe wametoka na repoti yao. Wakikubaliana eti hii sasa imekuwa sawa na hakuna malalamiko na hakuna ubishi, hii tunaita consensus, wakubaliane kabisa ama kama ni kura waseme na kura wamekubaliana. Hiyo sasa itakuwa ni report ambayo itatengenezwa na draftman wetu, halafu itapelekwa Parliament, ikiwa sasa Draft Bill ambayo itaenda kufanya sheria na Parliament, na Parliament ikimaliza hapo, itakuwa sheria, yaani itakuwa sasa Katiba ya Kenya. Itakuwa Constitution ya Kenya ki-sheria.

Hebu tuseme kwa mfano hawa members ambao watakutana 28th na wanaendelea mwezi moja, wasipokubaliana na hatuombi wakatae kukubaliana, tunataka watengeneze hii mambo iwe wamekubaliana ifanywe haraka. Lakini wakikataa, sheria inawaambia kwa hii kitabu ama amendment yake ambayo nina hii, kwa sababu hata hii imekua amended tena, inasema, wanaweza kupeleka haya mambo kwa referendum yaani ile tunaita kura ya nini? Ya raia. Kama kuna kitu hawataki kusikizana, sheria inawakubalisha wapeleke kwa wananchi wakapige kura. Ndio utaona yatakuja kwenu huku tena kwa polling stations, mpigie Katiba Kenya. Hiyo hatujui kama itafika hapo kwa sababu mambo haya yote yamefanywa vizuri na Commissioners. Hawa delegates wataketi kwa hii mambo vizuri na tunafikiria na tunaomba mambo yaishie kwa delegates. Si namna hiyo? Lakini kisheria nimewaambia kwamba mnaweza kuendelea kwa sababu wengine hapa wataniuliza, delegates wakikataa kukubaliana itakuwa aje? Sasa Ndiyo nawaambia, wasipokubaliana wana hii njia ingine ya kwenda ambayo ni referendum. Lakini kwa kawaida hiyo haisikiki. Nafikiria hawa members watakubaliana.

Sasa kuna kitu kingine kabla ya kuangalia hata ndani kwa sababu tutaangalia hii ndani, tutachukua mifano ndani. Kazi ya Commission yenyewe niliwaambia nataka kuhimiza hapo, tulimaliza kazi ya ku-draft Constitution na kwa kufanya hii, mambo yale mengine yamebaki, kweli utaweza kulaumu Commission? Yale yamebaki tu ni mpango kwenda tu kwa Constitutional Conference, mpango kwenda kwa Parliament. Mpango pengine wa elections. Hayo yote si kazi sasa ya Commission. Lakini kwa vile tumechukua maoni hata tukisoma hayo maoni yote kwa 210 Constituencies, watu wanasema Katiba ikiwa tayari before December, si waifanye kwa new Katiba? Wengi, I think Kenya yote hata ukisoma huko hata Commission, tunakubaliana nayo, ifanywe na new constitution. Lakini hatuwezi kuweka sisi kwa sababu hiyo si kazi yetu, lakini tunganee tunakubaliana na maoni yale tulipewa na nini? Na wananchi. Lakini kuifanya eti ifanywe na new constitution ama old constitution, commission haiwezi kufanya hiyo kazi, hiyo ni ya mtu mwingine. Si ndiyo? Hiyo ni ya wengine. Mnasikia sasa hii

inaenda kwa National Conference na Commission haina kura, tutahimiza hayo mambo na hatuna kura, hatuwezi. Haya mambo yataenda kwa Paliament Hatuendi Parliament. Sasa Parliament na delegates wale watakuwa National Conference na Serikali yenyewe ambayo iko sasa, hiyo sasa itakua mambo yao kuona ya kwamba kama tutaenda na Katiba hii hii mpya ama Katiba ya sasa ni wao wataamua. Msilaumu Commission hapo, Commission haina mamlaka hayo. Hata hao watu wanasema mambo ya kuvunja Bunge nini, hiyo in prerogative ya President. Hiyo ni kazi ya President, hiyo si kazi ya sisi Commission. Kazi yetu tumefikia wapi? Hapa kufanya draft. Na ile sasa kazi tunaendelea nayo kutoka sasa baada ya hii draft ni kupanga mipango mpaka ifike mwisho yaani ni kama kazi sasa ya official tu ya ukarani tu, kupanga vile hao delegates wataketi, ni nyumba gani, makaratasi gani, officers wale wataandika na ma-computer, hiyo yote ndiyo tuna-coordinate, na hao wakimaliza, tuone kwamba draft inaandikwa vizuri ili iende Parliament, hata hiyo ni kazi yetu, lakini kwa decision, decision yetu imeishia kwa hii. Uamuzi wetu umeishia kwa hii, na ikiwezekana ikisemekana itakuwa referendum hata hiyo itaonekana njia ya kupanga hata hiyo, lakini tunafikiria itaishia kwa National Conference.

Sasa tukifika kwa hayo msiniambie sana niwaambie kama itakua hivi na hivi, pengine mmesikia yale nimesema uwezo wetu umeishia hapa na wengine ndiyo watatusaidia wasikie malalamiko ya wananchi katika Kenya yote na wafanye vile wananchi pengine wanasema.

Hebu twende kwa hii draft yetu, kwa sababu mtaendelea kusoma, hatutasoma yote, naamini kwa launching ningetaka kufanya introduction tu, tuone vile tutaisoma, ili usifikirie hii ni gazeti ya kawaida. Yenyewe ni Nation, lakini unaona imewekwa mambo mbali. Kwa hivyo usiweke mambo mbali huko kama Nation, ikiwezekana hii weka ya history mpaka hata babu zenu wawe wakiona pale Katiba ilianza. Enda uweke kabisa pale unaweka kitu chako cha muhimu, labda kwa file baada ya kusoma. Na tuone vile tunaendelea kuisoma. Fungua page 1, lets say page 2. Page 1 hapa juu mnaona it was issued on 27th day of September 2002. Page 2 hapo juu chini ya Constitutional Republic of Kenya, kuna table of contents, mnaona hapo. Arrangements of articles. Hii section tunaita articles kwa hiki kitabu, kwa Constitution ambayo tunayo sasa tunaita sections. Lakini tumependelea kwa draft yetu kuiita articles. So you see the arrangements of articles. Arrangements of articles kuna chapter 1, ambayo inaanza na article 1 ambayo inasema sovereignty of the people. You see then the supremacy of the Constitution, enforcement of the Constitution, defense of the Constitution, the laws of Kenya. Hiyo sasa ni chapter 1 ambayo iko na hayo mambo na yako ndani aambayo ni tayaangalia pale yako, tena utaenda chapter 2, utaenda zingine chapter 3 mpaka mwisho, hiyo ni arrangements ya chapters.

On page 3 utaenda chapter 20, ya mwisho ni Transitional and Consequencial Provision. Na utaona hapa kuna action of Parliament Transitional and Consequencial Provision na kutakuwa na schedules, yaani tables and so on. Now kwa hii sasa kabla hatujaenda ndani kabisa (inaudible). Now kitu kimoja ningetaka mjue, kwa arrangement ya articles zetu kutoka chapter 1, ending ya chapter kama hapa chapter 1 ending ni sovereignty of the people and the supremacy of the Constitution. Hiyo ndiyo ending. Ending ya draft yetu inawekwa juu ya maelezo, lakini kwa hii Katiba ya leo, hii the current Constitution wale ambao wamesoma imewekwa kwa paragraph. Ending inawekwa kwa paragraph. Mnaona hii inawekwa hapa? Inawekwa

kwa paragraph, lakini yetu tumeiweka juu. Kwa hivyo hiyo utaona ni tofauti kidogo. Kama nikisoma kwa hii ya zamani hapa, kama jina Cabinet (inaudible) paragraph na hiyo ni ending. Nilikuwa naeleza mambo ya ending. Sasa ending zetu, chapter utaona ending itakuwa juu ya maelezo. Hebu tuchukue mfano mmoja, kwa sababu nataka kueleza kidogo mambo ya language, ningependelea sasa tuangalie pale language iko.

Naenda kwa page 4, languages unaona hapo chini article 9, katika column No. 3 languages. Nimegusia hiyo kwa sababu tumekubali kwa hii Katiba kwamba Kiswahili itakuwa official language. The official languages of Kenya are Kiswahili and English and all official documents shall be made available in both languages. That is also a new thing. Mpaka siku ya leo tuko kwa hii Katiba, Kiswahili ni just a mere national language. Huwezi kuona Katiba imeandikwa na Kiswahili, lakini kwa hii itakuja, itakuwa imeandikwa kwa Kiswahili na Kingereza. Both languages are going to be official. Yaani ni lugha ya kutumia kwa offices, ya kutumia kwa official documents kama kitabu cha sheria kitakuwa kimeandikwa kwa Kiswahili na Kingereza. Zile forms zote unajaza ukienda kortini, ukienda wapi, yote official vitakuwa vimeandikwa kwa Kiswahili na Kingereza. Sasa kuna chart imeandikwa namna hiyo kama application ya indication ya voters, ukiangalia hiyo kuna Kiswahili. Something is there, ama passport. Lakini baadaye all official documents zitakuwa kwa Kiswahili na Kingereza. Na hata hii karatasi ambayo tunasoma hii, tunatayarisha isipokuwa haikuwa tayari, ningewapatia copy ya Kiswahili na Kingereza, lakini kule haikuwa tayari, na inaendelea kutengenezwa, kutakuwa na copies za Kiswahili na Kingereza. Kiswahili yenyewe itakuwa just a mere national language. Number 2. national language of Kenya is Kiswahili. Kama national language ni hii lugha ambayo inatumika na kila mtu, na hata mbeleni ilikuwa national language, but now itakuwa hata official. You have to note that difference. Ikiwa official inakuwa lugha ya kiofisi na tena inakua lugha ya kuzungumzwa na kila mtu.

Tusome point three kuhusu languages. The state shall respect and protect the diversity of language of the people of Kenya and shall promote the development and use of Kiswahili, indigenous languages and sign language and braille. Hizo zote ni lugha. Lugha ya Kiswahili itakua developed. Unasikia kama Uganda imekua kama compulsory katika examinations. Tanzania unajua Kiswahili ni official and national peke yake, sijui kama Kingereza ni official huko Tanzania ni Kiswahili peke yake. Lakini hata kwetu Kenya, Kiswahili kitaendelea kuwa developed, kitafundishwa vizuri, na kila mtu aweze kujua Kiswahili na indigenous languages kama yetu ya Kimeru, itakuwa developed. Zamani tulikuwa tunasoma vernacular ama Kimeru sawa sawa, na Kikuyu na nini, lakini pahali fulani ikapotea potea na tena sasa shule kuna Kimeru kidogo kidogo sindio? Lakini I think in future kitakua more emphasized na hata Katiba hii itaandikwa hata kwa Kimeru, na lugha zingine. Lakini ile itakua official document ni English na Kiswahili, lakini kueleza kila mtu asome, itakua kwa kila lugha, mtaipata huko kwa bookshops mnunue, upate pahali popote, na haitakua siri.

Kama sasa hii si watu wengi wanaweza kufikia hiki kitabu na sijui kama ni wengi wamenunua, na sisi wote ni wasomi, kwa sababu hii Katiba ya zamani hii, ilikuwa rather restricted, haikuwa imekataliwa sana lakini ni watu wachache walikuwa wanaisikia huko government press. Lakini tumependekeza Katiba yetu ikija iwe available kwa kila mtu. Iwe kwa ma-court na kila mtu anaweza kununua naikaeleza maelezo yake hata kwa lugha zingine. Naona sasa Katiba yenyewe ime entrench

language iwe developed, hata indigenous language, na Kiswahili kiwe official na national, na hata sign language hii ya mikono ya watu ambao hawasikii, that one will also be developed and emphasized. Na braille ile inaandikwa na mtu ambaye haoni, anaweza kusoma, hata hiyo ni type of language and that one will also be developed.

Ukiona vile tunaangalia hapa, pale nimetoka kwa language, hebu twende kwa page 2, language in which chapter? Chapter 2. Nayo Chapter 2 on page two, the republic. Hapo kwa hiyo chapter ndiyo tunaenda article 9. Kwa hivyo ujue kuna chapter na article. So article 9 ambayo nimechukua kama mfano ni languages hiyo tumeisoma. Na ningetaka twende kwa ingine hapa ya muhimu. Umeona hapa juu on page 2, below the arrangements of articles kuna preamble. Preamble ni kama utangulizi, ama introduction. Na tulipoenda pahali pengi, isipokuwa sijaangalia kwa hii kuangalia sana, lakini nilipo kuwa hapa, nafikiria kuna watu walisema mambo ya preamble, hata hapa Ntonyiri. Hebu tuone watu wa Ntonyiri walisema nini kuhusu Preamble. "A preamble should state the purpose of the Constitution" Hii ni watu walisema hapa, Ntonyiri hapa hapa. The preamble should state the theme of constitutional supremacy. A preamble should spell out the theme of our cultural awareness, national awareness, International awareness, shared experiences, there is the struggle against colonization, fight against Aids, poverty and so forth, illiteracy and so on. The preamble should seek the common experience of Kenya. Sasa mambo hayo ambayo mlisema, si lazima yote yaingie kwa sababu ni Wakenya katika 210 Constituencies walisema kuhusu preamble? Wakasema preamble, kama hapa mnasema iwe inaheshimu Constituencies na pointi kama hii ya kutoka Ntonyiri hapa mkiangalia mtaona pe ngine imekua captured na ningetaka tusome hii preamble imeandikwa kwa Kingereza, lakini wale ambao wanasoma mtapata mtu wa kutafsiri na wakati unasoma uwe unajua unasoma nini. Kwa hivyo hii introduction kama hii preamble hii ambayo tumeiandika, we the people of Kenya, na hapo tukisoma hii yenyewe hii haina, the old Constitution haina preamble. Mnajua hivyo? Haina introduction. Inaanza namna hiyo tu. Hii ya kwanza inaanza na kusema The Republic of Kenya shall be a multi-party democracy, halafu inaendelea about the seal and so forth. Hapa hapa inaendelea kwa Executive, haikuwa na utangulizi. Sasa watu wa Kenya wakasema ni lazima sasa tuwe na utangulizi. Hebu tusome hii tuone inachukua maneno kama haya mlisema. "We the people of Kenya are aware of our ethnic, cultural and religious diversity and are determined to live in peace and unity as one -----sovereign Nation, committed to nurturing and protecting the well being of the individual the family and the community within our Nation, equalizing the aspirations of our women and men, our government based on the central values of freedom, democracy, social justice and the rule of law, exercising our sovereign and our inalienable rights to determine the form of governance of our country and having fully participated in the construction or Constitution making process, do adapt, nurture and give to ourselves and to our future generations this Constitution. God bless Kenya."

Na ukiona maneno haya yameandikwa hapa, hata yenu ya Ntonyiri mmesema ya kwamba, Constitution iwe inaogopa ama inamheshimu Mungu, hiyo imewekwa. Hapa mnasema kwamba the preamble should state the purpose of the Constitution, hapa ime state. Kwa sababu imesema ni ya watu wa Kenya, na hiyo ndiyo maana sana ya preamble, ni kusema ni yetu watu watu wa Kenya. So you can see most of these points which were raised here have been captured in this preamble. Tukiendelea kusoma ndani kwa sababu nilikuwa nataka sasa mjue jinsi ya kuendelea huko ndani, tunaweza kuchukua mfano mwingine wa mambo ambayo inageuka.

Twende kwa devolution, tuchukue mfano wa chapter 10, Devolution of Powers that is on chapter 120 on page 3. The principles and objectives of of devolution, na hii devolution niwaambie ni kugawana mamlaka kutoka juu kwenda chini, si kukaa hapo hapo juu Nairobi peke yake, serikali itoke juu iende kwa wananchi. This is what you mean by devolution of power. chapter 10, utaona hapa kuna principles and objectives, general principles. Na ukitaka kusoma general principles, utaenda kwa article 2 and 13 huku ndani. Principles of devolved government, hapo utaangalia 214, 215 levels of government na ningetaka sasa tuingie sasa kwa maandishi yenyewe, twende pale imeandikwa kutoka 213. Article 213 tuanzia karibu hapo.----- (end of tape)

Hapo 213, principles and objectives of the devolution hapo ni maelezo kuonyesha ya kwamba kwa nini kuna kuwa na hii tunaita devolution. The first thing here in number (a), it gives power for self governance to the people at all levels and they also enhance the participation of people and communities in exercise of the powers of the state. Yaani hapa ni kugawana mamlaka kutoka juu mpaka kwa mwananchi ili naye awe anajua anajitawala na nikichukua njia hiyo mfano vile serikali imeenda mpaka chini, tutaanza hapa na kuangalia levels of government 215 on page of 26 still, naona pale number 1, powers are devolved to the following levels. Unaona viwango vile serikali inaenda sasa kuweka nguvu. Kuna level ya village, si hapo ni kule kwa mwananchi kule? Then kuna Locations, kuna Districts, Provinces na tena of course Central government.

Now kwa village, hebu tuone village kile wanahitaji inapendekezwa hapa, 216. number 1 the village decides whether the Village Council is constituted by Village Elders or through elections. Kwa hivyo wazee wenyewe wa village wakati huu mpango utafanywa, Parliament ikitoa hii mipango wataenda wenyewe, wataangalia kama Council itakuwa elected, Councillors wa village ama kama watachaguliwa na elders wenyewe. Hapo wataamua kwa village level. Na mjue kwamba kwa hiyo level si watu wenyewe wataambiwa wafanye mambo yao kwa harambee ama nini. Harambee ni kusaidia watafanya wenyewe wakitaka. Lakini hii itakua ni serikali. Kama ni mkubwa wa hapo, atapewa mshahara na atakuwa anaajiriwa na nani? Na serikali. Kama ni councillors watakuwa wanalipwa na serikali, si kusema ni wazee wa kijiji wale wanazurura bila kulipwa. Hawa watakuwa wanaangaliwa na serikali, kwa sababu hii ni village government. Hiyo ni kama serikali hapo hapo, pale kijijini. Kwa hivyo watakuwa wanaangaliwa na serikali kuu, na watakuwa na ma-ofisi yao kwa mfano watumishi wa serikali watakuwa watakuwa wanazungukia village area, kama ni agriculture, kama ni education, wote watakua ni watumishi wa serikali huko, hata police, tutakua na mpango ambao unahusika, watu wajue wanajitawala.

Na pengine tumependekeza hata court tribunals zinaweza kuwa huko, yale makesi ndogo ndogo ya kinyumbani, yanafanywa na wazee, yanatengenezwa huko village, yanamalizika huko badala ya kwenda kutumia pesa nyingi huko court, yanamalizwa hapo tu kwa wazee wenyewe ama kwa village yenyewe. The village Council shall contain no less than six members and no more than ten members. Kwa Council ya village kutakuwa na wajumbe sita hivi, si zaidi ya kumi na si chini ya sita, nao ni wananchi wenyewe watajua njia ya kuwachagua, na watakua na mtu wao ambaye atasimamia, nae watamuita jina kama ni mkubwa wa village, administrator, maelezo kama hayo yatakuja baadaye.

Number 3, the village decides on the system of village government including the law of a Village Council. Watakua na mamlaka ya kuangalia ile-serikali yao itakua namna gani na itapangwa namna gani, na kati yao ni hii.

Locational Government: The Locational Government consists of two representatives, one of whom shall be a woman and the other one a man. Mmoja atakuwa mwanaume na mwingine mwanamke na hawa watachaguliwa kutoka kwa kila village. Yaani ukienda kwa Locational level, kila village itatoa watu wawili, mwanamke mmoja na mwanaume mmoja. The Locational Administrator has access to authority of the Location. Kwa hivyo kwa Location kutakuwa na yule mtawala wa Location na atakuwa kama Chairman. Ama kiongozi wa Location na atakuwa na ma-councillor wao kama kawaida, na huyu atakuwa amepigiwa na wananchi, wakimpigia kura na hayo yote ni maoni tulipewa na watu.

District Government: The Legislative authority of the District is vested in the District Council. Niliwaambia kutakuwa na District Council ambayo itakuwa na Council yeneywe kutoka kwa Location na kutakuwa na Adminstrators wa District yenyewe ambao watachaguliwa na wananchi. Kwa hivyo wananchi watampigia kura, na watampigia Councils na hiyo sasa itakuwa kama serikali ya Districts. Masheria yote yale yanahusika District, kama ni kulinda misitu, kama ni mambo ya miraa, kama ni mambo ya kahawa, kama ni mambo ya majani, mambo mengi yale yanahusika hiyo District, sheria zitakuwa zinafanywa hapa kwa District level; na halafu zinapendekezwa juu na zinakuwa sheria.

Provincial Government: Hiyo itakuwa Council katika Pronvincial level, the authority of the Pronvince is vested on the Provincial Council. The Provincial Council consists of two representatives, one of whom shall be a woman chosen by each District from among its members. Council ya Province itakuwa na wale Wajumbe wake wa kutoka kwa District, wawili kwa kila District. Tuseme kama Province yetu Eastern, ina 13 Districts. Sasa watakuwa wangapi kama ni wawili? 26, mmoja mama mwingine mwanaume. Kwa hivyo watakuwa 13, 13. Na hiyo itakuwa ni vizuri.

Then pointi ingine hapa, the Provincial Executive Committee consists of District Administrators. Kwa hivyo ile yenyewe ya kutawala kwa Province itakuwa ina District Administrators, kama ni Eastern Province, kutakuwa na 13 District Administrators, ndio watakuwa Embu ama Provincial Headquarters na wataona utawala wa Province. Provincial Administrator is Executive authority of the Province, yule ambaye atachaguliwa na hao wote. The Pronvincial Administrator is appointed by the Provincial Council on the nomination of the Provincial Executive Committee from among its members. Naona hao hawatachaguliwa na wananchi lakini wale members wenyewe watamchagua the Administrator. Hiyo ndio naona ni tofauti kubwa ya vile tulivyo sasa. Sasa serikali iko Nairobi, Parliament ni moja sasa naona ni mbili na tumeenda viwango viwango. Naona hata Districts zina mamlaka, tukienda kwa location the same and then village level. Hiyo ni mfano nawapatia kwa sababu mtaendelea na kusoma na pointi ingine ningetaka kuwapatia ni ya Constitutional Commission zile zitakuwa hapo.

Katika hii Draft mtaona kutakuwa na Commissions tofauti. We were on page 70. I am told its 292, hiyo ni kitu kingine cha

muhimu. On page 34, chapter 17, tuanze hapo hii sehemu ni muhimu kuangalia wakati unasoma, kwa sababu utaona kuna tofauti na vile ilivyo sasa. Hapa kutakuwa na Constitutional Commissions and Constitutional offices. Kunazo hata sasa lakini zitaongezwa. The principles provided for in this chapter applies to all Constitutional Commissions. Kutakuwa na Commissions nyingi, na nikienda kwa mfano utaangalia uone kwamba kuna ile ungetaka kuanza ya muhimu sana ya human rights. Human Rights Commission. Human rights and administrative justice. Na utaenda utaona ingine which I think I will take as the most important thing itakuwa inaangalia zote zingine.

Ethics and Integrity Commission: Hii Ethics and Integrity Commission, 289, there will be a chair person and six other members of whom shall be persons of integrity and high moral character. The functions of Ethics and Integrity Commission are perceived declarations in accordance with the leadership code. To retain custody of the declarations and make them available for inspection by citizens and the terms and conditions prescribed by Parliament. Naona hii itakuwa ya muhimu sana. Hii tunaita Integrity and Ethics Commission, ndiyo itakuwa inaangalia pengine conduct ya karibu hizi zingine zote. Kutakuwa na ingine ya muhimu ambayo niligusia nikamwambia yule alikuwa ameuliza nikasema nitakuja kwa hii.

Salaries and Remuneration Commission on page 36 is 290. Ebu tuangalie membership ya, kwa sababu kulikuwa na swali hapo. Niwaambie kutakua na Commission ya kuangalia mishahara na marupu rupu yote katika Kenya. Article 290:

- a) The Salaries and Remuneration shall consist of the Chair person
- b) One representative from the Attorney General's Office.
- c) One representative from the Public Service Commission.
- d) One nominee representing professional bodies.
- e) One nominee from an umbrella body representing employees.
- f) One nominee from an umbrella body representing Trade Unions and
- g) One representative from the Treasury.

Hizi zote unaona ni proposals vile hii Committee itakuwa, ama vile hii Commission itakuwa, lakini National Conference ikikutana, pengine inaweza kuongeza ama kufanya amendment, ama kuacha ilivyo namna hiyo. The functions of the Salaries and Remuneration Commission are to settle salaries, allowances, pensions and the other benefits of all Constitutional office holders and members of all Constitutional Commissions including the President, Vice President, the Prime Minister, the Deputy Prime Minister the Ministers the Deputy Ministers, Members of Parliament, the Attorney General, Judges, Director of Public Prosecutions, the Auditor General and the Members of the Constitutional Commission, other Public Officers including employees of parastatals, the Commission is the custodian of leadership and integrity code of conduct and the register of assets and liability of public officers. Naona hii iko na kazi nyingi na niliwaambia mishahara yote hawa watakuwa wanaangalia watafanya hiyo mipango yote, hata kutoka kwa President na kila mtu. Pia Service Commission iko, na itaendelea. Pengine itakuwa na hata nguvu zaidi, hapo utasema wakati unasoma. Kutakuwa na Constitutional Commission ambayo itaangalia

mambo ya implementation, hii hata tulikuwa tunataka kui-ita implementation Commission lakini tukaona jina iwe Constitutional Commission ambayo itaangalia kuona haya yote yamewekwa hapa yana kuwa implemented in phases ama kufanya procedure of implementation.

Public Service Commission itakuwepo na Land Commission ambayo ni ya muhimu sana, ningetaka kusoma kidogo juu ya Land Commission. You go to the contents, unajua hapa nataka mjue kusoma isiwe kama gazeti. Hiki ni kitabu, unaenda through mpaka unaona pale kwa context. So I want you also to discover where it is, mmeipata. Land Commission chapter 11, land and property, article 232, page 28. Unajua District yetu kitu cha muhimu ni kuangalia mashamba kwa sababu, malalamiko yalikuwa mengi kutoka huko Igembe, hapa Ntonyiri, kwenda huko Tigania, kila pahali mambo ya shamba yalikuwa na taabu nyingi sana. Kwa hivyo Constitution hii imeweka mambo ya mashamba yaangaliwe kulingana na vile watu walikuwa wanalalamika. Na ukiangalia hapa utaona ending ya juu hapa ni Land Policy Frame Work.

1. Land being Kenya's Primary resource and the basis of livelihood for the people, shall be held, used, and managed in a manner which is equitable, efficient, productive, sustainable. Yaani mambo ya mashamba yakiwa ndiyo yametuweka, ndiyo tunaona chakula, ndiyo yanatufanya tuishi, lazima yanaangaliwa.

Interjection: (inaudible)

Com. Domiziano Ratanya: Yes, Hiyo uliweka iliingia, *(to the audience)* si unaona mmoja yake yote imeingia. Okey very good. So sasa kwa sababu mimi sitaweza kusoma details zote na waeleza sasa pale sasa mtapata nini? Hayo mambo. Msome na msome kwa groups, individuals, halafu mpate makosa kama kuna makosa. Sasa hapo, 232 ni ya muhimu sana, uendelee number 2 yake. Uendelee kwa number 233, ownership of land. Vile kuwa na shamba, itakuwa ya nani.

233 hata nikisoma hapa: "All land in Kenya belongs to the people of Kenya collectively as communities and as individuals." Yaani mashamba yote ya Kenya ni ya watu wa Kenya. Kuna mashamba yatakuwa ya public kama yale yanasimamiwa na serikali, kuna shamba yako mwenyewe, kama wewe unaitwa aje?

Member of Audience: Inaudible answer.

Com. Domiziano Ratanya: Shamba yako mwenyewe, Julius ana yake mwenyewe, Mimi Ratanya nina yangu, sindiyo? Kwa hivyo hiyo ndiyo ownership, na kutakuwa na hata shamba ya community. Kuna pahali kama North Eastern, wangetaka kuwe na shamba kubwa ya clan, ili waweze kulisha. Hata hapa tukikata pahali si inaweka kuwa ya community, kama ni community ya clan kama yenu? Tunasema hii ni shamba yetu zote. Kwa hivyo hata hiyo ni njia moja ya shamba. Na ingine ni ile inakuwa ni institution ya public kama hapa, kama shule, kama hospitali. Hiyo ni ya sisi zote kwa sababu ni public na itakuwa inasimamiwa na serikali. Na mambo ya shamba yote, hapo mtaendelea mtasoma hata clarification of land, vile mashamba

yanagawanwa, yani size ya mashamba, tena vile mashamba yanatumika, mtaona protection property in land, tena mtakuja kwa ile Commission on 237, establishment of National Land Commission. There is established a National Land Commission consisting of a Chairman, a Deputy Chairperson and eight other members, nominated and appointed in accordance with the provisions of chapter 17 of this Constitution.

Mkiangalia chapter 17, ile njia ambayo imeelezwa ya kuchaguwa Ma-Commissioners wengi. Kwa hivyo wewe mwenyewe utaendelea kusoma utaona functions of the National Commission, kazi yake, lakini niliwaambia hapa kwa hii Commission, ama Commission ambayo inawekwa itakuwa na nguvu ya kuangalia kwa details ama kuangalia ndani kabisa ndani yake. Kama ni Commission ya Land, mambo yote, sheria yote kuhusu land ndiyo watakuwa wanaingilia, kama malalamiko, watu wengine wanalalamika mambo ya sheria hii ya kupima mashamba, halafu unaona mtu anapelekwa huko juu, mwingine anapelekwa hata katika maji, na anatolewa kwa shamba yake ambayo ni nzuri, anapelekwa kwa mawe. Hiyo ni sheria ambayo tunaita Cap 283 laws of Kenya ya sasa. Inaitwa Consolidation Act. Hiyo ni sheria mbaya na watu wengi hawataki hiyo. Kuna ingine inaitwa 284, ile law ina-fix boundaries halafu pengine unapata Title hapo, hapo, kama kwa scheme.

Na kuna ingine inaitwa Trustland Act Cap 288, sasa haya masharia yote, yale ambayo yanaonekana yanaharibu wananchi, ama hii ya 283 ambayo ni mbaya sana, mimi natoa shamba hapa inapelekwa pahali pengine. Hata hii Trustland Act ambayo inasema County Council wataweka mashamba ya watu, yaani ndiyo wanasimamia mashamba wakiwa trustee. Hayo yote yatachukuliwa na National Land Commission. Na sheria kama hizo mbaya mbaya zitaondolewa na zitakuwa reviewed. Kwa hivyo kwa Constitution ni kupendekeza kuwe na Commission na iondowe sheria ile mbaya yote, i-make sure kwamba kila mtu ana shamba, anasimamia shamba yake vizuri. Kama ni serikali inaanza ka-shamba na hakuna mambo ya kusema eti kuna shamba ya County Council tena. Hata hiyo watu wengi walisema, hiyo Trustland, ipanguzwe kabisa. Wakati wa Marakwet walikuwa hata kali zaidi. Nilienda huko Marakwet na Keiyo, na pahali pengine, na hata hapa walisema hayo mambo sana katika Nyambene District, North Meru wamependekeza hiyo mambo ya Trustland yaishe na sheria igeuzwe ili ma-kesi yaishe na watu wawe na mashamba sawa sawa. Na hii kazi itakuwa juu ya National Land Commission. Itafanya hiyo sheria na ingine itafanywa Parliament kugeuza.

Interjection: (inaudible)

Com. Domiziano Ratanya: Tutakuja kwa maswali, hebu niambie ingine unataka tuangalie, tu-highlight, kwa sababu tutaenda kwa maswali. Ile nilikuwa nataka ni tuangalie karatasi tuone njia ya kusoma, tusome machache kama highlight ama mfano, na halafu kwa sababu mtaachwa mkisoma, ningetaka sasa kama una swali kuhusu hapa, unaweza. Sasa ni wakati wa maswali na nitakuwa nikichukua three questions, ikimalizika nichukue ingine, na halafu tukimaliza hiyo, muende mkasome. Ama si nama hiyo? Siku ya leo hatuwezi kuwaweka sana.

Interjection: (inaudible question)

Com. Domiziano Ratanya: Wale hawana hii? Wale hawana hii pengine mtaenda kwa Documentation Centre mtaangalia.

Interjection: (inaudible)

Com. Domiziano Ratanya: Tulikuwa na copies chache, lakini watu wamechukua yote imekwisha, kama ingine itapatikana pengine mtaonana na Coordinator.

Interjection: (inaudible)

Com. Domiziano Ratanya: Yes. Hii ninayo ni copy yangu, ndiyo nasoma peke yangu, mtu mmoja, lakini tulikuwa nazo watu walipewa. Maswali sasa, maswali yatakuwa machache (inaudible)

Julius Gaithuru: ---on the feeling that a person has to have in the land my name is Julius Githuru, and I wanted to know whether you put down the ceiling on land ownership, because when we are here, we suggested that a person should not have more than a hundred acres, no single person should have more than one hundred acres in Kenya. That is what we suggested, that is one?

Peter Ntonjira: My name is Peter Ntonjira, I will ask several questions on people with disability. If you go through that Article 39, you realize that it states that the disabled person should be involved in decision making, but I am surprised so much, because when you look at the Village Council, a disabled person is not mentioned anywhere. Go to the District, you find it is one man, one woman and in that heirachy you realize that there are possibilities where there is not even a single disabled person there. Na yule anavaa kiatu ndiye anajua pale kinauma. Therefore I strongly feel that the Draft did not do us good in that point.

Also, to make sure that people with disabilities are actually taken care of, it requires a sort of, a department. I went through that paper myself separately before I got it, the Draft and realized that people with disabilities, is just mentioning. All that article 39, nowhere else in that area where the disabled persons are mentioned, but we are only told that we have them in decision making, but your Draft is not making it possible for them to reach there. If I take you back to the decade for African disabled person, there was so much that was done and they aroused the collection of funds for the people with disabilities, but the representation of this people is only in Nairobi. Our people here in Ntonyiri and other areas don't know how to get that money. I doubt whether there is any disabled person in Ntonyiri who has benefited from that fund. Nobody. Okey look at even the Commission itself, when you advertised for the post of the delegates, total discrimination. You said one must be a woman, so the blind the deaf, the physically disabled are not represented, nowhere.

The other day I was listening to the Mfangano debate. Disabled people were not represented there either. I am sorry to say

that your draft has nothing for us to celebrate as the disabled people. Honestly we feel that the present government and the present Constitution has done virtually nothing and now even the Draft, has done simply nothing. Apart from the President yesterday he said that let us try and eradicate, those norms, those things that make people be discriminated. He said let us, but the Constitution does not give the room.

Look at the education. Somebody who is physically disabled gets a lot of problems. From here to the toilet the teacher has given all the points. Before he walks in his crutches to the toilet and coming back the lesson is over. And then when you come to the exams, the normal examinations, nothing. Come the present recruitment of teachers, they said that 20% came from extra curriculum activities. A disabled teacher like me do you expect me to go playing football, unatarajia mimi niende nikapige mpira kweli, kwa vile nikienda kwa ile mtihani ya kuandikwa waajiriwe waalimu, mimi nitapoteza ishirini. Wale wengine watakuwa na mia moja moja. Mr. Commissioner your Draft, its so good every body is celebrating. But for us it is the continuation of being down trodden.

Look at the Eradication of Poverty Commission. You will realize that people with disabilities, their children may never go to school. Like in miraa picking, how many disabled people will you find climbing trees. Disabled women, they are never married, they bear children, these children don't go to school, they end up in the streets. Come for when you are sharing the national cake, lets say this relief food, disabled people, disabled mothers they have to go and queue, they may not even reach there. Go to the bank, it goes to the bus stop everywhere. Therefore your Constitution should give an affirmative package for people with disability. Otherwise this is a chance, all the other countries have done it. Go to Zaire, to South Africa, to South Tanzania here, they have done it very well, even those that are not employed. Go at least at the end of the month, to get 200/= shillings for even women to buy even sanitary towels but for us, sasa kunaendelea kunyesha, we may not be able to go out because we cannot walk with our crutches, we stay here, up to January when it dries, thank you. (clapping)

Com. Domiziano Ratanya: We continue now I try to see how I shall respond to the three people. The third one, maybe you can get a lady, it would be very good.

Interjection: (inaudible)

Com. Domiziano Ratanya: That is the Remuneration Commission? I more or less answered, but we shall go to that. You ask that one, we shall go to that one. The third one, would you like to be the third person? I want to see if there is a lady, or you just ask that one again.

Interjection: (inaudible)

Com. Domiziano Ratanya: Okey let us have him as the third one anyway. Twambie majina.

Kobia Patrick: Thank you, my names are Kobia Patrick and I represent the youth and particularly a group known as the Lare Youth Educators Group. I had a few concerns to point out. First and foremost when we were presenting our views here in this hall to you the Commission, I had quite a number of people mention the creation of the office of the Government Ombudsman and the separation of ---

Interjection: (inaudible)

Kobia Patrick: Wakati tulikuwa tuna-discuss, niliona ya kwamba hiyo mambo sijaiona mahali, kwa hivyo nilikuwa nataka kukuuliza kama is there anywhere in your knowledge that you know its mentioned. The separation of Government of Ombudsman and the separation of the Solicitor and the Auditor General offices?

Com. Domiziano Ratanya: You are asking (inaudible)

Kobia Patrick: Yes. Secondly there is something mentioned about the Khadhi Courts. I feel that this is very unfair to the side of us Christians, because this seems to be a special consideration for our Muslim brothers. I don't see any reason as to why there should be Courts that are specifically made for one group of people. I would ask what if we also said that we need Christian Courts, could that be possible? I don't think it could be. So it is my proposal that it shouldn't be the way it is now where it talks about the Khadhi Courts.

Com. Domiziano Ratanya: (inaudible)

Kobia Patrick: One more thing please before I leave, just one more thing.

Com. Domiziano Ratanya: The last one.

Kobia Patrick: The last one is, I proposed when I was giving my views that the education system be reviewed to accommodate those who will not reach the cut off point for University and I haven't seen anything that talks about that in the Constitution. Thank you.

Com. Domiziano Ratanya: (inaudible)

Kobia Patrick: No, about the education system. I haven't seen this particularly talking about what I have mentioned. Thank you.

Com. Domiziano Ratanya: (inaudible)

Kobia Patrick: Currently there is a cut-line, a cutting point, for those people who attain university entrance points and those who don't get them. I was proposing that there be a system in place that will also enable them go somewhere at least that recognized by the system. Yes.

Com. Domiziano Ratanya: Nasikia itaendelea vizuri. Now the first one Julius Gathuru, about the land ceiling ownership. Of course we had a lot of proposals from very many Constituencies, others were saying we should have ceiling not to be not more than a hundred acres. There were others who were saying five hundred, and for you here, I think you mentioned about a hundred acres, isn't it? Now we'll not really go very much into the details of the ceiling, because we thought by having the Land Commission as I told you, the Land Commission is going to revisit all those Acts and come out with the relevant Acts of Parliament. Then they can investigate and see how the ceiling will be. But that one ofcourse is there although not specifically mentioned. Ten acres, a hundred acres, one thousand acres, but that will be one of the laws of Land Commission. If you go through the Land Commission is going to work out all those things. And you have seen the difference between the Land Commission and Commissioner of Lands. Previously we had Commissioner of Lands. That is one man Commission which with its secretariat. He is too powerful he can do anything, he can say Julius Gaithuru I give him five acres somewhere and maybe Mutwaiti and maybe he goes and gets a title. This time its going to be a Commission. I think you can see a difference Land Commission and not Commissioner of Lands. So the Lands Commission is going to check on all these Acts. Cap 283, 284, 302 which is Land Control Board. There are many Laws on Land which will be revisited, which will be repealed, some of them will be thrown out completely, and others will be amended. So about the ceiling, the ceiling will be addressed there.

Interjection: inaudible

Com. Domiziano Ratanya: That's what I am talking about, that is the concern.

Julius Gaithuru: Yes.

Com. Domiziano Ratanya: That is what we call ceiling. In Rift Valley ofcourse we heard some people accepted fifty thousand, three thousand, but in our area in Meru North, we are a small place, I don't think anybody has got fifty thousand. But we have people with three thousand, there are people with one hundred, na wengine ni ka-acre kamoja tu, you see. So that ceiling I am saying, it will be addressed by Land Commission. Such laws or regulations will be made as to how many acres should one own. Not more than a certain maximum and so on. We have not put that directly but the Land Commission will also understand, your concern.

The second one,

Interjection: (inaudible)

Com. Domiziano Ratanya: Yes but you know that will be a lot of work because somebody can say, I bought all these land, how do you compensate me? There will be a lot of things but all things will be done, so that they make some kind of balance. Not somebody to have fifty thousand na kuna mtu hapa ana nusu. There will be balancing and equitable distribution made by Lands Commission.

Interjection: inaudible

Com. Domiziano Ratanya: Yes people recommended also tax. If you have got a certain maximum, then the rest should be taxed. There are all those recommendations and most of these are also appearing in our reports. When we hand over all the reports in full we shall hand over a full report on this which will recommend a lot of things to Parliament. The Commission itself will tell the Parliament, now if it is on education, a certain Act should be revisited, should be amended should be repealed and then that will be the business of the Parliament. On Land about ceiling and other things, the Commission will recommend in the report, that the Parliament should seat and make sure that this type of complaints are addressed. So I think about ceiling it covers all that. Yes you are satisfied.

Ntonjira made a lot of comments, which is very good and it appears that you have gone through this report some of the points. I can see on article 39 on page 7, Ntonjira has referred us to that one about the disabled. Persons with disabilities, it is page 7 article 39. Now your problem here Njonjira is you are saying that the disabled have not been taken care of, but what we have given in article 39 and I think if you go round you will get other places, like where we had read about human rights, about marginalized groups, there are other sections you can get information, I hope about disabled. But if you take on 39, this is the recommendation we have given. And I said this report is not conclusive, it is not even final, it is subject to amendment, it is subject to maybe additions, as it goes through the National Conference, the people with disability will also seat, they make their reports, I think Ntonjira will also put an input there. Now when all these comments, corrections, amendments goes to the National Council, it is likely that maybe most of your queries will be included here. But we have put not very much in details, but I think a lot of matters will be addressed. If you check number 3 of page 7, we more or less need a summary there which can do a lot to the people with disability. Where we see Legislative and Policy measures, provided for includes to: “wherever where appropriate make special provisions for women with disabilities” that is a group of women with disabilities. This is touching on women with disabilities.

And then number 4. for the purpose of this article disability includes any physical, sensory, mental or other impairment condition or illness that will;

a) As or is perceived by significant sectors or the community to have a substantial or long term effect on the persons ability to

carry out normal day to day activities.

Now if you go through 39, a lot of things have not been explained in details, but the concerns are there. Some of these will wait Legislation by Parliament, the Affirmative Action is being discussed about maybe women and we think that Affirmative Action will go to other groups like people with disability, to minority groups and all these. So I am saying that this is not actually final and this is why we have taken these to the people to discuss for how many days? Thirty days. You will come with a lot of comments, a lot of recommendations which maybe later you will find a winning idea. I told also Labour people, Labour Movement, has complained, infact we don't have a lot about Labour employment and all that here, but they have complained. And that is why we have put it on for debate.

People with disabilities have also complained just like you. Now on the report, what does the draft-----in addition to the draft we shall have a report to the government or to the Parliament which we should revise and enact various Acts. Like number 1 here, discrimination on grounds of disability is prohibited. Even if there are people who have been discriminating, when this report goes to the coming Parliament, they will sit down and enact to close all types all types of discriminations, about jobs, about appointments, you have mentioned about discrimination. So in the new Constitution, there must be an arrangement because the Constitution says that all these types of discrimination should be prohibited. So there will be a way to make sure that this is implemented. Things like disabled people have the same rights as others includes the rights to marry and also rights to found a family. So there will also be regulations to make sure that these people have got also rights to marry and do all that other people do. The state must not use and must discourage demeaning language, you see, kuwa na lugha ambayo ina watusi disabled.

There is a specific mention of rights for disabled prisoners. If you go through you will see that something has been mentioned about disabled prisoners, that has also been taken care of .

The needs of disabled children specially mentioned under rights of children, that is also covered there. Disabled people have same rights as others which would include not being disinherited because of disability. If there are places where a disabled person cannot inherit, this Constitution says they should also be taken like others, they should also inherit. Human Rights Commission to have special focus on disability. We can maybe sum up by that, because human rights is going to cover all aspects of human rights. So if there is a problem regarding human rights on disability, the report says the Human Rights Commission to have its special focus on disability; special you see?. So it means all those queries, all those concerns will be taken care of even by the Commission because there will be a Human Rights Commission. This time there is only just a small Commission which has never reported, which is going round, but we are going to have a permanent Human Rights Commission, you see? Yes I think that your problems have been taken care of, even in our report.

Interjection: inaudible.

Project Officer - Anampiu: Sorry its just a small observation, you mentioned about the education for children of the people with disability that they may not be able to get education, but that is catered for in education for all. The Constitution provides that and has a special section infact on the children, so really I think a lot of work has gone to ensure that the disabled people are taken care of. In the Commission itself, Commissioner you had maybe two disabled as Commissioners themselves and they made sure that these issues were addressed at the Commission itself.

Com. Domiziano Ratanya: As you go through this Draft, and I would advise everybody even those who would like to ask again and the questions which I would like to respond to. Go through this one properly and when you get access to the other reports, go and read very well. Now if you go through this one, you will see some of the questions you are asking are answered here and I have told you today, we are not reading everything, but we are only launching. But you see that if you read, all these things are answered and are inter-related. If your question is not answered in maybe the article dealing with land, it is answered in the article dealing with human rights, or it is answered in article dealing with natural resources. So you can see they are all inter-related.

Then about Kobia, Kobia has asked about Ombudsman, that is the person where we can take our complaints, is it also? Now this one I have told you because you don't read and it is dangerous even to continue asking a lot of questions before you read this one. Because you can also commit yourself and swear that nothing is there, and you find that everything is here. So this one is here, we call this one people's protection. It is somewhere. Where?

Project Officer - Anampiu: Article 288 sub-section 1C.

Com. Domiziano Ratanya: Yes we gave it another name which is the same concept, Article 288 but angalia hapo. Yes, the Commission of Human Rights and Administrative Justice. There will be this Human Rights Commission. Of course this will be represented by these groups:

There will be the Chairman of the Commission

There will be Human Rights Commissioner

There will be People's Protector in that Human Rights Commission. So this is Ombudsman. You see? There will be an office of People's Protector.

And then there is Gender Commissioner.

All these will form the Human Rights and Administrative Justice. So if you go through 288, there are a lot of points raised there, explanations and all that. If I take one there at a glance to promote high chances of human rights in the public, to invest it and report on the observation of human rights, investing into human rights and so on in relation to the jurisdiction of the people's

protector, you go through and you will see most of your questions are answered there. That is why I am telling you first we have launched, go through this document and once you discover all what you want to make as comments, why don't you put in writing, you bring to the Commission and this comments will go to the National Conference. And then after that there will be maybe additions or amendments before we come to the final draft of the Constitution.

Yes madam, 288 yes?

Speaker: Section 288, 2A.

Com. Domiziano Ratanya: Okey 2A says: "Of the six Commissioners referred to:

1A. One shall have knowledge and experience in matters relating to children and shall ensure that the provision of article 37 or the Bill of Rights are adhered to".

Now once you read there, you will be going to another place. Now if you want to understand fully, you go to 37, 3. "The functions of the Commission of Human Rights and Administrative Justice are".

Interjection- Audience: 2B.

Com. Domiziano Ratanya: 2B, okey. "One should be a person with disability, who has knowledge and experience in matters relating to disability and shall ensure that the provisions of article 39, the Bill of Rights are adhered to". So you can see we have referred to 39 where you were complaining. That now the disabled have got a seat in this one which is very, very important. It is a very important Commission, so to understand this one or to start really complaining, you have to go through. But today we are just launching, we are not reading. It is not a seminar, if we had a seminar we can stay here for about five days or a week, reading this one. So you can see that your worries have been addressed Bw. Ntonjira and thank you madam for alerting us to that section.

Now Kobia, I think I have answered that one, Public Protector there. About Kadhi's Court. You know Kadhi's Court that Muslim Court was there, even in the old Constitution. So what they have done is only to add some powers or maybe to give some level.

You are asking about Christian Courts. I don't think whether this has ever been addressed by the Christians. Even as we went round, here included I don't think whether anybody gave that as a complaint. And we cannot receive that one as hearing, because we finished the hearing, isn't it? And since the people of Kenya have not addressed that question of Christian Court, where do we get that recommendation? Unajua Commissioners hawawezi wenyewe kuandika recommendations, unless we hear from everywhere, people of Kenya. The areas where Muslims were, we were told we should improve this, we should

have another level about Kadhi's Courts, You give us these members, they gave us all that material to amend or to give more powers to the Kadhi Courts which are already there, but very few. Maybe I can remember where I went at Tinderet, somebody came out with an article about Christians, why don't we allow Christians Court just equivalent to the Kadhi Court. I remember there was a Father there, a Catholic priest who brought a memorandum, but maybe that one and somebody else, I think only two and therefore it has not been an issue. Maybe time will come when they will want to decide and maybe in next review they might also review that one as a problem or a need and might ask that one to be included in the Constitution. But right now we have no support and the Commissioners cannot sit down and put things which have not come from people.

Interjection – Audience: (inaudible)

Com. Domiziano Ratanya: Ni watu wawili, watatu tu.

Interjection – Audience: (inaudible)

Com. Domiziano Ratanya: Yes other Courts. Okey you see? And so you can't attack Muslims, it has been there, it is historic. But we are not saying that we shall not in future have Christian Courts, we might after next review and so forth. I think we come to the end of those three, who was the other one? About education, now somebody has said that we should have cut line for examinations and other things. Now what we should recommend for education and there is a chapter which has recommended, that if the Education Act is reviewed or amended by Parliament and also Teachers Service Commission Act and other Acts related to education, may be Education Act, Examination Council and so on, when all those are reviewed, things like cut line will be improved, but it is a direct Constitution issue. It is something that can be done by legislation, the Parliamentary legislation.

Interjection: (inaudible)

Com. Domiziano Ratanya: On the relevant section, yes. So where do you think this one is? Is it on Teachers Service Commission or Examination. Yes Parliament goes to review the Examination Act recommended by their Constitution that Parliament should have the legislation to improve the education of the country, to see that education is free and to make it accessible to everybody. When they go to all that kind of review and review also the Acts, Educational Acts and also all the other Acts. They will also revisit such things which are detailed, but the Constitution had recommended that the education system should be reviewed, the Parliament should go ahead making sure that they listen to everybody and particularly we have said somewhere, education should be compulsory and free, that is basic education, it is mainly primary education should be compulsory and free for all. That one I think has been answered somehow.

Interjection: (inaudible)

Domiziano Ntonjira: Mimi ni kusema asante kwa sababu maneno yale yote tuliandika imeingia yote. Ile ilikuwa ya miraa inaingia na ni asante. Mimi Domiziano Ntonjira ni tutaomba mkienda huko hii maneno yetu ya miraa iingie katika Parliament. Na hii ingine maneno ni hii ya mashamba kwa sababu hata ile siku nilikwambia Bw. Commissioner, hapa kwetu Ma-Chief na Ma-Committee ndio shamba ilikuwa kama biashara kabisa na sisi watu wa hapa wanakaa kama wakoloni. Mimi niko na ma-tile mimi ni mtu wa hapa, sasa mimi naenda pande ingine natumwa na watu wa kwao, hiyo inakuwa ni kama biashara kabisa. Na mashamba yalimalizika kabisa na hata kujenga mtu hawezi kujenga.

Na ile nitaongeza ingine ni kuhusu hapa kwetu, mtu akizaa wasichana, akae na ndugu yake. Hakuna kitu wanaweza pewa wakati unawabariki, wanasema huyu hazai, hana watoto ni wanaume wana haki. Na mimi nitaomba haya maneno yaingie Parliament. Watoto wa kike ni sawa na wale wengine wa kiume. Kama uko na watoto wa kike na wa kiume, wote wapatiwe mali yao. Na sasa hio maneno yataingiliwa hapa kwetu kunakaa kama wakati ule wa ukoloni. Ukienda kule Parliament, muangalie sana. Na wale watu tutachagua kwa sababu bahati yetu iko na huyu Julius Kaithoro mtu anaona mbali. Tunawachagua watu wale wazuri kabisa kuangalia maneno ya watu ama tutakaa kama vile tunaagana na sector, tukakaa kama sector yenyewe.

Interjection- inaudible

John Mutuma: My name is John Mutuma and I wanted just to ask a question on governance, for example in the document, I have realized that already the terms of the President are limited to be two terms of five years, but for the Prime Minister, there is no limit. Could it also be possible for the Prime Minister to be elected for two terms of five years each?

Also in the Village Councils we are told that there will be Councils of Elders, their education is not defined. We are being told that some people will be elected there, we are not told their qualifications and you see when it come to voting, I think any body can influence a group of people or a section of people and they vote for him. So there should also be a qualification of who should represent who in the Council of Elders. Another thing I also wanted to suggest, is on Trade Unions; for example in Kenya, particularly in teaching we are seeing whereby two Trade Unions are being registered. There is this KUPET and also KNUT and according to some international laws, it is stated that only one Trade Union should be registered for a profession. I think also in the Draft, we should have some thing like that, otherwise that is what I had.

Gatinda Mukiri: Mimi naitwa Gatinda Mukiri. Mimi Commissioner vile nauliza hii Katiba ilifikiriwa na wale walipigania Uhuru. Sasa Katika hiyo Katiba hawa walio pigania huu Uhuru waliwekwa number gani katika Katiba?

Makumi Andrew: I am Makumi Andrew. I want to ask a few questions. Now this launching of the new Constitution, I think somehow somewhere---

Interjection- (inaudible)

Makumi Andrew: Its coming to that. Somewhere somehow you are losing the moral ground because, there are people who are opposed to this Constitution, and there is a lot of propaganda especially going on in the radios, so don't you people think that you have committed an act of omission, by not launching a Kiswahili version of the same Draft? Because if you give my old man this Draft at home, hatajua unasema nini.

Interjection: (inaudible)

Makumi Andrew: Yes, so that wale hawaelewi Kingereza wataweza kusoma halafu na pia waweze kushiriki. Another question, umesema after the stipulated thirty days, now as a public if we want to give a feed-back, I think you should elaborate how and where we should do that.

Number three, I would like some elaborations on these two Houses. Umesema kuna National Assembly na National Council. Sasa wakati wa uchaguzi tutachagua mtu wa kwenda kwa National Assembly na wengine wa kwenda kwa National Council? Sijui wale walizaliwa baada ya Uhuru would not seem to understand this?

The other thing I would like to ask, these delegates who will go to the National Conference, Now have a few people looked at the integrity of those people who will go or people will just be picked, who can easily be manipulated by the system, he may not be surprised that they may even reject those things. So have you looked at the integrity, their academic qualifications and their social standing?

Halafu finally, there is something I would like to ask. When I read the Draft there is this thing which used to be called Kenyatta Day. Now I don't know, some of us used to regard it as a very important National Day, sasa nasikia iko. So ni watu pia walipeana maoni kwamba itupiliwe mbali ama ilikuwa namna gani? Thank you.

Interjection: (inaudible)

Makumi Andrew: I have seen only Jamuhuri day, Madaraka day and Katiba day, so I assumed that Kenyatta day haijawekwa. I don't know.

Com. Domiziano Ratanya: Pengine nitaanza maswali ya huyo wa mwisho, nikienda mpaka wa kwanza halafu pengine tumalizie hapo. About National days, kwa Draft na niliwaambia ukisoma hii Draft pengine hakuna maswali ambayo utauliza, you will be answered where we have National days on. Yes on page 4 hii Draft ime-recommend, yaani imefanya mapendekezo

kuwe na the following days to be observed. 1st June, Madaraka day, 12th December, Jamuhuri day, and then 4C, the date of enactment of the Constitution to be called Katiba day. These are the proposals and these proposals are based on what we collected from the people. It means that the public everywhere we got the information, including here 210 Constituencies. They preferred that we have these days mentioned here. So you next definitely know that the others have been excluded.

Interjection: (inaudible)

Com. Domiziano Ratanya: Now as we continue reading this one, I told you that you will find a lot of omissions, you will also find other things that you would like to comment on. And I told you this is not conclusive. Si niliwaambia hii sio mwisho? Kuna pahali pengine utaona Draft yetu haikupeana mambo yanayo tosha, kwa hivyo utaongeza ama upungue. As you have the point you are talking about. There is even Labour Day, there is even 1st day of the year. But what we are saying about National days, may be you can agree with me politically these are the days. Madaraka and then Jamhuri and then Katiba. These are the days related to Katiba or to governance, see?

Maybe when the members of the Conference go to meet in Nairobi, watasema hebu tuongeze siku zile zingine na tuweke. So you might find that we have come out with more National days you see? No, I have told you this is a Draft but there are proposals. Proposals karibu hapa yote itakuwa sawa sawa, lakini ingine itaongezwa, ingine itakuwa amended and this is why you are going to read this document for how many days?

Audience: (inaudible)

Com. Domiziano Ratanya: Thirty days, okey. Kwa hivyo iko namna hiyo. These are just the proposals from what we got from you but does not what other people will talk about. We might even reduce and then we shall come out with the final one.

Interjection: (inaudible)

Com. Domiziano Ratanya: There is also Idd ul Fitri which is there, there is also Good Friday, si hata Good Friday ni public holiday? So don't confuse public holiday and National days. These are political days or National ambazo zina-relate na Constitution. Pengine ile mnaona inaondoka hapo kidogo ni Moi na Kenyatta, maybe that is covered somewhere. But when members meet in Nairobi, they might say that they should continue with it or other things like that see? Mambo ya National days sawa sawa.

The other one ambayo ni National Assembly and National Council. The National Assembly will be just like what you are doing now. You elect a representative from every Constituency. 210 will be elected just in the normal way, just what we do. Mtachagua member wenu tu kama vile mnaofanya, hao 210. Lakini wale 90, I believe there will be more guidelines to guide the

people maybe after the National Conference on how to deal with the 90. But the main purpose of having 90 is to represent the special group, women's groups, then others are disabled will be covered there, marginalized groups, marginalized tribes and so on and so on. But these 90 there will be a further guideline to that one. But with the National Assembly 210 will be no problem, we shall be doing that one.

Now National Council, the guiding principle there is that there will be a member from every District, so it means that those people have a District as their Constituency and I told you that there are 69 Districts, unless we have others created. And Nairobi is also a District, it will be treated as a District. So there are 70 Districts, there will be 70 members. 30 women will be appointed or elected at the Provincial level. Every Province will have 4 from 7 Provinces 28 and 2 from Nairobi. Si wamefika 30. But there will be more guidelines and more regulations about elections also made by the National Assembly. When the National Assembly meets, we'll make further regulations on how to deal with elections downwards, hata huko kwa kijiji. But what is here about the village level, the village will consider whether they want direct elections or appointments. But they will still be guided by additional regulations by Parliament. You can see the first thing that must be in place is in government. Then when the government is there, all other things will be regulated and will be provided for. So the first thing is to have the President, Vice President, Prime Minister and then we have the MPs who are 210 in the National Assembly, 90 special ones that will also be done very first, 300 of them and a 100 in the Upper House then going to the District, they will facilitate what will happen to the District level, there will be regulations.

Now when the Districts are established, the District will also make rules and laws regulations for the Locations and Villages.

Interjection: (inaudible)

Com. Domiziano Ratanya: Most of this things will not be done in a day. There is what we call Transitional Provision which I mentioned just the ending, but if you go to that chapter, you see how things will be changing. You? Some will take some time, some will take one year to be implemented, some will even go further to two years and so on. Si kusema kwamba hii Katiba itakuja itengenezwe siku moja. Mambo yataendelea kufanywa gradually. Ama si namna hiyo? Tutaendelea tu kula kama vile tunakula mashamba yetu, na mambo yataendelea yakitengenezwa pole pole---- (end of tape)

Wakifanya hivyo hii dunia itaharibika, lakini wataenda pole pole, kutaenda njia ya kuondoa kama ni Ma-Chief wapewe kazi ingine, wale wamefika umri wa-retire, hakuna vita hapo, hakuna kusema mmoja atakosa kazi ama nini. Kama ni Ma-DC, ama Ma-DO there are very qualified people, kuna kazi ya serikali, watawekwa pole pole ama kama ni Police wa Administration, kutatengenezwa sheria na Parliament, ifanye sheria ya kuwachukua kuwapeleka kwa sheria moja na hawa wapelekwe, wale wamefikisha umri waende nyumbani, kama ni Judges, wale Judges wanatupiga kwa sababu ya kusema wawe 65 years, hata wao wana njia yao ya vile watachaguliwa, wale wamekuwa wazee sana waondoke. Njia iko namna hio transition of the provincial ziko. Na kama hao Majaji wanakimbia, kusema kwamba tunaweka ma-lawyer kuwaharibu si ilikuwa reviewed na

review inageuza kila kitu pale inaona kuna mabaya, si review ina geuza. Sasa kama akina Ma-Chief na Ma-DC nao watupeleke kortini, ama Administration Police ambao tunasema itaenda kwa police, waende kortini kutustaki kwa sababu tumepindua hiyo? Sasa hata hao Judges wanatushangaza, ndio unaona tunabeba nini? Hii mark ya solidarity, kuonyesha ya kwamba tunaunga hii Draft ya Katiba mkono na tunashirikiana tukiwa na lawyers wengine, na wale lawyers ambao wanasema mambo haya yasipinduliwe, nao wako mbali. Lakini tuna-support Katiba eh?

Tutaenda pole pole na tunaona pale tunaelekea pengine kutakuwa kuzuri. Wananchi ningetaka tumalizie hapo lakini pengine si maswali yote, nimeguza hii ya National Assembly, then somebody has said about the Kiswahili. Ni yule yule tu Bw. Makumi Andrew. Nilikuwa nimesema hii Katiba itaandikwa kwa Kiswahili, hata Kimeru, hata Kikuyu, lugha zote. Na mmeona Katiba yenyewe imesema we have to promote indigenous languages. Na kuna chapter inasema, Kiswahili is an official language. Kwa hivyo all documents should appear in Kiswahili and English. Bw. Makumi hukusikia hiyo? So we are going to have copies, although we have not managed to bring today, we are going to have copies in Kiswahili, and when the Constitution is final, when it becomes a document like this, and Act of Parliament, I am sure it will be in Kiswahili and English officially and it will be translated into other languages. Although those will not be official languages, but just to communicate to wananchi.

Official languages are going to be two, Kiswahili and English. Kiswahili will continue to be also a National language. Hiyo ilikuwa pointi ingine.

Now about the feedback, you know today is just not in this document so that you go and read and then you make your comments after thirty days. We are saying the only way to respond to you is to receive your comments to the National Conference. Let your comments come to the Secretariat or to the Commission through your Coordinator or you can even send directly and then all these comments will go to the National Conference which will meet on the 28th of this month. And that will be our best way of responding to you through the decisions or the deliberations by the National Conference. Na yale National Conference watafanya, wata-decide, pengine hayo ndiyo tunasema ni ya mwisho.

Niliwaambia hapo mbeleni, if they want us to go to the people in form of a referendum, the law provides that one, but hope they are going to finish everything at their level and from the matters will go to Parliament and so on.

Then the other one is about Peter Mukiri, if I am right about freedom fighters; now here we have not specifically put directly. Mukiri, hii mambo tumezungumza na ukisoma huku, utaona mambo hata ya freedom fighters, kuna pahali yamezungumziwa kama haki ya binadamu, ama kupigania nchi yetu, na tukienda kwa preamble inaweza kuwa kuna kitu kama hicho. Hata ingawa si jina lenyewe tumeweka, freedom fighting ama separation of our people and men for our government based on the central values of freedom, democracy, social justice and the rule of law. Kwa sababu walikuwa wanataka haki na hiyo haki inakuja kutokana na human rights ama haki ya raia.

Tukienda kwa mashamba, watu ambao walipopigania Uhuru sisi sote, especially wale walikuwa wakubwa kidogo ama vijana kama mimi, hata sisi tulikuwa tunaona vile Uhuru ulikuwa unapiganiwa. Lakini tukiangalia kwa mambo ya mashamba, hii Commission tumeweka itaangalia mambo ya mashamba na tulikuwa tunapigania mashamba, tulikuwa tunapigania equal rights, tulikuwa tunapigania mambo ya natural resources. Hayo yote, ukisoma huku utaona yale yote yalifanywa na waliopigania Uhuru, ndio uhuru tunataka. Kwa sababu hata sasa, Constitution Review ni aina ya kupigania Uhuru, ama mnasema si namna hiyo eh? Kwa sababu tunapindua mambo yale yameharibika tunapindua.

Mababa zetu ama wale wakuu zaidi ya sisi kidogo, walipigana na yule mzungu mwenyewe akaenda kupigania nchi yetu iwe sawa sawa. Tulipopigania Uhuru, Katiba ikaenda ikatengenezewa London Lancaster House, ikaja hiyo Katiba na mambo mengi ya kikoloni kwa sababu watu hawakuwa wamesoma sana na hawakwenda huko London, walikwenda viongozi peke yao. Na viongozi sijui walikuwa wanaambiwa na Mzungu tumesema hivi. Na hawakuwa wanataka mambo mengi, kwa sababu walikuwa wanataka nini? Uhuru. Walikuwa wanataka haraka haraka. Lancaster ilifanywa for a very very short period kwa sababu tulikuwa tunataka Uhuru tu. Lakini hii Uhuru ilikuja na mambo mengi ya Mzungu yako ndani kwa hii Katiba. Ndio tunaendelea kutatua, kutatua. Kwa hivyo Uhuru tunaendelea kupigania Bw. Mukiri. Na hata sasa hii ni kupigania Uhuru, isipokuwa hatuko kichakani ama nini? Tunapigania kwa kuzungumza. Kile tunaona kizuri, tunageuza tunakiweka. Tunatafuta haki yetu. Kwa hivyo tuko pamoja hata the former freedom fighters. Na soma huku na hata report ambayo tutaandika, utaona mambo mengi.

Wakati tunasema kuwe na National day, 12th December, si hiyo ni kukumbuka the freedom struggle. Tukisema kwamba kuwe na Katiba day, hata hiyo ni form of freedom struggle. Katiba day hii ambayo itakubaliwa, iwe Katiba day na wengine pengine watapendekeza mengine wakati wa National Conference ama katika mazungumzo ambayo mtaendelea nayo. So naona kama hata hii iko covered tumeweka National days na tumetawanya serikali isikie mwananchi. Si hapo unatosheka Bw. Mukiri? *(in Kimeru)*

Na katika hii Serikali itakuwa Vijijini, wewe utakuwa unauliza maswali, lakini Nairobi unaweza kwenda huko kuuliza eh? Wakichagua wazee wa kufanya case, ma-land case ama case ya family, marriage ama nini, si utakua unasema kitu na itaidhinishwa na Court? Saa hii umetosheka? Lakini usomewe zaidi.

Kulikuwa na ingine, I think we have gone through.

Interjection (inaudible)

Com. Domiziano Ratanya: Hiyo ilikuwa comment. Kuna question ilikuwa ya appointment of Salaries and Remuneration Commission. Si ndio ulikuwa umeuliza? I remember this and that, but we can go through it again. Which page is that Remuneration Commission? Mkiwa mnaendelea kwa hiyo, ningependa kugusa moja tukiwa pamoja hapa ili wakati mnasoma

mnajua ile ina muhimu zaidi na mnafungua mnasoma. Sasa ya land Commission, hiyo ujaribu kuona, mambo ya disabled. Suppose we go to hapa mambo ya President, qualifications of election as President, hakuna mtu ameuliza hiyo lakini iko hapa mtajibiwa hapa, although I would like to mention now together, article number 156, page 20. "A person is qualified for nominations as a Presidential candidate if the person:

- a) Is a citizen of Kenya by birth
- b) Has attained the age of 35 years but is below the age of 70 years.
- c) Is of high moral integrity and impeccable character.
- d) Owns a degree from a recognized university and is nominated by a registered political party or is nominated by an independent candidate by at least 1000 registered voters which shall include not less than 100 registered voters from each Province.

Now hii ni mambo kidogo na mtasoma zaidi qualification ya President, awe mzaliwa wa Kenya, awe between 35 years, hiyo ilikuwa zamani lakini kiwango cha mwisho kimewekwa, which is being argued. Hiyo bado analalamikia hiyo sana na ndiyo sababu ya kuwapatia hii msome na mlalamike na halafu mtume maoni yenu. Lakini sisi tumesema iwe up to 35 years. Na niliwaambia hii si mwisho si ndiyo? So some are saying up to 70, wengine wanasema kuwe hakuna limit, mzee tu aondolewe na ile mara mbili ya Parliament, ile five years, two terms. And here I remember kuna mmoja aliuliza hata kwa nini hatuweke term ya Prime Minister. Term ya Prime Minister haikuwepo hapo kwa sababu ni kama Public Officer lakini anaingia upande hata wa siasa. Hiyo pengine itafikiriwa kwa sababu malalamiko ni mengi, you see? Who was raising that one? Makumi is it? Okey.

Interjection: inaudible

Com. Domiziano Ratanya: No kuna mmoja aliguzia hiyo. So, kitu kingine mnafaa tufikirie hapa tukumbuke na niliwaambia usiposoma hii yote huezi kuelewa yote. Pengine unaweza kufanya makosa kwa sababu haujasoma sana. Hapa unajua President is not an MP. Yaani si MP kwa hii Draft yetu. Mmefuata hiyo? Lakini Prime Minister atakuwa ni MP, mmesoma hapo, mmefuata vizuri? Prime Minister yeye atakuwa ni MP. Party ile itakuwa na watu wengi zaidi ndio itatoa nani? Prime Minister. Na Prime Minister kwa sababu initially kwa sababu alienda kama MP na ni MP kwa sababu alichaguliwa na watu, ni mingapi? Ni mitano.

Ikimalizika miaka mitano yule Prime Minister kweli mnafikiria atarudi? Elections zingine, party ingine ikishinda, Prime Minister atatoka kwa ile party na nini? In a majority. Kwa hivyo si wakati wake umeishia hapo?

Audience: (inaudible)

Com. Domiziano Ratanya: Yes, he is not permanent hata ingawa sasa ni politician na amekuwa pia ndiye Executive, anakuwa kama public officer na ni politician lakini ni politician zaidi kwa sababu alichaguliwa na watu na ametoka upande wa

party ambayo ina watu wengi zaidi. Na next election, wakienda pengine hiyo party itashindwa, juu huyo Prime Minister anaweza hata kushindwa kwao nyumbani, apate nafasi ya kwenda kwa Bunge. So I think there is some waste there.

Interjection: (inaudible).

Com. Domiziano Ratanya: Now hata party moja iki-win hata four to five times, yule Prime Minister si lazima tuseme ni yeye, party itakuwa inachagua kila wakati. And again there is also another thing you should remember. Prime Minister hatakuwa Prime Minister automatically. Kitu kimoja, atakuwa anatoka kwa nini? Kwa party ile imeshinda lakini hata yeye atakuwa approved by Parliament you see? Parliament ndio mwisho anyway, that is what I believe na ukisoma hapa zaidi utaona.

Interjection- speaker: I have a comment to make.

Com. Domiziano Ratanya: Just a comment.

Kobia Patrick: Okey. Basically according to this particular Draft, the President is supposed to garner at least 50% of the total vote cast and at the same time he is supposed to garner at least 20% of votes from at least five Provinces. Now the question is, why should we give the Prime Minister so much power in running the government, yet at the same time we subject this particular President to a very rigorous exercise, yet the Prime Minister will not be directly answerable to the people?

Com. Domiziano Ratanya: I think that it is not true that the President has got more power---

Interjection- Kobia: I think I am responding, I am Kobia.

Com. Domiziano Ratanya: Okey. Thank you very much Kobia. Now Kobia what you are talking about the Powers of the President, the Prime Minister, I don't know if you go through this one you will find that the President has got a lot of power if you enumerate the powers of the President. And it is not true that the Prime Minister has got more powers than the President. Our pattern in Kenya, we are going to have an Executive President not directly Ceremonial President, he is an Executive President. But what is happening with the Prime Minister they are just sharing powers. And I would like you to read this very carefully, you analyze it maybe you give your comments later and you finally find that it is just a matter of sharing powers not that the Prime Minister has got more powers than the President. It is just powers being shared, but the President is the Head of State and he has got powers, but some powers have been reduced. By reducing do we mean that we are curtailing everything? Powers have been shared to some extent and reduced but not meeting the President with no power. He has a lot of powers already. Maybe he had excessive powers. Mbeleni hapo alikuwa na nyingi zaidi lakini imekata katwa, but not making him really useless. He is still very powerful and more powerful than the Prime Minister. One thing he is the one who appoints the Prime Minister. Yes, the party only nominates, the Parliament can vett the Prime Minister. But who is the actual person

appointing the Prime Minister? It is the President. He can even refuse.

Kobia Patrick: The Prime Minister is basically supposed to be appointed from the party which has the majority seats in Parliament. So basically when a President will be electing the Prime Minister, he has no free choice, he has to basically appoint a Prime Minister who comes from the party which is winning. So basically he has no free choice there. The President is basically appointing Judges and Ambassadors and these Judges and Ambassadors are supposed to be approved by Parliament.

So basically its like the President will not really have a lot of free choice. He is basically limited. If you appoint Judges, they must be approved by Parliament. Appoint ambassadors, it must be approved by Parliament. So basically the only power that the President has been given is to the Chairman of the National Defense Council and National Security Council and basically just a symbolic Head of State. So the question is, as a voter if I vote for the President, how will my vote be reflected in the National Welfare of the common people. Because the Prime Minister in this case is not elected directly elected by the ---?

Interjection-Com. Domiziano Ratanya: I got your point long time ago. You are talking about the powers of the President and the Prime Minister. And your argument is the President is elected by people and the Prime Minister is not elected as a Prime Minister by people. But he is elected by people as an MP isn't it? So what you are talking about is that the President only approves or maybe appoints after the vetting after the nominations but that one does not mean that he doesn't have powers, that is distribution or sharing of powers. This is because one thing about sharing is that the party does have the power to nominate and then the Parliament vets and finally the President appoints. We take that one as sharing of powers. That is sharing of powers but not refuting powers isn't it? But the problem in the past maybe the President was there to do everything isn't it. This time we are saying although you're the President, you are Head of State but let us also share in this kind of process. Let us also share in this kind of process, lets take the process of getting a Prime Minister. Instead of the President going and picking a person, maybe his friend or a relative and all that. Let us share that procedure so that this of which is done by so and so we share, we delegate like what we do here.

Instead of the coordinators doing everything, you can see how he has shared his power as a Coordinator of this District. He has given some people there to register, somebody there to do something else, but do all these activities, reduce the power of the District Coordinator? No, he is still powerful but he is being assisted and the powers are being shared and this is the meaning of this Constitution to make sure that we share the powers, we devolve even the powers. Instead of having the whole government in Nairobi, we bring that government to the Village you see?. But this matter is still subject to further discussion and debate and we cannot debate here and include at Ntonyiri you see?

There are other people in Kenya and the best thing is that lawyers are saying the same, maybe you are a lawyer and others but its subject to debate any way. Don't open debate and the reason is because you have not read this paper.

Interjection: It is a comment.

Com. Domiziano Ratanya: Go and read and see that there are a lot of things which are interrelated and we have also room to make your comments.

Interjection: (inaudible)

Com. Domiziano Ratanya: Yes exactly. And this one I will give you thirty days to read, give your own opinion, give your own comments where you would like amendments, where you would like additions and then after thirty days the matter will be deliberated by National Conference and the process will go on until it meets the final document and I told you this is not the final document, its just the first Draft they are giving you for debate for thirty days. So the most important thing is to read, go through and then you will know where to comment, most of the points are interrelated. Don't blame the Commission for proposing, we have only proposed through what you have told us, but that does not mean that that is the end. You can still get further information, you can still incorporate, you see? But the main thing is to see that the old Constitution is reviewed.

Interjection: (inaudible)

Com. Domiziano Ratanya: Yes, that is true. You see somebody who has been able to read? And this is why we are having two Chambers now, to check on the other one. Badala ya kupitisha mshahara wao siku ya leo, wazee wengine waulize, why are you passing this one. Hii mshahara namna gani? He sheria hatutaki, you see? So we allow for sharing of powers, checks and balances, devolution of power, serikali iende kwa watu kila mtu awe a participant, you see? Kila mtu aweze ku-participate kwa utawala wake. Okey I think--- yes imetosheka sindio?

Domiziano Ntonjira, you talked about miraa, about watoto, infact Ntonjira alifanya tu comments. Yaani alizungumzia tu akasema kwanza Commission wamefanya vizuri, kwa sababu maoni yale alitoa hapa tuliyaweka pamoja na maoni ya wengine. Kwa hivyo hapo Ntonjiri tunashukuru kwa sababu mambo yako naona yamewekwa na hata ya wengine.

Na mambo ya miraa niliwaambia miraa, kahawa, crops zetu zote hata mifugo na nini, sheria kama hizi zitafanyiwa kwa District level kwa sababu tumeleta serikali kwa District. Ndiyo itaketi, kwa sheria zao wanaweza sasa ku-cover mambo ya miraa na mambo ya farms and so on and so on. Na halafu iende mpaka National level ijulikane sasa ni sheria ya nchi kuhusu wale watu. Kwa sababu hatuwezi kusema sheria ya miraa iende Marakwet. Hawawezi kujua miraa ni kitu gani, lakini wale watahusika na miraa ni District Council na hiyo sasa itaingia ki-sheria na wajue vile wataweka. Kama ni kahawa inaharibika they review the coffee Act, kama ni majani waangalie. Hiyo unasema ni vizuri itaendelea hivyo.

Kwa mambo ya watoto, umejaribu hapa, we have covered mambo ya watoto, mtoto mwanamke na mwanamme wote ni kitu kimoja kulingana na Katiba, ile ambayo tumetengeneza. Na ni maoni ya watu. Katiba hii inasema kama ukimpatia mtoto wa

kike ama wa kiume shamba, hata wa kike lazima apatiwe shamba kama mwingine. Mtoto ni mtoto kwa hivyo hayo tumependekeza hapa na utasoma zaidi utaona.

Then huyu Mutuma, naona kama tuli-cover mambo ya Mutuma.

Ikifika hapo naona tumezungumza sana na tutaendelea kuzungumza zaidi, wakati mnasoma hii katika Ntonyiri mkiwa groups, mkiwa watu binafsi na baada ya siku thelathini, mtaandika maoni yenu, yatakayo zungumziwa baadaye. Kwa hivyo nimeshukuru sana tufikie hapo, na kabla ya kufunga ningetaka Co-ordinator wetu atwambie neno moja ama mbili hivi, halafu my Program Officer hapa nae aselimie nyinyi pengine aseme kitu kimoja hapa, viwili hivi na halafu baadaye nifunge na tufungiwe na maombi.

George Kimanthi-District Coordinator: Thank you so much Commissioner Domiziano Ratanya. With the permission of the Chairman,----

Speaker (name un-announced): What I am asking is the provision of these Reports and the Draft itself and perhaps other material that are connected with this review. So, can these be made available to the public?

Com. Domiziano Ratanya:-- I don't think that there are any other copies lying elsewhere, but we hope this will be sufficient for you to go and read and share. Now about these we have a few copies at your Documentation Centre. You are the Chairman and you go with the Coordinator at the Documentation Centre. You will read and maybe get copies but not for everybody. I can--- yes?

Interjection: (inaudible)

George Kimanthi-District Coordinator: Chairman we'll be meeting next week, nitakutana na nyinyi nyote, nitafanya hizo arrangements, niko na vitabu kwa kila Constituency, kama hii tuko na fifty za Ntonyiri, za Ntonyiri tutapatia wanakamati ili itumiwe na wananchi hapa. Should we do that?

Interjection: (inaudible)

George Kimanthi-District Coordinator: No, there are more than one, maybe fifty. Yes. Let me thank the Commissioner for a session well covered. Sasa nyinyi mmefurahia. Basi tumpigie makofi tafadhali.

Audience: Clapping.

George Kimanthi-District Coordinator: I also thank you for availing yourself, nimeona sasa mmejitolea kutoka pahali tulianza na langu tu ni-kumuomba ya kwamba, kama kuna maoni ambayo mnaona haikuhusishwa katika hiyo draft Constitution, ama kuna pendekezo ungetaka kufanya, unaweza kufanya kwa kuandika. Unaweza kulete kwa ofisi yetu ama uletee Chairman ama Committee member, halafu mtakuwa mnakutana nao na tutatumwa Nairobi.

Sina mengi sana ya kusema, thank you so much. Kama hatujaita Chairman atupatie vote of thanks nitamwita Mr. Anampiu our Profram Officer awasalimie kidogo.

Solomon Anampiu - Program Officer: Asante sana Bw. Kimanthi, kwanza ningetaka kusema ya kwamba Com. Domiziano Ratanya amefanya kazi vizuri sana kwa sababu ame-cover sehemu mingi kwa hii Draft Constitution. Lakini kama vile alivyo sema tafadhali someni hii. Usiposoma hautaweza kujua hii Katiba ambayo ni proposed, itatusaidia watu wa Ntonyiri namna gani? Tena mkisoma, tafuteni wale waakilishi wa District ambao watakwenda kwa Constitutional Conference. Yule mama amekwenda, alikuwa hapo na nani mwingine alikuwa hapa? Councillor?

George Kimanthi -District Coordinator: They have a full Council meeting.

Solomon Ananpiu -Program Officer: Kwa hivyo mwambie; nimeona hii iongezwe au hakuna haja ya hii, lakini msipowaambia, hawatajua la kufanya kule. Kutakuwa na representatives 650, karibu hapo na ni watu wengi. Na watakuwa wakikaa pahali pamoja, sio kama classroom. Watakaa kwa theatre kubwa, wanapewa lectures halafu wanaondoka, wanafanya kazi kama kamiti, rooms kama watu mia moja hivi. Halafu wananarudi tena, wanasema habari ya ile mambo wameambiwa watazame, kwa hivyo ni lazima mshauri kabla ya kwenda ile waelewe watu wa Ntonyiri wanataka namna gani. Kama haijatangwa kwa hii Katiba yenyewe ya maelekezo. Tena Mjumbe wenu atakuwa kule. Tena pia yeye mmweleze, aelewe vile nyinyi watu wa Ntonyiri mnavyo fikiria habari ya hii---

Interjection: (inaudible)

Solomon Anampiu - Program Officer: Ngoja kidogo, wewe umegusa jambo muhimu sana kwa sababu kwa hii hapa, hii Commission, kulingana na vile uliambiwa na wananchi, wameandika hapa ndani Mjumbe asipofanya kazi yake sawa sawa aondolewe kabla ya kumaliza ile miaka tano. Sasa hao Wajumbe, hio hawaitaki. Nimesikia huko Nairobi wananugunika sana kwa sababu wanataka ile miaka tano. Kwa hivyo hiyo si jambo ya kutubabaisha sisi na nyinyi, kwa sababu katika ile Conference Wajumbe ni kama 210, kuna wale delegates wengine hapo, pia wao wataweza kusema, ku-push through ile mambo ambayo wananchi wanataka. Kwa hivyo ni lazima msemi representative wenu ambaye atakwenda kutoka Nyambene.

So mmeelewa na wao wameelewa matakwa yenu ni namna gani? Kwa hivyo someni, someni . Hiyo ndio message ambayo Bw. Ratanya amelete kwenu. Asanteni sana na Mungu awabariki. Thank you.

Audience: Clapping.

George Kimanthi-District Coordinator: Okey asante sana Mr. Anampiu. Kabla sijampatia Chairman apatiane vote of thanks, tutakutana na Committee members, I will meet with them briefly after this. So Chairman tupatie vote of thanks briefly halafu tuombe. Nani atatuongoza kwa maombi? Tulianza kwa wakristo, sijui kama kuna Muislamu? Pastor atatuongoza kwa maombi, si ni hivyo? Yes.

Julius Gaithuru – 3C’s Chairman: May I take this opportunity to thank the Commissioner for availing themselves for this very important forum. We have been educated on how to read this Draft and perhaps if they were not available we would not be able to read the Draft and as well as we will do now. So with those few words, I wish to thank Mr. Ratanya, the Coordinator and Mr. Anampiu for this time that we have had with him and we are now a bit more educated or a bit more enlightened than before, so with those few remarks, May I say thank you and may God bless you.

George Kimanthi-District Coordinator: Asante sana Chairman. We will also remember our Verbatim Recorder Mary Babu, she has done a good job. Thank you. Pastor tuongoze kwa maombi.

Rev. Akule N’lthai: Natuombe, Asante Mwenyezi Mungu kwa kuwa nasi wakati ule wote tumekaa hapa tukijadiliana. Asante Baba kwa yale yote umetuwezesha tukayafanya, na hata yale mengine yamebaki, twaomba uendelee kutupatia uwezo na hata Mwenyezi Mungu kutupatia ufahamu, ili tukaelewa yale mambo yako mbele yetu ya Katiba, ili tukapeane yale yote yatafanya tuwe na Katiba nzuri ya kuongoza serikali yetu katika nchi hii yetu ya Kenya.

Asante Baba kwa viongozi wetu, twawaombea na kuinua mbele yako, uendelee ukiwabariki, ukiwapatia Mwenyezi Mungu nguvu, tumaini na amani, ili nao wakaweza kutuongoza vizuri. Twaomba Baba ukatupatie safari njema kurudi makwetu, Baba tukikumbuka wale wataenda kwa magari, ili Mwenyezi Mungu ukawalinde vizuri, na hata wengine wataenda kwa miguu, ukatulinde vizuri, ukatufikisha makwetu salama salimini.

Twaomba Baba tutikumbuka Commissioners wote, mahali popote walipo, kwa kazi hii wanayo itengeneza, Baba uendelee kuwapatia uwezo zaidi ili nao wakafanye hii kazi vile inavyo takikana. Twakumbuka kazi zile zote ziko mbele yetu za kutengeneza Katiba na hata Mwenyezi Mungu ya kupiga kura ile iko mbele yetu, ukatuweke tayari kufanya kazi hizo zote, ili ukatuongoze kwa viongozi wale umemwagia mafuta, nasi tukawawekee kura zetu wakaweze kuchukua utawala wa nchi hii yetu.

Twaomba baraka zako zikakae nasi, Mwenyezi Mungu tukakufanyie kazi za kusifu jina lako. Hebu Baba tukiondoka hapa tuondoke na baraka zako ni katika jina la mwanao Yesu Kristo tumeomba. Amina.

Com. Domiziano Ratanya: Kabla hamjatoka meeting yetu, tunawaambia wananchi kwamba hakuna maelezo mengine, hakuna meeting ingine ya Constitution Review Commission, tumefika mwisho wake na tunasema asante sana.

The meeting ended at 1:30 p.m

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