

CONSTITUTION OF KENYA REVIEW COMMISSION

(CKRC)

Verbatim Report Of

DISSEMINATION OF REPORT AND DRAFT BILL,

TIGANIA WEST CONSTITUENCY, HELD AT KIANJAI POLYTECHNIC

ON

15TH OCTOBER 2002

**DISSEMINATION OF REPORT AND DRAFT BILL, TIGANIA WEST CONSTITUENCY, HELD AT KIANJAI
POLYTECHNIC ON 15TH OCTOBER 2002.**

Present:

Com. Domiziano Ratanya

Secretariat Staff in Attendance:

Solomon Anampiu - Programme officer
Mary Babu - Verbatim Recorder
George Kimathi - District Coordinator

The meeting started at 10.55 a.m. with Commissioner Ratanya in the Chair.

Mr. George Kimathi: Habari ya asubuhi? Ninafikiri tutaanza mkutano wetu. Lakini kabla hiyo nitamuomba Bishop Mbogori atuongoze kwa maombi.

Bishop Mbogori: Na tuombe. Mungu Baba, Mungu Mwana, Mungu Roho Mtakatifu, kwanza tunakushukuru na kukutukuza kwa vile wewe ni Mungu wetu, kwa vile unatupenda, na unapenda nchi yetu. Ni wewe ulituumba, na ulituumba ukatupa akili ya kuweza kuendelea kwa mapatano, kupendana, na kuishi pamoja. Tunajiweka mikononi mwako wakati huu ambapo tunafikiria mambo ya Katiba ya nchi yetu, Katiba ambayo tunataka ituelekeze katika mwenendo mpya, mwenendo wa amani, mwenendo wa maendeleo, na mwenendo wa kufikiria masilahi wa kila mmoja wa nchi hii. Tunakuomba kwanza utupe amani, utupe ufahamu, na utupe upendo katikati yetu, tukijadiliana mambo yote tuwe tunasikilizana, na tunaweza kupatana kwa yale ambayo tunaona unatupasa tuyafanye.

Ikiwa kuna jambo lolote lina hitilafu iwayo yoyote, utuongoze katika hekima yako, ili tuweze kuiona na kueleza kwa amani. Tupe upendo na wale wanaotuelimisha uwape ujuzi ili watuongoze kwa amani. Na katika kila jambo tunaomba amani yako hapa kwetu na katika nchi ya Kenya yote. Kwani tunaomba na kuamini katika jina la Yesu Kristo Mwokozi wetu – Amen.

Mr. Kimathi: Asante sana Bishop. Kuanzia nitasema ya kwamba nafikiri nyote mwajua kwa nini temekutana hapa leo. Kuna Commissioner kutoka headquarters, na ako na staff wengine kutoka headquarters, na wamekuja hapa leo kwa sababu ya kutueleza zaidi juu ya Draft Constitution, ama Kielelezo cha Katiba ambacho mko nacho, in the Draft. Sababu ni kwamba wangetaka tuiangalie pamoja ili watupe muelekeo, ambayo utatuwezesha kusoma hii Draft Constitution, na kama kuna swali, twatarajia Commissioner yuko hapo, na sote tuko hapa na ma staff wengine. Tutaweza kujadiliana sote, na tupate huo muelekeo kujua zaidi.

Kisha kama kuna mtu ambaye atakuwa na la kuongeza ama la kutoa katika hii Draft Constitution, kama mjuavyo ni kwamba tutakuwa na delegates meeting, mwisho mwezi huu, mnaulizwa kama kuna jambo la kuongeza ama kutoa, muandike maoni

hayo ili yawasilishwe kwa Constitution Review Commission. Hawa Commissioners wataangalia mapendekezo hayo pamoja na delegates ambao watakuwa kwa Conference, ili yawe katika ile final document ya mwisho ambayo ni katiba mpya.

Kabla sijamualika Commissioner, ningetaka kuwajulisha wanakamati ambao tumekuwa nao hapa Tigania West. Tuko na na Jerusha Muyudhi, hawa ni 3 Cs members, ama ni Constituency Constitution Committee members. Then tuko na Mary Nairumbi, kuna Councillor Geoffrey Githai, halafu tuko na Geoffrey Toroitich, na pia tuko na huyu Madam anaitwa Beatrice Biariu, anatoka Igembe Constituency, ambaye hata ni delegate, ambaye ataenda huko Nairobi kujadili juu ya hii ya Draft Constitution. Halafu kuna mwingine, Kiambi. Hawa ni wale ambayo tumekuwa tukisaidiana nao katika kufunza mambo ya katiba hapa Tigania West, na kuna hata wengine lakini hawaja fika. Pia kuna Civic education providers, kuna wengine ninaona tuko nao hapa, lakini tuko wengi, na wakija nitawajulisha wote.

Langu ni kwamba ninataka tu kuwaomba, msikilize kwa makini yale Commissioner atatueleza, na wenzake, ili tutakaposoma hii Draft Constitution, tuelewe vizuri, kwa sababu kama mjuavyo, katika sheria, huwezi kusoma hapa three quarter ya hii document na uanze kuikashfu ama kutoa maoni yako. Lazima usome kila kitu ambacho kiko katika sheria. Kwa sababu unaposoma kitu fulani, cha kwanza, halafu hicho kifungu kiwe na mabadiliko katika kifungu cha huko mwisho. Utaona kuna wengine wanasoma halafu mara moja anasoma pages tatu, anaanza kutatisha hata bila kusoma. Kwa hivyo ningetaka msikize kwa makini ili mjue kama wale mnaojua wanashtumu bila kusoma. Pia niko na office assistant wangu anaitwa Banake Francis, yeye ndiye ananisaidia katika ofisi yangu huko. Wale ambao hawanijui ninaitwa George Kimathi. Kwa hayo machache nitamualika Commissioner ambaye atawajulisha wengine, na kisha atupe muelekeo, ama yale ambayo anapasa kuzungmuzia leo.

Karibu Commissioner.

Com: Ratanya: Asante sana Bwana Coordinator. Kama vile Bwana Coordinator, ameanza ninaona kwamba tumeanza kukubaliana hata lugha ambayo tutatumia. Kwa hivyo hicho ndicho kitu cha kwanza, tutakubaliana tutatumia lugha gani, kama ni Kimeru, kama ni Kiswahili, kama ni Kiingereza. Ukiangalia pengine kuna wale pengine hawataelewa sana Kiingereza, tukiendelea kwa Kiingereza kwa kila kitu. Tukiongea kwa Kimeru kwa kila kitu, tuna report hapa ambayo nitawajulisheni baadaye majina yao, ambaye hajui Kimeru, lakini Kiswahili atasikia, hata Kiingereza. Kwa hivyo pahali tumekuwa tumekubaliana tutumie Kiswahili, ama Kiingereza, na kama huwezi kabisa, unaweza kuongea Kimeru, tutatafsiri, kwa sababu maana ya mkutano huu, si kuja pengine tusome Kiingereza, Kiswahili, na wengine waende bila kujua tunasema namna gani. Maana ya mkutano huu ni kila mtu ajue tuko hapa na tunataka nini na tunafanya nini. Kwa hivyo tumekubali lugha gani? Kiswali. Ukiwa una kitu ambacho unataka kufafanua kwa Kiingereza uende kwa Kiingereza, si namna hiyo? Lakini kitu cha maana ni kwamba tujaribu kusikizana.

Baada ya hapo nitaendelea sasa na introduction yenyewe. Wale ambayo tumetoka nao Nairobi, kuna programme officer upande huu wangu anaitwa Solomon Anampiu, hata yeye ni wa kutoka upande wa Meru, upande huu wetu na ni Kibirichia. Bwana Solomon baadaye pengine atawasalimia wakati wake ukifika nitampatia nafasi. Kwa hivyo ni Programme Officer wetu

ambaye yuko huko headquarters katika Secretariat na tunaandamana na yeye..

Solomon Anampiu (*in Kimeru*)

Chorus:

Com. Ratanya: Na mwingine ambaye tunaye ni Mary Babu ambaye ni recorder wa haya tunaongea hapa. Kuna kitu ambacho tuna-record nacho, kuna machine hapa, ile ingine imeharibika, yaani stima pengine haikutaka kuingia vizuri, kwa hivyo tukasema tuendeleo tu kwa sababu kuna recorder ingine. Anaitwa Mary Babu, na ni officer wetu wa headquarters.

Mary Babu: Habari zenu wananchi?

Chorus:

Com. Ratanya: Na mimi mnanijua nimekuja hapa wakati tumekuwa na kazi ya process, na tena mimi ni mtu wa hapa. Mimi ninaitwa Domiziano N'Chokera Ratanya. Ukitaka kuniita, niite Chokera, hata Chokera iko, ingine ni Ratanya Domiziano, yale unataka kuniita. So I am the Commissioner.

Kwa hivyo tutaanza sasa mkutano wetu na kutoka sasa ningetaka kutangaza rasmi hiki kimekuwa kikao cha mkutano wa Constitution of Kenya Reviews Commission. Na mjue kwamba tukianza kikao chetu uko free kuongea chochote bila kuogopa, bila kufikiria utashtakiwa, kwa sababu tunasimamiwa na sheria. Kwa hivyo hiki ni kikao chetu cha Katiba na hakuna cha kuogopa, na tumeanza sasa, na ikifika wakati wake tutafunga kama vile ilivyo kawaida.

Katika mkutano huu hatutakaa sana na nitawaeleza maana ya kuja siku ya leo. Na hapa sasa nitaketi tuendeleo sasa na mazungumzo. Kwanza, ningetaka mjue kwa nini Commission imekuja hapa siku ya leo. Tumekuwa tukija kila wakati tukiwa na sababu. Today kama ningesema kidogo kwa Kiingereza, the objectives of the visit is to launch the National Report and Draft Bill of the Constitution of Kenya Review Commission and also to facilitate the public debate. Mtaendelea kutoka leo, nikiwaelzea yale ambayo tunayo, kusoma hiyo Draft, na muendeleo kuzungumza nyinyi wenyewe, in groups, individuals, na baadaye, wewe mwenyewe utaandika report ukitaka kuuliza maswali yoyote. If you have anything you would like to amend in this Draft, you make your own comments, and you send through the Coordinator, and then everything will reach us in Nairobi, and it will go to the National Conference. Kwa hivyo mmesikia sababu yetu ni kuja kumuonyesha kwamba tumetoka na Draft, na Draft ya Constitution, na hiyo si kusema ya kwamba ni final, si mwisho. Kwa sababu watu wangeuliza, sasa Constitution imetoka? Constitution haijatoka, tuko katika mpango wa Constitution itoke yenyewe hivi karibuni. Ile tumetowa ni hii tunaita Draft Bill ya Constitution, ambayo tunapendekeza, Constitution mpya. Hii iko katika hii karatasi ni Draft Bill ambayo ni utaratibu moja ambayo tutafuata, tukimaliza hapa tutaenda pahali ingine. Tukimaliza hapo pengine tutakuwa na katiba yetu

mpya. Kwa hivyo msije mkasema kwamba watu waende kusema kwamba tumewaletea Katiba hapa Tigania West. Lakina nimewaletea Draft yaani maandishi pale tumefika ambayo yakiendelea kutengenezwa, yatatoka na Katiba yetu.

Na kutoka siku ya leo, ama niseme kutoka siku ambayo tuli-launch tuliwapatia wananchi wa Kenya kutoka Commission. Tuliwapatia wananchi wa Kenya report ya kazi yetu tarehe ishirini na saba mwezi wa sita. You can read on this Draft Constitution, on top page ya kwanza. *Dated and issued at Nairobi at 11.00 am on Friday the 27th day of September 2002.*

Siku hiyo ndiyo tuliwapatia wananchi wa Kenya wote, 30 million, kujua kwamba kazi yetu pale tumefikisha. Yaani tumetoka na report yetu. Ile kazi tumekuwa tunafanya, tuliwajulisha wananchi wa Kenya kwa sababu Commission yetu, ile sheria ambayo ilituchagua, Act of Parliament, Cap. 3 (a) laws of Kenya, sheria hii, ilituambia sisi tuta-report kwa watu wa Kenya. Haikusema tumpelekee mtu fulani ili aangalie na yeye aende afiche halafu aseme imepotea. Hii imetuambia tukimaliza, tukifanya yale mapendekezo ya Katiba, tuwaambie watu wa Kenya. Kwa hivyo tarehe 27 ndiyo tuliwaambia watu wa Kenya kwamba tumeandika Katiba, tumefanya mapendekezo.

Kutoka siku ya leo kulingana na hii Act ambayo inatutawala in this Commission, tutaendelea na mazungumuzo kwa siku 30, thirty days, na hiyo ni kulingana na sheria. Tunasema, vile ambayo imebadilishwa, kwa sababu ilikuwa 60 days, lakini ikawa na amendments kidogo, ambapo kwa hiyo amendments, inasema kwamba tukitoa Constitution Draft, watu wataendelea kuzungumuza kwa siku 30. Lakini kwa ile ya kwanza ilikuwa 60 days. Lakini kwa sababu hata hiyo ni amendment ya Parliament, ni sheria. Sasa sheira inasema tukitoa hii tupatie watu wa Kenya waendeleo kusoma, kujadiliana kwa vikundi wao wenyewe individuals, kwa organizations zao, kwa siku kama 30 days. Na ukihesabu kutoka 27th September, siku thirty ama thelathini itaisha siku gani, kutoka 27th September? Si itaenda kuisha mwezi wa kumi, that will be on 27th October. Sasa 27th October, kutoka hapo sasa sheria hii ambayo inatutawala inatuambila vile tufanye kazi, inatuambia kuwe na mkutano wa Kenya yote. Wajumbe wa Kenya wote, si wajumbe, ni wale delegates watachaguliwa kwakilisha na kufanya huo mkutano wa katiba, unaitwa Constitution National Conference ambao utakuwa tarehe ishirini na nane mwezi wa kumi. So you see you have 30 days from 27th September, the day we launched this one to all Kenyans. Tuli tangaza ikaenda kwa magazetti, siku hiyo ikaenda kwa maradio, ikaenda kwa ma TV, na ikaenda kwa kila mtu.

Sasa tukiwa kwa Commission sisi wenyewe tukasema kwamba hata ingawa tumetangaza kwa Wa-kenya wote, na mambo yameingia kwa TV, yameingia kwa radio, yameingia magazeti, lazima tuje kwa wale ambayo walitupatia hii report. Wale ambao walitusaidia kupata maoni yao tukafanya hii kazi. Na hawa watu ni kutoka kwa constituencies. Tukasema haitoshi kutangaza huko Nairobi. Commission yenyewe ikaamua tuende round kwa kila constituency in Kenya, 210 of them. Tuna Constituencies 210, katika Kenya. Wale ambapo kuna MPs. Na moja yao ni hii Tigania West.

Sasa siku ya leo, kila area iko na Commissioner. Tumegawana sasa Commissioner mmoja mmoja a-cover karibu district mbili. Kama mimi nina-cover North Meru, and Meru Central. Na nili gusia Chuka, nilienda hata Chuka, kwa sababu ni Constituency moja katika Chuka. Kwa hivyo ninaweza kusema nime-cover three districts. Meru North, Central and Meru South. Kuna

wengine Commissioner mwingine pengine ana-cover district moja ambayo ina constituencies nyingi zaidi. Kwa hivyo tuko mmoja mmoja na maana yake ni kuwaletea hii draft.

Nyinyi tunawaambia kutoka leo sasa ambayo tumefika hapa Tigania West, tumefika kwenu kuwaambia ile report ambayo tulitangaza 27th, imefika hapa, na endeleeni na nyinyi kujitayarisha kusoma hii. Mfanye mapendekezo, na ikifika 30 days, tarehe ishirini na nane ambapo Conference itanza Nairobi mtakuwa mmepeleka maoni yenu yale mnataka huko Nairobi. Na njia ya kupeleka ni kwa Coordinator, na Coordinator atapeleka huko kwa Secretary, akina Anampiu na Secretariat itapanga, ilettee Commission, nayo itawapatia delegates ambao watakutana tarehe 28. Kwa hivyo hiyo ndiyo maana sasa ya mkutano kama wa siku waya leo. Nitaendelea sasa kupumzia hapo; na siku ya leo hatuna mambo mengi, tumepewa hata masaa mawili tu kuwa na nyinyi ili muende mkasome na mkafanye mipango yenu ya kufanya debate. So for us we have to launch and facilitate the debate for these 30 days ambazo tutaendelea.

Kitu ningetaka kuwakumbusha hapa hata kwa Draft, ingetoka hata kwa Kiswahili, lakini version ya Kiswahili inaendelea kutengezwa, pengine iko tayari sasa lakini mtapewa baadaye. Tukasema tuanze na hii ya English na ya Kiswahili itakuja baadaye.

The other thing, pengine mtauliza, kwa nini haikuwa katika kitabu, kama hiki, ama kitabu kingine kama vile kitabu cha sheria kinawekwa namna hii? Tuliona kwamba, hatuwezi kuenda kuweka kitabu ni very expensive kwanza, kwa sababu maoni yale yako hapa yanaweza kugeuka. Mukisoma muone kuna kitu tumeacha, you can amend, yaani mnaweza kubadilisha, mnaweza hata kutuma maoini tofauti. Yale ambayo tumesema hapa, pengine mngesema haya maoni hayatoshi, mngeongeza ama kuondoa. Sasa tukasema tutoe kwa njia hii ambayo ni cheap, ambayo ni rahisi. Tukakubaliana na newspaper Nation, na ika-print hii kitu ambayo tutapeana kwa kila Constituency. Kila Constituency tunapeana kama 60 to 70 copies na copies zingine zitakuja kwa documentation Centre. Pengine wakati huo kabla tumalize mwezi moja, mnaweza kuwa na bahati, kuwe hata Swahili kitakuweko. Kama yeyote akiona hapati copies, kwa sababu ilikuwa kama 70 hivi na ndiyo tunapeana kila pahali, tutakuwa na zingine zitakuja. Bwana Kimathi, I think unaweza pengine kuangalia, kwa sababu tumekubali zitakuwa kwa Documentation Centres. Na mtachukua. Sasa wale wanazo wataendelea kusoma.

Now kabla ya kuja kwa hii Draft, kwa sababu sasa hii ni draft ya Constitution, mapendekezo yale yamewekwa. Tulipokuwa Mombasa tulitoa report ya kwanza. Na hiyo ndiyo tulikuwa tunaita short report. Report fupi, ilikuwa inaonyesha, ama inakumbusha wananchi pale tulipoanza na vile tulipoendelea. Na hiyo report, hata hiyo ilitokea kwa gazeti kama hii, pengine watu walinunua. Kwa sababu tulitoa hii tarehe 18 mwezi wa tisa, tulipokuwa Mombasa. Hiyo iliwezekana tukaweka kitabu kama hiki, ambayo tunaita short version ya report, the Report of the Constitution of Kenya Review Commission. Hii ndiyo ilitoka kwanza, kabla ya Draft yenyewe, kabla ya Katiba yenyewe. Hii si ndiyo Katiba, lakini ni report ya kupeana tu highlights vile tulipoanza, ni kukumbusha watu vile tulianza. Ni report tu ya kuonyesha kwamba tulichagua Commissioners hata majina yako hapa, tukaendelea tukafanya Civic Education. Na hizi copies ziko kwa documentation centres, ni chache ambazo ziko

huko. Tukaona na kuangalia kidogo mambo ambayo watu walikuwa wanakubaliana katika Kenya yote, in short it is a sort of short report. Kwa mfano kama ni kutoa hapa 13 main points from the people, yaani points ambazo watu wote katika Kenya. Not only 13-lakini ni nyingi, walikubaliana karibu wote. Point kama hii, kwa mfano, “We do not want power concentrated in the hands of one person. Hatutaki mamlaka ama na nguvu yote ikae kwa mtu mmoja.” Katika Kenya yote, hata hapa na kila pahali walisema hivyo. Wakasema kama kuna ukubwa, kama kuna utawala, ama power nguvu yoyote ya kutawala watu wa Kenya isiwe katika mkono wa mtu mmoja. Awe yeye ndiye ni pekee anasema. Lazima hiyo nguvu igawanywe watu washirikiane kila mtu awe na kitu cha kufanya ili kuweza kutawala Kenya. Point kama hiyo ilikubaliana kila pahali. Tukirudi kwa hii report yenu yenyewe mtaona pengine kuna point kama hiyo ilitoka hata hapa.

Watu wa Kenya walisema, we want an end to corruption. Ufisadi, hii ni birbery, hii kitu inaitwa kidogo kidogo hii. Watu wa Kenya wanasema hatutaki hiyo. Na kitu kingine kama, we want women to have equal rights and gender equity. Hata akina mama wanaona kama wako chini wakati mwingine mambo yao hayaangaliwi vizuri, lakini watu wa Kenya wanasema, tunataka waonekane kama binadamu na wao wafanyiwe kama watu wengine. We want respect and decent treatment for the disabled. Watu wengine ambao wanafinywafinywa ni disabled ambao ni watu hawajiwezi kama wale watu ambao hawana macho, watu hawana miguu, unajua wale watu wasiojiweza. Hata hawa inasemekana, wawe wanaheshimiwa, na hawa yako kwa katiba. Kwa sababu ninawaambia si Katiba. Kwa sababu hii ninawaambia hii Katiba, ni just short report ya kuonyesha kitu ambacho generally kiko kwa katiba ndani. Na kama hii tunasema we want respect and decent treatment for the disabled. Katiba itaonyesha ni namna gani hawa watu wapewe heshima. Kama ni sheria itafanya ili wapewe heshima iko hapa. Kama ni kuonyesha taratibu itafuatwa wapewe heshima inonekana hapa. The same case with corruption. Kwa sababu watu wa Kenya wanasema hawataki corruption. Sasa Katiba yenyewe, Draft yenyewe inaonyesha ni njia gani tutatumia ili corruption iishe. Kama ni sheria itatengenezwa, kama ni Commission, kama ni nini, hayo yote yako hapo. Kitu kingine kama very general ni kitu kama, “We want our MPs to work hard, to respect us and our views and the power to kick them out they do not perform.” Hata hiyo point ilitokea kila pahali.

Watu wanasema tunataka ma-MPs wetu watuheshimu. They are our representatives. Yaani ndio tunatuma kule, hatuwezi kwenda huko Nairobi Parliament sote. Mtu mmoja anatumwa kwa constituency ili angalie mambo yetu. Tunataka atupatie heshima. Na tukiona huyo mtu hawezi kuendelea, hatuwezi kukaa miaka tano tukiwa na mtu kama huyo. Kwa hivyo hii katiba imetoa njia ya kuondoa mtu kama huyo. Hata akiwa amekaa mwaka mmoja muone hamuwezi kuendelea, hii Katiba ya sasa imeonyesha ile njia mtafanya. You remove him, you recall him, na akija mtatafuta mwingine. Point ingine ambayo ni very general, “We want a fair system of access to land for the future and justice for the wrongs of the past. Yaani kwa mashamba tunataka mambo yafanywe kwa njia nzuri, kama ni kupata mashamba, na kama ni kufanya ma-case, kama ni tuone njia ambayo watu watapata mashamba, na mambo ambayo yamepita yarekebishwe. Na hayo yote kuhusu mashamba kama hiyo yako hapa. Na mtaona mkifika hapa kuna ile tunaita Land Commission of Kenya ambayo haikuwako lakini itakuwako sasa, na ndiyo ita-address haya mambo yote.

Kitu kingine general kabisa ambacho tulisikia kila pahali, we want all communities to be respected and free to observe their cultures and beliefs. Watu, tamaduni zao zile zinalingana na Katiba na sheria hatuwezi kuwaambia waache ama kuwalazimisha. Lakini kama kuna utamaduni zozote ambazo zinakataa the Supreme Law, hii sheria kubwa ya katiba, hiyo tamaduni haiwezi kuwako. Na mnajua hata sheria yenyewe kama kuna sheria inafanywa ambayo haikubaliani na Katiba hiyo si sheria. Kwa hivyo kama kuna tamaduni zitapatikana pahali, ama sheria pahali ambazo hazishirikiani na Katiba, hiyo haiwezi kukubaliwa. Lakini ambazo hazina mambo na Katiba, hazina ubaya, hiyo ni sawa sawa tu hakuna taabu. Na ile mbaya lazima iondoke, na hiyo inaonekana na wananchi, wanaona ni sawa sawa, itaendelea. Kwa hivyo hatuwezi kusema kama ni cultures ama hii itoke en-mass, ati wewe uwe Mustralia ama uwe Muamerika, hapana. Wewe ni mtu mweusi, hata rangi yenyewe ni mweusi. Na hiyo lugha yako ni lugha yako. Vitu kama hivyo huwezi kujiondoa kutoka kwa wewe. Hamjui kwamba hata lugha ni cultutre. Hata utaona baadaye utaona lugha yetu ya Kiswahili imepewa mamlaka zaidi zaidi ya yale ilikuwa party ya utamaduni yetu. Yaani lugha yetu.

So kwa hii report hiyo ni point na moja ninawaambia sisomi yote ni just to highlight. Kuna pahali pengine, kuna maoni. How is the new Constitution different from the old? Ile kazi ambayo sisi tumefanya is the Review of the Old Constitution, what we call the current Constitution. Kazi yetu ilikuwa ni Review ya hii, na si Commission walifanya Review pekee yao. Waliambiwa maneno ambayo watafanya Review kutokana na nyinyi kutoka every constituency. Na kwa hivyo, ukiangalia just at a glance utaona mambo kidogo kidogo ambayo mkiangalia hii Draft, mtaona yanakuwa tofauti na hii Katiba ambayo tunayo sasa. Kwa hivyo hii ikitoka utaona there will be some differences. Tutakuwa na mambo mengi yatageuka. Na yale tunaona ni sawa sawa kwa ile katiba ya zamani, yatakuwako. Lakini yale ambayo wananchi wametuambia tupindue, tubadilishe, yamebadilishwa. Na hata ningetaka kuwaambia mfano mmoja, si mmoja, ni kama miwili; mitatu.

Parliament will consist of two Houses: the National Assembly, and the National Council. Hiyo ndiyo tofauti moja kwa hii sheria, hii Katiba hii, this is the current Constitution. Parliament ni moja, just one National Assembly, with 210 constituencies, na 12 ambayo wamechaguliwa, nominated. Lakini kwa hii Draft yetu ikitoka na ikuwe katiba, tutakuwa na 2 Houses katika Parliament, Parliament itakuwa nyumba mbili. Tutakuwa na National Assembly, ile tumeandika iwe jina lake ni National Assembly, na ingine tumependekeza iwe ni National Council. Zamani kulikuwa na, wale wanakumbuka Lancaster House Constitution, kwa sababu hii ambayo ni current tunayo ilitokana na Lancaster House Constitution, ambayo imefanyiwa a lot of amendments mpaka imekuwa vile ilivyo. Lakini ilitokanana Lancaster House, 1962-3 there. Wakati huo tulikuwa na Upper House ambayo ilikuwa inaitwa Senate, na kulikuwa na National Assembly or House of Representatives ambayo ilikuwa inaitwa pia Lower House, tulikuwa na mbili wakati huo. Lakini kutoka uhuru, wale ambayo walichukua ukubwa ama uongonzi wakasema hebu tubadilishe hii maneno ya kuwa na nyumba mbili, yanaharibu nguvu yetu. Wakaweka amendment, amendment ya kwanza ilianza kupindua kutoka Prime Minister, na President. Kutoka na Governor General ambaye alikuwa Mzungu alipoenda tulipopata Republic, we started immediately with President without Prime Minister, sasa hiyo ilikuwa first amendment. Ikaendelea zingine.

By '66 around there, ikafanywa Lower House, ibaki peke yake, Upper House ikaondoka. Na area hii tulikuwa na mjumbe wa Upper House, isipokuwa hakuwa representative wa hapa, alikuwa upande wa Isiolo, Bwana Langwe, sijui kama amekuja hapa siku ya leo. He is an example. He was a Senator, alikuwa Upper House. Lakini walifanyiwa mabadiliko, ikawa amended wakaondoka. The House of Representatives. Walipoona ya kwamba hiyo amendment imefanywa, kwa sababu ilifanywa around 66-7, wakaona hawawezi kufanya election 1968. Na hapo ndiyo mara ya kwanza tunajua the only time period ya parliament ilikuwa extended, na sababu ilikuwa they wanted to know how they can accommodate the Senators, because they had already removed the Senators by an amendment. Wakatafutia Senators Constituencies, akina Lawi, akina Muthamia, hawa ndio ninakumbuka walikuwa upande wa Meru, kwa sababu muthamia alikuwa hata Meru, kwa sababu alikuwa mmoja alikuwa wa Meru District, alikuwa Senator wetu, Julius Muthamia. Lawi alikuwa Isiolo. Na kuna wengine wa Nyeri, akina Mathenge, sijui wa upande mwengine. Sasa kwa sababu waliambiwa waende nyumbani, then there was need to extend parliament, na instead ifanywe 68, ikafanywa 69. So mtaona huo ni mfano kwamba tutarudia hiyo sasa, two Houses in our current draft, there is that recommendation ya kuwa na nyumba mbili.

Tukienda kwa point ingine, a person does not have to be a member of a party in order to stand for election. Hata hiyo utaona iko kwa Draft yetu, hata ingawa wewe huendi kwa party yoyote kama KANU, kama hii inaitwa NAK ama what, tunasikia hata ingine ilitoka jana, inaitwa sijui Liberal Democratic, kitu kama hicho. Hata ingawa hauko kwa hizi parties zote, hii draft yetu proposal yetu mpya inasema unaweza kupigania kiti cha bunge ukiwa kama independent candidate. Na ukiona mambo kama hayo yalikuwa 1964, kama kuna yeyote pengine, sisi ni wazee wengi sana hapa wanakumbuka haya. Tulikuwa na independent candidate, mnakumbuka 1963 elections. Mzee Ithaigwa ndiye alikuwa independent candidate, mnakumbuka wale wazee walikuwa huko. Ithaiga alipuigania kama independent candidate, hakuwa KANU, hakuwa KADU, ama ile party ingine APC ya Ngei. Yeye alipigania kama independent candidate, lakini alishindwa na mjumbe wa party ya KANU ambaye alikuwa anaitwa Washiara. Abraham Washiara. Alishinda hata KADU, na akaenda Parliament. Sasa yatakuwa mambo kama hayo tu. Mtakuwa sponsored na parties lakini you can also be sponsored just by the people. Kutokana na watu waku-support, kama independent, uende upiganiae tu, na ukipata nafasi yako uwe kiongozi, uwe MP. So you can see that is a difference between new and old.

Ingingine ambayo mtaona iko kwa hii, mtaona kutakuwa na kitu kama, point kama hii, "the Administration Police are to lose their separate identity." Hata ingawa imekuwa worded namna hiyo si kusema Administration police wataondoka kazini, lakini wataingia kwa Police. Na kwa katiba hii, kuna Police wanaitwa Administration Police na Police wenyewe na wana sheria mbali mbali. General Police ama regular Police ni Cap 84 laws of Kenya na Administration Police ni 85 laws of Kenya. Kwa hivyo pengine itakuwa hivi hiyo Cap 85 itakuwa repealed iondoke kabisa, na Administration Police waingie kwa police. Wote ni Police, so it will be just a matter of deployment. Kwa hiyo mtaona ni tofauti, na itakuwa kwa hii Draft yetu mkiendelea kusoma ndani.

The president can be removed from office by a process of impeachment at the instance of parliament. Parliament inaweza sasa

kufanya impeachment, yaani njia ya kumuondoa President. Kama president akifanya makosa, tuna sasa katika Draft mpya njia ya kumuondoa, lakini kwa hii ya zamani, haikuwa na njia ya kumuondoa. Hata akifanya namna gani mnapiga makelele tu hivi. Mnanung'unika tu lakini anaendelea tu mpaka wakati wake unafika. Lakini kwa hii, kuna njia ya kumuondoa, hata akikaa mwaka mmoja miwili mitatu, pengine, kabla hata ya kumaliza kuina njia ya kumuondoa. Na hiyo ndiyo itakuwa sana mkiangalia kwa hii Draft, itakuwa sana kazi ya National Council.

The other point ni ya -- Provincial Administration will be abolished. Unajua ninaguza mambo moja moja ambayo hata ni ya mageni, ambayo watu wataona hata ni magumu. Lakini mliambia Commissioners wafanye Review kwa vile nyinyi wenyewe mlisema. Kwa hivyo Provincial Administration, yaani hii system commonly known as the Provincial Administration, ambayo inaanza kutoka Assistant Chiefs, Chiefs, D.O., D.C., P.C. na kwenda hata kuwa na Permanent Secretary ambaye anawasimamia, the whole of that system, hata sasa inaitwa office of the President. Hata mimi wakati moja nilipitia hapo. Kwa sababu ya waalimu, nilipitia hapo. Ninaona wengi hapa kama Bwana Zakayo Kamencho. Nilipokuwa ninaingia huko aliniambia niingie huko, kwa sababu alikuwa huko. You see. Sasa tulikuwa huko sote na wengine wengi. Sasa system hiyo office of the President, ile ambayo imetoka assistant Chief mpaka juu is commonly known as Provincial Administration. Na hayo ni mambo watu wanaona ni magumu sana. Na hii Draft inaonyesha vile wataondoka. Katika katiba inaonyesha, na imependekezwa iondolewe. Lakini si Commissioners walisema, ni nyinyi wananchi.

Nikitaka sasa kuona mambo kidogo pengine kutoka kwa yenu wenyewe; hii file iko maoni ya Tigania West. Tulikuja hapa tukachukua maoni yenu, kurekebisha katiba, review. Na maoni yenu tuliwaambia tutaleta, sasa yako hapa, although we have only one copy na yatakuwa kwa documentation center yetu. Pengine baadaye tatakuwa na copies nyingi kuonyesha yale watu wa Tigania West walisema. Nikiangalia kwa haraka sana, kitu kimoja nione kama ni Executive, watu wa Tigania hapa Kianjai hapa walisema the Constitution should limit the powers of the president. Nyinyi mlisema hivyo hapa. Hiyo ni kitu moja mlisema. Na katika Kenya tulisikia watu wengi wengi wakisema hivyo. Kwa hivyo tukilinganisha haya mambo yamesemwa na watu wengi, sasa yako hapa. Mpango umepangwa wa kupunguza hiyo power tena si nyinyi wenyewe mlisema? Sasa huo ni mfano mtaendelea kusoma kwa hii. Hata wakasema tena kwa hiyo hiyo. The Constitution should limit the duties of the President. Yaani wapunguze ile kazi zake. Hiyo ni the same, ni kama kusema powers, ile nguvu yake iendelee kupunguzwa.

Tena walisema hata ingawa sijui kama imekuwa namna hiyo lakini walisema, the Constitution should provide for a ceremonial president who shall not belong to any political party and should be elected by popular vote. Yale ambayo yenu ninafikiria yameingia kwa Katiba kutoka Kianjai hapa, kutoka Tigania West, mumesema he should not belong to political party. Hiyo imeingia kwa njia ingine. Kwa sababu president hata ingawa atakuwa kwa any political party fulani, hatakuwa anafanya hiyo kazi akiwa president. Kama akiwa ni Chairman, ataondoka hiyo, akiwa ni Secretary akiwa any official, he will leave all those things akiwa president, na atakuwa president wa watu wa Kenya. Na hapa mlipendekeza something similar to that. Na tena mkasema lazima achaguliwe na popular vote. That one is in the Draft, kwa sababu president atachaguliwa na hawa wote.

Lakini vile mlisema ceremonial president, we did not get a lot of support from all over Kenya. Kulionekana Kenya yote awe na power ya kutosha lakini si ile yote, iwe devolved, ingine iwe shared. Kwa hivyo president Kenya kulingana hata na Draft yetu hatakuwa Ceremonial. Atakuwa Executive president lakini mamlaka yake yatakatwa, na mtaona kwa Draft vile yamekatwa, na watu wametoshika hivyo. Mlisema awe ceremonial na wengine walisema, lakini haikuwa very popular point. Pia ceremonial ni kuwa hana chochote, lakini anakaa kama mzee hivi tuu, pengine kama nikuchukua president kama wa Israel, na hata India. Sijui kama mnamjua, mnamjua? Hamjui president wa India, kwa sababu yule anafanya yote ni nani? Prime Minister.

Mchukue kama U. K. kama Great Britain kama Queen mwenyewe hiyo ni tofauti, Monarchy, hiyo ni tofauti sana. Lakini yeye ni ceremonial, lakini ana nguvu zaidi kwa zababu huo ni mfano mwingine, ni monarchy. Lakini Prime Minister tena anachukua mambo ya serikali yote.

Then ingine hapa Kianjai mlisema the Constitution should provide for a code of conduct for the president and Prime Minister. Hiyo imeingia sawasawa. Impeachment imeingia, hata njia ya kuondoa Prime Minister mtasoma hapo, njia ya kuondoa president mtasoma. Nione Kianjai hapa walisema lingine. The Constitution should provide a minimum qualification for a university degree for a president. Hapa hapa Kianjai watu walisema kwamba president awe wa kiwango cha university degree masomo yake, at least first degree. Mlisema hapa na wengine wengi walisema in Kenya, and we have put this one here in the Draft. Kwa hivyo president wa Kenya hatakuwa anything below the university degree, katika masomo yake. Hiyo tumesema lazima awe na hiyo.

The Constitution should provide that the president shall not be a neglecting MP, ndiyo hiyo mlisema hapa Kianjai hapa Tigania West, na hiyo iko hapa. Kwa hivyo president hatakuwa MP, atakuwa president wa Kenya. Na ukiangalia hapa, hata Ministers hawatakuwa MPs. This is also here. Watatoa watu kutoka outside. Tena kitu kingine ni kwamba the Constituton to provide that the president shall be between forty years and 70 years, wengine walisema 30 years to 75, 35 to 70, ama 35 to 75, tukaenda namna hiyo mpaka tukaweka kwa hii Draft yetu, tukaweka hata vile mlisema, kiwango cha mwisho ni 70 years. Lakini tulikubaliana iwe 35 to 70, hapo tumeweka kwa hiyo. Pengine hapo watauliza kama kuna interest fulani, kama inaweza kwenda juu zaidi, lakini hiyo itakuwa mazungumzo pengine ya National Conference. Ama ukitaka kupeleka comment yako, ukisema ni heri president awe 85, ama 90, ukisoma hii, hayo utapendekeza, na pengine ukienda National Confence, wale wajumbe, wanaweza kukubaliana ama kukataa.

Hapo sasa nimelinganisha hii mambo ambayo mlisema lakini sikusema yote yako mengi, na tutaenda, tutalinganisha na report yetu kidogo, just a highlight.

Hebu sasa tumalize hapo tuende kwa Draft yenyewe. Na kabla kuingia ndani ya hii Draft, nilisema tukimaliza kuzungumza debate ya 30 days, tutaenda kwa National Conference, na hii National Conference ninataka kuwakumbusha inachaguliwa namna hii. Kukoo na watatu kwa kila District, watu watatu kutoka kwa kila District, na mmoja awe mama. Sasa hii Nyambene

District ama North Meru imechagua watatu hawa, they are three. Mmoja ametoka upande ya Mkinduri anaitwa Mr. Mukeba, huyo ni delegate, na ni nyinyi mlichagua, mkisaidiwa na councillors, kulikuwa na hiyo system. Sisi tulikuwa tunangoja report Nairobi, na tulipata report na majina ya hawa wote wale mlichagua. Na mkachagua mama kutoka upande wa Igemba Constituency, Beatrice Bairu, huyu ni Beatrice Bairu ni mmoja wa delegates, kwa wale watatu, kwa sababu lazima mmoja awe mama. Kuna mwingine, na ninasikia ni Councillor kutoka upande wa Ntonyiri. Sasa hawa ni watatu ambao wametoka katika Meru North District. Na kila district kuna watatu, everywhere. Tuna districts 70, ukipata watatu watatu, those are 210 delegates halafu wengine members ni MPs, ambao ni 210, unaona nambo imeenda juu 420 mpaka hapo. Kutakuwa na wengine kutoka NGOs, political parties watakuwa 41. Zile registered parties wakati huo, kwa hivyo kutakuwa na 41, kutoka 41 political parties. Na hao si Members of Parliament, kwa sababu hawawezi kuwa parliament, kwa sababu parliament wako huko. Kama ni DP, si MP, ni mwananchi, lakini si MP. Kuna wengine wanatoka kwa NGOs, kuna wengine wanatoka kwa kikundi cha akina mama, religious organizations, na Commissioners wenyewe watakuwa huko. Commissioners ni 27, na two ex-officio Commissioners, Attorney General and Secretary, we are all 29, tutakuwa huko.

Lakini sisi hatutavote, because we cannot vote for our own Draft. Tutaenda tu kusikiliza vile delegates watasema. Kazi yetu itakuwa tu logistics kuorganize mambo, pengine kupanga viti na makaratasi. Lakini wale wakubwa ambayo watafanya kazi ya kupiga hata kura ni hawa delegates. Delegates wote watakuwa karibu 600--- I do not know the exact figure, kwa kuwa kuna corrections zilifanywa hapa na hapa. Lakini ni over 620 and above. Hawa watakutana Nairobi on 28th, baada ya kumaliza siku 30 za debate ya hii draft, halafu apelekewe comments, recommendations, new ideas, ya kugeuza hii na halafu wazungumzie kwa sababu watakaa hapo, kwa mkutano for 30 days yale watatoa ndiyo sasa watakubaliana kufanya final Draft Bill kupeleka kwa parliament, na iende parliament, hiyo ndiyo itakuwa stage ingine. Parliament ikimaliza ikifanya enactment iwe law, president na iwe law, siku hiyo hiyo Commissioners sasa wataondoka. Yaani hiyo Constitution ikiwa law kama hii ya kisasa, siku hiyo ndiyo Commissioners wataondoka. Halafu Constitution mpya ipatiwe sasa serikali ya Kenya na iendelee na kutekeleza sasa. Hiyo ndiyo process kidogo ambayo imebaki. Ukiangalia hapo utaona sisi Commissioners tumemaliza kazi yetu, kwa kuweka mapendekezo yenu yote kulinganan na sheria. Tuliambiwa we shall collect and collate, tumefanya hivyo, tumekuja kwa nyinyi, kuwaambia iko hapa. Maswali mengine watu wanauliza wanasema, election itakuwa na new Constitution ama old Constitution? Hilo si swali ambalo unaweza kumuuliza Commissioner, hiyo hatujui. Kazi yetu nini? Ni hii tumefanya. Hata serikali ikisema elections ziwe kesho, huo ni mpango sasa wa watu wengine. Hatujui hiyo sasa. Kwa sababu sasa yetu imekwisha. Na tumefanya vizuri sijui kama kuna watu watasema ni vizuri, sijui kama kuna watu wanasema si vizuri, lakini watu wengi wanasema mumefanya vizuri ikaisha mapema. Kwa hivyo hata kama elections zitakuwa kesho ama whatever hiyo si kazi yetu. Kwa sababu kama ni ballot boxes ambazo tumesema kwa hii Draft ziwe transparent, hatujui pale zitatoka. Hatujui tena ni nani atafanya Ulaya ama wapi. Kufanya hiyo all transparent boxes kwa all polling stations, hiyo si kazi yetu, itafanywa na wengine. Kama ni mambo ya ballot papers, mambo ya ballot boxes hizo ambazo ni transparent, hiyo yote ni mipango ya watu wengine si ya Commission. Kwa hivyo maswali kama hayo pengine Commission haingeweza kujibu.

Kile tu ningetaka kuwaambia kila pahali tumeenda watu wanataka tufanye elections na new Constitution, hiyo nimesikia. Na

hata sisi Commission tumekubaliana na hiyo. Ikiwezekana ifanywe na new Constitution, lakini hatuna mandate, hatuna nguvu ya kufanya hivyo. Lakini tunakubaliana na hiyo hata sisi.

Na tukiingia hata kwa Draft yenyewe, nikimaliza hii kwa sababu kuna programme kidogo, tutakuwa na wakati wenu maybe almost an hour ya reactions, ya questions na kila kitu when I finish my presentation. Yeah kwa report, kwanza I was talking about the report, short report, na hii ambayo mlisema na the general points which maybe are appearing here, kwa hivyo ninaona inalingana Bwana Councillor. Hii is just an introduction, just to show what is appearing here, and we are going there now, just to highlight. Then after that you can ask questions, kwa sababu unaweza kuuliza swali ambalo liko hapa.

The next point I will do now is to go to this Draft. Ukifungua page 2, na yale nitafanya kwa hii ni kuonyesha layout ya hii Draft report, na mambo mengine ni wewe utasoma, kwa sababu hatujakuja hapa kusoma. Hatuna wakati wa kusoma yote, mtasoma for all these days from now. Na wengine wamekuwa hata na kuendelea pengine kusoma. On page 2, kuna hapa table of contents, vile hii draft yetu imepangwa kuna Chapter 1, Sovereignty of the people and the Supremacy of the Constitution, hiyo ndiyo ya kwanza. Utaendela, kuna Chapter 2, na tena ninataka kukujulisha kwamba hii section katika Katiba hii, ilikuwa inaitwa section, but in the new Constitution we would like to call them Articles. Kwa hivyo kuna Chapter one, kuna article 1, inasoma namna gani, Sovereignty of the People, halafu unaenda number 2, Supremacy of the Constitution, enforcement of the Constitution, defence of the Constitution, the laws of Kenya. Sasa ukienda kwa six under chapter 2, nayo ina maneno mengine.

Sasa hii ni arrangement ninataka kuwaonyesha kwanza. From Chapter 1 kwa hii Draft yetu inaenda through to Chapter 20, on page three. Na hapo ndipo mnaona tunafika all articles we have in this Draft, we have 299.

Hii ya mwisho hapa ni ya muhimu sana, kwa sababu inaonyesha yale mabadiliko yatafanyika yatafanywa namna gani, ni taratibu gani ambazo zitafuatwa. This is why we have chapter 20 on page three. Transitional and constitutional provisions, yaani ule utaratibu tutatumwiwa kwa mabadiliko. Zile points nilisema za Provincial Administration nimesema kwa hii Draft zitaondoka. Provincial Administration huwezi kuondoka siku moja uende umwambie Chief toa uniform nenda. Tutakuwa na taratibu, na hii ndiyo Chapter 20 inaonyesha sasa transition provisions ambazo zitakuwa hata kama ni Provincial Administration wataondoka namna gani. Kama ni wale wamekuwa na age ya kutosha, wawe retired. Pengine wengine wawe wana discipline matters waondoke. Pengine wapelekwe pahali pengine kazi, wengine waende nyumbani. Namna hiyo tu kuna njia itaelezwa hapa. Kama ni D.Os, D.Cs, those are very qualified people, lazima watakuwa ni viongozi wanaweza kupelekwa pahali, ama wengine waondoke. Kwa hivyo hii unaelezwa kwa Chapter 20. Na wakati utasoma kwa sababu utasoma wewe mwenyewe utaona vile imelezwa. Na ukisoma chapter kama hii ukiona kuna mambo ambayo yamebaki you make your comments. Unaweza kusema kitu fulani fulani hakikuwako. This is why we are giving you this one to do it, huo ni mfano mmoja.

Na kitu kingine angalia page two, we have got preamble, kuna hapo katika page two kuna box moja hapo imeandikwa na jina Preamble, mumeona hapo? Hii Preamble, ni utangulizi, kind of introduction. Katika hii katiba ya sasa haina hiyo. Ukianza kusoma katiba hii wale wamesoma hii katiba, the current Constitution you can see the way it starts. Section one, Kenya is a

sovereign republic, mambo yameishia hapo. One way the Republic of Kenya shall be a multiparty democratic state. Unajua hii ni amendment ilifanywa baada ya kuwa multi-party, kutoka 92/98. It is a very recent revision, hata hii amendment. Inaenda inasema, the public seal of Kenya shall be such devised as may be prescribed or under Act of Parliament. So hakuna introduction, inaendelea straight away kwa provisions of the Constitution, kwa section. Sasa hiyo ndiyo tofauti na hii kwa preamble. And tulisikia kwa kila pahali, hata nyinyi wenyewe I think, the Tigania West hapa walisema na mambo yako hapa. Sasa tulichukua haya maneno kutoka kwa kila pahali, and then we agreed we have a sort of preamble. Na ukiangalia katika hii preamble, mambo yenu pengine yamewekwa hapo, maoni yenu, yamekuwa captured hapa kutoka Tigania West na kila pahali.

Hii wakati tunaenda round ndiyo wakati mwingine tungetaka hata mtu mmoja atusomee, because you should also participate kabla kukuja kwa maswali. We the people of Kenya—Preamble, nani anaweza kuji-offer atusomee hapa? Yes, hebu Mukula unaweza kusoma, utusomee kidogo na mwingine ataendelea.

Mukula: We the people of Kenya aware of our ethnic cultural and religious diversities, and determined to live in peace and unity as one indivisible sovereign nation, committed to nurturing and protecting the well being of the individual, the family and the community within our nation.

Com. Ratanya: Hebu mwingine asome.

Joseph Mutuma: Recognizing the aspirations of our women and men for a government based on the essential values of freedom, democracy, social justice and the rule of law, exercising our sovereign and inalienable right to determine the form of governance of our country, and having fully participated in the Constitution making process, do adopt, enact and give to ourselves---

Com. Ratanya: Just stop there, and let somebody else read.

Mzee David Muirebwa: --- do adopt and enact and give to ourselves, and to our future generations the Constitution. God Bless Kenya.

Com. Ratanya: Mnaona hata Mzee baba anasoma kwa sababu alienda shule, aliingia kwa class- room. Sasa do you like that Preamble? Mnona ni sawasawa hiyo? Kama mtaona kuna kitu tunataka kuongeza kwa Preamble after reading this document unaweza kuweka maoni yako na ibadillishwe ama iongezwe. Yes okay, hata Programme Officer amenionyesha. Preamble, the Preamble should be simple and clear in language. Hii ilisemwa hapa Tigania West, sijui nani alisema hapa. Tulikuwa na many contributors, unajua report yenu, hapa Kianjai, Tigania West, ni report kubwa sana. One of the biggest, yaani ni namna hii. Niliona ya Tigania East ni kidogo, lakini ya hapa I think we had many contributors, na mlicover karibu nkila kitu. Mlisema the Preamble should be simple and clear in language. Ni mambo rahisi tu hakuna yale magumu ya kisheria. Na

ukiona ya Kiswahili, kwa sababu mtaiona kwa Kiswahili, that one itakuwa very clear. Na tena watu wa Kianjai hapa katika Tigania West walisema, The Preamble should state that Kenya is a God fearing country, and this is why we say God bless Kenya. That means, God bless everything, the preamble and Kenya, everybody. So we are God-fearing.

Then the Preamble should express the sovereignty of all Kenyans. This is inside here in the contents. Mambo yenu yote yako hapa na yamekuwa captured along with other constituencies. Sasa hicho ndicho kitu cha maana sana mtaona kwa hii.

Ningetaka kwenda kwa highlight ingine, ingine nitakuwa ninasoma kuchukua mfano, na ingine somebody else can read, na if you want to ask I can answer some of the questions and maybe explain. I would like to go to the point on language, that is section nine, okey now that is page 4 chapter two, under languages is article 9, hiyo ni mambo ya lugha. The official languages of Kenya are Kiswahili and English and all official documents shall be available in both languages. Na hayo tulisikia hata kutoka hapa, kila pahali. Watu wa Kenya wanasema lazima Kiswahili kiwe official language, na sasa tumeweka kwa Constitution Draft. Kiswahili and English shall be official languages of Kenya, and all documents shall be in Kiswahili and English. Mimi nimewaambia hii Draft yenyewe tunatengeneza na tuna-translate version ya Kiswahili, na Katiba kama wakati itakuwa ready iwe document kama hii, kitabu cha sheira, itakuwa na Kiswahili, na itakuwa na Kiingereza. Kwa hivyo wananchi wa Kenya waweze kusoma. Tukienda hata court, tutakuwa na form imeandikwa kwa Kiswahili na English. Ukitaka kufanya Kiswahili, all official documents kwa sababu lugha ikiwa official, tuseme kwamba itatumika kwa mambo rasmi ya serikali, mambo ya utawala na kila kitu. Tena ukiendelea hapo utaona imesema “The national language of Kenya is Kiswahili, na hapo lazima mjue kuna tofauti ya National language na official language. Official language ninawaambia ni kama documents zote, mambo yote ya utawala ndiyo yatakuwa na Kiswahili na English. Lakini mbeleni ilikuwa namna hiyo? This Constitution has never been translated in Kiswahili, na haingekubaliwa namna hiyo. Lakini hii itatokea sasa itakuwa kwa Kiswahili na itakuwa kwa Kiingereza, na vitabu vya sheria ambavyo ni vigumu vitakuwa kwa Kiswahili na vitakuwa hata kwa English. Yaani lugha zetu official ni mbili. Lakini tunaendelea hapa kusema Kiswahili kitakuwa national language, but it has been always like that. Kwa hivyo itaendelea kuwa national language.

National language ni kama kusema ni lugha ya taifa, kila mtu anaiongea. Hata ukiwa hujaenda shule unaongea tu Kiswahili. Ni lugha ya communication katika Kenya, ya watu wa kenya, Kiswahili. Na tumeona imekuwa promoted na inasemekana sasa itaingia hata kwa mambo ya utawala, ya kila kitu.

Mzee: (Inaudible)

Com. Ratanya: Sawasawa. Okay you will make your comments later, mzee anasema this draft does not discriminate our language. Kwa sababu imepatia Kiswahili huo uwezo wa kuwa official, na hiyo ni mzuri. Twende number three.

The state shall respect and protect the diversity and languages of the people of Kenya and shall promote development and use

of Kiswahili, indigenous languages, sign language and braille. Hii yote kutoka English, na Kiswahili ambacho ni official, tutaendelea ku-develop ama kukuza sana kufanya ziendelee vizuri, zifundishwe na kuwekwa hata lugha zetu, za Kimeru Kikuyu, Kiluhya, Kiluo. Hapo zamani kidogo tulikuwa tunajifunza hata Kimeru kwa ile inaitwa vernaculars, lakini ikamalizika kidogo kidogo hivi. Lakini sasa government yenyewe itakuwa sasa committed to develop the indigenous languages. Kama Kimeru itafunzwa hata zaidi, na lugha zingine zote. Lugha ya mikono hii mtu akiwa hajui kuongea sign language, hata hiyo itakuwa promoted na itatengenezwa. Braille, yale maandishi ya watu ambayo hawaoni. I think we have some copies here, Bwana Anampiu. If there is anybody who would like to have a copy of the brail we can give. Kuna mtu ambaye haoni, anataka Braille, kuna copy. Kwa hivyo hata hiyo baadaye serikali kulingana na Katiba vile inasema itaangalia lugha zote ziangaliwe na zifundishwe, na watu wajue. Ikiwa hauna mila wewe ni kama mtumwa, inasemekana namna hiyo. Na lugha ni kitu kimoja kuonyesha wewe ni nani--identity. Kwa hivyo hata lugha zetu zitakuzwa.

Lakini lugha zetu hazitakuwa official hata ingawa the Constitution itakuwa translated hata in Kimeru, mtasoma hata in Kimeru. Lakini haitakuwa official version. Official version ni nini? Ni Kiswahili na English. Lakini itakuwa translated in Kimeru, Kikuyu, I think we have started working on that. Inaendelea hapo headquarters. Wakati itamalizika, na tutakuwa na Katiba, tunaweza hata kusoma kwa lugha zingine. Na hii Katiba new haitakuwa inafichwa fichwa. Hii kuipata, sijui ni wangapi wako na copy kama hii? Mnajua pahali iko? Unless you go to government press, it is rather restricted. Ama uende kwa ofisi ya serikali. Lakini hii mpya itafanyiwa njia ya kila mtu ukitaka kununua ununue. Si mambo ya kufichwa ama kukataliwa kuwa nayo. Ukitaka kuisoma hata kwa Kimeru, kutakuwa na copies kama hizo. Ukitaka official copies za Kiswahili, utapata kununua, na hata za Kiingereza.

Tuende kwa highlight ya point ingine, kwa page 3 section 213.

TAPE 2:

Devolution of powers. We are looking for 213, two hundred and thirteen, article 213, devolution of power. Page 26, correct. Kuna hapo chapter 10, kuna devolution of powers. Hii ndiyo hata watu wa Tigania West walisema mkono moja usiwe na kila kitu. Yaani kila sheria ama power yote isiwe kwa mtu mmoja. Hii Katiba mpya imetengeneza power inaenda kwa watu wengi, inakuwa decentralized, inaenda, inasambazwa kutoka Central Government mpaka inaenda kwa watu. Na ningetaka volunteer atusomee especially if we start from the Organization of the Devolution Principles of devolved government, section 214. Nani anaweza kuwa volunteer asome hapa? Ninaona Mugambi pale, pengine kuna mwingine atasoma na yule. Okay, hebu anza Mugambi. Soma hapo 214.

Mr. Mugambi: Subject to the Constitution,

- a) The structure of devolved authorities is based on democratic principles and the separation of powers.
- b) The legislative of policy-making or supervisory councils and executive authorities are elected.
- c) Executive authorities are accountable to elected councils.
- d) Members of councils and the executives can be recalled by registered voters and at least one third of members of councils are women.

Com. Ratanya: To the elected Councils, yaani wale ambayo watachaguliwa watakuwa wana wajibu kwa Councils wenyewe. Na tena point ile ambayo ni ya maana sana ni hawa watu ambayo wamechaguliwa wanaweza kuwa recalled. Yaani wanaweza hata kuambiwa na wananchi ondoka, tuweke mwingine. Hata ma-councillors wasipofanya kazi vizuri, kutakuwa na system ya kumwambia wewe huwezi kuendelea miaka tano, tutakuondoa na y hapa, the members of the Councils and the Executive can be recalled by registered voters. Wanaweza kuambiwa waondoke kwa wachague wengine. Kuna hapo kwa levels zenyewe vile tumependekeza kwa Commission, na kutokana na maoni hata ya wananchi kila pahali. Levels of government; I will ask someone atusomee 215. Kuna yule ali-volunteer hapa. Wengine muwe tu mnafuata.

Mukala: Levels of government: Powers are devolved to the following levels:

- a) Village
- b) Location, district and province.

Village Government: The village decides whether the Village Council is constituted by village elders or through elections. The Village Council shall contain no less than six members and no more than 10 members. The village decides on the system of Village Government including the role of Village Councils.

Locational government: The Location Council consists of two representatives one of whom shall be a woman elected by each Village Council from among its members. The location Administrator is the executive authority of the location. The Location Administrator shall be elected by the registered voters of the location.

Com. Ratanya: Thanks, mwingine atusomee.

Hellen Kamenchu: Article 218:

1. The Legislative authority of the district is vested in the District Council.
2. The District Council consists of members directly elected by the registered voters of the district. The district Council shall consist of not less than 20 or more than thirty members.
3. The District Administrator is as executive authority of the district.

4. The District Administrator is elected directly by the registered voters of the district.
5. The district administrator with the approval of the District Council appoints Chief officers from persons who are not members of the District Council.
6. The District Administrator can be dismissed by the vote of an absolute majority of members of the District Council that is supported in a referendum by a majority of those voting in the referendum.

Reader (unannounced): Provincial government, article 219:

1. The Legislative authority of the province is vested in the Provincial Council.
2. The Provincial Council consists 2 representatives, one of whom shall be a woman, chosen by each District Council from among its members
3. The Provincial Executive Committee consists of District Administrators. The provincial administrator is the executive authority of the Province. The Provincial administrator is appointed by the Provincial Council on the nomination of the Provincial Executive Committee from among its members.

Com. Ratanya: On levels of government mnaona these are very very new structures, ni mambo mageni kabisa. Lakini concept ya haya maneno hapa ya muhimu ni kwamba ni kuonyesha ile power mlisema iondoke kwa mtu mmoja, ama kwa kikao kimoja inaenda kwa watu wengine. Kwa hivyo the only aim here is sharing of power. Hiyo unaona serikali badala ya kukaa Nairobi inaenda mpaka inaenda kuhushisha participation ya wengine. That is the main concept. Na unaona hizi levels, village, location, district, and province; tutakuwa na maelezo hata ukiendelea kwa hii Draft, utaona kazi ya village itakuwa gani, hiyo utasoma hapa ndani, location, District and Province. Na ile ambayo ni ya juu ni ya national level. National level vile ilivyo kuna president kwa national level, kuna Vice President, we start from national level kuna hiyo. Kuna Prime Minister, kuna Deputies wawili, kuna mfano hapa. Yaani hii tumesoma sasa inapangwa namna hii kutoka juu. Mtu ambaye ana mamlaka kabisa na yule anasema ndiye mwenye nchi ni the people. Kwa diagram tukiweka tunaanza na the People, yaani mwananchi. Kwa sababu hii nchi ni ya mtu, ni ya watu. This is why we say even this Katiba ni people-driven. Sasa yule mtu yuko juu sasa kwa diagram, tulisema iwe ni mwananchi.

Number two yake ni President. Kwa sababu mwananchi anasema ningetaka kuchagua President atawale kwa niaba yangu. Sasa wananchi wa Kenya wakiwa juu, wanachagua President. Next ni Vice President, ambaye kwa mpangilio utaona atakuwa running mate wa President, na hata yeye ni kama kuchaguliwa atakuwa Vice President. Kutoka Vice President, chini kuna Prime Minister. Hii Draft yetu imependekeza kiti cha Prime Minister, na ni kutokana na maoni yenu. Hata hapa nikisoma mambo ya Tigania West, mtaona mlisema namna hiyo. Tutakuwa na Prime Minister na tutakuwa na two deputies. Watakuwa na kazi yao, itaelezwa kazi gani wanafanya. Then chini ya hapo kutakuwa na Ministers. Na kwa Draft hii yetu, Commission imependekeza kuwe na 15 Ministers only. Kwa hivyo kuwe na Ministries 15. Kumekuwa na malalamiko ya wananchi wanasema ministries ni nyingi sana, kama sasa kuna karibu 30. Zingine kuna ministers wawili, nini. Sasa wananchi maoni yao kila pahali katika Kenya, we reduce the ministries. Kwa hivyo kutokana na maoni ya Kenyans, tumependekeza kuwe na 15 ministers, that is 15 ministries, na hao ministers watakuwa na deputy wao wawili, not wawili, sorry, one. Kwa hivyo, minister,

na Deputy Minister.

Kitu kingine ningetaka kusema hapo kwa ministers, kwanza kwa Prime Minister, Prime Minister atakuwa elected Member of Parliament, lakini ile itakuwa na majority ndiyo itatowa Prime Minister, but first he or she should be a Member of Parliament. Huyu ndiye atachaguliwa na awe Prime Minister. Na awe approved by Parliament, halafu apewe President a-appoint, just for formality. Kwanza akiwe vetted by Parliament halafu President aseme huyu ndiye Prime Minister. Lakini kwanza atakuwa amechaguliwa kama MP. Deputy ministers the same, lakini Ministers hawata-kuwa MPs, Ministers watakuwa kutoka nje, kwa sababu watu wa Kenya walisema, tunataka Mp aende Parliament to represent us, si kwenda kufanya mambo mengine, si kusema anakwenda kutafuta bendera huko. Hebu bendera iwe na president pale na wengine lakini MP awe MP, na hayo ndiyo watu wa Kenya wamesema.

Kwa hivyo Member of Parliament, yule ambaye atachaguliwa atakuwa MP, representative, wa kama ni Tigania West hakuna mambo mengine. Na atakuwa na ofisi Nairobi, na ni lazima kulingana na mapendekezo hapa awe na ofisi kwa Constituencies. Na iwe ni ofisi inaendelea. Si ofisi ambayo ina vumbi. Ni ofisi ambayo ina karani na kila kitu. Na yeye mwenyewe awe available. Akikaa siku nyingi akiwa hayuko, constitution yako inakubali afanywe nini aondolewe hata kabla miaka mitano. Kwa hivyo Ministers hawatatoka kwa MPs according to our Draft, according to our recommendations, na ni maoni ya wananchi. Atatoka nje, na hiyo njia ya kuwatafuta ni parliament itafanya sheria ama njia ya kuchagua Ministers. Tunapendekeza na tunafikiria kwamba njia moja ile ya wazi ni kutangaza post. If it is ministry of education inatangaza na parliament inatangaza inasema awe na degree in education, pengine PhD, kwa sababu ndiye atakuwa mkubwa kabisa, kwa education yote hata university, pengine awe ana experience, pengine awe na umri fulani. All those regulations zitafanywa na Parliament. Wakifanya namna hiyo, ministry of education, pengine Ministry of Health. Minister of Health hatakuwa mtu ovyo ovyo, ni daktari. Pengine wanaweza kusema mtu awe hata surgeon, as one ya agriculture. Kwa hivyo Parliament ikifanya hivyo itatangaza and people will apply. Waki-apply Parliament itakuwa na taratibu yao ya kuchagua,. Na akichaguliwa sasa itakuwa kama ni Ministry of Education and majina yatapelekwa kwa President, ministries zote, na President, na atasema nimechagua Ministers hawa, professionals na wale ambayo wamekaguliwa na bunge na wanatosha.

The same itakuwa kwa Deputy Minister. Hata hawa watakuwa wakitoka nje na watachaguliwa kulingana na their professions na qualifications na experience. Hiyo ndiyo tofauti ya hii Katiba ambayo itakuwa mpya na hii ya zamani. Kwa sababu ya zamani unaona MP anakuwa Minister, anakuwa mwenyekiti nini, anakuwa nini, mambo mengi na anakaa wakati mrefu nyinyi hamumuoni. Hii si kusema ni makosa yake sana, it is because he has been given a lot of work. Anaenda hapa na hapa. Akisikia President anaenda njia hii, badala ya kuenda Tigania West kuangalia watu wake wamelala namna agani, kwa sababu tunasikia kuna pahali kuna ndovu, aangelie ile ndovu kama haikumaliza chakula itaondolewa huko area yangu namna gani anafuata President. Sasa hiyo maneno haitakuwako pengine, according to the present Constitution.

From there, katika devolution of power utaenda sasa kwa Parliament, Parliament tutakuwa na two Houses, tulisema hiyo. National Assembly, na itakuwa na 210 members, mpaka sasa, until we revise or until there is a system to revise the Constitution, lakini sasa tuna 210, hizo ndizo ziko. So 210 members from constituencies, na tumependekeza 90, na hiyo ilikuwa after a long debate, na hata maoni ya wananchi kutoka pahali pengi sana wanasema interested groups ziwe na waakilishi kama akina mama, disabled, professionals, kama accountants, hiyo yote. Kwa hivyo tukapekendezwa kuwe na 90 posts ambazo zita-cater for au kuangalia haya mambo ya interest ingine, special interests. Na hiyo nyumba sasa itakuwa na 300 members na hawa 90 watafanyiwa regulations na Parliament system ya kuchaguliwa. Parliament itafanya regulations vile hawa watachaguliwa. So 90 of them, na hawa 90 hawatachaguliwa na mtu mmoja ati tusema ni nominated, no, there will be system ambayo itakuwa very very transparent, very clear, na itafanywa na Parliament. Si President atachagua ama Prime Minister. Na National Council watakuwa na members 100. Na hii ingine ya National Council, pengine mtaniuliza baadaye, lakini kabla ya kuniuliza, tulikubaliana tuite National Council. In our debate tulikuwa tunasema tuiite Upper House ama tuite Senate kama Amerika, lakini tukakubaliana tukasema Chama Cha National, yaani cha juu, "National Council." Na hii itakuwa ni nyumba ambayo itakuwa hata ndiyo itafanya mambo ya impeachment ya President, tutakuwa hata na Lower House, na hii ndiyo itahusika sana na impeachment ya kuondoa President. Na tena itakuwa kama checking ya ile ingine. Kuna function ya hiyo Council, mtaona. Lakini what used to be called Lower House or Senate, but we preferred the title National Council. Pengine hiyo ita-change.

Tukienda kwa National Conference ambayo itakuwa 28th, nyinyi pengine mtatoa mapendekezo yenu, msemee iitwe Senate ama iitwe kitu kingine. So that name is not really final but it is our proposal just like any other proposals here. Itakuwa na 100 members, one from every district. Currently we have 69 districts, kwa hivyo, kama kutakuwa na kila mmoja kwa district ni how many, 69. Nairobi itachukuliwa kama district, uweke huyo wa Nairobi mmoja itakuwa 70. Na zile 30 seats, hizo zime baki ni za akina mama. Na hawa watachaguliwa kwa province. Every seven provinces four, those are 28. Nairobi itoe wawili, so they are 30. Kwa hivyo hiyo nyumba itakuwa na 100 members.

Now when we go down to the devolved government downward now, ile ya muhimu hapa, na mtaendelea kusoma Draft muone, the most important level of government is district. Kulingana na maoni ya wananchi, wengi walikuwa wanasema tuwe na ile ilikuwa inaitwa zamani, majimbo, tuende tuanze kwa district, kwa province halafu iwe region. Wengi walisema, sasa tumeendelea sana si kama 1963, na district imekuwa na maendeleo mengi, na hapo ndipo wananchi wako. So we decided to devolve the government, instead of going at the provincial level, we preferred to go to the district level kulingana na maoni ya wananchi. Kwa hivyo serikali yenyewe, na ambayo itakuwa hata inafanya hata sheria zake, legislative powers ambazo itakuwa nazo, na administrative executive powers, ni district level, ndiyo itakuwa na nguvu kutoka national level to the district level. Kutoka kwa district level, yes, my Programme officer reminds me to refer you to page 46, hapo mtaona list of powers of the district, na utaona hata kwa district level ni mambo makubwa sana. Hiyo yapo ndiyo serikali iko kubwa kwa district.

Na kwa district tumesoma hapo kutoka 214, 215, 217, na kuendelea, tunaona kwamba kutakuwa na District Council, na

District ndiyo itakuwa the main level ile kubwa sana kutoka Nairobi. Then Location Council, and then Village. Now provinces, hata ukisoma Council ya provinces, haitakuwa na nguvu katika province kama district, and you will read there and see. Province kazi yake itakuwa coordination ya district zile ziko huko. Just coordination na tena isimamie zile institutions ambazo ziko kwa province. Kwa hivyo nguvu yenyewe yote iko kwa district. Hata ukiangalia kwa province, members of province kunasemekana kuwe na there will be two representatives one of whom shall be a woman chosen by each District Council from among its members. So we shall not have elected members at the provincial level. Kwa hivyo unafikiria hiyo ina nguvu? Watakuwa appointed members, just to coordinate at the provincial level, watatoka wawili kutoka kwa kila district waende huko. Ili wawe wanasema, kama Moyale iko namna gani, kwa hii province. Meru, nini, yaani wakubaliane na wawe wenyewe wanaangalia hivyo, lakini nguvu yenyewe inatoka kwa district. Hakuna elected members huko. Na ile Executive Committee ya province itakuwa consisted of District Administrators. Administrator of kila district anenda kwa province wao wenyewe. Kwa hivyo unaona nguvu yenyewe iko kwa district, na hiyo nguvu inaenda kwa location, na inaenda kwa village.

One thing I would like to clarify hapa, kwa village. Msifikiri village ni kama, ile nyumba yangu na family yangu, Mutuma, na mwingine, kama wa village kama tano hivi watu ishirini. No that is not the idea. The main concept ni kuonyesha kwamba serikali inaenda wapi? Kwa watu; kwa grassroots. Kwa hivyo Parliament itafanya sheria ya kudefine village. Wanaweza kusema village ni kama watu elfu tano. Huo ni mfano. Wakisema namna hiyo, hiyo level itakuwa pengine kama location ya zamani, itaitwa village. Kwa location, Parliament inaweza kufanya sheria iseme location ni kama ile ilikuwa inaitwa zamani pengine division. Kama Tigania West Division iwe ni location. Kama vile zamani ilikuwa Kianjai Location, ni namna hiyo. Halafu tunaenda kwa District. So all those structures, level hizo zote zitakuwa na nguvu, na zitawakilisha watu. Kwa sababu administration itakuwa huko kutoka village level, kutakuwa location, tutakuwa na askari hapo, security, na hata sheira, especially district level itafanya sheira, location yenyewe pengine itafanya bylaws ama delegated institutions zake, na hata village, tutakuwa na courts. Mtaona pahali pengine tumependekeza tuwe na courts tribunals mpaka huko chini. Ma-case mengine yawe yanafanywa na wezee huko nyumbani wanakubaliana, huko chini. Kama ni mambo ya kienyeji, wanamaliza huko badala ya kuenda kwa district level yanamaliziwa huko chini. Na hiyo ndiyo structure moja inaenda kwa structure ya Judiciary, the legal system. Imetoka kwa Supreme Court, mtaangalia hapa, halafu Court of Appeal, High Court, Lower Court and Tribunals. Kwa hivyo kutakuwa na Lower Courts zingine pengine kwa Location level, na Tribunals zinaweza hata kuwa kwa Village level kule kwa wananchi, kama kuna maneno yanaweza kmalizika huko yanamalizika hapa. Zamani kulikuwa na Tribunals. Kulikuwa na African Courts. Wazee wale wan zamani kidogo kama mimi na wengine wanajua. Si ndio Bwana Ibrahim? Kulikuwa na Tribunal. Sasa hiyo itarudi. Mambo ya hapa chini, kama ni boundaries ya mipaka hapa, na ma-case kama ya mashamba, mambo mengine kama ya dowry hivi, tribunals zitakuwa zinamaliza. Badala kuchukua pesa nyingi unaenda High Court, ati unashtaki mtu kwa sababu hakukupatia dowry. Mtu amewachwa (*in Kimeru*) Hapa katika the lower level.

Unajua hiyo ni example tunachukua, we are not reading the whole thing, I am just highlighting and then I will give you time now to also highlight or if you want to revise on a certain section we can read together. Lakini kwa hii launching ni kuona kwamba sasa mtaendelea kusoma kwa njia hiyo, mtafanya comments before 28th, before National Council meeting in Nairobi muweze

kupeleka mapendekezo yenu. Kuna ingine umeona tutapeana mfano. Kuna mambo mengi.

Solomon Anampiu: What about Human Rights?

Com. Ratanya: Human Rights? We can discuss on that one. We have a section on Human Rights. Kwa hivyo tuangalie just a simple example there. On page eleven, page six will be alright. That is Chapter 5, the Bill of Rights: Fundamental Rights and Freedoms. Yaani haki ya Bin Adam, unaona ya kwamba hata state haiwezi kukupatia ile haki yako ya binadamu. Haki za kibinadamu inatoka kwa Mungu na unayo, na kwa hiyo lazima ilindwe. Ndiyo unaona inazungumziwa sana kutoka Bill of Rights, kuna mambo mengi. Tungetaka tusome sample moja tu, mbili, halafu mtaendelea kujisomea nyinyi wenyewe. Hebu mmoja atusomee hapa, section 29, nani anataka ku-volunteer kusoma? We are on page six. Unajua tunataka kushirikiana sote. Mimi nilikuwa mwaalimu zamani na sikuwa nataka kuongea sana bila wanafunzi kusema kitu. Kwa hivyo nani ana volunteer kusoma? Okay hebu utusomee Fundamental Rights and Freedoms: Article 29.

Mzee Mueregua: Fundamental Rights and Freedom: 29

1. The Bill of Rights is the foundation stone of Kenya's Democratic state, and is the framework for the adoption of social economic and cultural policies.
2. The purpose of the recognition and protection of human rights is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings.
3. The Rights and Freedoms set out in this Bill of Rights:
 - (a) Belong to each individual and are not granted by the state
 - (b) Do not exclude other rights which are not expressly mentioned in this chapter
 - (c) Are subject only to the limitation contained in the Bill.

Com. Ratanya: Okay, tumeweka njia moja ya kuangalia hiyo by having a Commission. Tutakuwa na Commission. Kwa page eleven kuna Commission of Human Rights and Administrative Justice. Kwa hivyo hiyo imependekewa na Commission kwa hii Constitution na ikiwa hapo ndiyo itakuwa inaangalia mambo ya Human Rights, yaani haki ya binadam, na mambo yale yote yanahusika, na yote ya Bill of Rights, na ndiyo utaangalia kwa hiyo, utaona kutakuwa na, no we do not want to go to the Electoral Commission. Hebu turudi pale tulikuwa page six, mtaona kwa ending mkiendelea kusoma, itakuwa duty of the State to promote Rights and Freedoms. Hayo yote yameelezwa. Limitation of Rights, si kusema kwamba hata ukiwa na rights lazima kuwe na limitations, lazima kuwe na kiwango ambacho kinatakikana. Hapo utaangalia. Na tena ukiangalia 32 kuna kamstari kamoja tu, mistari miwili hapa. Article 32:

1. Everyone has the right to life. Hiyo ni ya muhimu sana.
2. The death penalty is abolished.

Hata hiyo ni kitu kipya katika hii Draft. Kwa hivyo Constitution mpya, ama hii new Constitution imeondoa death sentence, na ukiangalia pale the ending is Bill of Rights and haki ya binadam, that is the ending kutoka huko Chapter 5, ndiyo hii 32 inasema right to life. The state does not give life. Yule anapeana maisha ni nani, ni Mungu, na ndiye anaweza kuondoa. Kwa hivyo tuliposikia maoni kutoka everywhere, ilisemekana kwamba, na wengi hata walisema directly hiyo sentence iondolewe. Huyu mtu ambae anafanyiwa case anakuwa lazima aenda akanyongwe, hiyo sasa kwa Katiba mpya imeondolewa na mnanaweza kuniuliza itakuwa inafanywa namna gani, hiyo sasa, mambo haya tunasema kwa Katiba hatuwezi kueleza vile yatafanywa kwa Katiba. Tunapendekeza na proposal inakuwa hapo itaenda Parliament. Parliament itafanya sheria, na kwanza pengine itanza kufanya mambo ya amendment of Criminal, kwa sababu hii ni section ya Criminal law. Sasa wakiingilia amendment ya Criminal law which an act of Parliament, sasa wataingia hapo waone kama ni life sentence, ama kama ni sheria ingine lakini Constitution yenyewe imekataa nini? Death.

Na kama vile niliwaambia ukifanya sheria zako, na ufanye vile Constitution inakataa, hiyo sheria hakuna sheria, ni null and void. Kwa hivyo hata ukifanya sheria ya kinyumbani, na isemekane hiyo sheria inalenga kuuwa mtu hiyo itakuwa sheria? Hapana kwa sababu Katiba huko juu imekataa. You see. So hata Parliament ikifanya amendment ya Criminal law, haiwezi kuweka death sentence kwa sababu katiba imekataa. Itaenda kwa mambo mengine hapa, ita-amend Criminal law ama sheria ambayo inahusu hapo na itawekwa vile itapendekeza. Na itachukua amri ya Constitution ya kusema everyone has the right to life and we should not take the life of that individual. Ni Mungu amempatia hiyo haki.

Utaendelea hapo utaona equality, kuna section hiyo, freedom from discrimination, women kuna section kubwa. Older members of society, they belong to that section. Kwa hivyo ningetaka mmzee moja atusomee hapa, tuone anasema namna gani kwa wazee. Hebu mzee mmoja atusomee hapa kama Zakayo. Hebu utusomee article 36.

Zakayo: Older members of the society: section 36.

1. Older members of society are entitled to continue to enjoy all the rights and freedom set out in the Bill of Rights including a right to
 - (a) Participate fully in the affairs of society
 - (b) Pursue their personal development
 - (c) Be free from all forms of discrimination, exploitation or abuse
 - (d) Live with dignity and respect and else retain their autonomy.
 - (e) Retain their autonomy
2. Older members of society are entitled to reasonable care and assistance of family and state.
3. Older members of society have the duty to plan for their retirement, to share their knowledge and skills with others, and to remain active in society.
4. Relevant ministries and complain bodies including the Commission to Human Rights and Administrative Justice shall

take special care to equip themselves to understand and deal with issues affecting the elderly.

Com. Ratanya: Kwa hivyo hiyo Bwana Kamenchu amesoma ni section, tumechukua mfano kuhusu wazee, wale ambayo wamefanya kazi yao miaka mingi, na imefika wakati wao sasa ni wazee, hata hawa state lazima iwaangalie, na hata watu wapatie hawa heshima. Kuna nchi nyingi wanawaita senior citizens. Hawa wanapewa hicho kiwango, na wanapewa heshima nyingi. Ninakumbuka siku moja niliona watalii wanakuja kwa ofisi yangu wananiambia, tunaenda utalii, wananipa introduction card yao. Yeye hana hiyo card ya kawaida, ana card inaitia “Ex-Brigadier so and so, senior citizen of America”, na sasa hiyo ni kama ID yao. Hata hizi nchi zingine wanawapatia hawa wazee heshima, na sasa wazee wanachukuliwa kama ile group ambayo ilikuwa inadharauliwa, na hii katiba inawaangalia sasa, na inaangalia akina mama, hata hawa walikuwa wanadharauliwa zaidi, tunawaangalia. Kuna the whole section about women.

Watoto, hata hiyo ndiyo section kubwa, ukiangalia hapo kwa human rights. Kuna the family, then persons with disability, hata hao wanakuwa marginalized, wanadharauliwa lakini katiba inawaangalia sana. Kutakuwa na cheo ama ofisi ya mtu ambaye anaitwa “People protectors, ama People’s defender. Mtaona katika hii draft, ni ile watu wanaita ombudsman, yaani yule officer ama yule mtu atakuwa anaangalia complaints, kama kuna taabu anahusika na haki ya raia, wanapeleka malalamiko huko kwake. Kwa hivyo tume-create hiyo. Lakini tumeiita jina People’s Protector. 288; ndiyo tunawaambia haya mambo tunasoma hapa yanakuwa related. 288 where? Now page 35, yeah. The Commission on Human Rights and Administrative justice, hiyo ndiyo Commission niliwaambia itaangalia mambo ya human rights na kila kitu na haki yote na itakuwa inasaidiwa na sections kama hizi mnaona hapa. Itakuwa na Chairperson, Human Rights Commissioner, itakuwa na People’s protector, huyu ni ombudsman, ambaye mtapeleka malalamiko yenu. Tutakuwa na system kama hiyo na itakuwa ya maana sana. Kama mambo ya wazee yanaharibiwa, wanapeleka huko, wanalalamika na inachukuliwa kisheria kulingana na na Katiba. Kama ni mambo ya akina mama, kama ni mambo ya watoto, mambo ya family, yote ambayo yanahusu human rights. Tutakuwa hata na Gender Commission and so forth. Hiyo ndiyo section nilikuwa nataka muone.

Na kabla sijachukua maoni yenu, pengine maswali, ama comments, tunaweza hata kuwa na comments, si maswali pekee yake, hata comments, ningetaka mjue tumefanya Commissions, na tutakuwa na Commissions za kila aina. Niliwaambia kwanza kuna Commission of Human Rights and Administrative Justice, tutakuwa na National Land Commission, na hiyo ndiyo itaangalia mambo ya mashamba yote, sheria zile zilikuwa mbaya zitaondolewa, itakuwa repealed, itaweka system ya mashamba. Na mambo ya shamba, nikisoma point moja, Ownership of land in the new Constitution on 233 inasema: “All land in Kenya belong to the people of Kenya, collectively as community and as individuals.” Kwa hivyo mashamba ama land yote ya Kenya ni ya watu wa Kenya. Either mtu awe ana shamba lake kama una title yako wewe mwenyewe, hiyo ni sawasawa. Ama muwe mna shamba you own in the community, ama iwe ni public ambayo inakuwa held b y the Land Commission for the public. Na hiyo mnaona kuna tofauti. Mbeleni kulikuwa na Commissioner of Lands. Commissioner of Lands alikuwa ni mtu mmoja ambaye ana Secretariat. That was a one-man Commission, na angeweza ku-misuse all the powers. Anakoroga Local Authority hapa, anakoroga kila mtu anapeana mashamba nini, but now there will be a Commission, na mjue tofauti ya Commission na

Commissioner hiyo si moja. Tutakuwa na Commission ambayo itatengenezwa kuangalia mambo yote ya mashamba, mkiendelea akusoma kwa hii Draft mtaona itachaguliwa namna gani na atakuwa na power gani. Na kuna section, kuna Public Service Commission kama kawaida, itaendelea na nguvu zaidi. Kuna Remuneration and Salaries Commission, na hiyo imekuwa malalamiko ya wananchi sana inasema ukienda kwa page 36, utaona Salaries and Remuneration Commission.

Wananchi walikuwa wanalalamika sana, wanasema MPs wanaweka mishahara yao. Sasa kutakuwa na Commission ya kuweka mishahara yote, na itakuwa kazi yake hiyo. Mishahara ya MPs, ya President, Vice President, , na hata Waalimu, kila mtu, kwa hivyo waalimu hawatakuwa wanadhulumwiwa hata pekee yao tena. Watakuwa katika laini moja na itakuwa ni Commission. Teachers Service Commission haitakuwa na hayo mambo, itakuwa na mambo mengine ya kuangalia mambo ya elimu, kwa sababu Teachers Service Commission, it will also be empowered; and the Constitutional Commission, ukiangalia hiyo page, and Judicial Service Commission, kama ya kawaida iko. So the point I am raising here is as you read here you find a section where we have established various Commissions, ukiendelea kusoma kwa hii draft.

Na kwa hayo pengine machache ama mengi, tukifuata ile saa tumepewa, tunataka kuwa na nyinyi kama three hours. Ningetaka wakati ambayo umebaki sasa nirudishe kwa nyinyi na ningetaka kuwaambia sasa tumefurahi kwa sababu we have launched this Constitution Draft Bill officially at Tigania West. So it is open for you now to comment, kuuliza maswali, yale nimesema. Lakini msipeleke kuniambia ile pesa yetu ya civic education tutalipwa na ni lini? Is that a Constitution issue? It is not. So do not be irrelevant; hayo yatazungumzwa na watu wengine. Mimi nilikuja kwa hii tu Draft. Haya yatazungumzwa na watu wengine. So sasa it is open now. Hata hivyo ni sawa nimemaliza.

The system I follow ni watu watatu watatu, I respond, and then three others and so on. Kamenchu utuanzie, then this young man and Joseph, three, halafu tutaenda kwa wengine.

Zakayo Kamenchu: My name is Zakayo Kamenchu. Thank you Mr. Chairman for giving me the opportunity to respond to a lot of very useful things you have pointed to us. First I would like to congratulate the Commission and the Chairman for the wonderful work you have done. I had a copy from the Daily Nation, the exact copy you have given us, to me it appears a wonderful Constitution. If we run our affairs in accordance with this Constitution, I think Kenya will be a happy place and we are bound to develop. We will have removed the authoritarianism and come to true Democracy. It maybe expensive to implement, but I think the will of the people is there, it will be implemented.

Now a few things Mr. Chairman I would like to react which I feel may require change: one is chapter 4 on citizenship; I have gone through it and I know when you were here last time, we talked about citizenship. What the Commission has come with making it a little bit too easy to take Kenyan citizenship. There is need to tighten that one Mr. Chairman. It is Chapter 4, section 23. About citizenship, generally. Now one area is about somebody acquiring citizenship through marriage. I have experienced, Mr Chairman, this has been abused in some countries, United States where I have live for some two years, and

Australia where I have lived for some three years, and plus. Now people want to take citizenships of those countries. So what they do they organize with a spouse, and they go through the process of marriage, and the moment they step on that country, they just part, it is commercial, she is just paid money or he is paid money. Many others would like to come here and that process will be abused, so there is need to tighten that one Mr. Chairman. The citizenship, let not our citizenship be acquired so easily.

Practical example again, we had a problem in this country. When we got independence, the desire was to indigenize the economy to make our people to be economically able because a lot of our economy was controlled by foreigners. Now there are people who did not have faith in us, so they wanted to have dual citizenship, particularly this would have a problem with the Asians. Those who have been to India they know how poor it is, you may not believe it. They want to maintain their citizenship in India and the citizenship here. Now you remember one of our laws that required registration business required one person to be a Kenyan and another person could be a foreigner. So you would have brothers, they are Asians, one of them in Kenya he has Kenya citizen; another one is in India or in U.K., or some other country. Now they register a business here, the idea is to milk the Kenyan economy. So Mr. Chairman there is need to be aware about that one and do something about it.

Now freedom of movement, section 61, I think the section is a little bit too loose, because---- 61, freedom of movement. In the old days we had some problems where we had laws like vagabonds and vagrants where people used to be collected from towns and be chased away to their districts. This was abused. I remember one time when I was in Nyeri, people had had moved long ago to Rift Valley, being shifted, where they did not know even their relatives, and we talked about that and it was loosed, although I think it still is in our statute books. But I think we are going into another area where we are making it a little bit too loose. When we make it as free as this, it seems to me the way I interpret this section, it is bound to abuse laws relating to trespass and privacy and protection of individual property. I think that one needs to be tightened to be able to respect those laws, which are universal.

Emergency: section 71: now those who have been involved in government; we may have people who have not really been inside, they may think the government is oppressive. Sometimes the person in charge of the public affairs by being a government official is dealing with a criminal who is also very clever and very wise and knows how to go about it-how to break the law and disappear and use other technicalities so that he is not caught. Mr. Chairman, my point is section 71 3 (b) where we have emergency reviewed every 2 months. I would suggest Mr. Chairman, because of technicalities and the need to see or observe whether the problem that brought back emergency instituted in the first place has been rectified. We extend that instead of two months to six months, that is my recommendation Mr. Chairman.

Section 94, generally about the Electoral Commission. I think all those powers: our preamble and our desire in the new Constitution is to remove power from an individual. Not an individual to have all powers but to spread out. But I think here the Electoral Commission with respect to political parties, their finances, we are making it a little bit too powerful. Because now

you are giving them money, they are the one to disburse money, they are the ones supervising elections, they are the ones also who can register and de-register. There is need Mr. Chairman to defuse those powers, not to make them that concentrated, they are also human beings and are likely to be dictatorial. That should be looked at Mr. Chairman.

No, the other one, I know something was said in Kianjai about qualification for election of the President. We have the lower limit, 35 years. I have a quarrel Mr. Chairman with about the upper limit being 70 years. Now a human being, the physical age and mental age are not equal. A person can be 80 years and be very mentally alert. A person can be 60 years and be an imbecile. The stages at which we develop are not necessarily simultaneous. I think Mr. Chairman, it is my recommendation we remove the upper limit. A person would be able to prove to Kenyans that he is able regardless of age, that we leave to Kenyans, Mr. Chairman.

Lastly, about the Kadhi courts. The Muslim Community is not that big, and it looks like we have made—now we have some other sections, the religion, the Methodists, the Catholics, I do not know Mr. Chairman why we should really make the Kadhi's Court this big. To me they should be abolished. That is what I wanted to say Mr. Chairman. Thank you.

Com. Ratanya: --- otherwise I would have liked to go to get from about three but let me just respond to what Kamenchu has said and then we go tot the second person. Now I note that you have not asked directly, you have only given comments, and you have also tried to give your comments and recommendations on chapter 4, that is citizenship. Then section 51, that is freedom of movement, section 71, state of emergency, you have also touched on section 94, which is about sources of funds, and these funds are for the Political parties and the age of the President also. We have recommended 35 to 70 from what people have told us, and then the Kadhi Courts.

The purpose of launching this report or this draft is for you to read and make comments like what Kamenchu has done here, but we would like you now to go and read and make your comments in writing. These are very very good proposals Bwana Kamenchu, very good comments, but we cannot amend anything here. But we would like you to go through, make your comments; you bring in writing so that they will be discussed at the National Conference. Maybe there would be other people in Kenya who would talk about the abolition of the Kadhi courts. We had a very long debate about this, but we did not get a support from the people whether we can also have Christian Courts, or other religious courts, because people did not tell us. But traditionally or a matter of history, we are only hearing about Kadhi. So we have also been wondering, what about Christian communities.

But we did not get these ideas from the people. But since we are not going back to the Constituencies to collect the views, we are going to collect your views through reading this document and make comments, just as what Kamenchu has done, he has actually given us an example. So go and make all these comments, compile your report; bring to us, and all these views will go to the National Conference. I have told you this is not final, anything can change here. We can also have a dispute. Like the

age of the President we have said 35 to 70, but maybe a lot of comments will come and maybe that will be altered. Somebody has said we better only have the minimal age of 35 or 40, very many said even 40 to 45, because even 35 is too young. People are suggesting even 50 or 45, but then others are saying there is no need of having the limit. The limit will be determined by the terms of office. How many years are there for terms of office, there are two. We have recommended five years, two terms. So the upper limit can be determined by that, but not to have the upper limit, and very many have said that, exactly what Kamenchu has said.

So when we have all these new recommendations, new proposals, would be decided and maybe the decision will be made by the National Constitutional Conference when it meets on 28th October. So I advice also Kamenchu to go and make a comprehensive report on that one, your proposals, your comments, and your comments will find their way to the National Conference. So I am not answering questions directly but these are very very important observations you have made. Somebody else? Kamenchu are you satisfied?

Kamenchu: Yeah.

Com. Ratanya: In fact we appreciate--- and it is a very good example even for everybody to know how to go through this one. You have even taught us something very important, to go by sections. You go to a section, you make your decisions or your proposal; you go to another one. By the time you complete this Draft, you have made your full recommendations, which will be submitted to the National Conference. Now any direct question or maybe comments? Okay Joseph, no who was the second one? This young man and then Joseph will follow.

Muthomi Lyangkolwe: Than you Mr. Chairman; just like Mr. Kamenchu, I think your Commission has done ---

Com: Ratanya: Start by giving us your name

Muthomi Lyangkolwe: Just like Mr. Kamenchu I think the Commission has done a commendable job, but I went through the Draft from the first tot the last line and I feel good as it is there were some things you may have overlooked. First of all article 4 clause 1 says that any government contrary to the Constitution is unlawful, and the following clause says that Parliament may enact a legislation to give effect to that provision.

Com. Ratanya: That is section?

Muthomi: Article 4. Chapter one, and I found it quite inadequate for you to say that Parliament may. I think the word “May” should have been substituted with “shall” because when you really say that Parliament may make provisions that guards against, you are giving Parliament the option of entertaining unconstitutional running of the national affairs. Therefore I think the Draft

there is not quite okay. The other thing is what Mr. Kamanchu talked about.

Com. Ratanya: So what is your proposal?

Muthomi: That is should be mandatory that when this Constitution comes into operation Parliament must make a law that gives effect to the provisions of article 4 clause 1, that any government contrary to the Constitution is unlawful.

Then about citizenship, I have a problem with the dual citizenship, I think an example by international politics today, you can imagine if Osama Bin Laden was a citizen of the USA, and also a citizen of Kenya, you can see the Diplomatic crisis that will result. I think that was a big oversight. As far as I am concerned we should discourage dual citizenship.

Com. Ratanya: So you do not support dual citizenship?

Muthomi: Yes, for that reason. Now you talked in your draft. The Draft says that the state should promote indigenous languages and Kiswahili. I do not know whether you got so short sighted and you forgot that times have changed. As much as we may talk about Kenyan politics, the world is becoming a small village, and the trend internationally is that there are some languages which have become like languages of the world. When you talk about encouraging Swahili and the indigenous languages, I wonder why you forgot also to encourage English. I do not think Kenyans have known English so much and you will all agree with me that English is the main international language. Therefore, I think the list should also include English.

Then the prerogative of mercy; there is that provision you talked about the President appointing. There is some vagueness there. Because you are talking about six prominent Kenyans. When I read this, I was left wondering, who are these six prominent Kenyans? Is it prominent Bishops, is it prominent businessmen, is it prominent politicians? I think the Commission should have gone further and indicated who these prominent Kenyans should be.

Com. Ratanya: Where is that?

Muthomi: It is Article 211, section 2. So I think you should have become more specific, on who these six Kenyans will be.

Com. Ratanya: Okay, I think we should go to somebody else.

Muthomi: Just one more thing. About the language of the Constitution. I admire the way this Draft is made, because it is simple and clear. One does not need to have some special skills to interpret or understand it. But even as we may talk of that making it readable and understandable to every common man or to the layman, I think the Constitution or any legal document being such and important document should have ---it can still be simple and clear but should be drafted in such a way that it is

more authoritative. I could refer you to say the current Constitution, the one that is governing the country now, stage three of it. I do not think it is too complex for a layman to read and understand, and yet at the same time the wording is so authoritative. When I looked at this Draft of yours, it lacked that authoritative aspect of the wording. The wording need not be technical, but then it can be done in a better way.

Com. Ratanya: Okay. I think we got the sentiment. Now you are telling us what exactly you need to do when we go out. Because after launching, we give you this document, you go and sit down as an individual, or in groups, or in whatever and you study this document critically. This is what we can not teach you here. We know there are even grammatical mistakes, there are even spelling mistakes which we cannot just handle here, but your sentiments are very very important. You go through and then you make your comments. This will assist us very much especially in the National Conference.

But on this point on language, English is given prominence, because still it will be an official language. So it is made the first, then Swahili comes along. So it is being promoted just as usual. It is an international language, but you will find that our Kiswahili is a national language; we have now given more status as an official language. So English is not really lowered it promoted as an international language.

Now about citizenship: dual citizenship, according to you you do not support that one, and I hope that will be in your comments, you will explain why you do not support and these views will go to the National Conference.

Now somebody else? Now the other thing I would like to tell you, do not actually take us to study this document. It is just an over--- and again you have not read. You cannot ask me some of these things which you have not gone through, but if there is anything you would like to maybe kind of highlight, for example I can give you an example like the State and Religio that is Madaraka, 12th December Jamhuri, and then the date when this Constitution is enacted, it is going to be Katiba day. Now such things you should note such differences. But again we are not going through everything, and we are not complaining here. We are only launching and then giving you a go-ahead and go and read and comment and bring the comments through the right channels. But Joseph go ahead and give us your small comments and then we go to the next issue.

Joseph Mutuma: I am Joseph Mutuma from Tigania West, and I am a Programme Officer of a Resource Centre. Mine first Bwana Chairman is to thank the Commission for this good work that we have seen through this Draft. It know it has not been easy because we have had problems from the top and also at the lower level to make people participate in giving the views and so on through civic education which was not easy to manage due to various factors.

So the way the Commission has out with this kind of Draft which reflects our views according to me is commendable, and I am also happy because some of the views in the Draft are from this Constituency, from this place and were given by some of the people here. I can even see some of the views that I also gave.

Now as you have launched the debate on the Draft Bwana Chairman I think we have to look at how this debate is going to be facilitated because it is not easy. You can even see from this hall, not many are here, and I think it is not going to be all that easy although we would like people to debate and really own the Draft so that eventually we have our own constitution. I know we have groups that would assist maybe in organizing discussions on the Draft, but I am wondering whether the Commission in one way or another is going to facilitate this kind of discussion because illiterate individuals are going to read in English or Kiswahili, but of course as you are aware most of our Kenyans are illiterate, and they should also own the Constitution, and I think the Commission if it has not looked into that, it should facilitate to some extent some civic education for these few days before the National Constitution Conference so that the people can really see whatever is in the Draft and whatever views come from them. That is one observation.

These groups are in place, churches are also there, it is important that the Commission looks into that. Here as you have said we have not come to study this Draft, we cannot. This one I think will be done especially during the Bomas of Kenya National Constitutional Conference, after maybe hearing the views from here and also their own contributions there. In that regard, I would also like to say that the delegates we chose, in fact I participated in that activity although the Councillors were the electors, I am happy some of those who were elected are here, I would very much wish if it were possible for these three delegates and others who might have come from here, from our district, or even from this Constituency to gather views from people, to assist maybe in this debate, so that when they go there, they do not go maybe thinking of themselves only, without getting as much views as possible from the people. So I am really happy and I want to recognize the presence of that lady who was elected that day and maybe even the other two are here, because it is important that they hear the views of the people.

The other thing I would like to hear from you, because we are not going to talk about chapters and the articles because it cannot be possible, and we only going to do a bit of that we have not done, so that we give our views, because there is room for the views, which we can give and take to the Coordinator or maybe these delegates, I am wondering whether at the Bomas of Kenya where the Constitutional Conference is going to take place there maybe room if one of us may happen to be there as an observer to give some views or to participate in one way or the other whether there is any provision for that; because we are proud to have our own Constitution. We need to say from what is there, we are owning it, and since you have also set the Constitutional day, it is really important because that Constitutional day will be reminding us and emphasizing the need to have things done according to the Constitution.

The other important thing I would like to highlight is the wording of this Village, location and District governments. Although you tried to explain, this wording here although it will be interpreted by Parliament, it is my observation, although I may give this one later, that instead of Village I think we should have maybe another word or something like that because according to me village really looks too local and too small. But since you said there will be some interpretation to bring a village to a constituency or to a location or something like that, that is okay. But this wording here makes things a bit difficult for us to

understand.

But the emphasis I want to highlight here is how this debate is going to be carried out, and whether the Commission is going in any way to facilitate in this one, not because we are so much interested in money but because we would like really this Draft to be debated and discussed by as many people as possible, and for those to do it, need to be facilitated. I am happy that you have given us this Draft in the newspapers, and hopefully we are going to get the introduction that came ahead of this one. I have read it and it gives quite some substance on the Draft itself. So if these materials are available, and maybe there is a bit of facilitation, Bwana Chairman, I think this debate will reach as many people as possible and in that way we will be owning the Draft and the Constitution. Even if we have some changes they will be maybe about 50 or less than 30 per cent of what we have given. The views you have given here are Kenyan views. The views we gave ourselves. I am a bit surprised because some of our leaders in this country are criticizing the draft without reading it. So with that one, thank you Bwana Chairman.

You will remember because you have been following the process that according to our Section 27 Cap 3 (a) we had, with this one yesterday, that is publish and then people debate for sixty days. But this has been amended. It was amended by Parliament, with the amendment I have here, and this now we are going according to the amendment, should be 30 days.

So the Commission has not made any arrangements for the full-scale type of civic education, but has got a way of disseminating this information to the public. The first one we know we have got documentation centers in every district, and that is one of the ways we can use, through this limited period we have. So that is one way we have. We have got also libraries where we can get these materials. Some libraries are local and others are at the national level, and this is in accordance with the Act. We have also the prints and electronic media, that is through the radio, through the TVs, and we have programmes which are going on in the radio and then in the TV to explain to the people during this time of the day.

The other way of informing the public within these few days we have, is to conduct yourselves freely and voluntarily as groups on your own. Because these comments are yours and you will like to make comments. We are not saying that we have made a lot of mistakes that we are asking you to assist, but in a way, we are saying that it is your right, that you go through, whatever mistakes you find, you alert the Commission through the National Conference. So we can say, that is your responsibility, for the time is very very short. So the way of disseminating, informing the people is already there. There is no system of civic education as we had in the past. You can see the sense that we have now 30 days, and we were supposed to have 60 days, which the Parliament thought it necessary to amend, and we cannot go against the law. We have to stick to the current law we have under which we are operating.

The other point Mutuma is about observers; we are still working on the rules and regulations of the National Conference. We are waiting for our assessment any time, and when these rules are ready, we shall know the procedures for getting the observers, we have already known how to get the delegates, they are already appointed, but with the observers, we are still

waiting for the regulations to be gazetted and then the public will be informed.

Then about the devolved government we have got a big war on the word “village”. That is not very low, as you said, but we are actually, the concept itself is grasped, that instead of operating in Nairobi, we go to the people. You might say that word is not really very good according to you, but I told you kind of description or explanation or interpretation of what constitutes a village, is going to be made by Parliament. I told you we can say maybe the former what we used to call a Sub-location, can be named a village. Even that title “village” might disappear. We can even say area. We used to have Area Councils. These things would be streamlined as a result of your comments, after reading the Draft, and also by the National Conference. So do not be worried of the word “Village”. This Draft is not final even by itself. By all means it is not final. We can also change depending on your comments, and also your new proposals.

Then about the Parliament laws, as you have already stated, we will streamline and we will give the directives, on how we are going to organize the villages, the locations and even how we are going to call the leaders. We had a very big argument as to what we do call the head of a district. We were thinking that we call that one a district Governor, because it is really a very important government from National level to the district level. So we did not settle on the word governor because it is too big. So we just said that will be a District administrator. But then after the National Conference, you might even take that to be a District governor, District President, if there will not be any conflict with the use of the word “President.” Like now we do not have it in the new Constitution. So people will decide even for the proper title, and this is why you are given all this time. I think those were your comment, and they are taken care of, but go ahead and read and then you make your final comments and submit to Nairobi for the National Conference.

Can we now have the last three, and then we end our conference or let us say our small meeting today? Let us have at least one lady, and then mwananchi mmoja na mwingine hapa, and then maybe we finish. Please be brief.

Helen Kamenchu: My names are Helen Kamenchu. Thank you very much Mr. Chairman, I wish to join the other previous speakers in congratulating the Commission for the wonderful job done. It is a manifestation that national interest took the centre-stage in your deliberations. I remember the last time we were here the Commission was divided completely and we were doubtful whether you will come up with anything useful, but it is very gratifying for us to note that you have come up with some very very important Draft Constitution for this nation.

I would like to mention an issue on citizenship. I see with a lot of satisfaction that the discrimination that was there as far as a Kenyan woman getting married to a foreigner has been removed. Here now we know a Kenyan woman can marry a Tanzanian, a Kenyan woman can marry a Tanzanian, and the Tanzanian gets automatic citizenship. Now a number of people

have raised a lot of concerns about that but there is no way we can really have one thing happening to one set of the community and not the other. Our men have been marrying women and nobody has ever talked about commercialization of citizenship. Now what I want to say is that that is the rule. What the government can do, or what the Commission can recommend or what I recommend here today is that the rules of getting married get tightened up. I remember in America, in Australia they have a interview with the two people who want to marry with the view of finding out whether these people are actually marrying for money or they are genuinely marrying. So let us not say we maintain the status quo where women are discriminated, simply because of the fear of the Kenyan citizenship being misused. Let us have rules which are there that will check on men also, because men also can be involved in that. A woman from some foreign countries would want to come and say she is getting married to a Kenyan simply to get the citizenship. Let us look at this squarely; let us say that this kind of thing needs to be tightened at the immigration position.

Another issue Mr. Chairman you have warned me and many other speakers to stick on talking about the Draft, I would like also to mention that the ministries you have recommended 15 is good but we also need to give allowance of things to happen in future, expansion. So I would like to recommend that the ministries can be set at a maximum of 20, we are banking on a responsible government that can even have even ten ministries if that is the one that will serve the interests of the nation better, that we can have 16, 20, so let us give them a maximum. Let us give the government a maximum, not a minimum.

Now, I concur with my colleague Bwana Mutuma, but I can see you have impractical reasons for not having civic education done, before the National Conference. But we have a problem because you remember, even the submissions which were done many of them actually were asking for these which are provided in the current Constitution. This gives a level of Constitutional ignorance very high, and this beautiful Constitution will not go anywhere far until people know about their Constitutional Rights and obligations. So Mr. Chairman I would wish to recommend here that you also recommend to the government that after the Draft is enacted or the Draft is made into law, there should be a deliberate effort for a year or two to carry out civic education to create a Constitutional Kenyan Citizen who will know his rights and will not allow anybody to abuse those rights.

Mr. Chairman, I will disobey you in talking about Civic Education money, but this is within the Human Rights, and what I would want to mention is that those people who were heading the institutions that were carrying Civic Education have been called thieves because it is believed that the Commission sent the money and they refused to distribute to the people who were teaching or who were carrying out Civic Education. So please I would like you to help us here to say whether that money has been paid or has not, because I want to go out today feeling I am not a thief, you have said you did not give me money and I ate. Thank you very much Mr. Chairman.

Com. Ratanya: Most of the speakers are giving their comments and this is exactly what we would like you to do after reading this document. So in as much as I cannot justly alter anything here I cannot amend, but what I will do is just to note your comments and wait for you now to put your comments and recommendations in writings. Like when you talk about citizenship,

it is really a big concern almost everywhere. Everybody is talking about the problems with the citizenship, it is too easy. And then about this, you say it should be tightened. So that is a recommendation, and that will go to the National Council. Then about the enforcement of what you have said, most of these things would be done by Parliament, and Parliament will go to relevant Acts, maybe repeal those Acts and make the necessary amendments. So we have not gone to the details, and the Constitution cannot do that work. It is only to give the general guidelines like when we say abolish death, we stop there, but the Parliament will continue and will know how to deal with that one through the necessary institutions

You say about the Ministries to be about 20, we have recommended fifteen, and this matter now is a recommendation which should go to National Conference, and maybe might allow or agree, or endorse, for even more, or even less. So submit your comments.

About Civic Education, this is not my mandate today, but if you want to have a complaint or submit anything, use the necessary normal channels and your query will be curtailed and will be answered.

Then we have agreed we go to the last two people. There was that Mzee na wewe.

Mr. Lawi: I have not gone through the document but it is what I have found from it. Bwana Chairman, nimeona ni lazima tukuambia Commission yako imefanya kazi nzuri, sana, sana. Unajua Kenya hii ilifanyiwa Katiba yake Lancaster in London, na ya mwisho ilifanyiwa Melbourne House London pia. Sasa nyinyi mumekuja hapa kufanya yetu mkipokea maoni ya watu wa kawaida. Sasa ile comment nitamake ambayo nimeiona hapa, ninaona wale watu handicapped mnaanza kuwatambua kwa sababu katika laws registry ninaona mnauliza laws ziwekwe kwa Kiswahili, English, and Braille. Na hii ni vizuri. Yule atakuwa kipofu ajue kujisomea. Languages nitamake, umeona hapa kwamba mahali mtu atachaguliwa, atazungumza kwa Kiswahili na English, na Sign Language. Hii nayo inasaidia unfortunate people who cannot speak directly but through Sign Language they can communicate.

La mwisho, nilisema nikome, ni National Council.

Com. Ratanya: Ninashukuru, lakini kuna swali hapa kama more or less direct question about National Council. You have read that the period is 4 years, unlike the other House which will be five years the first term. Now with this one we have discussed about the rotation because we should have at least Parliament. We cannot stay without a government or Parliament, and this is the purpose of having the two houses. This point of rotation will be organized and it is there because we have recommended that one, and this is why we have stated the first National Council will be four years, and then there will be that arrangement that maybe the second one is going to be five years, and then there will be that kind of rotation. So Bwana Lawi, that one will be organized.

Maybe yours was similar to that. Can you tell us what happened that time when you were a Senator?

Mr. Lawi: When I was a Senator Mr. Chairman...

Com. Ratanya: We are calling it National Council but people can even prefer to call it Senate.

Mr. Lawi: (Inaudible) Retirement after 4 years. When we were in the Senate, the Senate was retiring after two years, the other lot after 4 years, the last lot after six years. So there were knowledgeable men in that Council all the time. But if you send them home all of them, you will send knowledgeable people home.

Com. Ratanya: Bwana Lawi, I think that one has been taken care of, because I remember we discussed that one, we endorsed it, and this is why we said we start the first one four years, but you can see the other House is five years. Then maybe we shall go to five years and the maximum in the National Council might be six years. But there will be that kind of arrangement made. You see. So Bwana Lawi ninashukuru kwa hayo maoni, na umetosheka hata wewe. So the last two then we go.

Solomon Kahura Chokera: Thank you Mr. Chairman, I will be very brief. I am Solomon Kahura Chokera, and mine will be very brief. Mr. Chairman, before we started this process, Kenyans really wanted the Draft Constitution. That was the major concern, because we were not sure whether we would have the Draft that we are having now. At the moment Mr. Chairman, the most important thing that Kenyans want is the ownership of this Draft Constitution, and the feeling of Kenyans and even those who are here is that, that ownership of this Constitution is being hurried up, so that I do not know why we are not taking time to explain to the people what is this Draft Constitution. Although they are the people who gave the views, we need to have a wider spectrum to reach them so that they own up the Constitution as theirs, so that they will be able to defend it. I am very sure the negative comments you are getting about the Constitution from some quarters of this country, is because they know very well that Kenyans have not owned up this Constitution. They know very well that Kenyans are not very well briefed about this Constitution and they would like to capitalize on that ignorance. So the Commissioners should do what is possible to make sure that before we write the new Constitution, we own up this constitution as ours. I feel at the moment you are hurrying up that process.

Com. Ratanya: What is your proposal? How many years should we have to feel that we own it?

Mr. Chokera: Mr. Chairman, that is the question now at the moment. I would propose that those two months that were proposed at the initial Constitution for people to debate the Constitution was most appropriate. So I think that is the problem. So the moment we own that Constitution, we will have no problem, no query.

Lastly Mr. Chairman, the Meru mood in the Constitution when we were making the Draft, or when we were giving our views,

was that our economy in the Meru, the miraa and other economies, the role of the Njuri Ncheke, was really expressed by the people in all the forums that we went. But as I was going through the Draft, it is not given that ownership. So I would like to know where you have placed the Njuri Ncheke. Is it at the village or at the district or where is it, or we are just curbing it? What about our economy? Are we really protected in the Constitution in promoting our economy? Because I have not captured that one very well. Also the role of the youth is also ignored. You have taken prominence in the eldership, the women and the children, but men and youth, there is a problem. I do not know why their interests have not fully been taken, especially the youth. We know the youth are vulnerable and we require to put details as far as that one is concerned.

Otherwise Mr. Chairman, I have my views that I have written and I will hand over for debate in the next stage. Thank you.

Com. Ratanya: Bwana Solomon, thank you very much for your comments and also for thanking the Commission for this work done and the report which has come out very early. People never expected that one but you see it is has come early enough.

Now the point you have mentioned about the ownership, one thing you should realize, our Commission's life is not like the other Commissions which go to report to certain people. There are Commissions which are appointed by a minister and they have to report to the minister, and the minister takes whatever long period he wants, and then he may report, and he may not even report to the people. Or maybe one reports to the President, and the President may disown it. We have seen those examples, is not it? But with this particular Commission when we completed our work and you can see on this Draft on 27th, before going to anybody else, even to the Parliamentary Select Committee, on the 27th we reported to the people of Kenya through mass media and other ways of getting people. We had not consulted with anybody to report this work but it was the work, our mandate and the work of the Commission that we have to report to the people of Kenya. So we announced this one and people are surprised, walikuwa wanauliza, "Wamemuona rais, wamemuona Minister, wamemuone Raila, nini?" No! that was not our mandate. Our mandate was to report to the people of Kenya. You can see that bit of ownership. Kuna Commission ingine ime-report kwa watu, imetangaza bila kuwaona watu fulani? So we started by reporting to the people of Kenya, we had a press conference and we informed the people of Kenya that we have come out with our report, that report which we announced on 18th September, this short report, we launched this in Mombasa. This one which is the main thing that we reported to the people of Kenya by holding press conference and announcing to the people of Kenya, and on the following day you had all papers publishing.

On 30th, after we had informed the public, we went, just as a matter of formality, we went to Parliament on 30th, and we officially gave the Parliamentary Select Committee a copy of this Draft. So maybe it has gone to other senior people, but what we are concerned with is the people of Kenya, so I think that is a bit of ownership. That is one.

Now the point you were raising on the debate, it is not our power and also maybe our mandate to amend the Act of Parliament,

the first one which we started with, Cap 3 A, laws of Kenya, clearly stated on sections 27 that we publish and the same will go to the public and the public will debate for 60 days. But then the Parliament decided to go through this one and make it shorter, maybe members of Parliament had their own reasons. They are representatives. They found it necessary to make that period shorter and make it thirty. You can see that it is not our power, you see; because you are saying that the Commission should make sure that it is longer than 30 days. So this is the work of the Parliament. They reduced, and I do not know whether we can go to Parliament and tell them now, you increase this period. But if the people of Kenya want, they can do that, and we are now reporting in a very official way to the people of Kenya again during the National Constitutional Conference. So during that Conference, if the delegates would like to have longer periods so that we have further debate on the Constitution, then we shall take that one and then we continue with the debate. So you can see our limitation Bwana Solomon.

Then you were proposing two months and I think I have answered that one. The views about miraa, Njuri Ncheke and the economy, these concerns are there and I think are addressed these ones. You have not seen the word “miraa” inside here, but it is taken care of in districts. We are going to have very strong district governments the district governments will make rules, laws and regulations. If you go to that page forty-six, I am not going to go through reading it, but you will read at your own time, you will see the power given to the district level. The district is going to make laws relevant to the area. Let us take for example “miraa” that matter will go to the district level, because the district will have its legislative power and that will be endorsed automatically maybe upward by the National Assembly and so on. They will consider what is relevant in their area, and they will make laws about maybe miraa, about their local products and so on, about their local economy.

If we make a general law in Kenya about miraa people in the Coast, people in Kisumu, like the example of I was giving of other areas, they will not know exactly what you are talking about. But if we have a law specifically for Meru North concerning miraa, that will be relevant to us and is going really to be a relevant law, and all the regulations concerned. Similarly people in Nyanza, will talk about fish. Si samaki wanafuga huko? They will not make laws about miraa, but they will talk about their fish, samaki. Sijui kama District Council ya Nyambene ama ya Meru North itafanya sheria nyingi ya samaki. Hapa kuna mambo ya samaki? Lakini penigine watakubaliana wafanye sheria ya miraa, so that they will take care of that one. That will be handled that way. Just check all the powers of the District Council, utaona they have a lot of powers.

About the elders Council, what we normally call Njuri Ncheke around maybe the whole of Meru district. This Council was represented even in London, during the Lancaster House. It is everywhere people have this concern of council of elders. They are given different names in various areas. Like in Taveta I went there for three days we were there collecting views, and people were talking about Njama, that Njama should be given power, should be entrenched in the constitution, speaker after speaker, hata akina mama hata watoto wanasema njama ndiyo itatufanya hii mambo. Tukifanya hii hata mashamba yatakuwa sawasawa.

Hata economy itakuwa sawasawa. So Njama is their Council of Elders. We went to Msambweni, they are there; we went to, I remember particularly in Lugari in Luhyia, they are very serious about Kiguru, they call their Njuri Ncheke Kiguru. You see. So generally we have said that we are going to respect cultural heritage, we are going to respect culture and our beliefs,

but this should not contradict the Constitution, which is the supreme law. If there will be any laws concerning our cultural groups, like the Njuri Ncheke, like the Kiguru in Luhyia, and njama in Taveta and others, they will do it at the District level, because that is relevant. So that is being taken care of very seriously.

In addition to this Draft, when his Draft is ready we shall come out with a full report. This is just a short report. In that report there are certain things we are going to recommend, that the Parliament should enact laws to do this and this in accordance with the Constitution. Take a certain part. If it is about the police, we recommend in the report that the Parliament should go about seeing about that one and then enact the relevant laws, about police, about miraa, about all these things to be taken care of. I think you are satisfied here. Everything is okay. I think we go to the last one and then we end our launching. That one is huyu kijana; no you have already talked Mugambi. You see we will find ourselves repeating and we cannot talk so much without reading this one. Let us have that one and then I give you...

Joseph Muita: Mr. Chairman, I would like to thank this Commission for producing a very good report, and I also wish to thank you personally for the good way you have handled this meeting. We are saying this draft is a good thing and Waswahili wanasema, “Ngoja ngoja humiza matumbo. So I think I will be talking for the majority of people who are here that we would rather go to the election with this new Constitution if it can be enacted. My name is Joseph Muita, and I represent CJGC in this region. I was saying that this is a very good Draft. I would think I am talking for the majority if we were to say that if it is possible, we go to elections with the new Constitution. I know it is not in your power to say that but we know there are many of us who are in positions who would like to maintain the status quo. So they are saying ngoja, ngoja, tunahitaji muda mrefu. Even the one who has just talked before me is a colleague of mine; he says we require more time to discuss these things. Personally on Sunday I did announce to most of our residents in Church that we shall be here and they should come in many numbers. But you can see the number that we are. So since we represent them, when you go back there say you have heard from the Kenyans. Because those who are here, we are even maybe more than the MPs who sit in that House. I know you have been to many other constituencies. Perhaps these people did not come because their economic problems are greater and they cannot even get fare to come here. So my feeling is that as soon as we have this Constitution working, the better because even where we go to this civic education, not many people turn up. They are busy with their problems.

At the same time, the other point I would like to make is, for these people that we elected to represent us in the National Constitutional Conference, the three from our District, luckily Madam is here, Beatrice, I do not know whether the others are here. One of the things we are not happy about is the law that was used to elect these three people. Some of us do not think the Councillors were the best Electoral College to use. We know that, now that they have been elected they will represent us, and when they go to that place, we are aware even some Commissioners will not do a very good job. Perhaps they were doing it according to the people they thought elected them. So Beatrice I would like you to look at these people here, these people who are in this room, and the many others that we have seen. Now that you are going to have a conference for thirty days, and

you will be the people who will be carrying our views, please as you sleep, as you wake up, as you vote, because you will vote for these resolutions. Remember you are voting on our behalf; those councillors are no longer there, it is Meru North. If by any chance you vote for things that will not help Kenyans, you have let us down. So those other two that you will be with please take a very strong message. As you are there for us, and we expect most of these recommendations which are good enough, to go through.

Very last, Bwana Chairman, we have put some yellow ribbons when we came in. I think it is not to just agree to have them put.

We are saying we are in solidarity with the Commission. Some of you have even dared that they be taken to court on our behalf. So as a wear this, I fully believe in what I am saying, that even if we have to be taken to court, I should be there also complaining that I would rather be put in, because those are our feelings, we are happy with your job, and we hope that this Constitution which we are waiting for will see the light of day very very soon. Thank you very much.

Com. Ratanya: Asante sana Bwana Joseph Muita, lakini ninaangalia kwamba, haya maneno tunaona pengine ni tamu na tunaendelea kuzungumza, tunaweza hata kukaa hapa usiku, because we are actually repeating ourselves. Mara ingine tunaenda kwa yale mengine hatujasoma. Nilikuwa ninaanza hii, ili tuende tusome na tuiangalie sawasawa. For example, hapa Mtuma anasema, talking about, that we would like the general elections to be with the new Constitution. That is not the power of the Commission. We have done our work, in fact we have tried our best to do our work and the rest will be other people, and we have no power of other people. The dissolution of Parliament, it is only the President who has got that prerogative, and we cannot say anything about that one, and with current Constitution. Hii hatuwezi kuendelea kusema hiyo. Watu wa Kenya wamesema tuende na new Katiba, na sisi tunasema namna hiyo, lakini hatuna power, we have no power to enforce that one. We have no power to implement this one, and it was not the role or the mandate of the Commission to come out with the Draft, and then finally we have the constitution and then implement. That was not our mandate. We would like that one but it is not our mandate Bwana Muita. There are other people who are going to make the plans and organize these things. Like elections, it is something that needs organizations. A lot of work to do, there are people who will do that work, but if you check here, we have made our recommendations. There is a place we have said, I think I told you, we have said about transparent ballot boxes; that is a recommendation here from the people. Now, that one the commission will not look for those boxes, but other people like the government, about to make it faster and then we go for elections. That is the role of Parliament. If the Parliament decides this one should be a law tomorrow, that will be the Parliament to do, it is not actually our part. We have done our work, and we would also like to go for elections with the new Constitution, but there is nothing else we can do but to leave other people to do their part.

About delegates, we have three delegates which are from the Districts, but there are also others from religious groups I think, but we have not told them to come to Tigania West for a meeting, we have not even invited them here, we have not even told them to come here, but we had asked them if they have time or if they wish voluntarily, they come. So it happened that Madam found it very important to come, so we are not actually given that kind of information to come. Beatrice decided to come on

her own, and that is very good, and maybe she has heard what you have said about going to vote on resolutions and so on. So maybe she may lobby for that and vote for what the people of Meru North would like to have.

The other one is, yes the advice you have given, madam has taken that advice, and about the election of these people, or appointment of the delegates, that has already passed, we had a system to follow, and you already have delegates, maybe you can talk about the future, I do not know when, but you talk about that one. If there were any mistakes, any problems, you can give comments and these problems will be addressed when there is another time to elect such representatives. So I hope the last person will not repeat. You know when you come everybody is saying that the Commission has done very good work, everybody is saying that, and in fact people love, it is very good, but I think now we should agree to stop. Suppose we have the oldest person here to say something.

David Mwiregua (Very Old) - My name is David Mwiregua.

Com. Ratanya: Endelea.

Mwiregua: What has punched me in the Review Commission, has taken the old – age in the whole country. We are now governing ourselves, we got our independence. Our Constitution was aiming to help even old men, but another says that old men are to be helped, when? After 75 years, or 80 years, they are unable to perform any business. No work, no business. But they are left there on their own. I think the Constitution must reveal about old – age.

Com. Ratanya: Let us read about what Mzee is saying, we found a chapter of maybe a very long Just sit down I respond to what you have been talking about, I think it is in the Draft somewhere, we have got a section. I think we read that one; yeah we read it. We read thorough because I told you I am also an old man and I am interested. You see. So this is page six, article 36, you can see all these recommendations about the elderly people, but if you want to add more as you read this one before you complete the thirty days, or let us say up to 27th, you can give your reports to Nairobi to the National Conference, and we shall say more about old people if we have not covered. Somebody asked about the youth, if you read through, all these groups have been addressed, elderly persons, youth, women, disabled children, all these marginalized people, I think a lot has been said. Not in one section but you go round and you will see a lot on this, said about these groups.

The other thing I said is that we cannot give all the details. If it is about youth or about women, elderly people the rest of the work will be done by Parliament. Parliament will enact the necessary laws to take care of these groups like women disabled and so on, but the Constitution has just given an outline and a recommendation, which if you go against that one you defy the Constitution, and that cannot be law. So within the Constitution, without violating the Constitution, the Parliament will enact laws, and that will be one of the most important actions of the government. As the Parliament start, we will start with these various laws, regulations, in trying to implement the new Constitution. So I think you have been taken care of Bwana David.

The elderly people have been considered.

The other thing is the District Councils also cannot make additional laws. Let us go on to---- that one is very clearly read, because we have to assist the elderly, and so the other details will be done by Parliament. Let us go to Mugambi.

Mr. Mugambi: I am Lesio Mugambi. I have observed the Draft Constitution very very keenly and I have found that some of what has made Kenya what it is today still are maintained in this Draft. For example, any person in the President's office, can do anything as it is even today, and nobody can claim, either as a criminal charge or civil change, and I look at this as if it is not helping Kenyans. The other thing in our Draft Constitution, we find that there are details of sovereignty of the historical boundaries of Kenya, and I would like to suggest that these should be accompanied by a physical map of Kenya which shows the relevant land points and mark-points that are referred to in this list and in this country as pertains the position mentioned in the draft Constitution.

Next is the Electoral Commission has been given very broad powers to enforce the interests of some important personnel in Kenya, for example politicians and including the President. It has not also been regulated, I mean it not been mentioned in the Draft Constitutions as to whom are these Kenyans that the Electoral Commission can assign duties, either of manning the registration or manning elections and everything else that pertains to elections.

Then on election, someone may not be satisfied either, because the election has been either rigged or some mistakes were done.

We know, the President having been given so much protection, may not be reachable to be served with the petition documents as it has been in the past. I propose that the provision should be provided in the Constitution on how and date of assuming office so that any aggravated candidate as a President, as an MP, as a National Councillor or a village Councillor or whoever can be able to forward his claim. Thank you.

Com. Ratanya: I think I told you again, we are trying to repeat ourselves and then even talk about all the things which have been explained here, and the danger is that we not gone to the document. What Mugambi has said, almost everything has been taken care of here, and if there are other issues like maps like acts concerning boundaries and all these will be addressed by Parliament. For example, the Parliament might go back to the Survey Act and make the necessary amendments, that is not the Constitution's. The Parliament might re-visit maybe certain acts concerning other things you have mentioned here, maybe boundaries and so on, and then can make the necessary enactment, and so that is not necessary the Constitution's. The Constitution has given the basic law. So Mugambi if you can go through, especially this point of the President, according to the new Constitution, if you are able to see a small diagram that we have put around here. There is the, the law is up there, and you can see somebody like President below. So the people of Kenya as I told you are up there, then the law, then the President. So it is not the other way round, the President is not above the law this time, because he can be impeached. If there is a petition as you are trying to say there is a very good procedure given, and again there is more than that to be given by the

Parliament and also through the Electoral Commission. The Electoral Commission Act will also be repealed; it will also be amended. If there was your concern about the petitions, about the servings of summons to the President, this time we cannot have he is too far, but there will be all these procedures and this is known by Parliament.

So I advice you to go through this one, because if you go through you will not continue asking. Otherwise we will go through very irrelevant matters because we have not actually seen the provisions of the Draft. What we are supposed to do today is just to launch.

Then about the petitions, I have told you there will be procedures, about the proposals, you cannot proposal anything to me today, because you will give your proposals in writing after reading this, and these proposals will go to the National Council. Most of your proposals are very very good, I also share with you, and they are very very important, and this is why this is not final. There will be a final one, which will incooperate all your concerns. All your amendments, whatever you want to make, if they will be adopted by the National Council or National Conference, they will be in the last draft or final draft. So I think

Solomon Anampiu: (inaudible)

Com. Ratanya: I think there will be a lot of correspondence hata barua inaweza kupotea. Why don't you have a system to come through our District Coordinator and there will be a delivery book where of course you sign and there will be evidence that you have sent that one to the Commission, or if you want to send directly, it is quite okay. We can give you the address, or if you want to send through other very advanced means of sending like E-mail, that I think is the best, you can be given that number. You send directly to the Commission, or you can fax there. That one is the most important way. But I think posting sometimes is very risky, but you will be given the address if you want to send directly; the E-mail or faxing, or if you want to send through the Coordinator, that will also be okay. If you want to come directly, personally, you will meet the secretariat there, we have the Programme Officer here, they are the people who have kept all these recommendations and they will organize. I think he will tell you something about that also. I will give him time to greet you and say something before we close.

Okay, sasa wananchi kabla ya kufunga, ningetaka programme officer Bwana Anampiu aseme kitu kidogo hivi, whatever you want to mention Bwana Anampiu, and then the coordinator, and then we shall have somebody to close with a word of prayer.

Bwana Anampiu----

Solomon Anampiu: (Programme Officer) - Thank you very Commissioner, thank you very much, I am very happy to be in Tigania West, na hii launching ya Draft na Report, hiyo ni kazi muhimu ambayo Commissioner amefanya kwa sababu hii ndiyo ilikuwa jukumu yake kutoka kwa CKRC, kutoka kwa ile Committee yenyewe aje alete maoni aseme yale maoni mlinipatia iko

kwa hii kitabu, tumeifanyia kazi wakati tulikwenda Mombasa, na halafu baadaye wakatoa hii draft.

Ile ambayo ningesema ni ya kwamba msome, tafadhali someni. Msome na msembe habari yake. Mjue ya kwamba huyu Beatrice, District Representative, na wale wengine watatu waktakuwa na nafasi ya kutumia hayo maoni ambayo mtawapatia kuendesha shughuli ambazo zitasaidia watu wa Tigania West. Lakini tafadhali someni habari ya District. Hiyo ni muhimu sana. Pengine nafasi ikipatikana, District Councils wakutane pamoja waone kweli haya mambo ambayo tumeandikiwa hapa yaani supervision of the police for instance, imeandikwa kwa hiyo Katiba hapa. Hiyo itafanyika namna gani? Taxes, tutakuwa tukicollect taxes namna gani? Hayo yote ni mambo ambayo mimi ningesema ya kwamba kama nafasi ikipatikana, District Councils wakutane wamuambie District Representatives wenu wakienda Nairobi, hivi ndivyo tunaonelea. Commissioner hana uwezo wa kugeuza kitu chochote hapa kwa hiki kitabu, lakini District Representative kule Nairobi, atakuwa na nafasi ya kusema na District Representatives wengine. Na hiyo ni lazima tafadhali msome, mjadiliane, na muwaambie tunaonelea hivi na hivi.

Jambo lingine Commissioner ambalo halihusiani na Draft Constitution ningetaka kusema machache juu ya hizi pesa za civic education. Pesa za Civic Education hazikutosha. District Coordinator ametumiwa pesa kama mara tatu. Mpaka mwisho wa May, hajapokea pesa zozote kutoka kwa Commission na ni kwa sababu ya zile taabu ambazo ziko zakutopata pesa za kutosha. Ninataka muelewe ya kwamba, sisi tuna imani na District Coordinator. Kulingana na returns ambazo amerudisha kwetu, hakuna sababu ya kufikiria kamwe ya kwamba ati amepokea pesa akaweka ama namna gani. Pesa hazikutosha, na wakati ule tutakwenda Nairobi, na tumeambiwa Tigania East, tumeambiwa Lare na Maua, Bwana Commissioner nina hakika atakuwa akieleza wenzake, na hata Chuka pia, na Meru Central yenyewe, Commissioner atakuwa na uwezo wa kuwaambia makomishonas wengine, tafadhali lazima tutafute hizi pesa za kuwapatia wananchi ambayo walifanya civic education. Na mimi pia wakati wa Secretariat nikienda nitafanya report yangu ambayo ninaandika ya kwamba kulikuwa na malalamiko ambayo iko, si hapa Tigania West pekee yake, lakini ziko Constituencies sita ambazo tumetembelea, na hiyo report nitapeleka, na kama nikiwa na jambo lingine la kumjulisha, District Coordinator, nitafanya hivyo haraka iwezekanavyo.

Kwa hivyo ninawaulizeni nyote msome hiyo Katiba, na hiyo ndiyo ya muhimu, na Mungu awabariki.

Com. Ratanya: Coordinator atasema moja halafu tuone kufunga.

George Kimathi: District Coordinator: Asante sana Commissioner, I only have two announcements to make: we are airing a programme on KBC, on Sunday, between 11.00 am and 1.00 pm Kiswahili version, and the same Sunday, between 2.00 pm and 4.00 pm, the English version. So those who want to hear more about the Draft Constitution can also listen to those stations. Then on 27th this month, we have declared it in Meru North, a day of disseminating the Draft Constitution. We have decided that we will visit all the churches in the district. We will visit all the churches, the mosques and other religious institutions and make sure that the Draft is disseminated in this one day in the whole district.

