

CONSTITUTION OF KENYA REVIEW COMMISSION

CKRC

Verbatim Report Of

**DISSEMINATION OF REPORT AND DRAFT BILL, LAIKIPIA EAST
CONSTITUENCY AT NANYUKI TOWN HALL**

ON

8TH OCTOBER 2002

**PROCEEDINGS OF DESSEMINATION OF REPORT AND DRAFT BILL,
LAIKIPIA EAST CONSTITUENCY, NANYUKI TOWN HALL, HELD ON 8TH OCTOBER, 2002**

PRESENT:

- | | |
|----------------------|-----------------------------|
| 1. Mr. Issac Lenaola | Commissioner |
| 2. Rebont Gikonera | Assistant Programme Officer |
| 3. Emma Kamunga | Verbatim Recorder |
| 4. Margaret Lesuuda | Chairlady, 3 C's |
| 5. Francis Wachira | Coordinator |

The meeting started at 10.15 a.m.

Margaret Lesuunda: Shughuli ile imetulete hapa leo ya Katiba. Wale wako inje waingie tafadhali. Tuombe. Mwenyezi Mungu, tunakuja mbele yako wakati huu tunakushukuru Bwana kwa uamuzi wako, umetuamusha tukiwa salama salimini. Tunajua kuna wale hawajaiona siku ya leo kwa hivyo Bwana, tunakushukuru pia umetuwezesha. Tunaomba Mwenyezi Mungu ili shughuli ilio mbele yetu Bwana, uwe kiongozi tukianza hadi tutakapomaliza. Tunajua kuna mambo mengi ambayo yanahusu nchi hii yetu ya Kenya Bwana, na hata zaidi Katiba ambayo inatutaliza Bwana, watu ambao wanataka kujua ukweli kuhusu maisha yao. Bwana, tunaiomba, tunaiweka mbele yako ili shughuli yote inayohusu Katiba hii na hata inayohusu nchi hii yetu ya Kenya Bwana uweze kuitazama na hata Bwana kuweza kutuongoza. Tunaomba pia wale wamekuja kuongoza hii sherhe leo Bwana, uweze kuwapakwa kuweza kuvumilia na hata kuwaza kuongoa. Tunaomba Bwana, sisi zote tunajua kile kimetulete hapa Bwana, utupe uwelewano tuweze kufanya yale yote ambayo imetulete kwa maelewano, kwa upendo, na hata zaidi Bwana, tuongane ili tukue kitu kimoja katika nchi hii. Tunaomba Mwenyezi Mungu, uanze nasi hadi mwisho. Kwa jina la Yesu Kristu, tunaomba tukiamini. Amen.

So, wananchi watukufu ambao wamefika siku ya leo, Commissioner wetu, Chairman wa Laikipia County Council, wale ambao wame kuwako mbele yetu hapa ni Commissioner Bwana Issac Lenaola, lakini tumupigie makofi kukaribisha sivyo? So, welcome Sir, I want to take this opportunity to welcome you on behalf of Laikipia East residents to today's function. I will alsothe Committee members ambao wako nje waingie ndani tafadhali ili tuweze kuwajulisha wale ambao wamefika kusikiliza mambo yanayohusu Katiba yetu ya leo. Committee members wa Laikipia East, tafadhali muingie.

Nikiwa nawasubiri, ningependa pia kuwajulisha wale ambao wameambatana na Commissioner wetu siku ya leo ambao wanasaidia. Kuna mmoja ambaye anashughulika na mambo ya Verbatim recording anitwa Emma Kamunga. Simama tu wakuone, pigia hawa makofi unajua kazi wanafanya katika nchi hii ni ngumu sana. Kuna mwingine pia ambaye ni Programme Officer ambaye ameambatana nao Bwana Robert Gitonga. Karibu sana. Nitawajulisheni pia Coordinator wetu wa Laikipia ambaye pengine hamuja muona Bwana Apolos Wachira, huyu nidy Coordinator wa hapa Laikipia. So thank you very much, I know he is also welcoming everyone. We also have his assistant na nimeona ametoka nje. Nafikiri nitachukuwa fursa hii kuruka introduction ya Committee members kwa sababu they are very busy receiving guests at the door na wengine hawajafika ili tufanye badaye, tutafanya badaye. Welcome your Worship the Mayor. Wale wengine nitawajulisha ni delegates ambao walichaguliwa hapa waende kuwakilisha Laikipia mashariki katika ile National Constitutional Conference. Delegates nafikiri kuna mmoja nimemuona hapa Bwana Joseph Schwel kutokani mmoja wale wanawakilisha. Thank you very much. Any other delegates who have arrived, wako? Tutawajulisheni baadaye.

Hata hivyo, naona Committee members wawili, watatu wameingia, I will introduce them later. I take this opportunity Bwana Commissioner, to also tell you the dignitaries who have just arrived. On your extreme immediate right is the Chairman of Laikipia County Council, tafadhali Chairman simama wakuone, Councillor Muturi, thank you very much. At the far end is His Worship the Mayor, Councillor Mathenge, thank you very much. Kuna wengine ambao wanafika hata huyo Deputy Mayor, pigia Deputy Mayor makofi. (clapping). Karibu kiti kuna kiti upande huu tafadhali.welcome, that is the Deputy Mayor of Nyanyuki, Councillor Wamae. Commissioner, kama umeona umati ulio hapa mbele ni mdogo, sio umati lakini ni watu wachache, tunaomba tu uvumilie watu wa Laikipia ni watu ambayo wanatoka mbali sana. Kuna wale wanatokanimona Councillors watatu kutoka Wasimame tuwaone wametoka mbali sana Bwana Commissioner, simama tu, thank you very much. Pigia hawa makofi wameakilisha watu kutoka mbali sana. Wengine wametoka mbali zaidi na wameweza kufika hapa, wale ambao wako hapa ni watu ambao najua pengine wametoka karibu karibu, na kuna wengi ambao watatoka hata upande wa Lamuria. Kwa hivyo yangu ni kukukaribisha wewe katika Laikipia East nakukuwambia kuwa tumetarajia sana kama watu wa Laikipia kurudishwa kwa Draft, ili tuweze kujua kama views zetu zile mulichukuwa hapa zimeweza kuwekwa ndani ama tumesahaulika.

Hata hivyo, tangu nianze kufanya introduction mimi mwenyewe sija ji-introduce, kwa majina naitwa Margaret Lesuuda, mimi ndiye Chairperson wa Laikipia East Constitutional Review. Yale tu pengine ningesema kidogo kama Chairman as my opening remarks, is when you look around the hall, you will see people spotting the yellow ribbon. We are not just sporting because we have read in the papers that people are sporting but we are sporting because sisi wenyewe tunaunga mkono, ama si hivyo wananchi wa Laikipia? Si muna unga mkono Katiba? Kama unaunga piga makofi. Kwa nini tunaunga kwa dhati mikono Katiba hii ya leo? Tunaunga kwa sababu, our resources including time, including personnel, including money which is taxed from us has been spent in billions to come up with what we can see even today as a Draft, and we should look forward to it being a complete Constitution. To every Kenyan, even those who may not understand exactly what is in this Constitution, at least you understand your feelings in your heart that as Kenyans we have seen Commissions being started and after the Commission it is very unfortunate that whatever the Commissioners come up with it is throw into a dustbin and forgotten.

So we are actually a tired group, we join other Kenyans to say that we are tired, we are no longer going to sit back and see Constitutions being made then they become useless at the end. So we are sporting the yellow ribbon on our clothes but I believe we are spotting the yellow ribbon even more in our hearts, am I right? Roho zetu ndizo zinasema zaidi ya kile yellow ribbon inasema, kwa sababu tunataka kuona hii Katiba ikifaulu. We may not understand what is inside but we understand that it is a right for us Kenyans to have a new Constitution. Some of us are almost dying of age, since we were born we have never seen new things, we want to see new things. We hope that you as Commissioners have been able to come up with new things.

So, with those remarks sitapatia wananchi waongee, leo ni siku ya Commissioner wetu kutuongoza watuambie ni nini kiliwaleta hapa. Kwa hivyo, nitachukuwa fursa hii hata kama huu si mukutano ya siasa, we want to welcome you with what we call

blessing clap because we want blessings from God, si ndiyo wananchi? Na mimi ndiyo nitaongaza hiyo blessing clap because I know they will mean a lot to us so can we start clapping. Nikisema piga, nyasha baraka unapiga polepole, nikisema bariki unapiga pa! Are you together with me? Baraka nyasha. (clapping) Mambo yawe mazuri Kenya, bariki!

Com. Lenaola: Asante sana Mrs. Lessuda, Bwana Chairman, Your Worship the Mayor, Deputy Mayor, our coordinator, macouncillor, wananchi wa Laikipia, hamujambo?(clapping) Nimeshukura sana kupata fursa ya kuja kuwa nayi leo. Na mulivyosikia mimi jina langu naitwa Issac Lenaola, namini kutoka wilaya ya Samburu. Na leo, tuko hapa kwa maana tulipokujamara ya kwanza hapa Laikipia, wenzangu walisema kwamba watachukuwa maoni yenu baada cha kuchukuwa watachambua, baada ya kuchambua watarudi tena hapa hapa Laikipia, na kuwambia kwamba yale nyinyi mulisema, yale watu wengine walisema yameandikwa katika Draft Constitution.

Kwa hivyo, tumetimiza hilo jambo. Mara nyingi Macommission zimekuja nyingi hapa. Si mumesama Commissions mia moja zimekuja Laikipia? Si nyingi sana miaka iliyopita? Lakini hakuna Commission imerudi kusema kwamba tumewasikia, tumeandika report, ndio hii report tumeandika. Hata juzi pale kortini nimesikia kwamba ile Akiwumi report ilienda ikafichwa wapi? Mpaka korti inasema toeni hiyo report wananchi wajue juu ya Akuwimi report. Kwa hivyo sisi, hii ndio report ya Laikipia East Constituency. Kila jambo mulisema iwe ni hapa, iwe ni Dol Dol, yote iko katika hili file. Ukitaka kujua kwamba maneno yako ilishikwa vizuri: mutaenda kwa coordinator, utafungua hii file usikie kama maneno yako yalishikuwa na hii Tume neno kwa neno. Sawa hilo?

Jambo la pili. Kwa Kenya zima tumezichambua hizi report kutoka kila Constituency na kuwandika hii Draft Constitution. Katiba ya Kenya mpya ambayo sasa tumewaletea nyinyi na ndiyo hiyo munashika katika magazeti. Na je, kwa maana hakuna muda mrefu, ningependa kusema hivi; hii ni Katiba ambayo iko na mambo mengi sana na kwa ashubui hii ya leo tutaweza kuenda paragraph by paragraph mpaka mwisho. Nitafanya hivi, nita- point out yale mambo ambayo mimi nafikiria baada ya kusoma hii report yenu mulisema mungetaka mambo fulani katika Katiba, nitaawambia kama kweli hayo mambo yameingia katika Katiba.

Kwa hivyo what I will do, I will only pick out certain parts which relate to what mulisema kama watu wa Laikipia wakati tulikuwa hapa. Baada ya hapo nitawapa nafasi. Kama kuna swali ama kuna jambo ambalo mungependa kuniuliza mimi kama mwana Tume, nitakupa fursa, kama niko na jibu nitakupa kama sina jibu nitakwambia sina, kama nitapeleka mbele kwa Commission nitapeleka, maanake hii Draft si final. Mumesikia Wabunge vile wamesema kwamba hiki kitu hatujui vile imetoka, ni mbaya sijui ni ya aina gani, tumesema hivi, si final. Baada ya mimi sasa kutoka hapa yale maoni yenu kuhusu hii tutayatambua tena mbele kabla ya ile National Conference to discuss that Constitution. Kwa hivyo hii na mara ya ngapi tunataka maoni yenu?

Mara ya pili. Kwa hivyo kama kuna jambo ambalo halipo nitawaambia nitapeleka wapi? Pale mbele. Tumeelewana hivyo? Ni sawa sawa? Asante.

Jambo la kwanza. Kuna wilaya katika nchi hii kama ya Laikipia, wilaya ya Samburu, wilaya ya Isiolo, wilaya ya Turkana, wilaya ya Marsabit, ambazo ni wilaya tunaita marginalized districts. Tume finywa katika hali ya Serikali, tume finywa katika hali ya kimaumbile, tume finywa katika hali ya mali, ili kwamba hizi districts si sawa na zingine. Ama nyinyi ni watu sawa na Kiambu? Muko sawa na Kijabe ni sawa? Tumesema kwamba kuna wilaya ambazo zimetengwa kando kwa sababu ya historia, kwa sababu ya mambo ya Serikali, na tumesema je, kwa hii Katiba tumesema nini kuhusu hizo wilaya? Pia, kuna watu wadogo wadogo, makabila ndogo ndogo kama Mukogodi, kama Dorobo, wale wengine wa Ogiek, je hii Katiba imewaangalia? Tuanze kufungua. Unajua saa ile ya Katiba ni kama Bibilia, kwa hivyo nikianza kufungua tutafungua vile Pastor anasemanga tufungue Chapter fulani tujue kama iko ama hakuna.

Kwa hivyo, tufungue Article 14, na kwa hii Katiba yetu tunaita Section ama hatuiti kama Bibilia, Bibilia inasema nini? Ukurasa. Hii inaitwa ukurasa ama Article? Article number 14. Article 14 ndiyo imeandika jia ya Kingereza Chapter 3. Inaandikwa National goals, values and principles. Maanake yale maadili ambayo lazima nchi hii iongozwe nayo. Article 14, pale chini kuna Article 14(2) halafu kuna Article 14(3). Kwa Kingereza nitasoma. Inasema 3, the Republic shall recognize the diversity of its people and promote the cultures of its communities. Serikali ya Kenya, ni sharti ikubali kwamba Wakenya wako diverse na watu wako wengi, makabila mengi. Na ni lazima iheshimu mila ya kila kabila. Hiyo ni taabu? Mila zetu ziheshimiwe na nani? Na Serikali. Iwe kabila kubwa, iwe kabila ndogo, iwe wilaya kubwa, wilaya ndogo, lazima mula zetu ziheshimiwe na Serikali tukufu ya Kenya.

Jambo la pili. Article 14(3). Pale chini sub article 11, chini kidogo Vice Mayor, number 11, chini ya hiyo 14(3), kuna 14(11). The Republic shall ensure the fullest participation of women, the disabled, and the marginalized communities and sections of society in the political, social and economic life of the country. Serikali ya Kenya, ni lazima ione kwamba: wanawake, walemavu, makabila ndogo ndogo na wilaya ndogo ndogo, ni lazima pia nao waangaliwe katika mambo ya kisiasa, mambo ya jamii, mambo ya uchumi. Kwa hivyo, hakuna kusema kwamba ni wale tu wengi, ni wale wakubuwa, ni wale wa kutoka Nairobi ndiyo watakao kuwa katika Serikali ama katika mambo ya nchi. Kila Mkenya atakuwa na haki ya kuwa katika mambo kama hayo.

Hapo chini, kumi na tano. Chini ya hiyo 11 kuna kumi na tano. The Republic shall promote equitable development recognize and enhance the role of science and technology, eliminate disparities in development between regions of the country and sectors of society, and manage national resources fairly and efficiently for the welfare of the people. Katika mambo ya maendeleo, Serikali ya Kenya ni sharti ione kwamba hakuna tofauti kati wilaya fulani katika nchi hii. Lazima kuwe na usawa katika mambo ya maendeleo. Kama ni barabara, barabara isiende Karbarnet na isiende Kama ni lamii ingie Bomet, hiyo lami iende Lamuria, kama lami ingie Bomet ingie..... kwa Chairman, ili kwamba maendeleo yawe sawa katika nchi zima. Ni kwamba wilaya zingine ziko na maendeleo kubwa na zingine maendeleo ya nyuma. Laikipia iwe sawa na Baringo, Baringo iwe sawa na Bomet, Bomet iwe sawa na Kisumu, ili nchi iwe nchi sawa, kila Mukenya awe Mukenya sawa popote alipo.

Haya, halafu baada ya ile 15, kuna 18. Inasema hivi 18, hapo 14(18): at least once every year the President shall report to Parliament and the nation all the measures taken and the progress achieved in realizing these national goals, values and principles. Kila mwaka Katiba yetu inasema nini? Rais wa nchi lazima aende Bunge akasema kwamba mimi kama Rais wa nchi mambo yamefanyika, hayo mambo yamesemwa katika hii Katiba yamefanyika kwa njia ifwatayo. Kwamba mambo ya maendelo yamekuwa sawa kwa nchi kwa mana ya mambo yamefanyika hivi na hivi na hivi. Hivi sasa na ni kwa heshima ya Rais na wanasisia, kuna siku President anasema kwamba kwa Bunge ama.....wananchi kwamba mali yenu ilifanya hivi na hivi? Hatupatiwi maendeleo vile yanafanyika. Unasikia ati kwamba lami imewekwa mahali fulani, maraunasikia harambee inafanyuwa mahali fulani. Tunasema hivi, sina kila mwaka Rais aende Bunge aseme kwamba nimefanya maendelo kwa nchi kwa njia fulani na fulani ili kwamba nchi nzima iwe sawa kwa maendeleo.

Hiyokwa hii Katiba? Haya, tuende Article 77. Article 77 imeandikwa chini ya election. Article 77, page, unajua sina hiyo yenu kubwa. Page 11 ya hiyo document yenu. Pages ziko tu kwa hiyo document Article 77, page 11, sub Article 2 (c). Kuna Article 2 upande kidogo halafu (c) iko chini. Mumeiona? Haya, nisome? Inasema hivi, a political party shall ensure that the remaining 50% of their seats are distributed among persons with disabilities, the youth, ethnic minorities and other interest groups. Tunasema hivi, unajua kuna vile viti vya Bunge ambavyo tunasema 90 seats ni zile za kugawa, na tunasema vile viti ya kugawa ni kama..nomination lakini system yetu si ya nomination, lakini ni kama fikiria kwa akili yako ni za kama hizi seats ni za nomination sasa si ndiyo? Tunasema hivi, 50 % za hivyo viti kama nominations iwe kwa nani? Watu wa disability, vijana na makabila ndogo ndogo, na pia watu wengine ambao wako na shida ambao hawatakuwa kwa Bunge. Kwa mfano, kuna watu wa Western, Isiolo huko pande wa kwetu huko side ya Lake Trukana, hawo watu district walihesabu wako 999 mia tisa na?

Tuseme elfu moja maana wengine wamezaliwa tangu August mpaka leo pengine ni elfu moja. Hata kama ifanyike nini wata pata Mbunge? Wata pata Mbunge kweli? Maanake kura elfu moja kwa kura thelathini elfu mutamupeleka wapi? Na wao pia wako na haki na Bunge? Mambo yao yasemekana huko. Ndio tunasema hivi kwamba vyama vya kisiasa ni sharti vione kwamba makabila ndogo ndogo pia wako na Bunge wao mambo yao poa yasikike.... katika Baringo central mahali Rais anatoka kuna kigroup ya Maasai inaitwa Njemps na pia lakini Baringo Central ni ya nani? Ni ya Watugen na hao kura yao ni elfu kumi. Kura ya Watugen ni elfu sitini Hata wakifanya nini watapata Mbunge kweli? Na tumesema pia wao wapate hiyo nafasi ya kupata mjumbe wa Bunge. Tunasema hivi, kila kabila liwe na nafasi ya kupata nini? Uongozi. Nafikiri hivyo ni vizuri.

Haya, Article 86. Article 86 (2). Hiyo ni Article ambayo inasema kwamba, wacha ni wape mfano mdogo. Miaka mwili iliopita kukaja vugu vugu huko Nairobi, kwamba kuna hizi constituencies ambazo ni kubwa sana kwa sababu ya size, kama Laikipia East. Laikipia East ni kubwa kwa size. Si ni kubwa? Na hata nyinyi ningependa ikatwe ikuwe, mlituambia siku ile tulikuja hapa tukateni ikuwe mara mbili tuu? Lakini kuna watu wakasema hivi, constituencies ambazo hazina watu wengi badala ya kukata ikuwe na constituency mbili mushikanishe. Laikipia East na Laikipia West ishikanishwa ikuwe constituency ngapi? Na je, Laikipia iko na constituency ngapi? Kwa hivyo Laikipia East ingekuwa constituency ngapi? Laikipia district ni ndogo kweli?

Mjumbe anaweza kufanya kazi ya watu kutoka mpaka Inawezekana? Ama kutoka hapa mpaka Kinamba? Si

Kinamba hii ya hapa ile ya karibu Baringo. Inawezekana? Tukasema hivi. Hata kama munaangalia mambo ya kubwa wa watu pia muangalie nini? One, means of communication. Laikipia kuna barabara ya kupeleka MP daily mpaka afikie kila mtu. Two, geographical features. Laikipia iko na hali ya anga ya aina yote sio? Muko karibu na mulima, mko mahali dry, mko mahali kama Nyanyuki, mambo kama hayo si pia yaangaliwe na Katiba?

Jambo la tatu, community of interest; ni watu gani wanaishi katika Laikipia? Tuna makabila mengi, tuna Waturkana, mko na Wasamburu, mko na Mgogodi, mko na Wakikuyu, mko na Wakalenjin, kila kabila, kwa hivyo ni vizuri kwamba constituency ikikatwa lazima haya mambo yafanye nini? Yote ya angaliwe. Si number ya watu tu, kwamba kama ni 40,000 hata kama ni namna gani basi kata constituency, na hilo ni jambo ambalo lita-affect nyinyi kama watu wa Laikipia.

Haya, jambo lingine. Article 213, mia mbili kumi na tatu, na hiyo Chairman alifurahi sana alipoona kwa sababu inafurahisha watu wake. Article 213, inaandikwa huko juu ya devolution of powers, mambo ya Serikali. Nitawapeleka 213 Sub Article 1(f), page 26, asante Mayor, page 26, inasema hivi, the principles and objects of devolution are two...1(f), ensure equitable sharing of national and local resources throughout Kenya with special provisions for marginalized areas. Inasema nini? Katika kugawa resources za Kenya lazima kuwe na special provisions for wilaya kama hii. Huwezi ku-treat Laikipia District kama Kiambu maanake resources za Kiambu si sawa na resources za Laikipia. Kwa hivyo mukigawa mambo yale tunasema national cake, mukigawa national cake mtu ambaye ameshiba kwa nini umupatie half, iko maana? Mtu mwenye njaa ndiyo umupatie nini? Hiyo nusu. Ndiyo tunasema mukigawa national resources wilaya kama hii ipewe nini? Nafasi kubwa kidogo.

Hapo chini, (i), protect and promote the interest and rights of minorites and marginalised groups. Watu wachache wachache, wale ile Commission imesema kidogo pale mbele ndogo ndogo, pia wao ufanye nini? Uangalie. Haya, pale chini, 4 Article 213 (4), the national and devolved Government shall ensure the participation of communities in decisions relating tonatural resources in their areas and the preservation of the environment. Tunasema nini? Lazima kwa mambo ya environment, kwa mambo ya mali ya asili, lazima nyinyi muulizwe kama ni sawa ama si sawa. Kwa mfano Laikipia, muko na wildlife hapa kwa forest, mko na wildlife pale juu, mutaulizwa kabla ya Serikali kuiweka ile fence ya stima waulize nani? Watu wa Laikipia. Kabla ya Serikali kusema kwamba tutafunga hii area ikue national reserve, nani aulizwe? Watu wa Laikipia, maanake natural resources, mali asili, ni yenu wenyewe sio wengine.

Haya, Article 235, samahani 225, page 27, hiyo page next, Article 225 Sub Article 3, inaongea mambo ya fedha. Wale ambao wako katika Serikali na wale wengine ambao munafanya kazi munajua kama kila mwaka kuna grants ama pesa zinatoka Central Government zinakuja wapi? Katika district, si kunazo hizo pesa? Katika 225, 3 (c), tunasema there kwamba grants shall include equalization grants paid to marginal districts. Grants za usawa, kusawazisha mawilaya. Huwezi pea wilaya ambayo iko na barabara ya lami ten million na ile ambayo haina lami munaipa ten million, maanake ile iko lami si inapiga hio lami ya juu tena na huyu mwenye hana lami anaanza na nini? Scratch. Tunasema ya kwamba fedha za Serikali zipewe nyingi kidogo kwa wilaya kama hizi kama Laikipia ili kuwe na usawa na wilaya zingine. Iko makosa hapo? Kusawazisha wilaya kuna

makosa?

Haya, hapo chini Article 226, inasema hivi. Districts shall be entitled to a substantial share of the national revenue from local resources and for the allocation of a fixed percentage to the communities in whose area the resources are granted. Tulipokuwa hapa mulituambia na iko kwa report yenu, tungenda kwamba fedha zikitoka Laikipia 80% ibaki wapi? 20% iende wapi? Nairobi, na tumesema hivi, percentage kubwa ya national resources ibaki katika? Katika wilaya. Isiende kwa Central Government.

Article 239, samahani Article 235 page 28, number ya mashamba. Tulipokuwa hapa Laikipia tuliwaambia hivi, tulisikia hapa Nanyuki, tukasikia hivo Mgogodo, kwamba Laikipia district sio ya Kenya tena. Laikipia ni ya nani? Ya wazungu. Maanake wanakuja watu ambayo hawana citizenship ya Kenya wanachukuwa titles ya land ama leases ya land kwa miaka mia tano na tisa. Hata kuna wengine wako na land leases for 999 years, munajua hiyo watu wa Laikipia? Tunasema hivi.

Article 235, Sub Article B(2), inasema hivi: that within two years of the coming into force of this Constitution, Parliament shall review and assess all claims to unjust (inaudible) of land in the Coast, North Eastern, and Rift Valley Provinces or elsewhere arising from historical or other causes in order to establish their validity and how best they can be justly, peacefully and equitably resolved. Kwamba Bunge, miaka mbili baada hii Katiba kupitishwa kama itapitishwa kwa sababu hiyo ni story ingine, lazima kuwe na sheria kwamba hizo claims kama hizi za Laikipia, kwamba mashamba yalichukuliwa kwa maana wazungu walikuja hapa 1895 wakajipatia mashamba baada ya kulipa one pound, na sasa baada ya miaka mia mmoja mtu moja ako na acre eighty thousand, a hundred thousand, two hundred thousand, na Wakenya wa..... hawana nini? Hawana mashamba. Tunasema lazima Bunge ifanye sheria in the next two years kwamba hizo claims iwe ni hapa ama Coast ama North Eastern, zikuwe resolved ili Wakenya wapate benefits zao. Jambo lingine ni kwamba mambo ya hizo leases, milioni hapo mambo ya leases kwamba hizo leases zitakuwa reduced to 99 years.

Article 233, Article 233 just make...on page 28, inasema, subject to this Constitution no person other than a citizen of Kenya shall have the right to acquire any interests or rights in land in Kenya. Hakuna mtu ambaye si Mukenya ambaye hana cheti cha kuwa Mukenya, atakuwa na nini? Haki ya kuwa na ardhi wapi? Katika Kenya. Tukasema hivi. Hapo chini Sub Article 3, no citizen of Kenya may hold or use land on the basis of lease of Kenya only, and such leases shall not exceed 99 years. Ukiwa si Mukenya na ungependa kutumia ardhi katika Kenya, huwezi ukaja kupata lease ya miaka elfu moja ama miaka elfu kumi ama mwaka hata elfu mia moja. Limit ni miaka mingapi? 99 years.

Haya, Article 243, page number 29, hii ina-deal na mambo ya finance, fedha za Serikali. Article 243(c) inasema, the Serikali shall ensure equitable sharing of national and local resources throughout Kenya, taking into account the special provisions for marginal areas. Kwa hivo kugawa finance ...kwanza, kugawa revenue ya Serikali lazima kuwe na kuanglia wilaya kama hii. Nikimalizia, mambo ya wilaya kama hii, mumeona kwamba mulituambia katika wilaya ya Laikipia mambo matatu nikikumbuka.

Jambo la kwanza- mambo ya mashamba, jambo la pili-mambo ya national resources, jambo la tatu-mambo ya usawa wa wilaya. Kwamba lazima wilaya kama hizi zipewe mambo fulani kidogo, what in English we call Affirmative Action, muongezewe fedha, muongezewe maendeleo ndiyo mukuwe sawa na wilaya zingine. Hayo yote nimewasomea yameingia katika Draft ya Katiba hii.

Haya, wacha niende mambo ya land....., Article 232. Article 232 inasema hivi. Land being Kenya's primary resource and the basis of land use for the people of Kenya, shall be held, used, and managed in a manner which is equitable, efficient, productive and sustainable. Kwamba ardhi ya Kenya, maana ndiyo rasilimali kubwa katika nchi, lazima itumiwe kwa usawa na nchi, kwa uzuri, na ili kwamba iwe productive na iishi kwa muda ambao unakuja. Mashamba isitumiwe vibaya lakini itumiwe kwa nyaba ya watu wa Kenya. Article 234, inasema tofauti kati ya mashamba ambayo ni yangu binafsi, mashamba ya group na mashamba ambayo si ya group. Na wakisema hayo utajua difference kati ya community lands na pia lands ambazo ni private. Lakini kwa ndugu zangu kutoka Mgogodo maanake hawa wako katika community lands hebu tusome Article 235, Sub Article 2(b), the same page, Article 235 2(b). Community land shall not be disposed of or otherwise used except in terms of the legislations certifying the nature and extent and the rights of members of each community, individually and collective. Nasema ambayo imesema isipeanwe bila sheria ya kusema vile itapeanwa.

Haya, ...ingea kidogo mambo ya security, maanake Laikipia shida yenu kubwa baada ya mashamba ni nini? Na je Katiba inasema nini juu ya security yenu katika wilaya hii? Turudi nyuma kidogo. Article 41, page number 7. Page 7 ya hii Draft Article 41 pale chini inasema, freedom and security of the person, every one has the right to freedom and security of the person which includes, kila mtu ako na haki ya kuwa-security inasemwa aje kwa Kiswahili, usalama? Usalama wako mwenyewe na ya kwanza ni kwamba not to be deprived of freedom arbitrarily or without just cause. Yaani huu usalama usichukuliwe kiholela holela ovyo ovyo? Jambo la kwanza.

Jambo la pili, not to be detained without trial, usifungwe bila nini? Bila kusikizwa mahakamani. (C), to be free from all forms of violence from either public or private forces. Uwe free, ile group isije ikakuchapa ama pia mtu mmoja asije akakufanya nini? Na tena unasikiza hii ndiyo kitu ambacho malikuwa mnataka sana. Kwamba tuwe na haki yetu kwamba group fulani isije ika-attack group nyingine ama mtu fulani, asichochee wengine ku-attack watu wengine kwa sababu nyinyi ndiyo mumepata brunt ya clashes sana sana 1997. Na tumesema kwamba kuwe na hiyo haki. Nitawaeleza baadaye kama hizi haki zilikivunjwa mutafanya nini. Kwa hivyo mumesikia ni kwamba ukipeleka tu bila kuwa na mechanism ya ku-enforce.

Halafu (d), not to be tortured in any manner whether physical or psychological. Usinyanyaswe kimwili kwa njia yoyote. (E), not to be subjected to corporal punishment or to be punished in a cruel, inhuman or degrading manner. Usidhulumiwe, usifanyiwe unyama na mtu yeyote. Article number 43, hapo chini tu kidogo: privacy. Every person has the right to privacy which includes the right not to have their person or home searched. Hapa Laikipia tuliambiwa tulipokuja kwamba polisi wakija kwako nyumbani hawakuji na warrant. Unasikia tufungua, polisi inangolewa. Tumesema sasa hakuna mtu kuingia kwako ama

mali yako ama mfuko wako bila kuwa na nini? Warrant. Maanake polisi wakushika hata bila kujua jina lako nani anaingia hapo? Kuona kama kuna mali donde usiku umeweka pale kando. Tumesema hiyo itakuwa nini? Ni hatia, ama Article 43 (c), their possessions seized Anti Stock zinakuja siku hizi kutufwata kama watu wanaiba ngombe, hakuulizi kama ngombe hii ni yako ama imeibiwa wanafanya nini? Si wanapatia tuu? Tumesema hiyo ni hatia.

Haya, Article number 54, page 8. Sorry, page 9 pale chini, every person has the right to acquire and own property either individually or in association with others. Haki ya kuwa na mali yako iwe ni binafsi ama uwe ki-group.(interjection inaudible). Anasema ako na kazi anaomba kwamba aende tumkubali afanye kazi ya kujenga taifa. Asante Chairman. Haya twende huko nyuma kabisa Article 264. 264 ni page number 32. Page number 32 Article 264, mulituambia hivi mambo ya polisi, kwamba Katiba ya Kenya iseme jambo fulani juu ya polisi maanake siku hizi hatujui kama polisi wanaelewa kazi yao ama hawaelewi. Mukatwambia nyinyi, mukatwambia mutuandikie “je, kazi ya polisi katika Kenya ni nini, ili sisi tujue na pia hawa wajue”? Kazi ya ni kuwafanyia wananchi kazi kwa njia zifwatoazo: Jambo ya kwanza kuona kwamba there is a peaceful and safe environment. Kuona kuna nini? Amani katika nchi. Jambo la pili, protection of rights and freedom. Kuona kwamba haki za watu zinakuwa protected. Jambo la tatu, prevention and detection of crime, wakiona makosa wanayakataza ama watueleze. Jambo la (c), the security of the people, usalama wa? Wananchi. Kwa hivyo sisi zote tunajua na polisi wanajua kwamba katika Katiba mpya shughuli zao ni hizo ambazo ziko katika hapo. Mambo ya security tunaweka katika Katiba hii.

Haya, na mlizungumuza juu ya ufisadi, corruption, mulituambia Kenya imejaa corruption tungetaka mufanye jambo fulani kwa Katiba ili corruption imalizike. Kwa hivyo tuingie mambo ya? Corruption. Inasema nini hii Draft juu ya corruption. Article number 14, pale nyuma, page number 5, I believe. Article 14, Sub Article 6 is page number 5, page number 5, Article 14, sub article 6 inasema hivi: “ the republic shall take effective measures to eradicate all forms of corruption”. Serikali ni lazima ione kwamba ufisadi unafutwa, na je itafanya hivo kwa njia gani? Nitawapeleka mpaka Article 2, 89, Article 2 (89), ni Commission ambayo inaitwa Ethics and Integrity Commission. Hii ni Commission ambaye kazi yake imesemwa hapo. Kazi yake moja ni page number 36. Page 36 sub article (j), the Ethics and Integrity Commission, kazi yake moja (j), investigate instances of corruption. Hii ni kama ile Kenya Anti Corruption Authority na tunaita hapa Ethics and Integrity Commission, kuona kwamba mambo ya ufisadi yanakuwa investigated.

Jambo la maana zaidi, munaona pale nyuma katika hii document kuna page number 45. Munaona hapo inaandikwa leadership and integrity code of conduct, mumeiona hapo? Katika hii document yote, katika hiyo draft nzima karibu kila ofisi iwe ni President, iwe ni Prime Minister, iwe ni Vice President, iwe ni Wabunge, iwe ni ma-judge, iwe Attorney General, wale ma-councillor, kila mmoja ni lazima afuate hii inaitwa leadership and integrity code of conduct. Kama huwezi kufwata masharti ya hii code atolewe katika kazi. Kwa mfano, kama Prime Minister akichaguliwa na ionekane kwamba amekataa ku-declare pesa zake ama mali yake na mahali hiyo fedha na mali imetoka, atakuwa disqualified, kuwa nani? Kuwa Prime Minister. Kama MP akiambiwa atueleze ako na Mercedes tatu, uko na lorry tano, uko na nyumba kumi, uko na buildings ishirini Nairobi, kumi Nyanyuki, tano Nyeri, aseme alitoa wapi zote na asiposema mali ametoa wapi atakuwa disqualified kuwa nini? Prime Minister,

ama Minister, ama MP.

Kwa hivyo kama kuna suspicion kwamba hii mali ni ya ufisadi unafanya nini? Unagatuka kama vile Nyerere alikuwa anasema unangatuka kwa ofisi. Katika hiyo code of conduct, nitawasomea tu moja, tusome number 8, the following are serious offences which are in conflict with the leadership and integrity code. Number (b), misappropriation of the funds of the public office or destruction of property of public office. Kama wewe story yako ilikuwa ya kuingia katika parastatal na kunyoa ama kuingia katika council na kunyoa, baadaye utaonekana kama wewe huwezi kuwa nini? Kiongozi katika hii sheria mpya ya Kenya. (c), engaging in a corrupt practice or seeking or accepting a bribe for performing or not performing a duty or a task. Kama wewe mfiisadi umezoea kwamba katika kila ofisi ukonayo ukona kabahasha hapa chini ya kuwekewa rushwa hutakuwa kiongozi katika? Nchi hii. Number 8, deliberately disrupting meetings and interfering with the orderly functions of a public office or institution. Kuna watu ambao tunawajua ndani ya Kenya, kazi yao wanasema ni viongozi, lakini kila mkutano akiingia lazima kuwe na nini? Na violence. Wakiingia mkutano fulani hawaingii na heshima kwamba kuna secretary ama kuna nani anaingia na kifua, huyo mtu hawezi kuwa kiongozi katika hii code.

Jambo lingine hapa, tumesema kwamba hakuna mtu ambaye ako katika ofisi kuu atakubaliwa kuwa na fedha katika account za ngambo. Umesikia wakati.....kwamba pesa zetu hazikaa hapa, zinakaa wapi? Switzerland, Germany, (inaudible) Islands, Isle of (inaudible), billion na mabillion. Mujue hili watu wakipeana contract pesa hazikuji hapa, zinaenda wapi? Zinaenda ngambo, tumesema kila Mkenya ambaye kutoka kwa Deputy Secretary mpaka President, fedha zao zikuwe wapi? Zikuwe Kenya, ili kwamba ufisadi na corruption usikuwe encouraged na kuwa na account ambazo fedha zinafikia huko nje na hazikuji hapa, tujue kama zimefika ama hazijafika. Tumejaribu katika hii draft kuona kwamba corruption inakuwa eradicated.

Haya, Je, muundo wa Serikali ambao uko hapa ni wa aina gani? Nitawapeleka Article 213, page number 26. Samahani kwa maana nawapeleka mbele na nyuma maanake yale mambo ninataka kuyazungumuza hayako mahali moja na hiyo ndiyo hali ya Katiba, lazima mambo yashikane ndiyo ujuwe kwamba kila kitu kiko hapa; lakini hii ya Serikali iko mahali moja tu. Tulipokuwa tukizunguka kutafuta maoni tuliambiwa, hatupendi kwamba, jambo la kwanza, Serikali iwe mbali na sisi, kwamba ukitaka passport, title deed, upande wangu mwenyewe, nikitaka kuona mkubwa, fulani mambo ya land yote iko wapi? Nairobi. Tunataka Serikali iwe karibu na sisi. Pili, hatungependa kuwa mtu ambaye ni wa kuongoza kiti iwe ni Chief, iwe ni DO, iwe ni DC ama PC, ni watu ambao wakija kuwachagua. Tukasema ati je, ni Serikali ya aina gani ambayo itafanya Wakenya waone kwamba viongozi wao ni watu ambao wameshikana nao katika mambo ya maendeleo.

Tukasema kwamba, one, Serikali ya karibu zaidi iwe katika wilaya, iwe katika? Wilaya. Na je, katika wilaya kuwe na Serikali ya aina gani? Tunayo district council, kutoka hapo twende wapi? Kwa Kenya nzima tumeambiwa hawaoni sababu kuwe na divisions. 90% ya maoni juu ya divisions imesema kwamba division ifanye nini? Ikuwe scrapped. Maintain district, maintain location na kutoka location muende wapi? Vijiji. 90% ya Wakenya walisema hivyo na tukaona kuja kukataa ku-implement haya maoni itakuwa makosa kwa upande wa Commission maanake tuliambiwa nendeni mukawasikize nani? Wakenya. Na

Serikali hii yote tunaweka hapa ni vile mulisema, kuwe na districts, kuwe na location na kuwe na? Villages. Na je, sasa district katika Katiba hii ni district gani? Tukasema tukianza juu ati boundaries za district mutakuwa na msukosuko. Na pale nyuma tumeandika kwamba hizo districts zote ambao ziko sasa, 70 of them, ziwe district katika Katiba hii. Pili, what is a village? Maanake kijiji, Tanzania wako na vijiji ambavyo vilianza tangu independence lakini Kenya ukienda Mgogodo ni ngumu kujuwa hiki ni kijiji ama si kijiji maanake saa hao wanahamama..... ni mobile kijiji ama kitu ambacho kiko? Tukasema hivi, kijiji ni sub-location, what we are calling a village here is what we know today as a sub location. Kwa hivyo Serikali ni Serikali ya sub location, location, na wilaya.

Article number 216, page 26, the village decides whether the council is constituted by village elders or civil election. Katika wilaya nyingi tunayo tumeambiwa kwamba kuna wazee wa vijiji kwa Wabaluya wanaitwa Liguru, kwa Wakikuyu wanaitwaje wale wazee wa kijiji? What are they called? Wale wazee wanaitwa nini wale wazee ambao wanakaa na Sub Chief? (inaudible interjection). Tukaambiwa tungependa kwamba village council either iwe ni sub area wale wazee ambao tunawajua ama tuwapigie kura. Tukasema hivi, kila kijiji iamue, sub location iamue kwamba watu wetu ni sawa ama si sawa. Kuna wengi ambao munajua ni walevi, ni watu ambao wanakula rushwa, tunajua hiyo, na tungetaka nyinyi wenyewe muamue mutawapigia kura ama tuta-appoint wazee ambao tunawajua. Kuna wazee ambao kila kipindi wanajulikana. Mutaamua hiyo.

Halafu 217, the location consists of two reps elected by each village council from among its members. Kila sub location ikiwa na members sita wataamua ni wangapi wawili wataenda wapi? Wangapi? Wataenda kwa location. Wangapi? Katika every sub location wataingia katika location kwa ile council ya location. Na je, kutoka location wataingiaje katika district? Article 218, number 2, the district council consists of a member elected by the voters of the district. The council shall consist of not less than twenty or more than thirty members. Mutachaguwa moja kwa moja district councillors thelathini ama ishirini, wakuje kwa district council. Tumeelewana hapo? Mumeshika hiyo kwanza? Councillors thelathini ama ishirini kura moja kwa moja kwa kisanduku wakuje mpaka kwa district council. 218, mambo ya authority ya councillors sasa, mambo ya authority ya district commissioner sasa tumeyashikanisha, munaelewa hiyo? Councillors na DC watakuwa sasa kitu kimoja katika district council na DC hataitwa tena DC ataitwa at Article 218 (3), the district administrator, DA,. Na huyu DA atateuliwa ama atachaguliwa? Article 218 (4). The District Administrator is elected directly by the voters of the district.

Sasa yule DA ambaye atakuwa Executiveto a district atapewa kura moja kwa moja na wilaya nzima. Haya, na je, wafanyakazi wa wilaya nani ata wateva? Article 218 (5). Huyu DA hata-appoint Chief Officer wake lakini council mpaka ifanye nini? I-approve. Akitaka water engineer ana-appoint lakini council itafanya nini? Akitaka district works officer ana-appoint lakini council wafanye nini? Ili kwamba hawa elected leaders ndiyo wanaamua nani atafanya kazi yao. Munajua kwamba sasa hivi ma-councillors hawana nguvu juu ya clerk unajuwa hiyo? Kwa sababu clerk anatoka wapi? Nairobi. Tunasema kwamba all chief officers of a district, wacha huyu DA aseme kwamba nimefanya interview the following are my candidates. Council iketi iangalie waone kwamba huyu ha-qualify, huyu ni corrupt, huyu ni mkora, halafu wale ambao wanapitishwa wanapitishwa na council.

Haya, na je, huyu DA akianza kumea pembe kwa vile yeye ni accounting officer yeye ndiye mdosi katika district, je, hii council itamufanya nini? Tunasema hivi Article 6, the District Administrator can be dismissed by the vote of an accrued majority of members of the district council supported by referendum by a majority of those voting in referendum. Huyu DA pia yeye ma-councillor wakiamuka ashubuhi waone kwamba tumfute nani? Huyu jamaa, hapana, tunasema hivi, watapiga kura kwamba tumfute huyu DA wetu lakini pia nao wawe na nini? Over 50% ya councillors, baada ya kufanya hivo watalete kwa referendum, kura ya maoni, kwa wananchi, maanake wakati mwingine pengine councillors hawana sababu ya kufuta nani? Huyu DA na pia wananchi wanamupenda huyu DA. Tunasema kwamba wananchi pia wapate nafasi ya kupiga kura ya kwamba huyu DA ni mkora aende ama asiende. Hii ndiyo inaitwa checks and balances, kwamba kusiwe na mtu mmoja ambaye ni powerful katika district, kuna balance na pia wananchi wana nafasi ya kuona uongozi wao inaenda barabara.

Na je, Serikali ya province ni Serikali ya aina gani? Article 219 (2), the provincial councils consists of two person one of whom shall be a woman chosen by each district council from among its members. Serikali ya province, kila wilaya itakuwa watu wangapi? Wawili. Moja mwanaume moja mwanamke, wapeleke hawa kwa province, na province katika (3), hawa ma-DO wote, ma-district administrators, watkuwa executive council ya province, kazi yao nikuona kwamba mambo ya maendeleo katika province, yale ambayo inashikana yanaambatana na wilaya moja kwa moja. Article 219 (3). Hapo kutakuwa na mmoja wao anaitwa provincial administrator na atakuwa anaagalia mambo maendeleo ya katika hiyo province. Kwa hivyo mumesikia vile nimeongea sasa watu wanasema kwamba tumengoa provincial administration, tumengoa district admistration, tumengoa locational chiefs, hatujawangoa, tume wa reform.....ili kwamba wananchi wawe na nguvu ya kuwachagua na pia ya kuwa,ile ile tu, lakini they are more accountable to the people now, not just the President but to the people and to the electors.

Haya, Article 220 inawaambia mambo ya Serikali hizo, mtasoma wenyewe. Lakini mtaniuliza je, tuko hapa katika Nyanyuki municipality, Nyanyuki si location, Nyanyuki si district, municipality sasa, tuta itaje?. Samahani, Article 222, Nairobi itakuwa territory ya capital territory. Kama Nairobi haitakuwa district, ama province ama location, itakuwa tu national capital. Na kutakuwa na sheria fulani tulitunga kuchunga Nairobi peke yake. Pili, a city or municipality has the status of a district. Kwa hivyo kuna Mombasa city, kuna Kisumu city na kuna mahala kama Nyanyuki municipality. Tunasema hizo ziwe kama district maanake Municipality na city ni kubwa sana. Nyanyuki sasa tuki-compare economy yake ni kubwa sana sio? So, municipality, city inakuwa kama district. Na je, what about towns and urban centers. Kuna zile towns na urban centers katika sheria ya sasa. Tumesema hizo ziwe kama location.

Mambo ya finance iko katika 224, na mara ya kwanza nilikuwa nasema kwamba kuna hizo grounds na vile ya kushare resources kati ya districts na national Government. 226, sharing of national resources. Vile ya kugawa mali katika district, na province, na pia nation.

229. Kama wilaya ya Laikipia inataka kufanya maendeleo yake na wilaya ya Samburu tumesema ni sawa. Wanapanga

programme yao pamoja maanake kuna, tusme kama mambo ya barabara. For example kati Laikipia ya Samburu, ama Isiolo na Laikipia, barabara ifike border ya Laikipia na isiendeleo mpaka wapi? So, programmes ambazo ziko joined lazima ziweko hapo. Kwa ufupi hayo ndiyo mambo tumeweka katika Serikali, muundo ya Serikali. Mengi yako katika hii document muyasome tafadhali.

Haya, mambo ya Bunge, Parliament. Samahani sasa sauti inaanza kunipotea, Article 101. Article 101 page number 14. Article 101 pale juu. Kutakuwa na vyumba viwii vya Bunge. Wale ambao walizaliwa kabla ya uhuru kama hii generation yetu ya uhuru generation kulikuwa na vyumba viwili. Kulikuwa na lower house na senate. Tunasema hivi, to retain ile lower house sasa, vile iko Bunge, wa sasa, 210 constituencies ikuwe lower house. Lakini pia kuwe na upper house maanake hii lower house kwa miaka arubaini imeanza kuwa haiendi straight. Maanake haina mtu ambaye inaambia Bunge, siku hizi nani anaambia wabunge kwamba wamefanya makosa? Hakuna maanake hawa ni authority unto themselves. Wakipitisha bill hawaulizwi haulizi. Tukasema hivi, kuwe na district council, Article number, sorry, national council, Article 106. Kila wilaya ichague watu wangapi? Delegate moja, MP moja aende kwa upper house lakini delegate huyu wa upper house asikuwe tu MP kama yule wa chini. Tukaseme tumuongezee nini? Miaka. Maanake, ningetaka wazee waketi katika upper house. Kwa hivyo lower house MP anaweza kuwa from 21 years and above. Ukiwa 21 years una qualify kuingia lower house, national assembly.

Ukiwa 35 years and above ambapo umekaa kidogo unaigia kwa upper house. Unaelewa hiyo? Na je, kazi ya hao ni nini? Lower house inatunga sheria. Zile sheria za Kenya moja kwa moja. Lakini upper house mpaka ifanye nini? Ione kwamba ni sawa. Check kwa lower house. Inaangalia kwamba lower house isifanye makosa kutunga sheria ambazo ni sawa, na pia hapa tunawaambia vizuri sana lower house itafanya nini, upper house itafanya nini.lakini hiyo ndio structure vile nimesema sasa.

Na je, cabinet, mawaziri, watakuwa wakitoka Bunge? Tumesema hivi, hapana, maanake tumeona kwamba mbunge akikuwa pia waziri hafanyi kazi ya waziri vizuri, na hafanyi kazi ya MP vizuri. Anagawanya. Ni wape mfano moja, tulienda Mwatate constituency na hii niliambia Mwehismiwa Madoka hawezi sema nimemusema vibaya Nyanyuki, Mheshimiwa Marsden Madoka ni mbunge wa Mwatate lakini pia ni Minister for Foreign Affairs. Wakasema hivyo hapo Mwatate na alikuwa hapa yeye mwenyewe. Tungetaka kwamba mbunge askiwe tena nini? Waziri, kwa sababu huyu tangu akue Foreign Affairs Minister hatumuoni sisi, tunasikia ati ako wapi? Ngambo. Kwa hivyokazi ya Minister na kazi ya MP. MP akue kazi yake peke yake ni MP na waziri akue kazi ya? Waziri. Ili kila mmoja akue efficient kwa kazi yake. Ukigawa kazi.....? Tukasema kwamba Ministers itoke nje ya Parliament lakini wakuje hao ma-Minister waseme nini kwa bunge? Waseme mambo ya Serikali kwa Bunge, watakuwa kama Ex-Officio members of Parliament, waseme kwamba Serikali ifanye hivi na hivi na hivi, Wabunge wamuulize hapana hatukuona hiyo maendeleo sisi.

Na je, Prime Minister? Prime Minister atakuwa amechaguliwa kutoka Bunge ili akuwe kati ya Bunge na Serikali. Munaona hayo maneno? Prime Minister ni Mbunge na pia ndyo mkubwa wa Serikali etc. Na yeye atakuwa akija kila siku kuongea

kwa Bunge kusema kwamba Serikali yangu na fanya hivi na hivi na hivi. Serikali kama ya UK, unaona hiyo Serikali ya UK kwamba Tony Blair huenda kufanya nini? Kuenda kwa Bunge. Nimeanza kuchoka sauti. Nikimalizia jambo la misho. haki zenu kama wanainchi, je, muna haki gani? Fundamental rights. Article number 29 page 6. Ukiwa Mukenya uko na haki gani? Kutoka Article number 29 mpaka Article 75, Article karibu sitini zinaongea juu ya haki zenu. Kwa mfano, Article number 35 on page number 6, haki za wanawake. Article 36, haki za wazee, wote ambao wamezeeka katika nchi. Je, kuna haki gani ambazo tumewapa? Hizo ziko hapa. Article 37, haki za watoto wetu. Article number 38, the family. Haki za jamii ziko wapi? Article 44 page 7, haki ya kuabudu.

Na hapo nitaongea jambo moja lililokuwa ngumu katika Tume. 99% za Wakenya walituambia, mlituambia kwamba kuna haki ya kuwabudu na watu huabudu shetani. Ama mlituambia tuwe na haki ya kuwabudu na kila mtu awe na kanisa yake kama sasa. Niwaambie ukweli, hili jambo peke yake, hii mambo ya freedom ya worship ilichukuwa nine hours ku-debate, masa matisa ku-debate, hii peke yake. Tukaamua kwamba vile tumefanya, kwa sababu ukiniambia mimi sasa, kuna watu ambao (inaudible) ukiniambia uko na haki ya kuwabudu lakini abudu Mungu peke yake, hiyo haki si umenipatia na umechukuwa? Ama niambie uko na haki ya kuwabudu lakini uabudu Mungu ya Kikristu na Kiislam peke yake. Je, kama mimi ni Muhindi? Ama uniambie uko na haki kuwabudu lakini lazima uabudu kitu fulani. Najua watu kama Leakey ambao hawaabudu kitu fulani. Kama hii iko kwa kisheria it is a very difficult part of our work, how to frame these rights kuona kila mtu amefurahi Katiba vile imefanywa.

Haya, Article 45, haki ya kuzungumuza. Ile ambayo lazima itawachekesha kidogo ni Article 49. Article 49 on page 8. Every person has the right peaceably and unarmed, bila silaha, without the requirement of prior permission, bila licence, to assemble, kukutana to demonstrate..... Kuandamana, to demonstrate, to picket and to present petitions to public authority. Tuliambiwa kwamba hatutaki kwamba nikitaka kuwandamana lazima niende kwa polisi wanipatie nini? Wanipatie licence, lakini hii ikiwa italetwa najua mutasema na je, kila mtu aamuke aende apige demonstration yake bila permission lakini hii pia ilikuwa na (inaudible) kwa Commission lakini mutawambia kama ni sawa ama si sawa.

Article number 53. Haki ya kuwa na kazi. Halafu Wakenya walisema hivi, page number 9, Article 57, tunataka haki ya afya, the right to health. Hiyo iko, haki ya elimu. Article number 58, haki ya manyumba, housing. Article number 59. Article number 60, the right to food, haki ya chakula. Article number 61, haki ya kuwa na maji safi. Article number 66, every person has the right not to obey unlawful instructions. Marakwet walisema kwamba mtu akija maanake Police akuwambie kwamba vua nguo kwa sababu yeye ni Police, hiyo ni lawful? Ni sheria nzuri? Kwamba uvue nguo? Tukasema amri kama hiyo si amri ya sheria na uko na haki ya kukataa.

Article number 68. Haki za watu ambao ni wafungwa. Tumesikia mara nyingi kwamba mtu akishikwa ananyanyaswa, anafinywa, hana haki atembelewe na watu wake, hapatiwe chakula, hizo haki zote tumeziweka hapa, mpaka Article number 69. Mambo ya kortini. 69, Page 10, the right to a fair trial. Haki ya kuwa na mahakama ambayo inaku-try kwa kihaki. Je,

nitakuuliza, hizo haki ni safi, ni nzuri lakini, how do I implement them? Ita fanyikaje ndio ni pate hii haki. Zikichukuliwa niko na haki gani ya kufanya nini? Article number 73, page number 11. A person listed in this Article has a right to complain to the Commission on human rights or to approach the court of corporate decision andbill or rights has been denied, violated, infringed or threatened. Ukisema kwamba haki yako imechukuliwa na mtu fulani ama hukupewa, utaenda kwa huyo Commissioner wa human rights, na baadaye pengine utaona ya kwamba hiyo Commission tumeipatia nguvu nyingi sana kwa maana ndiyo itatusaidia sisi. Na pia, unaweza kwenda kortini, siku hizi hakuna njia ya kuenda kortini kwa kisheria wa leo, hakuna njia ya kwenda kortini kusema kwamba haki zangu zimenyanyaswa. Kwa hivyo Katiba ya leo ile tuko nayo sasa iko na haki nyingi sana. Chapter 5. Lakini haina njia ya ku-enforce hizo haki. Kwa hii Katiba Draft tunawapa njia ya ku-enforce haki zako.

Njia nyingine ya ku-enforce ni mtu anaitwa public defender. Najua mimi ni wakili na mara nyingi mawakili tunaambiwa sisi ni mikora tunakula pesa ya watu, hatuendi kortini, tukasema hivi, si lazima uje kwetu unaweza kuenda kwa mtu mwingine akutetea kama haki zako haziangaliwe. Page number 26. Article number 210 sub article 4, the public defender shall provide legal advise to persons who are unable to afford legal services.

Yaani, hii, inachukuwa biashara kwa kutoka sisi mawakili kupelekea huyu public defender. Maanake Wakenya wanasema hawana pesa ya kulipa nani? Mawakili, haki zao zinanyanyaswa, nani atawasaidia kuenda kortini? Tunasema kwamba huyu public defender kama huna fedha atakusaidia kwenda wapi? Kortini. Kwamba haki zako ukinyanyaswa kuna njia nyingi za kufanya nini? Za kuzipeleka mbele.

Njia nyingine,.....hiyo Commission ya human rights, page number Samahani kidogo, page number 35. Article number 288 kutakuwa na Commission on human rights na moja kati ya wale macommissioner katika hiyo Commission, Article 288 (c), anaitwa the peoples protector. Mtu ambaye kazi yake ni kuona kwamba mtu haki yake ikichukuliwa yuaenda kumutetea. Kwa hivyo, kuna njia nyingi za kuona kwamba hizi haki hazitatoka kwa hewa tu zitakuwa effected kisheria.

Haya niliambiwa pia leo ni kwamba nizungumuzie juu ya vyama vya kisasa. Article number 87. Page 12. Article number 87 hadi Article number 100, zinaongea juu ya political parties. Tunasema kwamba wako na haki fulani, watakuwa registered kwa njia fulani, watapewa fedha kiwango fulani na Serikali, na pia kwamba kuna vyama ambavyo havina numbers vinakuwa deregistered hii vyama ni vya briefcase vikue vimeondolewa.

Na ningesema hii juu ya political parties, Article number 100. No, Article number 99 on page 13. Inasema kwamba, a person whether or not a member of a political party shall not use public resources to promote the interests of political parties. Ili kwamba, fedha za Serikali zisitumiwe kupromote nini? Chama kimoja. Na Article number 100, hapo chini, the President and public officials above the rank of Deputy Secretary shall not hold office in a political party. President, Prime Minister, Vice President, Ministers, Permanent Secretaries, Deputies wasiukuwe nini? Officials wa vyama. Kwa sababu gani? Ni vigumu

kugawa mambo ya chama na mambo ya Serikali. Munaingiza yote ikuwe moja. Mukiwa mukutano ni unaogea mambo ya Serikali dakika moja dakika mbili mambo ya chama. Ndio tumasema restrict officials wa vyama vya kisiasa.

Nikimalizia, hii document iko na vitu vyingi ambayo ninkikaa hapa mpaka siku nzima singemaliza. Nilitaka kutaja tu vitu vichache muone kama kweli vile mulitwambia kama Laikipia if imeingia katiika hii Draft Consitution. Na je kutoka hapa tutaenda wapi? Tume kisheria ni lazima iwe na National Conference kudiscuss hii Draft Constitution, hii si ya mwisho. Kwa hivyo, siasa isipoenda kombo, tarehe 28th mwezi huu tutaitisha National Constitutional Conference. Nimesikia kuna delegates wenu kutoka Laikipia ambao wamechaguliwa na wako tayari kuja Nairobi kwa hiyo Conference. Tutakutana kwa mwezi mzima, 30 days kujadiliana hii document page by page kutoka paragraph mapaka paragraph mpaka tukubaliana kwamba hii itakuwa Katiba ya Kenya. Kama uko na mambo ambayo unaona si mazuri, mambo ambayo hayafanyiki tutumanie sisi hayo maoni kupitia.....ama kupitia hawa delegates na tutatia maanani katika National Conference.

Lakini siasa ikienda mrama na Bunge livunjwe kabla ya terehe hio, basi hii kazi itakaa tufanye uchaguzi na Mungu akipenda insha Allah na lifungue tena hii mambo ya kumaliza hii Draft Constitution. Maanake, hii miaka kumi tumesema tungetaka hii Katiba mpya. Hii Tume kwa kazi yake tunatumia tayari .shillingi Billion mbili. Imetumia muda wenu, imetumia akili zenu, imetumia maoni yenu, maoni yenu na hakili zenu na muda wenu ikiwekwa pamoja hizo ni billion zingine kama ishirini. Itakuwa ni aibu katika Kenya kama hii kazi yote, hii pesa yote huu muda wote tumekaa hapa sasa uende tuu kama ni mchezo.

Kwa hivyo tunaomba kwamba hata kama Bunge ikivunjwa lazima hii kazi imalizwe, maanake hii ni safari ambayo ni lazima tumalize. Ama sivyo?

Tutawaomba ili Kenya ipate Katiba mpya wakati wowote. Kwa hayo mengi na machache nimewashukuru, asante sana.

Margaret Lesuuda: Thank you very much Bwana Commissioner. Ameweza kutupeleka kwa njia ambayo nafikiri kila mmoja wetu ameelewa, all he has touched on and particulary because they are also touching on us as a district. So, before we open the floor I would like to recognise, I am seeing somebody I wanted to recognize he has just gone out, he is a gentleman who was seated with us here after the Chairman of Laikipia County Council left. Councillor Muchai, is one of the delegates elected for the National Conference and I have introduced the other one as Joseph Schwell and there is also one with an apology, Pascalinashe has an apology.

So, I want the Committee members to stand wherever they are so that I introduce them please. Committee members for Laikipia East, Constitutional Review, I promised to introduce them, simameni tafadhali, naona Madam Halima hapa. Wale wako wote wasimame. Agnes. Okay, Councillor Muchai Karibu. This is the gentleman I introduced in absentia, he was elected to represent the civic body in the National Constitutional Review Conference that our Commissioner has just mentioned about, that will take a whole month. So, wale ambao walikuwa wamesimama, wendelee kusimama tu, I am trying to look

whether others are coming, lakini nime-introduce huyu kama wa national. Tuko na wanakamati hapa huyu ni Madame Halima Saleh, she is one of the Committee members of Laikipia East, this is Laurence, he is also one of our Committee members. We have others who are busy outside, Agnes Muthoni, Muturi Kioko, there they are, I can see three of them there, they about four, five, others are outside assisting us. Ndiyo unaona pengine ukikaa pengine wanakuondokea na kukupatia kiti. So, we are very grateful that they are assisting us with that. I will also ask the Committee members to help with the coordination. So, I will now give back the meeting to our Commissioner, mumesikia yale amesema na nafikiri atatuongoza kwa maswali yale ambayo nyinyi mtukuwa nayo. We be patient and as I said earlier I believe that we are here because we support the Constitution. If we are here we should ask questions we should no get out of this room without getting exactly clear sentiments on what it says about our lives. So, Mr. Commissioner Sir.

Com. Lenaola: Thank you very much, nitachukuwa maswali tano kwanza halafu nijibu halafu tano mengine. Kuna microphone pale, utasema jina halafu upeane swali lako na jaribu kuwa brief na clear.

Mwirage Kinoti: Thank you Commissioner and the members of this audience. Mr. Commissioner I think you will allow me to..(interjection).

Com. Lenaola: What is your name.

Mwirage Kinoti: My name is Mwirage Kinoti, you will allow me to make a comment on the Constitution generally and then I will ask some questions, one or two questions. One of them, the first one, let me start by thanking the Commissioner and generally the other Commissioners for coming up with a perfect job, this is a job well done. I have looked at this Constitution, I am happy with certain things and unhappy with others. Some of them when I look at it, the implementation of it although it is a very good document, will be an exercise in futility. It is too good to be true. However before I come to that one, one of them is that there is a lot of inequality in this Constitution. The male gender, man, has been given a second rate citizenship, that is, this Constitution is too biased on the side of women. Let me tell you what I mean. Article 35. it gives women the same status, the same opportunities as men. I believe both of them are 50%. Then if you look at the rest of the Constitution wherever jobs are mentioned women are to be given 30% or one third, if they are equal to men why should seats and responsibilities be reserved for them.

The other one is you have made Kenya, the citizenship of Kenya very cheap. Osama Bin Laden can be a Kenyan after three years from today if this Constitution is passed. You have brought the citizenship by marriage, that is Article 20. A person who wants to be married to a citizen of Kenya for a period not less than three years is entitled on application to be registered as a citizen of Kenya. What I mean by this is, what would happen if Osama Bin Laden comes here, gives one of our ladies money, gets married, they do not even stay together, after three years he applies for citizenship? That one I believe Also, the other thing is if you have the opportunity of staying in Kenya for seven years you become a citizen. Is there any other country where you can get citizenship so easily like that one? There is also one that the people who cease to be Kenyan citizens, they

go to overseas to enjoy themselves then they come back here and we accept them, why? Are we so cheap?

There is the Bill of Rights, I believe there is no point of putting a law which will be impossible to implement. This Constitution a lot of it, the Bill of Rights, is wishful thinking, it can only be implemented in utopia. Education, Article 50, Cap 260, on food, who will give food, is it the Government? Should I go to court or to the Public Defender to sue the Government for refusing to give me food?

Article 60: housing, who will build the house for me? Is it the Government, if it is that way. I go to court then the court forces the Government to build the house for me? It is very beautiful, very beautiful wording but implementation is next to impossible. We go to what I was talking about, representation of women that is 109, that is 109 under the equality about women. Let me state again I believe our women are not... they are overprotected. When you are answering you have to tell me if we have to reserve seats for women then they should cease to be equal to men. If they are equal, no special seats for them. This Constitution will bring wars and fights within the public. See it with women, inheritance, married women, now daughters have same rights as sons in inheriting. This Constitution says that the culture of the Kenyans of different tribes will be recognized then you come and say inheritance, daughters have the same rights to inherit as men. If a woman is married she has already her husband's property, why should she come to fight with her brother?

There is this idea of having two houses, I will call them the Senate and the lower house. What surely is the purpose of these new additional a hundred MPs? In fact, what there is, is, you are encouraging tribalism, the 70 MPs are all tribal chiefs, what is their work? Why can't the Committees of the Parliament, even if we got this from Wanjiku, why can't the Committees existing in Parliament deal with the work of the Senate? The other thing now when it comes to..... you have imagined that first women are superior so they are imposed there. What will be the duty of these 30 women? That is 4 women from each province and 2 from Nairobi, why women and not men? On the Prime Minister

Com. Lenaola: (interjection inaudible)

Mwirage Kinoti: Let me come to the last one. The Prime Minister, a person who is unknown to Kenyans who is not elected by Kenyans is given all the powers, why is this? If you want the Prime Minister to have the powers, why don't you have him elected and the President selected by the Prime Minister? (clapping) And the other bit is, you people, that will not be very good to you, is that you have been selfish, the Commission is selfish, the Constitutional Commission, you have even created a national day for yourselves. In the national holidays that the Republic of Kenya shall have now four national holidays: 1st June, which is Madaraka Day, 12th December, which is Jamuhuri Day, and Katiba Day, why? We have been under Lancaster Constitution we do not have a day for it, why should we have a Katiba Day? And you have also created a post for yourselves that is the three arms of the Government, now you have added a fourth one which is now your Commission for you to remain there, I thought you were staying for security purposes and when it is finished you go home! (clapping) Look at Article 1(b),

the Constitutional Commission office right?

And then finally, on the Attorney General, you have revoked all the powers from the Attorney General but I do not know why you have taken out the power for a person to sue the Government because the Attorney General seems to have no powers now. You have the Public Defender, you have the Public Prosecutor, and the Attorney General, although apart from being the advisor to the Government he seems to have no other roles. Where have you taken that the duty, the responsibility of the (inaudible) of the Government, who will be sued? Thank you. (clapping)

Com. Lenaola: Asante sana Bwana wakili, unajua nilivopona wakili nikajua lazima alisoma. Thank you very much Bwana Mwirigi, let me start with the last question about the Attorney General. What we did is that the Attorney General has two functions, now only two, one, as the chief advisor in law to the Government; and two, as the Prosecutor. We have broken those functions into two. (inaudible) the Attorney General same function as the chief legal advisor to Government. All Government contracts, mukiaangalia vile tunaandika kwamba mambo ya public debts kwa public finance, the Attorney General will advise the Government, mambo ya citizen agreement kati ya nchi ya Kenya na nchi zingine, Attorney General will do that, mambo ya the prosecution aachie nani? DPP.....that is, for all civil matters which involve the Government, the Attorney General will do but all prosecution matterscivil matters are with the Attorney General, all prosecutions criminal with the DPP, there is no difference it is just two offices.

The third point, the Public Defender is on the side of the people, the against the DPP as you would know Bwana wakili, he is on the side of the people suing the Government. So it is the Public Defender versus the Public Prosecutor, okay. The public defender the Ombudsman is only to initiate complaints, kazi yake ni ku-initiate complaints to the court or to the Commission. So hiyo ofisi ya Attorney General hatujaiua sana hivo tumeigawia nguvu tu, to give somebody else to powers for the Attorney General.

Article 292, kuwa wakili anasema kwamba sisi baada ya kuimaliza hii kazi tukaona kwamba portfolio ya Serikali ni tamu mishahara si mbaya sana, tulijiandikisha wapi? Kwa Katiba. We did not do that, look at Article 292, the Commission shall consist of the Chairperson and four other members, so even if we see tutapata hiyo Commission tuko 29 so we remove some wangapi wanaenda nyumbani? 24. Already 24 wanaenda wapi? Wanaenda home. Lakini functions zake, Article number 2, the functions of the Commission are to ensure the implementation of the provisions, of the Constitution which requires more legislation and action for full implementation. We said that because we are aware that these provisions may never be implemented and yet Kenyans told us they must be implemented. We have said here, Parliament should do this, Parliament should do that, Parliament should do that.

Somebody asked me this morning, suppose Parliament refuses to do those things? Tukasema lazima tuwe na Tume nyingine ambayo si ya Bunge, ambayo kazi yake ni kuona kwamba tukiagana kwa National Conference kwamba tuwe na structure

kama hii, kuwe na Tume ya kuhakikisha kwamba it is implemented because you can not trust Parliament today you can not trust that Parliament tomorrow. But if this Commission isby the Constitution, ensure that theprovisions are done, they must do them. Look at the second Article, to report twice a year to Parliament of the progress on implementation of the Constitution. So, we are not saying kwamba hao pia ni wadasi kwa corner yao, every two years wataenda kwa nani? Kwa Bunge, to say we have made amendments to the following, the following we have not made. It is a check to the Commission a check to Parliament, ili kwamba hii kazi isiende bure. So it is not.....in any event kuhakikisha kwamba tumesema kwamba one of the issues we shall do ourselves at the National Conference, is to say that no Commissioner in the present Commission will hold any office for five years under the draft Constitution I can assure you Bwana Mwirage, that none of us will get any office from these offices, because how can we create offices in the Constitution and then we enter them ourselves, si ni selfish? So none of us in the Commission will be in any office in this Constitution. So rest assured if we have been in the Commission, we will not be there.

The Prime Minister: why do we have a Prime Minister who is elected by Parliament and yet he has executive power and the President who has less Executive power is elected directly. I agree. Kwa hiyo, if I was to speak as myself sasa nitazungumuza kama Lenaola, not as a Commissioner, unaona hiyo tofauti? I speak as myself, I agree with you and I have nothing to hide, and on this point you must remember that a lot of us Commissioners, we argued on this point katika Commission lakini we were bound by this document because it is a document put up by consensus. So what they said in the debate I will not tell you now but I agree with you entirely and I have nothing more to say on that point.

On devolution; why the Senate? If you look at the way we have put Article 213, wakili says that the senators are tribal chiefs and therefore we are perpetuating tribalism. Let me tell you Kenyans, and I said it again, mukijaribu kusema kwamba hamuna makabila Kenya ni uwngo tupu, ni uwongo, mukisema kwamba sisi ni nationalists ni uongo mtupu maanake kila mwananchi anajua kwamba huyu ni Mmeru na huyu ni Msamburu. In 1963 tulisema tuwache nini? Ukabila, na nini ikifanyika? Tukaujenga mpaka siku hizi unasimamia juu namna hiyo. We were trying to be realistic, Kenyans are tribalists of the highest order, the Honourable John Keen tells me that every day. He knew that in 1963, he knows that now. What we can do is manage tribalism, do what? Manage it, not hide it, ukifunga hapa chini ya meza that there are no tribes in Kenya, that our districts are not tribal districts, that is a lie.

I went through the list of districts by the way, look at the list of districts on page number 41, the Commission did not create these districts, did we? They were there before the Commission came isn't it? Now page number 41 has the districts from number one to the next page number seventy. When we were debating that aspect Bwana Mwirage, I can assure you we debated that point at length I told my colleagues the Commissioners, against every district put a tribe. There was no single district which had no tribe against it, hakuna. So by saying that there is no tribalism in Kenya we are lying to ourselves. The best we can do is try to make tribalism a known-issue by saying, what we are saying is that Kenya is made up of tribes, but by saying let there be an upper house to check the lower house yet the lower house must be checked by an upper house. The

upper house can only be checked by senators from the districts. If the center of power and governance is the district as we have said in devolution, it makes sense to say that there must be a house of districts in the nation to check that each district gets its rightful share of the national cake. That is a realistic proposition, you do not agree but it is a fact.

So we are saying, we have given functions to the upper house, for example, if we want to impeach the President, the lower house will put the motion to say the President is a crook let us impeach but the lower house can not also hear the impeachment proceedings, that goes to the upper house. So one house inachukua impeachment the other one goes to the upper house. Two, when you pass the budget, the budget will be heard by both houses and passed by both houses. Three, we are saying appointments of people as Judges, as Chief Justice, as Supreme Court Judges, let it be done by the upper house. So we have given them functions they are not moribund they are not dead, they have functions and if you through the document it is clear. In fact what we shall do Mr. Mwirage, and I expect this in the morning, we had given a list at the back of this document which says the upper house will do this, the lower house will do this and I feel the need to indicate the difference between the two houses.

Women; do women have equal rights with men? Let us again be realistic, tusizungumuze kama ambao tunasema uwongo kwetu wenyewe. Tuseme ukweli, do women have equal rights with men today? Let us be honest, they do not. I can say it and I am glad you are saying so, today in this country whereas we are saying in this Constitution that men and women shall be equal we know as a matter of fact we do not treat our women fairly. Let me give you two examples. We are saying in this Constitution even the present Constitution says all persons shall have equal rights to property. Now, just that sentence alone, are women persons? Now, are they persons? Do they have equal rights to property?

They do not because one, unaambiwa, you must get married yhm you can go and get your husband's property. Suppose you do not get married? Two,two, when you say that all Kenyans have equal opportunity to employment, or basic education. I know where I come from will that.....?does she have the same rights? Let us be realistic, women do not have the same rights, but, have we gone far in putting womens' rights in the Constitution? No. The reason being, let us have, if you look at the way we have framed it by the way, we are only saying political parties should ensure that at least one third of their candidates are women, but we know very well that again we will not elect a woman in some places of this country. So, we are saying for women to have equal rights really, let us give them 45 seats at the upper house, those are how many seats? 45. We give them how many seats in the lower house? 30. Those are how many? 75. Out of 200 seats, out of 300 seats, if we were really equal with them why can we not give them 100 seats? 75 is only a third of 300. So if you say on one hand they are equal and you give them 10 seats then you say, oh no, 75 they are having too many you are not being realistic. So in my very humble view. Let me assure you I was one of the last Commissioners to be won over by the women agenda in this draft, let me assure you, I was as strict as Mwirage, but I saw the sense, I saw the light at some point, I hope Mwirage has seen the light.

Now, citizenship, Article number 47, you see again like a good lawyer, Mr. Mwirage chose to only pick that point which makes his point, you did not take us to the other Article, that is how lawyers behave, so he has made one and I tell him why he is wrong. Article number 47, it is true indeed that we are saying that you can have a citizen by marriage, and again we are going back to the same point we were saying, are women equal to men? The present law inasema ya kwamba mtu Mkenya kama mimi akioa mwanamke ambaye ni wa ngambo ama wa nchi nyingine ni lazima mwanamke akuwe nini? Lakini msichana wa Kenya akiolewa kwa mtu wa kutoka nje munasema ni ukora, kwa hivyo huyo mtu asikuwe nini? Asikuwe Mkenya. Are we saying that women are equal really? Is that equality?

For example, let me give you my personal example muone kama mimi naelewana haya mambo sana. Mimi, bibi yangu si Mkenya, nilimuoa vizuri sana niko na ring. Nilipomuoa within three hours ako na passport ya Kenyan. Je, kama yeye angekuwa sasa ni Mukenya na mimi ndiye kijana kutoka ngambo na tuko si ati mama yule mumesema ati mama mzee ni mtoto mdogo. Nilipomuoa alikuwa 26 years, si mzungu ni muafrica. Halafu munamuambia kwamba wewe bwanako asikuwe Mkenya lakini wewe ukuwe nini? Mkenya. Watoto wako wasikuwe wa Wakenya lakini wewe ukuwe nini? Hiyo ni haki? Tukasema hivi, let there be equality, if it is a man who can bring his wife to become a Kenyan, let also the woman bring a man to become a Kenyan.

We have said this and this is what Mr. Mwirage failed to see, Article number 29 I think it was, sorry, Article number 27, on page 6, tunasema hivi, kabla ya haya mambo kuwa sheria, Parliament may enact legislation prescribing conditions upon which a person may become a citizen in terms of the Constitution. So, all the conditions Mwirage amepatiana tumesema, let there be a law saying for example, if...they investigate you wanaone kwamba wewe ni mkora hutaki kuo wewe unataka kuwa na bibi wa ukora ukora, we shall investigate you. If you are Bin Laden and we know you to be a mass killer, we shall investigate you. Clause number (b), providing for, sorry, by persons who are no longer eligible to become citizen under this chapter. The point he was making, kwamba umekuja umekuwa Mkenya, umeenda nchi nyingine umekataa Ukenya, we are saying let there be rules kusema kwamba nani ata-qualify.

Suppose you have been out of Kenya for thirty years then you come back and say nataka kuwa Mukenya, tutakubaliana kweli?

Because there are rules here. (C), how do you deprive somebody of Ukenya? We are saying for example if we discover after three years that all you came to do is marry our girl so you can become a Kenyan then you bring bhang to Kenya, we can do what? We can renew So we thought about that issue and it is very clear here that we are not open ended. That is your last point. We consulted the department of immigration and we are having a meeting on the 24th of this month on this particular Chapter, so that they can tell us, "this is realistic and this is not realistic." So I agree, Mr. Mwirage, you have a point and we are addressing it in the terms of this session but thank you for raising it.

Now, the inheritance of women, Article 235. Mwirage is telling us, in the year 2002 that women should not inherit property or that when a woman is married let her go away kabisa, she stops being a child of that family. What I was told by a Luo man in

Nyanza when I asked the same question, he told me when my daughter gets married she stops becoming my daughter she becomes a relative. Anakuwa nini? Anakuwa tu mtu wa jamii yetu. In this year you can call your daughter a relative because she got a husband. Therefore you have 10 acres she can not get a quarter acre? I tend to disagree, but what we are saying in Article 235, is that where a man dies, the husband, it really is imperative that his wife must be one of his beneficiaries. There is no way I can die today halafu my brothers come and take my property which I got together with my wife. It is not right, but we are saying also we must respect culture and the way to do it by the way is to say if a culture goes against the fundamental principles of this Constitution, that culture is not right and culture is not static, culture moves.

A few years back huko Samburu they were cutting girls ndiyo alikuwa (inaudible) circumcised, now we have reduced the number of girls we are cutting, culture is dynamic. This Constitution is not for your generation alone. Let me take you to the Preamble. The Preamble is on page number two, at the bottom we are saying we adopt, enact, and give to our fellows and to our future generations this Constitution. We are thinking about this Constitution in terms of ourselves and this document should last us very many years. In the days of dot.com generation wale wanakuja sasa, they do not want to know, they will be equal whether you want it or not. I am already feeling ISo let us think ahead of the Constitution not think of ourselves now. Culture is dynamic, culture will change, let us think and cast the culture in the future not now.

Haya, the 30% principle for women. I think I discussed by saying that in fact 30% for women to me is not a big deal, because if we say they are equal then you must give them 50%. If they can not get, make the law, give it to them, but because they can not get we are saying 30% is the minimum they can get. In fact, under this Constitution that is a principle overriding, just a flowing principle, except for the upper house and the lower house there is no other place..... Why for example is Mwirage uncomfortable with having only thirty women out of one hundred men? And these women are even four from each province. From Rift Valley Province out of those 24 districts you only get 4 women, it is not a big deal.

Now, is this Constitution futile in terms of implementation. It may well be, why we came back to you is to tell you, we the Commission sat down as ourselves, we had expertise from ourselves and from outside, this is the document, we are asking you, does it make sense? Because you know sometimes mukifungiwa mahali pamoja huoni kitu gani kiko nje. We sat in Mombasa for a month debating this proposal and sometimes maybe we got so tired mentally and physically we report something which is totally nonsensical. It is possible, so we are asking you now, having read the document, iko na kasoro ngapi ama iko namna gani? Hatusemi kwamba hii ni Bibilia wala Koran, so if you see that there is a problem in implementation, tell us. Let me give you an example what we are doing, we are now calling experts, people on the ground watu ambao ni experts on finance, experts on other things, we are telling them can we afford this document? Before the National Conference we will come up with thoughts from those who are saying for example, when you say remove the provincial administration it is ridiculous, it can not work. So I agree, there may be things that can not work and we are coming here to you to tell you this is a sanity and logical check, is this proposal logical? That is why we are here, otherwise tungekaa Nairobi na kusukuma through Bunge but we have come back to you. But thank you for the questions and I think that is a good beginning. Thank you very much.

Maina Njogu: My name is Maina Njogu, I am the Chairman of the Kenya National Chamber of Commerce and Industry in Laikipia. You have not actually answered Mwirage's question, this one of now you do not have the food you do not have the housing. You have not addressed that one. Then we also find that this document, you find that now like this board now will be holding some offices you do not have the qualifications, and actually you have seen that in most of the country has actually been.....because the standard of education actually is very nice. Then when it comes to management of resources especially at the local levels it is not actually adequate, so I think maybe you can address that.

Mama Halima: Asalaam Aleikum? Kwanza nashukuru kwa hii fursa na ninataka kuanza na criticism. Natumai wale wote tuko katika hii hall, si wote tunaelewa Kiingereza na maneno yaliombele yetu ni muhimu sana kwetu, na ingekuwa ni bora kila mmoja aliye-hapa aelewe ni nini kinachoendelea ili aone ameridhika, kama hakuridhika aulize swali. Kwa hivyo Kiswahili pia ni muhimu kutumika.

Mimi hapo kuinua mkono kwangu juu nilitaka ku-ask mambo yanayowahusu wanawake. Mimi ni representative wa wanawake katika hii CWK na ni nimeshiriki katika kutengeza memorandum ambazo si chini ya nne. Mambo fulani fulani ambayo tuliyaandika ili yapelekwe kwa Commission hayakuwa, siyaoni kama yako cast hapo. Kwa mfano kama Affiliation Act ambayo ni muhimu sana kuhusu wasichana wetu, siku hizi watu watoto wamezaliwa ovyo hovyona ndiyo tuko hata na machokoro matangi wengi. Baba hata hawahudumie watoto wao wanahudumii tu wale waliolewa makanisani ama wale wanaolewa kidini, na wale wengine wao wenyewe tu ndiyo wanazalisha hao watoto na wanatupwa ovyo. Kwa hivyo tulikuwa tunaomba kuwe na Affiliation Act. When a man sires a child he has to take care of that child, sio kuachia mama peke yake na mengine mengi ambayo si captured kwa hii document iko pale.

Na pia kuna watu ambao ni minorities, as such they are also marginalized. Kuna issues nyingi sana, mimi mwenyewe nime participate katika kuandika document kama hiyo na pia sioni kama iko captured kwa hiyo paper. Na nakubaliana kwa hakika tusifanye ya ku-pretend as to pretend that there is no tribalism. Tribalism iko katika Kenya, tuko different tribes na tribalism inatumika hata kwa mambo hayo ya Constitutional Review. Unakuta kuna kule tribalism ndiyo inatumika ili fulani awe na hali gani. Na sasa wale ambao ni minority na wako marginalized nani hata-highlight their issues? For instance sasa kama hii Laikipia ni cosmopolitan, kuna watu wengi sana wengine hata ukifuata roots zao si wa hapa Kenya ni wa nje ya Kenya, hata South Africa, tuko na wa-Zulu hapa, Waganda wako hapo, Watanganyika wako hapa na whatever. Pengine kuna three major tribes na wana-operate on their lines, wanakubaliana hebu tuende hivi sisi tutawa-support pande hii na nyinyi mutu-support pande hii. Hawa wanawake wata..... hata wao wana shida zao, ni nani anawahudumia?

Halafu tunaangalia kama sasa vile mulisema ati municipality ichukuliwe kama district ni vizuri kabisa ili na wao waweze kujisimamia kwa mambo yao. Kwa mfano, vile sisi tulikuwa na uchaguzi naona hata councillors wa municipality pia wangingizwa na ma-councillor wengine ili nao waweze kuweza kuchaguwa representatives wao. Sasa hivi tulivyo Laikipia iko

rural, the rural of Laikipia is represented, the pastoral Laikipia is represented, who is representing the others in Laikipia? And people are there and in great numbers. Na mfano ni majengo tu ya Nyanyuki, it is the biggest majengo I think in the whole of East Africa, who is representing them? Na kuna Wa-Somali, Wa-Sudan-Wa-Ganda, Wa-Zulu wanini wanini, who is representing them? Nani anajua shida zao? Kwa hivyo mambo yale si captured tungependa yawe captured na tuelezwe vizuri sana kwa sababu sisi tutabaki hapa hapa tujue where to channel. Tuko tayari kufanya hivo.

Com. Lenaola: Asante Mama Halima, nafikiri wale walikuwa hapa mara ya kwanza nilipoanza nilichukwa karibu nusu saa nikizungumuza juu ya minorities. Mama Halima, kwa hivo hukukuwa nikizungumuza. Jambo langu la kwanza ilikuwa juu ya marginalized na minorites nikawa-refer to Article 14, Article 77, Article 86, Article 213, Article 235, Article 239, Article 246, Article 226, Articles nane zinazungumuza juu ya minorities na groups ambazo ni marginalized, kutoka locational council mpaka national council, kutoka mambo ya fedha mpaka mambo ya uongozi. Kwa hivyo ulichelewa kuja lakini that was my first discussion and I can give you the paper you reasearch the Articles in your own time, lakini nilizungumuza sana juu ya hayo mambo, kwa hivyo si kwamba si kuzungumuza wala hayako, yako tele tele chungu nzima.

Jambo la pili, Affiliation Act, jambo ambalo wanaume hawapendi hata kidogo lakini lipo, page number 7, Article 37(2), all children whether born within or outside wedlock are equal before the law, and have equal rights under this Constitution. Article number 4, sub Article 4, a child's mother and father whether married to each other or not have an equal duty to protect and provide for the child. Iko complaint? Haya, the education for our leaders. It is one of the most controversial issues katika hii Katiba ilikuwa, je, tuwe na kiwango gani ya elimu katika council, katika Bunge na kwa Prime Minister? Na ikazidi kuwa controversial. Tulisema hivi, kwamba MP wawe form four and above, district councils, O' Level and above and the Prime Minister will come from Parliament. So is it possible to have a Prime Minister who is O' Level, yet you have said here the President must be a graduate? So in a sense I agree with those who say the education qualifications iko na nini? Because then how can you have like Mwirage was saying, you have the Prime Minister being the Chief Executive na yeye ni mtu wa Form Four na President ambaye ndiye ako na more ceremonial power ako nini? Graduate. So I agree with those who say maybe we need to harmonize the education standards, I fully agree. I raised it by the way in the Commission earlier and it has been taken care of, kwamba we need to harmonize mambo ya education, ili tusikuwe na mtu ambaye ako na power nyingi ako na education ndogo, the one who has no power has more education. So I agree with you that

Mambo ya chakula na education, let us look at Article number 58, page number 9. Every person has the right to a basic education including pre-primary, primary and secondary education. Two, the Government shall institute a programme to implement the right of every child to free and compulsory primary education. Na hatuakuambia Serikali ilipe masomo, tumesema you must implement the programme ili kuwe na masomo ya wapi? Ya chini. So we were aware about the question of course, but Kenyans told us quite clearly there must free education at the primary level, ili kila Mkenya awe na masomo, na Serikali ya Kenya iko na fedha za kutosha kupitisha hiyo. Now and in the future, the Government has money to ensure that we have primary education, I have no doubt myself. C, the State through reasonable measures shall make progressively available

and accessible secondary education through reasonable measures and progressively. It makes sense, we are not saying that kama hamuna fedha basi people must go to University, reasonable measures kuona kwamba watu wanapata masomo baada ya secondary school. Kwa hivyo hii is implementable it is not out of the blues.

Number 59, every person has the right to have access to adequate housing. The operative word is access. Hatusemi kwamba Serikali ya Kenya iamuke leo ijenge manyumba kwa kila mtu, but access includes to say kwamba kila mtu ako na nafasi ya kutafuta nyumba, which goes to say mambo ya kazi, mambo ya kilimo ili apate access kupata nyumba. So again that is not a very utopian ama mambo kutoka mbinguni. So, I think you will agree these are acutally sensible proposals within the context of this Constitution. You are next Sir, please take the microphone and your name.

Francis Gathumbe: Thank you very much Mr. Chairman, my name is Francis Wanjuki Gathumbe. I have one question or two to ask. The first one is on the Bill of Rights and specifically rights to education. Article 58 sub section 1 does state that every person has the right to a basic education including pre-primary, primary and secondary education. I find that one to be quite okay but when we come to sub section 2, I find that pre-primary has not been highlighted..... to free education when they get to the primary level, but I believe that pre primary will be the foundation to the primary. Therefore I do feel that if the Constitution states like this, those children below primary level will be marginalised. They will not get access to free education and the Government will not be duty bound.

The other question Mr. Chairman, is on the social security, I am not quite sure that this one is addressing the issue of the aged I do not know, you could clarify. We have a very big problem with the aged people. These are the people who will not even have housing, they will not have anything to eat, they will not have anything to, you know these basic rights. Could there be a proposition that they get, that (inaudible) get highlighted here because they are the most neglected in the society.

The other question is on health. Is this HIV scourge entrenched in the Constitution when we are giving health? These are my three questions. Thank you very much.

Augustine Karokia: Thank you Mr. Commissioner. Mine is not in form of questions, I had highlighted them in form of issues. My name is Augustine Karokia. Section 58, it goes back to education. You have said that the Government will make efforts to make post primary education available and accessible but you have not instructed the state to make appropriate registration or otherwise to make sure that post primary education is available and accessible.

Section 68. this is a proposition that the maximum time a suspect may be confined in remand custody be 6 months, this will reduce congestion in our prisons. Section 103, this is on appointment that shall be vetted by the National Assembly before approval. I propose that the appointment of the Vice Chancellor and their Deputies of public universites be vetted by the National Assembly.

Section three you have said that those MPs who miss 8 consecutive sittings in Parliament will automatically lose their seats; but we have problems in Kenya of technical appearances, what will happen to MPs who appear for two minutes and then go away.

So I was proposing that there be set maybe a minimum of three hours in which MPs will sit in the house so as to prevent the issue of technical appearances.

Article 122. it is the issue of recalling an MP, you said that at least one third of the registered voters but I found it very difficult. I took a case of Laikipia West, where we have about 60,000 registered voters yet those voters who turn up to vote are about 40,000. So I was proposing that you say one third of voters who actually voted because those are the voters who are actually involved in constituency affairs. I was saying, to recall an MP who is not performing, we say one third of voters who actually voted rather than one third of the total voters because you can find a constituency where even half the number of registered voters do not vote.

Then, section 131. You are saying that the Constitution will be availed in all public libraries but the public libraries are very few in Kenya. So I was proposing that the Constitution be also availed in all public Government schools including secondary schools, colleges and Universities.

Then section 157. This is a question. What would happen to a Presidential candidate who garners more than 51% of the total national votes and then he or she does not garner 20% in at least 5 provinces?

Then section 196. I propose that the retirement age of Judges be 74 years old, not the one that you had proposed was 65.

Then Chapter 5, Section 44. It goes back to the issue of religious organizations which you/we are saying. I propose that there should be a registration put in place regulating formation, operation and dissolution of religious organizations. This will prevent people who form denominations with maybe very few faithfuls. I also propose the banning of public solicitation of funds during open air religious meetings. For example crusades. There be a legislation that bans solicitation of funds maybe through crusades.

Section 105. (interjection)the last one is that I propose the disbandment of the Kenya Police Reserve, these people called homeguards. These people are given guns and these guns are not appropriately supervised, so that you find that these homeguards are misusing these fire arms, and if anything the homeguards compromise the function of the Police. So I propose that the Kenya Police Reserve or the homeguards be removed from the Kenya Police Services. Thank you.

Margaret Lesuada: Can you kindly switch off your phones because you are interrupting our proceedings or you can put it on the vibration or any silent mode but do not make it ring here. Thank you.

Com. Lenaola: Let us be brief. If you want to make a comment, a certain question so that we can move.

Maina Wachira: Bwana Commissioner, my name is Maina Wachira. I have a few comments. Page 4, number 13. National days. Bwana Commissioner, it is very surprising to see in our Draft that we have got only three holidays. Bwana Commissioner, it seems that we are going to have a conflict between the Christians and Muslims because we have got Christmas day Bwana Commissioner, bearing in mind that this Draft Constitution if it is enacted the old Constitution will be put in the dustbin, and if this Draft is heard like this one therefore Bwana Commissioner, we shall not have a public holiday on Christmas and others. Whereby in looking to the old Constitution we have got 9 holidays. Bwana Commissioner, where have the other holidays gone? Whereas we had that one for Islamic.(interjection).

The other point Commissioner, is that on page 20, qualification age of the President. Bwana Commissioner, the new Constitution says that it is 70. Bwana Commissioner, it would seem that when somebody has got the age of 70 it is the time that he has gotof leadership. It would be my view and others who are proposing this Draft that the age of the President should be 80 onwards. That means that we shall have given him a chance of leadership.

Bwana Commissioner, number 34. Bwana Commissioner it is very surprising in the old Constitution and bearing in mind that where the old Constitution has come from the British, and I would suggest that the Office of Ombudsman should be created and this one should be a separate office from the Constitutional Commissioner and the Attorney General, whereby mwanainchi wa kawadia can just present his case.

Bwana Commissioner, number 4. Cabinet. Bwana Commissioner, it is very surprising in your new Draft that you have already said other duties of the Prime Minister, President. In the new Draft you have forgotten to list or to give us the duties of Minister, simply because the present Constitution and present Government we are experiencing two Ministers in one Ministry. For example, we have got medical Ministry, Health .Ministry and I would suggest we as we are sitting here in Laikipia, that we should have a number of Cabinet Ministers and their duties listed.

Bwana Commissioner, when it comes to the Lands Commission, we have seen and we have got an experience that the Ministry for Lands, the Commissioner of Lands has got more power than Ministers. Bwana Commissioner, I am asking you when you go to Nairobi, and you see this question to be very much looked into because what did we come to present our views here, we did in Laikipia East, we presented that one because I remember I did that one, and although it is not there, that the Minister has got more power than the Commissioner because our land in Kenya has been sub divided by the Commissioner.

The other one Commissioner, is that when we are congratulating your good work I suggest that you go back to our memoranda, see what has been happening, what has been left, please adjust and see what we can do. Thank you.

Com. Lenaola: Thank you Maina. As you sit down, let me start with you. Article 13, inazungumuza juu ya National days. Kuna tofauti kati ya National days na Public Holidays. National Days ni siku za kitaifa amibazo zinaambatana na taifa ya Kenya. So, mambo ya Christmas, mambo ya Idi Ul Fitr, Id Ul Haj, hiyokuna sheria. Mambo ya Easter iko katika sheria ile legislation lakini katika Katiba kwa maana tunaunda taifa ya Kenya tuongee mambo ya siku za taifa la Kenya.

Na, nikiwajibu. Kuna swali Murigi aliuliza ninataka kumujibu. Jambo la Katiba day. Unajua tunaunda Katiba mpya ya Kenya. Katiba ya kwanza tulipewa tarehe moja mwezi wa sita, 1963 Kenya ikakuwa nation. Katiba ya pili tulipewa 12th December, Kenya ikiwa jamuhuri. The Republican Constitution. Si ile ya kwanza ya kizunguni. Katiba ya tatu itakuwa hii, kwa hivyo ni vizuri pia tukipatia hii nafasi yake iwe Katiba day ile siku tukiunda hii Katiba ya tatu. Kama hamupendi museme hivo.

Jambo la pili. Article 156. Mambo ya President. Bwana Wachira anasema kwamba angependa President awe 80 years. Jaribu kusoma hiyo Article 10 inasema nini. Inasema a person is qualified for nomination as a Presidential candidate if the person, D, has attained the age of 35 years but is below the age of 70 years. Tunasema kwamba President asisimame kuwa President akiwa 70 years, from 35 to 36 to 37 mpaka 70. Lakini akiwa 71, out. Lakini akiwa 70 anaserve for how many years? Five years. Ile term ingine ya pili atakuwa disqualified by fact of age. So, tuna kuta katikati na yeye 75 lakini 80 ni Mzee Bwana.

Jambo la tatu. Ombudsman. Article number 288. Page number 35. Katika ile Commission inaitwa Commission of Human Rights and Administrative Justice, 288 (1)C, kuna mtu anaitwa the people's protector. Huyo ndiye tunamuita Ombudsman kwa hivyo yuko. Jambo la tatu. Cabinet. Article 170 sub article 2, inasema kwambakazi ya Cabinet ni nini. Article 170 sub article 2. The Prime Minister and the other members of the Cabinet, Prime Minister na mawaziri, shall exercise authority by A, developing and implementation of national budget and policy.

Jambo la kwanza, mambo ya policy na policing itakuwa Ministry kwa Ministry lakini ni budget ya kila Serikali. Two, preparing and initiating Government legislation in Parliament. Kutoa maswala muhimu katika Bunge kwa niaba ya Serikali. Three, implementing and administering Acts of Parliament. Baada ya sheria kuenda Bunge ikirudi cabinet inaipitisha na kufanya ziwe sheria. Kwa hivyo.....iko na kazi mingi, lakini kusema kwamba katika Bunge E, performing any other functions in the Constitution or an Act of Parliament. Mumelewa? Inasema kwamba Bunge sasa list of ministries kwa Katiba vigumu kuweka list of Ministries. The 15 Ministries shall be finance, health etc, kwa sababu ni Serikali katika nchi ambayo inachagua ni Ministry gani ingetaka kutengeza lakini tumesema kwamba isikue more than 15. So umejibiwa pia hapo.

Article 237. Mambo ya Land Commissioner. Article 237, page number 29, badala ya kuwa mtu moja ambaye anaitua Land Commissioner tukasema kuwe na National Land Commission maanake Commission ni easy kumange kuliko mtu mmoja akuwe na nguvu kama hizo. Kwa hivyo mulisema katika Laikipia na nilisoma kabla ya kuja kwamba Commissioner of Lands is a very powerful man. Tukasema hizo nguvu za land tuipatie Commission ambayo itakuwa ikiz-balance lakini pia hii

Commission functions zake ziko hapa, na katika Code of Conduct Commissioners wamepewa certain qualifications. Mtu ambaye amekula land before ameji-allocate land haja-declare wealth amekuwa corrupt ame kuwa fraudulent hawezi kuwa katika National Land Commission. Kwa hivyo swali lako limeingia hapo, hatukuwacha nje.

Karobi most of your comments zilikuwa comments lakini kujibu Article 157. Je, tuseme katika election ya President, President apate 51% ya ile national vote na akose 20% ya provinces kwamba amepata province say 20% of how many provinces? Four. That automatically calls for a run off. Automatically, maanake kama you do not meet the two qualifications kupata moja juu ya mbili you have failed. You must get both, 51% na 20% ya provincial votes. Kwa hivyo mtu ambaye hapati hilo tunarudia kura ya President the first two candidates wanaingia kura ya pili. So, Karobi that is that point.

Retirement of Judges at 74, again that is debatable. Mambo ya ma MPs ambao hawaingii katika Bunge wanaingia 1 hour halafu wanatoka, wanaingia kuchukuwa kura wanatoka. Hiyo.....Katiba we can not put that in the Constitution. That will go to the Standing Order ya Parliament, kwamba Mbunge.....as sitting in Parliament must be in Parliament for three or four hours so that is a good point tutaichukuwa.

Bwana Gathumbi, Article number 58. Bwana Gathumbi, you are correct, in fact tulisema ya kwamba you can not have primary education iwe compulsory na free na pre primary isikuwe compulsory na free. Maanake how do you get to primary school? Through pre primary so this is clear kwa hii lakini as the first Draft that was there so you are right. Article 58 (1), Article 58 (2) they are talking about pre primary and primary education so you are right and that one itaingia that is already there.

Social security, Article number 56, inategemea watu wazee na wale ambao hawajiwezi. So, tumesema clearly it is for disabled and elderly people so you are right again.

Mambo ya health, na watu wa HIV. Unajua, hii Draft ambayo muko nayo ilikuwa kwa Daily Nation, and I think katika ile mambo ya kuprint hii document kuna word moja ua mbili zimepotea. Kwa sababu katika Article number 34,wakati tuliandika the State shall not unfairly discriminate directly or indirectly against anyone on one or more grounds including race, sex, pregnancy, marital status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, language or birth.

One of the issues we have put there was health status, it was there I know that myself because we drafted this. So what HIV we covered them under discrimination again because of health status. That is there and I am glad you raised it.

Those are the issues, Karobia again.....to be removed. Anybody else? Kuna Mzee hapa, Mzee njoo, utamufuata ndugu yangu halafulet us hear sauti ya mama pia ninajua tunataka kuwa so equal she will be number four.

Albert Mundia: My name is Albert Mundia. I am very happy to note that you have come out with a very comprehensive Draft which reflects the hopes and aspirations of the people of Kenya. Those who have gone through the Draft might feel that they register too much Government. I am happy to note the fears of too much Government are assuaged by the many checks and balances in the Draft. I would like to make some two suggestions.

Given the present state of our economy I would like to suggest that maybe we could leave the National Council because to ensure that our tribal feelings are catered for. I am suggesting here, because having ideas of mixed Members of Parliament kind of which goes for proportional representation that can cater for that. I was also wondering whether it is necessary to have the budget controller and the Auditor General. I would have thought that the Auditor General could comfortably deal with do the job, done by the budget controller.

Thirdly, I read the office of the Prime Minister can be occupied by the President indefinitely and I thought we should limit that one to two terms. The fourth one is that in the village Government you do not seem to have a body which will be able to enforce what the village Government comes up with. That needs to be clarified. And finally, if the elections must be held this year I am suggesting the Parliament should commit, the new Parliament, (inaudible) completion of Constitutional Review Process proceeds with regular conclusions because we need that new Constitution badly. Thank you very much.

Boniface Nyamu: Thank you Mr. Chairman, I am Boniface Nyamu of Kenya Human Rights Commission. I remember last time we talked about when civic leaders will be employed by members to go in council. Again Mr. Chairman, since when we had this Review Commission, I think there have been like 10 people who have been coming to my place complaining about civic leaders selling plots and these are things that as a Commission you should get these things gazetted. They should not go ahead and taking powers and sell these plots for poor people because I am not happy to see every day a woman or a man coming to complain that her plot has been sold. Like last week on Thursday, I had one man whose mother has been in hospital and the ladies plot has been sold. These things I want you to put on your list in your Commission and to be very powerful so the civic leaders when they are elected they should not sell someones plot. These are my only questions because last time we discussed this, this is in Chapter 11 we said about protecting one's property. If you go to the land people who are concerned you will find they take you in a circle, go to this man, go to this man, I want that thing to be powerful in your Commission.

Mulili: My name is Mulili from the Department of Childrens Services. First I would like to congratulate the Commissioner for the good work that he has done, at least he can say that there is something for children in this area but I would like to raise an issue in the seventh schedule on the powers of national and district Government. Page 46.

Whereas the Constitution clearly states from the national level to the Government to the district levels who should do what for the Kenyan citizens. For example, there is an implementation, somebody should do about national defence and security, telecommunication, district people should look at the road services, conditions and welfare, community development. I am a bit

puzzled that the Constitution does not speak on who should do what for children services. Specifically I would like this one to be looked at because we do not want an issue where they are again marginalized by the Constitution. The Commission should put this into consideration. Thank you.

Susan Mwangi: Thank you very much. My name is Susan Mwangi, I have some suggestions here which I think are not catered for in the new Draft. I have suggestion. One, I think people should be made to vote by the law. That is failure to vote should be made illegal so that if you do not vote you are fined.

Another issue is that the Kenya currency, you have noted we keep changing the Kenya currency every now and then, the appearance of the currency, the first President we had his head, the next President his head. Now I am wondering who's head shall we have next. So, I was of the view that the Kenyan currency appearance should be permanent for example, theshould remain the same then on the head we could have the map of Kenya or we could have Mount Kenya or we could have the first President, the founder of the nation as a privilege to him.

About the Kenyan flag, many people do not know the difference between the Kenyan flag and the KANU flag. So sometimes people disrespect the Kenyan flag thinking it is the party flag. What can we do to bring a big difference between the Kenya flag and the KANU flag?

There is another issue. On environment, the Draft expects the people to conserve the environment. I would suggest that people should also be encouraged to improve the environment, and the district council should be in charge of that, to see that the environment is improved it is made better than it is at the moment. For example, people should plant trees where none exist. Also on the environment there is human wildlife conflict which is very much seen in this district and it is not mentioned in the Draft for compensation of people whose crop has been destroyed by wildlife, and also compensation of people who have been injured by wildlife or have died through wildlife.

Another point, I have noticed that sports in Kenya is very important but the nation does not recognize this. I wish the Constitution would recognize that and our sportmen and women should be given more recognition in the country, because they bring glory to our country nationally and internationally. So I was of the opinion that a sports fund should be set aside so that the sportmen get incentives like vehicles, property, land or cash money for the medals they earn for our country or even they could get permanent salaries.

Another issue is that we have seen that we have dropped Kenyatta Day and we have dropped Moi Day. I was of the opinion that Kenyatta Day remains freedom fighters day but be retained. Thank you.

Com. Lenaola: Than you very much Susan. Mr. Mundia's suggestion that kwamba national council ikuwe replaced na lower house. Tuli-debate hiyo proposal kwa masiku mawili natukaagana kwamba ibaki lakini it is a good idea kupeleke mbele kwa national conference lakini hiyo idea kwamba tusikuwe national council in the second chamber, tuli-debate siku mbili tukashindwa kuaangana tukaangana kwamba iingie kwa national conference. Kwa hivo lakini it is a good point, I take it.

Jambo la pili, Article 253, kwanini kuwe na budget controller na pia kuwe na Auditor General? Tuelewe difference ya budget na difference ya audit. Budget ni mipango, audit ni vile hiyo mpango ilifanywa na vile fedha zilitumika. Na hii by the way hii idea ilipewa kwa yule ambaye anaitwa Njorge, D.G. Njoroge, Auditor General ambaye amekaa huko sasa tangu 1968, akasema kwamba ofisi yake vile inafanya sasa hana maana manake he can not audit, he can not do the budget, break the office into two. Mtu ambaye anasema je, hii budget ya Serikali ni ya maana ama siya maana? Na kuona kwamba hiyo budget inatimika namnagani. Halafu mwenye kusema nilikuwa fedha na fedha mulitumia, je mulitumia vizuri? So in my view Bwana Mungia, let has have the two offices for checks. One to confirm the budget is sensible and the other to confirm the monies have been used properly. So I think the two offices make a lot of sense.

Prime Minister hawezi kaa milele. Prime Minister is in office for the same term as the Government is in office and the Government is in term from office for exactly five years. So, kila miaka mtano the Prime Minister can be reappointed when the Parliament comes in so we can not have a Prime Minister anakaa milele, hapana and that is what Article 234, 10 says.

216, village council, kwa nini hawana executive authority? Tumesema hivi as Article 216 sub Article 3, the village decides of the system of village Government including the role of the village council. Tume---- kila sub location iamuwe wangetaka kuwa na uongozi waaina gani na pia watu wa kazi waaina gani. So tumeacha hiyo but if you think we must develop it then we can do that but I think that watu wa sub location waamuwe wangetaka kuwa na village administrator ama wawe na village chief, who do they want, tumewacha hiyo open ended watu wa village wafanye hao wenyewe.

Bwana Nyamu, Article 235, mambo ya land. Tumetoa all land from county councils tukapeleka national land Commission na tumepatiana assistance hapo kwamba the way to get national land is a very strict system so councillors have got no control over land that is not either private land or community land. So land kama hilo ma-plot ya hapa the district councils have no control, it is to do with the national land Commission so you fears have been taken care of.

Bwana Murithi you have made a very powerful argument I think I hear you. How can you have,katika Katiba very nicely, very neatly, halafu katika who does those things for children hakuna provision, I agree with you so that is a very powerful point I listened to.

Susan, ume-suggest kwamba Kenyatta Day ikuwe renamed Heros Day na tuiweke katika Katiba, nakusikia. That is a suggestion. Now Article number 11 again on the national chambers of the Republic at page number 4, tumesema kwamba

national symbols shall consist of the national flag, the national anthem, the coat of arms na public seal of Kenya are in the third schedule. So in the third schedule utaona tumeweka bendera ya Kenya vile bendera ya Kenya iko na kusema kwamba colour zake ni zipi. So third schedule ya hii document iko na national flag to differentiate with the KANU flag. Mambo ya currency, Article number 252 page number 31, the Central Bank of Kenya shall be issued notes and coins, jukumu ya kutoa notes na coins tumeipa Central Bank na katika report yetu ambayo tutapatia Central Bank wakiundwa wataambiwa that you will not have the potrait of a person on the national currency so that is already taken care of by putting in the Constitution but you can not put in the Constitution we shall have not have Moi's face in the Constitution. No, that we can not do in the Constitution but in the report that has been done, so your fears and comments I fee have been captured by Article 252.

On the environment, Article 239, you are saying we should talk about improvement of the environment, my understanding is that when you say protection it includes improvement manake you protect for the future and improvement is also for the future, so I thought the spirit is captured here, the word improvement is captured in the space of the Article. Sport, I though there was an Article in the, unajuwa maswali ikiulizwa I am thinking where the provision is so let me just get it for you I think I have it somewhere. I know that there is a place Susan, in Article number 14 on page 4 up to page 5, there is a place that is supposed to talk about recreation, that people have the right to recreation and the enjoyment of their cultures, that is what I remember I can not just find it now but it is there in the duties of the state to the public, so sport falls within recreation. Duty to vote Where is the place we have duties of citizens? Article 15? Yes Article 15 where is the place where we said to vote? article 15 (c) that every citizen has a duty to exerciserights by voting and being involved in other forms of political participation, so the duty has been imposed on you to vote not just to talk about MPs who are bad, una...na huja-vote for those MPs, so that again is captured Susan. Nimemaliza mimi, sijui kama nyinyi mumemaliza. Yes Mzee?

Moses Ngungjiri: Asante Bwana Commissioner na wananchi wenzangu. Jina ni Moses Ngungjiri. Kwanza nashukuru Commission na tena na shukuru wote wale wameongea yale yote yameongewa na naunga mkono. Swali yangu inahusu Katiba ya zamani na ya sasa. Katiba ya sasa nikiangalia 29, 33, 34 na 41 nauliza kama ile Katiba ya zamani ilikuwa na mambo kama hayo? Kama ilikuwa na mambo kama hayo na mimi nimesumbuka ya kutosha. Nimesumbuka ya kutosha. Nimesumbuliwa ili nihame Laikipia mali yangu ichukuliwe na mtu mwengine zaidi ya miaka kumi na tisa. Na hata ile Commission ingine ilikuwa hapa niliongea na nikapeana ushaidi wangu na hata sasa na kuomba Bwana Commissioner uchukuwe ombi langu la pili ulisukume mbele. Asante.

Com. Lenaola: Asante Bwana Ngungjiri, swali lake ni hilo la kwanza ilikuwa hivi, Katiba la sasa liko na hii mambo ya protection ya property kwamba uko na haki kutachukuliwa mali yako ili kwako. Lakini nilisema haikuwa na jia kwamba ikichukuliwa kama huendi kortini hakuna jia lingine, na hii Draft imesema kwamba Article number 73, page number 11 inasema kwamba, a person who has the right to complain to the Commission on human rights or support a court that a right in the Bill of Rights has been denied, violated, infringed or threatened. Kwamba ukiona haki zako zimefinywa, zimechukuliwa na mtu fulani ama kikundi fulani huko na haki kuenda kwa hii Commission ama koritini, na Article number 74 imesema ya kwamba the High

Court has jurisdiction to hear applications for redress for contravention of the Bill of Rights, kwamba High Court.....direct kusikiza macasi kuhusu mtu ambaye amefinyiwa haki zake katika hii Katiba. Nikasema pia kama huna fedha za wakili, kuna nani? Public Defender, so si lazima upitie kwa wakili sasa, kuna wakili wa Serikali ambaye lazima achukuwe casi yako mbele. Kwa hivyo hayo katika hii Draft lakini Katiba ya zamani haikuako. Basi ningesema kwa vile naona hauna maswali mengine, ngoja kidogo tu-change battery ya recorder halafu turudie wewe. Halafu pia sauti inanza kwende kwa hivo Mr. Ngunjiri, kwa vile niko na constituency yingine tisa kusema hivi. Mr. Ngunjiri, kuhusu any part ya hii Draft, tungependa sana utuadikie utupatie kabla hatujaenda, na kama hunipati basi utaachia district coordinator wetu kwa offisi yetu hapa Laikipia County Council ili tupate mara moja, because before 28th, lazima hii maoni yenu sasa kuhusu hii draft tena tui-collate tuweke kwa National Conference. Tungependa maoni yenu kuhusu Draft word by word vile mungependa. Kama mambo ya yule children officer, kama kuna jambo ambalo tumeliacha tupatie. Okay, ndugu yangu, come halafu nitachukuwa watatu, wanne wa mwisho halafu nifunge. Sawa?

Ibrahim Wachira: Thank you very much Mr. Commissioner, I am Ibrahim Wachira. I want to thank God, very sincerely because of the good work that has been done by the Commissioners because of their selflessness and commitment. As much as we are talking about free education, I want to say that here in Laikipia we have wazungus with very large pieces of land, and in them they have employed men and women with children and these men and women are usually transferred from this department to another department, and we do not have a school in that land. So, these children are forced to walk long distances and inside this land we have wild animals. When the muzungu decides to do away with the mzee or the mama, he has no problem with the children but the children are left to suffer.

I would propose that these men for them to be allowed to employ, should first construct or build a boarding school so that these children should be retained here. When the man is transferred from this end to the other end he should not be forced to move with his children. Kama wamekosana na mzungu, the children should be left there, free education until they finish. Thank you. (clapping)

Mr. Githaiga: Majina yangu ni ...Githaiga, na mimi natoa maoni tu peke yake. Na the issue of land, or natural resources. Commissioner alisema ati ni lazima land resources ziwe sawa, lakini ukiangalia this issue of laziness and the are hard working. If you go to Nyeri, me I come from Nyeri, those people I think they are very hard working. At some areas you see that they are very lazy and you say they have equal natural resources. I think we should have a percentage. 60 percent should go to those producing areas and then 40% should be shared by the nation.

The other side is the President. I think you were saying that the president should not be elected. I think here there is a mistake. You see, you should not have, (interjection inaudible) the President. You said that the President must not be elected. You see, we will end up having somebody, tutakuwa na mtu ambaye hapendi na watu wengi, unaona? Kwa sababu lazima mtu achaguliwe mbunge ili aonkane kama atakuwa Rais. tukisema ati, President should not be elected, tunaona kama huyu

atakuwa mtu ambaye hatakua na nguvu sana katika the grassroot.

Hii mambo ingine ni ya Police. Ulisema ati mtu asiwekwe kifungoni pia kishitakiwa, lakini twaona ya kwamba, mini ningetaka kutoa maoni, last month nilikuwa na my sister, alikutwa usiku akishikwa akawekwa ndani, hakuwa na kosa, lakini aliwekwa huko kwa just 2 weeks ati wanachunguza, unaona? Hauna makosa lakini uwekwe ndani ati wanachunguza. Sasa hapo Bwana Commissioner, hapo uangalie.

Halafu,for women. Ninaongea kwa yule mama aliongea pale. Alisema ati wakati mzee amezaa mtoto ni lazima ashugulike na yeye. Tukienda kwa kimila and Mr. Commissioner, you said you have to respect the culture. Ni vizuri mwanamke kuolewa unaona? Lakini kuna wanawake ambao hawawezi kuoleka kwa tabia zake unaona? Sasa sisi waanume watakao mzigo, mtu anakuja kwako anazaa mtoto halafu anatoroka. Halafu hata inakubidi umtafute mulee huyo mtoto. For example myself, and I am very sorry to say that, I am a divorced man, I am very young but I am divorced.(laughter) You see, me I love that child, huyo bibi alienda. Mimi nikaambia yeye aniachie mtoto nimulee halafu wewe uende kwa yule mtu mwingine, hiyo ailikataa. Sasa, baada ya mimi kupata kazi baadaye alikuja kuniambia sasa alee mtoto. Unaona? Sasa yeye ataka mtoto lakini sina mtoto na mimi nataka mtoto mwingine unaona? Hapo nasema kama unaolewa uolewe, kama huoliwi mukae peke yako, si ndiyo?(laughter and clapping)

Haya, hii mambo ingine ya Prime Minister. Unaona President ndiye atamuchagua Prime Minister, lakini unasema President si lazima achaguliwe. Lakini Prime Minister ni lazima awe Mbunge unaona? Kwasabubu atakuwa amechaguliwa. Ukaona kwamba hule Prime Minister amechaguliwa lakini President hatakuwaunaona kwamba Prime Minister ako na nguvu kwa wanainchi lakini pale President hakuchaguliwa. Unaona unaenda sare. Wote wachaguliwe ili wawe na nguvu sawa. Asante.

Stephen Ndegwa: My name is Ndegwa Stephen, and I have an observation mostly maybe on the Parliament now that we are going to have two houses, and from the remunerations that we have currently, I would feel it will be a burden to the Kenyans. So, on one aspect I would like maybe after the enactment of this Constitution, we should go back a bit to the previous remunerations that our current MPs are having, so that at least we can slice them in that the same amount can pay for the other extra 90 MPs that we are going to have, representatives that we are going to have.

Secondly, there is this issue of, there was that lady who talked about human wildlife conflict. I think it was touched on here last time but this time I did not see it, this issue of compensation. There was an increment from the original 30,000 to 100,000 but since it was passed in Parliament that thing has not been effected, so I would like the new Constituion to have a way that if something is passed in Parliament there should be a time limit. Maybe for example if it says you are supposed to be compensated, you do not have to wait for maybe 10 years to get the compensation.

There is that issue of the national days. There is one issue of that Katiba day, I am feeling there is one thing, there is that lady who was talking about the freedom fighters day or something like that. I believe that Kenya has gone through two transitions: there was the original fight for the freedom that we got from the Britons, and it now the new freedom that came maybe after the fight for this Constitutional Review, which maybe, let us call it saba saba day. So, actually, we should marry these two things. We have the heros of before independence and we have the heros of the current fight all the way through from early 90's to this juncture.

So, when we are looking for one particular day let us try and marry those two aspects and have one common day. Whether it is saba saba or it is 20th of October, sawa sawa, but to marry both issues. Thank you.

Gitonga Lengera: Thank you very much, my name is Gitonga Lengera. I have an observation I want to make about first, the party discipline, 98 (4). In party discipline we are talking about you ceasing to be a member of a particular political party when you resign. This resigning in Kenya, I do not know exactly what it means should you write to your party or I can be elected by a party, a, and I will be working for party (b), and I have not resigned. What exactly is going to happen I was wondering? My activities are reflecting (b) but you know that I will always be in (a) and I will never resign. I do not know what you are going to do about this thing.

The other issue I think we decided when you came here the other time is transitional period between one President and the other. We wanted this one to be very particular. When is the day you are going to hand over the power, for how many days? Where will we have the ceremony so that you are sworn in at Uhuru park, State House? To a (inaudible) we must have a particular way when this President is moving out. Because we know the kangaroo court of Africa, the Presidents are not to be trusted. They should move out when we want them to move out. But how will you move out? We will be having a ceremony where who will be where? At what time? At night? At 12.00 you are telling us umekuwa President? No, can the Constitution be particular on what is to be done where, nani atakuwa wapi, saa ngapi. I want to know this one very clearly.(clapping)

On Article 14 (1), we are talking about marginalized communities and I was (inaudible) what is marginalized? What do you mean? Marginalized in terms of what? Well, I may take it on a very simple way that people are having some problems but can we have a definition of marginalized, because when I become the President of Kenya for example I will say you are not marginalized. I do not see you marginalized. You have your basic needs aren't you happy you people? You have land, you are justyou are not marginalized. Do you hear me? And this one is going to give us a lot of problems. Can we come up with proper definition of marginalised, these terms are going to give us very many problems when it comes to the implementation stages.

Eliminating disparities, 14, 15, Article 14, 15, eliminating disparities, and you remember Commissioner, you told us about Kiambu and Turkana and when I was there I was thinking about Kiambu and Turkana. Kiambu is ahead, Trukana is...., now

when you eliminate, will you make them equal or you are trying at every stage, I do not think in the present future they can have Turkana at par with Kiambu. Are these going to stop developing so that now we go to Turkana? Hawa watu wako mbele, what are we going to do and you want to have some modalities. Are we saying these people will now concentrate their efforts to the marginalized areas.....or are saying these people who are now ahead should they stop developing then so that we can now have this and that? I think you will respond to that one.

My last question. When it comes to the village, and the location, the devolution of power. There was the role of the AP, are we putting them in the police or where are we putting them? The Policemen, Administration Policemen.....and they perpetuated this idea all wrong. What is going to happen to these people? Are we enforcing through the AP or we going straight to the AP to the normal Policemen. Thank you very much.

Com. Lenaola: Thank you very much. Bwana Wachira, on the problem of the children ambao wananyanyaswa na hawa watu wa mashamba, I agree that there needs to be a policy ya kwamba watoto, na hiyo ni administrative really lakini mambo ya watoto kutmiwa kufanya kazi ambayo si yao lazima na Article 37, so that covers children.

Bwana Githaiga, pole kwa divorce ndugu yangu, hiyo ni hali ya maisha. Article 226. Tuko 226, Sub article 1. Alikuwa anasema kwamba ni vizuri kwamba share ya resource kutoka district, sorry it was a lady, nitamujibu baada ya huyu mama kuzungumuza. Samahani.

Sarah Wairimu: I would like to thank the Commission for the good work they have done. My name is Sarah Wairimu. I would like to talk about the private hospitals, there are mission hospitals and Government Hospitals. We find that those people, those Doctors that are employed by the Government they have their private hospitals but not the mission hospitals.

There is a difference between the poor and the rich in our country. When we go to Government hospitals maybe there is a mama who needs to be operated because of the kid. When she is in the theatre there is no doctor to operate that mama, so there is are two options for that mama to die or to live. I would like the Government to propose that there is no doctor who will be employed by the Government that will be having a private hospital but I would propose the mission hospital to be existing in our Kenya.

So, you may find that you have gone to hospital and you can see the doctor is somehow boasting because you do not have money, and in another way he can be using those machines in the Government theatre to operate somebody but that doctor needs a lot of money to operate on you, since you do not have any otherwise you first wait and look for money and still you are dying, and this doctor is still getting money in the Government. I would propose our Government to stop them from operating private hospitals because you can find a clinical officer at his or her own hospital.

There is another issue of these private schools. These private schools, they are too many in our country. These schools, unaona kama mtoto wa tajiri ama mtoto wa maskini, saa hizi kuna watoto ambao they are schooling but these people the poor and the rich are still in our country. Sasa unakuta mtoto wa maskini haendi shule, kwa nini? Unakuta yeye maskini hana pesa ya kupeleka huyu mtoto kwa schule ya private which is costing a lot of money. I would like to propose the Government should ban all private schools and the public schools should be assisting only but not the private schools. That is all, thank you.

(clapping)

Com. Lenaola: Thank you very much Sarah. Kabla ya Sarah kupoa moto ni mupoeshe. Mambo ya private schools, page number 9, Article 58, Sub Article 4. Tulisema tusi-ban private schools lakini tulisema tuwe na sheria ya ku-manage vile wana-handle watu. Every person has the right to establish and maintain at their own expense independent education institutions that meet standards laid out in legislation, and comply with the requirements of the Constitution. Tumesema kwamba kuwe na sheria ya ku-manage hizo private schools ili kwamba wakifanya mambo yao wasivunje sheria na pia hii Katiba. So nimekupatia jibu ijapokuwa.....hawa.

Mambo ya private hospitals na mambo ya emergency treatment. Article number 57, Sub Article 2. No person may be refused emergency medical treatment. Kwamba ukiwa mgonjwa na kuna daktari ambaye ako na machini na huna pesa ni wajibu wake kukutibu lakini ile point ingine ya kwamba tujaribu kustop madaktari ku-operate clinics that is in the report tumei-handle pia hapo, asante lakini kwa hiyo point.

My brother here, let me start from the bottom. Where do the Police fall? At page number 46, pale chini kabisa tumesema powers za District na pia powers za national. Kunakitu kinaitwa District Police Services at the bottom of page 46. Tunasema kwamba Districts ziwe na Police service halafu District pia itapeana hawa Police wao kwa mavillage na malocation lakini ni wawo District Council ambao itakuwa incharge ya Police service katika district. Kwa hivyothey can now take them down to the various levels of the Government in the district but they shall report to district council.

Marginalized/disparities, the best we can do is to define what marginal means, what disparity means, that we can do and we leave the rest to the implementors of the policy. What we are saying is that a Constitution is a framework but the way it is implemented it is left to the Cabinet and the Government. So, we can only define what we mean by this leave the authorities, hizo Serikali za chini kuimplement hiyo sheria.

Handing over ya Presidency. Article 154. It says this Article applies to a person who holds the Office of President or is authorized to exercise those powers. We are saying during a period commencing on the date of the vast votes in that election and ending when the newly elected President assumes office. Tumesema kwamba President anachukuwa offisi the day he is elected, na anaondoka mwingine akifanya nini? Akiingia office. Lakini kwa Katiba hatuwezi andika kwamba kama ni rungu utapeana namna gani, kama ni Mercedes nitapatia nani, kama ni hile bendera utapea mtu namna gani. Kwa Katiba you can not put that. Lakini kwa sheria, legislation, all those modalities can be put but we are saying it is from the first day of elections to the

day the next President assumes office. We are saying that election ya President must be held 45 days before the five years end 45 days before five years. So, hata akifanya nini, you will serve for four years, 10 months and 45 days. So by the fifth year, general elections ikifika hawezi ongoza ati one month or two months after the fifth year, he can not do that. So five years exactly up to when the next President comes in but we have said he must do that 45 days before.

Mukisema ya kwamba MP ame-resign ni kusema nini? Hebu tuangalie, you read one Article, the Article which you are talking about looks at if you are to defect. Tuseme mujumbe amakaa kwa party moja tunajua kwamba huyu ni mtu wa DP lakini vile anafanya kazi ni mtu wa Kanu. Article 110. (inaudible) defections, waalimu karibuni. Je mujumbe aki-defect atafanywa nini? Na Article 111 inasema kwamba the office of the Member of Parliament becomes vacant, and then hapo chini G, Article G, if the member leaves the party for which the member stood as a candidate for election to join another party or to remain in Parliament as an independent member. Mujumbe akiamua kuwacha chama chake na aingie chama kingine akiwe bado katika Bunge, ama aende asema kwamba mimi si wa DP sasa mimi ni independent., atapoteza kiti chake katika Bunge mara moja. That answers your question.

National days, that is a proposal that we ought to have a heroes' day. Article 219 na Article 121 kwamba Parliament vile tuko na chamber mbili, it is too expensive, that is a view I can take. Halafu compensation juu ya wanyama wanaua watu ama wanaharibu mali. Tumesema hivi, hilo si jambo kuingia katika Katiba. Katika reporti yetu tumesema kwamba compensation for property or life lost through wild animals, should be taken care of in the Act. So tume-address that in the national legislation not in the Constitution.

Kabla hatujamaliza huyu ndio alikuwa mtu wa mwisho lakini kwa vile waalimu wameingia hebu nisema jambo tu la mwisho maanake mmechelewa waalimu lakini ningependa kuzungumuzia nyinyi sasa. Tuliulizwa na walimu wengi sana kwamba wangependa kwamba Teachers Service Commission iwe katika Katiba. Isikuwe ina-hang tu kwa Teacher Service regulations, Teachers Service Act, but we must entrench the Service Commission of Teachers in the Constitution.

So, let me refer you to page number 36 of the Draft, Article 291. 291 talks about the Teachers Service Commission Article 291 Sub Article 2, talks about the function of the Service Commission and Article 272 (3) talks about the Commission shall keep under review the standards of education, training and fitness to teach appropriate persons entering the Teachers Service, and the supply of teachers, and to tender advise to the Government on matters relating to the teaching profession. So, we have said badala ya TSC kuwa nje ya Katiba wacha TSC iingie ndani ya Katiba na functions zake ziwe katika Katiba ili kwamba neither TSC can act against the rules ofthe Constitution including fundamental rights. The rights to employment, the rights to work, the rights to fair payment for work done all those principles must now be maintained by the TSC. I am sure that is what you want to hear, I have told you.

What does this Draft say about the right to strike. Article number 49 at page number 8. Every person has the right peacefully

and unarmed without the requirement of prior permission to assembly, to demonstrate, to picket and to present petitions to public authority. We are saying that if this Draft was here then we would not be having very many problems (laughter) but let me talk about the rights of workers, labour relations. Article number 55, every worker has the right A, to a fair remuneration, B, reasonable working conditions, C, form, join or participate in the activities and programmes of a Trade Union and D, the right to strike. I rest my case.

Margaret Lesuada: Thank you very much our Commissioner, and I wish to welcome the teachers, the Executive Secretary of NARC, Mr. Oseko, and it is good that the Commissioner has mentioned some issues related to education. We have also had quite a number of issues being raised on education and as he had earlier said, anybody with anything to comment on the Constitution can write his or her memorandum, present it to our office. This is our coordinator maybe Mr. Wachira you can stand up for them to see you because there are so many teachers in Laikipia, that is the coordinator of Laikipia Constitutional Review. Our teachers also know me as the inspector of schools here .I am the Chairman so you can also give your memorandum. We have our resource center there, we have quite a number of these Constitutional Drafts and we will present one to the Executive Secretary so that he can go through on behalf of you and present your views.

I will now take this opportunity first to thank the Commissioner, Mr. Issac Lenaola, for those who were absent when we were introducing him and his team for the very, very good facilitation that he has shown us today. In fact, it is unlike all that we have held in this hall we have held so many since the Constitutional Review Commission activities started, we were even the most lucky constituency/district to have Professor Ghai, here and we feel very honored that we are also among the first to be given a chance to air our views. So, I will now give back to the coordinator he may have something to say, and we apologize to our teachers that you have just come when he has taken the last comment from the floor but as I have said you have a chance before 28th of October to present you views in writing to the Constitutions office. So, thank you very much and for everybody who was participating. I know you have sat here since morning, some came here as early as 8.00 a.m. and we began our activites as late as 10.00 a.m.

We want to thank each one of you, I do so on behalf of the Committee of Laikipia East Constituency and also on behalf of the office and I want to assure you that you have been told about your views as Laikipia East they are here. We are going to be left with our copy and we will have it in our resource center. Please utilize our library, we have a very well equipped resource center just behind the County Council offices. Like now teachers, you have a lot of ample time, come and read the Constitution as we wait for the Government to resolve your strike. So you are highly welcome, so thank you and may God bless each one of you. And the Committee members, please you remain behind.

Mr. Wachira: Thank you Chairlady, the Commissioner, officers from Nairobi, ladies and gentlemen. I thank you, especially the teachers. I am a teacher by profession I am from Egerton University, and we are with you all the time and we know what you are doing wherever you are. Fortunately Mr. Dickson Oseko is a Committee member of this Review but he is a

Committee member on the Western side of the District where we shall be on Monday. I also want to recognize the Committee members present if they are here, can you please stand up because they have assisted to office for so long. Halima Saleh, Lawrence Mathenge, I think there are others behind there.

Now, the Commission has fulfilled its promise of bringing first the Draft Constitution to the Constituencies. They have brought it back to us, we have discussed we have debated he has gone with views. Now the next stage is the discussion of this Constitution at the National Conference. Fortunately Laikipia District is also represented at the National Conference. If the delegates are here can they please stand up.

Cou. John M. Kiniti: My names are Councillor John M. Kiniti, I represent Itwaba Ward at Laikipia County Council.

Joseph Shwell: My names are Joseph Shwell, I am one of the delegates elected to represent Laikipia.

Mr. Wachira: Thank you. We have another lady who will represent Laikipia, her name is Mrs. Pascalina Lebalaiya. Unfortunately she is not here with us she has a small problem but she comes from Laikipia West. So, these three people are the people who are going to Nairobi on 28th at Bomas of Kenya, to be there for thirty days to discuss the Constitution. So, if the Commissioner allows me we will say that we liked the process, with all these obstacles coming every day we are for the Review, and I am sure Laikipia District is in support of Professor Yash Pal Ghai. So when you go to Nairobi please tell him Laikipia is ahead with or without the Judiciary, we need the yellow ribbons. So I would like the teachers who do not have the yellow ribbons please make sure that you have them so that we are in solidarity together, so that we have a new Constitution which is going to present some of the things that are happening today.

I want to wish you well all of you wherever you go, those of you who will be in the Laikipia Westwe will be there on Monday at Nyahururu Catholic Church, Commissioner Lenaola is going to Samburu right now.....you pray for him, I would like to go into the closing prayers. We pray for all of us we pray for journey mercys we pray for the teachers, we pray for the children and parents.....we all pray together so that Kenya is a good Kenya. Thank you very much Ladies and Gentlemen we are together in this process and I will ask a Muslim to do the closing prayers. If there is a Muslim willing to volunteer closing prayers please. Kama kuna mtu Muislam anaweza kutufungia maombi tafadhali. Kama hakuna basi Pastor Ndegwa, can you please lead us into closing prayers.

Pastor Ndegwa: I am sorry right now I was not able to have a yellow ribbon because I did not want to step on anybody, a Pastor does not step on people feet. I also wanted to say I have been a facilitator of civic education and therefore I also presented a document here so I am sorry that I was late but I was in another function. However, let us pray.

Baba Mwenyezi Mungu, katika jina la Yesu Kristu, tunasimama kwa ahadi yako ulisema watu wawili wakikubaliana na

