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Location of interview: Nairobi, Kenya; Law Society of Kenya office.

Date of interview: August 12, 2002.

Interviewee: G.B.M. Kariuki. Kenyan human rights activist and attorney.

**Note: I =interviewer (Robert Press); R= respondent (interviewee): G. M. B. Kariuki. The interview was tape recorded. Transcription includes occasional tape counter numbers made by transcriber. The double ?? indicates something was not clear on the tape or uncertainty of spelling.**

Date? Oct. 2002

I So eeh, GBM ?? or GBN Kariuki, what were the activities that you took between 87 and 97 to try to advance human rights in Kenya?

R '87 to 97?

I Mmh

R Well, lets eh, I think my activism, activism in this country on human rights I think started a little earlier, that's 1985 eeh, when I was elected the chairman of the law society of Kenya. And I served for 2 terms and I stepped down for at the, after the ACM in 1987, and eh, during my chairman with the law society, as you know Kenya was virtually a police state and there was, there was very little freedom of expression. That is the time when Kenya witnessed eeh, eeh fleeing of, from the country, of a lot of professionals.

I Let me see if I am,,, okay, go a head.

R Replaying or

I No starting, no continuing

R Continuing.. so so well, the, that was, those were difficult years in our country and as you know Kenya had just experienced a coup' detat, and abortive coup detat in 1982 and the government became extremely sensitive and very petulant to criticism by you know pro democracy activism in this country. And that was a time when we had in place eeh a law, empowering the eeh the executive head to detain you without charge or trial.

I Right

R And, and a lot of people were held, and a lot of people ran away and a lot of people were afraid of talking even you know making mild demands for good governance, for transparency, those were things which were unheard of in those years, eeh, but we tried to use ahh the judiciary ehh the law as, as as a method of seeing things got done, and the judiciary was not very supportive at the time. Infact as things got worse towards the end of '80s' and the council of the law society probably as you might remember was charged in eeh in the High court. And eeh

I When

R In 1991

I Mmmh... ?026??

R In 1991 there was a suit filled in the High court of, at Nairobi, in which the council members were enjoined by the High court from taking politics, and eeh, and we continued at the peril, peril of being imprisoned. Eeeh ultimately, of course the re was a summit eeh of heads of state and government in Harare at the time and I think the head of state here was prevailed upon to eeh eeh not send the council to prison and I think we escaped with a fine of 10,000 shillings, which I think the organisation paid. The matter ended there but eeh the struggle accentuated and of course, soon thereafter, you saw the collapse of communism, and then and then, of course, what happened is that the eeh council, realised in this country, that we couldn't use the judiciary very much, eeh, as, as a as a tool to push our case for, better, for better democracy in the country because many of the judges were complaint, and eeh

I So what did you use?

R So, we, we, we tried to sensitize the public, because you see the public had for very many years been eeh, aaah. I think they were used to, you see the, the public in Kenya was very docile for very many years, and it was a Herculean task; to people that time had come for them to assert themselves and demand their rights, and of course to do that you know one had to be prepared for the repercussions and so not many people were willing to stick out their necks. But I think as time went by, I think more people gradually came out, and then of course organised groups also joined in the NGO eeh eeh world also started gaining ground in this country, that's when we started you know, eeh building institutions like ICJ, which was more or else, you know, eeeh, Moribund; women came up with FIDA and eeh many other centres were started, particularly by lawyers and they eeh, added their voices to the struggle for better governance, and democracy and human rights in the country. And the law society all the time, was, eeh took the

- leadership. And then of course, churches swung in action, when things got very bad.
- I When?
- R Churches, eeh, mid 80's onwards. That's where they started really getting, you know, talking. And as we neared 1990, I think the churches were very vocal.
- I Mmmh
- R And individuals also became very vocal, say like people like professor Wangari Maathai, for instance, she was very vocal. But the people who were talking at the time weren't very many, there were who were individuals here and there and the law society took the lead. And the problem is we realised we couldn't use our judiciary to enforce human rights, you know in this country, we couldn't do that eeh which was a tragedy for us. And then we also realised the law in place was such that, eeh, it was very difficult to, have meetings, because we'd, you'd have to have a licence. And we realised that the state was using the law, which had already been put in place for that purpose; to stifle criticism, eeh to stifle demand for rights and eeh, so we decided we are not going to obey laws that were anti – theatrical to human rights and eeh, basic you know freedoms of the individual.
- I So you tried civil disobedience as a tactic?
- R So that, that, that was the next scenario and we said no and that's when you saw in the country eeh, eeh people becoming extremely active because then the push, eeh, the push, for political pluralism eeh you know, also came along, and that tremendously, assisted the exercise for agitation for human rights. Eeh because, aah, I think it was eeh, it was, it was end of 1991, I think government did give in to demand for political pluralism.
- I Kasarani 1991
- R Eeh, yes. Actually that was December 1991, that was when they said, okay, let Multiparty come in and it came. And it changed the scenario completely.
- I Did you have any specific steps that you took yourself to try to advance human rights?
- R Yeah, aah, well you see, oh as people the law society, lawyers in Nairobi were called urban legal guerrillas, because they, we spent all our time strategizing on how to expose the atrocities in the government?
- I Urban what guerrillas?

R Urban legal guerrillas yes. And I'll tell why because we realised the, the, this, this eeh, the tyranny in this country eeh was organised in a way that it was very difficult to win. Aah, human rights, people had been denied their human rights in the very many ways. We found the government being down even in institutions, banking institutions, if they belonged to people who were collaborating with human rights activists. You see, and I can mention, eeh you know banks which really came down, that ought not to have come down. We had things like Rural – urban where Mr. Ngumba had to flee I think he went to Sweden or something

I Ahmm

R Ah, we

I You mean, where the owner was a human rights activist?

R It was seen he was seen, as not being supportive of the status quo, and if you were seen as a supporter of people who were demanding change, then eeh the government would try and find fault with what you are doing. If you were a businessmen, eeh you would be denied a licence to run a business, if you and eeh, and so you if would lose your daily bread. If you were a lawyer, they will, they may have charges trumped up charges against you and you could be put in. and there are very many cases, I mean they if one, if you look at the publications of the you know, of, of, of, of those days you'll be amazed to see how much, the government did to undermine people's you know, eeh, rights

I Nairobi law monthly;

R Nairobi law monthly also society by mister Nyamara, eeh yeah, which you know, which a very good magazine too.

I Mmmmh

R Eeh, I have a few back issues, as by coincidence actually. I was just looking at them last night, not for anything, there are many then, they date back to 1998. And then of course you had politicians who were being set up by the government to, to, make false allegations against activist of human rights.

I So that's where the tittles guerrilla came, cause you really had to be,,, could you explain, maybe use, this piece of paper as an example, you could you explain some of the guerrilla tactics that the people used in the face of overwhelming defence by the state

R You see the one of the things that we had to do was to tell the world what is happening in Kenya.

I Okay

R And you see we just had the fax machine came in, of course the fax machine was not a new technology in other countries, but in Kenya, I mean we didn't have many of those. And we were able to send fax messages to a lot, a lot of organisation that engaged in human rights, you know, activities

I Such as?

R Amnesty International,

I HRW?

R Yes eeh

I And

R And lawyers' committee, for eeh

I Yeah, human rights, and eeh, Robert Keneddy. I think also and also law societies in other countries including International Bar Association. What years were these?

R Ah this were the '80s, 80s upto 1991.

I Mid to late 80's

R Ah, stating actually '85, '86 through to 1992 we did that. And so there was a lot of, there was a lot of there was a lot of information, that that we sent out and we got a lot of support, aah, during my chairmanship as in the law society. I know I remember that we had lobbied and actually gotten the international bar association to hold its 23<sup>rd</sup> biannual conference here in Nairobi in 1990. And when government realised that the actual that bi – annual conference was going to be in Nairobi, aah, in 1990, and seeing how the situation was on the ground, they I think their reaction was that we were going to use that Forum to make greater demands and to expose government for its shortcomings on human rights issues and eeh.

I I remember right they did not hold the meeting here

R No they sabotaged, the government sabotaged. In fact the then Attorney General, was Mr...

I Mule

R Muli and you know one of the most preposterous things that he had said about, about, it was that Kenya didn't have enough, you know, whatever facilities. That

there was not enough food and we couldn't accommodate 5000 delegates for the International Bar Association. I mean things which are so preposterous. But anyway, they did succeed at the end of the day in eeh, in eeh, stopping the conference from being held here. It went to New York.

I So they didn't stop it as a protest, I seem to remember that IBA was making a protest

R Well it had just protested and I think that the IBA, if it had come here, aah lawyers here would have been greatly emboldened. And tha's what they...

I They had just protested what?

R They protested against what was happening here, I mean the violation of human rights had gotten to a level where I mean you know eeh Kenya was a virtually a police state. And but they didn't want a situation where, they, 5,000 delegates were going to here to see with their own eyes what we'd been telling them for years

I So the IBA naively accepted, the advice of the Attorney General in an authoritarian state that there wasn't enough food, in Kenya to feed delegates?

R No, it didn't. the IBA was not that naïve. Eeh they realised the government didn't want the conference held here, and they realised that there were going to be problems here that the conference might not be the success that, they wanted it to be and so they, they, they relocated the venue to New York.

I So in terms of tactics, faxes is one

R We have fax

I Faxes to inform people

R Yeah to inform people, and then here locally we, we try to use the media to we were very happy, you know, about Journalists in the country. They were very brave, at their own peril, they wrote stories about was opening here and they got harassed as a result. Eeh Imanyara, is a good example, and then we had also eeh journalist in the, the Daily,. The people daily, at that time, I think is what, it was a weekly, and we.. we had very brave journalist also in the, in, in in ,, in, the main stream, you know, eeh eeh publications like Nation; and so, There were many cases of journalists, really being charged and being harassed , having their equipment destroyed, eeh, having their notebooks confiscated and things like that. But we never, the less used them. And they did not shirk their responsibility, they continued with their work. And then we kept pushing amd mitigating , although we knew judges were compliant and were not brave enough to help us, to help us eeh, get some of the remedies

I Okay

R Nevertheless, we , we kept on clamouring at what we thought we were entitled to and we kept funding mitigation in court. To give you an example , the case of Koigi Wa Wamwere, it was a treason case and we did it from 1990 through to 1992.

I Were you one of the counsels or

R Yes, I represented Koigi

I Were you the Chief Counsel or one of many

R I, you know, were we were about six, seven lawyers

I Six

R Yeah , I mean each accused person had a lawyer. I was there

I One of the six of Koigi's?

R Yes, yes, I, I , was in Koigi's case. I represented him. And I also represented one other person in the Koigi case, these other lawyers were of course , were , eeh

I You represented Edward Oyugi?

R Aah, Oyugi and George Anyona and the others, eeh , we , I wasn't counsel in the case , but we did give support eeh , eeh . In research , and also in going to court physically , when, whenever the case came up

I Which , which cases were you also active in , besides wamwere's 1990 to 1992? I think there are some other cases you were active in as a lawyer

R Yeah, I don't have a record of all the cases , there were many , including my own , including my own , you know, when I was a member of the council in 1990. You know , where we had been injected from talking politics. I was there, I think also, I also was charged myself in 1994.

I Eeh

R Aah, with scandalising the court

I What case was that?

R Aaah, it was not really a case, I wrote a critique in the Society magazine about the inability of the court of appeal to uphold the rule of law, and eeh, and eeh, the constitution

I The high court?

R The court . T he court of Appeal

I Ooh, Court of Appeal

R And I said it was, it was , you know, you know, eeh, it was not performing it's role under the law.

I And in Kenya the court of Appeal is the highest court, right?

R Its' the, it's the, the court.

I It's equivalent to our supreme court.

R Precisely court of final resort. And I was tried there, I was tried for, four months, and at the end of which I was convicted

I Were you put in?

R Aah, they .. I had I had done a lot of work in that case, eeh, sensitising the public to what was going on the court Appeal, and eeh also eeh making people aware that, the judges were really out to punish us for the stand we had taken against president Moi, and....

I In the law society?

R In the law.... Not only in the law society, but also, when the elections came, the 1<sup>st</sup> multiparty elections in 1992. I took up two briefs; one was to a brief to bar president Moi as a presidential candidate in 1992

I Mmmmmmh

R He wasn't amused.

I [laughs]

R And the other one, was an election petition to unseat him, because he rigged the elections against matiba. And as soon as these, these, cases ended.

I What year was that... the second one?

R Aah the...

I This one for Matiba?

R Aah, the one for Matiba was 1993, January '93', the one to bar Moi was end of December '92'

I And so in the first one you said he was ineligible to run for what Reason?

R Aah because the law at that time was that, he couldn't run because he had already done two terms he had already done more than two terms. And they bought in the law to say that a president who has served more than 2 terms, would not be eligible.

I Mmmmmh

R They made no saving provision like the Americans had done during the time of I think it was president eeh,

I Roosevelt,

R Roosevelt, yes, because he'd been there, eeh they put a specific provision,,

I .....4 terms

R And they said eeh that providing that the provision would not apply to the seating president see.

I Okay,

R But in our own case we realised that Moi had no, no, no like provisions in the constitution and therefore he barred himself, through that legislation. And I was trying to prove that point, the judge refused to make any holding on it. So, I went to the court again in 1993 January, a) to say he was not eligible , b) to say that he had rigged the elections anyway. And , eeh , I have seen

I What, did you have proof on rigging?

R Oh , we had, we had, we had abundant evidence. So much evidence you cant believe it. And eeh , so what happened of course, is that , they killed that petition. They eeh we were in the high court, the high court was willing to hear the petition, and then eeh and then I think all the papers screamed the headlines one morning and said, 'Matiba wins first round against Moi. And then we were poised to go to trial. And he went mad. And so the next thing.

I The court ruled in your, in your favour for the 1<sup>st</sup> round?

R Yes it deed, it deed, and so much that,,

I That there was rigging?

R Aah it said that they said petition is good, we are going to hear, evidence will be tempered.

I Mmmh.

R And we were going to collect...

I Is that the high court?

R The one you already [criticised] that

I It was the High court, because it is the one that was vested with jurisdiction to hear election petitions.

R Okay, so what happened?

I So well, what happened is that Moi appealed against that, that, that decision and the court of appeal heard the Appeal. And we told the court of appeal at the time, you have no jurisdiction to hear an appeal from on election court, that was the law ta that time.

I But they squashed the case?

R And they said we have got eeh, jurisdiction because this is a grey area, and I said it's not area, this is the law, and even a 1<sup>st</sup> year student can read this. You have no jurisdiction and you have so held in the past. They said that we can say what we want, they will write their ruling. And they delivered their ruling, and they said our petition was had because it was not properly signed, and therefore, there was no proper petition on which we cold challenge Moi, and therefore, we should go away.

I Technicality.

R Technicality! So what happened is that I wrote a , I wrote a , I wrote a cirque after that and I just show, eeh I pretty disgusted anyway, eeh at the , at the, at the chicanery on the part of the court of Appeal. And they eeh after that article, eeh, they charged me for having used eeh some words in article that you know, that, [247??]

I Article again in the society magazine?

R The article was in society magazine

I When ,,,, do you remember?

R Yes, I think I'll look for a copy before you go.

I I'd like to see that

R Yeah, so, and I said aah, eeh, so that the article there, they read it and they were very offended by it. but what happened is that, a reporter in of, the people, magazine, Matiba`s paper, wrote another article, then he quoted, me, he quoted my article in the `people daily,` And, and produced those offending, namely a decision of the court of Appeal that was tailored to meet political expedience, and I said it was judicial lynching, aaah.

I Aaaaah! Yes, yes, yes. I remember.

R And they said, the, these is.

I You used the words judicial lynching in you original article right?

R Yes, I, yes I, I said yes. And then of course, they, they, they,,

I And then it was reprinted in ` people` was it? yea

R `In `people` I

I Yeah, and I think 2 people; Bedan and David Makali, were both charged and convicted I think.

R Aah, oh, they the people who were charged were the, the, the newspaper itself, right, and my self.,

I But, but..

R And then Bedan, the journalist, the reporter and the editor, mister...

I Mr. Makali? At the time?

R Yeah, Makali, yes Makali and Bedan.

I Why they convicted?

R We were all convicted, eeh, and I remember eeh, Matiba paid for the newspaper, 500,000 shillings..

I Right, let me get it straight, one small point, where did you actually use the word, ..?267?, judicial lynching was used in an interview first published.

R The society magazine

I Society magazine,.. then picked up by....

R Makali

I In, in ,, people

R In people?

I So nothing happened to Nyamoria?

R Nothing happened, nothing happened to Nyamoria. Infact in any case he had left country.

I True?

R He was not country, I think he had gone to America at the time.

I And when was this?

R That was in 1994.

I So you were convicted, Bedan convicted, and

R The people

I David, ands the newspaper

R And the newspaper. That's Matiba's

I Which was Matriba'a newspaper?

R Yes,

I Okay

R So, Matiba, paid for the people newspaper eeh 500,000 shillings.

I A fine?

R A fine of, 500,000 shillings – unheard of a, in, in, a criminal, you know, justice system.

I What did you, what was your penalty?

R 500,000 shillings

I To you?

R Yes

I In addition , top this...

R That was, that is Matiba's fine, mine was 500,000

I And also,..

R Yes, personally, it was 500,000 shillings, and,, I

I And what was Bedans?

R 400

I And what was David

R 300

I Aah, those were considered large, fines for the time; weren't they?

R They were, the, the heaviest fines ever to be mated out by eeh, by any quote in this country, in relation to contempt of court, because, previously, I think the highest was Wangari Maathai which was 20,000 shillings.

I Mmmmh

R Yeah

I Which was overturned I think?

R Which was a lot of money

I ...287?? overturned I believe, I am not sure about it?

R Aaah, I don't think so, but I think the fine stood and eeh, but that, so this, this, the whole idea of the fining us this kind of money was to ensure that we would not be able to pay. Because there was a time limit; pay it within 3 days, and 3 days you can't get half a million shilings, and then you go in.

I Did you go in?

R No I didn't, god works with mysterious ways. I managed to put the money together and I avoided jail. But Bedan and Makali went to jail.

I Right. Did someone pay your fine for you?

R No

I How did you get the money?

R Well let me tell you they, I had a few, a few friends who, put a few shilings here and there, and my own friends also in the international Bar Association, aah, were instrumental in, eeh, you know, putting together money. And I must confess that the person who was, who did most of the work was Dr. James Sutherland. Dr. James Southland is a former president of the International Bar Association.

I Mmmh

R And he was a good friend, he was a good friend of mine, and he did a lot of work to...

I S - O - U - T - H

R Sutherland eeh.

I E - R - L - AND

R Eeh, yeah yes

I Former International Bar Association President?

R Absolutely.

I So one of your tactics ,simply to challenge the government`s legality of elections, aah, describe in honest terms which you consider judicial lynching, aah, those, were, those were not accidental happenings. You thought that out and there was a strategy in aimed at, at doing what? What was the purpose behind all that, what were you trying to accomplish?

R In, in, eeh, eh, pointing out those things,

I Yeah, and taking those court cases and using that kind of Language?

R What the whole idea was to force government to stop, using the law as an instrument to oppress the people because that's what the government was doing.

The law is there and it was being used eeh, eeh, as an instrument to oppress aah and the only way we, could, we could fight this is to expose government. I mean, eeh so that the whole International community can see what's happening in Kenya. But eeh we have a government here, that doesn't respect the law.

I So why you trying in a sense to eeh, use a moving [?324??] the courts to the law cases, which you were in eeh to win the attention of International Community?

R Absolutely

I Was that a goal there?

R Will that, that is it. you see, one of the, you know, because, you, you, I think that the eeh, when eeh the, rest of the world is up in arms against what is happening in Kenya, that is one of the ways of you know, getting government to abandon some of the bad practices, yeah because eeh aah, the government in this country was very smart. It has been very smart for a very long time, in creating a picture where it appears to be so concerned about the welfare of the people. Aah, it's very smart, extremely smar5t. I have not seen in any, in any other jurisdiction, a government that eeh, is this pretentious

I Could you suggest a few of the tactics that the government was using to try get that message across?

R That message?

I Yeah

R Of course you see, the.. one of this things is, is..It would set up, you know, sycophants, you know, in, in in, in politics, I mean government to label; government decent, government critics aah, to label them as dissidents, saboteurs, as people who are committing treason, and eeh, and then of course, you can imagine what would happen thereafter, people are picked up. Let me, let me, let me, let me be a demonstration. By sheer accident, this is a, this is, 1998 issue of weekly Review'.

I Yeah

R It would set up, you know, psycophants, you know, in, in, in, in politics, I mean government to label government decent, government critics aah, to label them as dissidents, saboteurs, as people who are committing treason as people who are committing treason, and, eeh, and then of course, you can imagine what would happen thereafter, - people are picked up. Let me, let me, let me, let me be a demonstration. By sheer accident, this is a, this is a, 1998 issue of the 'Weekly Review'

I year

R this is the, the placard being held is saying, 'Ngumba Mwizi' "Koigi Wamweere, Mujinga" – is a stupid man; Nungi wa Thiong'o wazimu – he is a mad man, that's why he's got all those things he's doing at each,.... And then, eeh, Nyayo, is Moi – he is 'Juu, Juu, Juu'. Now to message dissidents, right. Message to dissidents. And, eeh, so there people would then be hunted down, and they'd be interrogated by police, what is it that you are doing? Why are you trying to destabilize the, state security.

I Mmmh, mmmh!

R And so on, and so forth. And eeh, what then would happened, this is, this is how government would do it, the rest of the world who, who, which person in the world want a person who undermines the security and interests of their own nation?' But this was not the case in Kenya, these were people who were very concerned about the future of Kenya, and they were being made to appear as if they were law-breakers, saboteurs, eeh subversives.

I year, year

R and so on, And that's how, they... the government used to operate.

I That's a good example.

R Yeah, that's how they used to operate.

I Hmmm, did you led any demonstrations?

R No, but I took part in many,

I You joined some.

R Yeah

I Can you mention the ones hat you took par in/

R Aah, these, these are particularly the ones that are related to the killing of Dr Ouko, see. When Ouko was killed in 1990, I mean, the nation was extremely angry.

I Yes, I was here

R And also, you were here?

I Yeah, from '87 to '95

R and also in the same year, we had Bishop Muge

I Yeah

R yeah, those I think.. and then of course, we had prayers, eeh

I So, you, there were demonstrations at the time, I think , here, public marches and things?

R And then we had also Koigi wa Wamwere, eeh, we had the women locked up in the All Saints Cathedral, eeh, to move... and we used to Supply them with medicine, with food, and to give them encouragement and if they didn't have that, we realized that they, would, they would not last through the eeh, exercise.

I- Hmmm, did you give any public speeches?

R Aah, not often, I can't say that I am a great Public Speaker or anything, but, there were very many. Speakers. Once in a while of course, I mean, I used to the how society, I have spoken once at the All Saints Cathedral, and eeh,

I What was the occasion then?

R Aah, that's the time when the women had, were indeed there.

I- was it a public, Hmmm, speech, speech or just talking to them privately/

R- No, just, talking from the podium, from the podium,

I- yeah, yeah.

R- yeah

I- was that when Gibson got his award? Same night?

R- that is the place where Gibson , Dr. Gibson Kamau Kuria, got his award. Yeah.

I- yeah. Was your speech the same night?

R- No, we were many speakers, not just me, we were many speakers, who spoke, and then, eeh, and ... eeh

I- In support of the mothers?

R- yeah, we were talking about the country.

I- Okay,

R- yeah, and ..

I- Did you.... Organize any human rights NGOS?

R- I was a member of many, eeh

I- LSK for sure, as chairman

R- I was yes, I was member of LSK, I was a member of many committees in the International Bar Association, and I was a member of Africa Bar Association, and

I- Did you lead any strikes?

R No,

I Hmm, can you point at anything that would indicate any impact of any of your actions to provide some kind of leadership or additional input for human rights?... Any impact, negative or positive eeh, from the state, any reaction at all. On the one case, you, you, you criticized the government and you were fined heavily,

R- Yes, I think, the, the most salient eeh aspect would be the extent to which the public got emboldened by the courage of the lawyers to speak, and the eeh their consequent, you know, ability to, eeh, express themselves to assert themselves, and to assert themselves, you know, and to demand their rights.

I- Eh, ehe,

R- that in my view is a scenario which is salient in this country, and if we have not eeh, achieved anything else, I think the, the achievement of a greater measure of freedom of expression in this country, eeh, that, to me. Is eeh the, the, the the best thing that has happened in this whole exercise. And I think, it is the greatest tool, because if you cannot express yourself, aah, you are not , eeh, you less likely to, to be able to succeed in many other things when you are not able to talk. And I think, that is, when you look, around ever in politics today,

I- yeah, I agree

R- Ah, we may be poorer, we may be poorer now, we may not have succeeded in this, that or the other areas, but I think in terms of freedom of expression, as a result of what , has happened over, and over, you know, over the years. People are expressing themselves, and they can talk to the president straight in the face and say “no” that is not the law, that is wrong, we shall not do it. An I think, to me, I think, that is that, that in a, in a , in a little way, I think that, I , I, have like many of many of my colleagues in my profession, contributed to achievement of

- that. Ah because we spoke at a time when nobody was else was speaking – when people were afraid, and they thought that we were dare-devils, that we did not care much about our lives, but we said, if we keep quiet, it is like someone getting sick, you don't want to go a doctor because the, the, the, the, the needle is painful, you will ultimately die. Better suffer the, the pain in the short run, and in the long run you gain and eeh you cure the disease
- .
- I- what, why did you that? I mean a lot of lawyers were around the country, some spoke out, very... not many. There were 2,000 lawyers in the country at the time, hmm, why did you take that risk?
- R- Well, there were, ... are, many of the lawyers... just, not, it's not just the lawyers, it is the population actually, was, you know, eeh, greatly intimidated. 'cause the consequences of disagreeing with government were dire. But, if for instance you were a leader in the law society, then, it..., you know, it became necessary to discharge eeh, your, your duties as a leader, and live up to the expectation of those you lead.
- I- xxxxx not everyone, did I think, the one who.. just, just before Muite was very quiet, Odhiambo, was it?
- R- What happened is that, eeh...
- I- Fred,
- R- Fred Ojiambo
- I- Ojiambo
- R- Yeah, Fred Ojiambo, is that he was being coaxed by the system to, not be like the, the, the radical lawyers, and I think , to some extent, I think we toned down,...
- I- Wasn't he given a state position right about that time?
- R- He was, yes, I think he was appointed aah, to a government bank and things like that.
- I- Hmmm.
- R- But he is...
- I- During this chairmanship?
- R- Aaah, soon thereafter, but
- I- While he was still chairman?

- R- I think as he was stepping down from chairmanship, maybe as a reward, but I think, he was a, basically, he, he is, aah, basically a good person.
- I- Yeah.
- R- But the ability to stand up and to suffer consequence for what you believe, I mean, you know, that, that courage, it will vary from individual to individual.
- I- eeh
- R- and may he lacked the courage to stand up and be counted at the time, yeah.
- I- I, I am asking where you got the courage to stand up?
- R- Well, this, I don't know, I cant tell you the... how I got it, but I just found, I just felt that it was the right thing to do, aah, especially when you look around and see the suffering of, of the people. When you travel out of here and you come back and you find you are like a prisoner in your home. That you are freer person in other jurisdictions. I mean, you are bound to feel bad about that, with eeh, people, their concern all the time, they are just too concerned, one, to plunder the economy and line up their pockets, and, two, to maintain their grip on power, political power, and then to and to use the resources of nation to, you know, reward those who do a good job, put a quote for them yeah, that will make you angry.
- I- So, you got angry?
- R- Of course I was very angry, I am still very angry even today, because you see, eeh, Moi has been in power for the last 24 years, he has ruined my life. I mean, I haven't, I haven't eeh, exploited, exploited my potential cause I couldn't do it. I haven't mad as much contribution to this society, as I would have made as much contribution to this society, as I would have else have done if I was operating in a different atmosphere, where, you know, law was being respected, where Kenya was not a Police state, and eeh, where ideas were appreciated, and where as long you paid your tax and you obeyed the law, you are free, to do what you wanted.
- I- Is this still a police state?
- R- I wouldn't say that, I wouldn't say Kenya is a police state anymore, because, eeh, now we don't have to look over our shoulder, but, Kenya is not, democratic. And Kenya government does not run their public affairs for the benefit of the people- and that is very sad. It does not run public affairs in this country for the benefit of the ordinary.
- I- You say, that the government has ruined your life. How, by restricting the number of coins which you could get?

R- No, it's ruined our lives, because, you see, we, I, like so many other lawyers, eeh, of my age, I mean we came out at a time when, aah, we, you couldn't, you couldn't do what you wanted as a lawyer. Aah, you can't go out, for instance, to seminars and say what you want to say, it, unless you have courage. And if you, have courage and you criticize government as we have done in the past, then of course, the next thing that's gonna happen is that, you find that, if you are getting some little work, legal work from, say, corporate bodies, it ti be government bodies, work will cease. If it be private bodies, those who support you are warned. And thy don't want trouble, so they leave you alone. So in cause of time you will find, you are not doing as well as you should be doing. Aaah, you may have expertise, but who do you give it to, nobody is asking for it.

I- Aah Hmm.

R- So aah, you will suffer, your wife will suffer, your children will suffer. Now you talk about human rights and say, how do people now even enjoy human rights when they have got hungry stomachs? Yeah! People have to have full stomachs, to even appreciate you know these things that we call rights, under the constitution, basic fundamental rights. And, the government of this country was very smart, in ensuring that those who didn't tow the line, went hungry. Take for instance, the famine – stricken,..xxx? stricken areas of the country, where we used to have food aid being sent their, the food, the food would be held until they are able to come up and say, they tow the line, they support KANU, they do this, they do that. And only after that, would the food be, you know, released to them, begrudgingly of course and then they would know that this man is like God. Aah, he is the person who gives and he is the person who can take away. Very...

I- Did your family suffer ??? because of your activism?

R- I had, I have tried all my life to insulate my children, my family, eeh, as a result, I.. even with my meager income, I mean, I can't say that, my children for instance, really felt, because, in public, because they were still young and they were in lower, in the lower classes.

I- How about your wife?

R- Hmmm, well my wife, luckily for her, she, she wasn't doing, wasn't doing aah, anything that exposed her to limelight, aah, and therefore she was far-removed, aah,..

I- So, the suffering really was on the part of your.. your income.

R- It is in-direct, very indirect

I- yeah, less money, .. less ability to practice your profession?

- R- Precisely, but that's not to say the police did not harass us in our chambers. I mean, many a time, I mean, eeh, police, police officers would drop in to you know, chambers. And I remember, one time, I was seating with my client they way you are seating there, and, the cops are told, "you can't see him, he is in a meeting," and they broke, they broke the doors, who would I report that to? They broke the doors and stood there, and they said, don't go to that procession that is going to start from eeh, Railways Headquarters going to shoot you down. We have warned you and they marched out. An I say, they have they have broken into my office, they have damaged my property, and I cant complain to anybody. I can go and write in an O.B, and .. (*end of Side A*).
- R That was the time soon after aaah, eeeh, Dr Muge's death, yeah.
- I- Did you go on a march?
- R- We, we we went as usual to , aah, the procession and went to church. Nothing happened, we were far too many, nobody could..?? down
- I- But you had been warned by police that broke in your door and said that you'd be short if you went to the March, and then you went to the March
- R- Well, why not? Yeah, we did. I, I, I, imagine that they were each intimidating us so that we don't turn up, and so that the whole, exercise would be, would be a flop. And, I also imagine that even if they were to live up to their word, they would have to shoot a lot of people down.
- I- There were so many of us meeting here...?? so many lawyers?
- R- So, so many members of the public, so many.
- I- This was not perhaps the time when ouko was killed and there wee so many people on the streets out there?
- R- That was Muge's time.
- I- Was Muge,... during muge's time. Right after his death?
- R- Yeah. It was after death of Bisho Muge, eeh, which made people very angry.
- I- If you were to ask yourself, which of three things, say, moves the state the most; Activism by individuals, eeh, donors or organizations, are there organizations. International organizations putting pressure on the government? Which of those three do you think is the most effective or what combination seems to work best in bringing about advancement of Human Rights in Kenya?

- R- I think, they, they, have to work in concert for best results. Aah, because, you see, the international community, want be able to do anything if the locals on the ground are doing nothing about it. And, eeh donors too, and other NGOS, aah they want to see that the people who are directly affected are also concerned, that this is not our way of life, to be down. Trodden and people ridding rough-shod on us, kicking us around, we've got rights, and we resist being ill-eeh, badly treated.
- I- Hmmm! Moi had surprised them! The law is there in the statute books, it says that... eeh the constitution says that, we have this fundamental rights, and government does'nt respect that, what option have we got? If you go to courts and you don't get a remedy, then we go out, into the streets.
- I. Hmmm
- R- Yes, until such time as government is exposed and it is embarrassed and stops dong that.
- I- Which comes from local activism?
- R- It has to come from local activism. You know. That is , that is fundamental. If it does,.. If you don't have any local activism, activism, then you are less likely to get anywhere.
- I- Of the local activism, there seems to be 2 types; one as, what I would call hmmm, organizational activism aah, a 2<sup>nd</sup> would be, what I got, publicity help, legal help, clerical help to carry out whatever they did. How would you describe your own activism at various points?
- R- I think we pegged our activism to the Law Society, and we pegged it to the Law Society and...
- I- So, it was organizational activism?
- R- It is organizational.. yes. And I think, eeh, it worked better better because, eeh, luckily for us, the.. we, we.. we were dealing with eeh.. we were seeing how government was using the instrument of the law to oppress. And we said " we have some expertise in this in this field. And we were able to meet government.. also head on. We took head.... Government head-on on that, and exposed it. And eeh, if we had not done that as lawyers, if we had eeh you know, eeh, just let the situation develop where we wait until Wangari Maathai alone as an individual aah, you know, tries to organize people, another individual tries to organize people and I am not saying that, their, their actions don't count, they count a great deal, but then, there are very few people aah with that kind of ability to do that. When you have got, an organ.. an organization that is credible, credible, its there, there, a multiplicity of benefits, one, they got many more people together who share common ideals,.

- I- Okay
- R- then you are also able to... you may also be, in terms of logistics, you may have more resources than an individual would have, and then you are also able to attract ah maybe aah, maybe, funding, aah from organizations that support your cause. And, so, that, so that you aah, you have a vantage position if you have an organization from, which, from which you operate.
- I- More, more people, logistics...?? funding.
- R- Yes, and also the credibility of what you do. I mean eeh, is you you are not, you are not just doing it eeh, aah, at home, for the people at home to see, but eeh, other organizations say, other Law Societies in other countries, they eeh, you enlist their help and they are able to also understand why it is that you are doing, they are able to lend support.
- I- What kind of support?
- R- Eeh, support in sending out, say, press releases, for instance, sending out letters to the government, and expressing aah, expressing their displeasure, expressing their... their...., their disapproval for what the government is doing.
- I- Mmmmh.....
- R And that way, I think, you you get somewhere
- I- Those are the benefits of an organizational approach?
- R- Yes.
- I- Did you have the full organizational support of the LSK during the time that you wee the chairman, and.. and... and.. later as your challenged these cases?
- R- Yeah, I think the support we got was tremendous. We got tremendous support from so many organizations, I mean, if I showed yo my file here, you would be amazed, to see the number of letters that we got. Letters written to the President himself, written to the Attorney General, written to the Chief Justice, written to all people who were involved in the running of public Bars in the country.
- I- By who?
- R- By those organizations.
- I- Which organizations.

- R- Aaah, International Bar Association, always took the lead, Amnesty International was always there, aaah, and we had lawyers' committee New York was always there, aaah.
- I- Lawyers' committee?
- R- Yes, American...
- I. ..?? say?
- R- Lawyers' Committee, in New York.
- I- aaah
- R- We've got American Bar Association
- I- Lawyers' Committee for Human Rights?
- R- For Human Rights, yes
- I- Aaah
- R- We've got American Bar Association – was always there, and, aah, you know was very, very very vocal on the these case.
- I- So they wrote letters on which case?
- R- You see, you see
- I- or a number of cases?
- R- No. they, there were many cases, they stated off... we had you know,.. they, they, cases like the Koigi case for instance,
- I- Okay
- R- a case like the Law Society case, eeh, where the Law Society were being eeh,
- I- Hmmm injunction
- R. Then we had the issue of general violation of people's rights in the country. Aaah, with ethnic cleansing going on aah, and. eeh...
- I. You see, you have copies of those letters, I mean, there, there were lotta of letters?

R- Aah, some I left with the Law Society – there are some which I treasured and I, I, I picked... I carried somewhere, yeah, and I...somewhere

I- But, but, during, the during the darkest moments, so to speak, was there an outpouring of letters form other organizations around the world?

R- Oh, yeah, especially when the lawyers were under siege by government. Oh, there are number of letters that we saw, through fax, through eeh ordinary mail

I- would you put them in the tens, hundreds or thousands?

R- aah, they were in hundreds

I- hundreds?

R- hundreds, yes.

I- Those are significant

R- Yeah,

I- ‘cause, some,. one letter night represent an entire organization?

R- Yes, absolutely, absolutely, absolutely.

I- You think they had any effect?

R- Oh, tremendous, I mean, I mean, they had tremendous effect, and I think government as I told you, wanted to cut an image of a very caring government, when you expose it and everybody is able to see that, eeh, the hollowness of what they are saying, when you are able to blow, the bubble, to you know, to blow the bubble and to expose government as a, as a government of people who really didn’t give a damn about the ordinary people, you see, then, they got very embarrassed. In the Law Society case in 1991, I remember that there was a jurist who came all they way from Norway and sit in, in the, in the court, -Fully dressed in his gown.

I- A lawyer?

R- A lawyer

I- An American

R- Aaah, he was a Norwegian, and in a....

I- Norwegian?

R- yes

I- A Norwegian judge?

R- yea.. ye... he was a lawyer

I- Or Attorney? In his gown?

R- He was an Attorney – he was a leader of a Bar. And I think there was also aah,

I And sat in the court?

R A French jurist also came, and, he, and these are things, that, were, that , eeh, that would embarrass government.

I- Was this pre- '91, pre – multi-party?

R- I t was before December '91

I- Yeah just before.

R- Aaah, the decision to go multiparty, I think, was a combination of so many things ehh which would include, include also the collapse may be of eeh communism,

I- Hmmm

R- Aah, then government, you know, the western powers were focusing more on the need for better governance

I- Hmmm

R- And aah, so it was a combination of all those things. Local pressure and well as International pressure.

I- Both

R- Yeah, both, both

I- Both, a combination?

R- yes both combination, yes

I- so did the actual encouragement by International organizations play a part in it?

R- It did, a great deal.

I- yeah.

R- A great deal, I must confess. A great deal, yeah.

I- What was it that finally made the decision ??? you think? You, you can't get inside someone's mind, but, but, the conference began on a note of anti-multi-party

R- yeah

I- I talked to delegates as they walked in the door, they were against multi-party, going out, they were praising it. Because Moi had surprised them!

R- I think, what it does show is the extent to which psychophancy had taken root in this, moi's government, that people would do anything that Moi wanted. People were so intimidated and so afraid especially so in government. So one minute, Moi would say this is the way, and if he turned round and said, we lost the way, the way is the other side, they would all just clap and say he is a very wise person, and they won't question. It's like that conference now when he says, he gave the indication that, he was going to adamant, he was to resist any, any, any... eeh, any change from eah, monoparty to multipartyism, and yet, when he turned round everybody was clapping. How wise he is. I mean, it reminds you of the medieval times in England, when kings were eeh he God almighty. And... so, but I see Moi had seen that, you know, to resist multiparty, would be, really, like, clutching at a straw, like you know, a dying man, clutching at a straw when drowning, you are going. And so, I think, he realized in good time, the time had come for him to let go. The thing was unstoppable, it was a hurricane, they couldn't stop it, and I think, he did well enough to say, I can't resist this anymore, the pressure is too much.

I- 1991, announcement '92 elections.

R- Yes

I- No big changes up until '97, '97 and there's some mass action and you get a few amendment in laws, important laws – IPPG – Constitutional wasn't changed in '92, wasn't changed in 97 and there's doubt in ninente... 2002, whether it will or will not be changed, is there a limit to which civil society can affect political change in an authoritarian state?

R- Well, the situation is very difficult here anyway, eeh,, it's extremely difficult, because see what has happened in Kenya, is that, aah Moi has always, Moi is a, is a very sly character, he knows what people want, he knows they are demanding it, he , he can see the pressure coming and then he pretends to be giving it to you. And then you, you, you, relax, and eeh, you know, you him because after

- all now you are getting it. Take for instance, the constitution that you've just mentioned: At one time if he is the one who appeared to be concerned about eeh, eeh, having a new constitution. He'd even say we need to get jurists from England to come and help in the exercise.
- I- January, 1995, is it?
- R- '96, '97 thereabout. And, you know, and everybody is, is can say, nothing is coming. And then he procrastinates and when the crucial moment in time comes, to have or not to have it, he puts brakes, and he brings all manner of obstacles. Like now, I don't want Ghai Commission because, is, you know, you know, because, aah, of reasons be can't explain. But he knows that, aah, the thing is that, if you have a new constitution, taking away all the powers that he enjoys, that he'll end up being a wa..., a worker. A President who is in office to work for Kenyans and not Lord it over them. And that he doesn't want.
- I- But he's going out so what difference does it make?
- R- It makes a difference, because, he, he wants to bring somebody into power, aah to take over from him, aaah, mm, and to be his proxy so that he can enjoy his retirement without anybody bothering him about, you know, the antecedents when he was in office. Yeah, that's what it's all about.
- I- So is the only one he thinks he can trust?
- R- Aaah, he can manipulate.
- I- Yeah, yeah
- R- He is the one who he knows he can manipulate, and he eeh he also knows that eeh the young kid is very, is, is less likely, compared to the other people to eeh to take action against him for his misdeeds while in office.
- I- Aammh. You mentioned, the collapse of communication at one point. I wonder if we can divide, look at three periods. '87 say to '91 – upto multiparty, collapse of communism in 89, 91 and 92, critical transition year.
- R- Mmmh
- I- '92 to '97. How would you describe the dynamics of each of those periods as to whether they differ, kind of a scenario in which, the background which things take place against.
- R- Well, we in 1987 to 1991, that was the period when the clamour for political pluralism eeh, you know, eeh hit the ceiling, you know, the ceiling as it were, and eeh, resulting of course, in eeh, the change of the law from one party to multi-

partyism. So, the, the forces there, and the clamour, between '87 and '91 was for political pluralism. And I think Kenyans eeh realized that as long as you had one party, polit...eeh, one... as long as Kenya was a dejure one party state, with one KANU in office, as the ruling party, this issue of human rights, aah you can never, you will never, win, your, your, struggle against violation of human rights. Because you have to work within that , that party, party. And its so easy to be ostracized from that party, you are nothing, I mean, they want to rig you out. You are a Minister or if you are a chairman of a particular..they just throw you out! You go out, you know, they, they call the shots there. And Kenyans of course realized that if you had a, a multi-party, state well, with many political parties, people could take people to Parliament, and people would be able even from Parliament to speak their mind - on behalf of their own parties. And also, that that would also change the scenario instead of monolithism, then you, you would open up space and people will be able to express themselves eeeh, a little more, aah, without being constrained. And, so, so, the, these was multi-faceted, that people are able to see, you move away from this one party st.... thing, you go to multi-party and then things you are demanding will become easier for us to demand.

I- Okay

R- Yeah. Now '91 to '92 eeh that was a very crucial year because that was the year that, when,... The, parties were formed and parties were f..... struggling to make their, themselves felt in the country, and also preparing themselves for the general elections that came in December of 1992, hmmm, so that, the emergies and the time was spent on people campaigning, '91, '92, campaigning, for multi-partyism. We had the biggest, the biggest event in the, in that era. Was the formation of the original FORD, as a political party. It was a mass movement, aah, which made Moi almost run away from Kenya. Until he started cracks in the original FORD, and realized that, these people were not going to take me out, after all they are so divided they are fighting over who will be President, and then he, he, he started also playing his, his games, will all the resources of the State that he had, and the Government machinery, and so on, and he, heeh, he was able to, aah, he was able to bring divisions in the opposition.

I- How?

R- Ah, sponsoring people,

I- Okay

R- to come and divide parties, aah, wherewith, original FORD, original FORD was formidable, and we should have Moi's rule to and end in that year, but we didn't tragically, You know, that was very tragic. It is one of the things that I... eeh.

- I- Do you think Moi's hand was there or do you think it was the jealousies and ego among the individuals within FORD that began to surface?
- R- Moi was the... always there. He will not a body like that .. an organization like that ... he will not just seat on the periphery do his own thing and let the organization be... no...
- I- Can you give an example?
- R- they, they use.... They don't forget that this is time when we printed a lot of money....
- I- mmmh (I: Hmmm)
- R- a lot of paper money, that's the time when we had Youth eeh for KANU '92 or something.
- I- Youth when?
- R- with Jirongo, h... the famous Jirongo who was then called... e, Jirongo was now synonymous with the 500 shillings note. Because he used to dish out to people, notes of each of 500 shillings. And
- I- that's when Goldenberg.....
- R- and that's yeah, that's when Goldenberg came. That's when inflation in Kenya hit the ceiling. And eeh, so he was there, eeh thinking of how could eeh, sabotage the opposition, and he did do it. and he realized money was a great mover, and he printed a lot of paper money.
- I- But all he really had to do was divide Matiba, Odinga and eeh
- R- which he did
- I- and eeh, Kibaki?
- R- and Kibaki, yes,
- I- Why did they divide?
- R- Eeh, I think the division between those, ....cause I was right there in the, in the, in the heart of the matter,
- I- Hmmm, Hmmm

R- That didn't happen. Aah, divisions started to emerge, and question of who was going to run for, for Presidency became now an issue, it should not have been an issue, and eeh Matiba had come from the U.K. in May of '92,

I- Mmmh

R- and eeh, he went right into FORD, and, he started contributing to FORD in ideas and in resources, and, the people who were .. instr... who actually are responsible for the split, and I really note Odinga and Kibaki, and eeh, eeh,

I- and Matiba?

R- and Matiba (I: mmmh) I think what happened, is that, as soon as a the KANU house was started crumbling like, ah, you know, like, like, like a pack of cards.

I- Yeah, Yeah,

R- Kibaki moved out and he formed his party.

I- Yeah, Yeah, he did.

R- And just a few months earlier, he had said that opposition was doomed to fail, and, we were like people trying to cut an oak tree, and, and things like that. And you see, when he came you know he brought a another dimension to the whole thing that was very unfortunate. Cause then, not only did you have Moi, but you had Kibaki, as two candidates now, and then you had original FORD, with, the, the, they could still whip Kibaki and Moi, if they stuck together – Odinga and eeh and the aah and the other four. Odinga, Matiba, aah, Shikuku, and aah the other old man who died.

I- ????. . . . . Is still there?

R- Eeh, is called, ...eeh.

I- Muliro?

R- Muliro Yes, so those four

I- They could have still beat them

R- They could have still ... they ...

I- But then Matiba and Odinga split.

R- They split.

I- Matiba's party was recognized just shortly

R- No, no.. no.., the, the, the truth of the matter why they split is this. Hmm..  
Odinga maintained that, original, the the presidential candidate for original FORD  
should be eeh. Should be the Chairman himself.

I- Ahmmm.

R- And Matiba said no that's.. not a good idea, let us have the best man for the job,  
let us have a primary ... let all those people in our party, who want to run for this  
office, come here, and eeh, stand for nomination. And let us elect one candidate  
from among the crop.

I- Okay

R- And he, he refused. And that was the pint.. That is the reason they, they, they

I- Hmm, mmh, Oginga refused.

R- Odinga refused, saying we have no such eeh no, no, such election, to nominate a  
candidate, I am the one who is going to run. That,s why it came, to an end. So  
they.

I- Did they have the primary?

R- No they (I: never had) so that became FORD-Kenya

I- Ok

R- Odinga became FORD-Kenya and Matiba became Ford-Asili and aah that's how  
they went their separate ways.

I- Infact, wasn't there a moment when eeh Rubia who had been released earlier R...  
came back from London

R- Yes

I- setting up a kind of a campaign for Matiba.

R- He did try to do that

I- But they had a falling out, I mean if I remember correctly Matiba actually helped  
put a candidate against Rubia in his own constituency and eeh there was a split  
between those two Rubia had gone into another party.

R- Yeah.

- I- It was registered Matiba's was not at the last minute Matiba's party was registered.
- R- mmmh
- I- And so Rubia run against him. There was even a split between the two, who had originally called for multi-party, wasn't it?
- R- Yeah, you see, when, when, FORD Asili went it's way, the Rubia followed Matiba and when he stayed there, FORD Asili was not registered, and everybody was getting very jittery because elections were going to come and they were going to come and find people without a political party, and then, eeh we would be wasted. And, eeh, these people, Charles Rubia and his group Kimani Wanyoike and others, they, eeh, they became too nervous, and they said we can't wait now, anymore. That's why they went and registered their own, their own party.
- I- Kenya something
- R- Something eeh , eeh, It was, I cant ever remember. It didn't last anyway. And, aah, they left Matiba alone with Shikuku.
- I- Yeah
- R- Yeah. And eeh, later on of course Kimani was to leave that party and then it just fizzled out.
- I- Hmmm
- R- Yeah
- I- Was this the working of Moi. You haven't really indicated that it's the work of Moi – other than the money coming in on KANU's side?
- R- Ah, Moi's aah, hmm, the money that Moi printed was doing a lot of work in the campaigns, to destabilize, to buy voters, to lure them from the opposition and eeh, to sabotage meetings. They did a lot of things to eeh to, to ensure that this ....
- I- They broke up a lot of meetings?
- R- They, they did that. Infact, they even used the eeh, the Provincial Administration and the Kenya Police anyway. They denied people licences – It was so difficult. I remember myself going with Matiba to Embu, and there at Rupingazi River, we found a 11.00 am in the morning, Land Rovers and Land Rovers had blocked the bridge and cops were there with their guns at the ready saying nobody is going to cross from that region to North Eastern Province cause that's where it starts. And eh, we sat there from 11.00 am O'clock upto one in the morning not a drop of water.
- I- 11.00 am

R- From 11.00 am.

I- To

R- To 1 am.

I- I am the next morning.

R- Yes, we were there and you see because that is the only road.

I- Were you allowed through?

R- That is the only road that goes, that you can follow to go the other side of Kenya.

I- Is that the road to Mwingi?

R- Is the road to , No, is the road to Meru. Is the road to Nyan... is the road to North Eastern.

I- OK, Now what happened?

R- So, ultimately I think when we were there of course, we did to the other people to talk to the press, local press, international press, get organizations to know and governments to know from here, UK, America and eeh of course I think as we were sitting there, I think, eeh faces and you know messages were coming of you know expressing a lot of you know disgust to the behaviour of the government of Moi preventing their own people from moving from point A to point B.

I- International faxes complaining to the head of state

R- Oh yes

I- You have some people out here blocked. The very same day, (R: mmh) it was that quick?

R- It was that quick.

I- Did the blockade open up?

R- They opened up at 1.00 and eeh

I- 1.00?

R- One in the morning and we had a big meeting in Embu. Hundreds and hundreds of people and eeh there was a big meeting. When government now realized that

- there was a night meeting in Embu by Matiba they sent a big contingent of Policemen, teargas and what have you got and what have you got and
- I- Was it used to break the meeting up?
- R- It, the meeting was broken up cause of the teargas was too much, teargas and then, but we didn't manage to have that
- I- That's that's very interesting
- R- Yeah, that, we didn't, that one we did manage to.. we said if it going take one year we will never leave here, they can come and spray bullets but we'll not leave here alive of our own volition we will leave here we will leave here when we cross the bridge.
- I- You?You serious
- R- Oh yes, so they realized that they were, we weren't we were not going to be intimidated and then of course the convoy of cars in our entourage was 4 kilometres, five, 5 kilometres long.
- I- Waow!
- R- And that and we were occupying both lanes on a single carriage, both lanes nobody could come or, from either direction
- I- To go back just to one point cause that is a dramatic example what you've outlined is how the KANU government was using money to break up and stop the opposition. I don't think you have really, suggested that there was anything except perhaps ego and perhaps ambition on the side of the opposition that led to the splits. It seems that it was their own fault?
- R- It was their own fault, I must confess it was their fault. They eeh, we could have we could have won that election if we didn't eeh, if the leaders were not that egoistic and eeh if were able to see that the most important thing at the time was to win that election and then we can sit down on how to restrict, reconstruct the country.
- I- Mmmh
- R- And what role each person needs to play, as a leader
- I- But looking back then, at, at the tactics from the late 80's into the middle 90's hmmm would you say that civil society played a major role in bringing what changes were obtained?

- R- Oh yeah, that's that's a fact. That's a fact. Eeh you know, it is, there, when, when you look, when you look back at the publications of the day, you know that comes out very clearly. And the church too, played a very big role.
- I- You, I haven't given you the chance to mention what the church did, but you mentioned earlier that your own odism ,he ,God gives people courage to speak out. Did the church ..to the same thing?
- R- Oh, yes, you see the church unlike, say, you know, eeh, the church unlike other institutions, the church has got the pulpit. Every Sunday, in many churches in this country, you have big congregations listening to a preacher man. And many of those preacher men, especially in the Catholic church, the PCEA and in the, in the Anglican church, those in particular have been because they stand out, aah, they, they tackled issues of the day – social, economic, political, and they eeh, they were able to criticize and castigate government and to give people encouragement to continue praying and to do something about, the, the, the, eeh, the eeh, the wicked things that the government was doing. And one of the good things that I like to say was, say for instance, when Bishop Gitari came, eeh the Bishop eeh, of, the, you know, the Bishop, of
- I- Right
- R- Ooh, here of the Anglican church
- I- Yeah
- R He was very courageous, and he spoke with a lot of courage and pointed out to incidents of where government was failing in its duty, ranging from the eeh ethnic cleansing that was ongoing in the Rift Valley and other places. Aah to political violence, aah to subversion by government of the its own of the economy, through things like Goldenberg, and, and also denial of people, of, of, peoples' rights to assemble, because licences were being denied, aah.....
- I- Hmmmmm
- R- People couldn't assemble. Even after we had, even after the IPPG for instance, in 1997, which said that eeh now, nobody will need a licence , for a meeting. You still found meetings being broken up. You see if you don't need a licence, then why should we notify, why should you, why should the police come and break up meetings?
- I- So Gitari was an effective spokesman right through the 90's
- R- He was a, he was a very effective eeh.....
- I- Still is, in a sense?

- R- He still is yes, but you see are a more when you are office. Now, he has retire, aah, we are hoping that his successor in office will be equally as good. He, he has shown those signs.
- I- Were, were you ever in detention yourself?
- R- No thank God, I ws, very, I was just lucky.
- I- Hmmm
- R- I was just lucky, because, in 1994 for instance, when I, I, I knew they were going to send me to jail, I, I took a walk to U.K. and I stayed there, and the ....
- I- That reminds, If I may just, .. kind of missed that. Why isn't there gonna be civil society action. I mean, where is civil society, this strong civil society that banged in '92 and got something in '91? Banged in '97 and got something in, And here's an important election, where's it?
- R- Well, I mean, this the show has been stolen by the politicians. The civil society has done the work, but the politicians have come in and stolen the show. Now, we, we talking about say demonstrations, and eeh, you know, regarding the constitution review. If we have no new constitution, we going to the streets aah, nobody, no ...
- I- ...?? doesn't happen?
- R- That will not happen, infact because, aah, there has been no organization for it, and infact because, that is coming at a time when people are focused on the elections.
- I- Hmmm
- R- And that's what really counts, counts to them. And so we are going to have people, eeh, running around, campaigning here and there, and eeh, it's not going to leave them with much time to do other things. Aah, if we didn't have elections, perhaps that will be easy to do. But I can't see it happening now.
- I- So has the, has the steam gone out of the Human Rights Movement, basically?
- R- No, it hasn't. It's just that eeh, eeh, the issue that is most urgent now, is, to re... to have Moi out of office. One, is, by law he is out .... But he wants to remain in office through proxy and that's what people are guarding against. And eeh, that's why he is also resisting the eeh introduction of a new constitution, because, it will not serve you know his interests, his selfish interests.
- I- But in terms of human rights being expressed by a constitution which reduces the power of the president, I guess you'd link those two,

- R- Mmmmh, mmmmmh
- I- Between '92 and '97, there wasn't much push. There was a push in '97, mass actions, IPPG.
- R- Yeah
- I- Between '97, there wasn't much push ... upto right before the elections. Now the politicians, insist ????? on running the show? What does that say about the human rights, eeh, civil society ability to effect change?
- R- Well, I think they got hoodwinked by Moi, because Moi after '97 IPPG, came, came and said, let us have, eeh, you know, pre-election, you know, eeh, pre-election minimum reforms and as soon as the elections are over, we are going to embark on, aah the exercise of making a new constitution for the country. He was in the forefront and he kept on saying that and everybody believed him. What he was doing is to, just filibuster and then procrastinate the whole exercise, talking, talking, talking and wasting time. And eeh, that's why this thing is coming this late. And, even, even if, even although it is now ready, he still has the excuses, aah, we don't we need a new constitution for the elections, why don't we need a new constitution for the elections, why don't we need a new constitution for the elections?
- I- Okay, but, but, I, I, don't quite follow this. I mean,
- R- Yeah
- I- How naïve is the Kenyan public? You talking about hard core political activists, human rights activists, some one that would risk their life, their reputation to get things done, and suddenly they believe the guy who has caused all the tyranny.
- R- No, they don't believe him. You see, the thing is this, this, this is the exercise of constitution making you know is a very expensive exercise. Just now, we have spent more than a billion shillings on it. I mean, it is an exercise that has had to be funded by the government, and, aah, it,..it..it.. has, required government to put things in place.
- I- I am talking about the law between '92 and '97, '97 and 2002.
- R- Upto 2002, yes
- I- There wasn't much human rights activism happening?
- R- The, eeh, I think there was.

- I- Okay. Tell me what, what happened. That would be interesting.
- R- I think, I think, between '97 and the year 2002. I mean we see, we .. the setback that we suffered in, in Kenya was the, the introduction of the so call IPPG.
- I- Yeah
- R- That was eeh extremely unfortunate, because, we
- I- That was a planned tactic by the government?
- R- It was a very good plan by the government, and eeh we took the bait and then we, we got nailed on that. And, then eeh, then thereafter what happened thereafter between '97 and 2002 in relation to say the Constitution, aah I agree to some extent that they eeh, that we did not push this thing as hard as we should have. But you will remember, that eeh when the law, when the statute was, was, was eeh, that eeh exacted to bring the Commission into being, the next exercise that followed was to bring, was to appoint Commissioners. And it became, a big, big, big hulla balloo.
- I- Yeah, Yeah, Yeah
- R- And eeh ultimately, when Professor Ghai was brought in, well he did agree to reconcile the UFUNGAMANO f... you know, group.. and eeh, the, the, the, government group. If I may call it that.
- I- Hmmmmm.
- R- And then eeh, the Ufungamano group was brought on board, that is where the time was wasted.
- I- Hmmm
- R- You know, jostling.. and then you of course, people, and you know, eeh, campaigning and eeh running around looking for positions and so on.
- I- Hmmm
- R- We wasted far too much time on things which don't count.
- I- Okay
- R- Because the amount of time which was left for.. to do the work, is much smaller than the amount of time that we spent jostling for this, that and the other.
- I- I wanna, I want to you, to tell me something.. You think ethnicity has helped or hurt aah, the, the effort to expand human rights in Kenya?

- R- Eeh, What have you got in mind?
- I- Well
- R- When you say, whether ethnicity....
- I- Politics in Kenya are totally ethnic
- R- Yes
- I- Is this something that the human rights activists have been able to use to their advantage or has it slowed down, this .... the march towards greater expression of human rights?
- R- Ethnicity in this country....
- I- Has it been a plus or minus in terms of getting more human rights?
- R- You know, it depends on what perspective you are looking at ethn.. ethnicity eeh from the government's point of view...
- I- Okay, let's take that first.
- R- Yeah, cause if you do if you look at it from the government's point of view, then you see it as a very nice tool to divide people, eeh to maintain your grip, you know, on power,
- I- Okay
- R- And eeh, and eeh, when it comes to issues of human rights from the government point of view, when you have that then it makes the work of the human rights, you know eeh groups more difficult.
- I- Ethnic clashes being an example?
- R- Yeah, because, you know, government is .... will always be there to say that, it is, aah, it is the people who have, warring, who are fighting, even when they send their own militia, their own aah, police, to go and eeh, you know hmm, to go, hmm, and and you know, violate people's rights,
- I- Okay,
- R- They will always have an excuse .....
- I- Okay,

R- That they are not the ones who, who, who are doing it. But if you look at it from the point of view of say, opposition, aah, then, eeh I would say that ethnicity has been, eeh, has been eeh, a subject which government has been harping on. Ah, Moi saw it as an important tool to play his political game in the country, and the the people themselves are not, ah, are not bothered about where one comes from. I mean in the slum areas of this city, you find there's no slum area that is said to be a slum area for the Kikuyus or for the Luos, people live there in a mixture of all tribes!

I- Kibera?

R- Kibera, we can say that there's a big element of Nubis and Luos. Because the Nubis were the original inhabitants of Kibera, aah but by and large in most other areas, you'll find that the tribes are mixed-up completely. And therefore, you find that it's the politicians who have actually used the ethnic aah, you know ethnic argument to incite people and to make them eeh clash with one another.

I- And...

R- But they themselves, they themselves have not problem with, with one another

I- Hmmm until they are interfered with

R- Yeah

I- So they use it as a way to get votes?

R- They use it as way to get votes, they use it as a way to undermine, say, the, the, aah, the opposition, aah, like now you'll hear them saying that the opposition is using violence.

I- No, I'm talking about the opposition, using ethnicity as a way to get votes.

R- Well if you talk about the, the eeh opposition, they, eeh, they will use it to get votes, that's true,

I- Hmmm

R- Aaah, they will eh, use it also, to point out the mistakes that government, has, has, has, has committed over, the over, the years, they say, they

I- say, the issue of the.. the.. the.. you know tribalism in the country, beneath it is an issue that has been brought about by government, because when you, when you really look at it, at the end of the day, what does it mean. If you are a Luo, or a Kamba or a Kalenjin, when government is messing up with the economy, these people go to kiosks to buy sugar at the same price. If.. they can't have good

- roads, they all suffer. If there's no good road transport, they all suffer. If there's no good road transport they all suffer.
- R- The.. it is not there, eeh, in the sense that eeh, it politicians, who, who make gains out of it, were not, were were not talking about it. If they had not brought, say, ethnic cleansing and that's... the the idea was to make this thing sink. in people. That's there's a difference between you and a Kalenjin.
- I- Hmm
- R. It's between a Kikuyu and a Kalenjin and you have seen how your people have been killed, you have seen what has happened eeh, in in the Rift Valley, and so on,
- I- Yeah, yeah!
- R- Yeah, but but... the ethnic cleansing is the one that eeh that eeh, explains, why, how, how, the government wanted to actually let the message of tribalism sink in the people.
- I- For what end...
- R- By bringing in hatred
- I- What was the aim of that?
- R- The aim?
- I- Hmm
- R- The aim, aah, eh, was political, was to drive away certain people from certain regions of, the country.
- I- Would you see a link between democracy and human rights?
- R- I think, they are... the two go hand in hand, I think the relationship is symbiotic if you like. In the sense that eeh if you don't have democracy, you are less likely to have human rights. (I: Hmm) And where there's greater measure of respect for human rights. That's the way I see it.
- I- Okay. And also do you think human rights are Universal or relative to the country?
- R- I think they are universal. Because there are certain fundamental things about life,... the freedom of a person to worship, the freedom of a person to speak, the freedom of a person to live.
- I- Okay

R- And all those fundamental things. They are common to all human beings, anywhere in the world.

I- This is where I want... I go back to..?? the lessons?? vital lessons from Kenya, in terms of what makes an authoritarian state, given up some ground on human rights?

R- I think it's eeh, the , I think the starting point would have to be awareness.

*(interruption in recording , tape 2 starts)*

I- ...Mishap with Mr B.G.M Kariuki, lessons from Kenya.

R- Well, I think the starting point on the, on the point... the question that you've asked me, is the eeh awareness, I think people have to be aware of what their rights are, they have to be aware of what the responsibility of their government aah,.. they have to be aware of what...what.. what.. the.. the.. government responsibilities are. If aah, if you do not know, what your government is supposed to be doing for you, you are brought into office, it may be a rigged election, but there are people there who purport to have been elected by you, tye are in office, and they are doing things which affect your life, if you do not know what it is they are supposed to do as a government, as public officers, if you are not aware of that, they you not likely to do much to effect any change when bad things happen, when your rights are taken away, and so on and so forth,

I- so, set a standard!

R- That's very important: education!

I- That happened in Kenya

R- Aah, that.. that, is something that has happened in this country, because, I think that, ten years ago, people in this country were not as well aware of their rights, as well aware of what their government is supposed to do, while in office, as they are today.

I- Okay.

R- And the next thing of course, that you need, a .. having, having become aware of that, then you need to, you need to be able to assert aah, your position. You need to make, to make demands.. aah.. to demand your rights, aah, without using violence .. you can do it through, the.. the you know, the, the, the, the system of justice, aah, through going to court, aah, you.. if, that, doesn't work, you can also clamour for those eeh rights, in eeh, through the, the, the, through the media, and eeh, you can also have seminars and talk about it in meetings, and where government fails, you also need to be able to expose it. So if, if.. if.. you are aware and you are able to assert yourself. And the only thing that you want to

- talk about now is how I do I assert myself, how do I make government understand that ahh this right is being violated, that government is, is aah, not being transparent, tye are doing thing which are not in the best interest of the nation, those are details. But, eeh, assertiveness is extremely important, because, I have seen in this country, 80's, 60's. eeh, 'no I would say 70s and 80's aah, those are.. that's a period which was characterized by what I would...
- I- 60's and 70's or 70's and 80's
- R- Ahh, I would say 70's and 80's. I think the eeh 80's – 70's and 80's. I think, eeh, one can safely say that the society here was political docility where they don't, people don't do anything – they just complain over a beer and say things are too bad, but they do nothing.
- R- because of, it's a really, because of fear, of, of
- I- or lack of interest?
- R- It is, primarily because of fear. Ah, in a police state it's because of fear, and in a country where the you know, we had a tyranny, like, eeh you know, in that phase, phase,
- I- yeah
- R- Then, eeh, you'll understand that a lot of people thought that it was better to keep quiet, because you are safer rather than to expose yourself. aah for which you may be, eeh, you, you may be in trouble. The thing is that, you keep quiet today, things get worse, and the in the long run, aah you end up in situations where Kenya ended, ended. if we had talked forcefully, asserted ourselves as soon as Moi came to power, Moi would not have been able to do the damage he did in this country. By now, he would have been unable to do it. But I think the people who knew what, ought to have been done did nothing, it took a very small group of people just lawyers and churchmen, to turn things around.
- I- Why lawyers?
- R- Well, I suppose lawyers are the ones who are more exposed to what was going on, because they are dealing with issues. Because in this country, in fact, if you look, if you look at the way Moi has operated to oppress the of Kenya, you will see, that all along he has used aah, tactics that are law-based. You see, he has used the instrument of the law all the time,..
- I- Hmmmm.
- R- for his own benefit. I think that is what he has done, in my view, 'cause, he.. you know, he started off with detentions, then it came to... everytime, every, every step, is law.

I- Hmm

R- yeah

I- That's fascinating

R- He has used law throughout, ah, to oppress people

I- and so..

R- and, and so lawyers ah, were the people who were in the.. who were more exposed in this, in this field, they took it upon themselves to, to challenge him, and they did! and eeh,

I- ???

R- Yes,

I- The, the authoritative figure chooses the course and the Laws for his justification, those who oppose try to show that there's no real justification in the courts and in the Law?

R- Precisely, and in fact...

I- And yet you were using a court that's appointed by the President, biased by the President, probably under the control of the President, what in the world gave you the ideal that you could go into that arena.

R- Yeep

I- where the man who sent the lions out there, seating watching

R- Yeah

I- and win the game?

R- Because, because we wanted also the judges to be exposed. You see if he is hitting you with a particular sword, you want, you see this among, you see, you want, you want to expose the judges whom he is using in that exercise, so that they can stop, from being used that way, they are always not to help the executive to maintain its grip on power, they are always to come there and be aah fair adjudicators of people's rights. And the were failing in that exercise. And if you did not expose them, you go out to them, and let the world see, what they are capable of coming up, in terms of decision, so that you are able to say, Moi is using the courts, these are not fair courts, - the judges are compliant, they are brought there by Moi. And then we destroy the credibility of those courts, so that eeh when we defy, say, orders and judgments of courts people will not say that we are law-breakers, they will know there can not be no no justice in that system. And that's the reason we went there – And, and I, I, think we succeeded in showing that, that, those those judges, were, the .... those courts were just kangaroo courts, they were kangaroo courts.

I – Hmm

R- When it came to, in, when it came to matters in which the state had interest, the whole thing was a joke, and the, that, that, Moi has done, today he has, sent, today we have seen judges, funnily, sued, before themselves. I mean he's still using the law.

I - Any doubt in your mind that is supported by the administration?

R- Oh, yeah, it is?

I - No doubt?

R- There's no question, there's no question about it. No judge in their right mind will do that, without the, without the token approval of the Chief Justice.

- I- So your tactics were to try to expose the weakness of the judiciary so that you could go out and do things you thought you should be able to do, still be locked up perhaps sometimes worse, but have public sympathy in saying those weren't just laws?
- I - Precisely, and I, I would, I would only add one other in Zambia, in 1990, In 1990 in Zambia, the High Court in Zambia dealt with a case relating to the issue of multi-partyism and eeh, it, it went to court because Zambia politicians were saying that notwithstanding that slow piece of legislation that was saying that a PC had to give a licence for political rallies, that piece of law was anti-thetical to the constitution of Zambia and the judges said, that law, requiring licences for meetings, is against law.
- I - Hmmm.
- R - the constitution. And nobody should be allowed, aah, nobody should be stopped from holding a political rally, mainly because there's no licence a P.C, a P.C. And, when our courts, were confronted with similar, similar decision, lacking the courage of the Zambian judges, they said no! They will not decide on the matter, the way the Zambians courts. So what I am saying is that, the judiciary in Zambia helped the course for multi-partyism, and it came there earlier by a year. Here, our courts were an obstruction, they were obstacles in our struggle for multi-partyism. an
- I - Would you, this is fascinating – because then Kenyan courts have never thrown Out any major aah, stumbling block that's been identified by human rights activists.
- R - Yeah, yeah
- I - They haven't done it, ever. Now would,.. but you kept going back, going back, going back. Eeh, would, would it be going to far to describe your tactics, that the opposition????? as a from of, of, non-violent resistance?
- R - Yeah, that, that is that is, I mean, I couldn't have put it better, it's non-violence
- I - I never thought of it!
- R - Yeah, it is And, the other thing of course, is that eeh, there's no way you'd point a finger at the judiciary in this country. If you did not take cases to them, to decide, and a particular point of law, like this one, tomorrow when things change, they'll tell you that if you'd come to us, we would have given you this remedy. We were always there, but you never came to us. But we we want them to show, that they were not capable of giving it because, they were appointed by Moi and they were serving the interests of the executive. So, we were able to expose them, and that's why even today as he Ghai Commission is going on, everybody is saying, those judges should be should be thrown out, they are good for nothing! And we want a new core. Because, we were able to expose them, that charge will not hold true today. Because they would would, have been able to say, has there been any litigation before us in which we failed to dispense justice, and to give people the remedy that they deserve. We cant pose that question now, 'cause we gave them so much, and they said, you do us proud as Kenyans, just give us this remedy, and they didn't. And then we were also able to tell this people, you see, the reason Moi has won his maintainance of, the maintainance of his grip on power, from the time he became president, 78 up to now, he's simply this, one; He is a very selfish

- person, two; ????? interest of this country means his own personal interest. So that where national interest is, is in conflict with his own personal interests, it is his personal interests which prevails. He is that selfish.
- R - What is his personal interest?
- I - Personal interest overrides national interest
- P - What is his personal interest?
- I - His personal ... is .... wealth and political power, that is the long and short of it you know, it is for
- I - That is the basis for this politics?
- R - Yes, that that is the very, that's the basis of all the politics you know he has. And then, he is so, so, ... the point I was making is, this, the reason he has been able to succeed this, this long, is because, he does not use any standards. No standards in the performance of, his political activities. He will do anything that will help him achieve what he wants, and, it doesn't matter whether he is condemned, it doesn't matter whether he looks crude. It doesn't matter what, he's goal always is to win and so, we have, we realized a long time ago that we cannot be like him because we need to have standards. And a lot of people have been, you know, everytime you set out, to, to challenge something, there are certain minimum standards that you set for yourself,
- I - Yeah
- R - You cannot, say, go, aah throw obscene words at an old man. You want to put an arguement that can hold, that people will respect, that people will see that man is talking sense and this is the truth. Aah, so, so you, you, but he himself doesn't do that, he will hit you below the belt, he will use falsehood, he will plant things on you, he will say you are ..... at one time you remember during the time of charge, Njojo when he went to Kisii and he said, that Njojo is a traitor, but he's not able to say what Njojo has done it terms of subverting, say, the eeh, security of this country, but he will just make a statement which is false to, to enable him to set up a commission to probe him, to humiliate him, to cut him down to size and then eeh, you know, and then eeh, you know get them man ????? to obscurity. An I was telling someone the other day, if you are put in the, in a box ring today with Mike Tyson, aah, I believe, one of the most powerful boxers, and you give a 'simi' – a sword, and he comes there with gloves, and you are told whoever beats the other will carry the cup, will win. Tyson can throw a few jabs but you will chop off his hands, with your sword. You'll kill him – he cant win he can be the best boxer, but he cant win – why, because, you are, he will come there, he is obeying the rules of the game, “do no hit below the belt, there are gloves, blah, blah, blah, and you come and chop off his hands. And that is Moi, with his sword because it doesn't have to obey the rules of the game, he has no decency. So you .... we have we have laws because the only language Moi can understand is when he's when he's driven between, you know, the rock and a hard place and he cant ..... he has no more ground to play, then he becomes very, very, eeh, very conciliatory and he says let's talk, let's dialogue. He is now calling Saitoti, he is calling Kamotho, he's calling the other, Rainbow leaders, because he is finding himself, aah ou know, driven to the wall. And that's the only language Moi can understand. Fortunately ...

I - Which language?

R - Aah language, confrontation. So, he comes with a sword, take off your gloves and tell him, I will hold a 'simi', and I will pierce your chest. So he will say no, let's not fight now, let's talk.

I - Is that the reason behind mass action or is that one of the tactics?

R - That is what, that is, that is the basis for mass action. That it is the only way you can, you make things ungovernable so that eeh he will not be able single out people here and there, for victimization, and the, eeh, continue, eeh ruling.

I - Mmmh

R - But eeh, so when things don't move, when there's when there's mass action and he's not able to govern anybody, when things are topsy-turvy, then he says let's talk is the only language he can, he can understand.

I - But the court language was a very pacific, placid language. That was not the simi, that was the gloves.

R - That, is, that was, before we realized that this man cannot understand that language.

I - Aaaah

R - We did not understand, we mean, aah, we personally I thought that he had a sense of shame, but I was mistaken, he is not, he's not capable.

I - So that was a tactic that, worked .... Had, had it's moment?

R - Yeah, because, of course, it's then of course of you use violence, aah, you see, what we feared at the time is to go out in the streets, and then in eeh, in mass action, and then you would, you would have Moi, giving people, money to come and infiltrate your, your, peaceful movement, and create trouble, and then you end up with violence. An you cannot tell the International Community you are doing a good thing here when people are dying. You see ... you are violent people! And that's what we feared he might do, because he'll try and eeh, do just that

I - Label them as law-breakers?

R - Yes, the'll say these are law-breakers

I - Yeah, and yet, yet, you had Sabasaba, '91

R - Yeah

I - You had Kamukunji, in '92

R - Yeah

I - Those were mass action in a sense,

R - Yeah

I - a little bit unplanned, planned but then they awry, riots, all over the country

R - Correct ye, but you see, that, that's the trouble that we're had with these demonstrations, when, the, then, you find that, they will always bring their own groups, their.. the .. some of them are drugged, they have taken eeh alcohol, they have given .. they have been given money and their mission is to come and jus eeh create trouble, and they wreck havoc,

I - Hmmm

R - And they make the thing appear to be aah, and exercise by law-breakers – who is gonna give them you know support, anywhere in the world

I - So, Kamukunji and Sabasaba had a negative impact, would you say?

R - No they didn't have

I - They didn't

R - Positive, because, you see they, they, at that .. it was discovered, Moi, Moi was bringing his own people to interfere with a peaceful exercise.

R - Okay

I - Yeah, and they, then brought cop... police,

R - Armed police to actually fire guns, live ammunition on our people

I - So you think the public and world was able to sort that out

R - That's right yes

I - Okey

R - It was, it was, very, very, obvious

I - But it ... but mass action was risky as a frequent tactic then ..

R - Yes

I - Because of that massive use of ??? power

R - Absolutely!

I - But the same thing happened in '97

R - Because the police would come normally, not in uniform , they come there in plain-clothes and they've got guns. An we know them, they are too many of them. The ... the .. the police who are in plainclothes in this country are far more than the uniformed policeman.

I - Really

R - Oh yes. For every uniformed policeman, maybe, they are about en, plainclothes

I - M mmmh?

R - Yes

I - So, '97, tell me about your actions in '97 was that a good thing, all the mass actions leading upto what we, what you described as a kind of a steel

R - Mmmmh

I - Was the mass action a good tactic?

R - I think it was because, you see, Moi we've gotten to know that Moi can only understand the language of confrontation. That you've got to tell him, to tell it to him in the face. And .. eh ... so it became necessary at the time to do that

I - Okay

R - And because it ... If we didn't do that, aah, he seemed to interprate anything else, as a, as a, as a, as a,.. as fear – not by intimidation on ... by ... you, by his own people

I - Well, help me out on this point. If mass action was good in '97, was bad in '92

R - No, '92, there was no, no, time you, see '92, people were campaigning .. you see, we went ..

I - '91, '92

R - '91 we went multi-party

I - Yeah

R - at the end of he year actually, because we had only one month, and hen the whole, the .. the .. the first two, two, the first six months, we, were just sorting out parties. Parties were being registered, people were you know eeh organizing themselves in various political parties.

I - Pre-ninenty, pre-december '91 was mass action a good idea then, I it really didn't really happen, except for saba saba?

R - It happened, but in a, not, no, it was not nationwide. I think the action was in the city

I - This year, July, Sabasaba?

R - In 90, in 1990/91, the action was in the .... it was the, in the city of Nairobi

I - Yeah

R - That's where the action was. And it was ...

I - Sabasaba in Kamukunji?

R - Yes

I - So .... that, .. you say they were good in '97 because he only understood confrontation, was that the same argument in '92

R - Even in '92, what had happened is that eeh we found that people were being told you cannot assemble, you cannot hold meetings, you have no P.C.S PC's licence. We said, we can do it because it's a God-given right to do it?

I - Okay there were 3 ...there were two phases. There was the court phase ... of heavy pushing in the courts against impossible ????, you finally realized, we are not making the headway we wanted, the guy doesn't have any shame, as ?? your words, so then, you go to mass action

R - But, we, we, maintained both of them,

I - Ooh

R - As .. we maintained both of them, because even as people went to mass action, we still want court to expose what was being done aah by him, sometimes, you want to expose the judges for being compliant and being, you know, serving the interests of the executive,

R - So, the, the, you know, it was ....

I - It's a dual philosophy then, a dual tactic

R - Yeah, yeah,

I - Did that dual tactic continue with '97 also?

R - Yes, it did... it was

I - ..?? in other words, you don't throw this out, you just say, it is not enough?

R - It is not enough, you have to diversify

I - Okay

R - Yeah. It was diversification, actually

I - Okay

R - Yeah

I - And still, this is, this is ..?? and non-violent action. It gets messed up and infiltrated and ??? but it the heart you people without guns, doing ...

R - It had no guns, nothing. People were unarmed, they are peaceful, and it's not until the police come that trouble starts.

I - Okay

R - Yeah, when they throw teargas, when they start shooting you,

I - Shooting, you know, into a crowd and killing people at the end of the day as they say, that the authoritarian nature of this state will fade away?

R - I think so,

I - Yeah

R - I think so, I have no doubt, you know ...

I - We are talking about two more years, ten years or when?

- R - Ah, I think a lot will depend on .. aah .. a lot will depend on the people, because they must maintain their vigilance against tyranny .. eeh .. And because, people, however good they are, once they get political power, there's potential in everyone of us to change.
- I - Hmm
- R - because people like to be loved, to be glorified, to be done this, and eeh, power has its own problems. So if people don't maintain their vigilance, aah, you know, there's a, the, danger, the danger that you may lose that which you have, you know, you know painstakingly you know procured .. it terms of better governance.
- I - You never went to Parliament, did you?
- R - No, I didn't stand for elections
- I - Are you standing now?
- R - No, I don't want to stand now, I want to stand aah may be, in the next elections. Now, I have got kids who school, I want to see them out of school first.
- I - Okay
- R - Yeah

End of interview