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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON MONDAY, 7TH
NOVEMBER, 2011 AT THE NYERI MUNICIPAL COUNCIL
SOCIAL HALL**

PRESENT

Tecla Wanjala Namachanja	-	The Acting Chair, Kenya
Berhanu Dinka	-	Commissioner, Ethiopia
Ronald Slye	-	Commissioner, USA

SECRETARIAT

Bellinda Akello	-	Leader of Evidence
Mr. Simon Njenga	-	Hearing Clerk

(The Commission commenced at 11.45 a.m.)

(Opening Prayers)

The Acting Chair (Commissioner Namachanja): Good morning. Let me take this opportunity to welcome you to today's hearing. First, I would like to apologise for keeping you waiting. It was because of logistical problems but I want to assure you that we will sit and ensure that we hear all the cases. Let me also take this chance to thank all of you who took time to record statements with us. We received so many statements and it is because of time constraints that we are having two venues for the hearings.

Another hearing is continuing at the YMCA Centre. For us, we shall be here until we complete the cases on our list. Later in the afternoon, all of us will join the hearings at the YMCA Centre. I know that we also recorded so many statements, but you will realise that we have only selected a few for the hearings. That is the nature of truth commissions – that we cannot hear every case. We select a few cases that will give us an example of the atrocities you have experienced here.

So, for those of you in the public, I am sure that as you listen keenly to the cases we have selected, you will see yourself in those cases. I want to assure all those who recorded statements that those statements will form the record that this Commission will come up with. Some of the issues we are going to share today, through the testimonies, are very painful but I am happy that you have turned up to be with whoever is going to give the testimony, to empathise with him or her and to affirm them. I will encourage you to listen patiently even if at times you do not agree with the testimonies that will be shared. Let us listen patiently and without disruptions.

We have rules of the hearings. One of them is that we all switch off our phones. Please, there is a difference between switching off and putting them on vibration or on silence mode. The reason you have to switch them off is so that you do not get up to answer them because that will disrupt the hearings. For our media and other people who may take photos, please, there is space for you. If you must take a photo, avoid using flashes because they will disrupt the process.

In terms of what we are going to follow as a process of the hearings, first, we shall have our witness sworn. Then he or she will give the testimony. After that, we will have a Leader of Evidence who will ask questions for clarifications. At the end, we shall also, as commissioners, ask questions for clarification before we invite the next witness.

Let me now introduce to you the panel of today that will be listening to the witnesses. On my left, I have Prof. Ronald Slye from the United States of America (USA), an international Commissioner. On my right, I have Amb. Berhanu Dinka, also one of the international commissioners from the neighbouring country of Ethiopia. My name is Tecla Namachanja Wanjala. I am The Acting Chair of the Truth, Justice and Reconciliation Commission (TJRC). I will be the Acting Chair for today's hearings.

Welcome.

(Mr. Julius Maina Muhoro took the oath)

Ms. Bellinda Akello: Thank you for making yourself available and welcome to today's session. Before we start, kindly tell us your three names.

Mr. Julius Maina Muhoro: My names are Julius Maina Muhoro.

Ms. Bellinda Akello: Can you also, please, tell us what you do for a living?

Mr. Julius Maina Muhoro: I use a donkey to fetch water and transport loads and luggage.

Ms. Bellinda Akello: Where do you live?

Mr. Julius Maina Muhoro: I live in a village called Kimunyo.

Ms. Bellinda Akello: If you recall, you recorded a statement with the TJRC pertaining to some gross human rights violations. Could you, kindly, take the Commission through the information that you provided in your statement?

Mr. Julius Maina Muhoro: I was arrested in the year 2004 and brought to Nyeri. I was then taken to Kiganjo with other people I had been arrested with. We were about seven people. I remember one of them as Bernard Gitahi. Another one was James Githinji. Others were Mareri and Wanyiri. There were other two people whose names I cannot remember.

We were taken to Kiganjo Police Station. We stayed there for about four days and then were brought back to Nyeri and taken to court. After court, we were taken to King'ong'o Prison. We stayed there for about 14 days. Thereafter, we were brought back to court but we were told that the magistrate who was presiding over our cases was not there. So, we were taken back to King'ong'o for two more days, after which we were brought back to court. That was when we were given bond. We were bailed out with Ksh200, 000 or title deed of a similar amount. So, we used title deeds as security for bail and attended court for our cases from home.

After I was released, I found that my wife had passed away. She died while she was delivering a baby. Luckily, the baby survived. The child is still alive to date. After I was bailed out, I also found out that one of my cattle had died. I sold two head of cattle, so that I could get money for the bond. I was depending on the cattle for survival. After the hearing of the case, it was declared that there was not enough evidence and we were released. So, the case ended.

After we were released, we told our lawyer that it was important for us to go to court so that we could be compensated. After we gave out the money for the case for compensation, I am not very certain about what happened. When I asked the lawyer what had gone wrong, he kept saying that we had not been allocated a hearing date for the case. So, I waited. I waited until I realised that there was no way through the case. I continued to stay with my problems. My children were depending on me for their education. Therefore, my children suffered because of that. As I said, my source of livelihood was the cattle. So, I have suffered up to today.

Ms. Bellinda Akello: Thank you, Maina, for your courage to appear before us and speak out. You said you have how many children?

Mr. Julius Maina Muhoro: I have six children.

Ms. Bellinda Akello: Thank you. You have said that you were arrested in 2004?

Mr. Julius Maina Muhoro: Yes.

Ms. Bellinda Akello: Were you arrested by uniformed police officers or just by some people?

Mr. Julius Maina Muhoro: I was arrested by uniformed police officers from Nyeri but some were dressed in civilian clothes.

Ms. Bellinda Akello: Did you know those in civilian clothes to be police officers?

Mr. Julius Maina Muhoro: I met them at the court, in the Security Department. They were security people from the Hill Farm.

Ms. Bellinda Akello: Can you, please, tell this Commission why you were arrested?

Mr. Julius Maina Muhoro: The accusation was that I had cut down coffee.

Ms. Bellinda Akello: At what point did you know what you were being accused of? Were you informed of this immediately you were arrested or did you learn about it later? At what point did you know what charge you were being arrested for?

Mr. Julius Maina Muhoro: After being arrested, I asked them why I was arrested. They told me that I had had some struggle with the Father.

Ms. Bellinda Akello: When you were arrested, you tried to inquire as to why you were being arrested and were told that it was because you had a tussle with the priest. Is that what you have said?

Mr. Julius Maina Muhoro: I did not know much. I only knew the bit about the tussle then.

Ms. Bellinda Akello: You mentioned a few other people who were also arrested with you but from your own experience--- Where you lived, near Hill Farm, was it a common occurrence for people to be arrested and detained or were you the only ones who were arrested and detained?

Mr. Julius Maina Muhoro: It was something that had been recurring. They used to arrest people. Most of them were arrested for the accusation that they had stolen but it was basically about a tussle. There was a major tussle for land.

Ms. Bellinda Akello: That was going to be my next question. Why did they keep on arresting people? You said it was because they wanted the land. Can you, please, describe the location of your land in relation to the Hill Farm land? What was the relation and why would they want your land?

Mr. Julius Maina Muhoro: The land is there and there is a tussle about that land. There are people who claim that they were born there and that their grandparents were born there. They claim that their grandparents were buried there. So, there is a tussle between the people on the farm and the people in the neighbourhood.

Ms. Bellinda Akello: Thank you very much, Mr. Maina. We have heard you and we have also seen, according to the statement that you have given this Commission, that your rights were violated. You claim that you were wrongfully detained and that when you were released for lack of evidence, you further tried to seek justice by a suing the Government for wrongful detention, but those efforts were also not fruitful. So, just to finalise, as a person who has had his rights violated, you tried to seek justice but you were not successful. What would be the recommendations you would seek from this Commission, both for you and for others who have also suffered the same fate?

Mr. Julius Maina Muhoro: I would request that I be compensated for all the things I lost. I used a lot of money. My children would not continue with their education. So, all my property, which I had acquired through a lot of difficulty, ended there. Since there was no justice in the whole issue, I request to be compensated.

Ms. Bellinda Akello: Thank you very much, honourable Commissioners. That is all from the Leader of Evidence.

The Presiding Chair (Commissioner Namachanja): Commissioner Dinka, do you have any question for the witness?

Commissioner Dinka: Thank you very much for your testimony, Mr. Julius Maina. I would like to express my sympathy for you for the loss you have suffered as a result of the death of your wife, while you were in detention. That is a very tragic story. You also lost some cattle.

Having said that, I would like to ask you two or three questions. You mentioned that the people who live around the same place as you have some kind of ancestral claim to the land that is held by the church. Have these people come together and expressed that ancestral claim in some legal form? Have they gone to court, for example, to reclaim the land on the basis of that claim?

Mr. Julius Maina Muhoro: Yes, they have tried. I was arrested together with the majority of those people. Some of them had documents because they had tried to seek justice. So, they have tried to prove and seek legal ways of claiming the land.

Commissioner Dinka: Have they filed a case in court against the church, demanding the restoration of that land to the community? What was the outcome of the court case?

Mr. Julius Maina Muhoro: I do not know exactly what happened after they went to court, but they have some documents to show that they have been to court.

Commissioner Dinka: So, you were not part of that group? Were you?

Mr. Julius Maina Muhoro: No, I was not part of the team.

Commissioner Dinka: How close is your piece of land to the church land?

Mr. Julius Maina Muhoro: It is near. What separates us is a river or a stream.

Commissioner Dinka: So, there is a clear natural boundary, river between your land and the church land?

Mr. Julius Maina Muhoro: Let me just say that from the river, you walk for a short distance before you reach the point where I was arrested.

Commissioner Dinka: My question is: What is between your land and the church land? Is it a river or is it somebody else's land? What separates your land from the church land?

Mr. Julius Maina Muhoro: We are separated by small pieces of plots.

Commissioner Dinka: So, you are not an immediate neighbour of the church land?

Mr. Julius Maina Muhoro: No, I am not an immediate neighbour to the church land.

Commissioner Dinka: You were not part of the group that went to court to reclaim the land. You were not even in close proximity to the land of the church. Why did they suspect you of cutting down their coffee trees? Is cutting of coffee trees sometimes the way the population around that area express their dissatisfaction with the church? Why would they accuse you of that act?

Mr. Julius Maina Muhoro: I cannot tell the exact reason I was pinpointed as a culprit. The tussle has been there but I cannot tell exactly why I was amongst those who were pinpointed for arrest.

Commissioner Dinka: To use your own words, had you had another tussle with the church before you were arrested?

Mr. Julius Maina Muhoro: No, there had not been any other tussle before that.

Commissioner Dinka: After you were acquitted by the court, did you have any problem with the church?

Mr. Julius Maina Muhoro: No, I have never had an encounter with them after that.

Commissioner Dinka: Have you taken either the church or the police or both to court for unlawful arrest and false accusations?

Mr. Julius Maina Muhoro: Apart from the information I gave the lawyer – that we sue for compensation – the next step I have taken is coming to the Commission after I listened to people's cases.

Commissioner Dinka: So, you just asked the lawyer to go to court on your behalf and he did nothing?

Mr. Julius Maina Muhoro: Yes, I had just told the lawyer to do so.

Commissioner Dinka: You have mentioned in the statement you recorded that you were arrested after midnight, at around 1.00 a.m. Was that the case?

Mr. Julius Maina Muhoro: Yes, that is correct.

Commissioner Dinka: Were the arresting officers from the police?

Mr. Julius Maina Muhoro: Yes, they were police officers.

Commissioner Dinka: I think you said that somebody from the church farm was with them?

Mr. Julius Maina Muhoro: Yes, they came together. The exact number of persons I saw was five policemen.

Commissioner Dinka: Thank you very much for your testimony, Mr. Maina. It is a bit clearer in my mind now. Has your lawyer, Mr. Muthui, given you sufficient reasons which you have accepted or not accepted as to why he has not gone to court?

Mr. Julius Maina Muhoro: No; he has not given me any reason.

Commissioner Dinka: Thank you very much.

The Acting Chair (Commissioner Namachanja): Yes, Commissioner Slye.

Commissioner Slye: Thank you, Mr. Maina, for taking the time to both record a statement with the Commission and also to testify here in public. It is extremely helpful to us as we move across the country to develop a comprehensive history of the injustices in Kenya.

I wanted to ask you a bit more about the relationship between the local community and the Catholic Church, specifically the Hill Farm. Do you know when the Catholic Church started to own the land, Hill Farm?

Mr. Julius Maina Muhoro: I cannot remember the starting date because I found it the way it is.

Commissioner Slye: So, as far as you can remember, they have been on that piece of land since you were born?

Mr. Julius Maina Muhoro: As far as I can remember, I found them there.

Commissioner Slye: In which year were you born?

Mr. Julius Maina Muhoro: I was born in 1959.

Commissioner Slye: Do you remember when you first became aware of the church or the owners of Hill Farm?

Mr. Julius Maina Muhoro: I cannot remember exactly but they were the people who taught us catechism when we were children.

Commissioner Slye: So, when you went for catechism, did you go onto the farm or did it take place in another place?

Mr. Julius Maina Muhoro: They were coming to the same premises because that is where their church is.

Commissioner Slye: So, as a young boy, you and other young people from the area were going to Hill Farm for religious education. Is that correct?

Mr. Julius Maina Muhoro: Yes, there were so many villages. We would even pay visits to people who were living in the neighbourhood. The people who were living there are now claiming the land.

Commissioner Slye: In your memory, as a young boy, what was your impression of the priest and the other people associated with the church?

Mr. Julius Maina Muhoro: I may not say anything bad about them in the early stages. The only testimony I can give is from the time they arrested me.

Commissioner Slye: Mr. Maina, I am not necessarily asking about bad things. We also want to hear about good things. So, I am wondering if when you were a young boy, your impression of the church at Hill Farm was a positive one, negative or indifferent.

Mr. Julius Maina Muhoro: The church taught us good things. They taught us about God and we knew God from the church teachings.

Commissioner Slye: Is it right to say from that then that you and your fellow young people from the area had a positive relationship with the church?

Mr. Julius Maina Muhoro: My relationship with the church initially was good.

Commissioner Slye: Do you remember when you first started to be aware of using the word we have heard in translations as tussles between the community and the church?

Mr. Julius Maina Muhoro: Let me just say that I did not stay for long with them because, later, I shifted to the Independent Church.

Commissioner Slye: Did you switch to the Independent Church because you did not like the priest or just because you had found a better way for you to express your faith?

Mr. Julius Maina Muhoro: It is because I felt more comfortable with another church.

Commissioner Slye: Do you remember when you became aware about tussles or tension between the local community and the church at Hill Farm?

Mr. Julius Maina Muhoro: I can remember. I started hearing about the tussles in 1973.

Commissioner Slye: Do you remember what you heard or what happened in 1973 to cause those tussles?

Mr. Julius Maina Muhoro: I cannot remember exactly, but I could hear that there were tussles.

Commissioner Slye: Was your first negative interaction with the people at Hill Farm in connection with your arrest in 2004 or had there been previous interactions between you and Hill Farm?

Mr. Julius Maina Muhoro: My main tussle with them was in 2004, but before that I just would hear that there were land claims, but not a strong encounter between me and them.

Commissioner Slye: So, you heard about the land claims based upon the ancestral claims to the land, and that ancestors were buried on the land where Hill Farm now is. Is that correct?

Mr. Julius Maina Muhoro: I started hearing about the Hill Farm.

Commissioner Slye: If I heard you correctly, there are people buried on that property who are ancestors of people in the local communities. Is that right?

Mr. Julius Maina Muhoro: Yes, there are some ancestors who are buried there.

Commissioner Slye: Did you hear about or become aware of incidents of people from the local community asserting their claim to that land; going on to the land in Hill Farm to cut down trees or graze their cattle or anything of that nature?

Mr. Julius Maina Muhoro: I have not heard about people destroying the Hill Farm.

Commissioner Slye: So, you were arrested in 2004 and the claim was that you had cut down a coffee tree or trees. That was the first time you had heard about any action like that taking place with respect to Hill Farm. Is that right?

Mr. Julius Maina Muhoro: I had not heard initially that people were getting angry and that was why they were going to cut trees.

Commissioner Slye: Since 2004, have you heard of things like that? Do you know whether there have been assertions that others have cut down trees or done other things like that with respect to Hill Farm?

Mr. Julius Maina Muhoro: No, I have not heard any other time.

Commissioner Slye: Lastly, the Leader of Evidence asked you about what you would recommend and you spoke about compensation for what you have lost. That is very important for us to hear. We appreciate you sharing that with us but we are also interested in recommendations to ensure that incidents like these do not happen again in the future. Given what you experienced and the fact that you were arrested for something that you did not do, and that the rest was in the context of this tussle between the community and Hill Farm, I wonder if you have any thought about what should be done to ensure that other people like you are not put in that same position.

Mr. Julius Maina Muhoro: I would say that if that land does not belong to Hill Farm but to people, it would be okay if it is returned to the people, so that, that tussle would stop.

Commissioner Slye: If the land is returned to the people, do you think that the Catholic Church should be compensated for the loss of their land?

Mr. Julius Maina Muhoro: I do not think that they should be compensated.

Commissioner Slye: Why do you not think that they should be compensated?

Mr. Julius Maina Muhoro: It is because from my own investigations, some of the people claim that the land belonged to their forefathers - grandparents. They claim that the priest had been shown a different position to build the church but when he was given the land, he took the whole of it.

Commissioner Slye: I am not saying that this is true because I do not know whether we have even asked this question, but if it turns out that the Catholic Church had paid money for the land and the land is given back to the community, do you think that the church should be repaid that money?

Mr. Julius Maina Muhoro: I am not the only person who is claiming the land. My problem is that I was arrested and I lost my property. I am not exactly among the people on that land but I suffered.

Commissioner Slye: Thank you, Mr. Maina. I understand that your issue is more of detention and not the land. Just to clarify, my question did not necessarily mean that the people claiming the land have to pay. There are situations sometimes where land is taken from one owner and given to another because of an injustice that happened in the past. The person from whom the land is taken is then compensated, for example, by the Government and not necessarily the individuals who have the rightful claim to the land. My question was whether you thought, out of fairness to the church, if they had paid money for the land and the land turns out that it was not meant to be sold to them and should actually go back to the community, you think that it would be fair for the church to be compensated somehow. If you do not want to come on that, that is fine.

Mr. Julius Maina Muhoro: I do not want to talk much about the land. I am not in a position to answer that because there are people in a better position to do it.

Commissioner Slye: Mr. Maina, thank you very much for taking time to record your statement with this Commission and also agree to appear in public with your testimony.

The Acting Chair (Commissioner Namachanja): Mr. Maina, let me join my fellow commissioners to let you know that we regret the circumstances under which you lost your wife while you were away in prison. It is painful and at times maybe you ask yourself questions like: “What would she have told me? What would I have done to save her life?” But there was nothing that you could do. Do not live with such guilt if you have it. If you were there as a husband, you would have done your best, but you were not there. I wonder if you received any counseling after you came from prison and had lost your wife.

Mr. Julius Maina Muhoro: I have not talked to them since then.

The Acting Chair (Commissioner Namachanja): Concerning the death of your wife; trying to help you psychologically and emotionally?

Mr. Julius Maina: Yes, I have talked to people and they usually encourage me.

The Acting Chair (Commissioner Namachanja): In your statement I thought I heard you say that maybe partly the reason you went to prison was because you had a problem with a certain priest. I do not know if I heard you right?

Mr. Julius Maina: I inquired from the people who arrested me and they told me that it was because there was a tussle between me and the priest.

The Acting Chair (Commissioner Namachanja): After you came back from prison, have you ever met this particular priest?

Mr. Julius Maina: No, we have never met since then.

The Acting Chair (Commissioner Namachanja): Would you like to meet him, especially if what you were told is a wrong assumption? If you did not have a problem with the priest, would you like to meet him so that you clear the relationship between you and him?

Mr. Julius Maina: If he has seen his fault, I would not mind meeting him.

The Acting Chair (Commissioner Namachanja): Concerning the land question, how big is this land?

Mr. Julius Maina: The land is large. It is approximately 3,000 acres or more.

The Acting Chair (Commissioner Namachanja): What is on this land? I assume that maybe there is a church. Apart from the church, what else is on this land? How is this land utilized?

Mr. Julius Maina: In some part they have planted coffee and there are trees in other parts, but he would never allow sheep or goats to be herded inside the forest. No reared animal can benefit from the bush.

The Acting Chair (Commissioner Namachanja): So, part of this land is lying fallow. It is a forest but the owners do not allow the locals to graze their livestock there?

Mr. Julius Maina: They cannot allow any grazing.

The Acting Chair (Commissioner Namachanja): Do you think that this will have spoilt the relationship more between the management of this farm and the locals?

Mr. Julius Maina: Are you asking whether the aspect of not being allowed to graze is the cause of the tussle?

The Acting Chair (Commissioner Namachanja): That part of the problem of the relationship between the locals or those who claim to be the owners of this land and the farm management, could that partly be the reason for the sour relationship also?

Mr. Julius Maina: The main tussle is that when those people were promised land, they were given less than an acre. When they were resettled, it is like some conflict was sown in that area.

The Acting Chair (Commissioner Namachanja): Thank you, sir. I get you now. Among the gathering, might we have some members who claim this land?

Mr. Julius Maina: There are people from the farm.

(Interpretation hitch)

The Acting Chair (Commissioner Namachanja): We are not getting the interpretation.

Mr. Julius Maina: The people I know are in the other hearing.

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Maina. That is all from us.

Leader of Evidence!

Ms. Bellinda Akello: Acting Chair, we need your direction. Witness number one is currently engaged. She was supposed to come and speak on behalf of women. She has, however, made a referral for one of the women in one of her groups to come and outline

the issues. This woman is also an Internally Displaced Person (IDP). I seek your direction and guidance if we shall proceed with this new lady.

The Acting Chair (Commissioner Namachanja): Proceed, please.

Ms. Bellinda Akello: Much obliged.

(Ms. Lucy Wanjiku Wachira took the oath)

Ms. Bellinda Akello: Thank you very much for making yourself available for this session. Kindly tell us---

The Acting Chair (Commissioner Namachanja): Sorry, Leader of Evidence. In place of whom is Lucy speaking? Which file are we looking at?

Ms. Bellinda Akello: She is speaking in place of Witness No.1, Nyeri 001.

The Acting Chair (Commissioner Namachanja): Go ahead.

Ms. Bellinda Akello: Thank you very much for having come. Kindly tell us your full names.

Ms. Lucy Wanjiku Wachira: I am Lucy Wanjiku Wachira.

Ms. Bellinda Akello: Thank you, Lucy. Where do you live?

Ms. Lucy Wanjiku Wachira: I live in Agothi, Tetu.

Ms. Bellinda Akello: For how long have you lived in Tetu?

Ms. Lucy Wanjiku Wachira: I was born in Tetu and then I went for some business in Nairobi.

Ms. Bellinda Akello: What is your occupation currently in Tetu?

Ms. Lucy Wanjiku Wachira: Right now, because I was evicted, I am an IDP, I am doing some bit of farming on rented land.

Ms. Bellinda Akello: Roughly, how many years have you spent in Tetu?

Ms. Lucy Wanjiku Wachira: Initially, I had lived there for about 30 years since the day I was born. I lived in Nairobi for about ten years. From 2007, I have been here.

Ms. Bellinda Akello: So, we can say that you do understand the issues that affect women around Nyeri quite well, as a girl and also as a grown up lady?

Ms. Lucy Wanjiku Wachira: Yes, because this is the place I was born.

Ms. Bellinda Akello: Kindly, outline the issues that affect or face women who live in Nyeri and the issues that you would also like to present before this Commission.

Ms. Lucy Wanjiku Wachira: I would like to tell this Commission that women have so many problems. This is because most of the time when they separate with their husbands, they even contract HIV/Aids. When they are married in most cases they are sent away. When they go back to their maternal land, their brothers send them away because of the disease. If she has children, she suffers a lot with her children. Most of the time, these children may never get education up to secondary school because of financial constraints and sickness. She may not get enough energy to go and labour for money.

The other problem that is prevalent in this area is alcoholism. After the women go for casual labour and get Ksh150 per day, the husband waits for the money to buy cigarettes and even *kumi kumi*. So, women have so many problems. There is also a lot of domestic battering, because if she refuses to give the husband money, most of the time she is battered. I would request the Government to appoint a woman who will fight for rights and justice of women. At the moment, I, including several of those who are here, am an IDP. Some come from Molo and others Eldoret. Life is very difficult because we are even renting houses. Sometimes, we even lack money to pay for rent. Some of the people who rent live in people's homesteads. Others went back to their maternal land even though they were married. Their brothers do not want to see them. So, I was requesting the Government to help us because even those in IDP camps may not have as many problems as us, the integrated IDPs. The Government is providing them with food and clothing, but we do not receive anything. Our property was also destroyed.

That is my request to the Government. We should also get adequate assistance and become independent so that we can educate our children. Majority of us are aged. I am 60 years old. Others have been left with grandchildren because their daughters die of HIV/Aids. In 2007, a large number contracted HIV/Aids and by now, a majority of them are dead. Therefore, they have left us with orphaned grandchildren. So, we have many problems and that is why we are passing our plea to the Government.

Ms. Bellinda Akello: Thank you very much, Lucy. Maybe just a few issues to clarify, both on behalf of women and you as an IDP. What is the average age at which girls get married?

Ms. Lucy Wanjiku Wachira: Most of the girls here marry earlier. This is because sometimes they are even raped and do not get any assistance. Some of them are raped by their uncles and fathers. When the girls reach around 14 years, they prefer to get married so that they can move away from the problems of maybe being raped.

Ms. Bellinda Akello: Thank you very much. From the area you come from, are you aware of a Government office called the Department of Children?

Ms. Lucy Wanjiku Wachira: Yes, I know it.

Ms. Bellinda Akello: Has it assisted in any way with protecting the girl-child from issues such as rape or early marriage? How does the community view the presence of the District Children's Office?

Ms. Lucy Wanjiku Wachira: Most of them are told to report the cases but they are not courageous enough to do so. This is because maybe they are supposed to go for casual labour. They would prefer to go to work because when they go to report, the children do not have something to eat. That would mean that you are starting a case whereas you have children to feed.

Ms. Bellinda Akello: Has Free Primary school Education helped the children, both girls and boys from your area?

Ms. Lucy Wanjiku Wachira: Regarding the Free Primary Education, from my own knowledge, most children are getting assistance. But it is not enough. This is because every time they get their monthly periods, they get so many problems. Some of them miss school until the periods are over. So, she misses learning and you very well know that teachers never repeat what they have taught before. When they end up doing exams, most of these children will perform poorly, yet maybe they are bright. That is why I was again pleading with the Government to provide the girl-child with sanitary towels.

Ms. Bellinda Akello: You also mentioned alcoholism as an issue that is rampant and also affects women. Has the Mututho Law been of any help in your area? Has it helped the situation or is it still as it was before?

Ms. Lucy Wanjiku Wachira: The Mututho Law has not impacted very well because people are still taking alcohol. Women still get battered by their drunkard husbands. So, I would not say that the full impact of the law has been felt.

Ms. Bellinda Akello: You have also mentioned in many words about the gender-based violence, especially that which is directed to women. You have also informed us that most women do not like reporting cases. But in your view, do they have access to medical attention; whether or not they report these cases?

Ms. Lucy Wanjiku Wachira: Most of these people do not know about medical help. So, they need to be educated in relation to medical assistance. When they are raped, they do not know how long they should stay before they go to hospital and how long it takes for the disease to enter into the blood stream. That is why I was pleading with the Government to start campaigns and fora to educate people, so that if they get such an encounter, they are courageous enough to go to hospital.

Ms. Bellinda Akello: Do men and women own land equally in Central? Does your culture allow for men and women to both own land?

Ms. Lucy Wanjiku Wachira: Every homestead has its own rules and regulations. When a lady goes back to her maternal land, no matter the age, she is given a smaller share of land compared to her brothers. This is because the Kikuyu people say that women and men are not equal.

That is why the woman is usually given a smaller piece of land. Today, if you go to the market, you will find that majority of them are women trying to eke a living.

Ms. Bellinda Akello: Just very briefly, would you comment on the security situation, especially with regard to women? In what ways does it affect women in this area?

Mr. Lucy Wanjiku Wachira: Women need more security because they are raped even during the day. That is the main issue here.

Ms. Bellinda Akello: What would you say about the participation of women in politics and decision-making processes or policies within your area? Are women also actively involved?

Ms. Lucy Wanjiku Wachira: Let me say that when sub-chiefs call for a *baraza*, women attend the meeting in large numbers. In fact, they are usually the majority.

Ms. Bellinda Akello: Finally, as an IDP, are you in any form of group? Have you come together? Are all the IDPs registered or regularized in an outfit or group?

Ms. Lucy Wanjiku Wachira: The Red Cross mobilized us. During the Naomi Shaban tenure in the Ministry of Special Programmes, we were being given food. We were given blankets and mattresses. We decided that it was important for us to come together. So, we formed a group. We are usually in a group.

Ms. Bellinda Akello: Thank you very much. That is all.

Commissioner Dinka: Thank you for your testimony. You have presented the case of women in the Nyeri area very well. My question to you now is just to get some further clarification on certain issues. How wide is the practice of wife inheritance in this area? When the husband dies, what happens?

Ms. Lucy Wanjiku Wachira: After a husband dies, most of the time, a woman is usually sent away from her marital land by the brothers-in-law, especially if the parents of her husband are dead. There are usually so many problems after that, especially if the lady had not changed her name to bear her husband's name. That is why I am requesting that if a lady has made a decision to get married, it is important for her to make sure that her husband's name is included in her national identity card. This is because even if she goes to court to fight for his wealth, she will prove that she was married by that man. She will then provide enough evidence to prove that she was married and actually they had children together.

Commissioner Dinka: You said brothers of the husband come to evict the wife from the land. Do they do so from land which the husband and the wife bought together, or only from the so-called ancestral land which the husband inherited from his parents?

Ms. Lucy Wanjiku Wachira: This is land which was inherited from the parents. In Kikuyu, most of the land is inherited from parents. If, for instance, there are two married brothers and one of them passes on, the other one will do all that he can to disinherit his brother's wife. She is usually told that she is young and that she can get married elsewhere. That is a main concern in this area.

Commissioner Dinka: What happens to the children?

Ms. Lucy Wanjiku Wachira: The mother goes with the children, especially if the grandmother of the children is not there. However, if the grandmother is still alive, they are usually left with her.

Commissioner Dinka: Do the children inherit their father's land or the ancestral land?

Ms. Lucy Wanjiku Wachira: Only if their uncles are sympathetic enough with them. They will allow them to share in the inheritance. However, majority of them are sent away and they follow their mother.

Commissioner Dinka: Now that Kenya has a new Constitution which actually does assist the women's case, is there some kind of education going on to inform women of their rights either by a women's associations, by the Government or by schools or someone?

Ms. Lucy Wanjiku Wachira: Our Constitution was promulgated recently.

Commissioner Dinka: What does it say about land inheritance by women?

Ms. Lucy Wanjiku Wachira: Majority of us are not well informed about ancestral land inheritance or what the Constitution provides. That is why I am appealing to the Government to educate the civilians on the Constitution, especially the women, so that they know their rights. I appeal to the Government to organize seminars to educate women on their rights on land inheritance issues.

Commissioner Dinka: Are there women associations in this area? What are they doing? What is FIDA doing? Are they assisting in any way in this kind of civic education? They should bring together women and educate them on the relevant provisions of the Constitution.

Ms. Lucy Wanjiku Wachira: They have not gone to the grassroots level to educate them. So, they need to go there and do so.

Commissioner Dinka: The other thing I want to check with you is that in our tour of the country in a number of places we had two things almost together. One is the young age at which girls are forced to marry. The second thing is the tragic spread of the practice of child defilement. How extensive is that issue in Nyeri area?

Ms. Lucy Wanjiku Wachira: The child defilement cases are as result of a man believing that if he is HIV positive, the cure is through defiling a minor. Sometimes, those who know that they are infected tend to spread the virus to other people, especially children.

Commissioner Dinka: Is there any traditional system of tackling disputes or other issues in your community? Do you have a council of elders in this area? Are they doing something to prevent this kind of child molestation by adults and to stop this very sad practice?

Ms. Lucy Wanjiku Wachira: I do not know what can be done so that such issues are reduced. I do not know what should be done.

Commissioner Dinka: I am glad that you are representing the person who recorded this statement, Ms. Margaret Karua. According to the statement that has been recorded, she is a paralegal. She is also working on issues of interest to women with the Legal Resource Foundation. She is also a pastor at the Harvest of Hope Ministries. I believe that type of person is in a position to influence this kind of thing to mobilize the population, particularly the women. I want you to give Margaret the message that she should also not only ask the TJRC to help, which the TJRC will try to do; at the same time, she should also mobilize her women colleagues to fight these atrocious practices.

Thank you very much. I have no further questions.

Ms. Lucy Wanjiku Wachira: I also want to thank Ms. Margaret who wrote this report. She did well by standing with women. As I said, women have so many problems like the ones I have mentioned previously. She needs to know what to do with women so that she tries to ensure that every woman has her right to live in Kenya. What I am emphasizing is education to women.

Commissioner Slye: Thank you, Ms. Lucy for bringing this statement to this Commission and for appearing here before the Commission and the public. As you have said in your testimony, part of the problems facing women in this community and also throughout the country and even throughout the world, is that many times the abuses and the problems are not known. So, it is particularly useful for me and the other male members on this panel and the men here in this audience, from this community, to hear your testimony. Although it is not a complete solution making us more and more aware of these problems, it is necessary for starting to come up with better solutions.

You have very clearly identified a lot of problems and you have given some suggested solutions or ways to start to address those problems. Could you identify any Government

agencies, politicians or organizations, whether they are faith-based organizations, community-based organizations or non-governmental organizations, that in your view are particularly useful in trying to raise awareness about the problems facing women and the girl-child here in Nyeri?

Ms. Lucy Wanjiku Wachira: I know of the church and Maendeleo ya Wanawake. Maendeleo ya Wanawake usually contributes money. They are more concerned about education.

Commissioner Slye: You mentioned the church. Is there a particular church or denomination that has been particularly helpful or just generally churches have been helpful?

Ms. Lucy Wanjiku Wachira: The Anglican Church has tried so much to talk to people on these issues. They are giving them support, especially the girl child. Sometimes they are unable to give enough support but they are trying. Even though they are willing to assist, they may not be in a position to do so.

Commissioner Slye: When you say “they may not be in a position to assist” what do you mean? What keeps them from assisting?

Ms. Lucy Wanjiku Wachira: For example, there is the issuance of sanitary towels. Sanitary towels are bought using money. Sometimes they do not have the funds. This is a major problem to the girl child both in primary school and secondary schools.

Commissioner Slye: In your testimony, you spoke about young girls who are sometimes raped within their own homes by uncles or fathers. You mentioned that that leads many of these young girls to get married at a young age in order to escape that situation. Did I understand that correctly? Are you able to estimate how many young girls are in that situation? Is it a small number or a large number?

Ms. Lucy Wanjiku Wachira: Majority of these people hides these situations. So, even if they have been raped, majority of them tends to hide it.

Commissioner Slye: If you had to guess, would you say that more than 50 per cent of young girls might be in that situation or would it be less than 50 per cent?

Ms. Lucy Wanjiku Wachira: About 25 per cent of the girls around here are in this situation.

Commissioner Slye: Are you aware of any organizations that are trying to address that problem?

Ms. Lucy Wanjiku Wachira: Yes, there is an organization called FIDA. We encourage those young girls to report such cases to FIDA.

Commissioner Slye: In some of those cases, has FIDA helped those young girls?

Ms. Lucy Wanjiku Wachira: Yes, they assist because after a woman is sent away together with her children, when they go to FIDA to seek legal assistance, in most cases, the husband is usually asked to educate the children and the woman is asked to feed them. They also ensure that the woman is not battered by the husband. Therefore, I have the surety that FIDA does so.

Commissioner Slye: With respect to rape, is it your impression that most of the rapes are perpetrated by people known to those women who are raped, or is it done by a stranger?

Ms. Lucy Wanjiku Wachira: Majority of the time, the men use force. For example, if it is a young child who is an orphan, she is threatened that if she dares reveal that information she will be killed. Therefore, the child tends to keep quiet.

Commissioner Slye: Generally, with the problem of rape in this community, what I was trying to ask is whether the men who commit those rapes, do they tend to be men who do not know the person they are raping or do they tend to be people who already know the woman or the girl that they are raping?

Ms. Lucy Wanjiku Wachira: In most of these cases, they are usually people who know the child. When they realize that they are HIV positive, they always defile a child and threaten her. If a man has been left without a wife, he usually rapes the eldest daughter in most cases.

Commissioner Slye: It is an extremely serious problem here. I think it takes an enormous amount of courage for you and people like you to speak publicly about abuses like these. I am afraid they are much more common than we would like to believe.

My last set of questions is related to your situation as an IDP. I wonder if you could just briefly share with this Commission where you were living before you became an IDP. Could you briefly describe the circumstances and the situation that led to you having to flee where you had been living? As I understand it, you also lost your property. If you could just tell us a little bit more about that.

Ms. Lucy Wanjiku Wachira: I had come from a village called Aguthi. I went to do business at Kibera. After working for a while I built three small houses. Those houses were burnt in 2007. I was also selling clothes. When things went wrong, I had two grandchildren to take care of. So, I decided to go back to Aguthi, my initial home. I received Ksh10, 000 from the Government. I was also given some mattresses during the tenure of Hon. Naomi Shaban as the Minister of State for Special Programmes. Our group was given food, mattresses and Ksh10,000. However, there are others who never received anything because on the date that they took our names it was around 2.00 p.m. We were called from the funeral. The people who had gone for casual labour and those who were at home did not get that information. That is how they ended up not receiving the money.

Up to now, we are experiencing problems like the ones I have mentioned.

Commissioner Slye: Do you know of anybody who has a list of the names of those individuals who did not get the Ksh10,000?

Ms. Lucy Wanjiku Wacera: Yes, we have a list. The people who received the money have been ticked “yes” and the people who did not have been ticked “no”.

Commissioner Slye: Would you be willing to share that list with the Commission?

Ms. Lucy Wanjiku Wacera: Yes.

Commissioner Slye: Is it your wish to move back to Kibera? Would you prefer to stay here or go somewhere else?

Ms. Lucy Wanjiku Wacera: There was a company called Jamii Bora in Toi Market in Kibera. Immediately we left, the land was given to the Luo and Nubian. There was no Kikuyu who was resettled or given back his land. When we went to inquire, we were told “*Kazi iendelee*”. They told us we wanted work to continue and that was exactly what they were doing. We were told to go back to Othaya. They thought that all of us were Kikuyu from Othaya.

I would recommend that the Government gets us a new settlement, so that our problems can be reduced. We want to live in joy and happiness like other people. Initially, we were not living in poverty. We were people who were determined and hardworking. We had property just like any other people. However, today we have been turned into beggars. This happened because of the way we voted for our preferred candidate. This was a one day’s event. That is why I am asking the Government to have sympathy on us and treat us the same way it is treating other people. The Government recognizes most of the IDPs and helps them. They are given food, visited and given sufficient support frequently. However, we, the integrated IDPs, are a forgotten lot. That is why I am requesting the Government to have sympathy on us. We need to get a place where we can work because we are very hardworking people. The Government knows we never relied on relief food. Nowadays, we wait for a lorry from Eldoret because we know it will come with food. That is how we were fed in the camps. But after the violence, it is like the problems spread in the entire country. That is why I am requesting the Government that we be resettled, so that we get some land to farm. We want to contribute to the development of the entire country. We can produce enough for local consumption and export.

Commissioner Slye: Thank you both for sharing your personal story and also for coming here and speaking on behalf of the women of this community, and frankly, for women throughout the world. Thank you very much for having the courage to speak publicly before us.

The Acting Chair (Commissioner Namachanja): My sister, thank you so much. All the questions that I wanted to ask have been asked by my fellow Commissioners. For the sake of the record, maybe you just need to clarify what you mean when you say that you went back after others had been settled and you and the people from your community were told *kazi iendelee*. These are international Commissioners. I understand as a Kenyan, but they do not know. Could you briefly explain what that saying means for the sake of this record?

Ms. Lucy Wanjiku Wacera: During the campaign period, our leader, who is the current President, would declare in his policy that he would like to continue with the good work he had done for the country. He would say work should continue. That is why they claimed that we, the Kikuyu, advocated for work to continue; the PNU people claimed that work should continue. The *kazi iendelee* was a PNU slogan.

The Acting Chair (Commissioner Namachanja): So, in your view, you were denied this resettlement because you were perceived to have supported PNU?

Ms. Lucy Wanjiku Wacera: Yes, we were on the PNU side, the Kibaki side. That is why we were not resettled.

The Acting Chair (Commissioner Namachanja): Thank you so much. Let me join my fellow Commissioners to thank you for coming to represent women not only from Nyeri but also from Kenya. As Prof. Slye said, the problems you are facing are shared by women all over the world. Thank you so much Mama Lucy. Leader of Evidence.

Ms. Bellinda Akello: Thank you, Acting Chair. Let me call the next witness. We just have one more case. Should we take a break or we finish with the witness?

The Acting Chair (Commissioner Namachanja): We shall finish.

Ms. Bellinda Akello: I am much obliged.

(Mr. Peter Wanjohi took the oath)

Good afternoon. Welcome to today's session and we thank you for having found time for the same. Kindly tell us your names.

Mr. Peter Wanjohi Gitahi: My names are Peter Wanjohi Gitahi.

Ms. Bellinda Akello: Peter, thank you very much for that. Where do you live?

Mr. Peter Wanjohi Gitahi: I live in a village called Ihe. I do farming.

Ms. Bellinda Akello: Do you live with your family there?

Mr. Peter Wanjohi Gitahi: Yes, I live with my family.

Ms. Bellinda Akello: Who are the members of your family?

Mr. Peter Wanjohi Gitahi: My wife and children.

Ms. Bellinda Akello: Describe where you live? Is the farm where you live yours or rented?

Mr. Peter Wanjohi Gitahi: It is my land. I inherited it from my father.

Ms. Bellinda Akello: You wrote a statement with the Commission?

Mr. Peter Wanjohi Gitahi: Yes, I remember that.

Ms. Bellinda Akello: Can you try to repeat it?

Mr. Peter Wanjohi Gitahi: Yes, I can try to repeat it. I am here because I have a problem of having been arrested by the Government and remanded. I was detained for two weeks; I was arrested for no genuine reason. They claimed that I was the one who had committed a crime, yet I had not. They thought it was me because my land borders the priest's land and that was why they claimed that it was me and they came for me at around 3.00 a.m. They then took me to the police cells and I was locked in. During the time they were transporting me to the police cells, they tortured and beat me; when they were putting me into their vehicle, my head was hit on one of the metals of the lorry. From there onwards my case continued in the court; after making my case to be prolonged, they released me because I was not found guilty.

That was the beginning of my problems because of the torture that I had gone through. I am always sickly since that time and after my people realized that my health was deteriorating, they took me to hospital. I had lost my consciousness; the police had hit my head so hard. After taking me to hospital, an x-ray was done and I underwent treatment and to date I am always in and out of hospital. So, today I cannot do my own work like farming that I was doing before because the doctor has asked me not to do any hard labour. That is my problem.

Ms. Bellinda Akello: Mr. Peter Wanjohi, thank you for coming. There are a few things that I want you to clarify so that I can understand your testimony better. You claim that you were arrested sometime in mid 1993. Who arrested you?

Mr. Peter Wanjohi Gitahi: I was arrested by the police.

Ms. Bellinda Akello: Can you differentiate? Were they in uniform? What was the colour of the uniform?

Mr. Peter Wanjohi Gitahi: They were in uniform. They were in black sweaters but because it was at night I could not see clearly.

Ms. Bellinda Akello: Did you recognize any of the police officers?

Mr. Peter Wanjohi Gitahi: The one who took me from the house was an inspector, but I did not see the others clearly.

Ms. Bellinda Akello: How many were they?

Mr. Peter Wanjohi Gitahi: They were six.

Ms. Bellinda Akello: Were you told why they were arresting you?

Mr. Peter Wanjohi Gitahi: They asked me if I was the one who had beaten the priest and I told them that I was not the one.

Ms. Bellinda Akello: What was the name of the priest?

Mr. Peter Wanjohi Gitahi: He is called Ndumia.

Ms. Bellinda Akello: Did you know this Father?

Mr. Peter Wanjohi Gitahi: No, I did not know him.

Ms. Bellinda Akello: Had you met or seen this Father Ndumia in your life?

Mr. Peter Wanjohi Gitahi: I had not met him previously in my life.

Ms. Bellinda Akello: When you were in court, did he ever appear as the complainant or did he ever come for any of the sessions?

Mr. Peter Wanjohi Gitahi: I never saw him in the court but I saw other people.

Ms. Bellinda Akello: You also said you were prosecuted because they found cattle grazing on their land. Whose land are you talking about?

Mr. Peter Wanjohi Gitahi: This is the land of the Catholic Mission.

Ms. Bellinda Akello: What is the proximity of your land to that of the Catholic Mission? Are they adjacent or next to each other?

Mr. Peter Wanjohi Gitahi: They are very near. What separates them is a river.

Ms. Bellinda Akello: Did the catholic people ask you villagers not to graze your cattle on their land?

Mr. Peter Wanjohi Gitahi: Yes, they had asked us not to do that. I may not really deny so much because my livestock used to go and drink water there and then cross the border and step on their land.

Ms. Bellinda Akello: Thank you very much. I have seen a document. Was this document produced by you?

Mr. Peter Wanjohi Gitahi: Yes, I confirm that. This is a court bond.

Ms. Bellinda Akello: Is this document produced by you?

Mr. Peter Wanjohi Gitahi: It is from the hospital.

Ms. Bellinda Akello: It is marked “Criminal N0.85” and dated 8th October, 1993 which is produced by the witness. Similarly there is an outpatient card from Nyeri Provincial General Hospital dated 2nd June, 2010. I ask that the same be admitted as part of the record of the witness.

The Acting Chair (Commissioner Namachanja): They are so admitted.

Ms. Bellinda Akello: Finally, Peter, you indicate that you were charged for an offence of assaulting one Father Ndumia, whom you had never met. You similarly indicate that you were prosecuted for letting your cattle graze on the Catholic Mission land, an allegation that you also deny. You have also informed this Commission that the charges were dropped for lack of evidence, and to you this appeared sick and scandalous. You have also explained to this Commission that after attending court for one year, the case was thrown out without any explanation to yourself and you dutifully attended court. What recommendations would you make to the Commission?

Mr. Peter Wanjohi Gitahi: I would recommend that the police who did all that did not have enough evidence because they came for me without knowing what they were doing; they had not seen me and they had not found me in the priest’s home. They arrested me from my own home. So, I would not agree with their accusations. All that they did was to inflict on me injuries.

Ms. Bellinda Akello: Thank you. If you met these officers or the magistrate who was handling the case today, what would you like to ask or to say to them?

Mr. Peter Wanjohi Gitahi: I would not tell them much but I would like them to ask for my forgiveness because maybe to them they were just doing their work. So, I would not really blame them. I think they wronged me by picking me up on false charges, torturing me and hitting my head next to metal. So, I would like them to apologize to me. I would like us to reconcile. Since they are there, I would like that we meet, discuss, reconcile and clear up any ambiguity.

Ms. Bellinda Akello: Do you see any of these persons around where you live?

Mr. Peter Wanjohi Gitahi: No, I do not see them.

Ms. Bellinda Akello: In relation to your injuries, you have also indicated that the cost of medication was a bit too high. What will be your recommendation that you would request of the Commission as regards the same?

Mr. Peter Wanjohi Gitahi: I would like medical support because, for example, today I am still on drugs and every month I go to purchase drugs.

Ms. Bellinda Akello: Thank you very much, Mr. Peter Wanjohi. Acting Chair, that is all from the Leader of Evidence.

The Acting Chair (Commissioner Namachanja): Thank you. Ambassador Dinka, do you have any question?

Commissioner Dinka: No.

The Acting Chair (Commissioner Namachanja): And Prof. Slye?

Commissioner Slye: Yes. Mr. Gitahi, thank you very much for taking your time to come and testify before the Commission. I have a few additional questions. You said that your land is next to the land of the church, and that you have lived there all your life. Do you recall the first time when you met anyone from the church or a missionary on your farm?

Mr. Peter Wanjohi Gitahi: During the time I was being arrested or before that?

Commissioner Slye: Before that. Did you meet anybody from the farm?

Mr. Peter Wanjohi Gitahi: If I can remember, yes, because I went to school there from 1952.

Commissioner Slye: What was your impression of the church mission during that time?

Mr. Peter Wanjohi Gitahi: At the time there were no bad things that I saw because we learnt peacefully; but when they started practising farming and rearing livestock, especially during the emergency period, our tussles with them started; the white man who was there was new and he did not want us to mingle with them.

Commissioner Slye: When you say the emergency period, do you mean the colonial period or a later time?

Mr. Peter Wanjohi Gitahi: During the colonial period.

Commissioner Slye: So, it is your impression that the relations with the church and the community started to get sour in the late 1960s, when the church started to engage in farming?

Mr. Peter Wanjohi Gitahi: Yes, it was during that era.

Commissioner Slye: Since that time, including the time that you were arrested in 1993, have you had any conversation with people from the church about the use of your land or their land or the tussles with the community?

Mr. Peter Wanjohi Gitahi: We have not negotiated or met with them because when the case went to the court, I just stayed at my place.

Commissioner Slye: Since you were arrested and released, have you had any interaction with people from the church?

Mr. Peter Wanjohi Gitahi: Yes, we still have a good relationship because I still attend the Catholic Church.

Commissioner Slye: You attend the Catholic Church next to your farm?

Mr. Peter Wanjohi Gitahi: Yes, we have the Catholic Church in the village.

Commissioner Slye: Do you meet people from the farm when you go to church in the village?

Mr. Peter Wanjohi Gitahi: Yes, we go to the church in the village and we meet the priests who conduct the mass.

Commissioner Slye: How would you describe the relationship between people like you who attend mass at the church in the village and the priest conducting the mass in your church?

Mr. Peter Wanjohi Gitahi: We live with them in a church relationship but we have not had that strong interaction with them since the incident.

Commissioner Slye: Thank you, Mr. Gitahi. In your testimony you talked about how your head was injured when you were arrested; you also talked about being tortured. When you say you were tortured, are you referring to the head injury or is there something that also happened?

Mr. Peter Wanjohi Gitahi: After being tortured, taken to court and using money---

Commissioner Slye: Let me be clear on this. At any time did the police physically assault you?

Mr. Peter Wanjohi Gitahi: No.

Commissioner Slye: I thought you had testified that because there is a river that separates your land from that of the church, your cattle would sometimes go to that river for water and sometimes they would cross over to the church's land. Is that true?

Mr. Peter Wanjohi Gitahi: Yes, that is true.

Commissioner Slye: But in terms of the actual incident that you were arrested for, that was not your cattle that was on the land of the church?

Mr. Peter Wanjohi Gitahi: No, that was not the main reason.

Commissioner Slye: What do you mean that it was not the main reason?

Mr. Peter Wanjohi Gitahi: This was not the main reason because they had not gone there. If it was the livestock that had gone there, they would have arrested me when the cattle were still there.

Commissioner Slye: That is clear. My last question to the Leader of Evidence is on a mistake that she filed to this witness. We also have a 1995 criminal document that seems to have been connected to the case of Mr. Maina whom we heard earlier. I just want to make sure that there is no connection between Mr. Gitahi and his case and Mr. Maina's conflict with the farm.

Ms. Bellinda Okello: Commissioners, the witness had produced the same but you can also clarify it.

Commissioner Slye: So, we have the 1993 one, which I think is related to the one that Mr. Gitahi has shared with us, but they also seem to be related to the 2004 incident when Mr. Maina was wrongfully arrested. I do not know whether that is mistake in our files under this witness or whether there is some connection between the two witnesses.

Ms. Bellinda Okello: Commissioner, this was one of the persons who were also arrested for trespassing on the same farm. It was on the same charge. So, this was one of the other witnesses who could not make their case here today. James Githinji was also one of the people who were arrested and this was the case filed by the same law firm.

Commissioner Slye: Mr. Githinji was involved in the 2004 and the 1993 cases. Is that right?

Ms. Bellinda Okello: Yes, that is true and the witnesses' documents only picked a systematic trend to show that persons were being arrested.

Commissioner Slye: Okay. There is nowhere where your and my questions to this witness about the 2004 incident show that he was involved in that?

Ms. Bellinda Okello: No; he was not but he knows the person.

Commissioner Slye: Okay, thank you. I have the questions but I want to thank Mr. Gitahi for coming here and sharing his story with this Commission.

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Gitahi. My question is a follow up of what my colleague, Commissioner Slye asked you concerning why you were taken to jail; he asked whether it was because of your cows trespassing and you said no. In your view, what do you think were the reasons that made you to be taken to jail? Do you suspect any other reasons outside what the police stated?

Mr. Peter Wanjohi Gitahi: No, I cannot think of any other reason.

The Acting Chair (Commissioner Namachanja): Would you know under what conditions this Hill Farm land changed hands from the original owners to the church? Was it a donation by one person, a group of family members or was it bought? Under what circumstances did the land exchange hands from the people to the church?

Mr. Peter Wanjohi Gitahi: I would hear my father say that the land belonged to them. Since I found my grandparents alive, I would hear them say that that land initially belonged to them. So, maybe that is why they claimed that I was the person who had done that to their land.

The Acting Chair (Commissioner Namachanja): Could you know under what circumstances the land was given to the church?

Mr. Peter Wanjohi Gitahi: I cannot really tell because it is not our father but our grandparents who said so. Maybe the father to our grandfather can explain that. There were civil servants at that time and so we really cannot explain the negotiations between them and the priests.

The Acting Chair (Commissioner Namachanja): If there was somebody to facilitate a meeting between you and especially the church leaders that made you to be taken to court, which one would that be or which institution would that be if you really wanted to meet Father Ndumia? Who would facilitate that meeting, in your view?

Mr. Peter Wanjohi Gitahi: Maybe the priest in charge or the bishop because they are the owners of the land.

The Acting Chair (Commissioner Namachanja): Who do you think would help you meet them? Under the church, do you have an institution that can facilitate that meeting?

Mr. Peter Wanjohi Gitahi: The priest can facilitate that because we are always with him in the church; if he is not holding anything in his heart, then he is in a position to assist us meet with the bishop.

The Acting Chair (Commissioner Namachanja): Is he the same one as Father Ndumia or this is a different one?

Mr. Peter Wanjohi Gitahi: There are many of them since they come and go.

The Acting Chair (Commissioner Namachanja): Thank you sir. I get your point now. Leader of Evidence.

Ms. Bellinda Akello: Acting Chair, that is it from this witness. Before we conclude, we had also asked the second witness to provide a list. The same has been brought and I plead that the same be admitted as part of the record for the second witness.

The Acting Chair (Commissioner Namachanja): It is admitted.

Ms. Bellinda Akello: Acting Chair, that is the last witness and we stand directed by you.

The Acting Chair (Commissioner Namachanja): May the master of ceremony approach. Fellow Kenyans, as I said in the morning when we started, we had cases to hear from here but we shall hear them in the afternoon. We shall join people who are conducting hearings at the YMCA. I will encourage you that after we close here, please continue participating in the public hearings at the YMCA.

For now, I would like to thank you so much for coming to participate in our hearings today; we have now come to the end of the hearings. On behalf of the TJRC, I would like to thank today's witnesses, Mr. Julius Maina Muhoro, Madam Lucy Wanjiku Wachira and Mr. Peter Wanjohi Gitahi. I would also like to thank the team, statement takers and everybody who was involved in making the hearings here a success. I would like to ask one of us to close the session with a word of prayer. Mr. Ogolla, please pray for us.

(Closing Prayers)

(The Commission adjourned at 2.25 p.m.)