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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION HELD ON MONDAY 23RD
JANUARY, 2012, AT THE KWALE COUNTY COUNCIL HALL**

PRESENT

Tecla Wanjala Namachanja	-	The Acting Chair, Kenya
Berhanu Dinka	-	Commissioner, Ethiopia
Ahmed Farah	-	Commissioner, Kenya

(The Commission commenced at 9.30 am)

The Acting Chair (Commissioner Namachanja): Please remain standing for the national anthem and the Commission's prayer.

(Opening Prayer)

(The National Anthem was sung)

Good morning ladies and gentlemen. *Shikamoo wazee wangu*. On behalf of the Truth, Justice and Reconciliation Commission, I would like to welcome you to the coastal hearings and in particular Kwale hearings. This is the third week that the Commission is camping in the coastal region conducting its hearings according to the mandate that was given by the laws of Kenya. We have conducted hearings in Lamu, Hola, Kilifi, Mombasa and we are here now in Kwale and at the same time, we are in Wundanyi. On behalf of the Commission, I would like to thank the coastal people for patiently waiting for this Commission. I know that you recorded your statements and memoranda almost one year ago but here we are.

Why are we here? We are here to listen and record historical injustices and gross violations of human rights that this country has suffered from the time of independence up to 2008. My dear brothers and sisters and my elders, we have been given this opportunity to write our own history but the Commission cannot write this history and ensure that justice prevails and reparations are done to the victims without your support. We are here for two days and my appeal is for you to engage with this Commission. After two days, we are leaving the coastal area and we do not want you to regret. We have been given a chance so let us make use of it. I would like to thank our regional coordinators, Madam Chidodo and Mr. Mohammed for recording for us statements from which we have selected cases that will paint a global picture when we listen to them on the historical injustices that this region has suffered. In total, we received 5,451 individual statements and 347 memoranda from communities and individual groups. We received 867 statements from Lamu, 896 statements from Tana River, 841 from Kilifi, 737 statements from Mombasa, 763 from Taita Taveta and 1,347 from Kwale. There is a saying that it is the shoe wearer who knows where it pinches most and I think the people of Kwale have communicated to this Commission of the historical injustices that they

have suffered by giving us the highest number of statements in the coastal region. Today and tomorrow, we are going to listen to the testimonies of the victims who were selected so that they can help us understand the historical injustices and the gross violations of human rights that these people have experienced.

My brothers and sisters, my elders, from the experience we had from this Commission since we started the hearings in April last year, the stories that we are going to hear are very painful and at times, they are emotionally overwhelming. My appeal is that we sit there, listen patiently and attentively as our brothers and sisters who have gone through this experience share with us. I would like to request you to kindly switch off your mobile phone or put it on silent mode so that we do not disrupt the process. Some of the testimonies we are going to hear today and tomorrow, most of us may relate with them and we may also feel the emotions felt by the witnesses. Some of you may not agree with the testimonies that will be shared. My appeal is that we patiently wait and listen even if you may not agree with the statements that are shared because this is what this process is about. There is no cross examination and at this point, I would like to introduce to you the panel that will be conducting the hearings.

With me on my right hand side is one of our international commissioners, a renowned diplomat from our neighbouring country Ethiopia. On my left is Major-General Retired Ahmed Farah. My name is Tecla Namachanja Wanjala and I am the Acting Chair of the Truth, Justice and Reconciliation Commission. The dialogue we will be having with the witnesses will be assisted by our leader of evidence and our hearing clerk. The process is that the witness will be sworn in, we shall give him time to share his testimony, at the end, our leader of evidence will ask some questions for clarification and after that, Commissioners will also ask questions for clarification. The witness will then be stepped down and we shall call in the next witness. Next to the witness is a counselor who is there to support the witness because of the emotions that we experience during the hearings. Once again welcome to Kwale TJRC public hearings. Thank you very much.

(Mr. Rashid Bogodzo took the oath)

Ms. Belinda Akello: Good morning and welcome to today's session. Kindly state your three names for the record.

Mr. Rashid Bogodzo: My name is Rashid Bogodzo Sengeza.

Ms. Belinda Akello: Where do you live?

Mr. Rashid Bogodzo: My home is at Perani, Lunga Lunga Location in Msambweni District, Kwale County.

Ms. Belinda Akello: What do you do for a living?

Mr. Rashid Bogodzo: I am a businessman.

Ms. Belinda Akello: Do you engage in any other societal activities?

Mr. Rashid Bogodzo: I am a politician and I am the chairman of PNU in Kwale District.

Ms. Belinda Akello: With regard to TJRC, you did record a statement. Could you kindly address this Commission with regard to three issues particularly? First, with regard to the Kaya Bombo tribal clashes, secondly, with regard to the Likoni clashes and thirdly, with your own experience having gone through the hands of the Government for a while.

Mr. Rashid Bogodzo: On 14th in the morning, I heard news that Likoni Police Station had been attacked and a policeman had been killed and arms stolen. That is when as an activist, I started finding out what could be done and why the police station was attacked and arms taken. According to the news I had heard I did not understand what kind of robbers had attacked Likoni. After a few days, we started getting some truth that some people had been hired from other places to come and attack. I used to live in Diani and people from all parts of Kenya live there so we understood that some people wanted to evict the people from upcountry.

Let me take you back. On 4th November, 1994, there was a meeting at Ukunda in Ibiza Club where all Members of Parliament attended including the former Boy Juma Boy, Assistant Minister Mwamzadi, the intelligence boss Mr. Mjomba, the then PC Baya and all the councillors. The meeting was all about how people from upcountry should go back to their places of origin. I challenged them as a FORD-Asili member and said that, that is going to bring misunderstanding between the people from upcountry and the people from Coast. I wrote my grievances in the *Daily Nation* though I did not know whether I was going to be arrested. I said that we had lived with people from upcountry and told them that, that dream should not come to pass. Afterwards, Kaya Bombo happened on August, 1997 and when that happened I was arrested at my home in Perani and I said that I was going to say the truth that Kaya Bombo was not a Government project. I was arrested because I was a member of the opposition party. I am happy that I was among those people. The Late Maitha, Mr. Masumbuko who is there with us and the late Lizondo and I were in the frontline. I was surprised to see many policemen at Perani Town Centre, they were about 19 and that is not normal. I was later followed by one person who told me that the police were after me and that I would be either arrested or killed. The plan was that I be killed but they made a mistake because on 18th, I was at the police station where I had gone to record a statement about other problems. I wanted a letter to take to Kinango Police Station so that I could get some help because someone had wronged me in Kinango. I was talking with the OCS, Mr. Khaemba, who was still new at the time, and after ten minutes, about eight policemen came and one of them Mr. Jutu Osaso was from the Special Branch. He came and sat on the table and asked the OCS whether he knew me and the OCS said that I had told him that my name was Rashid Bogodzo. When he mentioned my name, the OCS stood up and called me honourable and told me that he hoped that I would be able to help them on the attack in Likoni. He also told me that he heard that there were young people on the way coming to attack them. I asked him if he knew why I had gone there and he said that I had told him. I asked him if he was going to do what I had told him or not and he said that he would. I told him that he should serve

me and that I was not a policeman and I do not know what police are supposed to do if there were people who came and attacked the police station. I told him that I did not have any news about it and I had just gone there for help. They told me to go back at 2.00 p.m. and when I went back I was given the letter I wanted. People at Lunga Lunga were beaten to say what Bogodzo had told them.

I did not know what was going on but on 19th August, there were many policemen at the centre and my followers told me that the policemen had come for me. I told them that I had no problem and I was not running away and I sat and listened to BBC. I was then called by a young boy to another shade and when I got there, a man bought me some tea and half a loaf of bread. When I was halfway through, the policemen came and when they got to where I was, the leader of the police who was called Major called me and said that the DO, Mr. Bosire wanted to see me. I told him that the DO does not know me and asked him why he wanted to see me. He kept quiet and another policeman of the rank of corporal came in and I was handed over to him. He then took me to a Mitsubishi pick-up registration No.GK 995 belonging to the Ministry of Agriculture in Msambweni Division. I boarded the vehicle and they took me to where the DO and the area councillor were.

The pickup was driven at a very high speed and at the time, I was lying down and they had covered me with a tent and the bonnet was very hot. The police hit me with their guns and they shot in the air and I did not understand what was going on. I was driven to Msambweni Police Station where we reached at 6.00 p.m. They opened the tent and I was ordered to stand up and when I did, I was pushed. I knelt down and turned and they ordered one policeman to take me to the OB. I recorded a statement at the station and I was still in handcuffs. The corporal ordered me to get in and he started hitting me with a gun and I told him that he should not beat me. I rebuked him and told them that they should kill me. He hit me twice and then I was locked up alone. I stayed there and at about 4.00 a.m, I was ordered to get into a Mahindra with 19 policemen. I was counting them and every time I looked at them, they would hit me. It was driven to Diani Police Station and that was on 20th where I was questioned by the CID. I was questioned up to 10.00 a.m and they were asking me how many guns I stole and where they were. I told them that I did not know because I lived in Lunga Lunga and the attack was in Likoni. They told me that I knew and at 10.00 a.m, I was driven to Matuga.

When I got to Matuga, the DO was there. I was driven to Matuga by the DCIO of Kwale, Mr. Katana. He drove in his small vehicle accompanied by a policeman. Mr. Katana took me to the DO's office and he wanted me to be taken to the forest but the DO refused. They then said that I should be taken to Mombasa where the rest were. They said that I was the one who held a meeting and trained 45 gangsters. I was told to record a statement about the meeting that I had at Garani but because I was a member of FORD-Asili during Matiba's time, that is where we had decided to have a walk to raise money for women at the coast. The walk was to start from Malindi to Mombasa and as one of the NEC members, I was told to organize the women. It was said that I had gathered 32 women and ten men. I told them that it was true that I held a meeting and it was a women's meeting and the minutes were with my secretary. I told them that if they wanted the truth,

then they should go to Perani and get the minutes and it would show them exactly how many people attended the meeting and the agenda. They released me and took me to Mombasa in a white saloon car. The police said that I should be taken to the PPO's office headquarters.

At Matuga, they ordered me to stand against the wall and they used chains and pipes to beat me as one counted. Anytime I fell, they started counting afresh and they did that until I messed up on myself. I had not even drunk water since the previous day so I was not able to do anything and they would badly beat me whenever I lay down. I was taken to the PPO's centre where I found Masumbuko, the late Maitha, Chisondo and Mr. Banda. I asked the late Maitha what was going on and he told me that I should admit even if I did not know anything so that I could be released.

I was tortured; first I was beaten and surrounded by CID from Nyayo House and when you were picked, you would go to the PPO's office where you would be stripped naked and your feet would be tightly bound. They would then take your testicles and tie with a wire and it was very bad. You would then be made to say how many people you had killed and how many guns you took. We were there for 37 days and some councillors came and said that I should be arrested. They said that I should be taken to Kwale and they would know what to do with me. I was taken to Kwale on 9th February by plain clothes policemen and I was not handcuffed. They handled me in a friendly way.

On 11th of the same month, Diani was attacked by gangsters who called themselves "*Banyamulenge*" while I was still locked up. We were locked up without food and my fellow councillors were brought. I was taken to court on Monday 15th and charged with creating some disturbance at Ukunda together with others. At the PPO's office, I had recorded a statement and signed that I was innocent of Kaya Bombo which was their first allegation. I signed about 16 papers and I believe that my file is still there. I was charged with creating disturbance and attacking the police on 27th February, 1997. I was given a bond of Kshs100, 000 and in April, I was locked inside and the bond increased with another Kshs100, 000. That case went on for almost five years and nine months and on 25th May, 2005. I was freed by the court and told I was innocent.

Mr. Katana said that I was a Kaya Bombo member. He mentioned me, Chidzozo and Khalifa of Mombasa. I brought the newspapers' articles of November as my exhibits to show that I was not a member of Kaya Bombo. My advocate told me to bring the pamphlets and I photocopied them together with the Nation's articles. I showed them what the Members of Parliament said to create enmity between the people from upcountry and the people from the coast and it was clear that I had challenged the MP that is not possible for whatever they were saying to happen. Akiwumi dismissed the case and I walked out a free man up to now.

Ms. Belinda Akello: Thank you very much Mr. Bogodzo. Presiding Chair, maybe just for the record, the names that the witness has mentioned were printed in the newspapers so they were in public domain. The same names were also presented during the Akiwumi Commission which is why we allowed him to put the names forward in his presentation.

I have one question, from your presentation, you did foresee Kaya Bombo four years before and you tried to prevent it. You were then accused of having been connected or having caused Kaya Bombo. Subsequently, you were also accused of having taken part in the Likoni clashes and you have also been arrested a number of times and you also have a following. Would you clarify to us if you have an organization that maybe has a membership of young people who can be perceived as either trouble makers or gangsters?

Mr. Rashid Bogodzo: Maybe you did not understand me but I said that they had a public meeting where three Members of Parliament from Kwale District attended. In that meeting, I quoted what they said and I took the precaution of getting copies of the Nation. I was against what they said and I told them that it could bring chaos. I was the chairman of FORD-Asili in Msambweni and a NEC member in the Coast Province. I told the MPs that they were inciting and causing chaos so I challenged them using the newspapers. The *Standard* Newspaper ignored me but *Taifa* congratulated. I had written the article. If the article had not been published, then I would be in problems and that was my exhibit. I understood that according to their speeches, they were the inciters of Kaya Bombo. I do not have any gun but I am just a PNU chairman in Msambweni District with a mandate to speak and people listen to me but I do not organize young people. I only oppose any evil in this area. I want to remind you that these people wanted to chase Mr. Langat away but I was the only one who was against the evil people until Langat was given an opportunity to talk. The person you saw on TV was me and they have tried to kill me many times so Langat would not have spoken if it were not for me. I was in KTN.

Ms. Belinda Akello: Thank you very much for fighting for the rights of your people. Finally, you also indicated briefly in your presentation that there were people who were hired to cause skirmishes and that they were not people from within. Maybe you can just if it is within your knowledge tell who they were and who hired them.

Mr. Rashid Bogodzo: There was a rumour that it was an army from Rwanda that attacked the police station though I do not have any evidence about it. They lied and said that it was the young people from around but that was not true. Those young people never committed that crime but people from outside committed the crime. Everyone was speaking openly saying that they had been hired from another place and they were not locals.

Ms. Belinda Akello: Thank you very much. Presiding Chair, the witness had presented a written memorandum before the Commission. The witness had also quoted dates of 4th November and 7th September from the *Taifa Leo* Newspapers. The Commission is still trying to get the copies of the newspapers so we pray that you admit both his statement and copies of the said newspapers as part of his record.

The Acting Chair (Commissioner Namachanja): So admitted.

Ms. Belinda Akello: That is all from the leader of evidence.

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Bogodzo for coming before this Commission. I would like to check with my fellow Commissioners if they have any questions for you for clarification.

Commissioner Farah: Thank you very much Rashid for your eloquent presentation. My question is, why would Government officials like the Provincial Commissioner Mr. Francis Baya, the intelligence boss Mr. Mjomba, and the Kwale DC the late Mr. Ng'eno meet with politicians to plan to chase away upcountry people so openly?

Mr. Rashid Bogodzo: The KANU Government used to use the PCs and they had all the reasons to use the Provincial Administration. It was meant to show the seriousness of the issue. They did not know that such a Commission would one day be formed and these things would openly come out. The KANU politicians at the time used the administration to revenge against their enemies and the KANU Government used those means to threaten the Opposition. According to me, that was the reason. Mjomba was used because it was a Government project and the Special Branch was used politically. The Special Branch used to go after any person who used to oppose the Government. They were all there as witnesses to help the Government especially in an Opposition area like where I live. I would challenge any statement that came from the Government.

Commissioner Farah: Who was the Government against, the local people or the upcountry people?

Mr. Rashid Bogodzo: In Kwale, we were a very good team but YK came with a lot of money. As an organizing secretary, sometimes I would work with other people but very few people would bring themselves to gang up against Government.

Commissioner Farah: You said that the *Banyamulenge* were brought from Rwanda to attack the Likoni people. Do you think the Government would have brought Rwandese to come and kill Kikuyus, the Luos, and the Luhyias? Why would Government kill upcountry people? I would understand you if you said that these people were brought to kill coast people but the other way round, is a bit puzzling. Can you clarify?

Mr. Rashid Bogodzo: I had said in my statement that people from upcountry and me are all stupid when it comes to elections. When the Opposition was formed after Section 2A was repealed, people from upcountry understood that they could only get their rights through their votes. The people for the coast have not understood how they are supposed to vote. People for upcountry who live in Diani, Likoni and Kisauni are very many and if they go back to their homes, then it will be opened. This was done three or four months before elections. Before the alarm is switched off, people from upcountry will have gone and then they will campaign. That time we also had a case in court and the campaigns were still going on. When we came from court, we went to campaign. So it was just political that if people from upcountry leave, then the voters will be fewer and they will win. That is why they targeted the Opposition and Government ambushed us and we were locked in so that there could be nothing like rigging. Maitha and Masumbuko who

were in FORD-Asili were locked in earlier so that they could create some space and those who remained would reason with a piece of *kanga*. If you gave *kanga* to a Digo or Duruma woman, she would vote for you. It was just political because after the elections, there was no war.

Commissioner Farah: You and the upcountry people were in the Opposition, but the local people of Likoni were KANU *damu*. Is that what you are saying?

Mr. Rashid Bogodzo: I have not said that because we also had our followers and in 1992 elections, Matiba got 1,800 votes from the locals and Kibaki also got many. I am just saying that I know that the understanding of the coastal people is a bit slow and I do not know what affects them.

Commissioner Farah: Although you say that in Likoni the attackers were *Banyamulenge* from Rwanda, who were the youth who were in the caves fighting the Government? Were they also Kaya Bombo, *Banyamulenge* or were they local people?

Mr. Rashid Bogodzo: This was a political issue and if I answer some questions, I might be in trouble. I might say some things that I do not have enough evidence but as leaders we saw that our young people were being given money so that they could fight. We do not know who did that but they were there.

Commissioner Farah: Thank you very much Mr. Rashid for your evidence. That was my last question.

Commissioner Dinka: Thank you for your testimony. I would first like to express my empathy with your pain and suffering. You have been tortured, arrested and beaten up for something you probably did not even imagine. This happens so I would like to encourage you to try to live your life and move on but I have a few questions regarding the issues you raised. The TJRC must really get to the bottom of things and find out as much as possible the facts not speculations so that its records could become more credible and more acceptable by the population. For example, you said that you opposed the issues that were raised in the meeting of November 4th 1994 because it was intended to chase away other people who came from different places or this region. Were you invited to go to that particular meeting and then were you listening to what these people were saying?

Mr. Rashid Bogodzo: I was not invited. I just went there because it was a leaders' meeting that had involved the PC and the DC and as a politician, I thought that there would be an agenda so I went to listen and hear what agenda was there. When I went there I understood what I did and the newspapers quoted the same. I saw that their aim was to threaten upcountry people and I challenged that in the newspapers.

Commissioner Dinka: Did you challenge them on the spot in the meeting or later in your statement to the press?

Mr. Rashid Bogodzo: It was not possible for me to speak because I was in the Opposition and the meeting had been called by the area PC. If I had done that immediately, I would have been taken by the intelligent officers who were present. I just listened and took notes and then the following day when the news came out, I confirmed what I had written about Juma Boy and Mwamzandi. I compiled the story well and then I took it to the newspapers.

Commissioner Dinka: Then you concluded that this discussion that went on among the three parliamentarians and the local politicians and the police officers was actually a Government project? To get to that conclusion, do you have any other evidence that you noticed or came across or you just decided that since these people are talking, they must have had the okay from Nairobi? They could have been talking about local politics which had nothing to do with Government.

Mr. Rashid Bogodzo: It was so easy for me to understand that they had a connection with Government because all Government officials were present and political issues were being discussed. If I may quote one person, he said “For the people of *Pwani* to come and build hotels and employ their people, we must finish that thing”. That thing meant Matiba. He said that they must build hotels to employ their people.

Commissioner Dinka: How does that confirm that these people had the approval of the Government?

Mr. Rashid Bogodzo: The Government officials were there and the intelligent officials were also there and they all said threatening words and no action was taken against them.

Commissioner Dinka: I was coming to that. The three Members of Parliament might have been from this area but where does the Provincial Commissioner, Mr. Francis Baya come from?

Mr. Rashid Bogodzo: Francis Baya comes from Kilifi District and he is a Giriama.

Commissioner Dinka: And Mr. Mjomba?

Mr. Rashid Bogodzo: I think Mr. Mjomba comes from Taita Taveta and he is a Taita. Mr. Ng’eno is a Nandi.

Commissioner Dinka: So, you thought that because they came from the center, the whole idea was a Government project?

Mr. Rashid Bogodzo: Yes because the Government officials were there and they never took any action while these people were threatening other people and causing chaos to our place. So, we concluded that this was a Government project.

Commissioner Dinka: Thank you. I have two more questions. One is about the *Banyamulenge*. How did you know that they were *Banyamulenge*? By the way,

Banyamulenge is not from Rwanda. *Banyamulenge* are Rwandese who migrated to the Bulenge plains in Congo about 300 years ago so they are not in Rwanda.

Mr. Rashid Bogodzo: When I talked about the *Banyamulenge*, I was not sure about it because it was a rumour that spread all over. Everyone knew that those people who attacked the police and took the weapons were not from Kenya. I am not very sure about it and I do not have any evidence. I even recorded in my statement that it was just a rumour that the gang that attacked Likoni Police Station was not Kenyan and that it was a hired army. We do not know what country they came from but according to the rumour, *Banyamulenge* come from Rwanda.

Commissioner Dinka: My last question is regarding your torture and detention and the fact that they put you in prison and so forth. What have you done through the court to get some kind of administrative review either during the time or later after the NARC Government came and what was the result?

Mr. Rashid Bogodzo: After I was acquitted on 25th May 2001, I asked my lawyer if I could get some compensation for my torture but he told me that I would need a lot of money if I was going to sue the Government. I did not get any aid though my aim was to sue the Government so that it could pay me. In my report I had written how my things were damaged and what I lost during the case. If I can get some legal aid so that I am compensated, then I will be very happy.

Commissioner Dinka: Thank you very much. I have no further questions.

The Acting Chair (Commissioner Namachanja): Mr. Bogodzo, thank you so much for coming before this Commission to share. I do not know if you had had any chance to share elsewhere what you have shared with us today.

Mr. Rashid Bogodzo: I am ready to come and say what happened...

The Acting Chair (Commissioner Namachanja): Have you testified anywhere else before today?

Mr. Rashid Bogodzo: No. I just wrote everything after the case was dismissed. I only wrote when Kiplagat came and I gave him the copy of these pamphlets. I still have so many copies with me.

The Acting Chair (Commissioner Namachanja): How do you feel now having shared what you have shared before our people?

Mr. Rashid Bogodzo: To say the truth, it is wonderful. I did not expect that such a thing would one day happen and I feel that the Constitution has changed. I am very proud of you people. When people opposed the formation of the TJRC because of Kiplagat, I stood firm and said that there are no clean Kenyans including you the Commissioners and there are also no clean aspirants. The people who are partly dirty and others who are

clean are the ones who will help us reach our destination. The reason why I stood firm on Kiplagat was because I had confidence in this Commission and I have seen two representatives from the UN. I told you that if Kenyans are corrupt, will the Americans, the Ethiopians and the Zambians all be corrupt? If we have the tradition of corruption in Kenya, it does not mean that everybody is corrupt. I know that justice will be done.

The Acting Chair (Commissioner Namachanja): We shall ensure that. We have heard your experience and a lot has been recorded concerning the internally displaced victims but the story that has not been heard much are the youth who were used by the politicians and who participated in the clashes. Could you highlight some of the impact that the clashes had on the youth who were misused because of their situation of unemployment?

Mr. Rashid Bogodzo: Economically, this region is always the last because we do not have employment, but the biggest problem is land. Our land was taken away in 1963. In 1963, some land was released by the Sultan of Zanzibar and the agreement then between the Sultan and Prime Minister Kenyatta was that the land would be given back to the rightful owners immediately after independence. It did not happen because of reasons that I do not know. There is a lot of land in Likoni, Waitiki Farm, Casalak in Diani, Msambweni and Lunga Lunga. Kenyatta gave the land to his people, for example the Msambweni land was given to Kinyanjui, the Casalak land was given to Minister Mbela and the one in Waitiki was given to Kenyatta's relatives. The locals were left with no land and this brought about a lot of bitterness. The young people found themselves without jobs. Moi's Government continued dishing out land as reward to councillors and MPs. You would find a councillor from Duruma selling land in Digo land and that brought a lot of enmity among the people. That is why the coastal community feels that all people from upcountry are bad because all their land has been given free of charge to people from upcountry. A councillor is given a beach plot and he then sells it and buys a nice car yet the people do not have anything. If you look deeply, our leaders have contributed because they tell us that education is very important but our young people have not gone to school because they do not have money to go to school. Majority of the youth are annoyed because they are supposed to be employed somewhere and contributing economically, but they were denied that right. That is why the young men are easily bribed because they are unemployed and their rights have been given to other people.

The Acting Chair (Commissioner Namachanja): Has the situation concerning the youth improved or will they be used again come the next general election?

Mr. Rashid Bogodzo: I am confident of the change and I am very proud of the change in Kenya. If I give an example in 1990, I participated when Section 2A was repealed. The result was that there was transparency and Kibaki allowed people to express themselves openly. You could go to the radio and air your problems. Before the new Constitution, that was not possible. The first Chapter of the Constitution changed everything. If we were three people, the fourth one would be a Criminal Investigation Officer (CIO) and the following day you would be called to be questioned somewhere. Right now, you can speak anywhere even on radio. Right now it is not like yesterday.

The Acting Chair (Commissioner Namachanja): After going through the torture that you went through, have you reconciled with the people who made you go through this?

Mr. Rashid Bogodzo: I did not know whether the young men who came to arrest me were also among them. I came to understand I was locked in because they were sent. Even the policeman who was commanding them made a mistake that made me live up to today. When I went there everyone was speaking and there was one who leaked, “You were supposed to come here dead. Why have you come alive?” I asked him, “who told you that I should come here dead?”

He was joking about Matiba and I later learnt that I was supposed to go there dead because there were clothes which had my name. That is what was done to those who had been killed. They made a mistake and I was able to escape.

The DO, Mr. Bosire is the one who was always regretting that I was still alive. If I meet him today, I will tell him that I have forgiven him. Even my area councillor then was with the DO throughout. They even bought beer and we sat and shared a lot. We stay in the same village. As Muslims we just forgive.

The Acting Chair (Commissioner Namachanja): Thank you so much Mr. Bogodzo. For the public, a lot has been written about the Kaya Bombo clashes and when you read the books they read like horror movies. The reason this Commission was set up is so that we get such testimonies so that when we write history, we have witnesses in the public who affirm their experiences. That is why here we are not just from TJRC amongst us I would like to recognize Commissioners from our sister Commission, the National Cohesion and Integration Commission.

Dr. Yassin and Commissioner Halake are here. I do not envy them because at the end of this Commission they are the ones who will take up our work. The mandate of this Commission is not just on looking for justice but we are also to support in terms of healing and reconciliation. At the end of our term, the NCIC will take up where we will have left. I would just like them to raise their hands up so that we can recognize them or they can stand so that you know them.

Mr. Bogodzo, if you have anything concerning reconciliation they can facilitate that process.

Thank you.

Leader of Evidence, stand down the witness and bring in the next witness.

(Mr. Abed Abdalla Kavengo took the oath)

Ms. Belinda Akello: Good morning and welcome to today’s session. For the record kindly state your three names.

Mr. Abed Abdalla Kavenga: My name is Abed Abdalla Kavengo.

Ms. Belinda Akello: Which name would you like us to refer you with?

Mr. Abed Abdalla Kavenga: It is okay if you use all of them or you can use only Abed.

Ms. Belinda Akello: Thank you very much Mr. Abed. Where do you live?

Mr. Abed Abdalla Kavenga: I live in Vuga.

Ms. Belinda Akello: What do you do?

Mr. Abed Abdalla Kavenga: I do not work at the moment. I just stay at home and farm.

Ms. Belinda Akello: What position do you have in society?

Mr. Abed Abdalla Kavenga: In the society I do not have a post. However, I am a member of the village committee.

Ms. Belinda Akello: Is there any other different outfit or organization in which you are a chair person?

Mr. Abed Abdalla Kavenga: Yes. This is the Mombasa Republican Council (RPC). I am the organizing secretary of our branch in Vuga area.

Ms. Belinda Akello: In your position and in accordance to the workings of this Commission, what is the MRC and what is the purpose of a council of elders?

Mr. Abed Abdalla Kavenga: The council of elders work together with administration and that is why it selects village elders. The MRC is a group that has come together to volunteer in order to fight for our rights. That is why we call it the MRC because it is like a Government for the people of Mombasa.

Ms. Belinda Akello: Mr. Abed, it is interesting when you say you are a Government, would you like to substantiate this in light of the Republic of Kenya?

Mr. Abed Abdalla Kavenga: I am very grateful and I would like to thank you for this opportunity. I would like to briefly go through my composition. This composition will help all the people who are here to know that this government of Mombasa and the Government of Kenya have been there for a very long time. My composition will help you know whether it has been there or not.

First of all, as evidence I was employed as a police officer in 1957. The one who employed me was the British Nairobi Colony. These were white men who used to rule over Nairobi. This same British has a protective in Mombasa. The one who employed me

used my national ID which was written “the Colony and Protectorate of Kenya” to show that the Government here was under the protection of the British.

I went to the police college which was called Police Training Centre in Kiganjo. When I finished my training I was transferred and brought straight to Mombasa Central Police Station which is where I worked for the first time. According to my work I got to know that Kenya was fighting for its independence in Nairobi. It got its independence when I was still at the Central Police Station in Mombasa. When Kenya gained independence it put its flag in the whole of Nairobi and up country. The last place it hoisted its flag was at Sultan Hamud near Mtito Andei. It did not have any flags at this time. Here we had a flag that belonged to the Sultan of Zanzibar. He had this flag because of his property. He was waiting for money to be paid so that he could finish with the coast of Mombasa.

In the year 1963 there is a time all the police officers were summoned. We went to the Central Police Station and we were told we would be on standby as there was a case on the coast. I was among those who were removed from the group. The OCS was Mr. Heinz and he was British. When I was taken from the others and told to follow them, I followed them briefly to Makadara. We went in there and a lorry was waiting. My OCS told me, “Check this vehicle”. I went round as it was the rule. I checked the tyres, road license and insurance which were all okay. I then asked myself, “Why am I being told to inspect this vehicle yet it is okay?” I went back, stepped on a piece of metal and looked inside. I saw very many bows and arrows in the back of the lorry. I went to the OCS. He asked me, “Have you seen that”? I said I had seen it. He told me not to let anybody in apart from my grandfather Mr. Salim Athman Mwakaza.

They then went away to the Government House which is called State House today. I took guard of the lorry and then I saw my grandfather coming in very quickly and shouting, “We have won! We have won! We have taken our country!” When he got there he told me to go back to my colleagues the case is done and we have succeeded. He told me we had won against the sultans and the country was ours. I went up to where the others were. We were told to go back to the police lines and be on standby. Nobody was allowed to leave until the following morning. Therefore, we stayed there the whole day.

I stayed there waiting eagerly now that we had got our Government. I watched to see if we would have our own flag going up. No flag went up. I was then told to bring the flag and hoist it. We would hoist the police flag and outside there was the KANU flag. So I asked myself what this was all about. That is when we realized that there was an agreement when the case was going on. The agreement was between the late Ngala, the late Kenyatta and Queen Elizabeth II. This agreement explained that the Government of Kenya would be protecting this area for ten years and then the coastal people would have their country back to them. I never saw the agreement to be honest but I knew it was true because the case went on and we got our country but our flag never went up. I thought there must have been some kind of deal between the Government of Kenya and the Government of Mombasa.

Since then, I got to know that our Government was there but it was being held under protection. When the white man used to be here, they used to make sure their flag was

hoisted. The flag that belonged to the Arabs was slightly below. When the Arab Government flag went down the one of Kenya went up.

I have sufficient evidence that this white man or the British was a protector of this place but the Arab was looking at this as a state. The white person was also looking for money. There was a tax called Personal Tax. I personally managed to pay that at some point. Whenever that money was paid it was taken to the Sultan of Zanzibar. We were told the Arab had refused to let go of the country after the payment had been paid and that is why the white man had to file a case. I will not go through all these because there is a lot to be shared. However, there is a court case that is going on in which case we were called an illegal group. I know very well that we are not an illegal group because we are following the law to ensure that this person under whose protectorate we have been should give us the opportunity to get a chance to hoist our own flag. We are not fighting. It is very peaceful. However, they get scared. Whenever we have a meeting you will find that our youth are arrested and detained. At the moment there are many cases waiting to be heard in court. Some people are released but very many more are still being held.

There have been a lot of problems. We have heard bullets being fired at some of our youths even here at Shikadabu. One of our youths was shot yet he was not even part of the meeting. He was just passing on his way from the sea. He was caught by a stray bullet. I would like to thank this Commission and pray to God to help them so that they can look into our issues and rights. We are not violent. We do not have war. We do not want any bloodshed. We pray that God may give them wisdom to decide that it is the end of the deal. This deal was actually signed by Queen Elizabeth II in England.

We would like this Commission to investigate this issue very carefully and help us.

Ms. Belinda Akello: Thank you very much Mr. Abed for your presentation. I just have two points to clarify before the Commissioners also make some further clarifications. In pursuit of your policies, your major recommendation is that you were allowed to have your own Republic at the coast. Is there contradiction between your policies and those of the general Republic of Kenya or do you think there is a possibility of a good co-existence especially in the new dispensation where we will have county government? Do you think you will be able to still suffice with your own policies governing your own selves but under the general Republic of Kenya?

Mr. Abed Abdalla Kavenga: To be honest our policies are for self rule. It has been found that this agreement was to end in 2013. Now, if we are going to the issues that the Kenya Government may have planned in terms of the boundary policies, we will be losing our rights.

Ms. Belinda Akello: Thank you very much. Presiding Chair, that is all from the Leader of Evidence.

The Acting Chair (Commissioner Namachanja): Thank you so much Sir. I would like to check if the Commissioners have questions for you.

Commissioner Dinka: Mr. Abed, thank you for your testimony. You are the first person to give us any kind of information on this particular issue. I would like to ask you some questions. First of all, you mentioned the history of Mombasa and the coast linking it to your own life history from the day you were recruited as a policeman by an English officer until the independence flag came here and went up. I think the history of the coast, if you go to old history is much older than you and even then when the ancestors of the Sultan of Zanzibar came to the coast, there were still people in the coast. History has to either be history by starting from the beginning--- You cannot just start from the middle and call it history unless as some people say, history is just another fable agreed upon by a certain group among them. So this is a very historic area in fact, some of the most historic areas in Kenya are in the coast.

I think you have to go a little bit further and try to investigate. Having said that I want to ask you, you said self government is your objective, what exactly do you mean by self government?

Mr. Abed Abdalla Kavenga: I think according to the way the countries were from the beginning there is Kenya and there is Mombasa, as I explained. It is important that it continues the way it was from the beginning before the protection so that we can protect ourselves. When we protect ourselves it will be easy for us to cooperate but first we must have self rule. At the moment we have no authority. The authority is with Kenya only. When we rule ourselves we shall share our resources in full.

I know we are not benefiting from sharing resources with Kenya. We have no schools, no meaningful university and we have famine. I would say we have nothing. We have been left the same way the Sultan left us. The Sultan took away everything and now Kenya is taking away everything. We are not getting anything in return. It would be very good if we were the ones to determine for ourselves how we are going to fight famine.

Commissioner Dinka: Thank you, Mr. Abed Abdalla. That is exactly my question. You mentioned self government in which you take care of yourselves. My question was, self government is important for everybody but what does that mean in terms of the nation of Kenya?

Let me be very specific, are you saying you do not want to remain part of Kenya? You want an independent coast state as a new republic or are you saying you want to have a self rule where you can decide on your budget, programme or development but within the State of Kenya?

Mr. Abed Abdalla Kavenga: To be honest, the rule of this place under Kenya has been there from before. This was a protectorate of Kenya. They were just protecting it but they knew that they were protecting a republic of the coast. We will just have two countries like we have always been and everybody will be independent.

Commissioner Dinka: Now, I get it. You are saying the coast will be an independent state, probably the 54th State in Africa. If that is the case, how does the MRC intend to achieve that objective? Is there a programme or a constitution of this party which we can have access to which will tell us what kind of methodology the MRC will use to achieve its objectives?

Mr. Abed Abdalla Kavenga: I would not want to explain that because it is way above my authority. I am a very junior person in the ranks of MRC. I have not taken any note to know exactly what plans the people above me have. However, I know definitely there are some plans.

Commissioner Dinka: As the organizing secretary for one area or location, do you have access, have you seen the constitution? Can we have access to it? Can the Commission have a copy of the constitution or programme of recruiting members?

Mr. Abed Abdalla Kavenga: I can send this to you if I am able to get a copy.

Commissioner Dinka: The Commission would be very happy and it would also be very useful for the Commission to exactly make findings, recommendations and whatever report regarding this issue if we have access to certain documentation. These documentations are important. Hopefully, you will interact with the people at the top and try to get a copy which we can hand over later to the Leader of Evidence.

Regarding the whole issue, I just want to say something. I am not a Kenyan as you know but I have worked in a number of countries starting with my own country and other areas like Rwanda, Burundi and Congo where recession movements were very active at one point. I know the kind of consequences that can ensue if these kinds of situations remain unresolved. Things can be resolved peacefully, rationally with dialogue. People should not hesitate to make a commitment to stick to peaceful ways of resolving issues. You know that as an old man and I know that as an old person. If you go to places like Somalia, Mogadishu where I have worked, there is not a single standing house today with windows, doors or roofs intact, every single house has windows and doors broke and the roof was blown up. You hear the misery that people live in from day to day.

The second thing is that, that is a just call but then it can degenerate very quickly unless it is properly handled. The proper handling is for people like yourself, older people, people with experience and mature people to tell the younger people to calm down and start negotiating. For example, the new Constitution has given this country a very important dispensation; like the county system. In the county system it is the way the population makes it. It is not going to be Mr. Dinka being sent as Governor of the Coast from Nairobi.

That should not happen. It is the people of Coast Province who will be neglecting the county governments and their agenda. They are the ones to set up the agenda for development in terms of schools, hospitals and roads. Whatever you get from the central Government as the share of the national cake will be used by you on your chosen projects. I think it is very important to give this kind of thing a chance to mature and to be

seen in action before people start talking about something really radical. That is my suggestion and it does not necessarily mean the Commission's position. Give the new dispensation a chance to work itself out.

There are certain areas where you will have to adjust a little bit and come up with your own local formula. If you sit down and talk to the Government through the Members of Parliament, you are going to have a huge number of parliamentarians from the Coast Province according to the new Constitution. That is a huge number. The leaders also include the governor, the county commissioners, county assembly members and so on. They are going to be your own people and nobody is going to impose them on you like before. I think these are the kind of solutions that one has to look at. My appeal to the council of elders and those who have influence is to go back and start working it out. Cession is not easy. I have seen what happens when secessions are attempted. It took South Sudan 50 years and even then the Government had to agree to let them go. They could have continued to fight for another 1000 years and fighting does not help anybody. Schools will be closed and lives destroyed. Infrastructure that has been built will be destroyed. If you go to Juba today, there is nothing. So, that kind of thing should be avoided by all means because whatever you want you can get through the new Constitution peacefully. That is my appeal to you.

Commissioner Farah: I join my fellow Commissioner in his sentiments. Mr. Abedi Abdallah, we have heard you that you are a member of the Mombasa Republican but we have not really heard your vision and your aims. They are not clear. The new Constitution and the new dispensation have already created *majimbo*. The *Jimbo* of coast will have 36 Members of Parliament, six governors and 12 senators. Therefore, that itself is self-governing, but to secede, even a country that has never seen a government for the last 20 years like Somalia, the region called Somaliland has failed to be recognized by the United Nations. Countries are coming together and not separating. Our advice as a Commission is that even though we have not seen your manifesto or constitution, because our role is also reconciliation, you should have been part of the second liberation. Now that we have passed the new Constitution then you should have reached your ultimate aim and now you should plan how to develop Coast Province. Each county will get Kshs4 billion and you have six counties, it shows there is a good future. That is the thing to concentrate on. Thank you very much for whatever you presented. We have heard you but you need to do a lot of reflection. Thank you very much.

The Acting Chair (Commissioner Namchanja): Thank you so much, Elder Abed. I do not have anything to add to the wisdom from these Commissioners. My appeal is that this Commission is writing history through looking into historical injustices. I would request that you sit down and come up with a detailed memorandum especially on how the coastal people have been treated by the government that has cost pain for them to even think of seceding and how you would like the situation to be corrected for future peaceful co-existence, if we are ready to dialogue and negotiate on the issues that you have. I would like to thank you for coming before this Commission to share what you have shared concerning your movement. God bless. We also pray for God's guidance especially through elders like you.

(Mrs. Mishi Ali Isindano took the oath)

Ms. Belinda Akello: Good morning and welcome to this session. Thank you for having found time to come. Please, state your name and what you do.

Mrs. Mishi Ali Isindano: My name is Mishi Ali Isindano and I live at Kinondo, Msambweni District, Kindiani Location. I am a leader of the women. I am the chair of the Maendeleo ya Wanawake. I am also a leader of the group of Msambweni. I am a leader of a group called Masikilizano Women's Group that is involved in loans and development projects.

Ms. Belinda Akello: Mama Mishi could you tell this Commission various issues that affect women in the County of Kwale and the challenges that you face as women.

Mrs. Mishi Ali Isindano: I will explain in brief. As a leader of women in Msambweni, we have a lot of issues that face us. There are challenges that we encounter from our homes and everywhere else we go. Women of Kwale do not know their rights. We do not know anything about our rights in the house and outside. We have a lot of responsibilities. I am married and I have children. When my child is sent away from school, the father says that it is the mother to be told about it. When I ask the father for the money, he tells me that it is me who is supposed to give them money. It is you the mother who will go to the school and explain about the issues of fees. Mostly, it is the mothers who are involved in the children's affairs. As women, we do not have a say in the wealth of the family. For example, if we have a cow, I cannot sell it until my husband comes. He is the one who will sell the cow. Even a small thing like chicken, I cannot sell until my husband allows it. If I sell the chicken without consultations, I will be asked about it. So, we feel so oppressed and we do not know what to do.

The other issue is about land. My husband can have land but will not include my name in even one title deed. This is cumbersome because when the husband dies, it is the woman who is disadvantaged. The in-laws can send you away from that land. I am not saying that it is all the men but most of them are like that. A husband will sell land but will not involve you. This is oppression. We discuss these issues in our group but unfortunately most women are not allowed to join the group. They are told not to join the group by their husbands. They are told that if they join such groups they will start having affairs outside marriage.

The other issue is about girl-child education. When children start school you will find that the school has many girls but when they reach Standard Four, they start dropping out of school. Others are impregnated while others go to the beaches to look for money due to poverty. That thing is really affecting us. So, we are now encouraging girl-child education.

The other issue is the high interest on loans. The Kenya Women Finance Trust gives loans but the interests are so high. We are forced to take the money but we pay with a lot

of difficulties. Even when we take the loans, we are not assisted to pay it by our husbands although we share the money. So, when civic education is being carried out, it should also target our husbands. They should also be taught the rights of women. We need civic education at the grassroots level. Civic education should be aimed at the women at the grassroots so that they can understand their rights.

Ms. Belinda Akello: Is early marriages among the challenges that you face within this county?

Mrs. Mishi Ali Isindano: Early marriages really affect us. We have tried to resolve the issue through education amongst each other. There are women in the villages who do not have access to information. They do not agree with us and when you emphasize the importance of education, they suggest that we take the girls to school ourselves.

Ms. Belinda Akello: What about the issue of access to justice? Are you able to access justice when you have issues to resolve?

Mrs. Mishi Ali Isindano: We go to the police station to report our issues. The problem we have is with the parents of the children who have been molested. They refuse to come and make a formal complaint.

Ms. Belinda Akello: Acting Chair, there is another witness who is ready to talk about women issues and especially Kaya Bombo. If you allow us we will swear her in to also give a presentation and then we can ask both of them questions.

The Acting Chair (Commissioner Namachanja): Go ahead.

(Ms. Mwanahawa Mwinyikombo Salim took the oath)

Ms. Belinda Akello: Good morning and welcome to this session. Thank you for taking time to come here today. For the record, please, state your three names.

Ms. Mwanahawa Mwinyikombo Salim: My name is Mwanahawa Mwinyikombo Salim from Kibwaga Village, Matuga Constituency. At the moment I do not have a job.

Ms. Belinda Akello: Is there any role you play in the society or are you part of any organization?

Ms. Mwanahawa Mwinyikombo Salim: At the moment I am the head of Kwale Local Scouts Association.

Ms. Belinda Akello: Mwanahawa you have come before the Commission with regard to your statement on what we women have gone through and in particular on the Kaya Bombo clashes and their effects on women in the society.

Ms. Mwanahawa Mwinyikombo Salim: What happened was painful and shameful. What happened did not go down well with the morals of the community and the Islam Religion. Women and girls were raped by policemen. Even elderly women were raped and most of them died during the ordeal. Most marriages were destroyed after the husbands declined to continue with a relationship with the women who had been raped. There are some women who got pregnant after being raped by the police. There are those who also got infected with HIV/AIDS.

Ms. Belinda Akello: Were those women able to get medical attention after this incident took place?

Ms. Mwanahawa Mwinyikombo Salim: At that time people were afraid because the police were everywhere, from Likoni to Lunga Lunga. People were afraid even to go to the hospital to get medicine or even to go to the police to report because at that time the police were our enemies. When one was raped it was difficult to go and report to the same police officers. So, nobody went for such kind of assistance.

Ms. Belinda Akello: Have you been able to undergo counselling. Do you know whether women were counselled especially the young girls and the elderly women who were raped?

Ms. Mwanahawa Mwinyikombo Salim: At that time the issue of people's rights was not very well known. People were not free to go and seek assistance. At that time there was a lot of stigma about HIV/AIDS. You could not just speak about it publicly. So, nobody went for counselling. People were only speaking about it in the family.

Ms. Belinda Akello: Are you able to provide medical attention and counselling today?

Ms. Mwanahawa Mwinyikombo Salim: We thought that it is the Government which should assist us but unfortunately it was the Government which was bringing problems to the people. Most women could not go to seek for help. There were also some men who were sexually molested. There was an incident where a 14 year old pupil was put in the military track. He was then beaten and left at Maganja area. That pupil tried to crawl from that place but he could not manage. He died and was found four days later.

Ms. Belinda Akello: Which branch of police was carrying out the operation?

Ms. Mwanahawa Mwinyikombo Salim: They were just wearing uniform but we could not ascertain whether it was Administration Police (AP), the General Service Unit (GSU) or the army. But I think the uniform resembled that of the army.

Ms. Belinda Akello: Thank you very much, Mwanahawa, for that information. Before I hand you over to the Commissioners, I would like to ask you one question; what recommendations do you have as one of the officials in *Maendeleo ya Wanawake*?

Ms. Mwanahawa Mwinyikombo Salim: I would like civic education to be carried out especially in the villages. They should know their rights so that when they encounter such problems they should know where to go. Most of us do not know where to go to when we have a problem.

Ms. Belinda Akello: Thank you very much. What recommendation would you make to help these women go back to their normal lives?

Mwanahawa Mwinyikombo Salim: I would recommend that the Truth, Justice and Reconciliation Commission (TJRC) should reconcile people. The people who were involved in the violence should be identified and brought to justice. Then people should be compensated especially those who lost their loved ones. There are others who are still living in a pathetic condition because they now have a lot of responsibilities. The women depend on their husbands for a livelihood but when the man is killed the women take over. She has to take care of the children, educate them and take them to hospital. I hope that the TJRC will recommend to the Government to compensate those who lost their loved ones.

Ms. Belinda Akello: Presiding Chair, these were witnesses number two and four.

Commissioner Farah: Mwanahawa, every county we have been to, we have heard the plight of women. Most of it had something to do with cultural issues and others were human rights violations. For those cultural issues, we will look into it with a view to ensuring how we can recommend laws that will also not annoy the culture. Specially, we are looking for human rights violations of the girl-child. She has a right to education. We are also looking for human rights violations of married women regarding inheritance and so on. The new Constitution has a chance for new laws to be enacted by Parliamentarians. Therefore, the National Cohesion and Integration Commission will take up these things. I thank you for having worked hard as the chairlady of *Maendeleo ya Wanawake* from Msambweni to ensure that what you stand for is known and to ensure that their rights are upheld. Even in the difficulties of religious and cultural resistances, you have managed. I thank both of you for your good presentations. I have no question because whatever you said was clear.

Commissioner Dinka: I would like to thank both of you, Mishi Ali and Mwanahawa for your testimony. I have one question for Mishi; what is your organization doing to inform women about the right of inheritance in the new Constitution? At the same time you also offer civic education even at a very limited level among men.

Mrs. Mishi Ali Isindano: *Maendeleo ya Wanawake* educates women on various issues about how they can develop. We also tell them about their rights. So, the women are somehow knowledgeable but there are many that we cannot reach. Some of them are in the villages and yet we do not have the capacity to go to the grassroots level.

Commissioner Dinka: As far as men are concerned, is the relationship always adversarial because that may not help your course? Why can you not try to get the eldest men to understand the course for the purpose of winning them over one by one?

Mrs. Mishi Ali Isindano: It not easy to gather men especially when you are a woman. Even if you call men to come and listen to you they will say that a woman cannot tell them anything. Even in locations, there are no women in good positions. That means that women are not considered. So, it is not easy to find men listening to a woman.

Commissioner Dinka: I know it is very difficult but suppose you go to their meeting and appeal to them to give you a chance to speak to them? I just want to encourage you to think alongside those lines.

To my sister Mwanahawa, I would like to express my deep sympathy to the suffering that your family and friends have gone through at the hands of people who were supposed to protect them. Your recommendations are very good and I would like to assure you that the Commission has taken note of what you have said. We will make sure that the appropriate recommendations are reflected in our final report. Thank you very much for coming.

Ms. Belinda Akello: Presiding Chair, there are a few documents that have been presented by witness number four including certificate of death, dated 10th August, 2007, certificate of birth dated 23rd October, 2002 and four copies of receipts. I pray that they also be admitted as those of Mwanahawa.

The Acting Chair (Commissioner Namachanja): They are admitted. Thank you very much, Sister Mishi and Mwanahawa for highlighting the plight of women. My first question is to my sister Mishi. In primary when I was reading about Geography or History it was written that men are the breadwinners of their families. I would like you to comment on that statement. What do you think with regard to men from this region?

Ms. Mishi Ali Isindano: It is true that they should be the breadwinners in the family. They are employed and go to work and perhaps, I am just at home, but when he knows that you have some little money, when he wakes up he will not leave even a single cent behind. He is just a breadwinner for his own personal life and not the family. However, not all of them do that, but the majority will just leave behind Kshs100 in the morning and when he comes in the evening he wants food and expects everything to have been done in that house.

The Acting Chair (Commissioner Namachanja): Thank you. To my sister, Mwanahawa, sorry for what you and other women went through and thank you for coming to highlight the plight of women in situations of armed conflict. For the public, the death certificate that we are receiving indicates that the death was caused by rape to a grandmother who could not just accept the situation of being raped at that age. The birth certificate is the painful certificate from a birth that came about after rape. This is what we have been hearing all through from the time when we started the hearings. When we talk about rape,

we are not talking of one person raping a young woman, but in some situations of over ten administrative or armed people in our Forces, raping one old woman. It does not matter how old that woman is, but the most unfortunate situation is when such a woman is rejected especially by the husband, as if she wanted this situation on her own. It is very painful.

My sister, Mwanahawa, did the women who were raped receive any counseling to help them deal with their wounded hearts?

Ms. Mwanahawa Mwinyikombo Salim: You know, there are some incidences that are shameful and you cannot stand publicly and talk about them. As women we really felt ashamed and at that time, we could not go to any person to speak. The majority died. Perhaps, there are people who have gone for counseling, but they are very few.

The Acting Chair (Commissioner Namachanja): My appeal to especially my sisters from Maendeleo ya Wanawake is: Please, take this case very seriously. Once somebody has been traumatized there is no way she can heal from the psychological torture unless she is assisted. For my sister, Mwanahawa, the counselors who will deal with such a situation are trained on issues of confidentiality. So, I would really encourage you to meet with fellow women and Maendeleo ya Wanawake. If they do not have counselors among them, link up with the national office to see how to deal with the internal wounds which are there but are not seen. Somebody will continue suffering to the grave unless he or she is assisted.

Thank you so much. You can also talk to our counselor who is next to you, because Kenyatta National Hospital also provides such services, to see how these women can be assisted.

We feel honoured by coming to share with us your painful stories.

Leader of Evidence, please, stand down the witnesses and bring in the next.

Ms. Belinda Akello: Presiding Chair, the next witnesses are Witness No.3 and another presenter, Mr. Masumbuko, who will also be touching on issues that the third witness will be speaking about.

*(Mr. Abdikadir Abass Abdi and Al Haji Mohamed
Omar Masumbuko took the oath)*

Ms. Belinda Akello: Good afternoon. Welcome to today's session. Kindly, state your names for the record.

Mr. Abdikadir Abass: My name is Abdikadir Abass Abdi.

Ms. Belinda Akello: Which names would you like us to refer you with?

Mr. Abdikadir Abass: Abdi Abass. If you use that in brief, it is good enough.

Ms. Belinda Akello: Thank you very much, Mr. Abdi Abass. Where do you live?

Mr. Abdikadir Abass: I live in Ukunda.

Ms. Belinda Akello: What do you do for a living, Mr. Abass?

Mr. Abdikadir Abass: I came to Diani in 1975 and started a hotel association as part of the Alliance Hotels. I worked there for 14 years and discovered that earnings from the hotel were very low. So, I left the hotel industry and started a hotel business. I opened a hotel near Ukunda Post Office, but got a very big loss due to the Kaya Bombo Clashes. All my property was looted and I got a very big loss. At the moment I run petty trade. I take camels to the beach to ferry passengers.

Ms. Belinda Akello: Mr. Abass, do you have any other responsibility in the society?

Mr. Abdikadir Abass: I am the chairman of the Somali Association. We organize for places where we could bury each other when one dies. I am also the chairman of the victims of Kaya Bombo. We are 760 people.

Ms. Belinda Akello: Thank you very much. With respect to your responsibility as chairman of the infamous Kaya Bombo victims, you did record a statement about issues affecting the victims and the violations that they face as well up to date. Kindly take the Commission through the issues that members of your organization face, that is, the challenges that you deal with everyday and recommendations that you make to help your people.

Mr. Abdikadir Abass: As a group of Kaya Bombo victims, we are registered as the Coast Clashes Victims. The loss that we got during the Kaya Bombo clashes was very big. These people were about 820, but most of them died because of the problems that they got and the loss of their property. They did not receive any aid and many of them were affected by diseases like high blood pressure. Some died out of that and others are disabled. We have not received any help from the Government or any organization. We have tried making noise and approaching everybody, but when we heard that the TJRC had started doing its work, we also rushed to see if it could help us. We are registered and at the moment, the report that we get from the radios or newspapers, we feel that we might get help. The Kaya Bombo clashes made sure that our children did not go to school. They have no place to sleep. I am a resident but not a native, but I have lived there for 34 years. When I retired and left the hotel industry, I opened a hotel called Firdausi. When the Kaya Bombo came, I had gone on a tour of Garissa and all my property and money was taken away and my employees arrested, because they were told that they were Durumas and Digos. My hotel was left open and at night people would come and loot anything that they wanted. I also used to change Dollars. My cash box was taken by policemen. I had children who ran away with their mother through Mazeras and went to America, where her in-law was. On the fourth day, a big group of thugs broke into my house and took everything, including beds, cooking pots and plates. When my wife realized what had happened, she got a heart attack and for six years I was treating her. I could not even re-establish that business or any other business. She eventually died and that is when I went to look for camels, because the money that I had was not enough

to open another business. I bought two camels from Garissa at Kshs12,000 each. They were two years old. I brought them here and started life. Until today, my children are grown but they have not gone to school. They are just suffering like me. We have not been given any help. The entire group suffered the same. There is one who was cut with a panga by thugs who had been brought in by the KANU Government. They did not receive any compensation or assistance. There is one who was arrested by the policemen and his private parts were pulled. He has just lived like that until today. I have them in my group.

So, these people that I represent have very many problems.

Ms. Belinda Akello: Do you have any women in your group?

Mr. Abdikadir Abass: They are more than 200.

Ms. Belinda Akello: Do they usually record the kind of violation that they went through when you register them as members?

Mr. Abdikadir Abass: The women are now more educated and informed. But about seven or eight years ago, they were too embarrassed or shy to say what happened to them. There are many women who suffered but most of them will only talk about what happened to their children or husbands who may have died. We have a few who were affected but never came out to reveal this when we were dealing with the human rights. They did not reveal that they had been raped, yet we know that it happened. There is one lady whose daughter was beaten and raped. Even up to date, she has lost her brains. The son was beaten up by the military people and every ten minutes he faints. So, the mother cannot go out to run any business. She has to take care of the children so that they do not fall into water or fire. She has to care for them 24 hours.

Ms. Belinda Akello: Do you have any members who are below the age of 18 years?

Mr. Abdikadir Abass: At that time, but at the moment they are more than 20 years old.

Ms. Belinda Akello: Thank you very much. Presiding Chair, if you may allow, we will also take the testimony of Mr. Masumbuko, after which, we can have a joint questioning session.

The Acting Chair (Commissioner Namachanja): Please, go ahead.

Ms. Belinda Akello: Good afternoon. Kindly state your three names for the record.

Al Hajj Mohamed Masumbuko: My name is Al Haji, but in my identity card I am Mohamed Omar Masumbuko.

Ms. Belinda Akello: Where do you live?

Al Hajj Mohamed Masumbuko: At the moment I live in Mtwapa, but I used to live in Nyali before.

Ms. Belinda Akello: What do you do for a living, Mr. Masumbuko?

Al Hajj Mohamed Masumbuko: I had a clearing and forwarding firm, but my business was closed down because of the clashes.

Ms. Belinda Akello: Mr. Masumbuko, you have prepared a memorandum that you wish to present before the Commission. Could you, please, take us through the content of your memorandum?

Al Hajj Mohamed Masumbuko: Thank you very much. I will try to make it brief because it is in English.

There are some areas that I will present on. I was a victim of Kaya Bombo.

Ms. Belinda Akello: Sorry, Mr. Masumbuko. Maybe, instead of reading it word for word because you have already presented it to the Commissioners and they have a copy, you can just take us through the highlights or thematic areas of your memoranda, as you have highlighted the four of them.

By word of mouth, just highlight the four thematic areas of your presentation in brief and then, we will also admit the larger content of your memorandum.

Al Hajj Omar Masumbuko: I am a victim of the Kaya Bombo clashes. I was arrested on 23rd in 1997, two months after coming back from my pilgrimage by about 10 police officers who had AK 47 guns and pistols. I was taken to the CID headquarters in Mombasa, where I met the PCIO, who was Mr. Namai. I also met the PPO, Mr. Francis Gichuhi and the head of the special unit which had been brought to Mombasa in order to tackle the Kaya Bombo issues, Mr. Nyaseda. There were also other officers whom I was not able to recognize. I was asked where I had been the previous two days. I told them that I had gone to pick my children who had closed school in Kirinyaga, Kerugoya. They asked me to prove that I had been to Kerugoya. I gave them the address of the director of the school. I also had a receipt of the place where I had lodged. I was asked if I knew anything about the happenings in Kaya Bombo. Mr. Olando, who was the DC at that time, was a friend of mine. I was among the opinion leaders in this area and had been asked to go to Likoni to say what had happened. I went there together with the DC, Mr. Olando, PPO, PCIO and Commissioner of Police and saw what was happening.

They asked me if I had heard anything about Kaya Bombo for the previous six months. I told them that I had not heard anything or hint, since I had gone for pilgrimage in the month of April. When I came back from the pilgrimage, I did not hear anything about Kaya Bombo. They did not ask me anything. I was handcuffed and taken to Bamburi Police Station. When I reached there, the police officers who took me there asked the report office if they had cuffs for my legs and they said that they did not have them. I was put in a cell which was overcrowded until morning.

In the morning, the Criminal Investigation Officers came and got me out of the cell. I had spent the night in handcuffs. They put me in a vehicle and took me back the CID Headquarters. When I got there, I met the PCIO and PPO again, and other officers. They asked me if I knew anything with regard to 20 guns and 500 bullets. I responded that I knew nothing. The PCIO instructed someone known as Inspector Hassan and Inspector Kazar--- Mr. Nyaseda called three other officers who were told to take me. I was taken to an ancient house near the sea, which I believe is a godown. I would like the Commission to go and view the place, which is dangerous. I had my legs chained and they started torturing me. They took a car battery and connected some wires...

(The witness broke down)

The Acting Chair (Commissioner Namachanja): Sorry, Sir. Please, take your time.

Al Hajj Omar Masumbuko: They tied some wires on the battery and my feet and started shocking me with the current from the battery while, at the same time, assaulting me. I did not say anything because I knew nothing.

They drew a pistol and shot at the wall. One of them removed a sword and cut me on the face. I have a scar on my face. The scars from the electric currents are also still there. My private parts were tied with a wire and pulled. They kept hitting the wire. I was beaten up until I lost consciousness. When I came to, I had been taken back to Bamburi. The following morning, they took me again. When I got there, they told me: "We do not want to torture you. Have you remembered? We just want you to tell us the truth." I told them: "To be honest, I am a pilgrim and have taken religion seriously. There is nothing that I know."

I was taken down there by another group of soldiers ordered by Nyaseda and Mr. Namai, who was a Senior Assistant Commissioner. When I got there, I found hon. Maitha who also had his legs tied.

(The witness broke down)

The Acting Chair (Commissioner Namachanja): It is okay! You are reliving what you went through. What you are experiencing is a normal situation. We understand the pain. If you feel that you cannot continue, we can give you time. We are here until tomorrow, but if you feel that you can compose yourself and try your best to finish, and then we shall give you time.

Al Hajj Omar Masumbuko: I found Mr. Maitha who had been hung upside down. He was being assaulted and blood was oozing from his nose. There was one person who had been beaten and I later discovered that he was dead. He had a lot of wounds. He was a Digo youth.

They started hitting me again, but there was nothing I could say because I knew nothing. I told them that if they could check my documents, they showed that I had just returned from Hajj. Mr. Maitha was released but he was unconscious. We were taken to the office and then hospital. When we were taken to court by the PCIO, Mr. Namai and the Chief Magistrate was Mr. Muchelule. Mr. Muchelule refused to receive us and said: "This is all rubbish. You cannot bring me people to be committed to capital offence when they have no mistake at all."

Mr. Namai told him that it was an order from above, but he said: "You cannot use people as a scapegoat. These are respectable people that we know. You cannot say that they were involved in Kaya Bombo." Mr. Namai told Chief Inspector Kimilu: "You are the prosecutor here and we want these people jailed." Mr. Kimilu said that they could not be received because there was no reason or statement. We were taken back to the provincial headquarters. I was then taken back to Bamburi. In the morning, we were taken to court. The charges were read that I had murdered police officers and taken 20 guns, 50 bullets and burnt down the Likoni Police Station, DO's and chief's offices. The charges also indicated that I had killed upcountry people and wanted them to leave. I did not need to plead because it was a capital offence. We were taken to Shimo La Tewa where the warders were told to take us to the condemned section, which is in Block B. That was an area for people who had already received capital sentences and were waiting to be hanged. It was on the right hand side. We slept there and the following day, at about 3.00 p.m. we were blindfolded and taken outside. I believe that one of them was the OCPD of the urban police station and some senior prison warders and CID officers. One of them asked us: "Do you know where you are?" We said that we were in a prison. We were put in a vehicle and did not know where we were heading to. But I guess that the time we spent was about two or more hours. The vehicle stopped at some point, reversed and was opened. We were led up some stairs and taken to a room. The door sounded like it had a lot of padlocks. Our eyes were unfolded and we found ourselves in a cell. Very many prison officers came in and removed our clothes and dressed us in new ones. I would like to thank those prison officers who removed our clothes because they were generous. We were given bowls of soup. May God bless them if they are alive; if they are before God, may God grant them mercy.

We slept and at night, heard lions roaring and buffaloes making noise. We did not know where we were. In the morning, we asked the warders where we were. They said that they were under oath and had been told not to tell us where we were. We were fed well and taken care of by those warders. The following day, because we had bad injuries and wounds, a doctor was brought in and treated us. We could hear people's voices. It was like a prison inside another prison. There was water and about five other doors inside. On the wall, I could see names of very prominent people including Shikuku, Matiba, and Raila. We went through the treatment and called to the reception. When we got there, I saw my lawyer.

He was known as Stephen Mazayo who, at the moment, is a judge of the Industrial Court. There is a news reporter from *The Nation* and they were saying that: "We have come to see you because we have looked at all the prisons in Mombasa; Shimo La Tewa and

everywhere else like Kwale, Kilifi and you were not there. We have gone to the records of Shimo la Tewa and looked at the names of the people who are remanded there, but your names are not there. We have been to the hospitals, mortuaries and everywhere and this was the last resort so that we could go and tell your families that you cannot be found so that they could hold your funerals.” He said that it is very unfortunate to see that you are here, very far away. So, we asked him “where are we?” So, Mazayo told us that we were at Manyani, about 230 or 240 kilometers away from Mombasa. Mazayo was aggrieved by that and told us that this is torture. There are remands everywhere and you do not need to bring people very far to remand them more than 230 kilometers; it is against the law and it is against human rights. We do not know what aim you had; why did you have to bring them here? So, we told them the whole story of what had happened and he asked us: “Why were you held in the condemned section?” That is why they had checked in the books for the remand and our names were not there, and yet that day we had been held at the condemned section. Inside, we tried and we managed to get in. I have someone from the media; we had to pretend we were human rights people to get to you, but if I had told them that I was a lawyer, I would not have reached here. He told us good bye and asked us how we were. We told him that the people in Manyani had treated us well. We went back and stayed for a few days. We were taken back to Mombasa to respond to our charges. We went and found many other suspects; more than 400 who had been brought from Shimo la Tewa and I knew most of them. We were all put on one charge sheet. That included Maitha and I. There was Ali Said Chizondo and Mr. Khalfan who are all dead now. Mr. Swaleh, Mr. Chizondo and others are dead. We were taken back to Manyani and the others were taken back to Shimo la Tewa. We stayed because that is a national park and something happened at night and lions were fighting with buffaloes. The lion injured a buffalo near the prisons office and the buffalo got the lion with its horn and they fell there. Neither of them could help the other, so at night we heard this struggle. But in the morning, unfortunately, the CID Officers came in from Mombasa and one of them was Inspector Kazaa. They came to interview me and one of them told me: “It is said that you, Masumbuko, you are not a Kenyan.” I told him that I am a Kenyan. He asked where my home was and who y father was. I told them who my father was and that I came from Denyenye. They then asked me what part of Denyenye I came from and I told them Denyenye was somewhere far. I told them that I came from near the road. I told them that Denyenye Primary School was near the Mosque and they asked me whom they should ask and I told them to go and ask for Teacher Juma. They asked me who my mother was and I replied that she was a Somali. They also asked me my clan and I told them that it was Sheikh Ali Clan. So, they asked me very many questions. They asked me where I lived at then and I told them that I lived in Nyali. They asked where I lived in Nyali and I told them next to Voiija Hotel. They asked me whether the house belonged to me and I told them yes. So, I gave them all the directions. They also asked me whether I had a national identity card and I told them yes, I had the old generation and the new generation IDs. They asked me where we got those things and I told them where to get them. They told me that the people are fighting in Likoni and it was said that I used to be in Iddi Amin’s Army and that I was a colonel. So, I asked them that at that age, with my years and my education, did I do that work when I was still in my mother’s stomach because I think that to be a soldier one should be over 18 years old and one of them said that it was true. So, one of them wanted to hit me but the senior

prison warder said that it was not possible because I was now under the prison warders and they would not like policemen to torture me before them. Kadzo said that it was possible because I was still under police custody. He said that they brought me for keeping. So, they pulled us outside. I had not gone with handcuffs from the cell to the office, but they had handcuffs which they put on my hands. When they were coming in, they had noticed that there was a lion and a buffalo waiting for the KWS personnel. So, they tied me onto a tree five meters away from the wounded lion and buffalo. I was tied there for hours and they told me that if the buffalo and lion will rise, I will be their food. I did not really care much because I was tired of life and I was actually wishing that those animals would get up and “finish” me. After some time, they came and untied me and took me back.

I went back to court and they had managed to find my identification. They had gone to my house and taken my identification, birth certificate and everything else. My lawyer said that these people had come to Manyani and they asked that the identification remains in their hands for further investigation to find out whether I was a Kenyan or not. The newspapers had written a clip saying that I had been arrested.

(The witness displayed newspaper cuttings)

The other one was saying “Masumbuko has been instructed to surrender his identification documents and any other documents.”

The judge asked them how long they needed to finish the investigations to verify whether I was a Kenyan and they asked for 30 days. The judge said that was too much time, but eventually he allowed them to take the 30 days for their investigations. We kept appearing in court and once I was brought in and Maitha was released. The judge asked whether all those people were on capital offence – by that time, nobody charged with a capital offence could be allowed a bond – how would it be that one person, Maitha, had been ill and had been vomiting blood? They said that he was ill and it was an order from above. Mazayo brought papers to prove the torture and how he was hurt, and they thought that he needed to go for treatment. So, I remained alone in Manyani. When we went back the fourth or fifth time, the judge asked if they had concluded the investigations, but they said that they needed more time – an extra 14 days – to complete their investigations. I was taken back to Manyani. When we went there, they came back and said that they had proof that Masumbuko was a Kenyan; they had done sufficient investigations and my lawyer was given my identification documents, passport and everything else. The case continued and, eventually, it left Magistrate Muchelule to Aburili and then to Mary Ang’awa. In December, Mary Ang’awa dismissed the case. There were 240 of us left from about 400. I think they might have died. Nobody has come out in the open, but I am sure that many people whose children were arrested in the Kwale area never saw their children again. The numbers reduced as only 240 of us were released. But this was just a release in the newspaper. You will see it in the newspaper here. It says that Madam Judge Mary Ang’awa has released 240 people. But we were not released; we continued staying in jail although the people who read the newspapers out here saw that we had been released. At that time, the *El-Nino* rains were on and I just heard about it but I never saw it or experienced it because I was in jail. Every time we

were brought out, I would be blindfolded. The prison had presented a complaint that the road was very bad that even the buses from Nairobi would take days, and coming here to court by midday was very difficult. My lawyer insisted that, that was torture of his client to be taken to Manyani yet there is a prison here in Shimo la Tewa where he can be accommodated. When I was taken back to court, I did not get a chance to go to Shimo la Tewa; I was taken back to Manyani in the evening. I remember very well it was a vehicle belonging to the Wundanyi DO and a GSU Land Rover with armed GSU personnel and another 504 Peugeot which belonged to the CID. There was another Toyota which I know belonged to the Special Branch. There was also another vehicle belonging to the Prison. They put me in the DCs vehicle and all the vehicles were in the convoy that was escorting me up to Shimo la Tewa. On that day, I was not blindfolded when I was leaving Manyani for Shimo la Tewa. When I got to Shimo la Tewa in the evening, I was taken not to the condemned block, but Block "F" towards the left as you enter Shimo la Tewa. The officer in charge was called Mr. Mutua. I was taken into the cell and told to stay in that cell where Raila stayed for eight years. I stayed in the same cell where Raila stayed because he had written his name there. That cell was a room and there were three rooms on this side and four on the other side and then there was a toilet and a bathroom. It was surrounded by a wall and there was no one inside.

I would like to ask the Commission before they go back to Nairobi, to go to the CID Headquarters and that place. I stayed in solitary confinement and there were sentries outside. On the second day, I was given soap and allowed to shower. I had not been given a change of clothes, but I had my civilian clothing. It appeared like I was in detention and every 14 days, I would appear before court. The court changed, and so we were taken to another magistrate's court. I remember the magistrate's name was Lydia Achode. I thank God and may God bless her; she is now a High Court Judge in Nairobi. The case went on and the policemen plus civilians gave evidence and they said that vehicles went to Likoni and there was a Pajero. I had a grey Pajero, but the one which was said to have gone on that day to attack Likoni had a white top and the sides were blue. The only Pajero that was white and blue belonged to the PPO and it had police colours.

He is not a stranger to us, but we did not see him. We knew his vehicle but we did not see it. The evidence continued.

The Acting Chair (Commissioner Namachanja): From there, I would like the Leader of Evidence to guide you so that we can go faster and get all the facts right.
Thank you.

Ms. Belinda Akello: I am much obliged, Madam Acting Chairperson.

Mr. Al Hajj Omar Masumbuko: In November after the evidence had been collected, we were released. It was a very tough time for me and I could not walk because most people, my friends, were people from upcountry. My children went to school upcountry in Kirinyaga and each one of them was saying: "Here is the person that was killing us." I was advised even to leave the country, but I said that I would not do that because I did not have anyone's blood on my hands.

Ms. Belinda Akello: Maybe if you could tell us; what are your expectations from the Commission?

Mr. Al Hajj Omar Masumbuko: Madam, kindly give me another five minutes because up to now, I am still being pursued and I am not happy, and if you do not listen to me, I am ready to abandon Kenya.

The Acting Chair (Commissioner Namachanja): Then we will give you five minutes.

Mr. Al Hajj Omar Masumbuko: Thank you, Madam Acting Chairperson. After leaving, we were followed. One day I was in my house watching news on television and it was said that Mr. Mohammed Omar Masumbuko had attacked the Bamburi Police Station and left with hashish worth Kshs940 million and very many people who are here watched that. I was with my wife, who fell down. We asked ourselves; I was at home, what time did I attack the police station and take away hashish worth Kshs940 million? Fortunately, the Police Commissioner rang Bamburi Police Station and found that the hashish that had been there in the lorry was intact and safe. That was the second incident after leaving jail.

Madam Acting Chairperson, I am ready to leave this country despite the fact that I love it and I am very proud of it. But I regret to have been born in Kenya. I moved from Nyali and went to Mtwapa, which is very far. I saw the PCIO, Mr. Mate, who came with about seven or eight vehicles and not less than 20 police officers. It was on a Friday and I had just arrived from Friday prayers. They surrounded my house and as I was trying to come out, Mr. Mate, who at that time was the PCIO, Coast Province came in. It was heartbreaking. I knew that I would be finished and I was wondering what had happened. They got into my compound and told me that I was under arrest. I asked them what the problem was, and they told me that they had reliable information that I was keeping a suspect who was on the international wanted list, and that was Ernest Kabuga. I said that I had never heard of anybody called Kabuga. I know him from the media that he is being looked for and there is a bounty of several million shillings on his head. They said that they had information that I was the one hiding him. They searched my house - and, as usual, this is the 17th year, and every Friday as people leave the Mosque, they come to my house - and they have not found Kabuga. They interrogated me but I did not know the answers to their questions. It was about 4.00 p.m. when they released me and left my house. I had no other way of defending myself, telling them anything or prosecuting them; they just left.

The following year, my wife was attacked on the day there was a problem with our vehicle. She got into the vehicle when she went to work in the morning but on that day when she left, on her way, she was taken and both of her hands were cut and she was admitted to Aga Khan Hospital. It has been hard for me to live like this and my children have had to leave the country. It has reached a level that even when they want to register for their national identity cards, they do not want to use the name Masumbuko. We have stayed for a while and I got into politics and the pamphlets were circulated saying that he

is not a Kenyan; he is a thug and he was a colonel in Iddi Amin's army. I have a copy of the pamphlets here which say that I was a senior officer in Iddi Amin's army. These pamphlets destroyed me politically. I also mentioned somebody else called Mwaura Bwana Maka. Although I tried contesting in Kisauni and my IDs indicated that I was a Kenyan, I did not win. The pamphlet here says; "This person was a General or a Colonel in the Army." I am quite happy that there are generals here.

The following year, it was said that I had trained people to attack farms in Kisauni and I was summoned by the Deputy PC. He had been told by his friend that Masumbuko had formed a gang of people to attack people from upcountry so that the land can revert to some people. I was out of the country and I reported to the CID Headquarters when I came in and it was proved that I was not around and I did not have any gang. I recorded a statement but you can see here the Press reported: "Masumbuko gives himself up to the police," and that was last year. I was invited to a function to develop a school in Takaungu, which is within the constituency where I wanted to contest for a parliamentary seat. When I got there because I had the permit and the meeting was going on the Administration Police (AP) came in saying that the meeting should not take place because the chief had said that the guest of honour, Mr. Masumbuko, was a member of the Mombasa Republican Council (MRC). The meeting was disbanded and the people were forced, at gunpoint, to leave. The Chairman of the School in Takaungu went to the DC and, later, when we had been given permission to go on we found that people had already been dispersed.

In conclusion, my life is in danger and I do not know where to go. While I was in detention, my farm measuring 20 acres in Ribe was sold by the National Bank of Kenya. After being released, I tried to get them to return my title deed that I had deposited at the bank or to give me the money they raised from the land auction but the money was never remitted to my account.

I have had it rough in life and I would like to ask this Commission, as I finish, to look into my issue very carefully. If you Google the word "Masumbuko," you will find somebody called Said Yahya who has a PhD who has recorded everything with regard to Masumbuko, drugs, Kaya Bombo, being a Colonel and everything. Now, I am afraid of even going to visit my children who are studying abroad because I do not know whether if they went to Google, they will give me a visa. I live in Wari and last year in December, I was called by Sheikh Idriss, who is the Chairman of the Muslim Council in the whole of Kenya. He said that he would not miss and, so, I went to the Mosque. He told me that he had important information to share with me. I asked him what the information was and he told me that the CID Director by the name Ndegwa had come to Mombasa together with the Director of Investigations, Mr. Amin and they had said that there was a party being formed which was expected to kill and expel people from upcountry. Besides the MRC, there is another party that is being formed by Masumbuko which is very dangerous. He asked me whether I had any information with regard to him. So, Sheikh Idriss, who is the Imam of Sakina Mosque and my senior said: "As far as I know, Masumbuko is Al Hajj and is a respectable person. I do not think he could do anything of that sort." The Director

instructed Amin to carry out investigation, and that is what Sheikh Idriss told me. That was last year.

Madam Acting Chairperson, put yourself in my shoes. Consider all that has happened; Kabuga, attacking Bamburi Police Station to get hashish and the chopping of my wife's hands and everything else; how do you live in this country? I would like to ask this Commission to look into my matters and I am requesting for protection. If there is no protection, I request to be helped so that I could get any place that I could live in this country. I would like to give you this photo of when I was a child; I know you all know Mombasa. This is when I was in a market as a very young boy. I was in town and that place is very clear. I am a peace loving person and all the people that I deal with are upcountry people. Today, there are pamphlets that are being circulated in the Mtwapa area – and you know the place – saying that people from upcountry should go. I know all this will end up being blamed on me. My lawyers, Khaminwa who took over from Mazayo is from upcountry. The teachers who have taught my children are also from upcountry and most of my friends are from upcountry. When I move around, I am worried. I do not have peace. My family has no peace. Today, I cannot visit Denyenye, which was my home to greet people there. I am afraid because if I cross by ferry to come and see the elders and anything happens, it might be blamed on Masumbuko. I have abandoned my house and I would like you to go and see it which is now worth Kshs60 million for the last seven years. I have not rented it out and it has nobody, but I have moved out to go and live in Mtwapa for fear of being very close to Mombasa. I have left my farm here in Kwale. I do not visit it for fear that if I cross the ferry, anything that happens will be blamed on me.

Madam Acting Chair, I thank God and I do not know who thought of this Commission and established it. I do not know where that person came from, but I am sure that God loves Kenya and he brought down an angel. Who would have listened to my plea and who would have known that I was clean today? Even if I do not know you, Madam, I know that if I met you in Nairobi and told you that I am Masumbuko, the first image you will have is not a good Masumbuko but the destructive one, the murderer, the robber and the non-Kenyan, General Masumbuko!

I thank God that even if I die tomorrow, I know that it has come out in the open and in public, and I have the hope that the truth will prevail. We have asked the Kenya Broadcasting Corporation for a tape that went out to the whole world saying that Masumbuko had attacked the Bamburi Police Station and left with hashish worth Kshs940 million but we have not been given. I would like this Commission to ask the broadcasters to give us that tape. I would like my name to be cleared and all the media people who have spoiled my name--- How can I go to Rwanda today for business and how do I live there when everybody in Rwanda believes that I am the one who is keeping Kabuga? Even if I am allowed to get into the country, I do not think I will live there for more than 24 hours before I am killed in the hotel that I will be living. How do I go to Uganda to do business when they say that I was a body guard and a general in Iddi Amin's Army? You are a lady, you have gone to school and you are the Chairperson. How do you feel if your child is told such a thing?

May God bless you and continue protecting us.

Ms. Belinda Akello: Madam Acting Chairperson, the second witness, Mr. Masumbuko, has provided a memorandum which has been given to you. He has also provided documentary evidence – 37 pieces of documents – in addition to his memorandum and I pray that the same be admitted as part of his records.

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

Ms. Belinda Akello: Madam Acting Chairperson and other Commissioners, I have no questions for these witnesses as I had already asked questions the first witness. The second witness has been quite elaborate and, as such, I have no questions for him.

The Acting Chair (Commissioner Namachanja): Thank you. Ambassador Dinka, do you have any questions for this witness?

Commissioner Dinka: I have no major question, but I would like to thank both of them for coming and sharing their very difficult experiences with us. It is very difficult to relieve this kind of night dream and nightmare and repeat it again. We have seen you break down and it is a very difficult thing to do. But, still, you took time and you came to talk to us at your own emotional risk. Thank you very much for this. It is the story of all we heard from different regions of this country; that the system that is supposed to protect and nurture its citizens goes haywire sometimes and becomes the most difficult element to be protected from. I assure you that it is not only Kenya; it is not only you, but it is evident in a number of African countries.

So, be brave. Be courageous and move on, but do not forget. Continue your struggle so that future generations and your own children will not go through that experience again. Your struggle will promote the new Constitution and the ideas contained in that Constitution to become materialized. It is difficult for a person who has suffered to be given this kind of advice, but I know you are mature people and you will ensure that Kenya becomes a democratic place. Thank you very much.

Commissioner Farah: Mr. Abdikadir Abbas and Mohammed Omar Masumbuko, we have heard your testimonies. For you Mr. Masumbuko, your testimony is more than a book. It is a long story. However, you have come at the right place, that is, this Commission. The testimony has been recorded in the HANSARD. It is the same HANSARD that covers Parliament. We will read it over and over again and come up with proper recommendations. Thank you.

The Presiding Chair (Commissioner Namachanja): I want to thank both of you for your testimonies. I think the public now appreciates that when we talk about ethnic clashes, Kaya Bombo and so on, it means that people suffered. You have helped us understand that suffering.

Mr. Masumbuko, I would like to urge you to keep those photos, so that in the event we need them during investigations they are available. Are your parents still alive?

Mr. Al Hajj Omar Masumbuko: My mother is called Halima. She died in 1994. My father died in 1993. I have the death certificates.

The Presiding Chair (Commissioner Namachanja): May God rest their souls in peace. Do you have brothers and sisters?

Mr. Al Hajj Omar Masumbuko: Yes, I do have siblings.

The Presiding Chair (Commissioner Namachanja): We would like to have their contacts just in the event we need to contact them.

I thank you all for coming over to give us your stories. We take your recommendations very seriously. God bless you all.

Leader of Evidence, please step down our two witnesses and invite the next one.

Ms. Belinda Akello: Much obliged.

(Mr. Salim Ali Toza took the oath)

(Mr. Halifani Mwadarashi Jasso took the oath)

Madam Presiding Chair, the two witnesses are from the Digo Community and they will be highlighting land issues that have faced the community.

Good afternoon. Kindly state your three names.

Mr. Salim Ali Toza: I am Ali Salim Toza.

Ms. Belinda Akello: Where do you live?

Mr. Salim Ali Toza: I live at Koyo.

Ms. Belinda Akello: What do you do for a living?

Mr. Salim Ali Toza: I am self-employed.

Ms. Belinda Akello: Kindly take us through the issues that you have highlighted in your statement to the Commission.

Mr. Salim Ali Toza: I will talk about Tiwi Trust Land. In 1936 after the 1st World War, the British Government rewarded those who went to fight at Tiwi. They were given two acres each. The remaining land was Tiwi and Diani Trust Land. It was not demarcated.

After Kenya got Independence, in 1972, President Kenyatta unlawfully took 250 acres of land in the beach. He gave them to his people. Whatever remained, we were told would be a scheme. He took beach one and gave it to his relatives. He said that the locals should be given Kshs600 per acre. Such an acre goes for Kshs15 million now. Our land was taken away unlawfully. People resisted. My father was amongst them. He refused to take the money. He was told that whether he took the money or not, the land had gone to the Government. The Government was dictatorial.

When President Moi came to power, he was not happy with that alienation of land. So, he ordered that the land revert to the real owners, that is, the locals. That was in 1979. That did not materialize because the leaders of Coast Province went to President Moi and told him that they were not willing to return the land to the locals. Moi told them that it should be on a willing buyer willing seller basis. They came back and told us that the owners of the land would be given Kshs20, 000 per acre. There are those who took the money, but my father and others refused to take it.

I worked for Diamond Trust for 20 years. I knew the worth of our land. I used to earn Kshs15, 000, but an Indian would bring a title deed and he would be given Kshs430 million for ten acres of land. My colleagues were gaining, but I was not. In 1988 in one of the national holidays, Moi came to Kwale. I went to the beach and found an Indian and an African. I asked the Indian what he was writing. He told me that he was a private surveyor from Mombasa. The other gentleman, Kuria Kanyingi, asked me if the plot was mine. I told him it was my plot and I even showed him the coconut trees I had planted. I told them that I did not want to see them there. I told them that my uncle's land had been taken by a Mr. Mwendwa, the manager of Leopard Beach Hotel in a similar manner. They went away.

In 1992, I wanted to take a loan. My employers asked me to give them the title deed. When I did a search, it revealed that our land of 20 acres had been taken by Kuria Kanyingi, a friend of Moi. He had been given 14 acres by Moi. He was given plot number 14897 which is adjacent to Sheshe Beach Hotel. He demarcated two acres and Joseph Leting was given No.13438. Two other acres, No.13439, were given to Mark Too. Some other two acres were given to a European called Guy Barrington Bromnel that is No.13440. I could not take a loan then. My nephew, Mohammed Salim Mwavende, who was Juma Boy's friend, told me that he had talked to Juma Boy, who was ready to talk to the President, so that we got back our plots. I went with him. He is here today. We were accompanied by our uncle, Omar Mwajonjo. Moi's son took a plot whose number is 13441. It is undeveloped to date. Ten acres are with Travellers Beach Hotel. I was ready to die for the plot 13441. It was my dad's plot.

We went to the President to request the reinstatement of the plot to the owner. That we did on 25th March, 1992. It was during Ramadhan. I had gathered all the maps. We recorded a memorandum. Juma Boy and Mwamzandi went to the President for the approval of the reinstatement of the plots. This was done in 1992. There is no office I have not stepped in. The only Commission I did not appear before was the Ndung'u Commission.

Ms. Belinda Akello: Are the documents you have mentioned with you?

Mr. Salim Ali Toza: I have titles deeds of the parcels of land which Joseph Leting and Barrington had taken. Mark Too's parcel of land had not been registered. It remains unregistered to date.

Ms. Belinda Akello: Presiding Chair, we pray that the documents as presented by the witness be admitted. They are 11 documents.

The Presiding Chair (Commissioner Namachanja): They are admitted.

Ms. Belinda Akello: What recommendations would you ask of the Commission?

Mr. Salim Ali Toza: I would like this Commission to understand that even though we have a new Constitution, the situation remains the same. In 2005 I was attacked by 16 policemen in my home. I escaped and went to live outside Kenya for two-and-a-half months. I left my child, who had been hurt behind. I did not have even a single cent. I later decided to come back home and die. I filed a case with the lands tribunal over the plot Mr. Kuria Kanyingi had taken. He was summoned to court but he never appeared. It was decided that I be given the plot. We went to do a search at the Ministry of Lands, but we were told that was a subordinate court and it could not nullify the title deed. We were told to go to the High Court. I had to hire an advocate in Nairobi. It was trust land and I wanted to be given a freehold, but Kanyingi said that I had forged my documents. The matter is still in court today. I have the freehold title deed in my possession.

Ms. Belinda Akello: Any other recommendation about land and the whole of Diani Complex?

Mr. Salim Ali Toza: First of all, the Diani Complex is precious land. I have worked in a bank and I know its worth. We have missed a lot. Had we sold it, we would have benefited a lot. We want this land to be reverted to its original state and returned to its original owners.

Ms. Belinda Akello: Thank you. We will now take Mr. Jasso's statement.

Mr. Halfani Mwadarashi Jasso: My names are Halfani Mwadarashi Jasso. I live in Diani, Mwakamba Gombata Sub-location. I am a retired teacher. I am the secretary of Gombata Secondary School. I am also the Chairman of a social group that has sent me here.

Ms. Belinda Akello: Could you highlight issues that you feel Mr. Salim Ali Toza missed out?

Mr. Halfani Mwadarashi Jasso: Diani Location has a lot of problems. Diani was community land from 1914. We cannot make trust land a settlement scheme or personal land. Moi heard us and helped us. There was a meeting and its minutes are also available;

they show that former President Moi had said that the complex should revert to the people.

I had been told by my friend, the late Mr. Nyakiamo, that there had been a meeting at the PC's office between the private buyers and the Government. This was not fair. Moi was not for it. We eventually went to court. The matter was handled by Mr. Marende, the current Speaker. People had protested that land had not been demarcated. We are demanding our land back

Ms. Belinda Akello: You have given us title deeds, the lease and some newspapers, letters from your advocate, an allotment letter, and some receipts. Do you confirm that you are the one who gave us these documents?

Mr. Halfani Mwadarashi Jasso: Yes. Again, the plot I was fighting for has been walled. This is oppression of the highest order. My father's plot was taken. It was said that it belonged to Mr. Kirubi.

Ms. Belinda Akello: Presiding Chair we pray that the documents be admitted as part of the records of this Commission.

The Presiding Chair (Commissioner Namachanja): They are admitted. Thank you both of you. Your cases are clear. You have furnished us with all the documents and evidence that we need for our investigation. We want to assure you that we shall do our best to investigate the matters concerning the land that you feel was grabbed from the community. We have taken your recommendations seriously. Thank you.

Ms. Belinda Akello: Presiding Chair we want to admit a memorandum from the Kwale County elders. They are in this room.

(The elders stood up in their places)

We pray that you admit the memorandum as part of the record of this Commission.

The Presiding Chair (Commissioner Namachanja): It is admitted. We will now break for lunch and come back at 3.30 p.m.

The Commission adjourned the session at 2.10 p.m.

(The Commission resumed)

The Acting Chair (Commissioner Namachanja): Good afternoon and welcome back to this afternoon's hearings. Please, be seated so that we continue. Thank you.

Ms. Belinda Akello: Presiding Chair, Witnesses Number 7 and 8 are on the list.

(Mr. Joshua Nicholas Mtawa took the oath)

(Mr. Mzungu CN John took the oath)

Ms. Belinda Akello: I welcome you to today's session and thank you for finding time to be with us. Kindly state your names for the record?

Mr. Joshua Nicholas Mtawa: My names are Joshua Nicholas Mtawa and I live in Msambweni.

Ms. Belinda Akello: What do you do for a living?

Mr. Joshua Nicholas Mtawa: I work as a teacher for the disabled.

Ms. Belinda Akello: And when you say that you help those who are handicapped, what kind of handicapped people are you referring to?

Mr. Joshua Nicholas Mtawa: I am talking about people who are mentally challenged, but at the moment there are others who may be visually impaired or physically disabled.

Ms. Belinda Akello: How long have you been a teacher with the mentally challenged persons?

Mr. Joshua Nicholas Mtawa: To be honest, all my working life. I started in 1985 in Kwale Special School, where I taught for five years and now I am at Milalani Special Unit for the Mentally Handicapped. I have been there for 22 years.

Ms. Belinda Akello: What is the population of the school at Milalani?

Mr. Joshua Nicholas Mtawa: At the moment, we have 41 students, 24 male and 17 are female. Among them are 25 students who are boarders.

Ms. Belinda Akello: Thank you very much. Having worked for 25 years in that school, what would you say are the main challenges that you have seen that face the students at the school?

Mr. Joshua Nicholas Mtawa: The first challenge is that when I was transferred to Milalani to start the school, I found it strange because there were names which the children were called and which I was also called but I had to persevere and try to sensitise the people and eventually they accepted me as a teacher. The first thing was that I was called the teacher of the mad people and the students were called mad people as well, but I did not react. I had to study how the people were like so that later I could take my time to sensitise them. So, after some time, I sensitized them and they got used to me and most of the derogatory terms went but the derogatory terms had already eroded the confidence of the community in the school. So, I had to sensitise the community to the fact that these were children who had rights like others, and they needed to have their

interests catered for. I went there on 26th June 1989 which was my birthday. It was on my birthday that I went to Msambweni to help the disabled children. I was very glad and I found seven children whom I started with; unfortunately these children were day scholars, which was saddening. I tried talking to the head teacher. We got some aid from DANIDA who built a classroom for them in the school compound. The sensitization of the parents had started and I started receiving more students.

Ms. Belinda Akello: What are the other challenges that you have faced or the students face?

Mr. Joshua Nicholas Mtawa: Honestly, the challenges are very many. For instance, as you know disabled children require a lot of equipment since they are not like the normal children. For instance they need equipment for teaching and for mobility. So, they need mobility aids, for instance, wheelchairs. The visually impaired require lenses to enable them to see. These are some of the challenges I have come across and I still encounter.

Ms. Belinda Akello: But you said that you already have these facilities?

Mr. Joshua Nicholas Mtawa: This equipment that we already have is very limited. When we go to the homes of the day scholars we find that they need boarding facilities, but we do not have sufficient facilities and also facilities for personal use are not enough. So, it is my recommendation that the Government comes to the aid of these children. Yes, they give them some money but it is not enough. The other thing is that as far as equipment is concerned, they need a book called a yellow book. These are some of the challenges that we have in the unit. We have gone to so many forums and we have seen that the problems that we have in the unit are all over Kenya. So, it would be good if the money is directly issued to the units, so that they have autonomous management; they can use this money according to how they deem fit. We get money from the main school and not directly to the unit.

Ms. Belinda Akello: Mr. Joshua, are you saying that the funding of the unit of mentally challenged is from the school's funding?

Mr. Joshua Nicholas Mtawa: It is not the school funding as such, but when the Ministry of Education gives the money, it does not sent it directly to the account of the special unit. It goes to the account of the main school.

Ms. Belinda Akello: How many teachers do you have in your unit?

Mr. Joshua Nicholas Mtawa: We are three.

Ms. Belinda Akello: What recommendations do you have?

Mr. Joshua Nicholas Mtawa: First of all, I would like to thank the TJRC because if you did not come here, this information would not have reached the public. So, I would like to urge this commission to implement the recommendations. Msambweni District is in

Kwale County but it does not have any institution for assessing children. Children are sent elsewhere and maybe they come from Lunga Lunga or Kikoneni. Kikoneni is very far from here and the economy is bad; the fare is high for coming all the way this way and back. So if we have an assessment centre in Msambweni, operated by the Ministry of Education, that will help. Secondly, we do not have fully fledged schools but we have units. Out of the three units that are existing, one of them should be a fully fledged school; I would also recommend that very many seminars be undertaken so that we can educate the parents about these children. In some cases some parents do not expose their disabled children due to stigmatization. If there are seminars especially through the chief's *barazas*, it can be very easy to get these children join the units.

Another thing is that our Government should help to develop the infrastructure in these special schools. These children are ours to be honest and they have their rights just like any other child in the world. The other recommendation is that the Government should build special ramps for the disabled children to use. It will benefit them and they will reach wherever they want to go. There are those who cannot see properly. So, if the Government builds special areas for them to walk on, this would facilitate their movement wherever they want to go. Organisations should come in and assist. I would urge that our employer, the Teachers Service Commission (TSC), give us allowances on top of the ten per cent of the basic salary that we get. However, if you look at the actual amount of work that we do, if it was not a calling from God, we would not take that small allowance. Today, you see me in a Kaunda suit but tomorrow in class I will be wearing an apron in order to assist the children go to the ablution, or help them after they have vomited. So, I have to use another type of cloth to help a child. So, I would like to urge the TSC to add us maybe 30 per cent of what they give us. I would also like to urge the Ministry of Education to try and have these schools in every district, so that these children do not go far. Kwale County should consider constructing such schools in every district. There should be a school for the MH and the HI.

Ms. Belinda Akello: What do the initials that you have mentioned stand for so that we can all understand it?

Mr. Joshua Nicholas Mtawa: MH means mentally handicapped. We are trying to use terms that are friendly. At some point we used to use terms like mentally retarded but the word "retarded" is derogatory. "HI" means Hearing Impairment. They used to be called the deaf and dumb, but these are harsh terms. "VI" stands for visually Impaired. Lastly we have PH and PI. This refers to the physically handicapped.

My other recommendation is that since I have been in the area from the grassroots to the top, we should have an officer in charge of special education, at the ward, district and provincial levels. I am informed that they have been stopped. I am sure if you are MH, you are told to go to a certain officer who understands you better. When you talk to them and tell them that you are from an HI school, they ask you what HI means. However, a special officer will know and understand you once you explain it to them. I would recommend that doctors and paramedics in the Ministry of Health should be posted to every school so that at any time when there is a problem they can come in and help the

children. This is because these children have problems every minute since they are sick and you have to take them to hospital. We only give first aid and refer cases to hospitals.

Last but not least, if we continue being charged, then we will suffer even more. I would like to urge the Government to waive all charges for special needs education and in particular for children with mental disabilities. So, these are recommendations but there is one which is important. We people with disabilities have problems. I would like to urge the DIDs and SMCs to employ these disabled people as watchmen or grounds men; we have people with disabilities who have come from those schools. This is so that they can get jobs which can make them independent. I remember one incident where I had to spend a night outside because a mentally challenged watchman had been instructed by my uncle not to allow me enter the home. So, I spent the night outside. He was guarding me but I was outside. The Ministry of Gender and Sports should help us with equipment because in April will have sports; most of these children do not have sports equipment. I believe my counterpart will talk about that.

So, I would like to say that the Ministry of Education will help the disabled. They should engage in sports like the others. Each term should have its games so that the children are not overworked. This is because we are given only four days to go through all the sports like football and athletics. I would like to urge the Ministry of Education to have a split of the games. Thank you.

Ms. Belinda Akello: Thank you very much.

Mr. Mzungu, for the record, kindly state your three names?

Mr. Mzungu John: My names are Mzungu John Nzovu.

Ms. Belinda Akello: Where do you live?

Mr. Mzungu John: I live here in Kwale.

Mr. Belinda Akello: What do you do for a living?

Mr. Mzungu John: I am a teacher in a school for the hearing impaired and there is also a unit for those who cannot see.

Ms. Belinda Akello: In accordance with the presentation that you made to the TJRC, kindly highlight the issues that you put in your statement?

Mr. Mzungu John: First of all, I would like to let you know that the school started as a special unit in 1968. It was called Kwale Primary School. Later that unit continued getting children who were hearing impaired. In 1990, it became a big school, and so we had to go to an independent compound; we have been there until now. In order to assist the children before they are registered in this school, we were made to take them to a school in Rift Valley, in Kabarnet. They could not survive their because of the climate.

So, in 1995 we had to start a school for the visually impaired. It was a difficult but we had to get them a section where they could also learn because every child has a right to education. Right now, we have 89 children. This is as at last Friday and we still have many enrolling. When I passed by the office today, there were some who were waiting to enroll. They are divided in the following areas. We have those who are visually and hearing impaired. We have six boys and two girls. We have the mainstream children who are deaf. We have 28 boys and five girls. We have 46 boys and 28 girls. We have started a vocational school for those who complete Class Eight, so that those who do not succeed in joining secondary school can learn there and we teach them skills. The education there is just like anywhere else, and it follows the 8-4-4 system. Due to the problems of the hearing impairment, which blocks communication, our children find it very difficult to pass their examinations. Most people usually think that there is a special examination for them, but that is not true. The examination is exactly the same on that is given to the other children. This is a big challenge for us.

The other problem is that of parents hiding their disabled children because they do not accept their condition and it takes very long to convince a parent to bring such children to this school. So, some of them come in for the first time when they are about 15 years old, and they have to pass through our system of nursery school and so on. You find a 15-year old in nursery school child together with a six-year old but we are forced to admit them instead of denying them admission because when a parent brings the child, you have to assist them. We take them to a place where they can cope. Besides the help we are getting from the Government in the form of teachers salaries, payment for other staff and purchase of books, since it is a boarding school, we are forced to charge the parents Kshs8, 250 per child; if you work it out, it comes to Kshs30 per day. It is very little. Some disabled children are considered second class human beings since some parents pay for the able children and not for the disabled. So, that is a problem. We find children being brought in but who do not pay fees and it takes even a month before a child resumes school. The biggest weakness that we have seen is the one of paying boarding fees. More than 75 per cent of the children cannot even pay half of the fees that we charge. That means that we seem to be begging and if we get a donor or a friend, we tell them our problems so that those who understand may decide to adopt those children in terms of paying their school fees. We have organizations in Kwale that sponsor others and pay their school fees. There is a big challenge here. The children are not brought in early and by the time they are brought in, they have wasted a lot of time which is hard to recover. So, we have a problem with some of these children who are brought in and when they are brought there, they become a burden to the teacher; the parents just drop them and go. Sometimes you tell the parents of the closing day but they even wait for a whole week before they come and collect their children. So, that is one thing which is saddening but we continue explaining to them and sensitising them that disability is not a disease, and that we should help the child.

There was a recent case in Kinango where we had stayed for two years with a child because her parents brought her and never came back. We stayed with the girl, who could not see or hear for the whole of last year. We did not know what to do. But the child had to leave so that another child could come in her place. It cost us a lot. We had to involve

the DC of Kinango, the children's officer and the Social Services Department to go and tell her parents to come and pick her and look after her like all the other children. We have to make arraignments to go and check on the welfare of the child. It is very difficult, but as my colleague said, this is not a job but a calling. If you do not have the calling in your heart, you cannot do it.

Concerning the soap that the parents are supposed to buy, they do not buy it at all. Our biggest problem is communication. The parents also have a problem with the children. They bring them and say that they are rude. However, if you look at it keenly, you realize that they simply failed to communicate with each other. It is not that the parents are bad or the child is bad, but because of the disagreement, it looks like a quarrel which in turn is brought to us in the school so that we can solve; in the villages there are no people who can communicate so that the child and parents can make up. You find that the parents come here very angry at the child and you find that there is no reason for that. When it comes to the time of getting identification cards and other certificates, there is a big challenge because most of the time we require the intervention of our teacher to go to the officers who issue birth certificates or national identity cards to interpret what is said. We have a similar case in court. For instance, at times our school has to give permission to a teacher for a whole day in order to go and interpret for people with hearing problems. In the villages, when the children go home they have communication problems. You find that they are left on their own because they cannot follow the others. When the other children laugh, they think that they are being laughed at. So, such children become withdrawn and live miserable lives. Even if the child has friends, it is very hard to have a meaningful friendship because there is no communication.

We also have stigmatization since most of them cannot hear. They are people like you and I, but because of their condition, they are called things like mad or sick people. These are words that they do not like and nobody wants to be called mad when they are not mad. This goes on up to the time when they get married. At one time people thought that they could not marry, but they marry. In the family, they are not told their exact age. There was a case where one was found on the beach. He had gone to visit his friends but when the police officer shouted at him to stop, he could not hear. The police officer did not think that he was deaf. So, by the time the policeman realized that he was deaf; the damage had already been done. We ask the Government to continue giving us grants to support the boarding facilities in the schools, so that we stop charging boarding fees. The schools do not have very many children. I have about 100 children and a budget of about Kshs4, 000 per child. So, the Government should think of completely taking over the boarding costs for all these children in our school. They should give the money for Free Primary Education (FPE) by looking at the budget. If you look at the FPE funds, in terms of electricity, I spend about Kshs12, 000 but if you look at the portion I am being given per child, it is about Kshs11 and I have 100 children. So, that is about Kshs1, 100. That is money for paying for one month and I have to pay water, electricity and telephone bills. So, when I get that, I only pay my electricity bill for one month and then the rest of the time, I have to push the parents to pay the boarding fees, so that I can use it to pay the bills. So, could the Government look into this?

The biggest problem is communication. I cannot do without electricity. I turn off the lights at 5.00 p.m. and all the children go to sleep. So, they survive without electricity. So, I would like the Government to look into this and see how our budget can be run in our schools. If you look at the public institutions as well, we should have officers who can communicate with the children when they are looking for identity cards. For example, whenever they have a problem at the courts, I have to release one of my teachers. When a teacher comes to court to do interpretation, the children will not be taught. So, it is important for the court to have its own interpreter, and then my teacher can concentrate on his own work. On sensitization, I would like this commission to also make sure that the sensitization is done and it reaches everybody, because if you tell someone that you have a child who is mentally impaired, they do not understand. They think that if you tell them that he is deaf, they think he is blind. If you tell him that he is mentally challenged, they think that he is physically disabled. So, there should be sensitization, so that we can know who they are and what their problems or challenges are; how we can tackle them to be able to communicate with them.

So, I would also like to recommend that in institutions like primary, secondary schools and higher learning institutions, sign language should be one of the subjects offered, so that when children leave the place, the communication process is easier. This is because it is not surprising that in Kwale apart from the teachers, no one else uses sign language, and this is a big handicap in the whole society. Also when they are looking for work after having studied certain courses, it becomes very hard for them to get employment because they cannot hear or see. It is not that they are unable to work. The percentage of the employment of the people who have disabilities should be increased, so that they can access employment and live like any other normal person. Thank you.

Ms. Belinda Akello: Thank you very much, Mr. Mzungu. Presiding Chair, there is no question from the Leader of Evidence, unless you have any question.

Commissioner Farah: I have no question for Joshua. It is just that we are going through your recommendations. In every county we have gone to, we have got presentations of people living with disabilities, but in this particular case, you have added more of people who are mentally challenged. So, we thank you very much for that.

The Acting Chair (Commissioner Namachanja): Mr. Joshua and Mr. Mzungu, thank you so much for highlighting the problems facing children living with disabilities. My first question for each of you is. Are the schools you are talking about primary schools? If they are primary schools, are there secondary schools which the kids could join? If there are secondary schools, are there primary schools where you get children with disabilities from, whom you are taking care of?

Mr. Joshua Nicholas Mtawa: In my case, for the mentally challenged, we have three groups or categories. First we have those who are mild, middle and the profound. Those who are bit better can go up to Standard Eight or secondary school, but the problem is that even if he comes from there, getting employment is a problem; also as my colleague has said, getting an identity card is hard. When one is found to be mentally challenged, he

or she is told that it is not a must they get that card. We get such cases and I intervene until they get the identity cards. That is why I am saying that if it will be possible, there should be special workers, especially in such schools. Thank you.

Mr. Mzungu John: As regards my school, we have two units; one for the nursery school and the other for Standard One to Standard Eight. Last year we tried to start vocational training centers for those who are not lucky enough to continue with secondary education. The nearest secondary school is at Kibarani in Kilifi. So, we take those who have passed KCPE there.

The Acting Chair (Commissioner Namachanja): Thank you so much for your recommendations... Thank you very much. I agree that yours was a calling. It was more than a profession. Thank you for taking care of these very special children. God bless you all.

Ms. Belinda Akello: Presiding Chair, the next ones are witnesses no. 9 and 11.

The Acting Chair (Commissioner Namachanja): Just a moment, Leader of Evidence. Please, approach the Chair.

(Mr. Kasim Abdallah took the oath)

Ms. Belinda Akello: Thank you very much for coming today. Kindly, state your three names for the record.

Mr. Kasim Abdallah: My name is Kasim Abdallah Maviema.

Ms. Belinda Akello: Where do you live?

Mr. Kasim Abdallah: I live in Ngomeni.

Ms. Belinda Akello: Do you remember recording a statement with the TJRC?

Mr. Kasim Abdallah: I have recorded more than ten times but I do not see anything.

Ms. Belinda Akello: While having recorded a statement with the Commission, kindly take us through the statement you recorded about what happened to you and also, to your son.

Mr. Kasim Abdallah: I will briefly explain the tribulations I went through. I would like to tell you a brief history of my life. I was working for the Mombasa Municipality having been employed in 1964. I retired in 1995 and after retiring, I started my life at home. I took all the savings and bought a canter for my son and told him that I have finished my work and he should go on with his. In 1998, we went through tribulations that I have never seen since I was born. I have feared the Government ever since I was a young boy. I was brought up by my father who was a colonial chief and I learnt to respect the

Government. In 1998, at about 1.00 a.m., I heard a knock at the door and on asking who it was, I was told that they were policemen. I told them that it was late but they told me to open or they will break the door. I opened the door and I saw three vehicles outside. I was told to go back inside and change my pajamas because they were leaving with me. I changed my clothes and they ransacked the house. They went round the compound. My house has seven rooms; the sitting room, my bedroom, my child's bedroom, the driver's room and the rest are empty. They went to the other room and they found the young man and they took him. It had rained that night and we were taken outside and forced to lie in the water while they remained inside with my wife and they continued ransacking the house. They stayed from 1.00 a.m. to 3.00 a.m. We were then bundled into my car and went to Diani Police Station. When we got to Diani Police Station, I was asked to get out of the vehicle. However, when my son tried to also get out, he was told to stay in the vehicle. I was locked up and they left with my son. I have never known where they took him until today.

I stayed at Diani for a whole month and then, I was moved to Msambweni. I remember that there was a Somali inspector in Msambweni who was called Galgalo. I was assaulted and asked where the guns were and how many people were in my team and where I lived in Kaya Bombo. I told them that I did not live in Kaya Bombo and that I did not even know where Kaya Bombo was. I told them that I was picked from my house and asked them if they had any evidence in my house linking me to Kaya Bombo. They said that I will reveal all that I knew but I told them that I knew nothing. I was beaten like never before and then, I was moved again to Diani Police Station. Every night, I would be blindfolded and taken outside. I would then be put in a vehicle and I never knew where they took me. Only God knows the beatings I received whenever they took me. I was burnt with fire in order to confess where the guns were. My leg was broken and up to now, I am lame.

The Acting Chair (Commissioner Namachanja): I will request the male Commissioners and our camera person to go and capture the disability that the old man received from that torture.

Mr. Kasim Abdallah: Thank you very much.

(The witness went to a private room to show the commissioners the injuries on his legs)

The Acting Chair (Commissioner Namachanja): Commissioner Dinka, please, report to the public what they have observed.

Commissioner Dinka: There is a big scar which, according to him, was made by a butt of a rifle on his left leg above the ankle; between the ankle and the knee. We saw big parts that were burnt with pieces of iron on the left side of his chest. There is a cut on his left arm and another burn at the tip of his private part and there is a scar. That is what we have seen.

The Acting Chair (Commissioner Namachanja): Thank you. Mzee, we are sorry. May the leader of evidence continue with the testimony?

Ms. Belinda Akello: Mr. Kasim, you had reached the point where you had been taken back from Msambweni to Diani. Would you wish to continue from there?

Mr. Kasim Abdallah: When I went back to Diani from Msambweni, I stayed there for a while though I do not remember for how long. One morning, I saw a strange thing because every morning, I would be surrounded by about eight policemen and put in a car but on that day I was taken into a car with only a driver and an inspector. I was alone at the back and I was not handcuffed. The inspector told me that they would have released me there but they could not because they had to take me to court and it is the judge who would release me and so, they were taking me to Kwale. They took me to Kwale and the judge told me that investigations have been concluded and I had not been found guilty. He told me that if ever I was taken back with a similar charge, he would combine the two cases to determine the sentence. He told me that I was not supposed to stay with anybody for one year and if I wanted to go to town, I would have to report to the chief. So, I went back home. On reaching home, I asked my wife where Mohammed was. She told me that since I left with him, he had never come back. That compelled me to go back to the police to look for my son. I went to Diani and I was told to go away and whenever I went, I would be told to go away. I went to the mortuary and looked at all the dead bodies but I did not find him.

Eventually, I went back to Diani and I was told that if I went back there again, they will prosecute me. I never went back there because of what I went through. I went home and told my wife that we should be grateful because this was bigger than any of us. One night, at about 10 p.m., two vehicles pulled up at my home and I was told that I wanted to bring back Kaya Bombo. They ransacked my house again to their fulfillment and then they took me to Diani. In Diani, I was assaulted and beaten again while I was being interrogated. They told me that I wanted to bring back Kaya Bombo. I told them that they knew the people of Kaya Bombo. So, why were they targeting the poor people? Every time I told them that, they would beat me. I prayed to God and told them that to take the gun and hit me with it twelve times so that I would die because I did not know what they were asking me. They said that I was being rude and they worked on me until I collapsed. In the morning, they took me back to Kwale where I was given two bonds, one for Kshs50,000 and another one for Kshs60,000. The judge asked me why they liked picking on me and then he told me to go home. So, I went home. When I got home, I asked my wife if they did anything when they remained behind. My wife did not say anything but she was crying. But she eventually explained that they took a small safe which had two gold chains, two rings and four bangles that were given to my late father by the DC. They also took a torch, a radio and eight batteries that I was given when I was retiring from the Municipal Council and a wrist watch that was sold to me by a seaman for Kshs5,000. They left me completely destitute. I was forced to sell the lorry in order to pay for my medical treatment. I have not seen my lost son. I sold the lorry for Kshs200,000. These are the documents for my vehicle and I had to treat myself and I have not completely recovered and only God knows what is left of me.

Ms. Belinda Akello: Presiding Chair, the witness had given copies of two pictures; one of the son, and one of the lorry, a letter of retirement, sale agreement and three vehicle inspection reports. We pray that the same be admitted as part of his record.

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

Ms. Belinda Akello: I have one question. Before the first arrest, were you ever involved in politics or were you an activist in any way? What reason would they have of, first, arresting you and then thinking that you can also be responsible of reviving the Kaya Bombo militia years later?

Mr. Kasim Abdalla: I have never belonged to any party since I was born. My party is myself and my wife at home. Before that, my party was the Mombasa council and after I had worked for 35 years, I went home to do work on my land. I was a plumber at the Municipal Council and at home, I used to repair broken pipes and make some money. My son used to carry people's luggage to Kongowea market every evening. He used to come home in the evening and we would calculate what he made. I do not even know what they took from my son's room but he used to keep some money for quick repairs and he took the rest to the bank.

Ms. Belinda Akello: With your permission Chair, we can have Binti Mohammed Bodze also give her testimony.

(Ms. Binti Mohammed Bodze took the oath)

Ms. Belinda Akello: Thank you very much. Please, state your full names.

Ms. Binti Mohammed: My name is Binti Mohammed Bodze.

Ms. Belinda Akello: Where do you live and what do you do for a living?

Ms. Binti Mohammed: I live in Ngombeni and I have no work. I go to the forest to look for firewood.

Ms. Belinda Akello: You do recall that you recorded a statement with the Commission with regard to what happened to your husband. Please, take the Commission through what happened to your husband.

Ms. Binti Mohammed: I was at home and my husband was working in a hotel when a child came home running and told me that my husband had been beaten. I asked him who had beaten him and he told me that he had been beaten with a gun and he had fallen in the bush. I was shocked and I fell on my child who was suckling. So, my elder child took their father to hospital in Makayani. They were told that there was no electricity at the hospital. So, they came back with the father and took him to the grandfather's home. They then went to Likoni to look for a vehicle to take their father to hospital. They took

him to hospital and stayed there up to 11.00 p.m. When the child came back, I asked her how her father was doing and she told me that he was okay and that he will come back home tomorrow. I asked her why I had a premonition that everything was not okay but they told me to just eat. I told them that I could not eat and that I will sleep on an empty stomach. I slept and at around 5.00 a.m., there was a knock on the door and someone was shouting at me to come out. I told him that I was not coming out because there was a lot of violence out there and I told him to talk while he was outside. The person told me that he could not harm me because he had just come from the hospital where my husband was admitted and that he had a message from there. I asked him who he was and he said that his name was Charo. So, I came out, he greeted me and he said that he was sorry that my husband had died at 3.00 a.m. He told me that he could not come at 3.00 a.m. because he thought it was late at night. He left and I did not even eat. All I did was to cry because all my children depend on me for food, school fees and medical needs, and I had to go and look for firewood.

One of my children dropped out of school in Class Four, one in Class Six and another one in Class Seven. Only one child told me that he would complete his studies and that one day, God will bless us. I told him that if he wanted to do that, then he has to go to school. Sometimes, he does not have books and when I sell firewood, I give him the money I make so that he can go to school. He passed his exams and went to secondary school. He continued up to Form II and then dropped out of school because of lack of school fees. I had no clothes. We barely had a place to live. I had nothing to help me and I do not know where I am coming from or where I am heading to.

Ms. Belinda Akello: Do you remember the year your husband was killed?

Ms. Binti Mohammed: I do not know because I am illiterate and I never went to school.

Ms. Belinda Akello: Did this incident take place during any clashes?

Ms. Binti Mohammed: I heard that there were conflicts but I did not know what kind of conflicts they were. I did not know what the cause was and if there was a problem, my husband could not have gone to his hotel. He was shot in his hotel. After he was shot, there was Kshs30, 000 in the house. So, I took Kshs3, 000 and used it to take him to hospital. My children are crying and they do not have food. We have slept for the past three days without food. I struggle to provide for my children.

Ms. Belinda Akello: Did you ever report the incident to the police?

Ms. Binti Mohammed: I never reported to the police. I just left it to God.

Ms. Belinda Akello: Presiding Chair that is all I had for both witnesses.

The Acting Chair (Commissioner Namachanja): Major General, do you have any question to the witnesses?

Commissioner Farah: Mr. Abdalla, we have heard your story and we have seen your injuries. Binti Mohammed, we have heard your story. It is all very clear and I have no question.

Commissioner Dinka: Mr. Kasim Abdalla and Binti Mohammed, thank you very much for coming and sharing the story of your suffering with us. The disappearance of Mr. Kasim's son is something that is going to create problems for his family for a long time to come and as Commissioner Farah has just said, we have seen with our own eyes what had happened to Mr. Abdalla. For you, Binti Mohammed, to lose you husband at that young age and raise ten children on your own is a very difficult thing to do but you have successfully done it. You may not have been able to send them far in school but at least you have tried.

Ms. Binti Mohammed: I have tried but it is through a lot of suffering.

Commissioner Dinka: Your suffering and pain is visible and we empathize with you. We have taken good note of your statement and we have taken a very good look at the memorandum that you have both presented and the Commission will do its duty. It will do its proper finding and appropriate recommendations in its report and I hope that the Almighty will continue sustaining you all. Thank you very much.

The Acting Chair (Commissioner Namachanja): Sometimes when we are conducting these hearings, you will wish that politicians also attend. When Binti was asked if she knew what was happening, the context, she is even not sure of what was happening. All she knew was that there were clashes, but she said she did not why they were happening. This is the situation all over that the common mwananchi is facing.

I come from the slopes of Mt. Elgon. We have equally been going through clashes each time we go for elections. I am sure the situation is the same today. People like Binti and Mzee Kasim do not deserve to suffer. Even the war that is fought during the election, you can call them land clashes or political conflicts. They are not the war of the common mwananchi, but wars for politicians. Unfortunately, once we go through elections, they go back there and they do not care what happens to us. They do not care whether we lost our dear ones in the process; they do not care if our children disappeared in the process. They are in their comfort zone. I think we have learnt enough lessons. When the elephants fight, it is the grass that suffers. My prayer is that as we go into our next elections that this situation will not happen again. As common people, we will not accept to be manipulated and incited to fight for the war of our politicians.

Mzee Kasim and Binti Mohammed, thank you so much for coming to share your painful testimonies with us. Even if you are compensated how much money, your husband will never come back. Your children are now old. They cannot go back to school. Mzee Kasim, you are living with the wounds; the memories of your lost child. According to the African culture, when somebody dies, we have ceremonies. We bury and mourn and then we put the matter to closure. The situation would never be the same for Mr. Kasim, his family and his mother. Each time he is seated there, he looks at the door

expecting the son to walk in any time, but it may never be the same. I do not know, maybe my brothers from the National Cohesion and Integration Commission can get back with Mr. Kasim just to find out according to the custom of the people from this region what needs to be done, so that Mr. Kasim can put this matter to a closure and accept that maybe his son will never come again.

In the community where we come from, we bury a stem of a banana and say prayers. I do not know what is done here. However, this is what we can explore later as a means of healing. Thank you very much. We shall continue praying with you for healing to take place.

Ms. Belinda Akello: Presiding Chair, the next is Witness No.11.

(Ms. Madaraka Athuman Hassan took the oath)

Ms. Belinda Akello: Kindly, tell us your full names.

Ms. Madaraka Athuman Hassan: My name is Madaraka Athuman Hassan.

Ms. Belinda Akello: Where do you stay?

Ms. Madaraka Athuman Hassan: I stay in the village of Mabut, Diani Location, Zombeni Division, Kwale County.

Ms. Belinda Akello: What do you do for a living?

Ms. Madaraka Athuman Hassan: I do business and we have a small organization of women at Diani.

Ms. Belinda Akello: Kindly tell us its name and the kind of issues that you deal with.

Ms. Madaraka Athuman Hassan: The women's group is called Hazina Waja Women Group which has organized women in Therewe Sub-Location, so as to clean the environment at Diani. Our place is a tourist attraction and it is so dirty. So, we, as women, decided to clean the environment.

Ms. Belinda Akello: What are the challenges that you face as women coming from your area? How do you help each other? What is your pool factor to stay together and be able to help clean your community?

Ms. Madaraka Athuman Hassan: When we were cleaning the environment, we came across some challenges at our place. We found that our mothers and fathers would urinate all over. Diani is a big place and it is a big town. So, we decided to build a public toilet. We went to our councilor who is called Mwakisha who said that for now he could not build a public toilet along the road because it was difficult. So, it was left for the women to do it. We went to the DEO who told us the same thing. We went to the DC who said

that we could organize and get into every department that is concerned with the environment and then we could get some help from there. So, we went to every department that is concerned with the environment. We went to the roads department, county council and public health. We explained to them our problems and then they said we could organize ourselves to build a public toilet. So, God helped us. We were able to build this public toilet.

The challenge that we came across as a group is that before we got money, everyone intended to build the public toilet. The first money that came to us was Kshs300, 000. We were given a quotation of Kshs745, 000 by the Ministry of Roads and Public Works at that time. So, that money was not enough. Some members of our group members said that if the money is not enough, we should share it among ourselves. So, we had to vote and those who wanted to build the toilet were many. So, the building continued. When the money got finished, we did not get extra money for finishing that toilet. We were 60 members in that group and 28 members decided to leave the group if the building will not get finished. We tried to persuade them, but they went away. After the building was completed, those members came back. They said they wanted to come back to our organization because they saw that we were getting some benefits. But according to the constitution of our group, it stated clearly that if one went without being chased away, then you were not allowed to come back again.

The last challenge that we got was surprising. The roads people are the very people who had given us the land. They were so happy since we were first Digo women to decide to embark on a project. They told us that we would work hand in hand and make sure that that work in finished. So, we worked together with the council, the Ministry of Public Health and Ministry of Public Works. Our then DC and the councilors who were there also worked with us. We went round that place and then we agreed where to build the toilet. That is where we built the first one. The second one was in Diani called Ibiza and the third one was in between the Post Office at the centre. We were only able to build one toilet, but when we opened the toilet in December, 2010, we saw that an “X” had been marked on our toilet. When we asked who marked an “X” here, we were told that the roads people did so. Being the chairperson, I told my fellow members that we should go to Kwale to the person in charge of works, so that we could ask who came to mark an “X” on our toilet. When we came, they gave us a letter and then they said that we are the people who went and showed them. So, we went to Mombasa to see the person in charge of the roads in the province. He told us that that was done on the incitement of the politicians. He said they had all the exhibits and that is why we had an “X” because a county council toilet was about to be locked. They were asking why our county council toilet should be locked and the other one was not working.

There was no Member of Parliament who helped us. It is only organizations that helped us. We also used our own money, so that we could do our own development. We asked him: How come today, you are agreeing that the politicians are right? Then he told that he would help us. On Tuesday, we went back and he said he had seen that place and that the toilet had to be brought down. He said that the place where we had built the toilet, we had agreed that it can be brought down any time. The person in charge of roads in the

province said: Is there a woman who will agree to use Kshs700,000 and then it can be brought down? I never went to school to know that English. He told us to get the agreement that we signed. They told us that they only wanted the road there. We said that the day he would come to demolish that toilet, he would know that we are the women who gave birth to him. So, he said it is okay. When I was just going back, he called me back and told me, please, sit down so that we can write down an agreement on your grievances. He then asked me to come back on Tuesday. I went back on Tuesday with my fellow members. He said they would come and visit our toilet, so that they could know why we had built that toilet there. So, they came abruptly when we were not there. They did not tell us that they were coming. They did not write a letter to us. They only called to tell us that they were in Kwale. We told him that we could not come because we had a meeting. We told him that we would have come if we had had an agreement, but now you have come abruptly, what do we do?

He promised us that he would come on Friday. He went and came on Friday. He said that there was a house there and it was brought down and that even that toilet of ours would be brought down. We went and asked for a place to build a public toilet and the roads people are the ones who came and told us where to build the toilet. We did not just build it like that. The public works people were there and the road people were there. Our plan was done by the public health people because there was no other project like this in Diani. It was only ours. So, they agreed that we do it. I told them that they are the ones who agreed and gave us the place. They are the people who planned and also quoted everything even the cement. They are the ones who told us how much we will require to finish that project. So, how come now they were coming to tell us that our project would be brought down and we had not even seen the fruits of our project? What are you planning for us?

Ms. Belinda Akello: As both a women and a youth group, what other achievements have you had other than building the toilets? Do you have other achievements as both women's and a youth group within this area?

Ms. Madaraka Athuman Hassan: Ours is the only organization in Diani that has come together and that has come up early. We were so bitter because every other time we went out to see what other people were doing outside our place, the first challenge we got is that after building the toilet we went and asked the county council and the roads people, so that we could build a store to help our young men who were doing hawking because they did not have a place to keep their wares. We built a store next to the toilet so that we could keep their belongings.

Secondly, we have built small stalls around the toilets because at that place, we also sell small things. We have rented out some stalls.

Ms. Belinda Akello: Having been a young group that tried to earn a decent living, you have taken us through the challenges that you have been facing. You have also touched on how you have tried to overcome these challenges. Could you tell us what recommendations that you have to make to the Commission on how best you can be

assisted and how best you could continue with your group and also help other women and young people?

Ms. Madaraka Athuman Hassan: We started our toilet project in 2005 and completed it in 2006. However, roads officials want to bring it down. They claim we built it on a road reserve. We are not refusing them to demolish it, but we would like to be fully compensated because we did not know that we were putting it on a road reserve.

Ms. Belinda Akello: Presiding Chair that is all from the Leader of Evidence. If you have any questions or clarifications, you could ask her?

The Acting Chair (Commissioner Namachanja): Thank you, Ms. Madaraka. First, I would like to congratulate you for venturing into men's world. I would like to encourage you to continue. We have heard your story. It will help us come with the recommendations for our report. I want to wish you all the best.

Ms. Belinda Akello: Presiding Chair, our last witness was not in the course list. However, we pray that we allow him as the final speaker to speak on the Diani Settlement Scheme.

The Acting Chair (Commissioner Namachanja): Please, go ahead.

(Mr. Mbwana Ramadhani Zani took the oath)

Ms. Belinda Akello: Kindly, again, state your full names for the record.

Mr. Mbwana Ramadhani Zani: My name is Mbwana Ramadhani Zani.

Ms. Belinda Akello: Where do you live?

Mr. Mbwana Ramadhani Zani: I live in Diani Settlement Scheme, Jambii.

Ms. Belinda Akello: What do you do for a living?

Mr. Mbwana Ramadhani Zani: I did not go to school at all. However, I was a cook in one of the hotels in Diani Location. I have been a cook until I retired. They still come to hire my services in the cottages. That is how I earn my daily living to take my children to school. My last born daughter is in Class Eight. God willing, if she performs well in her education, she will be my last effort.

Ms. Belinda Akello: At the Diani Settlement Scheme, do you have any post, stature or position of responsibility?

Mr. Mbwana Ramadhani Zani: I do not have any position there. I am a farmer. I just wait for phone calls to go and give my services.

Ms. Belinda Akello: Do you know someone called Juma Nyoitia?

Mr. Mbwana Ramadhani Zani: I know him. We live together in Diani Scheme. He is a mason. Sometimes he is called to build and then after that he comes home and rests. He is also a farmer who cultivates crops but he is a mason.

Ms. Belinda Akello: Kindly tell the Commission what you have as your statement that you wish to present.

Mr. Mbwana Ramadhani Zani: I am very proud to explain to you my problems in Diani Settlement Scheme, Jambini. When I was about 12 years old, I saw the colonial Government ruling this country. It was my government when I was growing up. I learnt my cookery from the colonial Government. I became interested in politics during the days of KADU and KANU political parties. I loved politics the way I love football. Wherever there is a political rally, I normally go to listen to politicians as they articulate their manifestoes and policies. I was proud of Tom Mboya, Jaramogi Oginga Odinga and Robert Matano during the struggle of Independence for this country. I used to put on a pair of shorts because I loved politics.

Diani Settlement Scheme was demarcated in 1976. In 1978, our MP was Kasim Mwamzandi. The chairman of KANU was Mr. Bakari Matata. When we were given those plots after they had...

Ms. Belinda Akello: Mr. Ramadhani, kindly, take us through the challenges that you have faced as a person staying at the Diani Settlement Scheme. What are the challenges that you have faced in that scheme?

Mr. Mbwana Ramadhani Zani: Let me take you back a little while. I lived with another European who owned Diani during the colonial time. He was called Mr. Bahoza. So, they were given all that land of Diani Settlement Scheme, Jambini. We used to go there with our elders. Mr. Bahoza used to behave as one of us. He brought up some chaos. He used to close the fence for us. At that time, I was only 12 years old. I went with some other children and we pulled down the fence. We even threw stones. That was in the colonial era. We went to the DC's place; the DC was a European. The European came to the chief's place. He said that we, the children, had wronged him and asked elders to take care of their children. Then he was told: "Let us just understand one another because we are here and this country is ours. You just came to stay here. So, you should just agree with us because we are here to stay. We are not going to move out because you found us here." It was not a settlement scheme by then. It was just the locals who were staying there. He agreed and said, we will stay with you, people, and I will not cause any trouble again.

After Independence, in 1974, the President Kenyatta ordered the demarcation of those plots so that they could be given to the local people. He told us that no one would come to disturb us again. He said that there are people who will be chased out from Tanzania, about 24 people and that he would wish that we give him a plot for 24 people. Then we

agreed. They came and we lined up together with his people. That was in 1977 when we had our pangas ready to fight for our rights. At that time, I was an employee at the beach. I had not retired. So, I went with a panga and we lined up.

In 1978, we were told that the plot would be divided amongst us. The elders sat together and they told our area Member of Parliament; hon. Kasim Mwamzandi. He told Mwakaleo who was the chairman of KANU, Kwale District. Mr. Bakari Matata who was also a vice-chairman was told by elders that when he divides those plots he should involve elders. When the day came, the chief was Athuman Remo. He is still alive. Hon. Mwamzandi did not come with the elders. He came accompanied by Chief Athuman, the chairman of KANU and the vice-chairman of Diani Location. They agreed that the land had been subdivided.

When the elders came, they asked him why he subdivided the land without involving them. He did not answer us because there was no agreement that would have compelled him to involve us.

In 1992, the measurements of that land of 1977 were nullified and new measurements put in place. People were asking themselves: Why are we being pushed like this? We found out that we did not have otherwise and that we had to defend ourselves. When we started defending ourselves, we found that there were 446 plots which had been demarcated. The locals never got even 100 plots out of the 446. In 1992, some rich people came there. They also wanted to build in this place. So, they came and talked with the chief and the DCs at Kwale Hall in this very hall. There were plans that we should just push for these measurements, so that we get some space. So, they added the shambas. Now the locals did not want the measurements of 1992. They wanted the border of 1977. It was war. Up to now, as I speak, Diani Settlement Scheme, Jambi, has a lot of problems. People are quarreling. There is no peace. All of them have problems and you will see that someone has come from Nairobi to Diani looking for his shamba and he does not know it.

Another new method came up that the plots would be divided at the ballot box. We asked them why it was being done in that manner. We refused and this became another big problem. All plots went to the Kikuyus who were in Nairobi. These were the DCs and the big people. You would find that even if he did not know the scheme, he would just be given a plot and the locals were not given any. Up to now, there are so many cases. If you go to court, you will never succeed. You will never get justice.

Ms. Belinda Akello: We have documents here that you need to confirm that you wish to present before the Commission. The first document is from the Ministry of Lands, which also has a case with the letters of offer. The second one is from Gandakala Development Welfare on behalf of Diani Settlement Scheme. The next one is from the squatters of Ukunda Scheme B written to the Permanent Secretary, Ministry of Lands and also to the clerk of the council in Kwale. The next one is Land Case No.21 of 2011. You produced copies of the bond and the bail or bond from court. You have produced a list of the Diani Settlement Scheme Persons without title deeds indicating their identity cards and plot numbers. You also produced a certificate of outright purchase of the Diani Settlement

Scheme. Finally, you also produced an excerpt from the Government Printers. Are these documents that you have adduced before the Commission?

Mr. Mbwana Ramadhani Zani: Yes, I have presented them here. That is the truth because when the late President Kenyatta came from Europe and talked about the rights of land, he told us that we should not cause any chaos because they had already talked of the constitution of land. That was the time he had been sworn in as the Prime Minister. So, when he talked about this paper, he said Kikuyus, Kambas, Kalenjins, Pokomos and Mijikenda will always occupy their land, respectively. They will not be disturbed by anyone. Every tribe will take land according to their tribe.

Today, I have heard about this Truth Justice and Reconciliation Commission. I have come to say that this thing has really annoyed me and I have to bring this agreement because he went against it and brought his tribe only and took them to different provinces. He went against the agreement. This Commission should look at the agreement of Kenyatta. If it will not be honoured, then there will be chaos. They came with title deeds. I do not know where they got them. I do not know whether they are genuine or not. He is given land by the chief and it is fenced. The chief is there. There is nothing we can do.

They use every method of cutting down the trees so that there is no evidence. This was an open agreement and it was talked about by Mzee Kenyatta. So, we really want justice and let the Kikuyus be given their own. If it is people from the local place, they should be given their own plots. Of the 446 plots, we did not get even one. We are just oppressed and the reason why we are being oppressed on is this region.

If the DC comes, he will just oppress us. They do not want to hear anything about justice. Even this court we are seeing here, we have people who go there--- Like this document I am having, we have paid for it at Kwale. You are told that this place is yours but it does not belong to you. It is someone's and he lives in Nairobi. When he comes, there would be chaos. If it is going to be like that, then there will be no peace. I am saying this because people on the other side are tired of that. There are 446 plots, but no one has been given even one. So, they have problems.

Someone comes to Kwale and he is given a title deed of the plot and he has come all the way from Nairobi and the local person cannot be given. Now, where will reconciliation be? There will be no reconciliation at all if I am not given my rights.

The TJRC should go through the agreement of Mzee Kenyatta when he came from Lancaster House because that time, he was in KANU and Ngala was also in KANU. If you were caught, you could see fire. I had to hide it and that is why I am able to talk about it. It was told that by Mzee Kenyatta himself. Our plots that were meant for public utility like for building schools, have been sub-divided and have been sold off.

If we get a project, there is no one who can help us. If a European comes and wants to help us put up a project because people around here have a problem, you will look for a

plot and you will not find even one. This is because those plots which were set aside for public utility have been sold off. We still have a big map of 1970 showing how the plots were sub-divided. It is our right and we are defending it. We will want owners of those 446 plots to come out of their way---

I thank TJRC for coming to listen to us. If at all there will be reconciliation and peace at Diani Settlement Scheme, then we should be considered in terms of be given some plots. Right now the police are using a method of intimidating the residents. If you are arrested there, they would say that you have threatened someone with a panga. They do not talk about the shamba because if they did, it will be chaos. Therefore, that is the reason why they say that you have threatened someone with a panga. That is the method that the police are using at the police station. If they say that you are inciting people about Diani Settlement Scheme, you will be taken and you will be told that you are a very bad politician.

If those rich people found out that I am here, they will say that I am playing bad politics. But I am not talking badly. I am talking about people's rights! Just look at these documents, these people have title deeds, but they do not have land. They will chase out the one who has land and does not have anything to show. He will be chased away with a gun and the land will be fenced.

I have come here to talk about Diani Settlement Scheme and we are asking the TJRC that, if it wants truth and reconciliation and people to calm down, then we should get our plots. If it is not, even the tourists will have to move because we are tired. Someone cannot push you to the wall. If he does, what will you do? If you do not have anything to do, you will have to defend yourself. That is how it is. We have been pushed to the wall and we have no otherwise. Come what may, we are asking God, if possible we get justice in this country. Justice has been denied to people in this country and they are oppressed because Kenyatta had even oppressed his own people because of land. He did not give out this land. He came with a good mission from Lancaster House but when he came here, he did not implement it. He was sworn in as the Prime Minister and in 1964; he abolished the Senate and then became the President. He had to abolish the position of the Prime Minister. When he was sworn in as the Prime Minister, they did not want to hear about that. When I knew it, I had to hide this document.

We recorded a statement on 3rd and 12th December, 2011. We had a meeting at Msambweni and then we came back on Jamhuri Day when people were celebrating Jamhuri. We were so bitter. Therefore, we came and recorded a statement with TJRC at Msambweni. We have come here today because of the bitterness we have because of the Diani Settlement Scheme.

We pray that you will be of much help. If you will not help us, then it will be of no use to Kenyans.

Thank you.

The Acting Chair (Commissioner Namachanja): Have you written a statement with us?

Mr. Mbwana Ramadhan Athuman: Yes.

The Acting Chair (Commissioner Namachanja): Leader of evidence.

Ms. Belinda Akello: Mr. Athuman, I have only one question for you. Do you have copies of 1977 and 1978 maps?

Mr. Mbwana Ramadhan Zani: Yes, I have a copy of 1978 map. The 1978 map is what citizens want because that of 1992 will be a waste of time and I do not even talk about it. Where I came from, the place is very clean and if you are stepping at our forest, you will see fire because people are bitter because our leaders are oppressing us.

When it comes to politics, the politicians will tell you that if you help me, I will elect you but now we are tired of that. If he wants to defend himself, let him defend himself. Let him not talk about land again. If he ever talks about land, you will hear what will happen.

Ms. Belinda Akello: Acting Chair, the witness has produced nine sets of documentary evidence which has 25 copies of different documents. We pray that the same be also admitted as part of the records of the Commission.

The Acting Chair (Commissioner Namachanja): So admitted.

Ms. Belinda Akello: That is all from the leader of evidence, Presiding Chair.

The Acting Chair (Commissioner Namachanja): Commissioner Farah, do you have any question to ask the witness?

Commissioner Farah: Yes. I have only one question.

Mr. Ramadhan, do you have a plot at the Diani Settlement Scheme where you are living in, but you do not have any document showing that you own it; but somebody in Nairobi has a title deed for it?

Mr. Mbwana Ramadhan Zani: To say the truth, I am now aware that someone has a title deed for my plot. Even my neighbour who has been here for 40 years now; has children and grandchildren got a statement that he does not have a title deed. He has only a statement and he has gone to Kwale Court, Mombasa Court and then he was told: "Old man, you will get your plot." Then he went to another Commission in Msambweni, adjacent to the DC's office and he was just troubled and he came back. If you go to court with a land problem and you are a poor person, you will only get tired. This old man went until he got tired. These statements are very many. There are some people who are seated there and they used another method of getting out of the rates. They reached people to tell our councillor to give rates...

Commissioner Farah: Excuse me! You did not get my question. My question was about you. Are you living in a plot where you do not have any documentation, and when you checked you found that somebody in Nairobi has a title deed for it?

Mr. Mbwana Ramadhan Zani: I stay in Diani Settlement Scheme and I had to line up. I tried up and down and said that, if I do not get my land...There was a person who was lining up with me, who told me that, “you and me are going to get title deeds. When we finish lining up, do not be troubled. I have told you, you will get your land.” Then I got a statement, I went to Kwale and got a title deed. I do not know whether it is the right one or a fake one.

I have to say the truth; the title deed is at home right now.

Commissioner Farah: Thank you very much. We are a Truth, Justice and Reconciliation Commission (TJRC). So we do not want speculation but facts. Thank you very much for saying that you are sitting on a plot which is yours and you have a title deed for it. What I am asking you is, have you got a person in that scheme that is living in his plot, but the ownership of the same is somebody else in upcountry?

Mr. Mbwana Ramadhan Zani: Yes. A person came and told my neighbour that he was the owner of that land and that he had a title deed. He came from the chief’s place armed with the police. My neighbour had been there for 30 years and he was told to move out of that place. Now, if you ask my neighbour to give you evidence, he does not have evidence. If you make noise, you will be told that you have threatened someone’s life. I also have my own statement and you cannot take away my plot from me.

Commissioner Farah: Kwale is not the only place where there is a problem of land. The problem of land is countrywide or nationwide. We have been to Lamu, Hola, Kilifi, Mombasa and we are now in Kwale. We know the sensitivity of the issue of land and there is no piece of land that has been given to an upcountry person without the participation of the local people. When I am saying the local people, I start with the sub-chief, chief, District Officer (DO), District Commissioner (DC) and so on.

In Maasailand, we have seen people who were given land in their homes and then they sold it to other people from other areas of the country only later on for them to cry foul and to say that they are now squatters in their own land. However, we will make our recommendations in our report which will be followed up closely by the National Cohesion and Integration Commission (NCIC). The consolation is that there will be a land commission which will be formed and which will look into these matters of land very deeply. Do not say that you will go to the forest and fight a war on behalf of other people. Just produce facts and then the facts will fight for you to get back your land.

Thank you very much.

The Acting Chair (Commissioner Namachanja): Commissioner Dinka!

Commissioner Dinka: I have no questions for the witness.

The Acting Chair (Commissioner Namachanja): Thank you very much, Mzee Ramadhan for coming before this Commission and helping us understand issues of land and land grabbing. Thank you and that is all from us.

Mr. Mbwana Ramadhan Zani: I also thank the Commission because our cries have been heard and it should go ahead. We have about 35 years that we have been patient and we are still patient. If it was war, we could have fought. But we thought that for being patient for 35 years, we would have been heard but we have been put between a rock and a hard place. We have been pushed to the wall and we need your help.

We do not have anything to do. So we are waiting for the TJRC to make a decision on reconciliation and then justice. I want to thank the Commission because I never thought I would talk due to the oppression of the Diani Settlement Scheme settlers. The oppression is of the highest degree and it is not even well understood. Taking some public health and when you get someone to help you to give aid to develop a project; public health or public land, then you are told that there is no public land while you know that this is a public land. You know that this is public land of 20 or 30 acres, but they have all been sold to rich people. I also blame our leaders and politics. They have gone back to campaign and I do not know what kind of campaign they are coming to do.

At this age, if anyone comes to campaign, I do not want to see or even hear from anyone, at all. I will not agree with that person because that is someone who is bringing chaos. It is now 35 years and it is as if they have been trading us with those years. They will come and tell you: "If you elect me now, I will deal with your land cases" and come back with a different party. Then another one will come and tell you: "If you vote for me---

The Acting Chair (Commissioner Namachanja): Leader of evidence!

Ms. Belinda Akello: Presiding Chair, that is the last witness, but before we close, we pray that you admit documents for one Peter Chengo Nzioka, who has presented documents and he was requesting for them to be admitted. I was informed that upon such investigation, then the Commission is going to respond. So, we pray that you admit the documents.

The Acting Chair (Commissioner Namachanja): So, admitted. Is that all from you?

Ms. Belinda Akello: That is all, Madam Acting Chair.
Thank you.

The Acting Chair (Commissioner Namachanja): Thank you for the work well done, leader of evidence, hearing clerk and our regional co-ordinator.

Before we close our session, I would like to invite our brothers from the National Cohesion and Integration Commission (NCIC) to address the people of Kwale.

Karibuni!

Commissioner Halake: Thank you very much, Presiding Chair. It has been a very long and heavy day because of the volume of information delivered. I am sure it is similar in many areas, but issues that are related to land are very emotive. A lot of things around security are equally emotive and, of course, at the end of the day, public service and economy all relate to each other and are very sensitive and emotive.

I know that by the time TJRC finalizes its work and delivers a report, it is going to be a very heavy job and that it is going to be heavy for Kenya as a whole. We have we made a layout of clear grounds on how to address these problems that are facing us.

The issues in Kwale, whether on land and especially issues related to atrocities committed by the state agencies, are also deeply rooted and problematic in many areas. I think the problem lies in lack of policies that should have helped us tackle some of these problems. But we will definitely sit and define our clear ways of addressing them on a long-term basis.

I want to appeal to the Kwale people, especially when we talk about matters related to land and maybe even the state. For example, referring to MRC and other demands...

What will help is a process of consistent dialogue; a process of defining common objectives and seeing that something will help all of us in the long-run as the people of this country and it is a must for us to dialogue. We cannot go to our villages, divisions and districts and feel that every other thing that we do is good and will help us or carry us beyond where we are today into a good future. We have to come together all of us, the 40 million people, to define a common goal as well as develop long-term programmes to address them. If I will refer to what happened to us in the year 2008, immediately after the disputed elections, the nation had been put in a state of struggle with itself. We have really undergone stress that we should not have had, yet we had all the options of avoiding, especially self-made problems that we are struggling with now.

For the last one week, people have not been talking about any other thing and many others have not been working. We have been talking about the ICC process, expecting the day's confirmation and communications. A lot of resources have gone into this process and a lot of time has been spent or wasted on this process, yet we have options of living peacefully and working to see that we develop in a positive direction.

So, you, as people of Kwale and as people of Kenya, we really have to sit together and see how to get out of all these problems we have listed today. Remember, most of these problems can only be solved through peaceful means, only if we reason together.

I also assure you that the NCIC will not just appear here today as part of this process and go away. We will always be available. We shall be with you thinking through the realistic long-term solutions, even as we get the TJRC report.

Thank you very much.

The Acting Chair (Commissioner Namachanja): Ladies and gentlemen, we have come to the end of our public hearings today in Kwale, but this is not the end of us being here. Tomorrow, we shall have a session with women and, please, for those of us who are here, encourage women from Kwale to come and present their testimonies to the Commission. Regional co-ordinator, will share more on this.

On behalf of the Commission, I would like to thank the witnesses who came to share with us their painful experiences. Mr. Rashid Sengesha, Abedi Abdullahi Athengo, Ms. Ali Shindano, Mwanawa, Salim Abdikadir, Abass Abdi, Halhaji Mohammed Omar Masumbuko, Ali Salim Tosha, Alifan Jasho, Joshua Nicholas, Mtawa, Msungu C.N. John, Kasim Abdullahi Mwanachama, Binti Mohammed Bonze, Madaraka Athuman Hassan and Mr. Mbwana Ramadhan Athuman.

Thank you so much for coming before this Commission to help us write these historical records that we were mandated to do. I will also like to thank the public because these sessions can never pass to be public hearings unless we have the public listening to witnesses.

I would like to thank the teams that have helped us facilitate this dialogue; the witnesses, the Hansard Team, the sign language and interpreter's team, our documentation, our regional co-ordinator, the leader of evidence and her team, and also the commissioners who have put up till now, five minutes past 6.00 p.m.

Thank you so much and, we look forward to meeting you tomorrow. As I said, ours is a short term Commission, but these are the people and I will like thank our brothers for coming to journey with this process so that we continue picking window paces, at least, for reconciliation and healing. God bless you all.

I now handover the programme to our regional co-ordinator, Madam Sylvia Chidodo.

Ms. Sylvia Chidodo: Thank very much, Presiding Chair, commissioners from the TJRC and NCIC for your patience and being together with us since morning up to now. As one of the commissioners from the NCIC said, what we had to do is heavy and a lot. It is our responsibilities to ensure that Kenyans live in peace.

I think without wasting time, we will have a women's meeting tomorrow right here in this hall. It will start at 10.00 a.m.

Also we will have our hearings at Wundanyi. You can tell people that there will be such kind of hearing in the side of Wundanyi so that they can turn out in large numbers.

I will ask Sheikh Ahmed to come and offer prayers for us. After prayers, I will urge all of you to stand so that we can allow the commissioners to move out. The others will remain behind for two or three minutes.

Thank you very much.

(Closing Prayers)

(The Commission adjourned at 6.10 p.m.)