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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON WEDNESDAY, 25TH
JANUARY, 2012 AT THE WUNDANYI COUNTY COUNCIL HALL**

PRESENT

Getrude Chawatama - **The Presiding Chair, Zambia**

Ahmed Farah - Commissioner

(The Commission commenced at 10.30 a.m.)

(Opening Prayers)

Presiding Chair (Commissioner Chawatama): On behalf of the TJRC, I would like to thank you for being here on the second day of our hearings. We, as a Commission, are so happy with the response that we received from you all. We thank you for your participation in the process. We thank you for owning this process for, indeed, this process was meant for Kenyans to give them an opportunity to appear before the TJRC to talk about the violations that have taken place between 1963 and 2008; human right violations that have really had a negative impact on the lives of many people. We have heard of deaths, loss of property, loss of employment, rapes, defilements, and issues related to corruption, and so many violations that have brought about a lot of sufferings in the lives of so many Kenyans. We have heard from men, women, and also from children. I recall one specific child who was a victim of post-election violence. When she spoke to us, she said: "I do not know why I lost my clothes, why I lost my friends, why I had to leave the home and where I lived. It is, indeed, very sad to hear from children who have suffered so greatly. Most have lost their parents. They have been separated from their friends in school and their lives have never been the same.

We, as the Commission, are so happy to be able to serve this nation as a Commission.

(The Presiding Chair introduced herself and members of the Commission)

So, we would like to thank you again for coming today. The leader of evidence will call witnesses to testify before us. Oath will be administered. They will share with us their story. You may agree or disagree with what they say. Your role is to patiently listen and to show respect to the witnesses as they speak. It is our intention to give them space to share their stories with us.

Secondly, if there are those among you who have cell phones, I will encourage you to turn them off because they have a way of interrupting the proceedings and the recordings which are very important. These proceedings are part of the record and we will make sure that the testimony of witnesses is captured. Some of you have come and maybe you have not given us statements, but I am sure you will be able to identify with the witnesses who

are going to speak. By being here, you are affirming them. I am sure they will get confidence knowing that they have your support.

With those few remarks, I turn over to the leader of evidence to call the first witness and let them be sworn in.

Mr. Patrick Njue: Thank you, Presiding Chair and Commissioners. I would wish to call our first witnesses. They are Witness No.4 and Witness No.10 on our cause list. They will narrate to us the ordeals they faced in 1982.

(Mr. Boniface Eremani Msangi took the oath)

(Mr. Kiara Mjomba took the oath)

Good morning. Kindly for the record, once again, tell us your names, where you come from and what you do for a living.

Mr. Boniface Msangi: My name is Boniface Eremani Msangi. I come from Somgani Location which is in Wundanyi Division in Taita Taveta District. I am a primary school teacher.

Mr. Patrick Njue: Mr. Eremani, you confirm that you are seated with us this morning to share with us an account of what you went through or suffered in 1982 coup.

Mr. Boniface Msangi: Yes.

Mr. Patrick Njue: Maybe to begin with you can tell us when you joined the forces.

Mr. Boniface Msangi: I joined the army in 1979, Air Force. I was an army officer at Lanet. After I qualified, I was sent to Embakasi where I stayed for a year as a technician.

I was sent to the United States and my section was changed. I rose to be a supplies officer. I was trained as a supplier and qualified with Grade 2. Later on, I was promoted to Grade 2. That was August 1982.

Mr. Patrick Njue: Mr. Eremani, what happened on 1st August, 1982 in relation to yourself?

Mr. Boniface Msangi: According to me, before 1st of August, I was on leave. My leave was to end on 31st of July. I arrived in Nairobi on 31st July, morning and rested. At around midday, I went to town. We stayed with friends in town. Then on 1st, which was on Sunday, I went back work. At the gates, there were a lot of policemen. I was able to identify Corporal Mbuvi who was in the military police, who ordered us to stop. He told us to identify ourselves with identity cards. We were five or six of us. We held our identity cards. We identified ourselves. After identifying ourselves, he ordered us to go to

our rooms and put on our uniforms. We were also told to go to the armory and get ourselves armed.

On our way to stations, we saw so many vehicles, Land Rovers and lorries. Each was carrying our policemen who were getting out. They were armed. I knew all was not good. We thought we had been attacked. While I was putting on my uniform, an officer threatened me.

The police explained that whoever had a gun should get into the vehicle and they would be taken where they were supposed to go and work. I got into the vehicle and after taking my gun and ammunition, I ran out. The Land Rover was there and I boarded it. I was with about 12 policemen and the Land Rover took us up to Voice of Kenya (VOK). We alighted when we got there at 6.00 a.m. We were told to wait for another command and that we should not move. We stayed there without getting any information.

I felt very hungry at about 8.00 a.m. I was with my fellow policeman and I told him that I wanted to get some food and then come back. He told me that there was a canteen where we were and we could get some food. When we got to the canteen, we found that there was no food. We found two policemen; one civilian who afterwards I realized was a radio broadcaster with the VOK. We went to town with our fellow policemen. There were many civilians and people were in town shouting “power power”. I was confused and I tried to maintain peace.

One Land Rover of Kenya Air Force came along and when the policemen who were in it saw me, they asked me, “Why are you alone?” I told them that I wanted to buy food and they told me that I was in a very dangerous place because we already had enemies who were killing policemen. I asked them who these enemies were and he told me that the “red berets” were not with us. I asked him what he was talking about and he told me not to ask questions. He told me to look for my fellow policemen so that I can stay with them otherwise, I would be killed. He said that there were many policemen who had already been killed. I then told him not to leave me alone. I asked him where they were going and he told me that they were going to the camp. I got into their Land Rover and we went back to the camp.

When we got to the camp, we found many policemen there. I then heard people saying that the Government had been overthrown and the GSU had gone against us. All the army had also agreed with that. We were told that those who were already in the camp should not move and we should just stay there and take care of the camp because anything could happen. We then stayed there and afterwards, another captain came and he told us that the Kenya Army from Kahawa with the GSU were fighting with the Air Force. Already, they had surrounded the Eastleigh base. So, we were commanded to go to the fence and we should make sure that they do not get inside. We went to the field where we had a gymnasium. After a short while, a chopper came and started throwing rockets in the field. They were aiming at us. We tried to run but the attack was too much. Afterwards, after a short while, we saw army men coming from the western side gate which was near the

football field. We were forced to run away. Afterwards, we met with other policemen who told us that they were running away and they were going to a place that was not known. It seemed like it was all over and everyone had to look for his or her own security. There was a lot of confusion. We got out and headed to the gate at around 2.00 p.m. When we got out, we found army officers outside and they attacked us. By good luck, no one was hurt. We came back. When we got to the Sergeant's place, which was on the East, we found policemen who had gathered there. They raised a white flag which meant that they had surrendered. We stayed there with them. After a while, the army people came in. When they came in, they stripped us naked and beat us up. We stayed there up to 1.00 a.m. when lorries were brought and we were taken to Kamiti Prison.

At Kamiti, we slept hungry while naked on the floor. The cell was a big room. We were about 500 people who had been squeezed in that room. We stayed there for two days without eating anything and we were naked. After three days, we were brought some clothes, trousers but no shirts. We were also brought some food like porridge. After taking the porridge, we were told that there would be screening. After sometime, they started calling us. They would call us and you would go and meet a committee which was carrying out screening. They would ask if you had taken a gun and if you said yes, you would be given a red piece of paper and taken to a different cell. After that you would be taken to Naivasha Prison.

At Naivasha Prison, you would be put in a small cell measuring six feet by four feet. We would sleep there about 12 people and we would be given a small bowl that we would use for our calls. Sometimes we would tell the prison warders that the bowl was full and we wanted to get out but they would refuse. The cell was built in a way that it was very cold. We really suffered there for about two weeks when they started interrogating us. When I went for interrogation, I was told to explain to them what I knew about the revolution and I said that I knew nothing. When I said that, I was told to take the bowl to the fish. I did not understand what the fish meant. But the fish meant a cell that was inside, was painted black and was blocked. Inside, there was no light and there was water that used to go up to one's legs. I was stripped naked and told to go there. I was forced to enter there. I thought this would take a day and it was very dark. For those who have gone to Naivasha Prison, this is a building inside a building. Therefore, you cannot see outside.

I stayed there and very early in the morning, prison officers would come with very cold water. I would be given that cold water and told to bath. I stayed there for seven days without eating and I was naked. At first, I could stand but later, I became very weak until I slept on the water. I had to persevere and after seven days, I was told to say the truth. I was told that if I did not say the truth, this time round, they would not take me to the water but finish me. I was forced to explain the truth. I told them how I was arrested and after that, someone was recording a statement. I was told to sign and I was not taken back to the water. I was taken to a different cell and given porridge. I took porridge for two days and I started taking food. After one week, I was taken to Kamiti Prison. I stayed there for one day and the following day, I was taken to Lang'ata Barracks where there was a court marshal. At the court marshal, we were called in a group of 12 policemen and

we were told that we were supposed to go and we should go and look for someone to defend us. We were told to explain what kind of a defending officer we wanted and it had to be an officer who was at the rank of a captain and above. We proposed our CEO who was Colonel Kamunye. They said that they did not want one from the Air Force and that I should take one from the army or the navy. I said that I wanted Major Masila and at that time, he was the CEO at the Training Camp at Lanet and I knew him very well. Surprisingly, I did not even see Major Masila. I was brought another captain and I was told that that would be our defending officer. The captain called us and told us that it was a court marshal and not like a normal court. He told us that the statement we had recorded and signed is what would be brought to the court. I was told that the statement would be brought and when I was asked a question, I was only supposed to say yes. If I refused, I then would be taken back to Naivasha and hanged. Therefore, I had to let him speak on our behalf. We took an oath and the case began. We were taken there and told that we were found in Nairobi armed with a gun with an aim of threatening civilians and bringing about chaos. We said “yes” and after that, I was sentenced to nine years in jail. I was taken to Industrial Area Remand Prison on 19th October, 1982 where I slept for two days and the place was very dirty with many jiggers. After two days, I was put into a vehicle and taken to Shimo La Tewa Prison.

I started my life in prison and we had to appeal. We were told that there was no appeal and in 1984 we were told that the Commanding Officer at the Shimo La Tewa Prison had allowed us to appeal. We were given papers and filed our appeals. In 1995, we went to the Mombasa High Court for the appeal and Justice Bhandari was the one who was listening to the appeals. The appeals were rejected and we were told to continue with our jail terms and that we did not have enough grounds to file appeals. I continued with my jail term until I finished it in 1998. I only stayed there for six years.

There were many problems in prison. Those who know what used to happen during that era, they know that the prison was bad. We used to be beaten a lot by the prison warders. We used to be known as Air Force policemen and the prison warders used to hate us very much. You would be beaten very badly when you were found with a small mistake. There was a time when cholera broke out and people died. We stayed for two weeks without treatment and doctors came from Nairobi to treat us when we refused to eat. Life at Shimo La Tewa Prison was very difficult. I remember the commanding officer who came from Naivasha. We stayed there for two years and during his era, we really suffered. At that time, you would be beaten and not allowed to speak to prison warders while standing. One had to kneel. While speaking to them, they would beat you at the joints of your knees. But I thank God that He helped us. I completed my jail term and was acquitted. After being acquitted, I was given Kshs44 for all the six years.

The Presiding Chair (Commissioner Chawatama): That interpretation is wrong. I do not know much of Kiswahili but I know the meaning of being acquitted. One cannot have been acquitted after serving the prison sentence. He was discharged. For the purpose of HANSARD, that correction should be made.

(Technical hitch)

I had to go and look for my Form IV certificate when I went to do an interview as a teacher. They wrote a letter to the Kenya National Examinations Council (KNEC) who verified the results. That is when I was able to go for training as a teacher.

Mr. Patrick Njue: What do you expect from this Commission?

Mr. Boniface Msangi: To say the truth up to now I am still oppressed. Even if I wanted them to compensate me, I do not know what they would do. I should be compensated because we lost a lot of time in prison. After prison, it took me ten years to get a job. I am still solving a lot of problems because life is difficult. The salary that I get now is not enough. I am a diploma teacher but I wish I was in the army. Probably were it not for the revolution, I would be very far. I had an aim of going back to school and serve my country. I was very faithful to the Government. I Pray for compensation and ask that we be recognized by the Government. Thank you.

The Presiding Chair (Commissioner Chawatama): Please, step down the witness and bring in the next one.

(Mr. Esau Kiora Mjomba took the oath)

Mr. Patrick Njue: Please, tell us where you come from and what you do for a living.

Mr. Esau Mjomba Kiora: My name is Esau Kiora Mjomba. I am a Taita. I come from Mwatate Division.

(Technical hitch)

Mr. Patrick Njue: Just like Mr. Boniface Msangi was here to share with us his plight, confirm that you are also here to share with us your plight following the 1982 coup.

Mr. Esau Kiora Mjomba: Yes, I am here to share that with you.

Mr. Patrick Njue: Mr. Msangi painted to us how it was during the very day. So, you will allow me to ask you questions and seek clarifications. My first question was; when were you enlisted in the forces?

Mr. Esau Kiora Mjomba: I joined the Air Force in 1978.

Mr. Patrick Njue: By the time the coup happened on 31st July, 1982, on what capacity were you serving?

Mr. Esau Kiora Mjomba: In 1982, I was at the Eastleigh Camp at the Kenya Air Force. Just as my fellow colleague has said, we were together in the same section. We were trained together. I was promoted and became---

Mr. Patrick Njue: Please, for the record, share with us what you went through when you were arrested, during the period of detention.

Mr. Esau Kiora Mjomba: Since my friend has explained almost everything, I will tell you in brief. My friend has explained a lot and there is not much difference. I will try to touch on what he did not touch. Whatever begot me may not have been what he experienced and whatever he went through may not necessarily be what I went through.

On that day, 31st July, 1982, my fellow army men came to the Eastleigh Camp from Embakasi Camp and this was accompanied by a lot of chaos and shooting in the air. We were all woken up since I was deep asleep. I was deep asleep and I became confused. We were told that we could go to the armory and get guns. I wondered why we needed to get guns but as usual, we followed orders. So, I went to the armory and got a gun. A vehicle came and we were told to board the vehicle. Luckily, I got into the same vehicle that he got in and we drove to the then VOK. Once we got there some people we were with, unfortunately, are now late--- There was a big trench and we hid there to avoid being shot.

When we got to the VOK, we got one announcer by the name Sulei. After a short time of staying there, the person who began all this got inside and gave out a piece of paper which read that the Government was in the hand of the army. All army men should be like civilians. I was shocked and as I was told to take the gun, I was left there with another service man. There were gun shots in the air and I asked him what we should do and there were no instructions given to us. We decided to go round the City but after a short time, we were told not to go far because the army and police had started killing the Air Force personnel. A vehicle, a Nissan which had my fellow service men came and we went back to the VOK. On getting to the VOK, we found another group of Kahawa Garrison officers who had already entered the VOK. On that day, I had worn the army uniform because that is what I had come with from the army. I had to join them. However, all the other servicemen who had Air Force uniform were shot. When I got in that gang, I could not be identified. I had turned my cap inside out. Therefore, one could see that it was black on the outside but if you looked at the inside, it was blue in colour. That is how I escaped. There came another group called 7 R and was led my Gen. Mahmud. They got to VOK and the fellow servicemen who were there were all killed. We were able to escape because I joined them and they could not identify me as an Air Force person. There are others who had trained as drivers from the transport department. Gen. Mahmud said that all those who had uniform should step aside. So, we stepped aside and the leader from Kahawa Garrison asked why he was with that army. He said that these were pupils from Kahawa Garrison. I was told that I should just agree that I am from the school even if I was not from the driving school. At about 10.00 a.m, we were told to give out our guns and remove caps and belts. So, we gave out our guns and ammunitions.

We stayed there without food and without speaking to anybody apart from our fellow army men. One of them told us that since he was employed, he had never killed anybody and he wanted to start with us. However, leaders do not do that. We stayed there until

10.00 p.m. and we were told that we should go with the transport battalion back to Kahawa. When we went there, we were given a tent. All the Air Force people went there and we stayed until the following day. The following day, there was a lot of screening. I was told to give out my identification number and rank. I told them I was a corporal. They asked me when I had been employed and I told them it was in 1978. They told me, I was the person they had been looking for because all these plans began when we were employed. All those who are corporals knew how this was planned. They told me that they wanted to know how it was planned until it came to pass. I told them that I did not know about any plans and that I had not come across anybody who could tell me about it.

They told me that if I would not tell them, they were going to shoot me. I told them that I did not have any power and under their umbrella, if they thought it was okay for them to kill me they could do it. They did not kill me but they told me to tell them how I left the camp until I was arrested and I explained everything to them. They told me that I was so lucky because I would have died. That evening, the prison vehicle came and we were put in and taken to Kamiti Prison and we were put in a cell. It was a small cell and more than 30 people were put in. We had to persevere for three days and after a short while, we got used to it. We were then taken to record statements and we went back. We stayed for a week and then we were taken to Nyeri and after coming back from Nyeri, we were told that we had been accused of mutiny.

We were told that we would be taken to 7KA in Langata to answer some questions. When we got to Langata, there was no other way to defend ourselves and I was just told that I was going to be given a defending officer whom we were going to talk to and that he was the only person who was going to help us to escape whatever was going to happen. Everyone had a different defending officer. My defending officer told me that when I get before the judge, I should not try to answer anything and that he was the one who was going to help me to be set free. When I asked him why I should just agree, he told me that I should listen to him and that he was the one who was going to help me to be set free.

I appeared before Judge Bosire and I was sentenced to 16 years jail. My defending officer was not able to defend me in any way and I was so shocked but I just agreed with what the judge said. I was taken to Kamiti and after that, we were taken to Nyeri and after Nyeri, we were taken to Naivasha. In Naivasha, the cells were small but luckily, three people were put in each cell with one blanket and a rug made with banana leaves.

In 1985, I got an attack of tuberculosis and I was admitted to hospital for two months and what surprised me is that they were using one needle for six people. I started fearing for my life because that was when HIV/AIDS was discovered but I prayed to God to help me. I was treated and I got well and after some time, my eyes started aching and I became blind for almost one week but God is good because I got an eye doctor. They only gave me one tablet and I swallowed it and the following day, I could see just like a cat and up to now I can see. All that time I stayed in Naivasha and we had been allowed to appeal. We were taken to court and I defended myself and my jail term was reduced from 16 years to ten years. I was taken back to Naivasha where I continued with my duties. After

about two or three months, all the people from the Air Force were again gathered and we were told that we had been given a remission. The remission reduced the jail term and we were told that we were now going to serve for six years and eight months. After the six years were over, I was given less than 50 shillings and we were given a warden from Naivasha to take me home and I boarded a Coast Bus that brought me to Voi.

Mr. Patrick Njue: Thank you Mr. Kiora. Indeed you suffered and I empathize with your suffering. What would be your expectations today?

Mr. Esau Kiora Mjomba: In short, I have seen and heard what you said, just like my friend said, what I would want is compensation and I do not have anything else.

Mr. Patrick Njue: The Commissioners may want to pose some questions for clarification and thank you for your time.

Presiding Chair (Commissioner Chawatama): Thank you for your testimony. I will ask the general if he has any question for you.

Commissioner Farah: I have no question but throughout when we were going to counties, we have heard evidence and testimonies of Kenya Air Force officers and soldiers who were wrongly arrested and charged. Most of them were charged with mutiny but the main culprits were charged with treason and some were imprisoned for life and others were executed. I can understand that you were not like your former commander General Kariuki who went to court and I think he won and he was given some compensation. I have heard your story and it is not me to ask questions because in every province we went, there were many like you and there were even some who thwarted a lot of damage by not arming the bombs. Thank you very much.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony. I join the General in acknowledging that we have heard from a number of your colleagues who suffered the same fate and we have heard what you had to say. My questions to both of you relates to the institutions and how you were treated by the different institutions. As a Commission, we will have an opportunity to speak to the Judiciary on their performance based on the evidence of people such as yourselves who have appeared before us. We will also talk to the police and the army and certainly we will talk to the prisons. You said that the people who came and were liable for the shootings and for the apprehension were the army. Is that the position?

Mr. Boniface Msangi: That was the situation. It was the army and the GSU.

The Presiding Chair (Commissioner Chawatama): In the manner the army and the GSU treated you, what recommendation or what do you think they should have done in order to make your life a bit better or your treatment a bit better or for you to just feel like a human being and a Kenyan?

Mr. Boniface Msangi: Just as we said, we were oppressed and I do not think there can be any compensation to justify but we are saying that we should be compensated for the sake of respect. There are so many things that were done to us by our fellow policemen but we have not spoken about them here. We drink with some of them but they felt that the Air Force people are more educated than the rest and that is why we were not given our rights. There was inferiority complex and they felt that the Air Force people were so proud and that is why they oppressed us. It is good to give our services with justice and that goes to the policemen who are there now. As I said, I surrendered but after surrendering, I was stripped naked and beaten though I did not kill anyone. I was taken to jail and the prison warders beat us and it was just shameful because we were not given any respect. We should be compensated and the services that our policemen are given should also be improved so that they can have a good way of giving their services to the public.

The Presiding Chair (Commissioner Chawatama): I think that is all. Witness no. 2, how would you have expected your fellow officers the GSU and the army to have treated you as an Air Force officer?

Mr. Esau Kiora Mjomba: I want to say that I thank God because I did not die that day and I am still alive to date. There were fellow service men who were killed and three of who I was in the same vehicle with are now dead. What is gone is past and let us think of what is coming tomorrow.

The Presiding Chair (Commissioner Chawatama): The reason I am asking you this question is that one of the things that we are tasked with as a Commission even when we make our recommendations is to ensure that the violations that took place do not happen again. This is why my question is very specific on how you would have expected your fellow service men to have treated you.

Mr. Esau Kiora Mjomba: I would say that they would have respected me as a fellow army officer even if I was no longer in the army. They should have known that I was once one of them. Where I come from there are many and when we meet, we give each other respect. They should know that we were also like them. I do not want to take any step against them because it is God who has given me life and if they have realized that what they did was a mistake, then let them ask God to forgive them but we have nothing against them.

The Presiding Chair (Commissioner Chawatama): I think yours is the first proceeding of a court martial that I have seen. You said that you gave a statement and this statement was written by somebody. Was this statement read to you or were you given the statement to read before you signed it? You said that after you were interrogated, then somebody came to take a statement and it is this statement that I am asking about. You said that you were weak and you slept and seven days later, you were asked to tell the truth and then someone recorded a statement and you signed. You were then taken to another cell. So I want to find out if this statement that you gave was read to you again or was it given to you to read before you signed it?

Mr. Esau Kiora Mjomba: I was not given the statement to read because as I was explaining myself, they were writing. At the time, we were only given a cup of tea and if you were a smoker, you were given a cigarette and they were writing as you talk and then they just tell you to sign. That was the statement they took to court.

The Presiding Chair (Commissioner Chawatama): I have also looked at the proceedings of the court martial. Do you recall whether or not you were told of your right to appeal at the stage when the sentence was passed?

Mr. Esau Kiora Mjomba: They told us and that is why when we were taken to Shimo la Tewa, we asked the prison officers and told them there must be something that was telling them to do that to us. In 1984, we were given an opportunity to appeal.

The Presiding Chair (Commissioner Chawatama): You had an opportunity to appeal and I believe you appeared before a judge. Was this a judge of the High Court?

Mr. Esau Kiora Mjomba: Yes, we appeared before Justice Bhandari at the High Court of Mombasa in the Chamber Court.

The Presiding Chair (Commissioner Chawatama): Did you feel that justice had been served when you appeared before the judge? Did you feel that you were accorded a fair hearing? Did you leave the court feeling that your appeal had been heard and that the judge had taken into consideration all that you had to say and did you leave that court satisfied?

Mr. Esau Kiora Mjomba: To say the truth, I was not satisfied because I had a lot of expectations and we were not able to see Bhandari. We were taken to the Chamber Court where we took an oath and afterwards, we were told that our appeal had been denied. I did not even see Bhandari himself.

The Presiding Chair (Commissioner Chawatama): Did you have a lawyer present at your appeal?

Mr. Esau Kiora Mjomba: I did not have a lawyer.

The Presiding Chair (Commissioner Chawatama): From the time that you took oath and I guess spoke to the time when you were told that your appeal was not successful, how long did this take?

Mr. Esau Kiora Mjomba: It took about three years because I got the report that my appeal had been denied in 1985.

The Presiding Chair (Commissioner Chawatama): Thank you very much for appearing before us today and I think the only thing that is pleasing in hearing your testimony unlike the testimonies of so many others, is the fact that you have been able to get some

form of employment. A lot of ex Air Force officers that have testified before us have informed us that they were unable to get employment because nobody wanted to touch them and the suffering that they are still going through is unimaginable. We thank God that you are both alive and that you are family men and that you are employed. You have helped us and I pray that as we make recommendations that this would impact your life and the lives of so many others.

Leader of evidence, stand down the witnesses and call the next witness please.

Mr. Patrick Njue: Presiding Chair, I would like to call the next witness who will combine with 22 as they are talking of the same issues. The witness on my immediate left is Witness No. 22 on our cause list and the one to the far left is no. 11 who will only give an input in terms of questions posed to 22 if she cannot answer the same.

(Ms. Agatha Mwangangi and Mr. Dickson Kwinga took the oath)

Mr. Patrick Njue: How are you? I just wish to confirm that it is you *mama* who will be making the presentation and that mzee will just be there to give an input to questions we may pose to you and that you are well versed with these issues since he is your relative. Do you confirm that?

Ms. Agatha Mwangangi: Yes I do.

The Presiding Chair (Commissioner Chawatama): Leader of evidence, I would like to know whether the two incidents arise from the same facts.

Mr. Patrick Njue: As a matter of fact they do.

The Presiding Chair (Commissioner Chawatama): Let us proceed.

Mr. Patrick Njue: *Mama* for the record once again please tell us your name, where you come from and what brought you here today.

Ms. Agatha Mwangangi: My name is Agatha Mwangangi. I come from Taita Taveta and I am widow with eight children and six grandchildren who all depend on me.

Mr. Patrick Njue: Who is the man seated to your left? Do you know him?

Ms. Agatha Mwangangi: I know him. He is my father's brother.

Mr. Patrick Njue: Do you confirm that you are here to share the tribulations that you have gone through as a family as squatters and living on a land of one Basil Criticos?

Ms. Agatha Mwangangi: In 1978, I had one daughter and my children were all born in Taita and schooled in Taveta. My problems with the government started on 11th September, 2001 when America was bombed when people who I do not want to mention

their names came and destroyed my house and they beat one child. We were 100 squatters and on 14th, two assistant chiefs and five Members of Parliament came and took down the remains of my house and destroyed my fence. I went to the PC and explained what happened to me and I did not mention those who did that because they are in big ranks. I stayed for four years and on the fifth year, they came to my home again where we were sleeping outside since they destroyed my house.

The Presiding Chair (Commissioner Chawatama): What is not clear is whether it is after five years, or the fifth time that they came back. What was your understanding leader of evidence?

Mr. Patrick Njue: She says that they came back after four years in 2005.

Ms. Agatha Mwangangi: They came on 17th February and destroyed my children's houses and my house too and I was sleeping out. I did not really understand the reason but I continued staying there. When they destroyed my house, I asked my children to come so that we could sleep together though they are big children. In 2010, I saw something I had never seen in my life because people came and measured my plot and all my children were arrested and taken to the cell. We slept in the cell and when I tried to ask the reason why, they told me that they did not want to see me, they only want the children. In the same year, they cut down my crops when they were still in the *shamba* and they lit a fire and burnt them and put some into a vehicle. My son called Martin tried to ask but he was beaten by the police and one eye was injured and he is now half blind. I tried to run away but I thought that since it was the government doing this to me, then whom was I running to. My children cried to me asking me where we could stay but I told them to pray so that God would come to judge because He is above and He is watching us. I stayed with those problems with my children. They cut down all the trees that I had planted and some vehicles came and took all the trees. I decided to persevere because my children were looking up to me. I decided to stay because I did not have any other place to take the children and the government wanted to take the land away from me yet they found me there.

I cultivated and developed my *shamba* and everyone knew that. They came and took my children and some were brought here to Wundanyi. I am a business woman and a farmer and all my money got finished in court. In the first case that took place in Wundanyi, they told me to give them 1.5 million shillings and I was shocked. I decided to run away because they were looking for me so that they could arrest me. I even went to Uganda and I still see people following me. My children are being oppressed and it is not a strange person who is doing this to us, it is my mother. I cried to God because I do not have a mother and my government is my mother.

I cannot explain everything because my last born was killed. I have this photo with me here. When the child died I was not here because I was busy looking for their daily bread. I was in Mombasa. I sell tomatoes and other small things. On 1st in the evening I was told my child was sick. The child was in standard eight. I was told because it is the children who stay home they did not want to tell me what exactly happened.

I then got a phone call from a different person who was another mother who told me my child had died. I left Mombasa in the evening. On reaching home I found it was true my child was dead and the body was at the mortuary. He died while he was grazing the animals. I did not know what was going on but my neighbour who was grazing with him came to explain that he had drowned and the cattle had been left alone.

My neighbour then started chaos in my home and asked, "You are bringing chaos in my home and you know that my child has died?" We then decided to go to the police. I went to the police station and reported. I was told there is a child who was drowning and my child went to help him when he also drowned.

I then went to see the body at the mortuary. When I reached the mortuary I found the corpse and I was annoyed. I asked the mortuary attendant, "What happened to this child?" He was a footballer and had come from Mombasa from playing football. I asked him what the injuries on the head and *panga* cuts were. He told me the child drowned as he was trying to rescue another child. I then asked, "If he died in water how come he is injured like this?" I also asked, "How could he have gone to rescue someone drowning with clothes on?" The mortuary attendant told me he can get injured. I told him that was fine.

When I came back to the police, I found my elder son had been told we can be given the corpse to go and bury. I told him, "I do not think we can go and bury my son without knowing what really killed him". I told him he had injuries and there were other people who were grazing with him. The police were not even concerned about what killed my son.

I asked for the statement that was written. The one who wrote a statement was a corporal (I do not want to mention his name), he is the one who killed his brother and injured him when they were trying to cut my crops. He was the one handling this case again.

I then thought there was no reason for us to go against the Government and I should just go and bury my son. That place belongs to me because I am the one who started cultivating it and I am known as a squatter there. We went and dug the grave and then went to the mortuary to get the body. We were then given a letter by the chief telling me not to bury my son there. I asked why but I was not told. I did not see any reason. I went to my uncle and asked him to accompany me to Nairobi to find out why my son could not be buried at my place. I went to the offices and explained my problems. I went to Parliament to see our mother. I was not able to see her face to face but I saw another person. He went and explained my case then she told her, "Tell this mother to go home. I will go and talk to the DC so that she may be given the body of her son to go and bury".

True to her words I was given Kshs1, 000 and I left and came home. We slept at home and the following day we went to see the DC. What surprised me and hurts me a lot and are still wounds in my heart is; I told the DC that we had been given a permit to go and bury my son. He told me, "Carry your corpse and go throw it in the water". I thought of

how I can go and throw my child in the water yet what killed him had not been confirmed---

(The witness broke down)

The Presiding Chair (Commissioner Chawatama): Please take your time.

Mrs. Agatha Mwangangi: I left and went to the mortuary. No postmortem had been done and what killed him had not been known. When I followed the matter I found out that even the Government knew what killed my son. They have damaged my wealth; cut down my trees and crops on my land yet I did not take the land from anyone else. I have seen that if a woman does not have anyone to defend her, it is only God who would defend her. I am still a person who hides herself. My children have been accused of cases they do not know. They have been said to be criminals. All these matters are brought about because of the land that I stay in. It is only God who knows the pain I have gone through.

Mr. Patrick Njue: I share in your pain. You said he is your last born?

Mrs. Agatha Mwangangi: He was the last born.

Mr. Patrick Njue: How old was he at that time?

Mrs. Agatha Mwangangi: He was 17 years old in class eight.

Mr. Patrick Njue: If I get you correctly, you said that you finally had to throw him in the river and that you did not bury him?

Mrs. Agatha Mwangangi: I did not throw him into the river but I had to look for another place to bury him. This is the 12th year that the Government is oppressing me; I do not know what to do. I do not know what it is. They do not want me to develop just because I am a woman. My husband died and now my life is in danger. However, I am praying to God that one day He will take my life. My children have not gone to school because of that. Even my Kshs20, 000 was taken plus my mobile phone.

Mr. Patrick Njue: Mama I want to understand the issue of the land here; this land that has been the cause of all this agony; is it where you live today? As you came here today, is it where you came from?

Mrs. Agatha Mwangangi: I have come from the same land---

(The witness broke down)

The Presiding Chair (Commissioner Chawatama): Leader of Evidence, at this point Commissioner Farah and I want to just confer on an issue. We will ask you to join us

together with the witness in about three minutes so that we can decide the way forward in this matter. In the meantime, we will give mama an opportunity to compose herself. I hear you. I am also a mother and I feel your pain at having to remember the circumstances under which you lost your child. I know how precious a last born is to the mother. I am really sorry for all the pain that you have suffered. We will see you in a few minutes. Thank you.

(The Commission temporarily adjourned at 12.25 p.m.)

(The Commission resumed at 12.35 p.m.)

The Presiding Chair (Commissioner Chawatama): Leader of Evidence, are you ready to proceed?

Mr. Patrick Njue: I am ready to proceed.

I was following up with questions to better understand your testimony today. I was at the point at which I asked you whether you live on this land and you said you live on the said land and that it is where you came from today. My next question is; for how long have you lived on this land?

Mrs. Agatha Mwangangi: I have stayed for many years on this piece of land. Just like I have told you, that is where all my children have been born.

Mr. Patrick Njue: For so many years, I want to appreciate, approximately how many years? Maybe going by the age of your first born, how many years are we talking about approximately?

Mrs. Agatha Mwangangi: This piece of land that is being taken away from me right now, I have been there for like 15 years.

Mr. Patrick Njue: Before your occupation of the said land, who lived there or who owned it?

Mrs. Agatha Mwangangi: It was just bursary.

Mr. Patrick Njue: I think we did not get the right translation; who did you say the land belonged to or occupied the land before you went there?

Mrs. Agatha Mwangangi: There was no one there.

Mr. Patrick Njue: So, whose land was it?

Mrs. Agatha Mwangangi: It is owned by Basil Criticos.

Mr. Patrick Njue: For those of us who do not know who Basil Criticos is or was; who is this individual?

Mrs. Agatha Mwangangi: He used to be our Member of Parliament from 1992. That is when we started going there looking for food and cultivating land. When he went to California I was still in that region. I can even remember when President Kibaki came and found that our houses had been destroyed--- We were about 100 people and my fellow squatters were being arrested and others just ran away. Whoever had another land could go to that land. I had to stay there because I did not have any other place to go. I am still in that piece of land up to today.

Mr. Patrick Njue: And have you tried to, either through Basil Criticos, to have proper documentation or title to this land?

Mrs. Agatha Mwangangi: My uncle knows about the documents and Basil knows that I am there. He also knows me as a squatter because when other squatters were chased away people were coming from Mombasa, Nairobi and Kisumu to build big houses. The Member of Parliament was asking, “Why are the rich people building houses and the squatters are are not being given land?”

Mr. Patrick Njue: I now understand the picture as we go this way round. Lastly, I want to ask you, what would be your expectations as you sit with us today.

Mrs. Agatha Mwangangi: I pray that the Commission gets me a title deed for that piece of land so that people can stop troubling me. Secondly, I want my wealth that was destroyed including my crops, trees and the child who died because of this land to be compensated. This Commission should defend me because I am a widow; my children have not gone to school.

Mr. Patrick Njue: Very well. I am sure in our recommendations we will be guided by your expectations.

I want to turn to *mzee*. I will limit you to just producing the documents that you have. I want you to confirm that the said documents have to do with the presentation made by Mama Agatha today.

Mr. Dickson Gonde Kwinga: Yes.

Mr. Patrick Njue: I will ask that one by one you tell us what they are without reading the content as you pass them to me for our scrutiny.

Mr. Dickson Gonde Kwinga: This mother is a daughter to my brother and I am the last born. The oppression she is undergoing started a long time ago. There are some things she forgot to tell you and I would like to remind her. I would pray that you listen to me so that I can explain what she forgot so that you can also get a better understanding. All these documents---

(The Presiding Chair consulted the Leader of Evidence)

Mr. Patrick Njue: I am sorry to have cut your presentation. I think we will proceed in the manner in which we were and I as you hand the documents over for us to study them, you will tell us briefly what they are about.

Mr. Dickson Gonde Kwinga: This letter that I am giving to you is about the grievances of the people of that area.

Mr. Patrick Njue: The grievances of the people of Lesisia/California? These are the squatters living there?

Mr. Dickson Gonde Kwinga: They are squatters.

Mr. Patrick Njue: You present this paper on their behalf as who?

Mr. Dickson Gonde Kwinga: I am the chairman. You will see what I have written and I have even signed.

Mr. Patrick Njue: Very well. What is the next one?

Mr. Dickson Gonde Kwinga: The case that was mentioned by my daughter here is that one and the recommendations of those of us who were beaten and taken to court are there. We even have letters from courts which are these ones. You will have to give me back some of them.

It is our leaders who are causing divisions because of bad politics and bad leadership. I do not want to lie, this is the certificate that I was given because I am in the peace committee. It also shows you that I am the chairman.
I think I have finished.

Mr. Patrick Njue: Like you have expressed your wish, we will make copies of the same and return the originals to you.

Presiding Chair, if the said documents can be formally admitted to the records of the Commission.

The Presiding Chair (Commission Chawatama): The documents are so admitted.

Mr. Patrick Njue: My last question to you mzee; as the chairman of the squatters living in Lesisia and---

Mr. Dickson Gonde Kwinga: I have said California, Makroriti, Kidong' and Lesisia.

Mr. Patrick Njue: On behalf of those squatters and as their chairman, what are some of your expectations?

Mr. Dickson Gonde Kwinga: I pray that because this Commission has some sympathy they may help us so that the oppressions we are facing can end. You should come and see by yourselves what was done to us. I am a God fearing man and I cannot lie. You can come see these things for yourself.

Mr. Patrick Njue: Thank you, Mzee Gonde and Mama Agatha for coming in for your presentations. The Commissioners may want to have a word with you.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony and for making time to come and speak to us on this very important issue. As we have travelled throughout Kenya the issue of land has featured prominently in all our hearings. We have seen the battle between the rich and powerful against the poor and helpless. We have seen and heard of the number of evictions that have taken place and the impact that it has had on their lives. There are documents that you have given us including photographs, we need to study them in order to have a better understanding of the total picture. We have understood your suffering. We have understood the death of your son and all the grief that you have gone through. We have heard him say that his people that he serves have suffered and they have suffered displacement and their properties have been destroyed. You have raised the issues of administration of justice. You have also talked about the poverty that has occurred. You have also talked about injuries, killings and harassments, denial of employment and water problems. You have asked us to look into these issues. Mama has asked us to facilitate for her to have a title deed and mama feels that by obtaining a title deed her problems will be over. We have heard you on this. We thank you very much for coming. I would like somebody from our special unit to approach for further instructions.

(The Presiding Chair consulted with a member of the Special Support Team)

The witnesses will follow that young lady. I have given her instructions and please just heed the instructions I have given her.
Thank you.

(Mr. Kio Kasala took the oath)

Mr. Patrick Njue: Good afternoon. For the record once again could you tell us your name, where you come from and what you do for a living?

Mr. Kio Kasala: My name is Kio Kasala Kitolo, I come from Taita District, Mrabani Sub-location. I am a farmer and a human rights activist.

Mr. Patrick Njue: Could you confirm that you are here to make your presentation as a human rights activist, as you said? As you make your presentation, you could mention on whose behalf you are doing so.

Mr. Kio Kasala: I am making this presentation on behalf of the residents of Titobo and Timoribo Locations.

Mr. Patrick Njue: I would like to urge you to limit yourself to the issues at hand and most importantly on recommendations. You may begin.

Mr. Kio Kasala: I remember after the Second World War, the residents were given the lower areas of sisal plantations which were owned by Mr. Grogan. After he left, it was taken over by Mr. Patel. At the moment, it is owned by Basil Criticos. After two or three years he wanted to evict us. We have gone through a lot of suffering. He used to arrest our fathers and brothers when we were children. Our parents were forced to chase monkeys in the farms without any payment. Sometimes their way would be blocked but they never gave up. In 1948 they started a school known as Eldoro High School and Eldoro Primary School. It was moved from Kitogoto to Eldoro in 1962. Later on they started another school called Mwambani Primary School. In 1982 the Provincial Commissioner, Mr. Lucas Galgalo lead a big delegation to Taita and Mrabani.

We went to conduct a search for this land from the Ministry of Lands. We went to Mombasa for the search but we were told that it would be sent to us later. We were saddened to realize that all that was happening was because of the family of late President Mzee Jomo Kenyatta. He was the actual owner of the land but it was registered in another person's name. When we followed up the case we realized that Queen Elizabeth had issued money for land in 1964 for the land to revert back to Africans but that never happened. I have a letter and a newspaper clip of that year. We have gone through a lot of torture in that farm.

The school that was started was called Kitogoto but it is now known as Eldoro Primary School. It started in 1940. In 1962, it was moved from Kitogoto to Eldoro. Later on Eldoro High School was established. There is also Mrabani Primary School which was started in 1974. All these schools were started by the residents themselves without the help of the Government.

In 2008 we were advised to go to court by the Ministry of Lands. We were reluctant to go to court because we understood that the Constitution then would not help us. Right now they are planning to evict us. I am now 53 years old and I was born there. Where will I go? My father died and was buried there. My grandfather went there after the Second World War. So, where do we go? In 1983 we were denied access to water. I wrote to the water company and this is the response. During that year the management of the water resources was removed from him and given to us. There is a letter here that has information from the delegation that followed me to the Ministry of Lands in 1983. We gave this information to the Truth, Justice and Reconciliation Commission (TJRC). There is a second witness with me. We have been threatened many times and there have also been attempts to bribe us to surrender. In fact, at one time my colleague was injured and his hand broken for being too outspoken. I urge this Commission to give him just five minutes to talk. I do not think the police will assist because whoever hurt him is known by them.

Mr. Patrick Njue: Mr. Kasala, you have said that he is your secretary so I think he is well versed with the issues that you have presented here. But just to recognize him and to know how he was injured and his arm broken. We can ask him to stand and waive to the Commissioners.

The Presiding Chair (Commissioner Chawatama): We would like to see the extent of the injury. So, let him come forward.

(The Commissioners examined the injury)

Thank you, we have seen the injuries to your hand and on your head inflicted by a panga. We acknowledge your presence in these proceedings. We also acknowledge that fact that you are the secretary to the witness who is testifying now.

Mr. Patrick Njue: I fail to understand when you say that he is the secretary and you the chair of a movement. For the record, what movement is this?

Mr. Kio Kasala: It is called Social Watch Futa Magendo Action. We are under the umbrella of ordinate which is the national organization.

Mr. Patrick Njue: I have a memorandum and the documents that you shared with us. Do you want them to be formerly admitted as record of this Commission?

Mr. Kio Kasala: Yes.

Mr. Patrick Njue: I pray that these documents be admitted.

The Presiding Chair (Commissioner Chawatama): The memorandum and all the documents are admitted as prayed.

Mr. Patrick Njue: Mr. Kasala, how many households do you represent?

Mr. Kio Kasala: From the previous census we are more than 12,500 people. We have two locations, two chiefs and four sub-chiefs. In both areas the problems we undergo are the same.

Mr. Patrick Njue: I have not heard you say your expectations from this Commission.

Mr. Kio Kasala: Our expectations are that since the Greek man there has no grandfather, so who passed that land to him? Our expectation is that the land should be reverted back to the citizens. We should occupy it as local residents. The farm was taken away in 1932. He should give up the land for us and let it be sub-divided among us. I would also like to say that our elders be compensated for guarding his farm against invasion by monkeys, forced labour and arbitrary arrests. This was against their human rights.

Mr. Patrick Njue: Thank you again, Mr. Kasala for coming here to testify. Indeed, I find it a very able presentation. I am sure those that you represent would congratulate you for a job well done. The Commissioners may ask you some questions.

The Presiding Chair (Commissioner Chawatama): I would like to ask one or two questions. How big is this land that you are referring to?

Mr. Kio Kasala: It is more than 7,000 acres.

The Presiding Chair (Commissioner Chawatama): As we have travelled all over Kenya, we have encountered the same problem all over the country. I would like to know if at all any of you benefitted from any civic education from the Government on the issues relating to ownership of land?

Mr. Kio Kasala: We know our land rights through the civic education run by Kituo Cha Sheria. We have learnt our rights over land and how to follow up those issues.

The Presiding Chair (Commissioner Chawatama): So, the answer to my question is that the Government of the Republic of Kenya has not talked to members that you represent so that they can get civic education on matters of owners of land?

Mr. Kio Kasala: Yes.

The Presiding Chair (Commissioner Chawatama): I recall that you also mentioned a search. Did you do it?

Mr. Kio Kasala: Yes.

The Presiding Chair (Commissioner Chawatama): What was the result?

Mr. Kio Kasala: We wanted to establish the owners of that land and whether they had bought it or were just given as a present. We went to Nairobi, TJRC and other organizations. We know that this land was just taken away from our grandfathers because they were illiterate and through corruption aided by the first President of Kenya.

The Presiding Chair (Commissioner Chawatama): Regarding the schools that were built on that land, what is to become of the property and development on that land when they evict you?

Mr. Kio Kasala: That man is a dictator. We have gone to court but he has defended himself. They have to tell us where to go because we were born here and they did not buy that land.

The Presiding Chair (Commissioner Chawatama): In terms of the number of children who would be affected in case of any eviction, how many children attend the three schools that are on the land?

Mr. Kio Kisala: Mrabani Primary School has 418 pupils; Eldoro Primary has 507 pupils and Eldoro High School has more than 500 students. So, there are about 1,500 children who will be affected. We also have more than 60 nursery schools.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony. Thank you for making time to participate in this process. The information that you have given us is very useful.

Leader of Evidence, you can stand down the witness and approach the table.

Mr. Patrick Njue: Commissioners, this is witness number 12.

(Mr. Christopher Nyange took the oath)

Mr. Patrick Njue: Good afternoon, Sir. For the record, once again, please tell us your name, where you come from and what you do for a living.

Mr. Christopher Nyange: My name is Christopher Nyange. I come from Mgange Location, Wundanyi Division and I am an ordinary farmer.

Mr. Patrick Njue: You are here to make a presentation on the various violations of people living in Wundanyi. There have been several witnesses today presenting on the same subject. Therefore, I will kindly ask you to take us through the issues but the most important thing is your recommendation.

Mr. Christopher Nyange: Commissioners, I had written a memorandum on behalf of not just Wundanyi but the whole region. At some point, I was the chairman of the Taita Taveta County Council. At the moment there is a community based organization which addresses the issues of the entire Taita. There is the Kenya Wildlife Service (KWS) in Taita. I will also talk about our land which was taken from us.

I would like to start by talking about the boundaries. We want peace and for that to prevail the most important foundation is justice. We would like to talk about justice. The boundary of our county was moved to Kwale. That is a problem that can cause tension. Most people got irritated and we have tried all means to follow up the issue. We have many documents and we issued copies to the Independent Electoral and Boundaries Commission (IEBC). The boundary at Mackinon Road was moved. Mackinon Road was constructed in 1961. So, while doing that he pushed part of that area to Kwale District. Records show that no consultations were carried out. In 1962 it was reverted although it was never gazetted. The records show that it was returned but it was not gazetted. We believe that it should be reverted as it should have been. When the map by the IEBC came out it showed that Mackinon Market is in Kwale District. Our stand is that Taita Taveta County is not complete without Mackinon Road. Records also show that Mtitu is also within Taita Taveta County. In order to avoid any problem the sections that were taken away should be reverted to the owners.

Regarding the KWS, it has existed here since 1948. The park pushed people away from their land. Most people there were pastoralists and not poachers as they were labelled. Those animals in the park never used to kill livestock. According to our traditions and customs, we could not kill young animals or female animals. When colonialists came they grabbed those areas without caring about those who were living there. They placed boundaries all over. We have River Tana and they placed a boundary in the middle of the River.

Commissioner Maj-Gen. Farah: Through the Presiding Chair, there is a memorandum in our file on those issues. Instead of him going through the whole memorandum let him just tell us the recommendations.

Mr. Christopher Nyange: My recommendations are that KWS which manages the park should surrender the title deeds because those who have them have illegally acquired them. All the native land should be reverted back to the owners. With regard to the boundaries, we are saying that for the sake of peace the boundaries should be left as they were. Mackinon Road and Mtitu should come back to our county. If those are rectified then peace will flourish. I brought the memorandum to the Commission and I wrote all these details in it.

Mr. Patrick Njue: Thank you, Mr. Nyange for the presentation and recommendations that you have given. I have just remembered that your memorandum was bulky and I want to confirm that we have it. We shall be studying it to inform our recommendations.

Commissioner Farah: My question is on the boundaries. Where was Mackinon Road before?

Mr. Christopher Nyange: It was in Taita.

Commissioner Farah: When was it taken away from Taita and given to Kwale?

Mr. Christopher Nyange: It was in 1961.

Commissioner Farah: Was it during the boundary review of 1961?

Mr. Christopher Nyange: Yes. In 1961 there was resistance from the Taitas. So, the Provincial Commissioner (PC) said that it should be given back. In 1962 the report of the boundaries was made but the degazettement was not done.

Commissioner Farah: That issue has two solutions depending on the documents you will present. One will be our recommendation and the other one is the recommendation of the IEBC. If we get enough evidence, we will use that to make our recommendation.

Regarding the KWS, how did it affect the community?

Mr. Christopher Nyange: When the park was taken we were not involved. No elders were involved. They just grabbed it. Even the boundaries commission was not involved. No views were taken from the citizens. We found out later from the office that it had been taken.

Commissioner Farah: If there are animals in a piece of land within the county, will there be any good revenue from tourism that will come from the park? If the elected assembly of the county feels that the park is no longer useful or beneficial the county assembly will make laws and decide to remove it. The central government will only come in if it affects the national tourism. You will also have a good opportunity to review the issues of the park. You should give us a historical chronology of how this land was acquired. If it was grabbed then it is wrong but we shall study it and make appropriate recommendations.

The Presiding Chair (Commissioner Chawatama): We have heard that in this part of Kenya what is seen as evil is what KWS have done and how that has impacted on the lives of people. In your opinion, is there any good that has come out of the work of KWS?

Mr. Christopher Nyange: We cannot say that there are any benefits. Even if we go deeper into the issue, it seems they inherited colonial leadership. Even when they meet residents they do not treat them well. Sometimes, they give somebody a dead rabbit to eat or they even kill people.

The elder brother to my father was shot by the Kenya Wildlife Service (KWS) in 1972 and we have not received any compensation. We followed up and were told to identify the officer who killed him. Since he was there alone and we were very far away from that place, how would we have identified the warden who shot him? This is what many people go through with the KWS.

In 2008, my nephew disappeared and we have not been able to trace him. I have his identity card here, but wherever we go, we are told to look for him in prison.

The Presiding Chair (Commissioner Chawatama): What would it take for KWS to live in harmony with the citizens?

Mr. Christopher Nyange: If it is the question of the laws that govern them--- We, as a community, say that there is no human/wildlife conflict. The community has a conflict with the agency because of the poor management of KWS. The KWS has worse laws than the colonial laws. They do not know that these animals are a resource that God gave to the people of Taita and Taveta. The KWS has the authority and power to take land and even harm the lives of the people who are the original inhabitants of this district. Surprisingly, 62 per cent of this district is under the control of KWS. You wonder whether this district is for humans or just animals. There is no time that they have sat down with the community to make plans regarding the animals. They have expanded until now and the area for settlement is very small.

The third issue is with regard to land that was taken by people for sisal plantations. This area was given as a gift to the people who had helped the British Government. Why should they have given gifts in Taita when the war was concerning the Taitas? The question seemed to be hard for the colonialists to answer. In 1964 when they left, they said that the affected areas should be compensated. Money was given but it has never reached the Taitas or Tavetas. Instead, land was transferred from them to the same people. It went to the Government or administration led by Kenyatta, who took the compensation money and land as well. The injustice was started by the colonialists. All this land should have been given back to the owners.

The Presiding Chair (Commissioner Chawatama): Finally, you have talked about the expansion and extension of the land that KWS has covered. You said that it is 62 per cent. Would you know the period, maybe in terms of years or a month that, that extension took place to reach what it is now?

Mr. Christopher Nyange: The legalization of the grabbing started not very long ago, but in 2000 to 2006. The documents that I was able to give and memorandum which is a very thick volume tabulate all the information from 1948 until 2006. All these changes have been followed, but there has been no consultation. It is just done and we only see it in the newspapers.

The Presiding Chair (Commissioner Chawatama): Thank you very much for taking time to come and speak to us on this very important issue that is very dear to the people of this area. I keep saying this because this is the last stop before we go back to Nairobi for the hearings there. As we have travelled, we have heard a lot of complaints about the lack of consultations. People have complained that this has led to the lack of transparency and accountability. So, we have heard what you have said. We are thankful that you have given us a memorandum which will help us as we sit to write our report. We are also helped by the Constitution which now demands that there must be consultation, accountability and transparency. People should have more say in what happens.

I think Commissioner Farah as a question.

Commissioner Farah: I just wanted to know whether you are aware that if you are bitten by a snake, there is a form you fill, take it to the police station and the KWS is bound to pay you Kshs50, 000 but you have to be bitten in the park. If an elephant tramples on your crop, there is a form you fill and they will come to assess the damage. Up to a maximum of Kshs500, 000 is paid for destruction of your property. If, God forbid, an elephant or lion kills somebody, you fill a form again, and if it is proven, you are paid up to Kshs1 million. So, have the residents of Taita been taking advantage of these things?

Mr. Christopher Nyange: The people of Taita have not benefited from this. There is no compensation for destruction of crops. You cannot even fill the forms because you are told that they are not there. You are told to go and tell your Member of Parliament to

present a Bill in Parliament so that it can be passed into an Act to enable the KWS to compensate.

With regard to the snakes, they are the ones who keep them, but they bite people in settlement areas. Why should they say that they can only compensate for a bite within the national park, yet the snakes can leave the national park and come to the settlement area? All these are contested issues. If they are within the reserve, then they should make sure that they do not leave. If your cow goes to your neighbour's farm, they will come and discuss with you.

Commissioner Farah: The problem does not lie with the KWS. It lies with the police and corruption. If you pay the police a little bit, they will fill the form nicely for you and you will get your money. The problem is not KWS, but the law is there. It is just a matter of taking advantage of the law. So, you need civic education for your people.

Thank you very much. I have no further questions?

The Presiding Chair (Commissioner Chawatama): I see that you have a burning issue. You will talk to our members of staff and they will tell us what it is that is irking you.

We will take only 30 minutes to stretch and maybe grab a coca cola, but, please, do come back. We still have two matters to hear. So, we will be back at about 2.10 p.m.

Thank you, Sir, for your testimony.

(The Commission temporarily adjourned at 1.50 p.m. for lunch)

(The Commission resumed at 2.50 p.m.)

The Presiding Chair (Commissioner Chawatama): I welcome you to this afternoon's proceedings. This is a continuation of the work that we did this morning. I apologize for having come a little bit late. This was due to circumstances beyond our control. We thank you for your patience.

Leader of Evidence, call the next witness!

Mr. Patrick Njue: Thank you, Presiding Chair. Next, we have number 14 on our course list. He will be reading his memorandum in brief, after which, we can pose questions to him.

(Mr. Musa Mshiri Kitanga took the oath)

Mr. Patrick Njue: Good afternoon, Sir!

Mr. Musa Mshiri Kitanga: Good afternoon.

Mr. Patrick Njue: For the record once again, please, tell us your names, where you come from and what you do for a living.

Mr. Musa Mshiri Kitanga: My name is Musa Mshiri Kitanga. I come from Kasigau Location, which is in Taita County. At the moment, I am a councilor in Kasigau Ward.

Mr. Patrick Njue: Mr. Mshiri, you are here to make a presentation on behalf of the Kasigau natives. Would you confirm that to be the case?

Mr. Musa Mshiri Kitonga: Yes, that is what brought me here.

Mr. Patrick Njue: You had requested that you would be reading from your memorandum in brief. So, if you are ready, you can begin to make your presentation.

Mr. Musa Mshiri Kitonga: Memorandum to the Truth, Justice and Reconciliation Commission (TJRC), Kasigau Council of Elders; P.O. Box 747 Voi.

Presiding Chair, the Wakasigau are residents of Kasigau Location in Voi District, Taita Taveta County. It is situated between Tsavo East and Tsavo West. We, the residents of this location, have painfully suffered as a result of the establishment of the Tsavo National Parks.

Disturbances:-

We were also shifted to Malindi during the First World War in August 1915. We left Kasigau on foot to Maungu and then from Maungu to Mombasa by train in an open wagon. We then moved from Mombasa to Malindi by ship in the sea. While in the sea, many of our people were thrown into the sea by the British Army and died in the sea. Many of our relatives died, including the three killed at Voi by use of guns by the British. They were Chief Mwangojilo, Mwadime and Mwakuja. All that suffering was due to the British military camped at Jora Village. They were attacked by German troops who crossed the border from Tanganyika, now Tanzania. They caused untold casualties to the British Army. The British were claiming that we are the ones who brought the German troops. Well, even if they claimed so, we could not even differentiate between the two white people. Many people died while in Malindi because of mistreatment by the Malindi residents who were incited by the British that we eat people.

In 1918, we left Malindi to Mwatate and were received by Chief Johane Mwandango of Chabia. We stayed for about 18 years with Chabia people peacefully, and we thank them very much. In 1936, we left Mwatate for Kasigau, our motherland. After all that long stay, we started from zero. As for now, we have built 11 primary schools and one secondary school. But we are still much behind in terms of education, as compared to others in Taita County. We look forward to our Government of Kenya to assist us to develop. In view of that, we claim to be compensated by the British for the disturbances that were caused by them.

Thank you very much.

Mr. Patrick Njue: Thank you as well, Mr. Mshiri. Following your presentation, I will ask one or two questions.

First, I want you to look at the copy of the memorandum that I have with me here. I want you to confirm if the same is what you have been reading from.

Mr. Musa Mshiri Kitonga: Yes, this is the truth.

Mr. Patrick Njue: Would you request that the said memorandum be formally admitted today to the record of this Commission?

Mr. Musa Mshiri Kitonga: Yes.

Mr. Patrick Njue: Presiding Chair, if the said memorandum can be formally admitted.

The Presiding Chair (Commissioner Chawatama): It is admitted as prayed!

Mr. Patrick Njue: Thank you. What language do the people of Kasigau speak?

Mr. Musa Mshiri Kitonga: They speak the Taita Language.

Mr. Patrick Njue: What is their main economic activity?

Mr. Musa Mshiri Kitonga: Most of them are farmers and they keep livestock.

Mr. Patrick Njue: You have strongly mentioned education as one area that you are failing in. You say that you have been left behind within the county in the area of education. Is it as a result of Government policies or whom do you blame?

Mr. Musa Mshiri Kitonga: As I have said before, the problems that we have, have delayed our development educationally. Even those who are ahead are those who found the foundation had been set before.

Mr. Patrick Njue: That is all that I had for my questioning. Thank you once again for coming. Our commissioners may have further clarifications to seek.

Commissioner Farah: Where do the majority of the Kasigau people live now?

Mr. Musa Mshiri Kitonga: They stay in Kasigau Location.

Commissioner Farah: Where is that location?

Mr. Musa Mshiri Kitonga: Kasigau Location is in the County of Taita Taveta in Voi District.

Commissioner Farah: How about the ones who were moved to Malindi; where are they now?

Mr. Musa Mshiri Kitonga: Many of them died and are still dying because when they came back, they had been infected by different diseases. Up to now, those who are alive are still giving history, because we still have bad feelings about it.

Commissioner Farah: Thank you very much. That is my last question.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony.

You started with the year 1915 and stated that it was during the First World War. Our mandate cover the period 1963 to 2008, but nothing stops us from looking at the past because there are some violations that cannot be explained without looking at the past. As you have pointed out, the reason your community is lagging behind is because you had to come back and begin to rebuild. So, the people who remained here had an advantage over you.

You have spoken about education and that you have 11 primary schools and one secondary school. What happens to the students who then need to go to secondary school? Where do they go, because I cannot imagine pupils from 11 primary schools all trying to get a place in one secondary school? How has that issue been resolved?

Mr. Musa Mshiri Kitonga: Commissioners, when the children pass examinations, there are other schools within Taita District which help us to offload some them. The remaining join the local schools.

The Presiding Chair (Commissioner Chawatama): What kind of impact has this had on the children?

Mr. Musa Mshiri Kitonga: The children have been affected because those who do not get sufficient marks to join provincial schools are forced to drop out of school because the local school cannot accommodate all of them.

The Presiding Chair (Commissioner Chawatama): With the high level of dropouts, what sort of things do the children engage themselves in?

Mr. Musa Mshiri Kitonga: Those who are not fortunate to join secondary schools go to polytechnics. However, those polytechnics are not found in Kasigau. They just have to go to Voi and other parts of Taita.

The Presiding Chair (Commissioner Chawatama): When it comes to issues of health, do you have clinics, health centres or hospitals in your area?

Mr. Musa Mshiri Kitonga: Fortunately, the Government has built two health centres and a dispensary. So, in terms of matters of health, I believe that we have made a step.

The Presiding Chair (Commissioner Chawatama): Do the health centres and hospital have doctors, other medical staff and equipment?

Mr. Musa Mshiri Kitonga: Yes, we have enough medical staff and equipment. We also get aid from Western Kentucky University, which usually bring free medical camps every year.

The Presiding Chair (Commissioner Chawatama): Being a councillor, I am sure that you also look at the issues of accessibility. What are the roads like in the area where you live?

Mr. Musa Mshiri Kitonga: The roads are okay. The only problem is that Kasigau does not have any mobile phone network.

The Presiding Chair (Commissioner Chawatama): Help us with some recommendations. What sort of recommendations would you like us to put before the Government or other institutions, be it the police or Judiciary?

Mr. Musa Mshiri Kitonga: From the memorandum that I have read out to you, we were delayed by, first of all, going through the detour to Malindi and Mwatate and then back to Kasigau. It made the residents in that area to lag behind in so many fields of development. That is why I have said that we are still lagging behind in terms of education.

The previous Government did not find that as something that was irritating to the Kasigau people. We would like this Commission to consider those who suffered the injustices. The people of Kasigau have sent me in the hope that this Commission will be able to present our issues, so that can also get compensation for what we have suffered from the British Government reparations.

The Presiding Chair (Commissioner Chawatama): In terms of population, how many people are you talking about?

Mr. Musa Mshiri Kitonga: Kasigau itself has a population of 13,864 people.

The Presiding Chair (Commissioner Chawatama): I have no more questions for you. Thank you very much for your testimony and memorandum.
Leader of Evidence!

Mr. Patrick Njue: Presiding Chair, the next witness is Witness No.8 on the course list.

(Mr. Quincy Kihara Githinji took the oath)

Good afternoon, Sir.

Mr. Quincy Kihara Githinji: Good afternoon.

Mr. Patrick Njue: Kindly, for the record, do once again tell us your names, where you come from and what you do for a living.

Mr. Quincy Kihara Githinji: I am Quincy Kihara Githinji. I come from Voi Town and I am a contractor with the Kenya Power and Rural Electrification Authority.

Mr. Patrick Njue: Welcome, Quincy. Can you confirm that you are here with us to make a presentation on a mining dispute, an issue that affects you directly because it is a family issue?

Mr. Quincy Kihara Githinji: It is an issue that is affecting the family.

Mr. Patrick Njue: Please, carry on!

Mr. Quincy Kihara Githinji: Thank you very much. I would like to thank the Commission for giving me this opportunity because our grandmother always wished to present this case since 1994 when she was given a piece of mining location. Presently, it is for the late husband, Mr. Joseph Kibugi and it was divided between two families namely Wanjiku Kihara and Muthoni Kihara. After the subdivision of the said property, the land was bought by one Soljol Mwangola and Kutiba Ranch. The main intention of Mr. Mwangola buying the ranch was to kick out Muthoni Kihara from her mining location but luckily for her, she had sons who protected her. Eventually, justice has taken too long, she has grown very old and she, in turn, does not have any more interest. It is only us, as the grandchildren, who are fighting for her rights because this is the place where we have all been depending on for our livelihood. We have suffered greatly because of this issue.

It all started when Mr. Mwangola bought that land for ranching purposes, but had other interests. According to the title that he was given, he was given the conditions for ranching and under Cap. 280, Section 83, he had no authority over mining and that is where the whole problem began. He also went to ask the Commissioner of Mines and Geology and asked whether it is appropriate for us to continue staying there. That was in 1995 and he wanted us to seek a fresh consent from him as the new land owner but he was advised by the Commissioner that he cannot inherit the rights of the previous land owner. That was in accordance to the Mining Act, Cap. 306.

In 1996, he wrote a letter to Muthoni Kihara asking her to vacate the premises within seven days. The son of Muthoni Kihara, who is the late Mr. Joe Kihara, replied the said letter saying: "We believe that we are there lawfully and we are not going to vacate the premises. You should seek advice from the Commissioner concerning that issue." He went on to seek advice and assistance from the then Permanent Secretary, Secretary to the Cabinet and Head of Public Service, wanting us to be evicted. He went on and called us in a paragraph where he stated that we are in the exploitation---

The Presiding Chair (Commissioner Chawatama): Leader of evidence, if the witness is referring to a specific paragraph in a specific document, then we should be informed of the title of that document because we have some documents before us so that we can follow his testimony.

Mr. Patrick Njue: I am sorry for that lapse, Presiding Chair. This is Document No.4 in the documents that we have. It is the document addressed to one Fares N.K. Kuindwa and the title is “Appeal for Assistance.” The witness is referring to the last page where there is the signature of S.J. Mwangola. That is on page 5 on that very first paragraph.

Mr. Quincy Kihara Githinji: “We are for the restriction in the exploitation where there is no return to the local community and we will suggest a mandatory levy for non-indigenous legislation miners on our land to facilitate local development. This setting up of such a fund and its management can be working out if the principle is acceptable and we are ready to play a part.”

In that statement, he was referring to Muthoni as “non-indigenous.” The said assistance was replied by the Commissioner of Mines and Geology---

Mr. Patrick Njue: Commissioners that is Document No.5; the document that follows immediately after that titled “Commissioner of Mines and Geology, KenCom House.”

Mr. Quincy Kihara Githinji: The document says that he was advised that he cannot interfere with the mining licences that were given before even if he bought the land, and that the Commissioner had powers under Section 79 to grant Muthoni Kihara mining licences without the consent of the land owner.

On 3rd August, 1998, Kutima Investments Ltd., whose sole director is S. Mwangola, wrote a letter to Muthoni Kihara telling her that she is mining on the said land without his consent. He acknowledged that the previous land owner, who is the late Mr. P.J. Mwangola, allowed Mr. Joseph Kihara Kibugi, the late husband of Muthoni Kihara to prospect on the said land. But he was arguing that if minerals are found, they are meant to go back to the discussion table to agree on the terms and conditions. In real sense, that was not the agreement between Mr. P.J. Mwangola and Joseph Kibugi Kihara.

After he went through all that and the law was not on his side, in 1999 he went on to court and he was given an injunction restraining Muthoni Kihara, her agents and servants and anyone acting under her from going into the said piece of land. Within that period of time, we were removed from the said property and we left property, machinery, buildings and equipment worth a lot of money. After 2000, my uncle who was assisting us in Nairobi, the late Francis Kibugi, was shot as a result of mistaken identity just outside his house, and that was a blow to Muthoni Kihara because Kibugi Kihara was assisting in the said civil suit.

Since 2000, we have always been in court with very long adjournment of hearings with our lawyers being bought on the other side, giving us false information and lying to us. This forced the family members to start studying the law through the internet so that we can be conversant with what is going on in court. With the persistence of family members, in 2005, Judge Phillip Kihara gave us a ruling on the said suit and the ruling was in our favour and the Commissioner of Mines and Geology.

After that ruling, Kutima Investments went to the Court of Appeal to appeal against the ruling of Judge Kihara and they wanted an injunction under Rule 5(2)(b) and it was declined. He was not given any orders. He went back to the High Court to Judge Ransley seeking for orders, and he went as an *ex parte*. He was given the orders. Judge Ransley at that time had interest in the mining industry and we believe that is the reason he gave him the injunction because during the time when the case was in court, Mr. Mwangola of Kutima Investments was carrying on mining activities in the said mining locations. So, after he went to the High Court, he was given the orders. We were arguing out with our lawyer that the High Court cannot overrule the Court of Appeal but because we were not very much acquainted with the law, we had to believe him.

As he had the High Court injunction, we were persisting that he should not be continuing with mining activities. The son of Muthoni Kihara, the late Joe Kihara, raised the issue with the Commissioner of Mines and Geology and in turn went to the site and found approximately 40 workers mining on Muthoni Kihara's mining locations. They tried to contact Mr. Mwangola but that did not bear fruits. We persisted that Mr. Mwangola was still mining. We wrote letters to the OCS Wundanyi and OCPD Voi, but we did not get much assistance. So, it was sometimes back that the people from the Nairobi Star visited the site and found people mining. This was published on a Monday, 30th June, 2008 and in turn we copied that to the OCPD to confirm that what we have been telling them was true. But there was no prosecution and since that time, they have been mining. We have brought that to the attention of the OCS but no action has been taken against them.

In 2011, we went back to the site, people were arrested again and the case was brought to Wundanyi Law Courts and until today, there is no progress from that court. We always wondered who Mwangola is such that he always breaks the law and no action is taken against him. After the people were arrested, we went to the Commissioner of Mines and Geology and he copied a letter to the OCS, Wundanyi, asking him to arrest Mr. S. Mwangola and Mr. Antony Ngoo who were found mining in Muthoni Kihara's mining location. Surprisingly, up to date, this man is walking free. We move up and down asking for justice and it seems that there are people in this country who are above the law and there is nothing that can be done to them.

After the family members – now the grandchildren of Muthoni – sat together, we went through the cases in the papers and we came to realize that we actually do not have a case and that we are supposed to be mining. We went and visited the Commissioner and told him that we had gone through our court documents and there is nothing that is preventing us from taking up mining activities. The Commissioner wrote to the Attorney-General telling him that he has received a letter from Muthoni claiming that they are supposed to

be mining and he sought advice from the Attorney-General on whether he could renew the licence of Muthoni Kihara. The Attorney-General advised the Commissioner to renew the mining licence of Muthoni Kihara in the letter addressed to the Commissioner of Mines and Geology Department.

Mr. Patrick Njue: Commissioners, the document he is referring to is Document 10, I believe on the last page and it is titled "Conclusion."

Mr. Quincy Kihara Githinji: Since the above provisions do empower the Commissioner of Mines to issue and renew a licence, it is our considered opinion that the Commissioner may renew the licence in accordance with Section 79 of the Act. It is important to note that as the Court of Appeal dismissed Kutima Ltd. application; Application No.120 of 2005, which sought an injunction pending the hearing and determination of the intended appeal, there is nothing which will stand in the way of the renewal of Muthoni Kihara's licence to prospect and mine their registered locations/claims on Kutima Ranch. The pending appeal; that is, Civil Appeal No.117 has no bearing on the renewal of the licence.

So, after that letter of 14th September, the Commissioner went ahead and renewed the licence as advised by the Attorney-General. When we commenced mining activities, Kutima Investments through his employees came into our site again and told us that we are not supposed to be there. We told them that we are supposed to be there and we gave them documents including our renewed licence. For almost one week, they came and threatened us. After that, Kutima went to the Department of Mines and Geology and told the Commissioner that he is not supposed to have renewed our licences and he is supposed to revoke those licences. Indeed, after three weeks of commencing work, the Commissioner suspended our licences and he never gave us any grounds on why he did that. When we followed up on that, even before the Commissioner replied to our letter, we were served with documents that we were supposed to be going to court under another new application that the Commissioner used excessive powers to renew our licences. So, we went to the Judicial Review and in turn, we were stopped from mining until the hearing and determination of the suit.

In that whole process, Muthoni has suffered a lot. The sons and grandsons have also suffered a lot. As we had special grounds that the new appealing of the judicial review application that had no grounds of us being stopped from working, the said Kutima Investments, who is Saul Mwangola, wanted to buy our locations through our step grandmother in December 2011. This was facilitation from the departments which we were not aware but we can say that it is by God's grace that, somehow, we came to know about it and we asked the Commissioner to stop that transfer because the said locations were not for Wanjiku Kihara. They belonged to Muthoni Kihara. I would like to present that document which I think we never submitted earlier.

So, after we discovered that, our grandmother went on and changed the documents and, indeed, the transaction was stopped. The Commissioner copied to us a letter confirming that the said transaction was stopped and what we have been wondering as a family is

that when Kutima was buying that ranch, he was buying it for ranching purposes, and the whole ranch is approximately 5075 hectares and we only occupy 195 hectares. So, we do not understand why he is calling us intruders, non-indigenous people---

The Presiding Chair (Commissioner Chawatama): I think that is already on record. Could the witness now come up with the recommendations and what his expectations are?

Mr. Quincy Kihara Githinji: My recommendations are that the Commission should speed up the rate at which the court dispenses rulings. The locals can be taught mining and ranching so that everyone can be in peace and justice be served to us.

The Presiding Chair (Commissioner Chawatama): Leader of Evidence, I am very sorry. I think we may have to just stop for a minute on this matter so that we can present the wheelchairs to two deserving persons. It will only take a few minutes, and then we will continue with this matter.

Is there anybody from Special Unit? Are they ready for us? Could you ask them to come in, please?

Ladies and gentlemen, one of the things that, as a Commission, we are committed to do is to improve the lives of Kenyans where possible. So, as we have travelled, we have given out wheel chairs. We have also assisted people who needed medical attention through various partners who are partnering with us in this work. So, today, you will witness one of these occasions where we will hand over two wheel chairs.

Just bear with us. After we are through with them, we will continue with the hearing.

Thank you very much.

*(The Presiding Chair handed over
two wheel chairs to two disabled persons)*

The Presiding Chair (Commissioner Chawatama): Leader of Evidence, do you have any questions?

Mr. Patrick Njue: Mr. Kihara, you have brought us documents today. Do you wish that they be formally admitted to the record of this Commission?

Mr. Quincy Kihara Githinji: Yes.

Mr. Patrick Njue: Presiding Chair, I pray that the documents be formally admitted.

The Presiding Chair (Commissioner Chawatama): The documents are admitted as prayed.

Mr. Patrick Njue: Mr. Kihara, who is this you came with before us?

Mr. Quincy Kihara Githinji: It is my cousin, Allan Kabetu Kamau. We have been handling this issue together. He has been a key player in this issue.

Mr. Patrick Njue: Could he, please, wave to us so that we recognize him?

(Mr. Allan Kamau waved to the Commissioners)

The Presiding Chair (Commissioner Chawatama): Thank you for coming. Mr. Kihara, your presentation was very good. Do you have any question, Commissioner Farah?

Commissioner Farah: No, I do not have any questions. Your presentation was excellent. It was so good that at times it was boring. It is the court process which is delaying everything. The Commissioner needs to take up the matter and fast track the court process. That was your recommendation.

The Presiding Chair (Commissioner Chawatama): I join Commissioner Farah in congratulating you. If you were in court, I would say that those were excellent submissions. Your testimony was excellent.

What are your thoughts on the fact that the new Constitution has given room for reforms in the Judiciary, so that it will perform better in future?

Mr. Quincy Kihara Githinji: We are already seeing the reforms in the judiciary.

The Presiding Chair (Commissioner Chawatama): We will look into the issues you have talked about; in fact, follow the court process. Thank you, very much. You may now step down.

Mr. Patrick Njue: Presiding Chair, we received a memorandum from two groups which wanted to be recognized. They are the Taita Inter-Faith Youth Network and the Taita Sisal Estate. We thank them all.

That is all we had today.

(Mr. Lawrence Kipasha gave the vote of thanks)

(Closing prayers were said)

(The Commission adjourned at 4.10 p.m.)