

Seattle University School of Law

## Seattle University School of Law Digital Commons

---

I. Core TJRC Related Documents

The Truth, Justice and Reconciliation  
Commission of Kenya

---

2-21-2012

### Public Hearing Transcripts - Nairobi - RTJRC21.02 (NHIF Auditorium, Nairobi)

Truth, Justice, and Reconciliation Commission

Follow this and additional works at: <https://digitalcommons.law.seattleu.edu/tjrc-core>

---

#### Recommended Citation

Truth, Justice, and Reconciliation Commission, "Public Hearing Transcripts - Nairobi - RTJRC21.02 (NHIF Auditorium, Nairobi)" (2012). *I. Core TJRC Related Documents*. 48.

<https://digitalcommons.law.seattleu.edu/tjrc-core/48>

This Report is brought to you for free and open access by the The Truth, Justice and Reconciliation Commission of Kenya at Seattle University School of Law Digital Commons. It has been accepted for inclusion in I. Core TJRC Related Documents by an authorized administrator of Seattle University School of Law Digital Commons.

**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND  
RECONCILIATION COMMISSION ON TUESDAY, 21ST  
FEBRUARY, 2012, AT THE NHIF AUDITORIUM, NAIROBI**

**PRESENT**

<b>Ahmed Farah</b>	-	<b>The Presiding Chair, Kenya</b>
Tecla Wanjala Namachanja	-	The Acting Chair, Kenya
Berhanu Dinka	-	Commissioner, Ethiopia
Tom Chavangi	-	Leader of Evidence

*(The Commission commenced at 9.45 a.m.)*

*(Opening prayer)*

**The Presiding Chair** (Commissioner Farah): Good morning. Welcome to our second day of hearing this week. We had very successful hearings yesterday. Today, we will continue. For those who are new in the hall, our procedure is very simple; the witnesses will give their evidence. It is being recorded in our HANSARD. At the end of the witnesses' testimony the Commissioners may ask questions on the testimony just to clarify any issues. After that we will continue to the next witness.

Just for the members of the public, these are very serious issues. Sometimes they are heart breaking and we need counselors to console some witnesses who break down. So I expect the public to remain silent in respect of the witnesses and please, switch off your phones. Do not put it to vibrate because if it vibrates it will disturb us and we do not want the vibration to be recorded by the HANSARD.

Thank you very much.

I will now introduce the panel.

*(The Presiding Chair (Commissioner Farah) introduced himself and other TJRC Commissioners)*

Leader of Evidence, over to you.

**Mr. Tom Chavangi:** Thank you Presiding Chair and your fellow Commissioners. Our first witness is Hassan Guleid Abdille, witness No.6.

**The Presiding Chair** (Commissioner Farah): Thank you. Please, proceed!

*(Mr. Hassan Guleid Abdille took the oath)*

**Mr. Tom Chavangi:** Mzee Hassan Guleid Abdille, for the record kindly state your name again.

**Mr. Hassan Guleid Abdille:** My full names are Hassan Guleid Abdille, aged 62 years and resident of Eastleigh.

**Mr. Tom Chavangi:** For how long have you lived at Eastleigh?

**Mr. Hassan Guleid Abdille:** 18 years.

**Mr. Tom Chavangi:** There is a gentleman seated on your left, who is he?

**Mr. Hassan Guleid Abdille:** He is Huseein Khaji Mohammed. He is the Vice-Chairman of Eastleigh District Business Association (EBDA).

**Mr. Tom Chavangi:** Are you comfortable with him sitting next to you?

**Mr. Hassan Guleid Abdille:** Yes, I am.

**Mr. Tom Chavangi:** Thank you very much. You presented a memo as the chairman of EBDA, kindly proceed and present your statement.

**Mr. Hassan Guleid Abdille:** First and foremost, I wish to thank the Commission on behalf of the community in Eastleigh and myself for giving us an opportunity to be heard today. I am going to present our grievances, in the past and present. These are the violations. In a nutshell, there are two main issues; those under civil and political rights and those under socio-economic rights.

I am the Chairman of the EBDA and as you know Eastleigh is basically a business hub which has been developing for the last 20 years and it has now become the second largest business district. It is second to the Central Business District (CBD). The business activities in Eastleigh generate an estimated Kshs600 million per year in Government taxes. The unfortunate thing is that we do not get back what we pay in form of the services that we deserve. We have problems in areas of; denial of citizenship, discrimination based on tribe, religion and ethnicity, in-human and degrading treatment, police harassment, marginalization, grand corruption, denial of health care, extortion by the police and the city council personnel and various Government offices and denial of identity cards for our children.

When a Somali child is born in Nairobi he cannot be issued with an ID card here. He is normally referred back to his father's home district. This has been causing a lot of unnecessary problems.

In brief, I have mentioned the problems that we have which are challenges. There is also insecurity. There are well organized gangs who kill and maim our members during robberies with very little help from the police. In spite of paying heavy taxes to the

Government, we suffer from poor infrastructure. Government agencies like the city council, KURA and the Nairobi Water and Sewerage Company have totally neglected us.

As I told you earlier, Eastleigh is a major business centre and a very busy airbase is within its proximity. The airbase was established there in 1962 long after Eastleigh was established. Today, we are suffering some economic losses because they are claiming that we are a security risk to the base. That resulted in demolition of properties which are too close to the airbase. Even the buffer distance required was still there but they demolished buildings. These are buildings which were planned and approved by the relevant Government agents. I am narrating the most recent injustice that we have had.

The other issues are that Eastleigh does not have any institutions of learning and hospitals. The nearest Government hospital we can go to is Kenyatta National Hospital (KNH). This is very sad. We consider that as neglect. Eastleigh boasts some of the best hotels in Nairobi but now it is a big slum. Due to the Government's disregard for the wellbeing of the people, this has contributed to Eastleigh ending up filthy with an overcrowded centre, roads that are passage for raw sewer, craters in the middle of the road, absence of green zones or parks and where there are no recreational centers. It is very difficult to explain the psychic of those in leadership, the constant police raids, the callous disregard for citizenry fundamental rights, and the impunity with which people are rounded up and held at police grounds is a prelude to a Government that regards Somalis as non-citizens. We are the only people in Kenya whose nationality as Kenyans has to be qualified. The 2009 census describes Somalis as Kenyan Somalis. That is discriminatory, inciting, and meant to exclude.

Eastleigh was designed as a Somali sector by the colonial Government. However, the children who lived in Nairobi since the day of Eastlands are still having a problem of not having a sense of belonging to the place. This is simply because of the Government's attitude. As I said earlier, national IDs is evidence of nationality and when it is denied your citizenship is in doubt. Anytime a document is issued to a Somali it is viewed with suspicion and may more often be ignored when presented by the holder.

The historical injustices that were committed against the Somali population need to be addressed fully whether it happened in North Eastern or Nairobi it is the same. The Wagalla Massacre was the epitome of those atrocities that were committed in our name. Unfortunately, we had no attribution. Even today, there are people who believe for example that the Somali are over-presented in Government jobs. This seems to be an incitement which is programmed to disqualify us from getting further jobs.

In 2010, the Government directed that properties owned by Somalis be profiled. That has damaged our status. It has completely caused us economic problems. We are proud of our country. We are equally proud of those who defend us and ensure we sleep safely at night. We will undoubtedly play our role in the development of our beautiful country. We are proud of our role in the history of this nation. All that we ask is equal treatment with our fellow Kenyans. We ask that resources be allocated fairly and equitably. Eastleigh is not in another country. It is a town in the heart of the city of the Government. We

challenge those in authority to prove us wrong that bypassing of Eastleigh infrastructural development is not deliberate Government policy.

With that, I end my statement and wish to thank the Commission. I believe that this Commission will be serving the interest of everybody. Thank you.

**Mr. Tom Chavangi:** Thank you very much Mr. Guleid. It clearly shows that the Nairobi City Council (NCC) has played a major role in some of the problems that you are facing. However, I just want to ask you one question about development in Eastleigh. Our research has shown that any development that is taken into Eastleigh in the form of roads and any other is always resisted by the residents of Eastleigh. Is that true?

**Mr. Hassan Guleid Abdille:** No, it is not true. Nobody will refuse development.

**Mr. Tom Chavangi:** Have you ever lodged any complaint with these institutions like NCC and KURA?

**Mr. Hassan Guleid Abdille:** We did not only represent the problems to them but we even went to court. We are still waiting for an answer.

**Mr. Tom Chavangi:** Thank you very much. Commissioners, I have no further questions for this witness.

**The Presiding Chair** (Commissioner Farah): Thank you Leader of Evidence. I will now ask the Commissioners to ask any questions.

**The Acting Chair** (Commissioner Namachanja): Mr. Guleid, I am a Kenyan and I have been to Eastleigh. I was passing there I think on my way to Ruai. I regretted having chosen that route. It was during the rainy season and I was not able to differentiate between the rain water and the sewage. I think for Commissioners who are not Kenyans to get the picture you are sharing, we need to visit Eastleigh. In contrast to the state of the roads, I think Eastleigh has the largest concentration of banks than anywhere else in this country.

We do not know why the case is so but it is good that you have come before us. I think it leaves us to investigate. What you have shared in terms of discrimination and marginalization is just affirming what we heard when we were going round during our public hearings especially the stories we heard in the North Eastern Province. It is just a sub-set of what is being experienced in North Eastern Province and for a long time before some of us started working in North Eastern as Kenyans who are non-Somali, we used to wonder why there was a cold relationship especially between the non-Somali Kenyans and the Somalis. It is what you have shared. They do not feel like being part of this country. They feel neglected, discriminated and when you go to North Eastern they talk as if they are in another Kenya. When you are in Garissa and you cross the river then you are told you are going to Kenya.

I think this Commission comes timely for us to reflect on some of these issues so that we can all see ourselves as being Kenyans. Thank you so much for coming before this Commission to share what the residents from Eastleigh experience. We shall take your recommendations very seriously.

I have no questions.

**Commissioner Dinka:** Thank you Mr. Hassan Gulleid for your presentation. It was very systematically presented and very concise and clear. In 1999 I was working in Kenya as a special representative of the Secretary-General of the United Nations. When we came with a Somalia friend of mine from the UN, we came incognito into Eastleigh. We walked around and had lunch in one of the restaurants there. What you are telling me now; there has not been much change since 1990. You have taken a very good note of things and presentation. You have presented the people of Eastleigh very well and we will make recommendations and findings in our report.

I just want to ask one or two questions; what is the total population of Eastleigh now?

**Mr. Hassan Guleid Abdille:** The night population is between 200,000 and 250,000 people. Day population gets to between 370,000 to 400,000 people.

**Commissioner Dinka:** Do you have any figure of the number of primary schools, high schools and colleges that you have?

**Mr. Hassan Guleid Abdille:** There are four secondary schools which are government schools. I do not remember how many primary schools are there. There is no hospital or dispensary at all except Pumwani Maternity. There are no collages.

We are talking of Government services, private ones---

**Commissioner Dinka:** I am talking about public. How close is the airbase to the centre?

**Mr. Hassan Guleid Abdille:** It is about five kilometers to the centre of the city. However, the buffer zone between the airbase and Eastleigh is 800 metres.

**Commissioner Dinka:** Can you in a few minutes give us what the impact of the Government instruction to profile Somalia properties has been? What was the impact?

**Mr. Hassan Guleid Abdille:** The whole thing created a very bitter feeling in their minds. When the Government spoke about profiling it created bad blood between Somalis and other Kenyans, it made the Somalis look as if what they have does not rightfully belong to them. It also discouraged further investments by the community. No one was sure what would happen the following day. Then there was loss of business because people closed down for fear of losing their money. It only changed a little after we petitioned the Government and went public about the issues raised by the Government at that time. That is all.

**Commissioner Dinka:** Just one last question; you mentioned about demolishing your homes and other buildings which were planned, designed and approved by Government agencies, were the people paid compensations?

**Mr. Hassan Guleid Abdille:** So far there is no compensation that we know about. A parliamentary committee was set up by the Government and it stopped further demolitions. They deliberated the subject and the outcome was to stop further demolitions. Those who were affected were asked to present their cases individually. They could not tackle it collectively.

**Commissioner Dinka:** Thank you. I have no further questions.

**The Presiding Chair** (Commissioner Farah): I think Commissioner Namachanja has one more question to ask you.

**The Acting Chair** (Commissioner Namachanja): Mr. Guleid this is a sensitive question but it is important for us to face it and speak the truth. It is not confirmed but there is a feeling that there is the difficulty in dealing especially with criminals from our neighbouring county who are also Somalis. There is a belief that Kenyan Somalis protect them. I do not know what comment you have on this.

**Mr. Hassan Guleid Abdille:** It is very true that we have both registered and documented refugees and non-documented refugees among us. As you know, these are relatives and in-laws. They share a lot of common things. Once somebody has crossed all the way from Daadab, they go through several districts and security councils. They pass Garissa, Kitui, and Thika and end up in Nairobi. By the time they end up in Nairobi, it is believed that they have been vetted and they have managed to arrive in a proper manner. That is why it is difficult to convince people not to defend them. It is a weakness on the side of the security arm of the Government in dealing with that issue. Any time that the Kenyan Somalis have the opportunity to help, they will help them because those are running from bullets and killings across the boundary and there is no way they can fail to help them. Remaining there means dying. That is why the local ones have feelings for them. It is a human feeling.

Believe me, the moment either Somalis come to their sense or the international community settles that country's problem, they will all go back.

**The Acting Chair** (Commissioner Namachanja): Do you have any proposals on how the Kenyan security can work with your association to ensure there is protection for all.

**Mr. Hassan Guleid Abdille:** Yes, Madam. We initiated several actions. We began petitioning the Government as early as 1995 to have these refugees documented well. I am not conversant with the laws of the UN but what I know is that the Geneva Convention was to enable them get maximum help from Kenya as refugees. But when they are refugees they cannot sit doing nothing. They have the right of getting an alien

card which was not available. Many of them were very active businessmen and women even when they were in their country. Therefore, they were entitled to travelling documents. Those two documents and general documentation would have deterred them from misbehaving.

Even to date, there are so many of them who are able to do business and be on their own without depending on the international community, but they cannot do so simply because they are not documented. As an organisation catering for them, we have no powers to document them. We keep on pleading with the Government. The main problem is extortion of money through corruption by those who are supposed to handle them. If that were done, Somali refugees would not have resorted to buying Kenyan documents, namely the passports, ID cards and such documents. At times, they buy fake documents, which is enough to flush out to a policeman. Still they have not been able to escape. I hope that gives you the answers you wanted.

**The Acting Chair** (Commissioner Namachanja): Thank you, Sir.

**The Presiding Chair** (Commissioner Farah): Mr. Guleid, you said that you do not know much about international law but in other countries, like in Europe, they have accepted refugees and after a period of time, they get citizenship. Has that been applicable in this country, where when refugees come and they are able to do business, they stay, they are documented and after five years, they get citizenship?

**Mr. Hassan Guleid Abdille:** With money, yes. Those who cannot afford, they cannot get it. There have been cases, to be fair, where they got naturalised at a later stage, but the percentage is very small.

**The Presiding Chair** (Commissioner Farah): Going back to Eastleigh, with the new constitutional dispensation, and the Member of Parliament whom you recently elected from amongst yourselves within PNU, do you think that things will change and Eastleigh will be developed like other sections of the city?

**Mr. Hassan Guleid Abdille:** There has been a lot of relief since the new Constitution was put in place. As far as the effectiveness of the MP is concerned, it depends a lot on the funding available to him; at least we have the political will to push whatever we request for, which rightfully belongs to us.

**The Presiding Chair** (Commissioner Farah): Thank you very much for answering those questions candidly. As far as I am concerned, I have noted everything. Before we finish, our Acting Chair has thought of another question that she wants to ask you.

**The Acting Chair** (Commissioner Namachanja): Mr. Gullied, you said that you felt offended during the national census when you were referred to as “Kenyan Somali”. How would you like your community to be identified, especially during the census?

**Mr. Hassan Guleid Abdille:** We prefer to be called “northerners”.



**The Acting Chair** (Commissioner Namachanja): Then will I be called “westerner”?

**Mr. Hassan Guleid Abdille:** Commissioners, we are now moving to regionalism. We come from the north. Everybody will confuse us with Somalis from Djibouti and Somalis from Ethiopia. “Kenyan Somali” labels us again in a discriminatory way. Call us “Kenyan northerners”.

**The Acting Chair** (Commissioner Namachanja): How shall we call the Turkana people, who also come from northern Kenya?

**Mr. Hassan Guleid Abdille:** There is no country neighbouring the Turkana of Kenya where there are other Turkana.

**The Acting Chair** (Commissioner Namachanja): I come from western Kenya. My community cuts across to Uganda. Should I also be called “westerner”?

**Mr. Hassan Guleid Abdille:** That will differentiate you from the Ugandans.

**The Acting Chair** (Commissioner Namachanja): Thank you, Mr. Guleid.

**The Presiding Chair** (Commissioner Farah): Thank you very much. We have come to the end of questions and clarifications. I just want to assure you that we have heard your presentation. It is in our files. We have an investigation department which will carry out further investigations on some other issues and statistics. I want you to rest assured that we shall do appropriate recommendations, which will be mandatory for the Government to implement.

**Mr. Hassan Guleid Abdille:** I have a request.

**The Presiding Chair** (Commissioner Farah): Go ahead, please.

**Mr. Hassan Guleid Abdille:** I would like my companion to add one or two things that I might have left out.

**The Presiding Chair** (Commissioner Farah): Proceed, please.

**Mr. Tom Chavangi:** Presiding Chair, we shall have to swear him in before he speaks.

*(Mr. Hussein Mohamed Haji took the oath)*

Welcome, Mr. Hussein. You have heard what Mr. Hassan has said with regard to the issues that are facing the people of Eastleigh. So, do not repeat what Mr. Hassan has already said but you may add anything that he may have forgotten to explain to this Commission.

**Mr. Hussein Mohamed Haji:** Commissioners, I thank you very much for this opportunity. I will be very brief because my chairman has said everything.

I am 69 years old, and I was born in Ngong, near Ngong Hills. I came to Eastleigh when I was five years. I have lived there for 64 years as a resident of Eastleigh. I do not have much to say.

As residents of Eastleigh from the Somali community, we have experienced a lot of problems from the time Kenya attained her independence. As the Somali community, as the chairman said, we are supposed to be called northerners. There are people who were called “upcountry Somali”, who did not even know where the North Eastern Province was. Since we got independence in 1963, they have been encountering a lot of problems. These people do not even know anything about the secession story. They were true Kenyans. If they were in Nairobi, they knew that they were Nairobian. If they were in the Rift Valley, they knew that they were Rift Valley residents. They encountered a lot of problems because during the *Shifita* War, all Somalis were regarded as *Shifita*.

I would like to thank the true citizens of Kenya. We did not have a problem with fellow Kenyans. The problem came from the Government. I am sure of what I am saying because in 1963, I was in my 20s. I was able to read newspapers. I was able to know what was happening. There are people who lost their plots. To date, they have not got them. I have tried looking for documentation to bring to the Commission but I have not found any; I am very sure that the Somali were conned.

I do not want to speak much. I just want to talk about the difficulties involved in acquiring IDs. It becomes very difficult when a child attains the age of 18 years and he is in secondary school. Somebody who comes from western Kenya, where the Acting Chair comes from, gets an ID without being asked so many questions. But the Somali student is told that he cannot get it in school. So, they are discriminated against as if they do not have a right to get the document. They cannot even pass the examination well because of the discrimination they face in school.

We, as Eastleigh residents, have contributed a lot to the economy of this country. We have employed people. We have done what the Government has been saying, that we should create employment for the youth. As the chairman said, we have employed very many people. We do not have a problem with other Kenyans, but we have a problem with civil servants. We cannot say that our Government is bad but some of the civil servants have contributed to bringing about conflict between us and other Kenyans. If Maj-Gen. Farah goes there and comes across some policemen, they will order him to stop because he is Somali.

This problem is still there and it has contributed a lot to the conflict between us and the Government. The Government has the necessary security machinery to enable it identify people. One day I went to Tanzania and after two hours, I was called to a police station and asked where I came from. I do not know why the police in our country cannot do the same. There is a problem. They want to call everybody “foreign Somali” so that they can

use it to harass those of us who are *bona fide* citizens. We have asked many times to be given a chance in vetting and security organs. There are people here whose hearts are Kenyans and who will die as Kenyans. They do not want any problem to face this country but we are not given chance.

Thank you very much.

**The Presiding Chair** (Commissioner Farah): Thank you, old man. I have a final question for Hassan Guleid Abdille. I notice that you are a very educated man. You are also a very good businessman and you have worked in the Government before. Now that we are going into counties, within Nairobi County, which I am told will be divided into baroughs, do you not think Eastleigh is going to become a barough and that you, as residents and businessmen, will have to contribute to the administration of that barough within the County of Nairobi? How will that be different from your current situation and how will it improve your lives?

**Mr. Hassan Guleid Abdille:** One big problem I see with devolution is that its principles are not even well understood by those who created it. We also have the same problem. We do not know how many baroughs there will be in Nairobi and whether an area as small as Eastleigh alone will be able to have its own barough. If it does, it will be greatly to our advantage. We will definitely be sharing the barough with several other constituencies. We are sure that it will bring services closer to us. We will be able to make better decisions. If the OCS at Pangani is corrupt, we will be able to get him by the collar and push him out. Those I believe are the Government channels that are supposed to serve the communities within the counties, and which will be empowered enough to correct mistakes without waiting for a solution from the central Government. We will definitely benefit a lot.

**The Presiding Chair** (Commissioner Farah): Thank you. Commissioner Wanjala has the last question or comment.

**The Acting Chair** (Commissioner Namachanja): Mr. Hassan, thank you very much for sharing your views with us from the bottom of your heart. It is very painful for you to be patriotic to your Government yet it is your own country that rejects you. From your sharing, I have picked out one key issue concerning IDs. As I said, I come from western Kenya. I am expected to go through the vetting process. As I speak, my 20-year daughter is waiting for the vetting board to meet, so that she can get an ID but at least I know somebody there in Bungoma, whom I called and told: "My daughter will come for the vetting." The process for us is for my chief back home to write a letter indicating that he knows my daughter. She then goes there with my documents. It is as simple as that. The vetting process needs to be simplified to enable our Kenyan Somali acquire IDs.

When we were conducting hearings in the North Eastern Province, we realised that many young people were not able to get into colleges or get employment because they did not have IDs. I do not know if you, as elders, have shown interest in being on that vetting board. You are respected people in Kenya. It will even be easier for the vetting board

when it comes to dealing with people from your community. Have you shown any interest? What is the procedure of getting on this board, so that we can recommend it?

**Mr. Hassan Guleid Abdille:** I do not know how they choose the board members, but I am very sure that they have a criterion which definitely allows them to pick the best elders. As much as I would liked to serve on that board, maybe, my other business schedules would not allow it. I also appreciate the fact that without vetting, it is very difficult to know the difference between a Somali from across the border and a Somali who is born in Kenya. We appreciate that fact as much. What matters is the way they handle the process. That is the biggest problem.

I will give you an example of my own child. I served in the Government at the level of Permanent Secretary (PS) and the officials knew me very well, but my son, who was in Form Three, was denied an ID. He had to go back to Isiolo, where I come from. When they came to know who I was, the story changed a bit. Some of them knew somehow. So, these are hiccups that will be there but it depends on the number of people it affects from time to time.

We know that near the border, the Maasai and the Borana people have similar problems, but what matters most is the way it is done. There is nobody who will object to being identified properly by elders, who know one's father, grandfather, mother and grandmother, *et cetera*. The problem we have is the way the actual vetting process is handled. That is where the problem is.

**The Presiding Chair** (Commissioner Farah): Our travelling round the country, venturing into every corner of Kenya, has really enlightened us, as Commissioners. I even used to think, a long time ago, that there was no problem in the Central Province. However, when we went to Nyeri, Murang'a and Kiambu, we found that they have a lot of problems just like in any other place. This country has a lot of refugees from neighbouring countries, where there has been a lot of turmoil. We have had refugees from Rwandese and Congolese including Ethiopia. We have laws, like any other civilised nation. Any refugee who has come to this country should be documented and given an identification card. If they are law abiding people, and they do business, after five years, they can even apply for citizenship, particularly if they have investments.

So, it is all about our attitude, as a people. I believe that when we go into devolution, most of these things will be solved. We have taken note of the violations you have suffered and we shall recommend appropriately.

Thank you very much. Leader of Evidence, we have come to the end of the Eastleigh Community's presentation. You may stand down the witnesses and call the next witness.

**Mr. Tom Chavangi:** Thank you, Presiding Chair and other Commissioners. The next witness is No.13, Benson Ndei Gikuru, who had initially wished to speak in-camera. He has now changed his mind and he wants to speak in public. He is accompanied by his

area Member of Parliament, hon. Jeremiah Kioni, who wants to speak briefly. I seek your guidance, Commissioners.

**The Presiding Chair** (Commissioner Farah): It is okay. Please, proceed.

*(Mr. Benson Ndei Gikuru and Hon. Jeremiah Kioni took the oath)*

**Mr. Tom Chavangi:** Thank you, Benson. For the record, kindly, state your name again.

**Mr. Benson Ndei Gikuru:** I am Benson Ndei Gikuru.

**Mr. Tom Chavangi:** Where do you live, Benson?

**Mr. Benson Ndei Gikuru:** I live in Nyandarua, in Muruai Settlement Scheme.

**Mr. Tom Chavangi:** What are you at Muruai Settlement Scheme?

**Mr. Benson Ndei Gikuru:** I am the chairman of Muruai Co-operative Society.

**Mr. Tom Chavangi:** You presented a statement before the Commission which touches on misappropriation of public land by certain officials of the Government?

**Mr. Benson Ndei Gikuru:** Yes.

**Mr. Tom Chavangi:** Kindly, proceed and present your statement.

**Mr. Benson Ndei Gikuru:** I am glad to appear before this Commission and represent Muruai Settlement Scheme in relation to the land that was grabbed. I am talking about eight pieces of land that were grabbed. The grabbing started in 1998. When land in this scheme was being subdivided, some areas were left as public utility land. After a short time, when the country was in a mess and when the co-operative societies were “killed” because milk and pyrethrum were not being paid for, people deserted the societies. Those who were chairpersons left the societies without anybody to man them. During that time, there was nobody to question anybody and that is when those public utility plots were being grabbed.

However, some of us who were strong started complaining when we heard that this land was to go. There were committees that were set up such as the Development Committees, Divisional Development Committees, Locational Development Committees and Sub-location Development Committees. What happened was that the Government had decided that the land that was not owned by anybody or the land which was not being used, these Committees could recommend that the land be given out to people. However, there were unscrupulous deals. When those committees were formed, they started doing things which were not proper. The process was supposed to start from the sub-location level. The Assistant Chiefs could get people who could listen to them. Since there was

corruption, they would manipulate a group of people to come and sign that the people from that area had agreed to offer that land, which was not true. People were surprised when they learnt that the land had been grabbed by people we did not know, although no consent was given by the people from those areas.

The members of the committees I have mentioned were known. They had specific people who were supposed to be in each committee. So, before they went to those meetings, they would be influenced in advance so that when a certain piece of land was mentioned at the meeting, and they would say that it should be given to a certain person. So, the District Commissioner, as the chairman of the District Development Committee, seeing that all the people supported, could grant that land to that particular person.

People were left in camps. About 3,000 people are being served by those camps. We had tried to complain about Plot No.176, in vain. It was a cattle dip. We had asked for that land to be set aside, so that we could have a cattle dip there, a shed for injection and a shed for wool. We also wanted to have a polytechnic and three nursery schools. We formed that group in 1993. We have complained in many areas. I have submitted a copy of the document in my position. We had complained to the Settlement Officer, Olkalou; the District Development Officer, Nyandarua; the District Lands Officer and the District Officer. During that time, we had given copies to the District KANU chairman. We had also given copies to the District Commissioner.

We also complained to the Office of the President. We had also written to the Commission of Inquiry into the Land Law System in Kenya, from which we got a reply. We had also written to the Chairman of the Njonjo Commission. When the Ndungu Report came out, we also complained to the county council. I have given this Commission a copy of all the recommendations that are in the Ndungu Report on these pieces of land. For example, Plot No.171 is a dam that serves the people and the schools around there, but it was grabbed. I have given a copy of a document showing who did this.

As we look at the whole matter, you will appreciate that this is an area which has no river.

You can see that there is no river in that area. We depend on the dams that were dug by the Europeans. That is one of them. All animals, human beings and schools use that dam. A person was allocated that land that was supposed to be a route for water going to the dam. That is the area that was allocated to somebody. The problem is that even if you dig a well around the whole of that area there is no water. So, we have a problem. That person wanted to sub-divide that land but the community had to chase him because they knew that if that land is grabbed they cannot get any water. That is a thorny issue in that area.

There are other areas like Plot No.175 which was also a dam but it was grabbed by some people. Some people were claiming that they had paid for the title deed as trustees and nobody else was supposed to go there and fetch water. Even the children were chased

from a nursery that had been built there. These people were only trustees on behalf of the community. Plot No.174 is also a dam. It falls under the same category of 171. There was a spring which needed to be extended so that it could serve people and also serve the dispensary which is across it. This was also grabbed. Plot No. 170 was a cattle dip but it was also grabbed. Plot No.134 is also a cattle dip but it was also grabbed. Plot No.98 was also grabbed.

What I would like to say is that all this land belongs to these people and it was set aside for those purposes. But things did not go well during that time because there was nobody to complain. When the Ndung'u Report was written, and I have submitted a copy to the Commission, it recommended that all that land should be returned to the community. I would like to say that I am happy to be in front of this Commission. I would like to request the Commission to assist us to get this land back to the community so that people can benefit.

**Mr. Tom Chavangi:** Hon. Kioni, do you have anything to add?

**Hon. Jeremiah Kioni:** Thank you Commissioners for the time that you have given to us so that we can narrate to you our difficulties. It is my sincere hope and belief that these complaints will be addressed so that those Kenyans who have now failed to get services because of the issues before us, can also get a sense of being alive.

I will briefly talk about Ndaragwa Constituency that I represent for the time that I have been given by the people of Ndaragwa, which by and large is composed of settlement schemes. One of them is Muruai Settlement Scheme which is the subject of this hearing. This area was occupied by the white settlers because of its high productivity. The key activity there was dairy farming. That is why Kenyans who were there bought that land hoping to make a living out of the dairy farming. This continued very well up to the late 1970s, 1980s and the early 1990s. That was the time of the KANU regime. Then there was wanton destruction of everything. It is during that time that areas that were meant to benefit the public were taken or snapped from the public and given to the private individuals.

In my opinion, this was a systematic way of denying people a livelihood. The cattle dips or land meant for cattle dips was allocated to individuals. That was a scheme that was conceived by those who were in the Government and knew that there was land that did not have title deed because it belonged to the public. There were others who knew how to process title deeds quickly and shortchange the process to enable land to be allocated to individuals. These were people who were in the Government and politically connected. There was full involvement of the provincial administration. Due to that we lost Mutumwe Cattle Dip, Ng'ombe Gwu Dam, Mununga Dam, Subuku Dam, Subuku Spring and Cattle Dip, Angoferi Dip, Gathima Cattle Dip and also Mununga Cattle Dip. As you notice the settler had arranged a dam and a cattle dip. The Kenyans who bought that land thought that they are going to benefit. What has happened now is that the Kenyans who are living in that area have lost their sources of water and cannot get their cattle treated in a dip. They are now doing it at home despite the health hazards involved.

Commissioners, I want to repeat this because the Kiswahili translation is not bringing out what I want.

**The Presiding Chair** (Commissioner Farah): I think you should give the Kiswahili translation correctly.

**Hon. Jeremiah Kioni:** I am saying that as a result of what is being used to treat cattle at home; Kenyans are exposed to health hazards. People are now ill as a result of that. The dairy cows in most of the homesteads are blind. My own home is an example. I have a number of dairy cows that have lost sight because of being sprayed at home. With the coming into place of the Constituency Development Fund (CDF), we have tried to develop cattle dips, desilt the dams and also improve the springs but it has become difficult because every time you commence on a project, you get somebody from Nairobi or another town in Kenya saying that he owns that land. It is at that point that we came to know that the land no longer belonged to the public. By taking away the land you are killing the economic backbone of the community. It gets to a point where you wonder where the Government is. This is a Government that is supposed to take care of people but it takes away the same resources that would have benefitted people.

Getting back these resources would create employment for young people and allow the people not to remain destitute. I wonder how an individual can allocate a public source of water. You take a public land and give it to an individual who then fences it off. That is something that can amount to some form of genocide. So, I want to inform this Commission to address this issue because it affects the whole constituency. We want this land to be given back to us so that we can develop it for the benefit of the community.

Uaso Nyiro North Development Authority has set aside Kshs20 million to develop Ng'ombe Gwu Dam but we could lose that money if the illegal claim to that land is not reversed.

Finally, I would like to say that some of this land was allocated to the big shots in the Government and others from the private sector, who quickly sold it to other poor Kenyans who did not know that this land was initially grabbed from them. So, they paid money and have been using it for farming. It is important that the Government looks for ways to compensate those poor Kenyans who were conned by the rich and mighty of this country using Government offices. Those trained professionals who did not advice them and yet they were receiving salaries from tax payers money should also be held accountable.

**Mr. Tom Chavangi:** Thank you very much, Mr. Benson and Hon. Kioni for your presentation. I have a few questions for Mr. Benson.

Do you have a map detailing all this area that has been grabbed?

**Mr. Benson Ndei Gikuru:** I do not have it here but I think it is there.



**Mr. Tom Chavangi:** If it is there then we can get a copy and give the original back to you.

Do these plots have title deeds or allotment letters?

**Mr. Benson Ndei Gikuru:** They have title deeds. I have given the Commission all the details including the names of those who grabbed the land.

**Mr. Tom Chavangi:** So, those who grabbed the land have title deeds?

**Mr. Benson Ndei Gikuru:** Yes, but the community blocked them from developing the land.

**Mr. Tom Chavangi:** That is an indication of what is going on; the regular transfer of land from public to private using legal means although it is irregular.

To the hon.Member, you have mentioned several plots here, that is, Plot Nos.176, 171, 175, 174, 165, 170, 134 and 98 are they in the Ndung'u Report?

**Hon. Jeremiah Kioni:** Yes, they are in the report.

**Mr. Tom Chavangi:** That is very helpful to the Commission because that is a report that will be looked into by the Commission.

**Hon. Jeremiah Kioni:** There are also very many others from other settlement schemes.

**Mr. Tom Chavangi:** My next question is on several letters that have been written to various institutions. Could we also have copies of those letters that you have written to various institutions?

**Mr. Benson Ndei Gikuru:** We have submitted them to the Commission.

**Mr. Tom Chavangi:** Commissioners, I have no further questions.

**The Presiding Chair** (Commissioner Farah): Thank you very much, Hon. Kioni and Mr. Benson. We have similar cases in Kitale where Mzee Jomo Kenyatta signed and allocated a plot to a society which had registered members who were paying for the land. Just before they finished, the land was allocated to other individuals in the Government. In fact, we have not finished with it. We are going to do some hearings on the matter. So, the business of individuals who are powerful especially during the Moi era hiving these plots from vulnerable people who cannot even go to court is there. These plots have a similar story. We will take up this matter. We will study the Ndung'u Report, see the recommendations, and consider what you have told us about this land and recommend appropriate action. Before I do anything let me give this chance for Commissioners to seek any clarification they wish.

**Commissioner Dinka:** Thank you very much, Presiding Chair. First of all, I would like to thank Mr. Benson Gikuru and Hon. Kioni for taking time to come and enlighten us on this important issue and also for their clear and concise presentation of the matter. As the Presiding Chair has said, we have heard stories of land grabbing throughout the country. For me it is the first time that I am hearing that somebody grabbed cattle dips and dams. This is very inconceivable. When this settlement scheme was created, it became an integral part of people's lives. The cattle dips and dams were actually core elements that constituted the settlement schemes. For someone to allocate it to individuals is like condemning that settlement scheme to oblivion. From Mr. Benson's statement there are over 3,000 people. So, it means 3,000 are less important than the people who grabbed the land. That is unacceptable. We have taken note of what you have said and we will make appropriate recommendations.

I just want to ask hon. Kioni; is there a way of resolving this kind of problem in general terms so that it could be applicable to all similar situations in the new Land Bill which is before Parliament?

**Hon. Jeremiah Kioni:** Thank you, Commissioner. I want to own up to the fact that I have not thoroughly read the Land Bill so I cannot say that there is a way that has been prescribed that would resolve this issue but I will take this chance to look at the Land Bill critically. What is crucial in the whole of this process that the unfortunate scenario is that it demonstrates the crookedness of those who are involved. They dispossessed land belonging to people who have no knowledge of the land laws or land transactions. They dispossessed land from people who had struggled from a squatter settlement. These are poor Kenyans. It is for the same reason that that officer was in office but he went ahead and defrauded Kenyans. The KANU regime under Moi remains a very bitter thing in that area. It is at that time that people in my constituency, whose source of income was milk, that Kenya Co-operative Creameries (KCC) was killed, cattle dips were killed and water sources were closed. People did not have money. We thank God that we are now bringing back the industries. This issue needs to be resolved but also remember that the person who was also conned is the poorest of the poor. You cannot explain that kind of mind, it is evil and such people, some of them still hold public office and even some are in Parliament or aspiring. That is why the new Constitution needs to take effect.

**Commissioner Dinka:** Just for my own curiosity, did the people who grabbed those dams and cattle dips turn them into money making enterprising by asking to be paid? What have they done with the land? How can they have a conscience?

**Hon. Jeremiah Kioni:** Majority of the cattle dips, because they were allocated to people who come from outside that area, they destroyed them and have land for speculative purposes. That is how it ended being sold to other unsuspecting poor Kenyans. It is the same for the dams. If you do not desilt the dams they give an impression that it is land to be farmed and it is then sold off. There areas that had originally been allocated for the dam, about 10,000 acres, it was reduced to an acre. The other acres were sold. That is the trend in the whole constituency. The original maps show how the land meant to benefit

the people was grabbed. There are now small pieces of land left around the dams. Some dams do not even have access. They wanted to take as much as possible from the people and perhaps come back and take the rest when they perish.

**Commissioner Dinka:** I sincerely thank both of you. As a non-Kenyan, I am learning a lot and I owe it to people like you.

**The Acting Chair** (Commissioner Namachanja): Thank you, Mr. Benson and hon. Kioni. I wonder if any of you may have information on how much the land was paid for by the individuals who grabbed it.

**Mr. Benson Ndei Gikuru:** We cannot give a figure. The only thing we know is that those who engineered the allocation were bribed but we do not know by how much.

**The Acting Chair** (Commissioner Namachanja): Were those who grabbed this land needy Kenyans? Did they have no land?

**Mr. Benson Ndei Gikuru:** These are very rich people with big pieces of land. Some are Members of Parliament and others are chairmen of county councils and own over 300 acres elsewhere. I have put all that information in your records. The copy that we have given to the Commission has all these details.

**The Acting Chair** (Commissioner Namachanja): As much as we cannot mention their names here, I just wanted the public to appreciate the situation. For those who were paid to sell the livelihood of the poor community members what do they think now? Do they regret it when you talk to them?

**Mr. Benson Ndei Gikuru:** I talked to one of them and he said that when he was in office he was looking at what he can go away with. So, he could only sell the dam and go away with it. It is not that he was poor but he wanted to go away with something.

**The Acting Chair** (Commissioner Namachanja): To hon. Kioni, we have been so busy with this Commission but I am going to ask you a very stupid question; has this Land Bill been passed by Parliament?

**Hon. Jeremiah Kioni:** No, it is now coming for discussion and it will take a while before we are through with it. There was an attempt to get it through the First Reading but there is a lot of public interest and perhaps we may need more time to look into it. Allow me to say one or two things on earlier questions.

In terms of payment, these super Kenyans did not pay anything. They only paid the settlement fees that were required to be paid at the Ministry. I believe that if they had been asked to pay the market price for the land, they will not have taken it. That explains why it amounts to grabbing. There is need for a change of the mind to those who are entrusted with public offices. You are serving as Commissioners because of integrity. There are those who look for what they can steal so that they do not feel like they have

wasted their lives serving the public. For most poor Kenyans, it is a question of lack of knowledge. Civic education is needed. If you sit with them and tell them why we have to pay hefty medical bills, due to chemicals used at home and why we cannot live on dairy farming, they wake up to it. Some usually come to say that they are sorry for what they did. They accept that they did not have adequate knowledge that they were misused by a system. That is the joy of the new Constitution.

**The Acting Chair** (Commissioner Namachanja): Thank you for answering that question. I was worried that the Bill has gone through without a lot of scrutiny from Members of Parliament like you. On this note I want to thank hon. Kioni for supporting us when we were seeking for the extension of this Commission. Tomorrow we shall be concluding our public hearings and individual hearings. Nairobi is the last region.

As we come to the conclusion of our hearings, I now understand why this Commission is not a favourite of many people in Kenya especially the powers that be. Thank you for helping us to get an extra six months to continue with our work. I would like to appeal to you to get involved in that Bill. We understand why this Commission was not favourable to many. It is because of the amount of dirt that we were going to collect in our house called Kenya.

A lot of that dirt has to do with land issues. Unfortunately, we had started and could not stop because if we have to live in this country, we better confront that dirt and clean our house for us to continue living in it. This Commission is overwhelmed by the number of squatters and landless people in this country. In one of our public hearings for women, a woman from Trans Nzoia came and cried. Her cry was: "My grandparents and parents were squatters, I am a squatter and my children will be squatters." According to her, it was high time that Kenya was sold so that each of us can get a piece of it. We have a chance and this is the chance. Please, get involved in that Bill for the sake of the poor people that you are fighting for, not just from your constituency but the whole of Kenya. Thank you very much.

**Hon. Jeremiah Kioni:** I also want to thank you for this opportunity and what you have been doing for Kenya. I am happy that you were able to get an extension. I do not want to speculate but I know that we have enough numbers to even give you more time for the simple reason that we need a place where Kenyans can come and try to get a healing. I should have said earlier that next to these grabbed pieces of land are squatters up to now. They were not even considered. The super squatters in Nairobi, Nakuru and elsewhere are the ones who are considered. So, I agree with the honourable Commissioners that this is a very important Commission and in our thinking there was a bit of shortsightedness. It required a longer lifespan.

Thank you.

**The Presiding Chair** (Commissioner Farah): Thank you very much. Mine is just to finalize one thing. I want you to assist us in our recommendations. For example, Plot No.176 in Muruai Settlement Scheme was a cattle dip. It measures 5.3 hectares and was

grabbed by individuals. Now, if those individuals sold it, what would you like to recommend because according to the law, if you steal and then sell what you stole to somebody else, the police can arrest that man for handling stolen goods. But you mentioned the poverty or rather the innocence of the people who bought it. Should we then recommend the cattle dip to be repossessed and returned to the settlement scheme and then those who bought it be compensated by the Government?

**Hon. Jeremiah Kioni:** I know the difficulties with that because as a lawyer, I understand what you are saying. I see why we need to give a human face to this law. This is because if we do not look and give it the human face, we will still continue injuring Kenyans. In my opinion and position on this, those poor Kenyans need to be compensated. The person who got it through legal means but in a crooked manner must be punished and the punishment must be severe, so that we can move on as a society. That compensation also should be coming from the individuals who received that payment. They should not just escape with court fees or penalties.

**The Presiding Chair** (Commissioner Farah): You have given me a very good and satisfactory answer.

Thank you very much, Benson and hon. Kioni, for taking your time to come and present to us a very critical case which can be a very big example to the rest of Kenya. It is a sad case which has impoverished the people of the settlement scheme. I think we got it all and will do the appropriate recommendations.

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

**Mr. Tom Chavangi:** Thank you very much, Presiding Chair and your fellow Commissioners. We have two witnesses. We have Witness No.4, Susan Nyambura Thuku and Joseph Karimi Wamae, Witness No.9. They both come from Hon. Jeremiah Kioni's Constituency. They requested that he be retained so that he can hear the testimony.

**The Presiding Chair** (Commissioner Farah): That is okay. Proceed, please!

*(Mr. Joseph Karimi Wamae and Ms. Susan Nyambura Thuku took the oath)*

**Mr. Tom Chavangi:** Thank you very much, Joseph. For the record, kindly state your name again.

**Mr. Joseph Karimi Wamae:** I am Joseph Karimi Wamae.

**Mr. Tom Chavangi:** Where do you live at the moment?

**Mr. Joseph Karimi Wamae:** At the moment I live in Nyahururu.

**Mr. Tom Chavangi:** What do you do in Nyahururu?

**Mr. Joseph Karimi Wamae:** I am an Internally Displaced Person (IDP) from Kung'u Hope Camp.

**Mr. Tom Chavangi:** You submitted a statement to the Commission with regard to the problems that you are undergoing as IDPs in Nyahururu. Please, tell the Commission what is happening.

**Mr. Joseph Karimi Wamae:** To be honest, from 2008 after the post election violence, we came to Nyahururu. Many of us were taken to the social hall. We came from Rift Valley, Nyanza, Western and Coast. This was in January and February, 2008. When we got to the social hall, many of us received assistance from churches, well wishers and the Government. There were church elders and pastors who were advising us. Since we were many and could not fit there, some of us were compelled to go to some of the locations in Nyandarua. When we were looking for ways of fending for ourselves, we continued experiencing problems. From the way things were, the pastors and administration told us to look for a place to go. The reason we had to vacate the place was outbreak of diseases like pneumonia because of the cold. We thought that it would be better to leave the place. There were those who were helped to rent houses. They indeed got help for one month. We were told that wherever we would go--- We went to Nyandarua North represented by hon. Jeremiah Kioni. Others remained in Nyahururu Town while some went to Ol Jororok, represented in Parliament by hon. Mureithi. All the people left the social hall. We were told that wherever it is that we would end up; it would be the responsibility of the Government to help us. They told us that we would get assistance in anything that we would need. Many of us were taken up by well-wishers and others by churches. Some were given alternative residences. Others even had houses rented for them by the Government. We were told that we would get alternative areas of settlement in the form of land. We were also told that we would get food and our children would be educated. We were also promised health services. We did not think that anybody would renege on that promise. We respected the church elders and left the area.

After we left, I am very glad that we were assisted for three months. But after the three months, we did not receive any other assistance. That help used to come from the chiefs for three months. After the three months, we had to be on our own. Remember I have said that very many went to Ol jororok, Gatimu, Maina Slums, Manguo Slums in Nyahururu, Karagita, Shamata, Kanyagia, Kahutha, Leshau and Mathingira. All of us were spread out in that way.

Between June 2008 and August, we got a report from the chief that it was important for people to register wherever they were and say what they lost and where they came from. We did exactly that and everybody had a duty of going to present themselves. Everybody registered with the chiefs and clerks. There was no IDP leader who was helping in that. This kept changing every week because whenever we kept quiet, we would be told to go and register. Very many people followed this up, but others thought that registering once was enough. That is because it was the Government that was to keep the copies. In

January 2010, our leaders were called and told to tell all IDPs in Nyandarua area to go to the District Commissioner (DC) so that they could be given Kshs10, 000 each. Every leader called all those that were concerned. I remember we did not know the names that were there. We were just told to go the DC's office. At that time, there was strike by the public transport and there was no transport. Many of us had to find ways of getting to Nyahururu. When we got to the DC's place, they presented a list from each location. That register had come from the Ministry of State for Special Programmes. When the register for Leshau where I came from was presented, there were 340 names. People could not get money without identity cards. The same thing happened with the other locations. Now there was a problem because all people had presented themselves as instructed. Many did not find their names and it was a very difficult time for them since they had sacrificed to go to the DC's office.

Those whose names were on the registers were given the money. Those who did not have identity cards could not be given any money. It was a must that you present your identity card to receive the money. So, very many people who had Identity Cards were given money. At the end of it all, the DC instructed the chairmen to record the names of those who did not receive the money, so that their problems could be resolved expeditiously. That is what we did and went away. We expected a report from the DC indicating that those whose names were missing from the registers and did not get the money, should come and collect their money. But we have waited from 2010 until today and have not received any information with regard to that. When we asked the reason, as leaders, we were told that it was misplacement. Those who followed up are the ones whose names ended up in the final register.

In the same year, 2010, we were told that every IDP will receive alternative settlement by December. We asked ourselves as leaders: "Where are we if everybody is in their respective places? How would we know our fate with the Government?" We called a leaders' meeting for all IDP leaders in Nyandarua North. We sat together and decided to make a follow up. By that time, the regional coordinator for Special Programmes had not come to Nyahururu, but within the same year, Mr. Musamia was brought to Nyahururu. We sat down and decided that it would be good to follow up with the DC to find out how far our case had been resolved. We sent one leader on 23<sup>rd</sup> December to the DC. He was told that nothing would go wrong. He was told: "Tomorrow, I will give you Christmas like the other IDPs." He said that he had not forgotten us and was still following up. I remember when I was in Leshau, food was taken to Mathingira and Kahutha, but all the other locations did not receive food. I asked: "How come others are receiving and not others?" That brought about animosity. We were told that by 2<sup>nd</sup> January, the locations that did not receive any food aid would have received it, but nothing happened. In 2011 we did not keep quiet as leaders.

We went on carrying regular meetings and in April, we thought that it would be good for us to come to Nairobi to follow up at the Ministry of State for Special Programmes, to find out the progress of our request. Five of us were selected to represent the others. When we came to Nairobi, we went to a secretary by the name of Muta. We told him that we had come from Nyandarua North. He said that it was good that we had come. He also

told us that our Member of Parliament, hon. Jeremiah Kioni was there the previous day to present our complaints. We felt good because it proved that he was working hard for us. Then he asked us: “What have you come to do here? What do you want us to help you with?” As the Chairman, I told him that we wanted to know the plans for us, as IDPs. He said that they were prioritizing cases of those who were still in camps. The camps that were recognized in Kenya are 19. He told us that now that we were not in a camp, they would look into our issues later. We asked him: “How will we get assistance because an IDP is an IDP? You cannot choose one child and say that he is better than the other.” He told us that it was good that we had gone to that place. He asked: “Have you been receiving food aid and getting assistance like others?” I told him that we were only assisted for three months after which we looked for ways of fending for ourselves. He told us: “Go to Director Mwangi and he will give you further advice, because if it is a matter of food, there are those who are concerned.”

We went to Mr. Mwangi and found him in a hurry. He was going out for a meeting. He told me to leave him the letter which I had and promised to look into our issue. He told us to go to the secretary who was in charge of food distribution. Her name is Joyce. We went to her and she told us: “You are not on our records for those to receive food rations and there is no way we can assist you.” We told her---

**Mr. Tom Chavangi:** Who is this Mr. Mwangi?

**Mr. Joseph Karimi Wamae:** He is the Director of Special Programmes.

**Mr. Tom Chavangi:** Where are his offices?

**Mr. Joseph Karimi Wamae:** They are at the head office here in Nairobi.

**Mr. Tom Chavangi:** I would like to lead you because we have already looked at and studied the documents that you have given. What the Commission really wants from you and what you should say is what exactly you want. How do you want your issue to be resolved? There is the issue of the Kshs10, 000 that you did not receive. There are issues of about 300 IDPs who did not find their names in the registers and this looked like an injustice. There is also the issue of being pushed from one office to another without receiving any assistance or directions. So, we would like to hear, as a Commission, what exactly you, as IDPs, want this Commission to help you in taking steps. Do you understand me?

**Mr. Joseph Karimi Wamae:** Thank you very much. I understand you. This is what I was emphasizing. I wanted the Commission to; first of all, understand what we have gone through and the progress so far.

After all that, some of our people had been told to vacate the houses that had been given to them. Those who had rented houses were unable to pay and had huge debts. So, our people were being evicted. They had been given money which was supposed to assist



them. So, we bought a piece of land in Kwa Kung'u. At the moment, we have 21 acres where those who were evicted stay.

We have stayed here and nothing is going on. That is why we have come to this Commission to present our issues. We are all IDPs and we are opposite Kidepo and Vumilia. When Kidepo and Vumilia get their food rations every month, we are left out and yet, we are all victims. Our question is: What is the difference between those people? Most of those people came from Eldoret. Why does the Government discriminate against others and they are talking about building peace? We cannot get that peace if there is going to be discrimination. I even have a letter from the chief that says that we have not received aid.

My recommendations are these:-

We should be considered in the resettlement programme so that, if there is a piece of land, we should also get it. We should also receive food rations and clothing like the others. We should also get health services. In my camp, we have more than ten children who have more than 50 scars. The other day, I was trying to resolve the issue of one of them who is not in school. The child was forced to repeat and yet, he had more than 351 marks. We are asking the Commission to help us because the year has ended and we are going to an election year. We do not want this wound to be reopened. We would like justice and equality for each one of us.

In the camp that I am in at the moment, we have orphans who have no parents and there is no food. It forces the guardians to go and get some casual work to fend for them. We are asking the Government to look into this. We would like the orphans to be taken care of. My camp is called Hope Camp and most of the people are very old. This is because all the youth went back to where they were working. I would like them to be taken care of as well.

Thank you very much.

**Mr. Tom Chavangi:** Thank you very much, Joseph. That, indeed, is shocking information for some of us. For us to try and move on, the Commissioners will explain to you the ways that we will use to try and resolve such issues.

We will ask Ms. Susan Nyambura to talk about the IDPs.

**Mr. Tom Chavangi:** Please, tell us your name.

**Ms. Susan Nyambura Thuku:** My name is Susan Nyambura Thuku.

**Mr. Tom Chavangi:** Where do you live?

**Ms. Susan Nyambura Thuku:** I am an IDP from Kidipa Camp.

**Mr. Tom Chavangi:** Before you became an IDP where were you living?

**Ms. Susan Nyambura Thuku:** I am asking if I can be allowed to speak in Kikuyu.

**Mr. Tom Chavangi:** Yes, it is okay. You can speak in Kikuyu.

**Ms. Susan Nyambura Thuku:** I am speaking on behalf of women who we are staying with at the camp. There are some who were raped before their children and husbands and they are not able to express themselves. They are afraid and embarrassed to say it because they do not want to embarrass their husbands. Some of them are living with diseases because they do not have money to go for proper treatment. Some of our daughters gave birth after the rape cases and we do not know what to do. I am one of the people who was raped. When I tried to go for medication, I was prescribed for medicine, but I do not have the money to buy the medicine. So, I have health complications. I am speaking on that issue because there are people who cannot express themselves. There is a time I went to Kenyatta and sent to (inaudible). I was told that they would give me free medication, but when I went there my records were taken and later a doctor told me to pay. Since I did not have money, they prescribed for me pain relievers. When I went to pick the pain relievers, he told me that I had to pay Kshs200. They were drugs worth Kshs50 because they were just panadol. They told me to just go and buy them outside.

So, the people who suffered such cases have so many complications. They have emotional complications and more so, because they do not have money. Some of them cannot air their complications and issues. This is because when people look at you and see that your health is deteriorating, they start spreading rumours that the people who raped you were HIV positive. So instead of speaking and dying of stress, you would rather keep quiet.

The second thing is that most of us never received the Kshs35, 000 that was being given to the IDPs, and it would have helped us even to go for medication and, at least, improve on our health. So, we are in shock and we always wonder what we will do. Even though our Member of Parliament has been of much assistance, there are some issues like those ones which you cannot be able to express to him because we will be embarrassed to say such things before him. He has even funded the land on which we are staying; he bought the land and he has been of much assistance. But for us, as women, we always find it difficult to approach him. I am very sure that, may be, he would have given us a chunk of money and even funds for those who are sick to go for medication, but we are always embarrassed to express the issue. Like for me, I would only say such an issue in confidence. But I am forced to express it because of my health. So, I have decided to express it publicly instead of dying with it. That is why I am here.

There are very many other things that I can say, but because I may not be able to write, most of these things I have them in my memory and some of them I may even tend to forget. I know some people who were raped but they kept it to themselves because of the shame. They also did not want their children to hear those stories. I even feel like I am losing my confidence and my energy as I give such a story because we are troubled.

If our MP was a woman, maybe we would have been able to tell her the story and, maybe, we would have received assistance because our MP is a person who is philanthropic. But we are always embarrassed. So, there is not much that I can say because what we are lacking is medication. Like you have observed, I am not staying for long before I visit the ladies because there was a time when they wanted to do an X-Ray of my abdomen but I have not received that assistance. So, every time my health gets bad, I usually go and they prescribe for me some medicine which help to relieve the pain. But there is something else that I would like to add. When we went to the camp, there are those who were not raped but they were forced to have an intimate relationship with someone because of poverty.

So, I plead with the Commission to see how they can assist us and God would bless you because we do not have anywhere else to turn to. I am thanking God because I know you. I have a lot but I may not be able to express it because in the camp, we are suffering a lot as women and children, especially when it rains because we are rained on. We have very many diseases because of the cold. So, we will be grateful if we will receive any assistance, at least, to be removed from the cold. For the women who cannot express themselves, I request that a seminar be held for them because when men are there, a woman would find it difficult to express herself. I am speaking on behalf of those who cannot express themselves because they are very many. I know one who has given birth through forced conception. She was raped and yet she is a young lady.

So, I will end there. I have a lot but I may not be able to express it.

**Mr. Tom Chavangi:** We apologise for that, Mama Susan. It is a very unfortunate situation to hear that women like you have gone through very unusual experiences in the camps. We are really sorry for that, but we will invite your Member of Parliament to give a comment and then the Commissioners can ask questions.

**The Presiding Chair** (Commissioner Farah): I request that someone speaks to the lady in Kikuyu because I did not even hear what she said.

**Mr. Tom Chavangi:** It was not translated into Kikuyu?

**Commissioner Farah:** Can the translator translate into Kikuyu for the lady to understand after the Leader of Evidence has spoken in Swahili?

**Mr. Tom Chavangi:** This is what I was saying Mama Susan. We are very sorry for all that happened to you at the IDP camps. Our Commissioners will also give you directions about such issues because we have heard such cases before in very many areas that we have visited in Kenya. Right now, we will invite your MP to also contribute and give us direction on what we can recommend to the Government to assist the IDPs.

**Hon. Jeremiah Kioni:** Once again I just want to appreciate this opportunity to address you on this issue that is of great national concern. In my estimation, it is an issue that will

continue being with us for a long time. One of the reasons why it will continue being with us for a long time is because the Government approach to it, as it is now is not comprehensive. In my constituency, what the two witnesses ahead of me have said is accurate. We have IDPs as a result of the difficulties that we had towards the build up and even during the elections of 2007. But we also have IDPs as a result of the electioneering process of 1997. We even have another great number of IDPs as a result of 1992 tribal clashes. What the Government has proceeded to do is to deal with IDPs within the camps, perhaps on a priority nature.

*(Hon. Jeremiah Kioni spoke a word in Kikuyu)*

I am sorry, I was trying to help with the correct Kikuyu word to use for that. I am saying perhaps on a priority nature because they would like to move those within the camps and then come to the next phase. But what this has ended up doing is to give that impression that they have completely abandoned those integrated IDPs; those who made an effort – because they had family relations or friends who allowed or who quickly accommodated them – the Government seems to have abandoned them. The Government is just catering to the IDPs within the camps. What will happen now is those who were integrated will, of course, come out into camps so that they can attract Government attention. The whole process has been poorly handled because the Government needed to show concern for the integrated IDPs with the same zeal so that you give hope to all those who were displaced. We have more than 300 IDPs - the ones that were mentioned by Thuku who are within the homesteads. That is the integrated IDPs. The camps of Kidipa, Hope and Vumilia are within the same area, but what has happened is that it is accurate that Kidipa would get food. However, those across the road within the same farm but who bought the farm through their own initiative are not receiving any help from the Government. The end result is to create bitterness among Kenyans, because it is a clear case of discrimination; one family against the other. They have been given food – of course, we have heard it in the media that at times the food has not been the quality that is fit for human consumption – but these three camps have not been facilitated with water. How the kids go to school is not an issue that has been addressed and it just confirms that the Government is handling this issue in a haphazard manner.

When you talk about health care, what Susan has said is accurate. The Government has promised medical help, but anytime they go to hospital, I always receive calls that some are stuck there because halfway through the process they are abandoned. I think what the Government has failed to do, and Susan, in her own understanding has mentioned it, is the failure to offer sensible counseling services for those who were affected like Susan and her colleagues. The other group that has completely been left out of the picture by the Government is the receiving families or the families that accommodated the integrated IDPs. If this is not done, these issues will not get quick solutions.

The Kshs35, 000 was paid to a number of IDPs, but those integrated were not paid. Why? Because they were supposed to produce Identity Cards (IDs), but these were the same IDs that were burnt when the houses were burnt down. So, it is unfair to ask them to produce a document while it is clear in the knowledge of the Government that documents

were burnt in those houses. If the Government really wanted to take that extra step within their system, they would certainly be able to verify who had an ID and who did not. This should not be left on the shoulders of those who suffered.

What the Government is doing currently is that, they have abandoned the Provincial Administration or they have removed them from this process. There is the Ministry in charge of settlement alone. Perhaps that is being done for good intentions, but the people who are supposed to answer questions on what the Government is doing are now in the dark.

The other group that has suffered, and this should be addressed by the Government are the people whose children would have joined the Army during the time of disturbances, but they were on the move. They missed those opportunities and those families should be looked at.

We have kids who were sitting for examinations during that process or even those who were preparing to do the examinations in the coming years and because of the trauma, they certainly did not attain the required marks. The Government will have to look into this and it should not abandon them. I think it is important that the Government also stops giving promises of deadlines within which an issue will be resolved only for them to fail to even do half of it. That brings desperation.

As I conclude, these are families who would also have lost out on bursary allocations because they would produce an ID, just like it is the case when they are being recruited into the disciplined forces. The ID would be reading that they come from a district in the Rift Valley and they are now being given the opportunities available in their neighborhood, which is the Ndaragwa North District. But because of the process that the Government has put in place that you can only be considered if you are a local from that district, the IDPs are discriminated against on that basis. It is important that the Government should not deceive itself that once those in the camps are settled, the problem will be over. It must get into a thorough vetting process so that the deserving cases – and they are many, like it has been mentioned by Thuku – are addressed while, at the same time weeding out those who are in it for business. We have useful donors in that process, but the only thing they want to give forever is a tent. They do not want these families to move to the next level because it is a business.

We will help where we can as leaders. For example, without offering much help, I would like to take this child with 351 marks. But that kind of approach does not give a global solution to the issue. We will help the kid, but we need a solution that should come from the Government and the Ministry of State for Special Programs must look at this issue in a more comprehensive manner. There is discrimination as it is the case with Kidipa, Hope and Vumilia IDP camps. We want them to be helped so that they can live normal lives and, perhaps, be assigned to counselors for some time. It should not just be a one-off thing. The Government must take responsibility for the illnesses that are afflicting the IDPs, again for life. This cannot be a one-off thing because all this happened because of a lapse in security in the country.

Thank you.

**Mr. Tom Chavangi:** Thank you very much, hon. Jeremiah Kioni, Susan and Joseph. Commissioners, I direct the witnesses to you for clarification and further questions.

**The Presiding Chair** (Commissioner Farah): Thank you very much, Susan, Joseph and hon. Kioni. Throughout our visit to the whole nation, we have always grappled with the issue of IDPs. We visited the Permanent Secretary, Ministry of State for Special Programmes, even though we could not get an appointment with the Minister because she was very busy all the time. When we were in Busia, we also grappled with the issue of integrated IDPs in Nyanza and Western, particularly those IDPs who were chased away from the flower farms. When they reached their homes, they just dissolved into the public because their relatives welcomed them. But the Provincial Administration and those charged with the responsibility of writing down the list just ignored them. You are right. They just concentrated on those who were in the camps. Fortunately, when we visited the Permanent Secretary at that time we were green ourselves, but he lectured us that everything was being taken care of. He assured us that the list had already been drawn and it was composed of all the IDPs. That was to be done in phases. In the first phase some were paid Kshs10, 000, while others were paid Kshs30, 000. Later on, he assured us that all of them will be resettled. Some in Trans Nzoia were even rejected by the people living there as they were being resettled. So, you are right; a fiasco or an *ad hoc* kind of arrangement was done by the Government on the issue. I think it is because the Provincial Administration, the local people and the chiefs who were given the responsibility of identifying and helping the IDPs did not take their job seriously.

In some areas, we even heard that a lot of money given by the Government was misappropriated. So, you are very right. Whereas the issue of the IDPs in camps had not even been finished, the one of the integrated IDPs was completely ignored. The good presentation by Susan has touched on the whole issue and we thank you for what you have added.

Let me now give the Commissioners a chance to ask any questions, clarifications or any comments they may have.

Thank you.

I will start with the Acting Chairperson, Tecla Namachanja Wanjala.

**The Acting Chair** (Commissioner Namachanja): Thank you, Joseph and Susan for coming to represent IDPs out there. You have not just represented your camp, but there are a lot of cries out there concerning the integrated IDPs. What you have helped us now to understand is that this is a big problem affecting all IDPs who were welcomed or who are struggling to survive on their own because the impression or the manner in which the integrated IDPs from Nyanza, Western and Rift Valley shared with us is as if they were being discriminated against because of their ethnicity or because of the regions where

they came from. This is the beauty of these public hearings; that when fellow IDPs from Western, Nyanza and Rift Valley get to hear this, they will understand that this is a global problem of all integrated IDPs, irrespective of their ethnicity or their regions where they come from. *Mheshimiwa*, you keep on saying “the Government”. I do not know who the Government is but the responsible leaders that were given the mandate of dealing with the IDPs should really focus on that and find out where we went wrong. Did we go wrong during the registration? Did we go wrong as a result of our corrupt manner in which we registered the IDPs so that those of us who were registering put in people who were not IDPs and what do we need to do because they are also suffering from the way you have shared? Whereas the focus is on the IDPs who are in recognized camps, the struggle is the same. All IDPs are struggling. Leave alone that, we have refugees in Uganda, whom we visited and conducted the hearings there. They would like to come back and participate in the electoral process; some of them need identification cards if they have to vote; some of them want to move on with education. So, it is a global picture that I think where it has reached now; it needs all the focus that it deserves to put a stop to the suffering. So, we shall take your recommendations seriously.

My sister, Susan, again what you have shared is what we have heard all through. When we started our hearings, we did not know the extent of rape being used as a weapon during violent conflicts. We are just lucky that for this Commission in the Act, we have a special unit and we have given special focus on women. We have two parallel processes going on now. At Charter Hall, we have a session primarily for women and that is why we are only three Commissioners here. Fellow women Commissioners are having a session with women at Charter Hall. This is what we have been doing wherever we go so that they can feel free to share without any inhibition. We found that very useful. We open up, we cry as women and we share because as you have correctly shared and as hon. Kioni has observed, armed conflicts are very destructive in terms of physical destruction, social destruction and psychological destruction. But when it comes to post conflict reconstruction, the focus is on the physical and social. They do not care what goes on in your mind, yet it has been realized that unless psychologically you are helped to deal with the issues, that these can lead into revenge or a vicious cycle of violence. We need to take the issue of trauma healing very seriously. We have done our part; we have the support unit and we are in agreement with Nairobi Women’s Hospital. They have been journeying with us and giving the support for the witnesses. But my worry is after the conclusion of this Commission, what do we have in place to deal with the issue of trauma? Whether we like it or not, we are re-awakening. Susan, as you journey backwards, that is why you broke down; you are reminded; you go back to the situation you were and you need to be assisted. We thank God that we are partnering with other institutions. Please, before you leave, talk to Lydia, the young lady who was helping you there. She is from our special unit; share with her the number of women who may be having the health problems that you have had because we have managed to link up our colleagues from other places where they have even gone through reconstruction surgery. But this is now; our Government health institutions need to come up and deal with the mess we created. But for now, I will link you up with Lydia to see how you could be assisted.

Thank you very much for appearing before us. We feel privileged Susan and Joseph that you came to share with us on issues affecting the IDPs.

**The Presiding Chair** (Commissioner Farah): Yes, Commissioner Dinka!

**Commissioner Dinka:** I have no questions, Mr. Presiding Chairman. I just want to thank Joseph and Susan as well as hon. Jeremiah Kioni for giving us this opportunity to gain more insight into the problems of the IDPs, particularly the integrated IDPs. We have heard a lot from a number of IDPs before but Susan, you have shared with us your suffering, your pain and we assure you that we all suffer with you.

Thank you very much for all this.

**The Presiding Chair** (Commissioner Farah): I join my fellow Commissioners to thank you. I have nothing else to add to what they have said. I think that is the end. We will study this and we will make appropriate recommendations.

Thank you very much.

Leader of Evidence, you may stand down the witnesses and then approach the bench.

*(The Commission adjourned at 1.05 p.m.)*

*(The Commission resumed at 2.45 p.m.)*

**The Presiding Chair** (Commissioner Farah): Please, be seated. Leader of Evidence, proceed, please.

**Mr. Tom Chavangi:** Presiding Chair, I have two witnesses; John Mwangi Kanyua and Ayub Wang'onde Kibii. They will all talk about land.

*(Messrs. John Mwangi Kanyua and  
Mr. Ayub Wang'onde Kibii took the oath)*

**Mr. John Mwangi Kanyua:** My names are John Mwangi Kanyua. I live in Dandora and I am a hawker.

**Mr. Tom Chavangi:** You recorded a statement with the Commission with regard to the Muoroto squatters and the challenges that face the squatters. Kindly tell us what made you want to come before this Commission.

**Mr. John Mwangi Kanyua:** What has made me come here is the injustice that we suffered in Muoroto. Muoroto is near the Country Bus Station. We came to Muoroto in 1985 and we were there up to 1990. There was a time the Government said that it would remove hawkers from the CBD. When it built a market for the hawkers at Mwariro, people shared out the plots, but there were those who did not get space. So, we went to



Muoroto. Simon Gitonga, who was the Town Clerk then, authorized that hawkers be given space to do business.

Muoroto was a bush. We cleared it, parceled out the plots and allocated them to ourselves. We started running our business there, but there was a problem of theft. We reported this to the chief. He told us not to say that there is a market there because that was a slum. He said that we do our business and take care of our own property. He told us not to report to him that our property had been stolen. It was from there that the slum sprang up. We started living and trading there. This happened for six years.

In 1990, the Government and the City Council invaded us. They demolished all our structures. The first demolition was on 25<sup>th</sup> May, 1990. After violence escalated, the then President Moi said that it should stop and the people should rebuild their homes. He said that the people would be removed and resettled elsewhere.

Mr. Maina Wanjigi was outside the country when these things were happening. When he heard that structures in his constituency had been demolished, he came to the place to talk to us. He went to talk to the President about the matter. He was sacked from the position of Minister because of the Muoroto slum issue. After three months of staying there, we experienced the worst form of eviction. We were invaded in the dead of the night at about 2.00 a.m. The police surrounded the village like ants and they started pulling down the houses. They harassed children and elderly people. They told us to go back to our homes in Murang'a. The earth movers came in to demolish the houses and loaded things on the lorries of Nairobi City Council. Some people camped at Landhies Road while others went to camp at the Kenya Meat Commission (KMC) premises. They stayed there for more than three months. A Mr. F.T. Kimemia who was the Permanent Secretary in charge of internal security came with his people at midnight and took the elderly men and women and loaded them onto lorries and took them to Soweto in Kayole. That was where they had decided to resettle us.

I was in the second group that was attended to. We registered our names and he took them to his office. Allotment letters had been prepared and he was the one who was signing them. He was allocating each and every person a plot number. After the allotment letters had been issued, we were told to follow the elderly people and meet the surveyor who was with them. Upon reaching Kayole, we found the area Chief, Mr. Gerald Kariuki. He told us that we needed to report in his office. He asked for the original forms and told us that the surveyor had to see him first and then he would show us our plots. We went to the site to wait for the surveyor to come. While we were there waiting, we could see the surveyor in the company of rich people. He was showing them our plots. He asked us to give him our original documents, yet they had been taken by the chief. When we went to the chief he told us that we should wait outside and we would get our plots. We waited for the plots for one year. The rains came and we had to put up shanties as we waited for our plots. We were never shown the plots.

A time came when we had to confront the surveyor. We told him we were not going to move where we were until he showed us our plots. He went to the chief who came and

arrested me together with three other men. He told us that if we wanted the matter to end well, then we could get plots just for the four of us. He told me that there were not enough plots for everybody. I told him not to give me a plot because if the others learnt of that, they would kill me. So, we were arrested and taken to Buru Buru Police Station. We were accused of building without permission. At the court, we sought a bond and we were given one for Kshs500. Fortunately, at that time there was politics involving Charles Rubia and Kenneth Matiba. Mr. Charles Rubia helped us a lot. He gave us a lawyer called Paul. The chief never used to appear in court. We attended court for a period of eight months. Later on, the lawyer convinced the magistrate and the case was dismissed. We went back to the same place and after some time, 34 of us were given land, so that it appeared that we had been resettled. However, they were given with a different allotment letter and not the one we had been given by Kimemia. They forged the ones we had been given by Kimemia.

In 1992, politicians used to come to talk to the rest of us who had not been given land.

**Mr. Tom Chavangi:** I will guide you a bit. Where do you live at the moment?

**Mr. John Mwangi Kanyua:** At the moment, we are renting houses. I live in Dandora.

**Mr. Tom Chavangi:** What about the 34 people you have talked about? Do they still stay where they were allocated land?

**Mr. John Mwangi Kanyua:** Yes.

**Mr. Tom Chavangi:** How many of you are renting houses in Dandora?

**Mr. John Mwangi Kanyua:** Among those who had been allocated the plots--- The forms had not been signed by Kimemia.

**Mr. Tom Chavangi:** In short, I am asking how many members you are.

**Mr. John Mwangi Kanyua:** We are 356 members.

**Mr. Tom Chavangi:** You say that 34 of you got allotment letters?

**Mr. John Mwangi Kanyua:** I did not finish that statement.

**Mr. Tom Chavangi:** You are bringing in the issue of politics and we may not be interested in listening to that. We want to know what your problem is and how the TJRC can intervene to help.

**Mr. John Mwangi Kanyua:** Our problem is that some of us did not get the plots. The 34 people were given plots so that the chief and his clique could take the remaining plots. Some of us were arrested in 1992. These 34 people were given plots along the river bank while others were allocated land somewhere near KPCU in Dandora. They are not

regarded as Muoroto people. Only 20 people who were in Muoroto were given land. The rest of the land was given to wealthy individuals. It was made to appear that the Muoroto evictees had been resettled.

**Mr. Tom Chavangi:** Do you have any evidence to show that these are Muoroto people and the others are not?

**Mr. John Mwangi Kanyua:** The people on this list here are the ones who have not been allocated plots.

*(The witness handed out a document)*

**Mr. Tom Chavangi:** While living in Muoroto near the Country Bus Station, did you have any allotment letters for the place?

**Mr. John Mwangi Kanyua:** We were given a place to stay temporarily. We did not have any documents.

**Mr. Tom Chavangi:** What is the estimation of the property you lost?

**Mr. John Mwangi Kanyua:** It was worth millions of shillings. The clerks were sent by the Provincial Commissioner to record all the losses, but nothing was paid.

**Mr. Tom Chavangi:** That is why I am asking how much the property could have been in your estimation. When you talk of millions, is it Kshs2 million, Kshs3 million or Kshs100 million?

**Mr. John Mwangi Kanyua:** Let us say something more than Kshs5 million.

**Mr. Tom Chavangi:** How long had you lived at Muoroto?

**Mr. John Mwangi Kanyua:** For six years.

**Mr. Tom Chavangi:** Before you started living there, where were you living?

**Mr. John Mwangi Kanyua:** Before we started living there, we were hawkers.

**Mr. Tom Chavangi:** While you were hawkers, where were you living?

**Mr. John Mwangi Kanyua:** You know when we were brought together---

**Mr. Tom Chavangi:** Where were you living?

**Mr. John Mwangi Kanyua:** We had rented houses.

**Mr. Tom Chavangi:** Before you became hawkers, where did you come from? You need to help the Commission understand where this problem really started. Were you just born a hawker? Where is your original home?

**Mr. John Mwangi Kanyua:** My home is in Murang'a.

**Mr. Tom Chavangi:** Do you own any land there even if it belongs to your father or grandfather?

**Mr. John Mwangi Kanyua:** Yes, there is my father's home there.

**Mr. Tom Chavangi:** You will need to give us copies of the letters you were given by Mr. Kimemia. This Chief who was harassing you in Dandora, what is his name?

**Mr. John Mwangi Kanyua:** Gerald Kariuki.

**Mr. Tom Chavangi:** Was he the one who took the allotment letters and tore them?

**Mr. John Mwangi Kanyua:** Yes.

**Mr. Tom Chavangi:** I have no further questions. Presiding Chair, our next witness is Mr. Ayub Wang'ondy.

**Mr. Tom Chavangi:** Please, tell the Commission your full names and where you live.

**Mr. Ayub Wang'ondy:** I am Ayub Wang'ondy Kibii and I am resident of Karang'atha Village in Nyandarua. What I would like to highlight here has nothing to do with the person who has spoken before me. My issue concerns land. I want to thank this Commission for giving us a chance to come and air our grievances. It is not for me only, but on behalf of my fellow villagers.

I would like to state that it is not just about one village in Nyandarua. There are more than 18 of them. During the Mau Mau times, we were squatters in the white-owned farms. In 1963 when we got Independence, the Government started helping people to get new homes. Our place was declared a settlement scheme. It was hinted that anyone who had lived for more than five years on a farm would get a plot within the settlement scheme. The authorities took the books that belonged to our former employers to determine who had lived there and for how long.

Unfortunately, I had lived there for three years and so I could not succeed in getting a farm. The farm I was living in was given to new settlers as part of the settlement scheme. There was a conflict. These people sought to evict us. We were moved by the Government and taken to villages that had been established in areas they had intended to establish trading centres. I found myself in Karang'atha. We were many of us. We were IDPs. We would be given food rations, but after six months, we were given small plots to

eke a living out of them. We continued to wait for the Government to give us larger plots. We were forgotten. We were taken there in April, 1964.

In 1966, we were given forms to fill from the Commissioner of Lands. Not all of us were resettled later on. I remember a surveyor came in 1975 and where we were living was declared as residential plot of the town. When they did that planning, we thought they would give us ownership documents. In 1972 and 1973, we were surprised to see people come with documents showing that they had been allocated the plots where we were living in. That was how the conflict started until 1977 when we presented our pleas to the Commissioner of Lands. He promised us in writing that nobody would be allocated that area at any one time and that we would be resettled. This is a letter that had been witnessed by the then Vice-President, Moi. I still have the letter.

When we made noise wanting to know our fate, they promised to resettle us in Ol Kalou. This was just a promise too. Eventually, we found out that Ol Kalou had been given out. We decided to move to some other land. We requested that a scheme be established there in the name of Mutonyora so that we could live there. We even approached Moi so that the scheme could be established. I have a copy of the application that we sent to him and it was accepted. However, when the scheme was eventually established, it was allocated to other people. The Government did not really care about us.

We now decided to request for documents to show that we owned the plots where we were living. The then DC asked us to register a self-help group and contribute money which we should take to the surveyor. So that the surveyor would come and return the beacons that had disappeared so that it would be known clearly that we will be allocated this land.

When we were still doing that, we discovered that the Commissioner of Lands had stopped them in 1977. He had actually given them a 33 year lease from 1974. The lease was to expire after 33 years. They came out, fought us and took us to court. They had documents which they showed to the courts that they were the legal owners. We only had the evidence of our homes. So, we also went to court. After a lot of negotiations for a quite a while, we realized that we had to go to the Public Law Institute to ask for assistance. We went there and they helped us to place a caution on the plots that we were living in to prevent them from evicting us and during that time, the court decided on our behalf that the Government should give us alternative accommodation, and that it could not allocate land to other people when were already living there. So, double allocation was what happened. The Njonjo Commission was the one which was looking into land problems of double allocation. We presented our case to them and after they analysed it, they agreed with us that we had a problem but one that could be solved by the office of the Commissioner of Lands. The case was taken to the Ministry of Lands to help us. The Njonjo Commission was disbanded before finishing its work. We were given a letter to show that our file had been taken to the Ministry of Lands but nothing has since happened. There is nothing that we heard except the letter that we were given and that it was forwarded. After living with this problem for a while, the Ndung'u Commission was formed and we presented our case to them. They looked into it and thought that we had a

right, but the lease had to expire first. In 2003, we were told that once the lease expired, we would be given documents but that did not happen. That is why I feel that I am among the Kenyans who have suffered injustices from the Government of Kenya. I have no reason to say that I am discriminated because I am a Kikuyu because the then president was a Kikuyu and I still see that we are not being assisted. We continued writing letters to Ardhi House and sometimes they would respond positively, and at times they would write an annoying response. That is all that has happened until today. We decided to appear before the Truth Justice and Reconciliation Commission (TJRC), so that we present our problems to you so that you can assist us to get justice. All we need are documents showing that we own the land that where we live. I have lived there for more than 48 years, yet I have no documents. Somebody else was given a 33-year lease. The lease has run out without him ever having used the plot. Now that he has gone since 2007 and we have letters, we ask that you recommend that they accept them; so that we own the land that we live on. Even if we do not get a bigger piece, we will be satisfied if we get this piece of land because it will be sufficient since they are plots which measure only 50 by 100 feet. That is enough for me to put up a house.

Commissioners, even though you did not come and witness the kind of lives we lead, we live lives of abject poverty because we have no right to put up decent homes because they keep on reminding us that that is not our home; we are squatters and the Government will resettle us, but we cannot build our houses there. We live in abject poverty. We have continued living in that situation with the hope that the Government will have a human face and grant our rights. So, we would like to present our problem to you in the hope that we shall get the benefit of your recommendations. We hear that you have the legal and constitutional mandate. We believe that your recommendations may not be disregarded like the Ndung'u Report. The Ndung'u Report said that we have a right to live on that land but this has not been implemented. When I was bringing our letter, I came across a paper that was blaming the Ministry of Lands and I agree with whoever had written the article that this is a Ministry of corruption; it stops people from getting their rights. So, I would like our problem to be looked into and if possible everybody should get a piece of land to live on.

All the information that I have given is here in this map. It shows the actual plan as it is. The map shows where every plot is. There is a plot here No.187 which is occupied by people who do not know its borders because there was no proper planning. We would like this to be planned properly so that the people who live there can have it allocated to them. This plan is bad because there are some plots that are supposed to be for public utilities like schools, churches and so on. However, we should be given possession documents for the land that we occupy because for all these years we have lived there; it has not been anybody's land since the settlers left and the African Government took over. We have been the only occupants of this area since no one else has come there. Those who wanted to mess up with land were the people who had been allocated that land but their lease expired before they used that piece of land. So, if we are given the documents, our problems will be solved and we will feel like other Kenyans.

We also have this booklet which we would like to present to you, and if you allow me, the squatters are found in the place which is coloured green. The places that are shaded pink, there is a field that has been set aside for a polytechnic and the other areas have plots that should be used for other purposes. If all this is planned as it is here, there will be no problem at all. However, what has been drawn by people in Ardhi House shows that there is a church here, yet this plot is supposed to be for the polytechnic. Anything that has been planned there for the future generation should remain intact. Let the church and school remain there and we have put that in writing. So, should there be any problem, I am willing to correct or clarify it. I have shown the history of our living there and what we have gone through. Even at some point, the people who hated us came and burnt my house and I lost property worth about Kshs165,000. However, that is not bothering me but what bothers me most is to own the land that we currently occupy. We can forget the other things. Even the money that we had collected for a follow up was swindled by a bank in a way that we did not understand, and it was more than Kshs300,000. That is a bygone and we should think about the future.

If we have the documents which will enable to own this land, it will be enough. The case about the money is with the police. We want ownership of the land that we currently occupy and the land that has been given to other people legally can remain like that, but the decision should be rescinded. The people who were allocated these plots harassed us a lot since some of them took bank loans which they could not repay. The auctioneers came and harassed us too. However, we succeeded since all the leases have expired and the auctioneers cannot go there. Now, it is up to the bank to pursue the defaulters wherever they are. I have spoken about only one of the 18 villages that are spread all over Nyandarua, and especially over Kinangop and Nyandarua South districts. There are 10 villages in those two districts with similar problems. If that is taken as an example and the problem is resolved, then you would have resolved a problem that affects very many people, about 2,000 people. We have 169 heads of families who require to be assisted, so that they can help those families. Our lives in those villages for 48 years have been very problematic.

**Mr. Tom Chavangi:** I see you are repeating yourself now. Let me now guide you. Before you went to live in these villages, did these farms belong to your grandparents?

**Mr. Ayub Wangonde Kibii:** No, they did not belong to our grandparents.

**Mr. Tom Chavangi:** How did the white settlers come to occupy this land?

**Mr. Ayub Wangonde Kibii:** You can get that in the Njonjo Commission Report because I have it. The settlers came and found this land belonging to Africans but they did not find anybody on it.

**Mr. Tom Chavangi:** Were there Africans living there? Were they your grandparents or strangers?

**Mr. Ayub Wangonde Kibii:** I would like to make this clear. We were squatters of former white settlers. So, the land belonged to the settlers but it was bought as a settlement land; that was when we started living there as part of the settlement scheme. It was not for the whites but they were just our employers.

**Mr. Tom Chavangi:** I want this made clear and I want to guide you. Before the whites came in, there were Africans living there. Is that not what you said?

**Mr. Ayub Wangonde Kibii:** I would not say there were no people. I was not born by then and so I would not know who was living there. However, I went to Kinangop as an employee of a white settler.

**Mr. Tom Chavangi:** I would like to make your case clearer so that you can benefit from it. I am trying to help you but you seem to be in a hurry. Who owned these places before the white men came to Kinangop?

**Mr. Ayub Wangonde Kibii:** It was the Africans and then the white settlers came in.

**Mr. Tom Chavangi:** When they came in, you went there and started working?

**Mr. Ayub Wangonde Kibii:** Yes, and then they left.

**Mr. Tom Chavangi:** What were the arrangements when they left?

**Mr. Ayub Wangonde Kibii:** The arrangement was that the Government would buy this land and establish settlement schemes and resettle Africans there. In resettling the Africans, those who had not worked for the whites for more than five years were not to benefit from direct allocation. They would have to go for a balloting process. Sometimes it would be ten pieces of paper put in one basket and there would be about 200 people and a majority would get “No”. Those who got “Yes” got the land of the whites; and those of us who got “No” are the ones who ended up in these slums.

**Mr. Tom Chavangi:** Now, what do you want?

**Mr. Ayub Wangonde Kibii:** We just want documents to show that we possess the land that we occupy; the land that we live on belong to the Government and it should give us a right to live in Mukeu Town. This is because we have been told that we would be settled elsewhere to no avail.

**Mr. Tom Chavangi:** So, if you get a title deed for the piece of land where you live at the moment, you will be okay?

**Mr. Ayub Wangonde Kibii:** Yes.

**The Presiding Chair (Commissioner Farah):** Thank you very much. Mr. John Mwangi Kanyua. Are you also called Kibii?



**Mr. Ayub Wangonde Kibii:** Yes.

**The Presiding Chair** (Commissioner Farah): I notice that each one of you has presented a separate case but your matter was all about land. So, I will now ask the commissioners if they have any questions to ask you. Commissioner Tecla Namachanja.

**The Acting Chair** (Commissioner Namachanja): Thank you, Mr. Wangonde and Mr. Mwangi. Maybe we can ask the questions and if you have a biro pen, you can write them down. Leader of Evidence, how do you we go about it?

**Mr. Tom Chavangi:** You can ask any witness questions.

**The Acting Chair** (Commissioner Namachanja): Let me start with Mr. Mwangi. You mentioned that in terms of numbers, people who were evicted from Muoroto were 3,156. Is that so?

**Mr. Mr. John Mwawngi Kinyua:** Yes, but those who were allocated plots in different places were 197.

**The Acting Chair** (Commissioner Namachanja): Were they for business or residential purposes?

**Mr. John Mwangi Kanyua:** We were running businesses there and when our property was stolen, we reported to the chief who told us that everybody was responsible for the safety of their property. That was when we started spending the nights there to take care of our property and so it became a slum.

**The Acting Chair** (Commissioner Namachanja): So, it was not official in the allotment letter that this was a residential area but you turned it into a residential area because you were looking after your property?

**Mr. John Mwangi Kanyua:** Yes.

**The Acting Chair** (Commissioner Namachanja): So, when you were shortchanged by the chief, did you go back to the DO1 who had given you allotment letters to help him understand the situation you found yourself in?

**Mr. John Mwangi Kanyua:** During the KANU Government, you could not access those offices, but we wrote to the PS and posted the letter, but we have not received any response to date.

**The Acting Chair** (Commissioner Namachanja): How big was the allotment area?

**Mr. John Mwangi Kanyua:** I would not know exactly how it was, but it was a huge parcel of land.

**The Acting Chair** (Commissioner Namachanja): But as you were given individual allotment letters, what does yours say? How big was yours?

**Mr. John Mwangi Kanyua:** 50 by 25 feet.

**The Acting Chair** (Commissioner Namachanja): Thank you Mr. Mwangi. Those are the questions I had for you.

Now, let me turn to Mr. Kibii. There is one question that the leader of evidence was trying to ask and I feel it is still important for us to understand the genesis. Before the colonialists took over this land in Kinangop area, which community lived there, if I may ask the question directly?

**Mr. Ayub Wangonde Kibii:** It did not belong to a specific community because as far as I know from history, the Kikuyu used to move up to Maasai land for trade but this was just like a jungle. It was not occupied by anybody but the Maasais used to herd their cattle there. The Kikuyus used to go there during the drought period but whenever there was no problem, everybody stayed in their area. We can probably call it a corridor. Most of the names there sound like Maasai names but some names like Kinangop are Kikuyu names.

**The Acting Chair** (Commissioner Namachanja): You said that this is 50 by 100 feet and this is a small place to just put up a house. How do the people live in these plots?

**Mr. Ayub Wangonde Kibii:** We have problems but sometimes we go and rent land from our neighbours who have big parcels of land and plant our crops there. Others have been fortunate to buy a quarter of an acre somewhere else, which is sufficient for agriculture or others get half-an-acre but we do not have money for that, because the price of land there is very high. So, we would like that to be our place that we call home, and we also do business where we sell food in Nairobi. So, we would like to call these plots our homes because we have no homes.

**The Acting Chair** (Commissioner Namachanja): Thank you, Leader of Evidence and Presiding Chair. I have no further questions.

**The Presiding Chair** (Commissioner Farah): Commissioner Dinka.

**Commissioner Dinka:** First of all, I thank both of you for your testimony. Ayub, you mentioned that a group of people were given a 30-year lease and before they did anything on the land, their term expired and now it has reverted to Government.

**Mr. Ayub Wangonde Kibii:** Yes.

**Commissioner Dinka:** So, what you are actually asking is for the Government to give you another lease, allotment or whatever since currently, there is no owner of that parcel?

**Mr. Ayub Wangonde Kibii:** That is the truth. There is no one who can claim to own the land, or who has any documents to it. Those who were given the lease--- It ended before they could develop the land. Any development on that land is mine but I have nothing to show prove ownership. So, I would like to be given documents so that any development on that land can be recognized by the Government, and so that I can develop it further, because I live there. Even a mud house, corrugated iron sheets house or a wooden house belongs to me and it is the result of my efforts. The Government should give the land to us and not to other people. They want to give it to other people. We are told that they are looking for people to sell the plots to.

**Commissioner Dinka:** Any transaction on land has been stopped until the Land Commission is set up, and the land Bills have not been enacted. In the mean time, do you have any application in the Ministry of Lands requesting that, that land should be given to you?

**Mr. Ayub Wangonde Kibii:** Yes, we have done that but they do not listen to us. This book has the correspondences and some of them are annoying; in the last letter of 25<sup>th</sup> June 2011, we were requesting the PS to look into our case. There has been no action.

**Commissioner Dinka:** Right now, you have your homesteads there. What concrete problem have you faced?

**Mr. Ayub Wangonde Kibii:** The main problem is that I am the one who has developed that piece of land and even my son wants to develop it further. He has no way of doing it because I have no possession documents since I am regarded as a squatter. I cannot come up with a plan to build a nice house. I cannot do anything on it unless I have the possession documents.

**Commissioner Dinka:** The problem is that we do not have clarity of possession. Have you received any response to your June letter from the Commissioner of Lands?

**Mr. Ayub Wangonde Kibii:** Yes, they wrote and said in respect of plot No.147 that we were requesting to be given, they could not do anything about it. That was one letter. There was another letter from the same office saying that their officer in Nyandarua should go to the area and write a report. That was written on 14<sup>th</sup> July and since then nothing has happened. The other one is an annoying letter.

**Commissioner Dinka:** Mr. Ayub, whether it is annoying or pleasing, you should put them together because we might be talking at cross purposes, and we will not have the information that we need.

**Mr. Ayub Wangonde Kibii:** It is just that one that is not there but I can give it to you because I have it.

**Commissioner Dinka:** Mr. Mwangi, yours is an urban area. What does “squatter” mean in the urban context?

**Mr. John Mwawngi Kinyua:** Squatters mean people who have no residence.

**Commissioner Dinka:** Probably you are renting the land from somebody on which you built the houses.

**Mr. John Mwawngi Kinyua:** The land on which we have built our houses, we were directed there by the former Town Clerk called Simon Getonga. We went there, cleared the bush and allocated ourselves plots but when our houses were demolished, some buildings came up in the area. One of them is called NACICO PLAZA. There is a petrol station called “Time Star” and there is a Stage market. It means that was the reason why we were evicted from the area.

**Commissioner Dinka:** This Town Clerk sent you there to settle and then other groups came and took the land, and put up houses and other things and you were evicted?

**Mr. John Mwawngi Kinyua:** Yes.

**Commissioner Dinka:** The land you went to resettle on, does it belong to the Government or does it have an individual with private ownership?

**Mr. John Mwawngi Kinyua:** I have just rented a house there.

**Commissioner Dinka:** And what about the land where you are right residing?

**Mr. John Mwawngi Kinyua:** I have just rented a house.

**Commissioner Dinka:** On whose behalf do you speak?

**Mr. John Mwawngi Kinyua:** The people who never got alternative land. They are hawkers in Kamukunji and the CBD.

**Commissioner Dinka:** When was the last eviction?

**Mr. John Mwawngi Kinyua:** 18<sup>th</sup> October, 1990 and it was the second demolition.

**Commissioner Dinka:** In other words people have continued their lives but now the demand is to be compensated for what happened more than 20 years ago?

**Mr. John Mwawngi Kinyua:** Yes! The most important thing is that the plots that were going to be allocated to us in Kayole were grabbed by the chief and his people. They changed our forms and came up with fakes ones with the DO and allocated other people and so, we plead for alternative land. We also need to be paid for the loss of the demolition and the chief who took away our allotment forms from PS Kimemia; action be

taken against him. He should be prosecuted and have our forms returned because we believe they are still in his office. However, he is retired!

**Commissioner Dinka:** I am now a bit clearer in my mind. Did Kimemia give you the property when he was a DO and now he is the PS for internal security and acting as Secretary to the Cabinet and Head of Civil Service? Have you ever approached his office - he has always been an effective senior official – or anyone to assist you straighten out what was taken away from you? And if you have made the effort, what was the response?

**Mr. John Mwawngi Kinyua:** We have tried to access Kimemia but we have not managed because it was difficult during the KANU Government. We wrote to him a letter on 17<sup>th</sup> May but he has not responded. We have even written a letter to Mr. Orengo who is the Minister for Lands. He sent some of his junior officers. We have written to the Deputy Prime Minister and Minister for Local Government, Mr. Mudavadi who took us back to the PC and from there he sent us to Kibet Boen who gave us a letter.

**Commissioner Dinka:** I now understand your issues. You have been trying but nothing has happened and so whatever pieces of paper that you have which you sent and got reply, give them to our leader of evidence because these are the kinds of things that we need for our investigations and making our findings.

Thank you!

**The Presiding Chair** (Commissioner Farah): We thank you for your presentation but I think what Mr. Kimemia gave you when he was a DO I was not letters of allotment. Letters of allotment are only given by Ardhi House. At that time, they were not solving your problems but prolonging it. Secondly, I think that was your plot for sale of wares but you extended it to residential areas cum business. No wonder, later on, you were creating a slum. All the same, we have seen your write up and evidence. This requires further studies and then we shall make the appropriate recommendation but thank you very much.

Leader of Evidence, stand them down and call the next witness.

**Mr. Tom Chavangi:** I wish to produce all these documents as exhibits before this Commission and pray that they be admitted as so.

**The Presiding Chair** (Commissioner Farah): Permitted as prayed!

**Mr. Tom Chavangi:** Our last witness today is Samuel Karuga Njoroge.

*(Mr. Samuel Karuga Njoroge took the oath)*

Initially in your files you see that the violation is land but we found that the violation against this old man is on issues touching on corruption and police harassment. But his

statement is widely about being an elder in the Kikuyu community and more so in Kiambu.

**The Presiding Chair** (Commissioner Farah): We have not read the right up but concentrate on the corruption and harassment.

**Mr. Tom Chavangi:** Mzee Karuga, tell us about yourself.

**Mr. Samuel Karuga Njoroge:** I am from Banana and for now I am the leader of Kiambu Men. I am the Chairman and Chief Co-ordinator in Kiambu County. Some of the things I have faced in my position are very tough. You have oathed me with the Bible but there is the Koran and there is the Torah. However, the Government does not follow those books and it wants me to swear with them. So, what am I swearing for? Even if I swear, the Government does not follow them. When I follow the three books, they are written in one accord. I have worshiped with the Hindu around the university. I have worshiped with the Kikuyu back at home and the teachings are the same. Mohamed Wamunyu is my friend and I talk to him because I would like him to treasure his Kikuyu but there is a problem because when you go to the chief, he keeps taking you round in circles. When you go to the headmen, they do the same and so do the police. Where do you belong? So, I decided and went to Kibaabe Primary School and asked for the Deputy Head teacher and told him to ask the CDF to build them the school as they had many children. He told me that it cannot happen as they did not have the title deed for the plot. Because I am ranked like the DC, I went to the DC and he told me to go to the EO. When I went to the EO, he sent me back to the commission of land. I did not go there but I went to the lands office but I was not assisted. I told my organizing secretary that there was a problem because it seems the Government is not transparent. For example, if somebody is arrested, as long as he pays Kshs1, 000 or Kshs2, 000, he is released and what he had been accused of is not dealt with. So please rescue this country! All we want is truth and justice! Let us believe and follow the Bible. It even says that women are the supporters and the men the head and so do not even allow a woman to pray.

I do not want to speak a lot but assist me to get a letter so that Kibaabe Primary School can get a title deed, and so that the CDF can build classes there. I would like the gentleman seated behind me to continue.

**Mr. Tom Chavangi:** Wait a bit! I would like to ask you some questions.

**Mr. Samuel Karuga Njoroge:** Ask but do so in Kikuyu!

**The Presiding Chair** (Commissioner Farah): He will ask you in English and then they will be translated into Kikuyu, reply back in Kikuyu and it will be translated to him in English.

**Mr. Tom Chavangi:** You have said that this world is full of sins?

**Mr. Samuel Karuga Njoroge:** Yes!

**Mr. Tom Chavangi:** But in the same Bible that you talked about talks about the Virgin Mary and she brought forth Jesus into the world.

**Mr. Samuel Karuga Njoroge:** It is true but her story was kept aside.

**Mr. Tom Chavangi:** Mary then was powerful and saintful!

**Mr. Samuel Karuga Njoroge:** Yes, she was very good but she is not the one who is quoted.

**Mr. Tom Chavangi:** So you want to say there was a mistake because she was put aside?

**Mr. Samuel Karuga Njoroge:** Do not mix the issues of God and the issues of man because you will never find an answer.

**Mr. Tom Chavangi:** Where is Kibaabe Primary School?

**Mr. Samuel Karuga Njoroge:** In Banana?

**Mr. Tom Chavangi:** And it has no title deed?

**Mr. Samuel Karuga Njoroge:** Even the councilors know that it has no title deed.

**Mr. Tom Chavangi:** Is it a public or private school?

**Mr. Samuel Karuga Njoroge:** Public!

**Mr. Tom Chavangi:** It is a public school and has no title at the same time.

**Mr. Samuel Karuga Njoroge:** It is there. It is built and Mr. Moi stood by it. It was a nursery that grew to be a primary school. It has so many pupils and requires many classes.

**Mr. Tom Chavangi:** So the problem is facilities?

**Mr. Samuel Karuga Njoroge:** The problem is the classrooms but where are they going to be built if there is no title deed? If they get one, Mr. Githunguri will give us money and classrooms will be built. Before my colleague comes, I have moved around Kiambu, Longonot to Ukambani; Chania to Ndeiya and I have realized that a Kikuyu is just a Kikuyu, but we do not have leaders. They all want money! When you give them money, they will vote for you. The Council of Kikuyu wants to help but we do not have assistance. Even my position is voluntary. Kiambu is cosmopolitan and they have intermarried and there are Somalis, Luo and Ethiopians. You are my neighbours and I want you to assist me. Give me something so that I know you have heard what I have

said. Let me not speak a lot but let my colleague, Peter Gitau, come and speak so that we go home.

*(Mr. Peter Gitau took the oath)*

**Mr. Peter Gitau:** I am from Banana; I am 72 years old. The Kikuyu Council of Elders Association started after we felt sympathy for this country. That is because men sat on seats and are spoiling the country. We have reached the edge and even if someone wants to kill us, they can go ahead. But the information we want to give should assist this country so that God can remember us. How have we spoilt this country? You as a man have taught your son to steal and he continues to do so and you pray. Will God listen to you or turn his back? That is why in this country, the rich and wealthy have insane children and so, they do not have heirs. Someone mentioned the book of God and the story of David sleeping with Naman's wife, God told him that he would let him suffer and the sword he used on Naman is the same he would use. All the wives of Daudi were all raped during the day because they harassed an orphan. Some, in the Government, who think are going to rule, God steps in and he starts fighting your families with a sword. That is why I am praying for this Government for introducing free primary education and our children can go to school and prosper and later become a leader. That is because I did not eat from what was mine. That is where we have lost track as men. Unless we go back to God and pray, the sins of our parent will not come to us but to our children and their children. That is why we are fearful for our country. You who are elected; if you can become like Joshua, God will hear us and our generation will prosper. Let me ask: Since our young men are getting wasted, who will lead this country? Who will inherit the money you are making? It is as though this country has no owners. That is why some of the land has gazelles and yet, it should be cultivated. When we pray our Lord's Prayer, we say: "Give us our daily bread", and not "give me" but you have turned it into "give me". I would not like to emphasize much on that I would like. I plead that you seek assistance for this country because this is what God wants because you are elders. Let us leave our greed and remember that you were born naked and will die with nothing. So, let God help you to ensure that this Commission continues. Do not work for your greed.

Thank you and God bless you! May you be successful and I am grateful for your leader. Even if you hear someone saying that women cannot be leaders, there is no home that does not have submission and that is what assists the husband. That is how he is able to make money. This woman is going to order and command you and something good is going to come. Let them come together and reason out and you will get assistance. In Kiambaa at Koinange, there is a lady who was given a parking space as an IDP. She has stayed there for 20 years and today she is being evicted and yet, she has no place to go. It the council that is evicting her yet they want to do nothing on that slot. Why are they doing that? It is because they have been given something by the person with property who wants to extend his land. May God have mercy on the people who steal from others!

Thank you!



**The Presiding Chair** (Commissioner Farah): Thank you very much for your wisdom and presentation. It is true that this country is grappling with three diseases; illiteracy and lack of knowledge, disease and corruption. In fact, when we got Independence, the Government wanted to fight ignorance through education, disease and poverty but before we even conquered the three vices, there is another very bad disease which is even worse than HIV/AIDS; which is called corruption. If we finish corruption, this country would be better than Singapore, Malaysia and those Asian Tigers whom we started together. Even if you look at the Budget, the amount of money that is collected, it is over a trillion Kenya shillings; it is a lot of money and we can see that the people of Kenya are very good people but we lack leaders. Our problem is leadership. We are not going to be afraid to say that our problem is leadership. The Mzee has pointed it out very well and leadership is not got through money. A true leader comes from God but you are right that whereas your primary school in Banana does not have any title deed, we have also heard that there is Mosque in Nyeri.

We have also heard that there is a mosque in Nyeri which was built in 1926 which, up to today, does not have a title deed. It is because of this that when you go to Ardhi House, they will not deal with you unless you bribe them. Poverty and corruption are two bad diseases. We hope from what we have learnt from 1992, 1997 to 2007/08 election problems, that we will now forgive each other, put our problems behind us, pray to God and concentrate on our way forward.

You are very right. Our youth are being destroyed by alcohol and drugs. Residents of Mombasa are crying because drugs and alcohol have ruined their children. They said our children are being destroyed by drugs. The people who are benefiting from those drugs are a few. So, these problems cannot be solved. However, we are taking our job seriously. We are listening to your grievances.

As we talk now, you can see there are tapes there. You are being recorded like Parliament. It is recorded on the tape and then translated into HANSARD. When we produce our report, you will read our report. The Act behind this Commission says that it will be a must for the future Governments or even this Government when we give it the report, to implement it. The task of changing this country is not for TJRC alone. It is not for these Commissioners alone. It is not for Mzee Samuel Njoroge alone. It is for every one of us. Every one of us has to chip in and to ensure that, first and foremost, we do not ignite that volcano which has got ash on top of it, that it goes and that the heat is completely extinguished. If you pour a little bit of fuel on it, poof! It will explode.

I thought Central Province was one place which had no problem until I went to Kiambu, Murang'a and Nyeri. That is when I realized that every province here has problems. The poverty level is across the board of this country. It is only a few individuals with big tummies and a lot of money who are rich. That happens in every province. Even in my province North Eastern where there is a lot of drought all the time there, are a few of them in Eastleigh who are very rich. But the majorities are poor. We went there. She had an accident between Wajir and Mandera. She could see women walking for long distances without water. When you go to the rural areas we see this.

Thank you very much, for bringing the most important thing which we need and that is to pray to God. Teach our youth that the future is with God. I hope this country will be very good. Thank you.

**Commissioner Dinka:** I just want to thank the two gentlemen for coming here and being very honest and frank with us. We do not agree on a number of things, particularly on the women issue. But I think what you have said briefly in those few minutes is the distilled wisdom of Africa. So, we have listened to Africa coming from Banana or Central Province.

I think you can rest assured that this Commission to which you just gave your testimony will come up with a very important report in May and you will see that, that report will be presented without fear or favour. It will not be just another fly by night Commission. It will be a very important Commission. I do not know whether you are familiar with the Act of this Commission. The Act of this Commission which has been passed by Parliament and signed by the President into law says that the recommendations of this Commission are mandatory on Government agencies and everybody to be implemented. We hope that when the report comes out, it will not be a secret report like other reports before it. It will be presented to the President. It will be presented the next day on major newspapers to the people of Kenya.

What I would like to leave with you is that after the report is published and becomes known to you, you will be the guarantors that it will be implemented because you will read it. You will know what it contains and then it is up to you to follow it up. By that time I will have gone from here, the three foreign Commissioners will have gone home. The other Commissioners will go to their own respective businesses. But have no fear; this Commission is not corrupt. These Commissioners are not corrupt. Both the international and the national Commissioners have been selected because of their integrity and character. They will prove it to you in their report.

I hope what you mentioned about corruption and other issues which are very important, not only for Kenya, but for the rest of Africa as well.

You, as the members of the Kikuyu council of elders, should be the voice of the people. You should go around preaching against these kinds of vices. It is not only drugs and alcohol that will destroy any country. Corruption in all its forms will destroy any country. Kenya cannot and should not be destroyed. Thank you.

**The Presiding Chair** (Commissioner Farah): Today I want to say that we have had 10 cases. We have heard from Hassan Guled Abdulle from Eastleigh business community; Hussein Haji Mohammed; Benson Ndegi Gikuru, hon. Jeremiah Kioni; Joseph Karimi Wamae; Susan Nyambura Thuku; John Mwangi Kanyua; Ayub Wangondu Kibii; Samuel Karuga Njoroge and Peter Gitau.

Thank you very much. That is the end of today's hearings. Tomorrow we will continue with the hearings in the same venue here. As for today, because we have to vacate this

building by a certain time, I will now hand over to the master of ceremony to close and pray for us.

The Commissioners have agreed to give you your fare back home.

*(The Commission adjourned at 5.00 p.m.)*