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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON WEDNESDAY, 13TH APRIL,
2011 AT THE KENYA NATIONAL LIBRARY HALL, GARISSA**

PRESENT

Commissioner Ronald Slye	-	Acting Chairman
Tom Ojienda	-	Commissioner, Kenya
Ahmed Farah	-	Commissioner, Kenya
Berhanu Dinka	-	Commissioner, Ethiopia
Margaret Wambui Shava	-	Commissioner, Kenya

IN ATTENDANCE

Patricia Nyaundi	-	Commission Secretary
Simon Njenga	-	Presiding Clerk
Tom Onyambu	-	Legal Counsel for Amb. Francis Sigei
Tom Chavangi	-	Presiding Prosecutor

(The Commission commenced at 9.40 a.m.)

(Opening Prayer)

*(The Commission observed a moment of
silence in honour of the affected people)*

(The National Anthem was sung)

*(The Acting Chairman introduced
himself and other TJRC Commissioners)*

The Acting Chairman (Mr. Slye): I want to thank you all for coming to attend today's session. I would like to start by introducing the panel of Commissioners before you today. My name is Ronald Slye. I am one of the international Commissioners from the United States and I will be chairing the session today.

Yesterday, for those who were here, we heard a testimony about a number of issues with respect to historical injustices in Garissa and the greater northern region. We heard testimony about massacres, extra-judicial killings, torture and rape. We heard testimony about economic marginalization, particularly with respect to infrastructural development in the northern region and with respect to the use and access to the Tana River. We heard testimony about access to identification cards and how discrimination against individuals from this region with respect to identification cards has curtailed your rights to freedom of access to employment and education.

Finally, we heard testimony from the representatives from the refugee community of the northern region concerning conditions in the camp and the challenges the refugees face with respect to food, clothing, water, movement and employment.

Today, we are going to continue with some of these themes. We will be hearing stories about torture and killings allegedly by both the Government and also by *Shiftas*. We will hear testimony with respect to Garissa, Kubai and Galmagalla.

Before we proceed, I would like to lay down a few ground rules. I would like to ask each of you to please turn off your mobile phones. There is an option of turning them into silent mode, but please, turn them off. If you need to leave to take or make a phone call, we ask you to move quietly through the exit and outside the building so that you do not disturb our proceedings. We also ask that you respect our witnesses because they are also your witnesses. They are individuals from your community. They have agreed to come and tell their stories to represent the people of Garissa and the northern region and to help us understand the injustices that occurred in this region. Those who do not cooperate with these rules will be asked to leave or we will escort you out of the hall.

Lastly, I would ask that media and anyone else with photographing equipment to refrain from taking photographs of the witnesses while they are testifying. Let me say something about the process here. The witnesses before us today will be asked to swear an oath that they will be telling the truth before this Commission. The evidence leader will be sitting with the witness to lead him/her in the testimony. Following that, the panel of Commissioners may ask additional questions to clarify the testimony of witnesses.

May I now ask that, any counsel who are here representing individuals to, please, identify themselves.

Mr. Tom Onyambu: My names are Tom Onyambu and I am here as the Legal Counsel for Ambassador Francis Sigei.

Thank you.

The Acting Chairman (Mr. Slye): Thank you very much Mr. Onyambu. I want to thank Amb. Francis Sigei, for attending our proceedings.

Are there any preliminary issues that we need to deal with today? If there are no preliminary issues, we will then move forward to our first witness. So, can I ask the first witness to be sworn in?

(Mrs. Jamilla Ibrahim Gulei was sworn-in)

Mrs. Jamilla Ibrahim Gulei: My name is Jamilla Ibrahim Gulei. My hotel and house were burnt down and my child was killed.

Mr. Tom Chavangi: Thank you. Who is the person seated on your right?

Mrs. Gulei: He is my son.

Mr. Chavangi: What is his name?

Mrs. Gulei: His name is Shakhar Daudi.

Mr. Chavangi: You recorded a statement with this Commission?

Mrs. Gulei: Yes. That is right!

Mr. Chavangi: Could you please, talk about that statement?

Mrs. Gulei: I will say all that I can remember because I am old.

Mr. Chavangi: Jamilla, do you remember what happened to you in 1980?

Mrs. Gulei: Yes! I remember. I can say what I remember.

Mr. Chavangi: Do you remember what happened to you in 1980?

Mrs. Gulei: What happened to me is that my house was burnt. My kiosk where I was selling food was burnt. My child was tortured and was beaten. We were taken from home in the middle of the night. We suffered a lot because of that.

Mr. Chavangi: Can you remember the people who burnt your house?

Mrs. Gulei: No! I do not know anything about them. We were driven from our homes and taken away, but when we came back we found the house burnt. All I know is that it was the police who took us from our homes.

Mr. Chavangi: The police took you from the house to where? What was the place called? What we are confirming is whether it is the police who took you to that place.

Mrs. Gulei: What I can say is that they were non-Somalis. I cannot even confirm whether they were the police. All I know is that, I cannot confirm whether they were the police.

Mr. Chavangi: Jamilla, when they took you to that place, what happened?

Mrs. Gulei: All people were brought together; young and old, we were taken there. We did not get water, we were so thirsty. After that, we spent the night there. The next day when we went back, we found our houses burnt.

Mr. Chavangi: Do you know the people who burnt your house?

Mrs. Gulei: No, I do not know. I cannot tell. We were taken in the middle of the night. We cannot say for sure who they were.

Mr. Chavangi: Earlier, you had said that these people also burnt your kiosk.

Mrs. Gulei: Yes, that is right. My small kiosk was also burnt.

Mr. Chavangi: Who burnt the kiosk?

Mrs. Gulei: I do not know them.

Mr. Chavangi: You also told the Commission that your child was tortured. What is the name of the child?

Mrs. Gulei: Abdullahi Ali.

Mr. Chavangi: So, Jamilla, after they took you to that place, in the middle of the night, what happened? How did you get back home?

Mrs. Gulei: That night we spent in a neighbour's house. Then the next day when we went to our house, we found that it was burnt down.

Mr. Chavangi: You as an individual, were you beaten by the police?

Mrs. Gulei: I was beaten up as they were beating up my son. The same thing happened to me; I was hit.

Mr. Chavangi: Thank you very much, Jamilla. I will now hand you over to the Commissioners for clarifications and further questions.

The Acting Chairman (Mr. Slye): Thank you mama Jamilla for taking your time and offer to come here to share your story. I would like to ask my fellow Commissioners if they have any questions.

Commissioner Ojienda: Jamilla, we empathize with your situation and what you went through. However, you have not told us what you expect the Commission to do for you. Are there any specific requests that you would wish to make?

Mrs. Gulei: I do not have a house. Literally, I live in a swimming pool. When it rains, my house turns into a pool. I do not have a latrine. I do not have land where I can even put up a house.

Commissioner Ojienda: To share with us your very painful story, we know this is not easy for you. If you are able, I would just like you to help us understand the situation at this place where you were taken.

Now, you are not sure who the people who took you there were. But it sounds as if there were very many people in that place. It also sounds like it was a very unpleasant experience. So, my question is: Why were you unable to leave? Why could you not just go out of that place?

Mrs. Gulei: When we were taken there, we were confined there and we did not have freedom to leave. The women were allowed out the next day while men were left inside. When we left, we went back to our houses which were already burnt down.

The Acting Chairman (Mr. Slye): When you started you said that you could not confirm whether the individuals who took you there were from the police or not. They took you to the primary school grounds. Do you remember whether they were in uniform or not?

Mrs. Gulei: I cannot tell. We were frightened we cannot even remember what happened. I cannot even remember whether they were in uniform or not.

The Acting Chairman (Mr. Slye): Did they tell you anything about why they were taking you to that place?

Mrs. Gulei: No. We were not told anything until in the end when they separated us into groups of male, female and children. Then children and women were told to go home. So, there was nothing they told us.

The Acting Chairman (Mr. Slye): You said that they burnt down your kiosk in which you sold fruits and such stuff. Were you able to rebuild that kiosk?

Mrs. Gulei: No, I was not in a position to do so. Once it was burnt, I was not in a position to bring it back to where it was and it ended that way.

The Acting Chairman (Mr. Slye): Were you able to enter into any other business?

Mrs. Gulei: No. I was using my house where I was selling some vegetables outside. That is the much I could do after my initial business was burnt down.

The Acting Chairman (Mr. Slye): Once again we want to appreciate your willingness to come forward to share your very painful story. We also want to appreciate your son for accompanying you during your testimony.

Thank you, very much.

Mrs. Gulei: I thank you too.

The Acting Chairman (Mr. Slye): Can I, please, ask that the next witness to be brought and be sworn in?

(Mr. Yakub Adow Ali was sworn-in)

Mr. Chavangi: Can you tell us your full names.

Mr. Yakub Adow Ali: My names are Yakub Adow Ali. I come from Galmagalla, Fafi District, Garissa County. As I identify myself, I am a former councillor of Galmagalla and a member of the Environmental Commission and the Agricultural Committee of Fafi District.

If I can tell you what happened that time---

Mr. Chavangi: Mr. Yakub Adow Ali, there is the original statement that you recorded with the Commission and there is another statement you recorded with the Commission today. Now, we are here to discuss and talk about the statement. So, kindly tell the Commission about the statement you made and especially the incidences of 1989 that relate to your statement.

Mr. Yakub Adow Ali: I think I will say what happened in 1980. That time we had soldiers who were taking people from Galmagalla and Guo. That time Galmagalla was under the division of Gulsua. The Kenyan soldiers were being killed by bandits from Somalia. When we heard that our Kenyan police had been killed, the second day we were attacked. We did not understand if our sisters and brothers had been killed by soldiers from Somalia or Kenya. In fact, it is Kenyan soldiers who rounded us and took our property. They said that we had killed the Kenyan soldiers. That came from Francis Sigei who was the DC for Garissa.

That instruction was given by Francis Sigei. Majority of us were killed and maimed. Our women and daughters were raped in our presence. That directive came from DC Francis Sigei. I do not want to lie about anything. I want to tell everything so that everybody can hear it. There is no need to hide anything and, I want to say to every person so that it is heard in every language. If he wants to kill me, he can kill me because I will one day die! I am a Kenyan and if Francis Sigei wanted us to die, I have not died. I am still alive today. I will die here in Kenya. If God wishes, I will die! Most of us have been killed and others injured.

I can remember Sigei came in a chopper. We had been confined for nine days and when the DC came, we were happy because we thought we would be released. Unfortunately, when he came down, he said that those of us who were at Galmagalla Primary school had killed the Kenyan soldiers.

I want to say the truth before this Truth, Justice and Reconciliation Commission. When he said that we had killed Kenyan soldiers, who were “we”? Are we not Kenyans! I say that because I am strong and alive. I asked the DC, “who are we?” Then the DC struck me and said that I was a pirate. Is it right for a DC to give somebody a kick? That is not fair!

God created us having two legs and two hands. Today I cannot walk because I am having only one leg and one hand. My hand was broken on 24th 1989. Nowadays I do not use my left hand. My knee is not there! I cannot walk, even for a distance of one kilometre. If I remove my shirt now, you will see where Mr. Francis Sigei kicked me. I feared going to hospital. I went to herbalists who massaged me until I developed tuberculosis (TB). All the 20 soldiers beat me until I became unwell. I am not well in my mind.

They came from our neighbouring country of Somalia and killed Kenyan soldiers. I was only crying because my brothers had been killed, but Mr. Sigei said that it was us who had killed the Kenyan soldiers. To say the truth, my tribe is Kenya. My elders come from the county of Garissa. My father comes from Fafi. My mother comes from Galmagalla. I do not belong to any other tribe. What I am proud of is that I am Kenyan. Mr. Sigei told us that we had killed Kenyan police. I want Mr. Sigei to come clear and say that I am a Somali national. I am Kenyan. I have a Kenyan ID card. I was born here. Why did Mr. Sigei say that we came from Somalia? Why was he saying that we had killed Kenyan soldiers? Four soldiers were killed by bandits from Somalia. Without saying “sorry for what has happened to you”, they just left. Kenyans left us.

If Kenyans never got the information, then we were not alive. Many people died. Many people were tortured. Our livestock were stolen. Majority of women were raped. I can remember that one lady was raped in my presence. She was raped by five soldiers. She developed epilepsy. I have a written statement here. I can even bring that lady here. You can take her to hospital and carry out tests to establish what disease she is suffering from. That is something which is unacceptable.

As I said before you, what we went through made my brain go astray, sincerely speaking; I can just start crying. My body is now seen as it is because of what happened to me during those days. I have never been healthy. What I want is for the TJRC to ensure that justice is done. As the elderly say, justice always flows. Justice always comes and in justice we will rejoice.

I do not have much to say. I just want to give my thanks to the TJRC for visiting us to establish what we went through. For that, I give you thanks. I now want to say that, sincerely speaking, I, Yakub Adow, was beaten up. I was almost killed. If I am a Kenyan in Njoro and I was beaten by people from Ugenya, the suspects could have been taken to The Hague. Why can the TJRC not take the suspects, in my case, to The Hague? That is some propaganda by Kenyans.

What I want to say to the TJRC is that my dwelling is in the Northern Eastern Province. Let the suspects be taken to The Hague as suspects in other parts of the country have been taken. Why is my case not being taken to The Hague? Let justice prevail. Let Kenya be Kenya. Let Kenya not be isolated. I am not saying this for myself.

Even though Kenya got Independence in 1963, we, the people of North Eastern Province, have never been independent. We became independent only in 2003. I will give reasons as to why I say so. Before 2003, we had so many emergencies. People were being

tortured and raped. Chiefs were collecting Kshs100 from every person for *Harambee*, and all that money was being taken to Kabarak for the development of Kabarak. All the Harambee money that was collected was taken to Kabarak.

My home is 190 kilometres from here. My division is in Galmagalla. I take three days to travel from Galmagalla to here, because the only road linking the two places is not good. We have been tortured. I am saying this because we were not Kenyans. I only give thanks to President Kibaki. Moi should be taken to court because he is the one who was giving the orders. He was the “chairman” of the country. Mr. Sigei should be present here. He was the DC during that time. Also, the PPO then should be brought before this Commission. All the OCSs should appear before the Commission. Moi should also come before the Commission, because he was the one who was giving the orders.

Mr. Chavangi: Mr. Adow, I will ask you a few questions, just for clarification purpose. After that, the Commissioners will also ask you a few questions to clarify a few things.

You said that the soldiers were killed by bandits. How did you know that the killers were bandits?

Mr. Yakub Adow Ali: Mr. Acting Chairman, Sir, I was in Galmagalla. The information we got was that in that evening, soldiers, who were carrying weapons, went through Galmagalla. On the next day, we got information on radio that four Kenyan soldiers had been killed. After hearing that the four soldiers had been killed, we saw Kenyan military helicopters. We did not even know where they came from. They came and gathered all our herds of animals together. At that time, Galmagalla was the headquarters of our area.

Mr. Chavangi: You also said that on the second day, after the policemen were killed, the people of Galmagalla were attacked. Do you know who attacked you people?

Mr. Yakub Adow Ali: At that time, I cannot remember because I was also giving out Kshs10 shillings. All that I can remember is the DC being told, “Do you remember the person who was in critical condition, and who was kicked?” That was the time he pointed at a woman and told her: “Mama, listen. You have a child whom you have brought up. You have taken him to school and now he is killed. You should cry!” Mr. Sigei told her: “It is your son who has killed these soldiers.” We then told Mr. Sigei: “We are Kenyans”. If he stands before us, I can ask him some questions.

Mr. Chavangi: When you were telling your story, you said that the order came from one Francis Sigei. What was the order, and how did you know that it was from him?

Mr. Yakub Adow Ali: There are two reasons. First, what I can remember is that the District Security Committee (DSC) sat and gave the orders. During that time, the orders came from the Inspector to the DO and the DC. I saw Mr. Sigei come out of a helicopter. He kicked me and said that we were the ones who had killed the Kenyan soldiers, and that we would not come out until we said who had killed the Kenyan soldiers.

Mr. Chavangi: You also said that people were killed or massacred. In your estimate, how many people were killed?

Mr. Yakub Adow Ali: I can recall that about 20 people were killed. I have written five names. You can search for the names of the others. You can go to the DC, through whom you can trace the names.

Mr. Chavangi: You also said that you were in the bush for eight days. In which part of Galmagalla is that bush?

Mr. Yakub Adow Ali: We were taken to Galmagalla Primary School, where I was mistreated.

Mr. Chavangi: You said that you were in the bush?

Mr. Yakub Adow Ali: I have not said that I was in the bush. We were in the compound for nine days and subsequently, instead of being taken to hospital, we were taken to a *manyata* to be treated by herbalist. The herbalist just massaged my chest with hot water. Because of the injuries that I sustained, I was admitted next to Mr. Gail. That was the time I developed TB. Since there was no way I could go to hospital, I only went to the herbalist to get treatment. All the people were at Galmagalla Primary School, which is 300 metres from town. We were just in the school compound.

Mr. Chavangi: Why were you in the field of Galmagalla Primary School?

Mr. Yakub Adow Ali: We were taken there to be beaten up.

Mr. Chavangi: Who took you to the field?

Mr. Yakub Adow Ali: It was Kenyan soldiers, who were ordered to do so by Mr. Sigei.

Mr. Chavangi: You also said that there were witnesses to this incident?

Mr. Yakub Adow Ali: Yes.

Mr. Chavangi: You also said that you can identify them?

Mr. Yakub Adow Ali: Yes.

Mr. Chavangi: My final question, before I hand you to the Commissioners is: What are your expectations from this Commission?

Mr. Yakub Adow Ali: My expectations are that I want to be compensated because I have only one leg and one hand. God created me with two legs and two hands, but Kenyan soldiers tortured me. My expectation is that justice should be done. I should be able to get treatment, because I cannot walk.

Mr. Chavangi: I will now hand you to the Commissioners for clarifications.

The Acting Chairman (Mr. Slye): Thank you very much, Mr. Adow. We understand that you went through a very traumatic experience that you have just described in great detail to us. We appreciate your coming here to share your story with us. I would like to ask my fellow Commissioners if they have any questions for you.

Commissioner Ojienda: Thank you, Mr. Yakub Adow, for that testimony. You seem to have gone through a lot. We feel for you and hope that we will get to the root of this matter, so that you can feel like a human being again. I would like you to clarify two issues. Before the events of April, 1989, for how long had Mr. Francis Sigei served as DC in the area?

Mr. Yakub Adow Ali: I do not know the period of time he had been a DC in that area, but I remember that in April, 1989, he was the DC.

Commissioner Ojienda: Just confirm to us how many men, if you can remember faintly; were with you at Galmagalla Primary School.

Mr. Yakub Adow Ali: There were so many people. One of them was called Mohammed Gura Ali. Another one was Ismail Koma Komore. Mohammed Farah Abdi was also one of them. I can also remember Abdilahi Ali Somali, who was one of them. They were so many. They were about 100 of them. I may not remember all of them.

Commissioner Ojienda: Eight people died during the nine-day ordeal?

Mr. Yakub Adow Ali: Many people died. They were not eight. I do not remember the exact number. There were others who got injured, and after one year, they died; I do not know those ones.

Commissioner Ojienda: Mr. Yakub, if Mr. Sigei were to appear before this Commission today, what would you do to him?

Mr. Yakub Adow Ali: First of all, I know my rights in law. I will ask him several questions. I will tell him: "Mr. Sigei, you came in a helicopter. You held that woman and said to her "Mother, that child, whom you took to school, and who later got employed, you heard that he had been killed. You have killed your child. Do you remember that when you said that we were the ones who had killed the Kenyan soldiers, you kicked me?" I will ask: "If you know God, will you say the truth before this crowd; if you do not tell us the truth, tomorrow you will die?"

Commissioner Ojienda: Thank you.

The Acting Chairman (Mr. Slye): Mr. Adow, I have a couple of extra questions as well. You said that the soldiers took you to primary school grounds?

Mr. Yakub Adow Ali: Yes.

The Acting Chairman (Mr. Slye): Could you estimate how many soldiers they were?

Mr. Yakub Adow Ali: Oh my God! They were so many soldiers!

There were so many Army lorries. There were Administration Police (AP) and Kenya Police officers. I cannot estimate their number, but I can tell you that they were so many of them.

The Acting Chairman (Mr. Slye): Do you remember whether at the time you recognised any of them?

Mr. Yakub Adow Ali: Mr. Acting Chairman, Sir, I may not be able to remember any of them. I cannot remember well. As I said earlier on, if you were hearing well, you must have heard that I was mad. I just saw Mr. Sigei, who came out of the helicopter.

The Acting Chairman (Mr. Slye): With respect to the helicopter, did it come on the first day you stayed there or on the second day?

Mr. Yakub Adow Ali: Mr. Acting Chairman, Sir, the helicopter came on the second day, when we heard that the Kenya police officers had been killed. But it was not one day. For the nine days we were there, many helicopters landed and took off. I remember that Mr. Sigei came three times. He was dressed in Kenya Army uniform. He was not dressed in District Commissioners' (DC) uniform. We knew that the DC is a respectable person. He is a faithful person. He is an icon of peace, but during that time, he was wearing the uniform of the Kenya Army.

The Acting Chairman (Mr. Slye): Mr. Adow, do you remember anyone else who arrived in an helicopter?

Mr. Yakub Adow Ali: Mr. Acting Chairman, Sir, do you mean somebody who was a security officer or civilian?

The Acting Chairman (Mr. Slye): Someone who either came in a helicopter with Mr. Sigei or someone who came in one of the other helicopters?

Mr. Yakub Adow Ali: Mr. Acting Chairman, Sir, I do not remember. I have lost my memory. Let me ask you one question. Suppose you have been tortured by 20 policemen. Will you be able to remember them?

The Acting Chairman (Mr. Slye): We do understand.

Mr. Yakub Adow Ali: So, I do not remember, Mr. Acting Chairman, Sir.

The Acting Chairman (Mr. Slye): We understand that you suffered a number of physical injuries. As you have told us, you have received very little, if any, treatment for those injuries. Could you tell us the effect of those injuries on you today?

Mr. Yakub Adow Ali: Mr. Acting Chairman, Sir, to say the truth, I need justice. Mr. Sigei should be taken to the court. I should be compensated, as I have said. I can even say this tomorrow and the day after tomorrow. I will continue asking why, following what happened in this country in the year 2007/2008 to my fellow Kenyans, the matter was taken to The Hague and why my case has not been taken to The Hague. What about Mr. Sigei? I am a Kenyan. Why has my matter not been taken to The Hague? Justice must prevail. If that does not happen, I will not be happy.

The Acting Chairman (Mr. Slye): Thank you, Mr. Yakub. I want to assure you that this Commission will do everything that it can to find out the truth of the matter – what happened in Wagala in April, 1989. I also want to inform you that we will be issuing a final report, and that report will include findings and recommendations. Those findings and recommendations may include recommendations that people like you receive some form of reparations for what you may have suffered. Our recommendations may also say that further investigations need to be undertaken to understand what, in fact, happened and who was responsible for what happened. The recommendations may include that individuals be prosecuted for the crimes you have described to us here today.

So, I want to, again, thank you very much for coming here and sharing with us your story.

Mr. Yakub Adow Ali: Mr. Acting Chairman, Sir, I also thank you very much for serving me and for bringing me before this audience, and for the great work you have done.

The Acting Chairman (Mr. Slye): I also want to say that, as you know, the Attorney for Mr. Sigei is here today. He is here because we provided invitation and orders to him, that individuals like you would be raising allegations with respect to Mr. Sigei and his activities. As part of that invitation, we will be providing him, if he wants, with an opportunity to speak here, before this Commission. It may happen today or tomorrow.

Mr. Yakub Adow Ali: Mr. Acting Chairman, Sir, I have said here, and I will repeat it, that Mr. Sigei is not above the law. He should not send his lawyer. He should appear before this Commission, so that I can ask him one or two questions. He should come.

The Acting Chairman (Mr. Slye): We, as a Commission, have amended the set process and the space for individuals to be able to speak. As part of that process, we have decided that witnesses like you should not be subjected to cross-examination by anyone else other than by Members of the Commission. By the same token, we are obligated to provide that same chance to Mr. Sigei and other individuals, who may also want to testify.

Mr. Yakub Adow Ali: Or even Moi, please. I have requested this Commission that all those incidents which happened in the North Eastern Province, the cause was Mr. Moi.

He was the one who was the national chairman. He is not above the law. I think we have discarded the previous Constitution. We have a new Constitution. He should come. If, under the former Constitution, he was saying that he was above the law, now, he is not above the law. So, please, I am asking that former President Moi should come here, so that we can ask him questions.

The Acting Chairman (Mr. Slye): Thank you, Mr. Yakub. We have listened to your testimony, and we have heard some of the questions you would like us to ask, and the issues you would like us to investigate. I want to assure you that we have made note of them. If individuals such as Mr. Sigei come forward to testify, we will be guided in part by your testimony and the questions you would like to have asked of him.

Again, I want to thank you for coming here. I know that this is a difficult process for you and for everyone else, who has come to share their stories with us. So, again, we want to appreciate you for your willingness to come forward and speak to us.

Mr. Yakub Adow Ali: Mr. Acting Chairman, Sir, I thank you very much for serving me.

The Acting Chairman (Mr. Slye): Thank you, Mr. Yakub.

Please, let us have the next witness.

(Ms. Ebla Iman Abdi was sworn-in)

Mr. Chavangi: Could you tell the Commission your full names?

Ms. Ebla Iman Abdi: Mr. Acting Chairman, Sir, my name is Elba Iman Abdi.

Mr. Chavangi: Ebla Iman Abdi, where do you live?

Ms. Abdi: I live in Ijara.

Mr. Chavangi: There is someone seated to your right. Who is he?

Ms. Abdi: He is my son. His name is Ahmed Adow.

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

Ms. Abdi: I am okay with him.

Mr. Chavangi: Ms. Abdi, you did a statement to the Commission. In your statement, you recollect the year 1992. What happened to you in 1992?

Ms. Abdi: Mr. Acting Chairman, Sir, my husband was killed in that year.

Mr. Chavangi: How was he killed?

Ms. Abdi: One day, in the evening, some men came to us. He asked them to leave our home. They were men in uniform.

Mr. Chavangi: Was it hospital uniform or police uniform?

Ms. Abdi: It was the kind of uniform that is worn by military personnel.

Mr. Chavangi: After they came to your house, what happened?

Ms. Abdi: What happened was that my husband told them to leave our home. They replied to that by shooting at him, and he died.

Mr. Chavangi: After shooting your husband, what happened next?

Mrs. Abdi: When they shot him and realized he had died, they left immediately.

Mr. Chavangi: So, what you are telling this Commission is that they shot your husband and left him with you?

Ms. Abdi: Yes. They killed him. I am the one who buried him. They killed him and left us with the body and we are the ones who buried him.

Mr. Chavangi: Did any other thing happen after your husband was killed by those military people?

Ms. Abdi: Yes, I remember a lot of problems.

Mr. Chavangi: Do you know why your husband was killed?

Ms. Abdi: When he told them to leave, they killed him. That was the reason.

Mr. Chavangi: What you are telling the Commission, Mama Elba, is that your husband just told the military people to leave and they shot him?

Ms. Abdi: I think the intention was to rape the women in the house. When he told them to leave, they shot him. I think that was the reason.

Mr. Chavangi: And were any women raped?

Ms. Abdi: Nobody was raped. They killed him and left hurriedly.

Mr. Chavangi: That was in Ruga Location?

Ms. Abdi: It happened in Ruga, although my husband was from Gerille.

Mr. Chavangi: I want to ask about that incident in a different way. Was it something that used to happen in Ruga Location? Was it a frequent occurrence?

Ms. Abdi: The much I remember is that it happened to two other people.

Mr. Chavangi: If we ask you to identify those two other people, can you do so?

Ms. Abdi: One of them was Adau Gure. The other one was Boralle Ginbin.

Mr. Chavangi: I will hand you over to the Commissioners for clarification of a few issues.

The Acting Chairman (Mr. Slye): Thank you mama. We know this is a difficult thing for you. We want to appreciate both your willingness to give a statement to this Commission, as well as to testify here in public about what I know was a very traumatic event for you. We just want to assure you that we understand how difficult this was for you. We very much appreciate your willingness to do it and your son's accompany of you.

Commissioner Dinka: Mama Elba, I would also like to join the presiding Commissioner in thanking you for coming out to share your harrowing story with us. We hear you and empathise with your suffering. I just wanted to clarify one or two things.

Number one, around 1992 when this unfortunate thing happened to your household, there were bandits around the area. From what I see in front of me, you mentioned that the family was attacked in 1992 by shiftas. So, it could have been shiftas or bandits. In your statement this morning, you said they were in military uniform. Do you think they were shiftas, bandits or military personnel? What is your assessment on that?

Ms. Abdi: Mr. Chairman, Sir, whatever they were or whoever they were, I suffered because of them. I was scared. It was a very traumatizing experience.

Commissioner Dinka: I do understand that it was a very traumatizing experience, and anyone could be confused and could not pay too much attention to the identity of the persons in such a situation.

My second question is; when you were asked by the presiding chair if it had happened to any of your neighbours earlier on, you mentioned one of the neighbours to whom this had happened earlier as Adau Gure. Does that mean it happened to your household earlier, because my understanding is that Adau Gure is your late husband?

Ms. Abdi: It happened almost at the same time, but my family was the first to suffer the blow.

Commissioner Shava: Mama Elba, I share the sentiments that have been expressed by my fellow commissioners, and thank you for coming here today. I understand when you

say that it was a very frightening and traumatic experience and some of the details may not have been very clear until today. I wonder if you can tell us in what language those men spoke. What was your impression of which country they came from?

Ms. Abdi: If a person is a criminal, they do not identify themselves. They were speaking in Kiswahili.

Commissioner Shava: Thank you, very much

Commissioner Ojienda: Thank you Mama Iman for your painful testimony. We know the pain of losing a loved one, and we share in that pain. I just want to ask you to clarify one point. How far is the nearest police station from your home? Did you make any report of those incidents to the police or any Government arm?

Ms. Abdi: No, I did not report the incident to the police, because I was nursing a very young child. There was no police. We had Administration Police but they were quite far from where we were.

Commissioner Ojienda: Thank you.

The Acting Chairman (Mr. Slye): Thank you again Mama Elba. The individuals who came to your house, had you seen them before that time?

Ms. Abdi: I had not seen them before that time.

The Acting Chairman (Mr. Slye): Did you see them after that day?

Ms. Abdi: No, I did not.

The Acting Chairman (Mr. Slye): Mama Elba, you know that in our final report, we will be able to make recommendations to address the sort of injustices that you have suffered. Do you have any suggestions to us with respect to those recommendations?

Ms. Abdi: As a person, I want to be helped and I want the issue dealt with. There is nothing I want more than that.

The Acting Chairman (Mr. Slye): Thank you very much again for coming to testify before us today. Is there anything else that you would like to say to the Commission or to the members of the public gathered here?

Ms. Abdi: All I ask for is to be helped. Nothing more and nothing less.

The Acting Chairman (Mr. Slye): Thank you again. We have heard your testimony and your plea for assistance. We thank you once again for coming and sharing what we know was a very traumatic and difficult time in your life.

I will now ask the hearing Clerk to, please, escort the witness back to her seat and to bring in the next witness to be sworn in.

Thank you.

((Mr. Yerrow Sahel was sworn-in))

Mr. Yerrow Sahel: My name is Yerrow Sahel. I live in a place called Bula Kamor in Garissa.

Mr. Chavangi: You recorded a statement with this Commission about the Garissa Gubai massacre?

Mr. Sahel: Yes, that is right.

Mr. Chavangi: Therefore Mr. Yerrow, the Commission has given you an opportunity to tell what happened when that massacre took place.

Mr. Sahel: I will say and make everything clear.

Mr. Chavangi: Tell the Commissioners what happened during that massacre in 1980.

Mr. Sahel: I used to live in the outskirts of Bangali.

Mr. Chavangi: As you lived in Bangali, what happened to you?

Mr. Sahel: It was around 4 o'clock in the evening when the police came and they started shooting and some people ran away and some were hit.

Mr. Chavangi: How did you know that those people were the police?

Mr. Sahel: They were in uniform and they came in Government vehicles.

Mr. Chavangi: How many vehicles were there if you can recall?

Mr. Sahel: They were in one vehicle.

Mr. Chavangi: Can you recall how many police were there?

Mr. Sahel: I cannot tell because it was quite frightening and I ran away. So, I cannot remember how many they were.

Mr. Chavangi: When they started shooting, what happened next; please, tell the Commissioner?

Mr. Sahel: Four people died, including my wife whose pregnancy was at an advanced stage.

Mr. Chavangi: I know this is painful, but was the death of your wife as a result of the shooting?

Mr. Sahel: Yes, she was shot dead one day and night after that, while I was running away with her.

Mr. Chavangi: Kindly tell the Commissioners what really happened as you were running away.

Mr. Sahel: Everybody fled and those who were killed died there and we ran away with some who were shot and sustained injuries, but we left some there.

Mr. Chavangi: Where were you running away to?

Mr. Sahel: We were running into the bush where we thought the police would not reach us.

Mr. Chavangi: As you were running away, were the police in pursuit?

Mr. Sahel: Yes they were after us, but they did not catch us because we managed to escape.

Mr. Chavangi: Were you given any reason as to why the police came and shot indiscriminately?

Mr. Sahel: We were told to leave that side of the land.

Mr. Chavangi: Who told you to leave that part of the country?

Mr. Sahel: People from the town told us.

Mr. Chavangi: Do you remember a specific person who said that?

Mr. Sahel: I do not remember specific names, but what I remember is that they were responsible people from the town, people we could listen to.

Mr. Chavangi: So, what you are telling the Commission is that these could be councillors or elders?

Mr. Sahel: I cannot tell specifically, but that is the much I remember.

Mr. Chavangi: When your wife was shot by the police and eventually died, did you report the matter to the authorities?

Mr. Sahel: How can I report the incident to the police and yet they were the same people I was running away from? The authorities were the same people who were hunting me and I could not go back and report the same to them.

Mr. Chavangi: Were other people saved besides you?

Mr. Sahel: Yes, they are there.

Mr. Chavangi: Can you identify them as witnesses in future?

Mr. Sahel: Why are you reminding me of this?

Mr. Chavangi: The Commission is here to help and also to know the truth. In knowing the truth, the Commission shall be in a position to make recommendations which might help you. I know this is a painful process, but please, just bear with us so that we may know the truth.

Mr. Sahel: I would not come here if I was after untruths.

Mr. Chavangi: Very much so, please just bear with us. It will not take long.

Mr. Sahel: Whenever I remember the thing, I get irritated and I feel pain.

Mr. Chavangi: Mr. Yarrow, do you want to take a break and we continue later on.

Mr. Sahel: I am not ready for that. Ask me what you want to ask me now. I can talk about them.

Mr. Chavangi: Please, tell the Commission about those three boys.

Mr. Sahel: Two men and two women died.

Mr. Chavangi: Can you mention their names or identify them?

Mr. Sahel: Yes, indeed, I can tell their names. My wife who was called Kartuma Dubad, Abdi Bule, who was my uncle's son and Hasna Kair and Mohammed Asmar.

Mr. Chavangi: After testifying before this Commission, what are your expectations?

Mr. Sahel: I expect this Commission to look for justice and to make sure that justice happens. If there is justice, then things will be okay.

The Acting Chairman (Mr. Slye): We salute the courage that you have exhibited here in revealing what I know was an incredibly difficult experience for you. By making the sacrifice to speak to us and to the members of the public in this hall, you are contributing

to the truth of the historical injustices that have occurred here and your testimony will become part of the history of Kenya. I again want to thank you for being willing to do this.

We do not have any further questions for you, we want to thank you again for being here and telling us your story. It is greatly appreciated and I would like to ask the hearing clerk now to escort you back to your seat.

There is one last witness that we would like to testify today. We have just been given information in respect to the issues that he would like to testify about. I would like to ask you to indulge the members of the Commission for a few minutes while we peruse the document that has just been given to us and then we will ask the witness to testify.

Again I want to thank the members of the public for your patience as we peruse this document and I would like to ask the hearing clerk to please swear in the witness.

(Mr. Hussein Farah was sworn-in)

Mr. Chavangi: Kindly tell the Commission your name.

Mr. Hussein Farah: My name is Hussein Farah.

Mr. Chavangi: What do you do?

Mr. Farah: I look for daily bread for my children whose mother was killed.

Mr. Chavangi: Where do you live, Mr. Farah?

Mr. Farah: I live here in Garissa town.

Mr. Chavangi: You have given a brief statement to the Commission about the brief history of your late wife. Kindly tell the Commission what led to the death of your wife.

Mr. Farah: If you can allow me, let me read a brief history of the late Fatuma Farah Mohammed, who was my wife.

The late Fatuma was shot and killed by one police officer called Mr. Okaka who was attached to Garissa Police Station. To prove the death of my wife, I have the death certificate from Garissa Provincial General Hospital. I also have a post mortem report from Garissa Provincial General Hospital. I have copies of summons to attend the court at Garissa Principal Magistrate's Court and a public inquest ruling by the Senior Principal Magistrate Court at Garissa. I have copies of my children's pictures taken in my residence by a Nation reporter called Kurgat Maridany in Garissa.

I also have, as evidence, a letter written by the then PC for North Eastern Province, Mr. Makhanu, whom I requested for assistance after the ugly incidence of my wife. I have a

marriage certificate issued to me by the Kadhi's Office in Mandera on 10 December 1977, a referral form to Mathare Mental Hospital in Nairobi for my daughter Lulu Hussein Farah who became crazy and psychiatric after the death of her mother.

The Acting Chairman (Mr. Slye): Mr. Farah, please take your time. We know that this is a very difficult thing for you to be sharing with us.

Mr. Farah: I also have a copy of a letter to the Commissioner of Police, Nairobi. My request to the Commission is as follows:- I want compensation for the death of my wife, her properties because when she was shot she had two stores here and they were both looted after she was killed because I was not present.

I want the Government of Kenya to be sincere and educate my children up to university level and compensation for my daughter who became crazy because of the love she had for her mother and up to now, she is still crazy. The only son that we had is now in jail because he missed the love of his mother.

I also want the Commission to force President Kibaki to sign the Indemnity Act that has been passed by Parliament because it is this Act that has stopped everything from moving.

In addition, we people from this Province are not regarded as Kenyans. We are third class citizens, not even second class citizens, as far as Kenyans are concerned. I believe that is not what the Truth, Justice and Reconciliation Commission says, but that is the way the Kenya Government officials take us to be. This does not apply to Somalis alone, it also applies to all Muslims in this country because for a Muslim to get a birth certificate or a passport, it is a problem while other Kenyans get within two or three days.

There are people who are known as Kenya Police Reservists who are being frustrated and mistreated by this country. They work with the Kenya Police and the Administration Police when they are patrolling the boundaries and other jobs. When these people go to fight the bandits and they get killed, no compensation is made to their children who become fatherless and their wives become widows. Is this what Truth, Justice and Reconciliation is all about?

Since my wife was killed, I have applied for assistance everywhere and up to now I have not received any. I hired a lawyer called Moses Wetangula; the case has been pending for 18 years with no outcome. What do I and other Somalis expect from this country? What rights do we have in this country? We have been frustrated for 50 years and I believe that we shall still be frustrated and I am saying this because we have a new Constitution now, but it has not been implemented up to now in this Province. A simple example is, if you book a bus from this town to go to Nairobi, the bus is stopped at the bridge and all the passengers are told to come out and are thoroughly inspected. That applies only to Somali speaking passengers and not to any other Kenyans. How then do I claim to be a Kenyan?

About 50 years after Independence, can I really refer to myself as a Kenyan? What history do I have to tell my children if I am being frustrated like this? What history do I have for my children?

I do not want to waste the time of the others. I have faith now because there are different Commissioners here. I can see two faces which are not familiar to me. I can see my brother; the Oromo man there. I can see my brother the American man here. I am sure when you are with them, things will work. I will have faith and confidence.

With that brief history, I beg to stop here.

Mr. Chavangi: Thank you, very much for giving us your story. It is a very sad story. I will ask you a few questions. What led to the killing of your wife?

Mr. Farah: There was a fracas at Garissa Market in which my wife was not involved. After the fracas, a contingent of police officers was sent to the market to stop the fracas. They really did their job. There was one man who killed my wife. Earlier, before the fracas erupted in the market, he went to the market and wanted to loot the goods of the women who were selling clothes. He went to where the women were, asking for all the materials that he required. After he was shown, he collected all the clothes and filled them in two very big bags. After he had collected everything from them, they expected to get their dues. However, the man refused to give them their dues. He was a police officer and he thought that he could just go away without giving those women their dues. The women started fighting him. He retaliated. He was thoroughly beaten and he ran away. He went to Garissa Police Station where he collected his G3 rifle as indicated in the public inquest ruling.

He had 100 bullets with him.

He started shooting from the Garissa Police lines up to where my wife was shot. Actually he was looking for Somalis only because the ladies who beat him up were Somalis. When they saw the bullets were flying everywhere, everybody disappeared and went to their rooms. My wife was shot in town. She had gone to Garissa Primary School to collect our only son. She had six girls and one boy. Our son, Abdi Hussein was schooling at Garissa Primary School. That is the only son we had. We, Somalis, love boy children more than girls.

So, she got hold of the son's hand and wanted to bring him to her house. Unfortunately, she met this person who was just shooting all over. So, when he saw her passing by, he started shooting at her. She ran away and went to a small room. He started firing at her and did not stop. So, a bullet hit her on the thigh. There were other people in that room, but the bullets only got her twice. It was around 1.00 p.m. she bled terribly.

There was no one to assist her or take her to the hospital. Some police officers came with an ambulance to assist her. She was taken to Garissa Hospital for medical care. However,

because of much loss of blood, she was pronounced dead on arrival. That is how she died. That is what I have to say regarding her death.

One request I want to make to this Government is to build me a house in that place in memory of my beloved wife. I would like my children to have a history of where their mother was killed by this policeman. Thank you very much.

Mr. Chavangi: Do you know the whereabouts of this Mr. Okaka?

Mr. Farah: After he killed my wife, he was arrested and taken into police custody. However, he did not even spend a day there. He was taken to a court of law for a public inquest. Later on, according to the information I have, he was transferred out of this province to Western Province. That is the last information I heard about him.

What I can state here is that the Police Commissioner must be aware of where he is at the moment. That is not a question I should be asked. That is the work of the Commissioner of Police and the intelligence officers to know where Mr. Okaka is and where he went to.

Mr. Chavangi: You have some documents with you?

Mrs. Farah: I have some documents which I want to hand over to the Commissioner.

Mr. Chavangi: So, if you are ready to hand them over to the Commissioner of Police, kindly, pass them to me.

Mr. Farah: This is the case that I filed with Mr. Moses Wetangula as my lawyer. This is the public inquest ruling which if you can allow me to read the last paragraph which states as follows:-

“It is the finding of this court that poor investigation done on this case was aimed to assist the suspect escape the liability.”

That is what the ruling says and you will have a copy of it.

“From the evidence the cause of the death is known. The circumstantial evidence record points to the police officer, one Okaka. The evidence is irrefutable. Therefore, negligence and misuse of firearms is unlawful and an abuse of human rights. In this regard, I direct the ruling be typed, forwarded to the Attorney-General to take appropriate action. If need be, order further investigation into the matter.”

The ruling was delivered on 7th May, 1998 by Mr. Nyakundi who was by then the Principal Magistrate, Garissa. That is the ruling of the public inquest.

The other document I have is a copy of my marriage certificate. This is the photocopy of the death certificate. This is the letter written to the Commissioner of Police. These are photographs of my children; seven of them.

(Mr. Farah laid the documents before the Commission)

Mr. Chavangi: Commissioners, these are the documents which have been produced by the witness, Mr. Hussein Farah. I urge that you recognize them as exhibits for the purposes of finalizing this testimony.

I would still ask you some few questions, Mr. Farah. Why did you present yourself before Mr. Wetangula? For what purpose? Why did you take your case to him?

Mr. Farah: Because I did not get any assistance from the Government. I approached the Provincial Commissioner, Mr. Makhanu, and I have a copy of the letter that he wrote to me. Actually the Provincial Commissioners are the presidents of provinces because they represent the President. When I experienced such an ugly incident; my wife was shot and my property was looted, I went to see the PC for assistance. However, the feedback I got from him was very embarrassing and shameful. Whenever I see that letter, it makes me cry. I was not expecting somebody like the Provincial Commissioner to write me such an ugly note telling me: “Go away. Take your case wherever you want and take it to your lawyer.” It was very inhuman.

I am happy to see in the new Constitution that the Provincial Administration is not there. So, where else did he expect me to go? If I went to see the PC for assistance and he failed to assist me, where else would I have gone for the assistance? He is the representative of the President in the province. He put such nonsensical words in writing. I had no other alternative. I had to go and hire a lawyer. I never had anything. Through my fellow Muslims, I got a little money and went and hired a lawyer. It was very unfortunate because he could not do anything since the Indemnity Act was in place. I even went and gave evidence in the High Court. I was accompanied by witnesses who saw my wife being shot. This was all in vain. It was nonsense.

Mr. Chavangi: This room where your wife was shot in---

Mr. Farah: I can show you that room and everybody here in Garissa is aware of it. That small structure is there, but there is a very big piece of land there near Garissa Primary School. I want you to take a photograph of that and see where the place is. There are even marks of the bullets that were shot by that police officer.

Mr. Chavangi: I will now hand you over to the Commissioners for a few clarifications.

The Acting Chairman (Mr. Slye): Thank you, very much, Mr. Farah. Let me ask my fellow Commissioners if they have any questions for you.

Commissioner Shava: Thank you, Mr. Farah for your testimony. I just have one question for you. You said there were other people in the room with your late wife when this incident happened. Are any of those people still alive? Do you know who they are and would they be willing to speak to us?

Mr. Farah: No, because those people disappeared when the vehicle came and picked my wife. But there were others who witnessed when my wife was being shot by Okaka. Some police officers and the CID Chief Inspector, witnessed as my wife was shot. There are about 14 names of people in the public inquest who gave evidence on the issue of the death. There are others even here.

The Acting Chairman (Mr. Slye): Mr. Farah, we want to thank you for sharing with us what we know is a very difficult story in your life. We also want to thank you for the confidence that you have placed in this Commission. We hope to live up to your expectations of us; both with respect to your situation and more generally with respect to the issues that we have heard here yesterday and this morning.

Your story confirms what others have said with respect to discrimination against those of Somali origin and those of Muslim faith. It also confirms the stories we have heard about the lack of access to justice that people here suffer. So, we want to thank you for adding your voice to the others who have spoken to us and for being courageous enough to share with us what we know is a very painful story. Thank you very much.

May I ask the hearing clerk to escort the witness back to his seat, please?

That concludes our testimony for this morning. I want to especially thank the five individuals who came here to speak before us. These are Ibrahim Golith, Yakub Adan Ali; Ebla Iman Abdi, Sahau Dubai and Hussein Farah.

I want to thank the members of the public for patiently sitting here and listening to these stories. I also want to thank the members of the Press for covering this hearing and for also assisting us in making sure that these stories are heard by everybody in Kenya. The Commission will be adjourning now for the day, but we will reconvene here tomorrow morning at 9.00 a.m. We look forward to seeing you here again tomorrow. Thank you, very much.

(The Commission adjourned at 12.20 p.m.)