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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE
AND RECONCILIATION COMMISSION ON WEDNESDAY,
27TH APRIL, 2011 AT THE YOUTH CENTRE HALL, MANDERA**

PRESENT

Gertrude Chawatama	-	The Presiding Chair
Tecla Namachanja Wanjala	-	The Acting Chair, Kenya
Tom Ojienda	-	Commissioner, Kenya
Ronald Slye	-	Commissioner, USA
Ahmed Sheikh Farah	-	Commissioner, Kenya
Berhanu Dinka	-	Commissioner, Ethiopia
Margaret Shava	-	Commissioner, Kenya
Tom Ojienda	-	Commissioner, Kenya

SECRETARIAT

Mr. Tom Chavangi	-	Leader of Evidence
Mr. Simon Njenga	-	Presiding Clerk
Mr. Abdinoor Dahir	-	Regional Co-ordinator
Mr. Patrick Njue	-	Counsel

(Opening Prayer)

(The National Anthem was sung)

(The Commission commenced at 8.45 a.m.)

*(The Presiding Chair (Commissioner Chawatama)
introduced herself and other members of the Commission)*

The Presiding Chair (Commissioner Chawatama): Please, be seated. I take it that the witnesses are already in place. Thank you.

On behalf of the Commission, I would like to thank you most sincerely for attending the third and last day of our hearings. This morning, we have a list of two cases and we are receiving two memoranda. I would like to take this opportunity to thank those who recorded their statements and whose cases have been selected. In the last two days, we have had witnesses, some of them have testified against violations that took place as result of acts by the Government agents. We have had a few incidences where brothers have raised against brothers and this has resulted in loss of property and in some cases, injury.

We thank you that you have faithfully attended these last two days and we would like to ask you again that there are some rules that need to be observed. Silence must be observed when witnesses are giving their testimony---

(Interruption due to power failure)

Sorry, before the power went off, I was saying that we should observe silence, not only during the proceedings but especially when witnesses are giving their testimony. It is a sign of respect. I am sure those of you who were here yesterday heard from one witness who said that by talking about what happened, he felt healing taking place. So it is important to observe silence and give the witnesses an opportunity to testify. There are others who said that in their lifetime, they never expected that the Commission such as ours would come to Mandera and hear about some of their experiences. So, please, observe silence. If you need to talk, then please, step out quietly. Also those who have cell phones, please, switch them off because they also cause disturbances.

Right now, we will listen to the witnesses who have been called. They would be sworn-in and be led by the Leader of Evidence. After they have given their testimony, the Commissioners will also ask for clarifications and questions. We thank you for your co-operation in advance.

Swearing in Clerk, would you, please, administer the Oath to the witness?

Mr. Patrick Njue: Commissioners, this is Witness Number 12012

(Mr. Ibrahim Mohammed took the oath)

Morning, Sir!

Mr. Ibrahim Mohammed: Morning!

Mr. Patrick Njue: Once again, kindly for the record, please, state your names.

Mr. Ibrahim Mohammed: My full names are Ibrahim Mohammed Ali. I am also known as Mwalimu Kilaka.

Mr. Patrick Njue: Maybe we will come later to know why you are known as Mwalimu Kilaka. But, Mr. Ibrahim, where do you live?

Mr. Ibrahim Mohammed: I live in Burajimulia Mandera Town.

Mr. Patrick Njue: You live in Burajimulia?

Mr. Ibrahim Mohammed: Yes.

Mr. Patrick Njue: Now, you are here because you recorded a statement with this Commission on two issues, one being the extra-judicial killings relating to the Wagalla Massacre and torture that you went through at El Wak. Now, in pre-session briefing, it was indeed agreed that we have heard quite a lot about the Wagalla Massacre, then you indeed confirmed that what we have heard could get some direction from what it is that you recorded with us. I want to assure you that it is on record already and what you said will also form part of the data that we collected on Wagalla Massacre. So, specifically, we will be talking about your torture at El Wak. This is an event that took place on 28th October, 2008. Do you confirm that?

Mr. Ibrahim Mohammed: I confirm that.

Mr. Patrick Njue: I want you to now take us through the events of that very day, starting from where you were, and again, if you could confirm the date. Do you confirm?

Mr. Ibrahim Mohammed: I confirm that.

Mr. Patrick Njue: I want you now to take us through the events of that very day, starting with where you were and, again, if you could confirm the date.

Mr. Ibrahim Mohammed: Thank you. On my usual routine day, on 28th October, 2008, I proceeded to my work place, which is about 200 metres from where I live. By the time I departed from my place, I realized that the town was densely populated by security forces in camouflaged uniform, which is a rare situation in that town. I peacefully went up to my working place while exchanging salutations with them on the way. At around 7.45 a.m., I was peacefully settled on my desk in a cool office. If I may remind you, I work with the Ministry of Education as a Quality Assurance and Standards Officer in the District Education Office, Mandera Central, El Wak Town.

I settled down on my desk peacefully. At around 8.45 a.m., there was a school which was situated to the eastern side of the office with a staff of around 25 personnel. They were being driven towards a field which was to the western side of our office, less than 300 metres from where the office is; which is normally used as a car park. The teachers were being driven by security forces while being beaten by crude weapons, including wooden bars, iron bars, gun butts and broken pieces of wood. Some of them tried to come towards the office seeking for our intervention but they could not make it to our office. They were taken to the field. That resulted to around five to seven officers coming into our office which by then had four officers. They did not utter any word, but only started hitting us with all their crude weapons. They told us: “*Toka! Toka nje!*” We were beaten and also driven to the field. We were beaten while lying on our bellies. Those teachers and officers who were picked from the office were made to lie separately.

After ten minutes, we were led towards the police station while crawling on our bellies.

After we were ordered to crawl, we obeyed. We were told to roll on our bellies and jump like frogs as the beating went on, on all those 300 metres. We were taken to officers who

seemed to be the commanders of the operation. One soldier asked us: “What should we do to the civil servants and the teachers?” He was told “There is no difference. Take them to the field.” We were brought back to the field in the same manner. While being beaten, we were ordered to roll, crawl and jump like frogs and taken back to the field. After the beating, a Kenya Army major came to the field where we were lying and asked: “Are there civil servants and teachers here? If you can identify yourselves, we will forgive you.”

Everybody removed whatever he had in his pocket. Teachers were carrying chalks, books and class registers. We, civil servants, produced payslips, while others produced employment cards. So, we were separated from the rest of the people. The teachers were escorted back to the school, but they could do nothing because of the torture they had gone through. We, officers, were taken back to our offices. I remember hearing people not crying but pleading with God, due to the pain they were going through. As the clock ticked, people were becoming weaker and weaker, and their sound was going down and down. I also went off by 11.00 a.m. I regained consciousness while in a hospital bed between 5.00 and 6.00 p.m. I could still see people being ferried in by Red Cross cars.

I became curious and started asking where I was and where those other people were being brought in from. I was told that after the people were released from the field, everybody fled for his dear life. Others fainted on the way and were being recovered by Red Cross personnel. I saw that some people were in a worse situation than me. I decided to move out of the hospital and asked my friends to move me back to my residence where I stayed for three days. Later on, I was referred to Mandera District Hospital as an outpatient. That is what I can recall vividly.

Mr. Patrick Njue: Indeed, I empathise with what you went through. I will ask you a few questions to clarify your testimony. Do you still work in the same place at El Wak in the Ministry of Education?

Mr. Ibrahim Mohamed: I do.

Mr. Patrick Njue: When you were going to work, you saw many security personnel. Did you know why they were there at that time?

Mr. Ibrahim Mohamed: I could guess but I did not know exactly what they were there for.

Mr. Patrick Njue: What was your guess, if I may ask?

Mr. Ibrahim Mohamed: For almost a week, there was movement of military personnel and security officers. I can remember I was told that the Deputy PC and the Provincial Police Officer (PPO) were in El Wak. There were several security meetings. There had been tribal clashes previously, but they were not active by the. I remember that I reported to that station on 16th September. I could see those guys there. A light aircraft landed

there and I could see a convoy of small cars and a contingent of AP officers. The Deputy PC and the PPO were there for a security meeting.

Mr. Patrick Njue: Could you confirm that not only teachers were rounded up but also other civilians?

Mr. Ibrahim Mohamed: Everybody was on that field.

Mr. Patrick Njue: As the security personnel tortured and beat up the civilians, did they say anything which could direct you as to the reason why they were beating you? Were they making any shouts as they beat you?

Mr. Ibrahim Mohamed: All of them seemed to be insane or out of their senses. They were just beating us. They did not have respect for anybody. There was no human dignity at all. Their utterances were so loud that you could not even hear what they were saying.

Mr. Patrick Njue: So, to date, you do not know why they were beating people?

Mr. Ibrahim Mohamed: No, I do not.

Mr. Patrick Njue: You talked of a head of the operation. Do you have the name of this person?

Mr. Ibrahim Mohamed: I later on learnt that he was Chief Inspector Omolo.

Mr. Patrick Njue: He was the one who was heading the operation?

Mr. Ibrahim Mohamed: It seemed to be a joint operation. I could see regular police, AP officers and Kenya Army troops. From their head wear, I was able to tell the various units the security personnel belonged to.

Mr. Patrick Njue: What about the Army Major who came to your rescue? Do you have his name?

Mr. Ibrahim Mohamed: I do not know his name. There was also a soldier who was trying to persuade his colleagues not to beat the civil servants. I believe that he was the one who persuaded his superiors to release us.

Mr. Patrick Njue: For how long were you in hospital?

Mr. Ibrahim Mohamed: I was in hospital for two days. I decided to leave the hospital and give space to those who were in critical condition.

Mr. Patrick Njue: How many people would you say were injured and how many died by the end of the operation?

Mr. Ibrahim Mohamed: The injuries were many but there was only one death.

Mr. Patrick Njue: At the field?

Mr. Ibrahim Mohamed: Not at the field. He died two days after the events.

Mr. Patrick Njue: Do you have any urgent medical situation?

Mr. Ibrahim Mohamed: A lot has changed with my health since then. I have many medical problems. I remember somebody standing on my back during those events. Lately, I am having many medical problems. I have started sweating from one side of the face. I only produce sweat from the right side of the face. I do not sweat on the left side of the face. I also have bending problems. Sometimes my joints become numb. I always sleep on one side. When I wake up, I find that the other side is numb. I am now getting some swellings on my legs. I am also suffering mental torture. I keep asking myself, “What have I done to deserve this? I am having sleepless nights, which has led me to abuse drugs. I have to take some tablets to go to sleep. I keep asking myself why this happened to me. Was I not serving this nation? Why beat me? There is a past history of losing relatives. So, why us? Why not people in any other part of Kenya?

Mr. Patrick Njue: I feel for you, brother. Did you subsequently try to seek help from any office or authorities for what you went through?

Mr. Ibrahim Mohamed: There was no point of doing so.

Mr. Patrick Njue: Why do you say so?

Mr. Ibrahim Mohamed: I say so because there is a Kiswahili saying which says: “*Fisi akiwa jaji, mbuzi hana haki*”. How do I go to report to the same guys who beat me? They knew that I was an officer working with them in the same town. They could even call me by name. So, can you see any sense in reporting to such a person? Mr. Omolo was the OCS in charge of that station. As a sensible human being, could you have done something like that? It could have worsened the situation. Maybe, I would not be alive today if I did that. I would have died in the name of an operation in this area.

So, because of that premonition, I decided to keep it to myself. That is why my injuries are haunting me now. They took the law into their own hands. So, we are waiting to see what God would do to them on the way.

Mr. Patrick Njue: Looking at your case, I can see that you also expressed some fears. What would these fears be?

Mr. Ibrahim Mohamed: I have fears and expectations. One is personal; history has shown that many commissions’ findings were shelved, abused or misused. They are even used to haunt people because of the testimonies they give. That is an open secret. The testimony I am giving here should not haunt me. This Commission’s findings should not

be shelved because the Commission has an international perspective. I hope that the testimonies we are giving here will not haunt me, as an individual, our community or region.

One thing which beats me is that there are tribal clashes now and then. The causes of those tribal clashes have been known by the Government. The Government has all the machinery to enable it know such things. They cannot tell me that they could not find what caused these continuous tribal clashes. Communities are known to fight over pasture and water. The Government has the resources. During the rainy season, millions of litres of water go to waste. Why does the Government not build dams and water pasturelands for these people? Sometimes I even think that the Government condones the whole thing. A problem cannot be recurring for three decades, yet there is a Government in place. The Government has a role in the clashes. Look at the problem of infrastructure in this province, look at the economic background of this province, look at the education background of this province; this province lags behind the rest of Kenya.

It seems there was something which went wrong at Independence. This province is not moving at the same pace as the rest of Kenya. It is far much behind politically, socially, economically, educationally mention any aspect of life. If you go to the other Kenya, you will see that it is sophisticated. This is not part of Kenya. So, people ask themselves: “What is not happening?”

Sometimes, I try to remember what my father used to tell me. I am coming to tell the truth now. We are having our ropes untied in this region. I have such a feeling, from the experience I got. What are these things? This is somebody who has never socialised with any person or gone to any other part of this country, or gone to any neighbouring country or any other part of the world. So, the attitude that the Government towards this area is a true reflection of what you are seeing – atrocities, poverty, *et cetera*. I pray for this Commission to ensure that the plain truth prevails, so that justice can be achieved. We should be up, at least, at the level of other Kenyans in respect of all social amenities, road network and other infrastructure, so that we can feel that we are part of the other country. I do not feel part of this country even though I am a Government employee.

Some civil servants do not want to come and serve in this province. This is a disciplinary area. One would rather resign than come and serve in this area. What makes that part of the country “sweet” and this other part “bitter”, if there is no Government hidden agenda? So, I pray for this Commission to uphold the truth and make a good recommendation of what you see without favouring any party, be it the successive Governments or the habitants of this area.

Mr. Patrick Njue: Indeed, Mr. Ibrahim, I can assure you know that, that is the more reason why these commissioners are here – to know the truth so that, from the truth, we can have justice and reconciliation, and even make recommendations for a better nation. I am sure that the Commission has been moving in this direction.

I will now hand you over to the commissioners, who may want to ask you a question or two for clarification of your testimony.

Thank you, Presiding Chair.

The Acting Chair (Commissioner Namachanja): Mr. Ibrahim Mohamed, thank you very much for your testimony. We see and hear your pain, anger and frustration, but we also see that you are relieved; today, you have been able to appear before a Commission such as ours. Even if it is to just ask the question “why?” the panel of Commissioners will put some questions or ask for some clarifications and, maybe, just give you a word of encouragement.

Yes, Commissioner!

The Acting Chair (Commissioner Namachanja): Mr. Ibrahim, what happened to you?

Mr. Ibrahim Mohamed: I was humiliated seriously.

The Acting Chair (Commissioner Namachanja): I have no words because I really, do not know how you are feeling now, but I can read a lot of bitterness when you share with us the painful situation you went through. I am Sorry about what happened, but I would like you to help us understand the context, because this Commission is supposed to come up with a balanced report, including the context under which some violations took place. Can you confirm that around the time you and other community members underwent the torture, there was a clan conflict over a certain borehole? Please, help us understand the context.

Mr. Ibrahim Mohamed: As I previously mentioned, pastoralist communities have the tendency of fighting over pasture and watering points. And so, it was.

The Acting Chair (Commissioner Namachanja): So then, was it in the process the military people started disarming the communities – though they did not have the right to torture innocent community members – that what happened to you happened?

Mr. Ibrahim Mohamed I remember that, in my statement, I told you that it had subsided by the time I reported there.

The Acting Chair (Commissioner Namachanja): Was the specific borehole around Huwar Kadudu, although I may not have the names right?

Mr. Ibrahim Mohamed: I actually concur with you. That was the centre of the whole calamity.

The Acting Chair (Commissioner Namachanja): Thank you.

Commissioner Ojienda: Thank you, Mr. Ibrahim, for that honest and clear testimony that you have given this morning. You are the first witness to declare your prayer for us, which has found a soft spot in my head. I feel sad that your soul and body are at war because you want to understand why North Eastern Province, and why you personally had to undergo what you underwent. I agree with you that there should be a permanent solution, as you have proposed; you need the kind of dams that would create abundant pastures and watering points to spur development and ease conflict in this region. I just want to assure you that the framework law that creates this Commission also creates some mechanisms for the implementation of the findings of this Commission. You will not be victimised because the law says so. The report of this Commission will not be shelved because the law says so, and your testimony will certainly be part of the final report that we shall make.

Thank you for contributing to this Commission.

Mr. Imbrahim Mohamed: Thank you, Commissioners. God bless you.

The Acting Chair (Commissioner Namachanja): Thank you. For everything, there is a season. I know that it may be five years or even 10 years ago when somebody told you that there would be a Commission such as ours, and that you would be given an opportunity to testify. After your experience of the Wagalla Massacre, maybe, you would not have believed that something like this would happen again, but there is always a season, and the season for justice, truth and reconciliation is here. We thank you that you gave us a statement, and we thank you that you agreed to come and give your testimony. Our report will be richer because you came.

Thank you.

Mr. Ibrahim Mohamed: Thank you, too.

The Acting Chair (Commissioner Namachanja): Clerk, could you, please, lead the witness to a place to sit and bring in the next witness?

Mr. Patrick Njue: Commissioners, the next witness is 017.

(Mr. Amin Sheikh Adan took the oath)

Mr. Patrick Njue: Good morning, Sir. Kindly, let us start by you stating, once again, your names for purposes of the record.

Mr. Amin Sheikh Adan: My names are Amin Sheikh Adan.

Mr. Patrick Njue: Where do you live at the moment?

Mr. Amin Sheikh Adan: I live in Mandera East District, Township Location.

Mr. Patrick Njue: Mr. Amin, you are here because you recorded a statement with this Commission, relating to extra-judicial killings during the *Shifita* War within the years 2003-2005, according to your statement. Is that the position?

Mr. Amin Sheikh Adan: Please, come again.

Mr. Patrick Njue: It was during the period of the years 2003 to 2005. Is that what you recorded?

Mr. Amin Sheikh Adan: It was in the homes. So, it is like that.

Mr. Patrick Njue: I want you to specifically talk about that event, and what you went through, either personally or as a family.

Mr. Amin Sheikh Adan: I would like to talk about three issues. One incident happened to my family, another one to me, and another one to my late father.

Mr. Patrick Njue: Begin with the family one.

Mr. Amin Sheikh Adan: I would like to start with what happened to my late father. It happened when I was a young boy. It was in the 1960s. I am very sure that people like Mzee Gulie, who also suffered the same ordeal as my father, is aware of the death. My father was arrested in darkness, in the late hours of night by state security agents.

What I recall very clearly is that they burst into our room and told my father to say “goodbye” to his wife. From there, if I can be very brief, he was taken by an aeroplane outside Mandera to, I think, Garissa. He was tortured there. He was made to go round a piece of 50 cents as he was flogged and beaten at the same time. While he was being beaten, he was also kept away from his family. People did not talk much about him, but after digging into what happened, I realised that there were very serious violations of rights against the people within the northern Kenya region.

He was kept there for several days and, by the mercy of God, he was subsequently released. I am very sure that his health was never good since then. We missed a lot of things due to their taking our father away when we were small kids. There was nobody to take care of the family. Generally, we suffered. There was even nobody to take care of the animals, in his absence.

So, it was a very bad thing and, to date, I have not forgotten it. Even the rest of my family members have not forgotten it.

Mr. Patrick Njue: Is the mzee still alive?

Mr. Amin Sheikh Adan: No, he passed away in 1999.

Mr. Patrick Njue: Let me clarify a thing or two about your late father. When the security agents came to your house, how young were you?

Mr. Amin Sheikh Adan: I was young, and I cannot recall the dates; I was aware of those people. I was told that he had been taken away. That was a long time ago. It was in the 1960s.

Mr. Patrick Njue: You call them “state security agents”?

Mr. Amin Sheikh Adan: Yes.

Mr. Patrick Njue: What made you identify them as state security agents?

Mr. Amin Sheikh Adan: My mother told me. I also heard from other family members that there were soldiers who came. So, it was only soldiers who had powers at that time to take away people.

Mr. Patrick Njue: I want to believe that, after the torture he went through, he told you about it when he came back home.

Mr. Amin Sheikh Adan: Someone told me about it. I was also told about it by people who are still living in Mandera.

Mr. Patrick Njue: Were they people he was with?

Mr. Amin Sheikh Adan: Yes.

Mr. Patrick Njue: Very well. We can get to the other two incidents relating to you.

Mr. Amin Sheikh Adan: The first one happened in 1993. I have carried with me some documents relating to that incident, including sick sheets. It happened in 1993, when I was working for the United Nations High Commission for Refugees (UNHCR) at Dadaab. While on duty one morning, I went to take breakfast at a hotel. I was called by an Administration Police (AP) NCO. He was in the company of two state security agents, one of whom was an AP officer. He signalled to his friend that I should be taken out.

The owner of the hotel said to them: “Let him finish taking his meal.” After I completed taking my breakfast, I went out. One of the soldiers started pushing me roughly, and I told him: “Please, do not push me.” When I said that, he used a stick he had with him to beat me very severely. I used my hand to cover myself. The marks can still be seen. Even these two fingers are not okay. Thereafter, I tried to run away. They chased me and took me to a big building, where all the men of the town of Dadaab were assembled. That was in 1993. I still have the date.

While at that place, the soldier picked a very huge rock, came to me and said: “I can crush your head with this and you can do nothing.” I kept quiet. He then hooked me by

the neck with his walking stick and pulled me before the people who were there. He issued many threats and gave me several slaps. He then left me.

The DO of the area, who was in uniform, was also there. Something I had never seen before, which I never wish to see again, is that soldiers were beating up men. After staying there for several hours, my employer in the UNHCR heard of it. I was even carrying documents indicating that I was an employee of the UNHCR. I showed them to the security agents, but they did not help me. So, after staying there for some time, our employer heard of it. The protection officer sent some message that we should be released.

So, we were all released, and we went back to the station; I received some treatment. I have even carried with me the sick sheet. Shortly afterwards, I vacated that area because it was unsafe.

Mr. Patrick Njue: Once again, sorry for what you went through. I have two clarifications I want you to make. You said all men were being taken out?

Mr. Amin Sheikh Adan: I think so.

Mr. Patrick Njue: What is the name of the place they were being held?

Mr. Amin Sheikh Adan: I think it was the Administration Police camp or the police camp.

Mr. Patrick Njue: The two security agents who dragged you out of the hotel where you were having breakfast, do you know any of them, perhaps, by names?

Mr. Amin Sheikh Adan: Indeed, I saw one of them some two years ago. I even helped him to do some of his things here, but I never told him. He was a corporal. I do not know if he is around. I am very sure about that.

Mr. Patrick Njue: Do you know him by name?

Mr. Amin Adan: I never asked, but if we ask the office here and I give his description, it will be found out.

Mr. Patrick Njue: While the beating was going on, did they say anything that would indicate the reason why they were doing so?

Mr. Amin Sheikh Adan: No, they did not indicate, but something happened. I do not know. Within that time, something happened. I did not know in detail. Even if something happened, that was not the way to go about it. That was a communal punishment which happened when I was young. It should not have happened at all.

Mr. Patrick Njue: What about the DO's name?

Mr. Amin Sheikh Adan: What I am sure of is that he worked with the Provincial Administration and they have the list of the names. If you refer to that office, that name could be availed.

Mr. Patrick Njue: What about the second incidence?

Mr. Amin Sheikh Adan: I have the documents. It is about non-payment for the work I did for the *Kenya Times* newspaper. I will give the documents to the Commission. This happened in 2002 or 2003.

Mr. Patrick Njue: You were working with the *Kenya Times* newspaper? How did it arise?

Mr. Amin Sheikh Adan: There was an advert for the post of a reporter here. Instead of an interview, they fixed payment. I got a letter and I took the job offer. There was no correspondent here. I like to do my work and I was a volunteer for about six years. The payment was not good because I was told to work for Kshs6, 000. The work I did was equivalent for Kshs8, 000.

Mr. Patrick Njue: You worked with the *Kenya Times* newspaper for how long?

Mr. Amin Sheikh Adan: Two times. The first one they paid me. The next time they called for an interview, that was when there was a problem.

Mr. Patrick Njue: So, how much do they owe you?

Mr. Amin Adan: I have a document here. It is over Kshs100, 000.

Mr. Patrick Njue: Did you try to follow up with them?

Mr. Amin Sheikh Adan: I went to the KNHRC and they referred me to the Ministry of Labour. They called the *Kenya Times* newspaper management, but there were no results. The Labour Officer told me to take the matter to court. He told me to go to the nearest court which is in Meru.

Mr. Patrick Njue: Did you go to court?

Mr. Amin Sheikh Adan: No.

Mr. Patrick Njue: Why?

Mr. Amin Sheikh Adan: I was told the court in Meru has long queues of cases. I also did not have money. The court is far away from Mandera. We have to go Nairobi to get our licence. This year I was told that if I pay Kshs20, 000 the case would be taken up. I did not have the money.

Mr. Patrick Njue: You have referred to documents that relate to the two personal incidents that you went through. Do you want to present copies of the same to the Commission to accompany your testimony?

Mr. Amin | Sheikh Adan: Yes.

(Mr. Sheikh laid the documents before the Commission)

Mr. Patrick Njue: What are your expectations from this Commission with regard to what you went through?

Mr. Amin Sheikh Adan: My expectations are that the Almighty will give us the help to go through this. It is my first time to see such a Commission for which I thank the Almighty. I expect what is due and just to be given to me.

The other thing concerns my community. What the Government did to us was not pleasant. It should not be repeated as you have written there: “*Tusirudie Tena*”; I request that this thing should never happen again. Some officers like the former PC, Mr. Benson Kaaria who presided over these things should be brought to book. The victims should be given their dues.

In 1980 when I was in Central Province at the DOs office, the same PC with an Assistant Minister, Mr. Mbogho, and MP, Oloo Aringo, in their presence, the DC, Mr. James Maina Karinga said: “*Ngamia ni Shifta*, we will kill them!” That was a cruel thing to this community which I am part of. I pray that it never happens again. Those people should be given what is due to them.

Mr. Patrick Njue: Thank you, Mr. Amin Sheikh.

Commissioner Slye: Thank you for your testimony, Mr. Amin Sheikh. I would like to express my sorrow to you for having lost your father during your childhood. Your testimony will help us in trying to construct the complete accurate and historical record of the history of injustices in Kenya.

You indicated that your father died in 1999. We have information in our files to suggest that he contracted TB and passed on when he returned home. Did he pass away that year or was it much earlier?

Mr. Amin Sheikh Adan: I indicated that his health severely deteriorated and that he contracted that disease you have mentioned. He passed away in 1999.

Commissioner Slye: Regarding the incident near Dadaab, you indicated that regardless of whether there was a particular incident that had spurred the rounding up and beating of you and others, that it was a communal punishment and that it was not appropriate. I agree with you, but I gathered that there could have been an incident that triggered the

action by the security forces. Could you remind us what the incident was that triggered that reaction?

Mr. Amin Sheikh Adan: I was just working for that organization. I am not privy to what happened, but it was the norm of the Government to do like that. Maybe, they missed something. That was not the best way to go about it.

Commissioner Slye: I and the rest of the Commission would agree with that. We have heard in Garissa, Wajir, and now here that unfortunately, it seemed a normal occurrence for the military and the police when faced with some criminal activity to, instead of investigating, round up communities and deprive them of food and water and beat them up in some misguided hope that they would get information. What could have triggered the action by the security forces?

Mr. Amin Sheikh Adan: It was something to do with some guns or something that got lost.

Commissioner Slye: So, is it that they were looking for guns and then they rounded up people to try and find them or was there a delivery of guns?

Mr. Amin Sheikh Adan: No delivery of guns, but that is how the security forces were behaving in the northern region.

Commissioner Slye: Thank you very much. That is very helpful.

The Acting Chair (Commissioner Namachanja): Mr. Amin Sheikh, the military officer that frog-marched you kept on reminding you that you are not important. That is what happens when somebody wants to dehumanize another person. That is not true. You are very important. You come from a reputable family and community and I hope you did not take that. Were there other people in the hotel when you were singled out? If so, what were their ethnicities?

Mr. Sheikh: There were no other people except the owner who passed away and his workers.

The Acting Chair (Commissioner Namachanja): What was the ethnicity of the owner?

Mr. Sheikh: He was just a Somali like me.

The Acting Chair (Commissioner Namachanja): It is unfortunate you went through what your father also went through. I am wondering; as you were frog-marched and as you lay in the field, did the memories of your late father ever come to you? How did you feel?

Mr. Sheikh: Yes, the memories came back. Even now, they come back.

The Acting Chair (Commissioner Namachanja): You said that you left the area. Is that the time you resigned from UNHCR?

Mr. Amin Sheikh Adan: I have not given them a resignation letter. I left. I told them that I am going home and I would never come back.

The Acting Chair (Commissioner Namachanja): What did leaving your job mean to your family?

Mr. Amin Sheikh Adan: It meant that they would miss whatever I was providing. I definitely missed income.

The Acting Chair (Commissioner Namachanja): How many members of your family depended on you at that particular point?

Mr. Amin Sheikh Adan: Three; that is, my spouse and two children. That is excluding my parents.

The Acting Chair (Commissioner Namachanja): How long did it take you after you left the UNHCR to acquire a job with the *Kenya Times* newspaper?

Mr. Amin Sheikh Adan: Several years later. It was from 1993 to 2001.

The Acting Chair (Commissioner Namachanja): So, in between, how were you supporting your family members?

Mr. Amin Sheikh Adan: She was working sometimes. I was also assisted by friends and family members.

The Acting Chair (Commissioner Namachanja): Thank you and sorry for what your family went through because of this unfortunate incident. Commissioners!

Commissioner Shava: Mr. Amin Sheikh, thank you for coming here today and reliving these painful memories for the benefit of your community and the rest of the country.

How long was your father detained?

Mr. Amin Sheikh Adan: I have not found out, but definitely, he was known in Mandera. If we ask those who were detained with him, they would know.

Commissioner Shava: Do you think it was a few days or a few months?

Mr. Amin Sheikh Adan: I think it was a few days.

Commissioner Shava: You said this took place in the mid 1960s. The file shows that your father was a Member of the Legco which was the parliament then. Why would the Government detain a Member of Parliament? Was any reason given?

Mr. Amin Sheikh Adan: He did not discuss that with me. From those who have given their testimonies, the Government has its way here. It was not him alone. There were many others who were picked.

Commissioner Shava: You said that the UNHCR protection officer helped you get released. When he intervened, was it you alone who was released or was everybody released?

Mr. Amin Sheikh Adan: Everybody who was working for UNHCR was released. The other people were left behind.

Commissioner Shava: Thank you very much.

Commissioner Dinka: Thank you, Mr. Amin, for sharing with us your very painful memories. I empathize with your loss and suffering. How old were you when your father was arrested in 1965?

Mr. Amin Sheikh Adan: I was born in 1960. So, I could not know the exact date he was picked because of my age. I think it was 1965 when I was five years.

Commissioner Dinka: You said that you do not remember the date he was released. It was not more than a year or so?

Mr. Amkin Sheikh Adan: I cannot recall the exact date.

Commissioner Dinka: You said that there was a DO or DC – I am not sure – who was witnessing the beating of the population by the AP and the military. Do you remember his name?

Mr. Amin Sheikh Adan: He was the DC for Daadab area. He was wearing military uniform. He was right there and even told them to keep up. I do not remember his name, but I am sure the name can be got at the offices in Garissa.

Commissioner Dinka: When the UNHCR got you released, the other people were taken to the AP camp; do you know what happened to those people?

Mr. Amin Sheikh Adan: They were left there. I think they were later released, but I do not know for how long they were detained.

Commissioner Dinka: Thank you.

Commissioner Ojienda: Mr. Amin Sheikh, I want to thank you for demystifying in a few words the *Shifita* War, defining the beacons of pain and suffering of the people and emerging with that experience a stronger person. You have therefore, defined the virtues of strength and you still stand tall in the sea of pain.

Were any guns recovered in the operation in Daadab?

Mr. Amin Sheikh Adan: At that time, I did not ask. I do not know if they were recovered. To ask them again would invite more punishment.

Commissioner Ojienda: You said that there was refusal to pay Kshs100, 000 by the *Kenya Times* newspaper. Has there been formal communication from any lawyer to the *Kenya Times* beyond the communication you had from the KNCHR?

Mr. Amin Sheikh Adan: The KNCHR referred the matter to the Ministry of Labour who said that they could not follow up the matter. I even informed the KUJ. I wrote to them. Mr. Ezekiel Mutua, who is now in the Ministry of Information and Communications, promised to take the matter back to the *Kenya Times*. I only wanted my dues. There was no communication from a lawyer.

Commissioner Ojienda: What are you asking the Commission to assist you with?

Mr. Amin Sheikh Adan: The Commission should assist me get justice and my dues. This year, I was told that if I can pay Kshs20, 000 for the case to be taken up by a certain lawyer. I did not have any money.

Commissioner Shava: On the issue of employment, I have looked at the letter from *Kenya Times*. I have seen the offer of Kshs6, 000 per month on condition that you submit at least seven stories and features each week. Did you fulfill this requirement?

Mr. Amin Sheikh Adan: I did my best, but you know when I break down the cost of filing those stories, they will be more than the payment they were giving me. In the circumstances, I tried to do my best. There was injustice from the beginning. They should have talked to me about how much I was going to take. They just fixed the amount and sent me the letter.

Commissioner Shava: On behalf of the Commission, I would like to thank you for your testimony and making yourself available to testify before us.

Hearing Clerk, please escort the witness to his seat. Leader of Evidence, guide us on the next step.

Mr. Patrick Njue: Commissioners, we have a memorandum on the Malkamari Massacre. There is a man who wants to make a presentation on the same. We will guide him on the pages he is to read from to make it very brief. We also have another man who

is willing to present a diagrammatic presentation of an animal that he will explain to us what it is all about. Those are the two people we are looking at.

(Mr. Ahmed Ali Farah took the oath)

Mr. Patrick Njue: Welcome, *Mzee*. How are you?

Mr. Ahmed Ali Farah: *Salama kabisa*.

Mr. Patrick Njue: You are here to make a short presentation on the Malkamari Massacre on behalf of the Degodia people.

Mr. Ahmed Ali Farah: Yes.

Mr. Patrick Njue: Kindly, if you may be brief in your presentation, you can begin.

Mr. Ahmed Ali Farah: My name is Ahmed Ali Farah. I come from Rhamu Division. I was born in November, 1950. I am presenting this memorandum before the honourable Truth, Justice and Reconciliation Commission (TJRC) on behalf of the Degodia Community. This memorandum is in three sections. I will be very brief.

The first part is the preamble then the case studies and findings. We also have the names of the massacred people and then the recommendations. I will leave the case studies, findings, names of the people who were massacred as well as the recommendations for the Commission to determine.

I was born in 1950 and I reside in Rhamu. Malkamari Division is a remote place in North Eastern Province. It borders Ethiopia and is known very well for pastoralism. It is one of the rocky areas in Dawa River. It remains the only source of water during the dry season.

During the Malkamari Massacre the target was Degodia and Garre communities. This massacre is least known because of the remoteness in terms of infrastructure and poor political representation. Because I have already given copies of the presentation to the Commission, I will touch on one or two things rather than going through the whole thing.

(The witness broke down)

The Presiding Chair (Commissioner Chawatama): If the witness would like to have some time, he can have five or ten minutes and then once he has composed himself, we will come back and continue.

Mr. Patrick Njue: We may take a five or ten minutes' break.

The Presiding Chair (Commissioner Chawatama): We will take a ten minutes' break.

[The Commission adjourned temporarily at 10.35 a.m.]

[The Commission resumed at 10.45 a.m.]

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

Mr. Patrick Njue: Commissioners, the witness who was stood earlier will continue with his presentation.

Mr. Ahmed Ali Farah: Commissioners, I am very sorry. I was emotionally affected and that is normal to all humans. I have already made my presentation before you. I will touch on one or two issues. The massacre was carried out by the Kenya military between 1965 and 1979. The military raided settlements, grazing fields and watering points in Malkamari, along the Rhamu-Malkamari Road. They arrested all men and raped all women. They indecently assaulted children and killed animals. They shot dead those who either attempted to evade arrest or escape. As if that was not enough, the military guarded the bodies and they were left to vultures and scavengers to feast on them. The methods of killing were many and not one in particular. In the field, the military executed people. There were cases where people were clobbered to death using clubs. There were cases of people tied with ropes on trees and shot dead. Men were even castrated. Some were tied to Land Rovers and driven. People were burnt alive and their livestock either looted or killed to cripple the community economically. Innocent animals were shot indiscriminately. Some people fled to Ethiopia for their safety. Some were abducted by the forces and others could not be traced.

The Degodia community is pure pastoralist, wandering with their livestock within the larger Mandera County. Livestock keeping has been their livelihood. After Independence, there were consecutive and indiscriminate killings of innocent people. They were massacred while looking after their livestock. The same was carried out by the Kenya military, although during the operation the police were present. The operations were done by the military, while strategically positioning themselves along the water points, waiting for people to come and draw water for their animals. They killed both humans and livestock. Hundreds of people were killed, maimed, raped, abducted and those who fled with injuries were unaccounted for. Some of the Degodia community members who were residing on the Ethiopian border escaped to Ethiopia. The Ethiopian Government intervened.

In some incidents the military was witnessed poisoning wells, which resulted in the death of many people and their livestock. Most of the massacres were carried out in Malkamari, Malkaruka, Gersey, Rhamu Dimtu, Banisa, Thakaba, Warankara and Mandera Town. In addition to this all settlements were surrounded. People were rounded up and exposed to all types of torture while their houses were burnt.

In 1965 at Hargeisi, a total of 239 people were killed in various ways. I even witnessed some of my uncles being tortured. It was too inhuman. You would find somebody who

had been tortured tied to a Land Rover and pulled. Somebody's genital parts would be tied and pulled up. There is a mountain in Malkagersy which I would request the Commission to visit. It is a cliff where men were tied with ropes and a rock and then thrown 40 feet downwards. Over 2,000 innocent people were killed there. Under that cliff there is a grazing zone where most of the pastoralists come from all over for salt, water and pasture. The roundups were done down there near the river. A total of 2,031 goats were taken away. They put them on trucks and took them away. A total of 813 camels and 582 goats were killed just like human beings. A lot of animals strayed and as a result, were killed by wildlife. Children also got lost during this incident. I remember a mother who narrated to me how she was raped and her own daughter indecently assaulted by a soldier. *Alipasuliwa*.

Between 1965 and 1979, 11 people were killed at that mountain. Seven women were raped, 13 others wounded and animals killed. If you head to Gersey, you will find a mountain right on the road, and I request the Commission to go and see. It is one of the major roads which are used by pastoralists at the waterbed. The mountain is called Burjon. It is a well known mountain within the pastoral community of Malkamari up to Mandera. In this area, 311 men were rounded up by the Kenya military and denied water and food for seven days. The survivors were killed by crushing their heads between two rocks in order to save bullets. Women were raped and the children were left malnourished. In the process, goats were looted while camels were--- Women and children fled. Vultures and wild animals accessed the animals. Some of them were forced to be hunters. We were confined to town through a curfew and we could not access our own people. In Rhamu where I was, the military personnel came and camped at a place called Walderi where they conducted an operation. There is a neighbouring town which is five kilometres called Yabichu. There was also a Sheikh called Musa who was with his team of religious followers who settled there. When all the people were told to go to the camp, the Sheikh said "no" and the military attempted to kill him and his people. They attempted twice to do so. The military went there in the morning but they were chased away by *nyuki*. *Jeshi lote lilikimbizwa kwa sababu ya Mungu*. They attempted the second time but they were chased away by elephants. The next morning, they started the operation from Kalicha, Rhamu Dimtu, Gersey and Malkamari. I was mature by then and could understand. I can even testify to the Commission that to the best of my knowledge, the DC, Benson Kaaria was the one who was heading the operations. The military which was camped there – because we were good spies and would go there to take biscuits--- There was Major Halkano who, luckily, is dead. But Benson Kaaria is alive.

I do not think I will go into the case studies and findings or the list of the particular people who have died. I will stop there.

Mr. Patrick Njue: Thank you very much, Mr. Ali for your presentation. I, indeed, want to salute you for finding the strength and courage to be able to go over it again. I will pass you over to the Commissioners.

The Presiding Chair (Commissioner Chawatama): Thank you very much for taking the time and courage to come and make a presentation before us. The display of your

emotion is not a weakness, but strength. We feel for you and all that you have heard and seen in your life. We also hope that by being here, we have afforded you some relief in being able to share with us your testimony. We are very grateful, indeed. My prayer is that as a result of this process, that you may find some healing.

I will now ask the Commissioners whether they have some words of encouragement or clarifications that they may wish to find out.

The Acting Chair (Commissioner Namachanja): My brother, Ahmed, I have worked with you in this region, but I do not think that I knew you. But through your testimony today, I have come to know you even better and now I understand why you are committed to promoting peace and reconciliation and trauma healing among your people. I just want to pray that God gives you the strength to continue doing what you are doing for your community. Sorry for what you and your community went through.

Thank you for your testimony.

Commissioner Ojienda: Thank you very much for the testimony that you have given. I have noted that you have wept uncontrollably in the process. You have by that process, unshackled the gimmick of the Malkamari. Let me assure you that all strong men weep. It is not a sign of weakness. You have emerged stronger out of speaking for your people and those who lost their lives. You have added a few lines to the tragedy of Malkamari.

Thank you.

The Presiding Chair (Commissioner Chawatama): The Commission notes the list of names of the people massacred. We have also taken note of the recommendations before us and are grateful. Thank you very much for making time to come and speak to us.

Mr. Ahmed Ali Farah: Thank you very much, Commissioners, for giving me this opportunity which is very emotional. Thank you very much for the long journey you have made. You will meet a lot on the ground. I wish you the best in truth, justice and reconciliation of our community which has suffered from 1963 up to today.

Lastly, I would request again the Commission to go and see the area that I have mentioned. There is a cliff where men were massacred. I hope the Commission will take that request. It is a journey of about 8 hours. I want you to go and see for yourselves and take photos. Castration was done in the bush and not on that cliff.

Thank you very much. *Karibu Mandera. Naomba Mungu atupe amani na mvua.* It is the motto that we have in Mandera today.

The Presiding Chair (Commissioner Chawatama): Thank you. Hearing Clerk, please call the final witness.

Mr. Patrick Njue: Commissioners, we still have another memorandum that has been presented and somebody wants to make a very short presentation on the same. Before

then, one gentleman has found a unique way to express himself before this Commission. We have received statements, heard testimonies and memoranda presented. This gentleman wants to do it in a different fashion. He is Code 020 which has just been presented to you. He is doing so in the form of a diagrammatic expression, which he will take us through.

(Mr. Aden Isaak took the oath)

Mr. Patrick Njue: Hallo! How are you?

Mr. Aden Isaak: Thank you.

Mr. Patrick Njue: Kindly, once again state your names to this Commission.

Mr. Aden Isaak: My names are Aden Isaak. I am from Mandera. I was born in 1951.

Mr. Patrick Njue: Very well! Mr. Aden, you are here because you have something you want to present to this Commission, which you have just expressed in the form of a diagram. Kindly, begin your presentation.

Mr. Aden Isaak: Thank you very much, Commissioners, for coming here to listen to our views. Whatever you have been listening to from yesterday, I thought of putting all those things into a diagram. This is a picture of an animal which is only found in northern Kenya. It cannot live in cold places. It lives in hot and dry places. It is a very large mammal. One leg is in Garissa and the other one is in Mandera. The other leg is in Isiolo and the other one in Moyale. So, it is as large as that. It has two heads and each head takes one other human being. This animal, for your information is security and corruption. Each head takes one person per day in normal circumstances, if it is not disturbed. So, the coming of Commissioners to this region has already caused suspicion and it is now alert. So, I fear that when you go back, this animal will be annoyed and start eating us in masses. That is the fear I have. Already it is focused on us. For your information, each head rotates. Each head has four eyes. This animal is 48 years old and has three children. The first born is 15 years old, the second born is 24 years old and the third born is eight and a half years old. You might wonder why the second born is 24 years old while the first born is 15 years old. It counts its years differently. So, we shall just take it like that. If I may explain, it is 15 years of Kenyatta regime, 24 years of Moi regime and eight and a half years of Kibaki regime. So, you will find that this animal is called "security and corruption". You will find that in this region, there are many soldiers. There are Kenya Army camps, Administration Police and Regular Police. On top of that we have people called "homeguards" and their work is to maintain security. I wonder who is fighting with us. I have not seen that enemy. So, security people have turned to be wild animals and started eating human beings. So, for the last 48 years, it eats two adults per day times 365 days. That is about 35,000 people and it is not disturbed. But if it is disturbed it can cause massacres.

You have heard about the Wagalla Massacre, Garissa Massacre and Malkamari Massacre. All those happened during Moi's regime. So, we are now under fear. When there is a security problem you will not talk of development because there cannot be development where there is a security problem. So, we have missed education and roads. Economically, we are behind. We have no farms and we are only dependent on livestock. Our livestock is finished by drought and all the successive regimes laid down a strategy to disrupt our pastoral livelihood, thus creating a system called "villagelization." People are to be in villages to be controlled by chiefs and the Provincial Administration, so that they can be disciplined. This has caused us fear and we live like birds.

So, this has caused us fear and we now live like birds. Immediately the sun sets, we go home and very early in the morning, we wake up. So, when the sun sets, there is fear. We are told there is a security problem and that everybody should go home and sleep. You find our area is very hot. Our shops are closed latest by 7.00 p.m. So, we have a lot of fear. We have become hopeless. Since Independence, we have only known gun shots.

So, we have no jobs. The roads are very bad. We live on famine relief. Had it not been for the Somali culture of helping one another and the Islamic culture of assisting each other, most of us would have perished due to hunger.

Before I conclude, you will find that our neighbours are Ethiopia and Somalia. For the last 20 years, Somalia has had no government. There has been a lot of insecurity in that country. They fight each other. But, on the other hand, they are richer than us. They are very rich. They live better lives than us. You will find that because of lack of employment, most of our youth have been recruited in the *Al Shabaab* militia. After all, what will stop them from doing that? So, we as Kenyans found we could not be patriotic because we have nothing to defend. If we could have all those facilities and we could have been rich, we could fight to defend our land. So, we find this is not our country. We are just hopeless. We just sit and wait. But luckily, the new Constitution is bringing hope to us. But I doubt whether they will accept us also because this thing which used to eat only two human beings per day, cannot stay hungry. So, the new Constitution will make it to starve.

Already there is something starting up in our area. I understand every chief in every location has been told to employ 10 home guards. A list has already been written and been forwarded to the Government. We have 200 locations in Mandera County. Those are 2,000 armed men who are not paid, but are defending the community. So, that means there will be inter-clan fighting. The Government will tell us that because of security reasons the new Constitution cannot be implemented in North Eastern Province.

So, meanwhile, we will remain under a special commission until we mature and be secure enough. That fear is already there. I would like to tell this Commission that I am very glad that you have come. We will get to know the truth. I hope we will also get reconciliation. But I doubt if we will get justice. We pray that we will get justice. So, we said let us live together. We are part of Kenya. We have been part of Kenya. We shall remain Kenyans.

Our people are mixed up. The community has no problem. Today, you find that there are so many pictures from down country in every village in Mandera County. There are so many hawkers from down Kenya in our village. They are carrying out their businesses very happily. There are so many Kikuyus who are doing quarry work here. They live in the bush. Nobody touches them. But the Government tells us this place is dangerous. You cannot move at night. You cannot do anything just because of insecurity.

Let me go to my recommendations. Hopefully, we will get truth, justice and reconciliation. When we embrace the new Constitution in 2012, we do not want to hear about the provincial administration. The functions of the Provincial Administration should be performed by the Governor who we will elect.

The Acting Chair (Commissioner Namachanja): Mr. Njue, at this stage, I would like the witness to show the camera what he has. After which if you have any questions that you want to ask him, you can do so.

Mr. Patrick Njue: I hope the media have been able to capture that. I have no further questions for the witness.

The Acting Chair (Commissioner Namachanja): Thank you very much. This has been a very unique way of demonstrating and capturing a lot of things that we have heard these last few days. I do not know whether any of the Commissioners have any comments.

Commissioner Shava: Thank you very much, Mr. Aden for your very interesting and unique presentation. You were giving recommendations. The first recommendation was that the functions of the provincial administration should come under the Governor whom you will elect. Do you have any other recommendations?

Mr. Aden: I just want to stress on that. The Governor will be elected by the people. The District Security Committee which runs our districts currently is led by people who are not from this area. We are not represented in that security committee meeting. This is where our problem arises from. A DC who is just new, who has come about a month ago will use force when skirmishes erupt. He uses unnecessary force in a situation which could be solved very amicably. The Governor will understand, for example, if something happens in Malkamari. He will know who is behind it and do something reasonable.

In case of security issues, the DC and DO should report to the Governor. The chiefs can be employed by the Governor. Currently, an assistant chief is under the PS, Office of the President, Mr. Kimemia. Why is this so? Those villagers can employ somebody. You just tell them we need somebody with such qualifications who should be a Kenyan from a certain village and they will select somebody who will be paid for his work. This man will be elected by his people. He will be responsible for his location. But now he is brought from somewhere. The community is not aware. When he is asked something, the community just closes up. This is a chief who is brought by the Government.

Commissioner Shava: Thank you very much. We have understood.

Commissioner Ojienda: I want to ask you what position you occupy in the community.

Mr. Aden: I am social worker. I work in the civil society. I work with an NGO called Consortium of Co-operating Partners which is the lead agency here. So, I am a community worker.

Commissioner Ojienda: Have you been a victim of any particular violation?

Mr. Aden: No. I have just been around witnessing all these things. I have been living in Mandera. I am now 60 years old. I have no problem.

The Acting Chair (Commissioner Namachanja): Could the Hearing Clerk escort the witness to his seat and bring in the last and final witness?

(Mr. Mohammed Haji Osman took the oath)

Mr. Patrick Njue: Kindly tell us your name for purposes of record.

Mr. Mohammed Haji Osman: My name is Mohammed Haji Osman alias Haka Sheikh Mohammed Alasu.

Mr. Patrick Njue: Where do you live?

Mr. Mohammed Haji Osman: I live in Bula Jamhuriya in Mandera.

Mr. Patrick Njue: You are here to make a short presentation relating to your statement on the gross violations and denial of Mandera Muslim Community rights from the perspective of NGOs. I will ask that you make your presentation short and to the point. If you are ready, you may begin.

Mr. Mohammed Haji Osman: God is great. I appreciate the TJRC since the people have spoken about whatever happened in the past. I do not want to go into that. I want to talk about an incident which happened in 1998. I want to touch on it because it affected Muslims. During the colonial period their rights were not taken care of. During Independence in 1963, the pact was that the culture and language of the Muslims be taken care of by teachers who were to teach the Islamic religion. Their culture and language deteriorated. In 1992, many Islamic NGOs were established here. They came here legally from different countries. Some came from London, Ireland and Saudi Arabia. They came from different places.

They had worked in different places in Kenya. They were doing aid work for the Kenyans, particularly the Muslims whose rights were trampled upon. They worked in the *Madrasas*, that is the Islamic schools where Quranic teaching takes place, to try to bring development in the regions that were marginalized; where the Muslims lived. While they

worked very well in Kenya, the Kenyan residents were very happy about their work. When the bomb blast happened in August 1998, all the aid agencies were closed. All the Islamic aid workers who were doing a very good job in the region were told to leave the country. Their offices were closed. Some of the aid workers who remained here were deported and tortured.

The Kenya Government did not give a satisfactory explanation to convince us what crimes those aid workers committed. They were not taken to any court for them to be proven guilty or innocent of any crimes. It impacted on the lives of the people who used to be helped by these organizations, particularly in the regions where Muslims lived and were marginalized. The situation was the same with the Colonial Government and the successive Governments. It was not different. The aid agencies were helping us. They were enrolling and paying teachers of the *madrasas*. They assisted the Quran schools. They were helping orphans and poor children. They distributed relief food and drugs. They were providing mobile clinics in the regions that were marginalized.

When they left and the Government did not offer a convincing explanation as to why they were closed, the regions actually suffered more. The Kenyan Government did not try to fill the void that the Islamic NGOs left. The *madrasas*, Islamic schools, *duksis*, orphans, poor people and children who were not able to pay fees were not assisted.

Upon the introduction of free primary education, the Government banned anything to do with religious teaching. The CDF said that any projects that had to do with religion should not be funded. The budgets from the Ministries equally did not fund religious projects that were helping the Muslims and conserving the Somali culture and language. This has been the case up to date.

Scholarships stopped being issued. I remember four centres in Mandera were closed. These centres were: Red One in Mandera and Alawes Centre in Elwak. Oteip was in Elwak and Fozan was in Mandera. All these centres catered for orphans, but they were closed. There were other centres which were almost closed, but they are now operating. These are Mandera Islamic Centre, Idaya in Amramo and Al Suna in Mandera. Those centres are almost being closed because of the impact of the other centres that were closed. In the larger Mandera District, eight *madrasas* were affected. In seven to 35 *duksis*, that is Quranic schools where 230 teachers were working were affected.

Now that this Commission is here, and we very much appreciate your presence, we expect this Commission to help us in these areas.

First, we want to know why those agencies were closed. We want this Commission to investigate whether the Islamic aid agencies were wrongly implicated in the bomb blast issue. If so, those people who closed those centres should be brought to book.

We are also requesting our rights. During Independence our rights were enshrined in the Constitution. We want funds from the CDF and the budget from the Ministry to fund Islamic education. We want to be helped and to have those institutions re-opened.

Since the rights of Muslims have been trampled on for a long time, we want this Commission to assist us. This is evident up to this moment. For example, you will find that teachers for quranic schools are constantly arrested. The reason for their arrest is never known. They are just arrested arbitrarily.

Just recently, a missile hit my house and so many houses that neighbour mine. The people who spoke about that missile attack have been threatened. If this Commission is seeking justice, we want it to know that it is us who want Kenyans, but Kenya does not want us. It is only us after them. We are Kenyans. We have our rights. We want roads to be built here just like any other Kenyan. We want good schools in this province. We want to access education just like other Kenyans. We want to have anything else that the other Kenyans have. We also want our languages to be preserved.

This is our Government. The Kenya Government should protect our rights. I do not have much to say. I want to welcome you to this district.

Mr. Patrick Njue: Thank you, for that presentation. I will ask that you hold on because the Commissioners may have a comment or two to make.

The Acting Chair (Commissioner Namachanja): Thank you very much for taking time to come and present the memo from Manderu Mosques and *Madrasa* Development Forum. From the memorandum, it is clear that you have raised several concerns. This is the prohibition of Muslim NGOs; the impact this has had on the Muslim community. You have also outlined certain recommendations. We are grateful that you took time to come up with this memo. The same is admitted and will form part of our records. I will ask the Commissioners if they have any issues that they wish to raise.

Commissioner Slye: Sheikh Mohammed, I also want to thank you for representing your community here through this memorandum and your testimony. In listening to you and reading this memorandum, I see a sequence of three sets of injustices. The first as you pointed out, is the closing of a number of organizations with no due process, investigation or process of law. Organizations were shut down and individuals deported.

Secondly, as a result of that as you have presented, a number of services were lost to this community. Children were no longer educated. People who were ill were no longer provided with medical help. Orphans were no longer provided with homes. That is a direct result of the closing down of those organizations.

Thirdly, having closed down the organizations and having deprived the community of those services, the Government did not step in to itself provide those services. So, the result is that a large percentage of your community, of the people who live here, have been deprived of services that originally were not even provided by the Government, but were provided by yourself.

As you know, part of the mandate of this Commission is to look into violations of socio-economic rights. As we have sat in this region and in Mandera, we have heard over and over about the economic marginalization of this community and the relationship between discrimination, marginalization and violation of a variety of rights; civil and political rights, massacres, extra-judicial killings, torture, rape and others.

So, again, I want to thank you and your community for putting together this memorandum which I think helps us in starting to contextualize and understand the circumstances surrounding the marginalization of this community. I hope in better understanding how this region came to the place that it is today, that we can better provide recommendations with your help and the help of your community to make sure that these injustices do not continue. With the work of the NGOs that currently exist and maybe with the re-opening of those that were closed as well as with a more enlightened Government, we may be able to start to rebuild this community and to make it, not only in political terms or on paper, but in appearance, clearly a part of Kenya. Thank you.

Commissioner Ojienda: Thank you very much for raising issues of marginalization and, in some sense, victimization and exclusion. Because of reasons of fate as you have said, following the incident of 9/11 and just like my brother Ron has said, I believe that due process has now formed the foundation of the new constitutional dispensation. That dispensation should accompany any process that will lead to such trust. I am happy to hear from you that you feel as much as being part of Kenya like anyone else. I want to put it to you that you are Kenyan and you shall be and the principles of inclusivity that are now reflected in the Constitution apply to you. Please, continue to lead the people of your faith and continue to stand for those ideals.

Mr. Patrick Njue: Madam Chair, with your indulgence, we want to confirm the name of Sheikh Mohammed once again. Please confirm your names once again?

Mr. Mohammed Haji Osman: My names are Mohammed Haji Osman alias Sheikh Mohammed Halaso.

Mr. Patrick Njue: Thank you.

The Presiding Chair (Commissioner Chawatama): Thank you. Hearing Clerk, you may lead the witness back to his seat. Leader of Evidence, you will assist the Clerk to the end of our session for today.

Mr. Patrick Njue: Okay, Chair. This marks the end of our witnesses for today. However, I just have to mention that we have now received a list from one of the witness who testified yesterday, one, Abdikadir Sheikh Ahmed who was to present a list of the people who suffered and he has now done so.

The Presiding Chair (Commissioner Chawatama): Thank you. It has been admitted and it will form part of the records of the Commission. Today marks the third and final day of our hearing in Mandera. We heard from five witnesses mainly Ibrahim Mohammed Ali,

Amin Sheikh Adan, Mohammed Ali Sawa, Adan Roba, Sheikh Mohammed. We would like to thank the five witnesses who testified before us today. We would also like to thank the members of the public. Some of you have faithfully attended the hearings every day. Your faces have become familiar to us. We are grateful that the hearings went without major incidences and that you helped us accomplish the task for which you came. We will be having a closing ceremony at which the Acting Chair will thank you on behalf of the Commission. You have expressed that you are praying for us. You also received us well. Thus I do not think it is wrong for us to also pronounce a blessing upon your lives. Our prayer is that you continue to live in peace and prosper. We thank you so much for receiving us and for attending this meeting. I hand over to the Acting Chair for the closing programme.

The Acting Chair (Commissioner Namachanja): Thank you, Presiding Chair, Judge Gertrude for the job well done. I would like to hand over the programme to the Master of Ceremony shortly who will share with us how the programme will look like. Thank you.

(The Commission adjourned at 12.00 p.m.)