

Seattle University School of Law

Seattle University School of Law Digital Commons

I. Core TJRC Related Documents

The Truth, Justice and Reconciliation
Commission of Kenya

5-1-2011

Public Hearing Transcripts - North Eastern - Moyale - RTJRC01.05 (Moyale Boys Secondary School Hall)

Truth, Justice, and Reconciliation Commission

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

Recommended Citation

Truth, Justice, and Reconciliation Commission, "Public Hearing Transcripts - North Eastern - Moyale - RTJRC01.05 (Moyale Boys Secondary School Hall)" (2011). *I. Core TJRC Related Documents*. 59.
<https://digitalcommons.law.seattleu.edu/tjrc-core/59>

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

**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON SUNDAY, 1ST MAY, 2011 AT
MOYALE BOYS SECONDARY SCHOOL HALL**

PRESENT

Ronald Syle	-	The Presiding Chair, USA
Tecla Namachanja	-	The Acting Chair, Kenya
Berhanu Dinka	-	Commissioner, Ethiopia

(The Commission commenced at 9.00 a.m.)

(Opening Prayers)

(The National Anthem was sung)

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

The Presiding Chair (Commissioner Syle): Thank you and good morning to everyone. Welcome to our second day of the hearings here in Moyale.

Yesterday, we heard testimonies from a wide variety of witnesses. We heard about a wide variety of different types of violations like extra-judicial killings, rapes and other sexual violations and economic marginalization. We heard from representatives from a wide variety of communities about the historical injustices that they have witnessed and suffered.

Today, we will continue to hear from individuals both on their own behalf and individuals representing their communities. I would like to ask you to have respect for the witnesses and for the process. If you have a cell phone, could you please turn it off and if you need to discuss with your neighbour or you need to make a phone call, we ask that you quietly leave the room and have your conversation outside. We ask that you respect and listen to all witnesses.

The purpose of this process and this hearing is for us to listen to our fellow Kenyans. Some of what you may hear will resonate with you. Some of it will be similar to experiences that you have had but some of it may be very different to experiences that you have had. We ask that you give each individual witness the respect that they deserve. We honour them because they are willing to come here before us to share their pain and stories, all in a process to make a better, more peaceful, reconciled and just Kenya. Those of you who are found not to be respecting the witnesses or speaking during their testimony will be kindly asked to leave. I would also like to ask anyone with a camera including the media to please not take pictures of the witnesses while they are testifying.

The witness will be sworn in and will swear an oath to tell the truth and once he has done that, the evidence leader who is a member of the Commission will lead the witness in his or her testimony. Once the evidence leader has completed his questioning, the panel of Commissioners may ask additional questions.

I would like to initially ask whether there are any counsel present representing individuals here and if so, whether they could identify themselves. Seeing no counsel present, we will proceed to the hearing and to the first witness. So, can the Hearing Clerk swear in the first witness?

(Mr. Elmoi Guyo Roba took the oath)

Mr. Patrick Njue: Mzee, how are you? I want you to start by introducing yourself to the Commission, for record purposes.

Mr. Elmoi Guyo Roba: My name is Elmoi Guyo Roba.

Mr. Patrick Njue: Mr. Guyo, you are seated here because you recorded a statement with Commission. I will be leading you by asking you questions after which you will respond so that you can give us a clearer picture of what you recorded.

The statement that you gave talks about an inter-ethnic conflict that took place on 27th November, 2005. I want you to briefly take us through the events of that day.

Mr. Elmoi Guyo Roba: On 27 May 2005, the Borana and Gabra tribes fought. Somebody came to my place. I had two cows and goats and they took those animals. When I heard the bleating of the animals, I became afraid and went back to the house. I did not call anybody until in the morning when I went to report to the chief and the police. The police said that they would investigate and the chief sent four elders to follow the trail of the animals. We followed the foot prints of the animals for about four kilometers from the opposite direction so we lost the trail. We went back to the police and told them that the animals had crossed the border and we had lost the foot prints that we had been following. The police told us to go back home as they investigated the matter.

The investigations did not bear fruits and I lost those animals. Those animals were taken from me unjustly. So, I want justice to prevail if it is possible. I want the Government to compensate me for the animals.

I want to add that, at the moment, the citizens are living peacefully and there is no violence. I want to suggest that the Borana and Gabra elders should continue negotiating for peace so that peace can prevail.

Mr. Patrick Njue: Thank you for keeping it brief. I will ask you one or two questions just to clarify your statement. The first is that you have talked of 27th May; is it May or November 2005?

Mr. Elmoi Guyo Roba: It was in the month of May. Even in the police statements, it is written May.

Mr. Patrick Njue: Secondly, you talked of your animals that were stolen from you. You talked of two cows and a goat. Was it a goat?

Mr. Elmoi Guyo Roba: It was two cows and a donkey.

Mr. Patrick Njue: What was the reason for the tribal clash between the Boranas and the Gabras?

Mr. Elmoi Guyo Roba: Those were people who lived like brothers and I guess something went wrong somewhere and they started fighting.

Mr. Patrick Njue: In your expectations, you said that you wished the elders from both sides could come together and speak from one platform. My question then would be: Do you have an existing council of elders in the two communities?

Mr. Elmoi Guyo Roba: We have peace committees which have already been constituted.

Mr. Patrick Njue: Do they meet?

Mr. Elmoi Guyo Roba: They sometimes meet to talk about peace.

Mr. Patrick Njue: I will ask you that you hold as our Commissioners ask you a question or two to confirm or clarify your testimony.

The Presiding Chair (Commissioner Slye): Thank you for your testimony. I would like to ask if my fellow Commissioners have any questions.

The Acting Chair (Commissioner Namachanja): Thank you very much *Mzee* Guyo and sorry for having lost your livestock. At the time of the clashes, was it during the dry season or the wet season?

Mr. Elmoi Guyo Roba: That war was both during the rainy season and also during the dry season.

The Acting Chair (Commissioner Namachanja): So, the clashes had nothing to do with the grazing fields or watering hole?

Mr. Elmoi Guyo Roba: It was about pasture and water and it just started like that.

The Acting Chair (Commissioner Namachanja): In the peace committees that you have been attending, are there discussions on how different communities could share pasture and watering areas during difficult times?

Mr. Elmoi Guyo Roba: Yes, they have talked about water and peace. These are people who are brothers and have been living together. At the moment, we have peace. We are living well together and that peace should continue.

The Acting Chair (Commissioner Namachanja): From this incident of 2005, have there been any other clashes between the two communities?

Mr. Elmoi Guyo Roba: There has been nothing major, but just few thieves who steal animals. They are usually caught immediately and the animals returned.

The Presiding Chair (Commissioner Slye): You mentioned that you had reported the incident to the chief and to the police. I am wondering whether you had reported previous incidents to either the chief or the police before 2005.

Mr. Elmoi Guyo Roba: There are some that I reported, but I got the animals back. The ones that are still missing are those ones.

The Presiding Chair (Commissioner Slye): So, in the past, your animals had been stolen. You reported that theft to the chief and the police and then the animals were returned.

Mr. Elmoi Guyo Roba: I did not get the animals. But I reported both incidents to the chief and the police.

The Presiding Chair (Commissioner Slye): Your experience up until 2005 is that the police and the chief have been effective in recovering your stolen property.

Mr. Elmoi Guyo Roba: They assisted me though I did not get my cattle and the donkey back.

The Presiding Chair (Commissioner Slye): Do you have any idea why this time they have not been effective?

Mr. Elmoi Guyo Roba: I do not know the reasons why my animals have not been returned because by then there was war between the two communities. I suspect that they stole my animals because I am from a minority tribe and I was living among them. I think they wanted to remove me from their midst.

The Presiding Chair (Commissioner Slye): Before 2005, had you had any similar problems or this is the first time you had a problem like this?

Mr. Elmoi Guyo Roba: I did not have any other problems before that.

The Presiding Chair (Commissioner Slye): Therefore, before 2005, things were peaceful at least in terms of security?

Mr. Elmoi Guyo Roba: Yes, it was peaceful.

The Presiding Chair (Commissioner Slye): On behalf of the Commission, I want to thank you for coming forward and sharing your story with us. I would like to ask the Hearing Clerk to please escort the witness back to his seat and to bring and swear in the next witness.

Mr. Patrick Njue: Commissioners, our next witness is coded 007, Adan Issack.

(Mr. Adan Issack took the oath)

Mr. Patrick Njue: For record purposes, please confirm you names.

Mr. Adan Issack: My name is Adan Issack.

Mr. Patrick Njue: Mr. Issack, you are seated here today following your recording of a statement with this Commission on an event related to the *Shifta* War that took place sometime in 1979. I want you to take us through the journey of that very day as much as you can remember. You will begin by telling us the day. If possible, tell us the month and the year. Briefly narrate to us the events of that day. If you are ready, you may begin.

Mr. Adan Issack: This is something that happened a long time ago, so I cannot recall the date or the month. However, I remember that it happened in 1979. On that day, we were moving from place to place with our animals. We settled in Butiye. The police came, inspected us and then we were detained. I was living here with my family when they detained me together with my wife. I stayed in detention for three days. When I came back home, I was beaten and my leg was injured. I still feel pain in my leg up to today. I have a medical statement showing the operation I had in Ethiopia. The people who took my animals also took Kshs500 from me. After three days in remand, my wife and I were fined Kshs150. Most of my animals were stolen, although I got some back. If it were not for my neighbours, my children could have been killed. I was beaten and my leg sustained injuries. That is all I can recall.

Mr. Patrick Njue: Sorry for what you went through. I will now ask you a question or two just to clarify your testimony. On that fateful day, you said that police officers came to you. How were you able to identify these as police officers?

Mr. Adan Issack: I am a Kenyan. So, I know the difference between the police and other people.

Mr. Patrick Njue: What assisted you to identify them?

Mr. Adan Issack: They took me and my wife and detained us for three days. After we left, the neighbours took care of my children and my few animals. They waited for us until we came back.

Mr. Patrick Njue: Where did they pick you from?

Mr. Adan Issack: I was in my house in Butiye Location of Moyale.

Mr. Patrick Njue: You have also talked of injuries; do you have any urgent need for medical attention, present or future?

Mr. Adan Issack: I became poor after losing my animals and I could not pay school fees for my children. I became sick from the beatings I received so I would like some assistance.

Mr. Patrick Njue: You have produced a document here. What document is this?

Mr. Adan Issack: My leg is swollen as a result of the beatings I got that day. I went to Ethiopia where I was operated in my abdomen. This is the medical statement.

Mr. Patrick Njue: If I may read from it, you were admitted in the year 2003; from 1979 to 2003 is really a very long period. Was this in relation to the incident of 1979?

Mr. Adan Issack: Yes, it is. Up to now, I still feel pain. You can see my leg is swollen.

Mr. Patrick Njue: Would you like to give this document to the Commission to accompany your testimony?

Mr. Adan Issack: Yes, my neighbours and other witnesses are seated here. They can corroborate my testimony.

Mr. Patrick Njue: Commissioners, the witness is producing a summary of a discharge with the diagnosis and the treatment given. We could admit it as part of evidence to accompany testimony.

The Presiding Chair (Commissioner Slye): So admitted.

Mr. Patrick Njue: Once again, what are your expectations from this Commission?

Mr. Adan Issack: I just want my problems to be solved. I want to be compensated for the loss of my animals. I also want to be provided with medical care because my leg swollen.

Mr. Patrick Njue: Thank you very much *Mzee* for being clear with your details. The Commissioners may have a question or two to ask to clarify your testimony.

The Presiding Chair (Commissioner Slye): Thank you evidence leader and thank you *Mzee* Adan for coming forward and sharing with us the painful story in your past.

I would like to ask my fellow Commissioners if they have any questions for you.

The Acting Chair (Commissioner Namachanja): *Mzee* Adan, for how long had you stayed in Butiye before this incident took place?

Mr. Adan Issack: I was there for five years.

The Acting Chair (Commissioner Namachanja): In your view, when you reflect on your time in prison and your urinal problem, what happened so that you developed this problem? Is there any incident during your time in prison that you could relate to the problem that you developed later?

Mr. Adan Issack: My problem is that the pain in my leg has spread to my thighs. I feel pain between my legs. I have gone to the hospital several times. I have also used traditional herbs, but before then I was healthy.

Commissioner Dinka: Mr. Adan, thank you very much for sharing your story with us. You said that you were sleeping in your own house in Butiye Location, but they said that you were in the wrong province. Was there a law at that time that said you needed special permission to go from one province to the other?

Mr. Adan Issack: There was no such law.

Commissioner Dinka: When they took you to court, did you have a lawyer or was one provided for you?

Mr. Adan Issack: No, I did not have and the court did not give me one.

Commissioner Dinka: Was the Kshs150 fine that the magistrate imposed on you meant to be a punishment for being in Butiye? Was that the reason?

Mr. Adan Issack: They told me that I had an identity card from North Eastern. They believed that all people from North Eastern were *Shiftas*, so that is why I was charged.

The Presiding Chair (Commissioner Slye): You said that all your cattle were taken. Do you remember how many cattle you had?

Mr. Adan Issack: I lost five camels and remained with seven.

The Presiding Chair (Commissioner Slye): So, you lost a total of five camels. What else was taken from you?

Mr. Adan Issack: The police took Kshs400 when they were inspecting my house.

The Presiding Chair (Commissioner Slye): You said that you and your wife were taken to the police cell. Were the two of you placed in the same cell or you were put in separate cells?

Mr. Adan Issack: She was put among the women cell while I was put with men.

The Presiding Chair (Commissioner Slye): Were you able to see her during 23 days that you were in the cells?

Mr. Adam Issack: I did not see her.

The Presiding Chair (Commissioner Slye): Do you know whether she was assaulted while she was in prison?

Mr. Adan Issack: She told me she was beaten. She did not tell me anything to do with sexual assault.

The Presiding Chair (Commissioner Slye): You were beaten as well, were you beaten every day when you first arrived or every other day? Do you remember how frequently you were beaten?

Mr. Adan Issack: I always remember, especially when I heard about this Commission. There was nobody to tell before and I just left it to God. I feel bad because of the way the Government treated us. Women were beaten and children got lost. The experience of that day has been disturbing my mind.

The Presiding Chair (Commissioner Slye): *Mzee* Adan, we appreciate your willingness to come here and share the story and unearth it for the purposes of this Commission. It is very valuable to us and to the rest of the country to hear stories like this. You said that you still have pain in your leg. How much can you remember about the beatings? Did they focus on your leg? Did they beat you every day? Do you remember those details?

Mr. Adan Issack: They stepped on me in their boots. Later, I developed a problem on my leg. But I was beaten everywhere.

The Presiding Chair (Commissioner Slye): I have no further questions. I want to thank you on behalf of the Commission for your courage in coming here. I know that this has been something that has lived with you since 1979 and I gather from what you said that it is only now that you have been able to speak publicly about this event. We appreciate your willingness to do so. Once again, I want to thank you for coming before the Commission. I would like to ask the Hearing Clerk to escort you back to your seat and to bring in and swear the next witness.

Mr. Patrick Njue: Commissioners, our next witnesses will be detailing the profile of refugees.

(Mr. Wario Kanchora Tari and Mr. Kitii Yatani Koroma took the Oath)

Mr. Patrick Njue: Hallo both of you. I would like you to first start by identifying yourselves, for record purposes.

Mr. Wario Kanchora Tari: My name is Wario Kanchora Tari.

Mr. Kitii Yatani Koroma: My name is Kiiti Yatani. But I am mostly known as Koroma.

Mr. Patrick Njue: Mr. Koroma, you are here today because of the memorandum you presented to this Commission highlighting the plight of the Kenyan refugees in Ethiopia. Mr. Wario, you are also here to assist *mzee* to better elaborate his memorandum.

Mr. Wario Kanchora Tari: I am here to assist the old man since he cannot remember the dates. I will just present the memorandum relating to the evictions and displacement of Kenyan citizens rendering them international refugees. This memorandum was written by the Kenyan refugees at Magado and Dillo camps in Ethiopia. I will make a brief presentation. After that, the old man will continue.

We, the Kenyan refugees in Ethiopia, are evictees of tribal conflicts between the Gabra and Borana tribes in North Horr Constituency, North Nest of Marsabit County. We are among the Borana community displaced by the Gabra just before the Turbi Massacre. We underwent serious and gross violation of our human rights. For a long time, many of the Borana community living in North Horr Constituency have suffered the same fate as ours forcing them to flee in different directions depending on the nearest rescue sites. Those from the interior of North Horr Constituency such as North Horr Town, Kalacha and Maikona Town were ferried to Marsabit Town by security officers. They were then dispatched to various camp sites as internally displaced people within Marsabit County. Those from Hurii Hills Location, Forole and along the Kenya-Ethiopia border, fled to Ethiopia where they took refuge at Magado Refugee Camp. They are hosted by the Ethiopian Government and they are still under the care and aid of UNHCR Romania Branch in Ethiopia.

Before I continue, on behalf of all the refugees, I would like to thank the Ethiopian Government because they have protected us. We fled to save our lives. Since we crossed the border, we have been protected by the Ethiopian Government. The total population of displaced people in Magado Camp is 1,621 persons. That total number of households in Magado camp is 368. The list is attached. Those from Dukana, El-Hadi, and Balesa along the Kenya-Ethiopia border on the western side of Kenya also fled to Ethiopia and formed a refugee camp at Dillo in Ethiopia. They were hosted by the Ethiopian Government and they are still under the care of UNHCR. They also sent their thanks to

the Ethiopian Government. The total population of the displaced members in Dillo Refugee Camp is 1,063 persons and the total number of households is 297. The general total population of the Kenyan refugees in Ethiopia in both camps is 2,684 persons. The cause of our displacement was tribal difference leading to eviction and displacement.

Mr. Patrick Njue: Thank you Wario. You have outlined two major causes of the displacement. I note that we have record of that and you have listed them all. Can you give a general view instead of going through the whole list?

Mr. Wario Kanchora Tari: I will be brief because I cannot read all the files. The minor tribe of the Borana has greatly suffered since the majority tribe of Gabra dominated them negatively. As I said, these violations occurred in North Horr Constituency. The Gabra denied us access to available resources and all economic, social and political opportunities. A number of incidents which occurred have been officially addressed both locally and administratively during which grievances were aired. We have attached supporting documents for detailed information. I will briefly give a chronological account of the events:

1. Events against the Borana in North Horr were discussed at Dukana on 7th February 2003.
2. Secondly, we presented a letter of complaint dated 5th May 2003 to the District Commissioner of Marsabit against a chief called Guyo Kuyayo of Hurii Hills Location, Maikona Division. The letter is also attached.
3. The suffering of North Horr residents of Marsabit District was shown in a letter presented to the then Internal Security Minister, Honourable Chris Murungaru by an aspiring MP for North Horr Constituency, Mr. Elema Filla of Water Development Advisory and Networking Service.
4. On 28th May 2003, a letter of protest by Hurii Hills community was presented to the DEO Marsabit concerning oppressed education systems.
5. In July 2006, a protest letter was handed to the DC of Marsabit by Hurii Hills community against tribal operation, torture and threat of eviction.
6. On 6th January 2004, we wrote a letter to the DC Marsabit concerning the appointment of the chief of Hurii Hills Location.
7. The Voice of the Suppressed and Tortured Minorities presented to the DC Marsabit a letter dated 20th February 2005.
8. Marginalization, discrimination, and torture of Borana in North Horr presented to the DC of Marsabit by the Borana Community in North Horr dated 25th November 2005.
9. Plea for risk of life presented by Borana residents in Dukana Location to the DC of Marsabit dated 30th April 2006.
10. Incitement of violence and robbery against the Borana in North Horr by the North Horr Chief, Mr. Jatani Kanacho presented to the Marsabit DC dated 22nd of April 2006.
11. Chronologically detailed events of eviction between 11th June and 17 July 2005.
12. Ethnic violence reports and campaigns by Catholic Peace and Justice Commission on 29th June 2005.

13. A sample of inciting campaign motto for an aspiring MP, Mr. Hatani Kanacho, a Gabra and a former DC in the 2006 by-elections of North Horr Constituency containing hate messages.
14. Extra-judicial killings, murder and torture.

Then that is tribal difference leading to displacement. Second is extrajudicial killings, murder and torture. We have experienced persistent, long term and gradual extrajudicial killings, torture and ill treatment of persons. The perpetrators of these crimes are known by names but the Government efforts to deal with them have been handicapped. This is due to interference by politicians from this dominating Garbra tribe. This has rubbished all our grievances leading to our suffering unheard. Some of the commonly known incidents of killings of our people are as follows. In July 1993---

Mr. Patrick Njue: I note you have enumerated several instances of people killed which already will be taken into consideration when the commissioners will read the same.

Mr. Wario Kanchora Tari: For more evidence, refer to the attached list of grievances. Now I continue with expectations and recommendations by the TJRC and the Government of Kenya.

The Presiding Chair (Commissioner Slye): Mr. Koroma if you would like to read out the list of the killings that is okay. You can provide that for record purposes and then the recommendations; we can then ask questions.

Mr. Wario Kanchora Tari: So, I continue. In July 1993 a Borana businessman, Mr. Jarsho Bin Jube, from Omega was shot and almost died at Maili Corner and over Kshs150,000 was stolen together with over 130 shorts he had bought. The late area MP, Dr. Bonaya Godana, was informed about the details of all culprits by names but refused to take action.

In May 1993 three Borana men were mercilessly killed at the Kenya-Ethiopia border by members of the Garbra tribe. In 1994 a woman, the wife of Mr. Boru Guyo Derigo, and her son were killed at Didd Galgallo near Bubisa location by Garbra tribesmen. In April 2003, six village elders were arrested together with an expectant mother who had a miscarriage in the process of torture; all were from Bagaga Village of Hurr Hills; they were remanded without trial for two weeks. Later they were released since they were found innocent by a Marshabit magistrate. On 8th August, 2003, 42 people were arrested from Hurr Hills and Burore sub-location; some of them were women and children but were termed as *shiftas* who had invaded Garbra land. They were taken to Moyale District where they were found innocent and released. All their properties were looted and houses destroyed. This was planned by area leaders, including the area chiefs since they were of the Garbra tribe; the chief of Burore was among them. On 19th July, 2004, 18 people were arrested from Hurr Hills and Burore; they were tortured and some taken to Moyale and others to Marsabit, but they were finally released by the Embu magistrate court since they were innocent. The late Hon. Abdi Tari Sasura, the then MP from Marsabit intervened.

Also, the late Hon. Dr. Guracha Galgalo, MP of Moyale presented the issue to the then internal security Minister Hon. Chris Murungaru and also to the Office of the President.

On 29th December, 2004, a group of 14 Borana men, who were travelling together due to insecurity, were brutally attacked by heavily armed Garbra men at Hurr Hill and Corner Town, where the Borana were the majority; they were given an eviction notice of three days to vacate Garbra land, “otherwise they would regret it”. This was witnessed by Marsabit DC, Mr. Muthui Katee, who was accompanied by the OCPD and the Deputy OCPD, Marsabit. That was the beginning of our eviction . In June, 2006, between 11th and 20th an organized armed Garbra militia raided Hirsia Location of Marsabit Mountains, where the area chief, Mr. Boru Wako Keyate, and a number of home guards, including Mr. Nyenza Garma, were killed. Between January 2005 and June, 2005, over 15 Borana people were killed in North Horr Constituency in five different incidents. This was accompanied by a massive raid where most Borana herders lost their livestock, houses were burnt and property was looted in the entire Chalbi region; this led to massive evictions and displacements. For more evidence refer to the attached copies.

Expectations and Recommendations to the TJRC- we wish to make the following recommendation to the TJRC and the Government of Kenya. Our fate should be discussed in depth immediately by all arms of the Government and our case given priority. Since we are Kenya citizens now surviving in a natural environment we are depending on well wishers. We are living in shacks which cannot protect us from the hot weather. Our students have not been learning for the last six years. So, our fate should be discussed seriously. Secondly, we demand that our Kenyan Government uses all the means possible to return us to Kenya as soon as possible; it should work in collaboration with the United Nations High Commission for Refugees (UNHCR). This is because the UNHCR has told us that its assistance period will end within this year, 2011, and that they will take us back to Kenya. So that is why we demand that the Kenyan Government finds the means to return us home as soon as possible since we are Kenyan citizens. The recommendation is that the Kenyan Government should consider our security and protect us as we have been protected in Ethiopia by the Ethiopian Government. Utmost care should be taken as we return to Kenya since we are still seriously targeted.

The fourth recommendation is that the Kenyan Government should compensate us on our return using a fixed return formula; we were pastoralists while we were in Kenya, but now we are depending on well wishers as international refugees in a foreign land. Since the Government listened to our plea, knows of our eviction, we have a lot of evidence, and we have complained to the DCs and other administrators but they never responded positively---

The fifth and last recommendation is that the Kenyan Government should resettle us at a convenient site, which will allow our pastoral way of life since we have adopted a nomadic pastoral life. Thank you.

Mr. Patrick Njue: Indeed, I want to thank you, Mr. Wario, for bringing out the issues, or rather, highlighting the plight of the Kenyan citizens living in Ethiopia. Mzee Koroni,

were you able to follow properly what I said? I now want to ask just one or two questions to clarify the report just presented.

My first question will be; when did this movement begin? When did these people start moving to Ethiopia?

Mr. Kitii Yatani Koroma: When we started, it was in 2005. I am an old man and I cannot remember the exact date; I am also an illiterate who lives in the bush taking care of animals and farming. So I cannot remember the dates, but I have a small thing to add because my son has said everything. I will add something small to what you have heard. All our flights had a chronological plan, and it went to the DC and the PC; all had been alerted in advance and it was not a secret. The day we fled from that place we had already told them everything. We were not in the tribal clashes; we told the DO and the DC that we could not go back to the same people who were fighting us as we were told to go and report to them. At the same time, those who were fighting you are the same people. A person who is killing you cannot at the same time be expected to protect you. But I am grateful to God and you people; the way you have followed and listened to us. All this we had written and given to the DC and if it has been heard by the public, I am very grateful and pleased and I also thank God. My son has done it; I will not go into details, it is all that. I am a resident of Hurr Hills; I am an elder there.

The day we fled we told the DC; we announced it to everybody and fled. Nobody ever looked after us. Just the way my son put it, we fled for two weeks, with some using the Marsabit route, others used the Dhilu route and personally I went to Margadho. Those who went the Marsabit way, some went to Hurr Hill and those who were left behind were collected and they went to Hurr. Some were given food and shelter at Marsabit. Those who went back to Hurr are just like people who are in detention or captives. That is a place of farming but they are not given anything. They do not have farms as they have not been given land. As an elder, I have been living there, I have a plot there but it has been taken by somebody else, whom I know by name. He is Bonaya Wako and has taken that plot and four houses. He has allocated that plot of mine and now we are just like mad people.

Our memories are not even okay, because though the Government there knows about the issue, it has done nothing. We have 11 wells there and up to now there is peace and people can interact because there is no individual well. Since peace has been prevailing, and even Kenya and Ethiopia have discussed about peace, we can read some hidden agenda, and some underhand things; so, we cannot believe in this peace. Personally, I had several wells I had built there at a cost of Kshs170,000. But during this drought even my children who went there were denied a chance to get water from the wells. They wanted to renovate them, but they were denied the opportunity to do so. The person behind this was Chief Elmi Agura. It is in that place called Burore. This is something that made people mad; that is why it is not even written in the memorandum.

After we fled from there we went to Margadho. Thanks to God and the Ethiopian Government; they have protected us; they welcomed us, gave us a camp and water.

After we fled from there we went to Magazo. Again they protected us and looked after us very well. We thank God and the Ethiopian Government a lot. But we are Kenyan citizens, and it is a fact that even when a kid of a goat gets lost, one looks for it, otherwise it is forgotten. The way you have been hearing 2,684 persons are many people; so, we wonder how we can be like lost goats and the Kenya Government is not looking for us. If you are the people to question this, please I want to hear the response from you. If I am to ask somewhere else, then please tell them to respond to me. Secondly, if the Government is not looking for me then I am looking for a way to come back. That is how I came now. That group of people you have heard about is of Kenyans. I am a person who lost life, wealth, water, everything and became a destitute. I am pleading that we are Kenyan citizens, and we want you to bring us back and give us back our place, our Government, and land because other peoples land cannot be our land. We want our rights to be restored; our animals to be compensated for and we get settled back. You people who came here representing the Government; before you go back, we want you to look at us and confirm that we are your citizens, and then give us a response as to how we are to be sorted out. I cannot finish talking because my memory is really confused. Somebody who lost human beings--- You will see two women who are currently mad in that village. Personally, I have been a very healthy person, but now I am suffering from blood pressure and I cannot even see properly. I am just like a blind man who is guided by--- I have a very small vision. Even all these people who are seated in this hall I cannot properly see them. If this thing happens to somebody who belongs to our people, then look after them, please.

We are just talking and we do not have much hope, because we know it is not the citizens who have done this; it is the Government which has done this to us. If the Government was right, it could have done better and we could not have suffered like this. So, we are not blaming those people but the Government, because those people were just brothers. We have never seen such kind of violence but it has happened, and we were victims, but the Government just ignored it and left us to suffer. It just left us like that, with nothing and now we are asking to be integrated into the Kenyan society. I am through, and may God bless you.

Mr. Wario Kanchora Tari: It all concerned the Garbra tribe. What made us flee into refugee conditions was the Kenyan Government.

Mr. Patrick Njue: Thank you Mzee for the addition and the clarification that you have put in after Mr. Koroma's talk. Indeed, looking at what you are saying and from your explanation, you really had a lot to say, or you would want to say more. That is why we are here; we want to benefit from your wisdom; your input together with that which you have presented here will inform---

(There was momentary power failure)

The Presiding Chair (Commissioner Slye): I apologize for that interruption but it looks like power is back; so, can I ask the Evidence Leader to continue?

Mr. Patrick Njue: Tunaomba Msamaha. Mzee, I was saying we want to benefit from your wisdom, so that whatever it is that you have told us will inform this process and the kind of report that we will come up with, finally, on behalf of your community. I will continue with one or two questions to clarify what it is that you said.

During the period of flight to Ethiopia, which you said was around the year 2005, what was the source of conflict between the Garbra and the Borana? What was the source of the conflict?

Mr. Kitii Yatani Koroma: The violence started because of the issue of differences and hatred between the two tribes. This was because the majority, who are the Garbra, had hatred for the Borana. There were the issues of farms, plots, pasture and water. That was why they decided to evict us. The situation had been going on for a long time; it was a long process.

Mr. Patrick Njue: I know you had fled, but is this on-going now?

Mr. Kitii Yatani Koroma: There is no big war; there is peace but it is because of the fear of the Government. People still have that hatred and they still do underground things and write letters; we also fear because we hear gun shots everywhere. There is hidden war.

Mr. Patrick Njue: The two camps that we have, where brothers and sisters are living as refugees, are Irudirro and Margadi? Can you confirm that those are the only two camps that you have?

Mr. Kitii Yatani Koroma: Those two camps are the ones that I know.

Mr. Patrick Njue: And who lives in Hurr Hills?

Mr. Kitii Yatani Koroma: Hurr Hills is not in Ethiopia; it is a location in Marsabit.

Mr. Patrick Njue: I want you to appreciate what the Government has done; is there any person to bring you back to Kenya?

Mr. Kitii Yatani Koroma: Those who remained there, the Kenyan army followed and protected them, but those who fled before that, some of them died on the way, while the rest fled. But those who were found there were taken care of and returned to Marsabit. Now they are living there but they do not have a place to sleep; right now they do not have houses.

Mr. Patrick Njue: Do we have any Boranas living there at the moment?

Mr. Kitii Yatani Koroma: Boranas are those who were claiming to be Garbra, and they live there. They have joined them; they were assimilated into the Garbra. So, those who remained became Garbra.

Mr. Patrick Njue: I think you need to once again bring that out, as commissioners may have a question or two to ask you to clarify your testimony.

The Presiding Chair (Commissioner Slye): Thank you, Leader of Evidence. I would like to apologize to Mr. Wario and I would like to ask my fellow commissioners, if they have any questions so that I can give them the floor.

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Wario and Mzee Koroma. Mzee, pole for what happened to you. In the memorandum we have received you have highlighted the reasons that made you flee to Ethiopia, but I would like Mzee Koroma to share with us the events of that particular day when you left the country to go to Ethiopia. Just explain to us what happened that made you to flee to Ethiopia.

Mr. Wario Kanchora Tari: I fled because there was tribal war everywhere, and big leaders like area Members of Parliament, chiefs and other leaders at different levels were involved. As a minor tribe we spoke to the Government, but it was not helping. The last day when I wanted to flee somebody came to me from the Government asking about our problems, and wondering why I was fleeing. They were asking me, “This is a very good house; why are you leaving such a good house?” He was among the news reporters and I told him I had to go and he wondered why I could not flee to other parts of Kenya instead of fleeing to Ethiopia. I told him I had no vehicle to take me to Kenya, and that I wanted to go where I could survive. But he wrote his own opinion and not what I told him. I was fleeing from war but he wanted me to stay there and die, but I told him I was fleeing because of the war.

The Acting Chair (Commissioner Namachanja): When you fled, were you alone, or in a group; if it was a group, how many people did it have, including women and children?

Mr. Kitii Yatani Koroma: There were so many people; they were not one or two. They were so many; some were ten, some were five, others were three or four, as everyone was trying to find where they could pass through. Those who fled to the bush could have died, but were collected by the Kenya army and brought together. The Garbra also fled to different places; the Boranas fled to different places, with some crossing into Ethiopia. Those who were left behind were collected by the army and brought together.

The Acting Chair (Commissioner Namachanja): During your stay in Ethiopia in the refugee camp, have you received any visits from any Kenya Government officials?

Mr. Kitii Yatani Koroma: Yes, they have been there, the Kenyan people. We had some politicians and chiefs, who came in their vehicles and later left.

The Acting Chair (Commissioner Namachanja): And what did you discuss when they came?

Mr. Kitii Yatani Koroma: We just told them our problem, which we wanted to be resolved. We told them to return us to Kenya and to give our greetings to the Government.

The Acting Chair (Commissioner Namachanja): When was the last time you had such a meeting?

Mr. Kitii Yatani Koroma: I cannot remember the date, but it was a bit some time back; I think it was sometime back.

The Acting Chair (Commissioner Namachanja): Last year, the other year? Do you remember the year?

Mr. Kitii Yatani Koroma: I cannot remember; I think it was something like one and half years or two years ago.

The Acting Chair (Commissioner Namachanja): I did not get what you said first.

Mr. Kitii Yatani Koroma: The year they arrived here at the camp was 2008.

The Acting Chair (Commissioner Namachanja): I am asking the last time you ever met any Government official.

Mr. Kitii Yatani Koroma: Yes, that was the last time.

The Acting Chair (Commissioner Namachanja): When was the last time?

Mr. Kitii Yatani Koroma: 2008

The Acting Chair (Commissioner Namachanja): Have you received any updates concerning the situation back home, whether it is peaceful for the refugees to return? Have there been any organized visits for you to come back and see how the condition is back home?

Mr. Kitii Yatani Koroma: Yes, we have several times appealed, but we are in Ethiopian arms and we are in UNHCR hands. We do not know whether they have planned anything, but nothing has happened. However, we have been having hopes of going back home.

The Acting Chair (Commissioner Namachanja): If there is any organization of such a return, will you be willing to come back and see how the condition is?

Mr. Kitii Yatani Koroma: Please repeat the question!

The Acting Chair (Commissioner Namachanja): From your last answer, nobody has organized for you or other refugees to come back home to see how the condition is, whether it is safe for you to return or not, and the question is if such a visit is organized are you willing to go and find out how the condition is back home?

Mr. Kitii Yatani Koroma: Where?

The Acting Chair (Commissioner Namachanja): Where you fled from to Ethiopia!

Mr. Kitii Yatani Koroma: Where I stayed before, I know there is a problem there. We have a proverb that says that a cow which sees a snake during the day will fear a wolf at night. So, what I am saying is that there is still a problem there. There is the issue of tribal hatred which will never end.

The Acting Chair (Commissioner Namachanja): Once again I would like to thank Mr. Wario and Mzee Koroma for helping us understand the situation of refugees from Kenya living in Ethiopia. What we know is that we have talked about internally displaced people when we talk about displacement. But you have made the country realize that there is another category of displacement, and that is of external refugees that also needs attention.

You are from Kenya and are living in Ethiopia; what we know is that we have talked about Internally Displaced People (IDPs) when we talk about displacements. You have made the country realize that there is a category of displacement, refugees, that will also need attention. Thank you so much.

I would like to thank the Ethiopian Government for having taken care of you, and appeal that they continue taking care of you until the Government of Kenya finds a solution and returns you back home. You have all the reasons Mzee Koroma to feel bitter. A good shepherd will look even for one sheep, however young it is, when it is lost. But thousands of people have been displaced, yet leaders do not care about them. It is a sorry situation and that is why this Commission was set up. Small people like us can also get a chance to share with the world what we have been going through as we search for justice and peace.

Thank you so much. We feel honoured that we listened to your case.

Commissioner Dinka: Thank you very much Mr. Wario and Mr. Koroma. I have two or three questions. One, how far from the Kenyan border are these two places, Magado and Dillo?

Mr. Wario Kanchora Tari: From the Kenyan border to Magado is 30 kilometers.

Commissioner Dinka: And Dillo?

Mr. Wario Kanchora Tari: Dillo is 64 kilometers from the border.

Commissioner Dinka: Now, are they inhabited by Borana or Gare?

Mr. Wario Kanchora Tari: In Magado we have Borana and some Burjis and Konso. There are no Gabras there.

Commissioner Dinka: And in Dillo?

Mr. Wario Tari: The same.

Commissioner Dinka: I am asking you this question because we have a very good combination in elders, Mr. Koroma who represents wisdom and you, Mr. Wario, as the youth you represent optimism, energy and creativity. I come from Ethiopia. I am also an Oromo. My experience has been that there are Gares, Boranas, Burjis and all kinds of people. The Oromo are almost 50 per cent of the population. That is about 40 million. There is very little tension between Gares, Boranas and Burjis. If there is tension, is it resolved quickly? What should be done in Kenya? I want you to advise us, so that we can suggest it in our report. What should be done from the wise old man's point of view, or from the optimism of youth point of view? What should the Kenya Government do? What should Gares do? What should Boranas do for these people to come together and live in peace instead of permanent tension between them? How should one institutionalize peace in this region between these people in terms of elder's councils, the Government, the PCs and DCs? How can it be done?

From your experience after staying in Ethiopia, have you been able to think about this, talk to the local people and see some kind of methodology to bring about this harmony?

Mr. Kitii Yatani Koroma: The advice I give is from my understanding and knowledge; when people live separately and in far places they fear each other. If the Government really makes sure there is peace and security--- If the chief is from one family and the MP is from the same family, if all the leaders are from one tribe--- For example the Gabra's are in Kenya and also in Ethiopia; before we did not say they were from Ethiopia or Kenya. They are the same. We as Gabra and Borana there is no border between the two tribes. We share water, pasture and inter-marry but animosity comes in when we are separated. According to my understanding, people should be talked to. People should be brought together so that they can live together. They should not fight. They should interact, live together and share everything. In that way, I think nothing bad will happen.

Commissioner Dinka: From the point of view of the youth, how do you see the future?

Mr. Wario Kanchora Tari: According to me the first thing is to make peace. For example, the elders from the refugees can be taken to Huri Hills or Forele by the Kenyan Government to discuss peace and see how it works. After that they can come back to Kenya. It is good to organize such a thing.

Commissioner Dinka: Thank you very much.

The Presiding Chair (Commissioner Slye): Mr. Wario and Mr. Koroma, I want to thank you on behalf of the Commission for travelling to Moyale to share with us the experience of Kenyan citizens living in Ethiopia. We very much appreciate the amount of time and effort that clearly went into the submission you have made to this Commission. That is an enormous amount of information that will assist us in documenting and creating an accurate record of historical injustices here in Kenya. Through this document and through your testimony we have heard and read about the failure of the Kenyan Government to protect Kenyan citizens within the borders of Kenya. We have heard and read about discrimination in the areas of education, land, water and conflict

We have heard from you and read about all of these things contributing to forcing individual Kenyans to flee their own country. Some are still living in a foreign country because of fear of coming home. We appreciate and salute your courage not only for having survived what you have survived, but also for coming here, talking to us and discussing the way forward, and the possibility of creating a more peaceful and united Kenya. As mzee very wisely said, when people live apart and when people do not interact with each other they tend to lose sight of who those other people are; they do not realize that they are not only human beings, but that they are fellow Kenyans. It is only through interaction and dialogue, as both of you have suggested, that one can really start a process of bringing communities together. I hope that with your help and the information that you have provided to us, we will in a very small way contribute to that process; we will work with you in moving forward, so that someday soon, I hope, you and your community will feel comfortable to come back to your home in Kenya and join in continuing to build this nation.

Again, on behalf of this Commission, I want to thank you for coming here and sharing your stories with us.

Can I ask the Hearing Clerk to, please, escort the witnesses back to their seats and bring in the next witness?

Mr. Patrick Njue: Commissioners, the next witness will also be presenting a memorandum.

(Mr. Hassan Maalim Abdalla took the oath)

Mr. Patrick Njue: Good morning Sir.

Mr. Hassan Maalim Abdalla: Good morning to you.

Mr. Patrick Njue: Once again for record purposes, please, give us your name.

Mr. Hassan Maalim Abdalla: My names are Mr. Hassan Maalim Abdalla.

Mr. Patrick Njue: Mr. Maalim, you are here because you want to make a presentation or give a memorandum to this Commission on behalf of your community, the Garre Community.

Mr. Hassan Maalim Abdalla: Yes, I am here to give the memorandum on behalf of my community, the Garre Community.

Mr. Patrick Njue: Before you can formally present it, perhaps you will just give us an overview, or take us through what it is that we expect from the memorandum.

Mr. Hassan Maalim Abdalla: Before I go to the memorandum, I want to give a short history of the Garre Community. I want to talk about the Garre Community, who live in Moyale. We have been living in the area, as our ancestral land, side by side with other tribes that roam Kenya and Ethiopia in search of grazing land.

The Garre Community occupies Godhoma, Nanna, Yabalo, Godhoma Didiko, Guromesha, Leshara and township locations in Moyale District. The Garre are the second largest community in Moyale District. Garres are pastoralists, who move from one place to another, looking for pasture for their animals. We have been living both in the urban and rural areas of Moyale. In the urban areas we live as a business community. We own quite a number of businesses in Moyale and its environs. Currently in Moyale we the Garre Community have four elected councilors and one nominated councilor. We have a chief and three assistant chiefs. We do live in peace and harmony with the communities living with us.

The main problem arises sometimes due to the Provincial Administration that does not treat the tribes living in the area equally. They incline to one side. For example, there was a time the Minister Mr. Michuki, in 2005, came to Moyale on a by-election campaign. All the tribes in Moyale requested a location in the areas they live in. The Minister announced in public and accepted the request. It was later gazetted officially and the post of the chief was advertised. After the results were announced the chiefs were announced except that of Biashara Location, which is ours. It was withheld up to now. The reason for this is not known to us up to now.

That is the short history I can give about the Garre Community.

There is also another problem facing administration; if I can go back, sometime there was a small problem which erupted between the tribes which live in Moyale. The Government, instead of solving the problem, inclined on one side and brought the armed forces, APs and regular police. They fought us with live bullets. We lost two people. One person was called Hussein Ibrahim Abdula and another Sheikh Dahir Mursal. They were killed by the Kenyan soldiers immediately after the Friday prayers. We have not got justice up to now. The case is still pending with the Government.

I will now request that I present the memorandum. I think you have copies and I will just give you a brief of the same. This is about the Burte evacuation. I will just want to start with the memorandum.

Before Independence, the Garre Community lived in Burte and Gural. Because they first came to Burte they owned the strategic plots and also farm lands. They built houses and shops and had businesses. They owned the businesses for a while. After some time, somebody known as Bahashe Ahmed Wako was brought as assistant chief in the area. He came from the Ajuran clan. Now, this is when the Ajuran started coming in to this area. We had no problems and just stayed together for a while. When they found that strategic places like plots and farm lands were owned by the Garre, they wanted to make use of the administration to take the plots from the Garre. A small problem, therefore, erupted but the administration came in and cooled tempers.

At this time the Member of Parliament for the area was Mr. Ahmed Khalif, who was from Degodia Clan. The Garre community supported him in his election. After Mr. Khalif lost his seat and an Ajuran known as Mr. Abdi Ibrahim came in, the situation worsened. The MP and Chief came from their community. They came jointly to force this community out of their land. A plan was hatched and the DC, Mr. Omangi, the DO, Mr. Oluoch, and the MP told the Garre Community to migrate to Mandera. They refused but they were forced. A GK lorry took them to Mandera and Wajir, leaving all their property behind; all their shops, stock, clothes, farms and everything.

On reaching Mandera the MP for Mandera Central, Ahmed Said Abbas and A. M. Noor, intervened and insisted that these people be deported back to Burte because there was no law for somebody to be deported from anywhere. A Kenyan can live anywhere. So they were taken back to Burte without anything. They started a new life. They stayed for a while. In 1992, an election was held again. Mr. Ahmed Khalif got back his seat. When he came back because he got more support from the community, he supported the community. They got peace. They got a location called Danaba and a nominated councilor. After this they stayed in peace without any problem.

In 1997 another election was held where Mr. Ahmed Khalif lost his seat to somebody called Dr. Abdulahi, nicknamed Carburetor. He started the same problem for the community. In fact, he became the worst. In broad daylight, he told the community to vacate the land without taking anything. They were told to go back to their homeland. Now, a DC called Mr. Kabiti Rintari and the area MP held a baraza and told the Garre Community to migrate from the area. Twenty four hours later APs and the KPR under the command of Inspector Fankei in broad daylight attacked the community. The community took refuge in an AP camp. The APs denied them the refuge and diverted them to a police camp, where they took refuge and stayed there for not less than 30 days. Nobody would give them food and water. The little cash that they had in their pockets was what was used to buy food and whatever.

Afterwards, there came PC, Mr. Maurice Makhanu. He had a closed door meeting with the community and the administration. He left without uttering a word to this community.

After a while DC Rintari came back. He was accompanied by the MP, Mr. Abdullahi, Carburetor. They had three GK lorries and one Land Rover, which we were told to board. We boarded them and left behind our shops, again with all the stock, plots with buildings and farms. We were deported to Danaaba and were left there. After seven days we were attacked by AP officers and the KPR again. We were scattered. Some ran away to Mandera and others to Moyale. Others ran away to Ethiopia. In the last attack we lost 22 people, including children and women.

After this, we started a hard life. Some came to Moyale. They got assistance from their families. Some fundraising was done for them. They started small businesses. Some of them started to look back; they said, “We own plots there and have land”. They started to ask for assistance from the Government. However, they did not get any assistance up to now. One of them took the case to court to claim back the ownership of his plot. The court agreed that the plot was his. He now has the documents from the court, but nobody can take him there and make the person occupying the plot to vacate it, so that he can take his plot. The problem is still there. There is no assistance they got from the Government.

That is all. You have the rest in my memorandum. I have all the witnesses with me here. If you want to talk to one of them you can do so.

Mr. Patrick Njue: Thank you, Mr. Maalim, for bringing out the issues affecting the Garre Community. I will ask you two questions about your presentation.

First, do we still have members of your community residing at Burte?

Mr. Hassan Maalim Abdalla: As of now, they are not there. They have all been evacuated.

Mr. Patrick Njue: Neither do we have any at Gurar?

Mr. Hassan Maalim Abdalla: They ran away. They do not want to come back.

Mr. Patrick Njue: Secondly, on behalf of your community, once again what would be your expectations from this Commission that can inform our recommendations when we do our report?

Mr. Hassan Maalim Abdalla: My appeal to the Commission is to assist this community. There are more than 100 families which were forcefully evicted. They have lost all their animals, according to records, properties and stock. I would like that to be compensated for.

Things like land and plots have registration numbers and details with the County Council of Wajir; they have names of the owners, they are still the owners of the plots. I would like justice to prevail so that those people can get back their plots.

Mr. Patrick Njue: Lastly, Mr. Maalim, I want you to look at a copy of the memorandum that you have given to us. Can you confirm that this is what you have been talking about?

Mr. Hassan Maalim Abdalla: Yes, this is what I have been talking about.

Mr. Patrick Njue: The same copy has supporting documents. What are those documents?

Mr. Hassan Maalim Abdalla: They are the receipts that show they have been paying plot rent, and paying for shop licences when they were running their businesses. There are names of those who were displaced.

Mr. Patrick Njue: Do you want to present that to this Commission?

Mr. Hassan Maalim Abdalla: Yes, I want to present it to this Commission.

Mr. Patrick Njue: Mr. Presiding Chair, Sir, the same documents should accompany his testimony.

Mr. Maalim, I once again want to thank you for bringing out the issues affecting your community. I will now hand you over to the Commissioners who may have a question or two to clarify all that you have said today.

The Presiding Chair (Commissioner Slye): Thank you Leader of Evidence, and thank you Mr. Maalim for your testimony, and for the very helpful memo you have presented to the Commission on behalf of the Garre Community. I would like to ask my fellow Commissioners if they have additional questions for you.

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Hassan, for the memorandum. I would like to ask a question concerning the property left behind. Would you know under what condition this property that was left behind changed hands to the present occupants?

Mr. Hassan Maalim Abdalla: These people were taken away abruptly without their knowledge. They were not given a chance to go back and pack. As you know, a house and a farm are things you cannot carry with you. There was no time to pack the stock in the shop. They were harassed and attacked in broad daylight. They left everything behind as they ran to save their lives. The local people who were left there now engaged in looting.

The Acting Chair (Commissioner Namachanja): When they came back, are there cases where some old occupants tried to get back their property and they were denied or faced resistance?

Mr. Hassan Maalim Abdalla: There were so many complaints. They even went to the PC's office in Garissa, but nobody listened to their problems. Wherever they went, they

got no assistance. So, at last one of them, after a long struggle, filed a case at the Moyale Law Courts. He presented his receipts of the land rates that he had been paying to Wajir County Council. The registration that was being followed up was brought to the attention of the court. The judge looked at it and found the truth and ruled that the man was the right owner of that plot. The court gave him a letter. The problem is how he will get to the plot because it is being occupied by somebody and there is nobody who can get that person out. Which administration is supposed to do that? Who will tell the occupant that he is not the right owner of the plot and that he should vacate so that the right owner gets his plot back? He has a letter from the court, but nobody can do that for him.

The Acting Chair (Commissioner Namachanja): Did he approach the local administration?

Mr. Hassan Maalim Abdalla: Yes, he approached them.

The Acting Chair (Commissioner Namachanja): What was the result?

Mr. Hassan Maalim Abdalla: He was told to wait that those people will just move out. Those were just delaying tactics. There was no full support or assistance given.

The Acting Chair (Commissioner Namachanja): When was this?

Mr. Hassan Maalim Abdalla: The plot was taken away in 2000.

The Acting Chair (Commissioner Namachanja): I am asking when he approached the local administration and he was told to wait.

Mr. Hassan Maalim Abdalla: It is about three years ago.

Commissioner Dinka: Thank you, Mr. Hassan, for sharing with us the problems of your community and presenting this memorandum to us. I assure you that we will do our best to study it and reflect it in the final report of the Commission.

When we were in Mandera, we were told that there was a serious problem between the Ajuran and the Degodia. Both sides presented memoranda accusing each other and so on. Both sides talked about DCs favouring one side and that intensified conflict. Here, we are now hearing about the Garre and the Borana and now the Garre and the Ajuran having similar problems basically on resources like grazing land, water points and farm land.

The ultimate aim of the TJRC is national reconciliation and strengthening the unity of the people of Kenya and to establish very sustainable and durable harmony among the population. In your view, what do you think should be done at different levels to bring about durable and sustainable peace, harmony and cooperation among the different communities like the Ajuran, the Borana, the Garre and so on?

Mr. Hassan Maalim Abdalla: When the two tribes are faced with problems they turn to the Government which they believe has all the machinery and power. The Government is able to call the two communities together to find out their respective problems and solve them without taking sides. I am sure that can solve the problem. But when the administration we look to for help sides with one side and fights the other side, that will not solve the problem. The Government should not favour any side.

Commissioner Dinka: How about the level of the communities themselves? Can they not create some kind of a joint council of elders to come together and help the Government solve the problem?

Mr. Hassan Maalim Abdalla Even that one is possible with the help of the administration. For example, the area MP could call the people together instead of just giving instructions that they go and solve the problem. If they can call people together without looking at the issue of tribes and advice them to live in harmony and peace, then that can happen. However, if politicians because of their political stand want to show off to their people or community, then we will not get a solution. The area MPs and local leaders can help.

The Presiding Chair (Commissioner Slye): Mr. Hassan, I want to thank you for your testimony and willingness to appear before this Commission with respect to the Garre Community. You have told us the history of the violations you have suffered over the last few years and decades. I also want to applaud you for your efforts and that of your community in reaching out to the other communities in order to come up with solutions that will allow you and your community to be rightfully compensated for what was lost and for healing and reconciliation. In future, we will not be here again listening to stories like these. I hope there will not be such a Commission then because of people like you. Communities need to take matters in their hand and reach out and help themselves and the Government will come along.

Mr. Hassan Maalim Abdalla I have a request. I have other problems that members of my community raised but I have not presented that memorandum to you. I request that I just go through it. I could read it so that you become aware. If you want more information, you could get it from them because they are around.

The Presiding Chair (Commissioner Slye): If you have an additional memorandum and it is not ready to be submitted, you could submit it to us when it is ready. You do not have to read the entire memorandum. You could just highlight to us what the issues are and then submit it to us so that it forms part of our record.

Mr. Hassan Maalim Abdalla: I will do that, but just allow me to go through it now and then I will give you the copies.

I have a problem that was raised by Mr. Adulahi Ali of P.O. Box 158 Moyale. It states thus:-

“I do hereby present to you what was done to me by the Kenya Army in 1983 in Hardado, Koma in Wajir District. My elder brother died. As we were attending the burial ceremony, the Kenya Army came and arrested 96 of us. We were taken to Wajir District where we stayed for seven days. During the day on a Sunday, we were judged by the District Officer and he sentenced us to five months imprisonment or we pay a fine of Kshs500. When we went back, we found that all our animals had been killed with bullets from a helicopter flying above the animals. We lost 1,500 camels, 1,000 cattle, 800 goats and sheep, and 10 donkeys.

We would like justice to be done. We want to be compensated for that loss. The case is with the District Commissioner, Wajir, since 1983. Those affected are Abdullahi Isaak Ali; Ibrahim Adan Ahmed; Ibrahim Barro; Ali Hussein Nuru; Nurow Nurow; Abdi Aliyewu; Isaak Aliyewu; Habiba Aliyewu; Habiba Bule; Ibrahim Aliyewu Hassan; Leroshu Ibrahim; Maalim Isaak Mohamed Ibrahim; Ibrahim Daudi; Marke Dai amongst others”.

Hon. Commissioners, I have another one which was submitted to me by Mr. Ali Yareu of P.O.Box 176 Moyale. It states:-

“In 1978, our village in Nana Location was razed by Kenya Army. People were killed, women raped and our animals were also killed. This was done by the Seventh Kenya Army Rifle under the command of Major Lenges. We were not aware where the Shiftas were. They demanded us to take them where they were. Whenever the forces met, they beat us and raped our women. They killed all the young and able people. So, we were totally frustrated.

On the other hand, we were afraid of the Shiftas. So, when the Shiftas came, they harassed us and took all our animals for food. The army would ask us to tell them where the Shiftas were. So, we suffered in the hands of both. The people we lost are Mr. Yaro Ibrahim, Mohammed Imo Ibrahim, Hussein Imo Ibrahim, Hassan Imo Ibrahim, Nurow Mohamed Isaak, Maalim Ahmed Aliyewu, Fatuma Imo Ibrahim, Hadija Hassan, Bonaya Bonaya, Hadija Ibrahim.

Those who were raped and killed were: Makai Isaak Robo, amongst others. With regard to animals lost, 87 camels were bombed and killed instantly. We lost 364 heads of cattle, 900 goats and sheep, 7 donkeys, and 1 mule. I want justice to be done. Many people doubted the credibility of the Government. Some crossed to Ethiopia and became citizens of Ethiopia”.

Hon. Commissioners, I have one more from Mr. Hassan Ibrahim. It states thus:-

“In 1978, at Nana Village, the Kenya Army visited us and burnt our shamba which had maize and beans. We already had food in our store which was burnt to ashes. All our animals were taken from us and taken to Ethiopia where they were distributed to people. It was claimed that the animals belonged to the Shiftas. There were 3,000 camels, 600 cattle, 500 goats, and 5 donkeys. We lost 150 bags of maize and 100 households were

burnt down. Those who were killed were Isaak Ibrahim Aliyewu, Aliyewu Gabbow, Adhow Hassan Kuso, Maalim Mohamed Hassan.”

I will give you enough copies after this.

The Presiding Chair (Commissioner Slye): Thank you, Mr. Hassan, for bringing the individual cases to our attention. We are looking forward to receiving the documents that you have related to when they are ready. The Commission would like to take a small recess. We will be back after a few minutes.

(The Commission adjourned temporarily at 11.45 a.m.)

(The Commission resumed at 12.00 p.m.)

The Presiding Chair (Commissioner Slye): We are now resuming our hearing here in Moyale. Could the Hearing Clerk bring in the next witness, please?

Mr. Patrick Njue: Commissioners, our next witness is coded 010 A.

(Mr. Hussein Osman took oath)

Mr. Patrick Njue: Once again state your names for record purposes.

Mr. Hussein Osman Robo: I am Hussein Osman Robo.

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

Mr. Hussein Osman Robo: I live in Moyale Town.

Mr. Patrick Njue: You want to speak to us on violation towards your right to property and the land in question. Please take us through the details.

Mr. Hussein Osman Robo: I had a piece of land from the agricultural forest which I was cultivating. The agricultural officers advised me to dig some terraces in the farm so that I could control erosion. So, I bought seedlings to plant. I bought oranges, mangoes, khat, and lemon. The officers taught me how to take care of the plants and my farm became a demonstration farm. It was the only farm in Moyale that was used for demonstration. I have letters here to show that I had that farm. I have given the letter to the Commission.

People came and interfered with my project. They have tried to take away the land from me. There are groups that claim that the land belongs to them. I got the land legally. I have a letter here to show that the farm is mine. I went to the County Council of Moyale to ask them to register the shamba. They gave me the letters. By that time, the County Council headquarters was in Marsabit. I was asked to divide the land into plots. I converted one part into an area for plots while the other remained for farming. There are people who were dressed like soldiers who came to the farm. I saw blood stains near the

gate. I was frightened of those people. I went to the District Officer and then the police station. I also went to the area chief. They told me that they did not deal with land issues. That is the time I got more fearful. They had subdivided my land and sold it. They sold part of it to a church. The trees I planted are still there. I have a picture here I can show the commissioners.

(Mr. Osman showed the Commissioners the photograph)

They cut all my trees. All these things were done by the Chairman of the County Council and the Clerk. I reported the matter to the police and the area chief, but they did not assist me. I feared for my life when I went back to my farm. I saw people standing there. They ordered me---

Here in Moyale, somebody was shot at noon. In one season, from the shamba, I could harvest products worth Kshs50,000. I spent all my energy there. I used to plant all manner of crops there. I was told that if I came with that land from Garbuji, I should carry it back there.

All these things were planned by the County Council. The Chairman was called Gulicha and the Clerk, Gandas. I was shocked. I was diagnosed and found to be suffering from high blood pressure. Even today, I am frightened. I am not a stranger here. I was born here and grew here. My parents and grandparents died here.

I have undergone trauma. Even my wife is sick in bed. She is equally traumatized. I do not know what to do. I have nothing to do. I cannot go back to my young children. They are all dead. I cannot work the way I used to. I do not have the energy. All these people know me. I have witnesses who can prove that the land belongs to me. There is Mzee Al Haji Sigare and Mohamed Guwo who can prove that. Everybody knows this land as Moyale Demonstration Farm. People came from Nairobi, Mandera, Isiolo, Marsabit to see this land.

Even Mzee Hurrah who was working in the Agricultural Office and even Hassan Marsa knows that. I have tried to go to Nairobi to look for a lawyer to assist me though he cannot come here. Even if he wrote a letter, it would not be used. If he comes here, he would be killed because his life is threatened. I have a letter here from from Lumumba and Muma Advocates. I used to be an agriculturalist. I was taught agriculture by agricultural officers. They informed me the importance of farming. They told me that when a person plants one mango tree, it survives for so many years just like coffee trees. My crops were cut and thrown out of my farm. I cannot get out of my house here in Moyale. They will kill me.

I am always afraid; day and night. I am traumatized to the extent that I cannot even go back to that farm because there is nobody who can assist me or direct me where to go or what to do. They warned me that if I went to that farm, I would lose my life. If I set foot in that farm, I will be killed. I am really afraid. Even today, if you went to that farm, you will see a church built there. They claim that this land was sold to them by Guracha at a

cost of Kshs80,000. Every worker from the Town Council was given a piece of plot from that land. They always tell me to take what I came with and go back to Gariburich, a place I have never stayed before. Although I am a Aburich, but I was born here in Moyale. I cannot go anywhere because I do not know anywhere else.

I am a citizen of Kenya and I have been living here, but justice has not been done to me. I do not own any plot. I live in my father's land which I inherited. The land which I want to make mine has been taken away from me. Not all the people have wronged me. It is only one person who has done this to me by the name Guracha. He has also done the same to the Boran people who live there. I cannot blame the Boran.

The Presiding Chair (Commissioner Slye): Thank you for your testimony. We would you like to submit to the Commission all those documents and photographs that you have shown?

Mr. Hussein Osman Robo: I have already done photocopies and I have given them out to you.

Mr. Patrick Njue: I empathize with the situation, firstly, the subsequent suffering that you and your family have gone through, the trauma and the pain which is evident as you tell the story today. I will only ask you two questions just to clarify what it is that you have told us, after which the commissioners will also do the same. First, when did you acquire this plot?

Mr. Hussein Osman Robo: This land was handed to me as a demonstration farm in 1973.

Mr. Patrick Njue: You acquired it from which person? It belonged to who?

Mr. Hussein Osman Robo: I had my dad, my parents and my uncles. All of them are dead. I inherited this land from my parents.

Mr. Patrick Njue: Do you have any documents showing who the owner is or one which indicates that you are the owner?

Mr. Hussein Osman Robo: The land is the one which was measured by the Agricultural department in Moyale measuring 3.55 acres. It was registered and all council fees paid.

Mr. Patrick Njue: Very well. Indeed, it is from Marsabit County Council asking that you, Hussein Osman Rob, be registered as the owner and that you pay all council dues. Have you been paying those dues?

Mr. Hussein Osman Robo: What I am trying to say is that there are people who want to finish me up---

Mr. Patrick Njue: We can see you have receipts from the County Council. What are the other documents that you wanted to share with this Commission?

Mr. Hussein Osman Robo: These are the only documents that I have given. Everything has been blocked from me so that I cannot get access the land.

Mr. Patrick Njue: There are other documents that you have on the table. Is it something that you want to share with us?

Mr. Hussein Osman Robo: You can see there is a house there. You can read it!

Mr. Patrick Njue: They give details of what was on your farm by 22nd November, 1990. This is the date the letter was issued to you. Do you have any other documents? I can see the receipt here from the county council. Can you confirm that these are copies of what you have just given us?

Mr. Hussein Osman Robo: Yes!

Mr. Patrick Njue: Do you want to present these to the Commission?

Mr. Hussein Osman Robo: Yes.

Mr. Patrick Njue: Will I remain with the others; the originals?

Mr. Hussein Osman Robo: Yes.

Mr. Patrick Njue: Thank you. Mzee, you approached lawyers at one point or another. Would you know whether or not they filed a case in court?

Mr. Hussein Osman Robo: He has not taken the matter before the court because he was warned that if he came to this place, he would be killed. So, he has not taken the matter to court because he was threatened. Travelling from here to Nairobi is very far. I cannot use a plane because I am a poor man and it is very expensive to fly.

Mr. Patrick Njue: When you are seated there today, who do you blame for your woes or what you went through? For example, who do you blame for the loss of your land?

Mr. Hussein Osman Robo: I am blaming the Chairman of the County council, Mr. Guracha, and the Clerk of the Council and the chief of the area plus the police officers who are supposed to help me.

Mr. Patrick Njue: What is the name of the Clerk to the County council?

Mr. Hussein Osman Robo: His name is Kandas.

Mr. Patrick Njue: Lastly, what are your expectations from this Commission? What are you telling this Commission to do for you?

Mr. Hussein Osman Robo: At this time, I have no residential home. Even my children have nowhere to live, and they have no residence! All these violence was brought to me by Mr. Guracha who is the Chairman of the County council and he has denied me my rights. The same applies to the Clerk of the County Council. At this point now, I want these people to compensate me for the damage that they have caused to me. I know that if I go to that land with you, you will see that we have a lot development there, but to me, I cannot go and live there because I was born here. I have lived here and I am an old man. It is only that I am the Aburich and I take the Burich and the Boran to be the same because we are one people. There is no way I have ever tried to discriminate others. It is only that the names are different because if I was a Boran, I could have not undergone all these. I really fear for my life. Even if I do not go to live there, I still fear.

Mr. Patrick Njue: Thank you for your testimony. The commissioners may ask you a question or two.

The Presiding Chair (Commissioner Slye): Mr. Hussein, thank you for your evidence and thank you for sharing with us the issues you have had with respect to your part of land. I would like to ask my fellow commissioners if they have any additional questions to ask you.

I would like to say that we very much appreciate Mr. Hussein for bringing that to our attention and the documents that you have presented. I hope they will be useful to us as we look further into your situation. I do not know whether you have additional documents. If you do, maybe we can arrange to also have photocopies. As you know, the Commission has power to recommend and our recommendations are not binding to the Government. So, we ourselves do not have power to either compensate you or give you back your land. We have the power to investigate your case and to include our findings in our final report. That is how we will proceed with your matter and many other matters like yours which have also been brought to our attention.

I am thanking you again for coming here and sharing with us your testimony. Can I now ask the Clerk to escort the witness back to his seat and call upon the next witness?

Thank you again, Mr. Hussein.

Mr. Patrick Njue: The Commissioners, the next witness is supposed to be 010B, but I can see him walking out. I do not know why. Before then, as our regional co-ordinator tries to find out what is happening, I will, perhaps, address you. We have received a memorandum on behalf of the Sololo District Community whose residents are mainly the Boran Community. The elders are saying that they would have wanted a chance to present it. On your guidance, we could take them or just admit the memorandum.

The Presiding Chair (Commissioner Slye): I think we would like to receive the memorandum and if the authors of the memorandum are here in the Hall, we will welcome them to come and briefly summarize to us and the audience in the hall the contents of the memo.

(Mr. Mohamed Garow Goru took the oath))

Mr. Patrick Njue: Could you, please, tell us your names again?

Mr. Mohamed Garow Goru: My names are Mohamed Garow Goru.

Mr. Patrick Njue: Bwana Mohamed, where do you live?

Mr. Mohamed Garow Goru: I live in Sololo Town.

Mr. Patrick Njue: You want to make a presentation on behalf of the Boran Community that live in Sololo. Is that the case?

Mr. Mohamed Garow Goru: Yes.

Mr. Patrick Njue: I have had the opportunity to look at the said memorandum and I have noted that it majorly contains a list of names of persons and areas where injustices have been encountered over the years. In the same memorandum, in the last page, you have given a list of complaints and the recommendations.

Mr. Mohamed Garow Goru: Yes.

Mr. Patrick Njue: I want you in summary to take us through those complaints and, perhaps, the recommendations on the basis of your memorandum.

Mr. Mohamed Garow Goru: Thank you very much for giving me this opportunity to talk about this issue that has made the people of Sololo suffer since Independence.

Mr. Patrick Njue: Just give us a summary because all is written in the memorandum.

Mr. Mohamed Garow Goru: It is true, I have written everything in that memorandum, but because this is something which is immediate, the people from Sololo heard about this issue when they were coming here. That is why I called them at home and told them that there is something of this nature going on here. Since yesterday, we have been writing the memorandum because we were getting communication through the phone. I finished writing this memorandum at midnight.

There could be some issues which we have left out, but this is because I had no time to collate everything. I will mainly dwell on this memorandum, but before that, I want to say something about the Boran people.

The Boran people have their own laws; the additional laws which they follow. Those are the laws that guide them to be responsible, patient and respectable people; to respect others and even visitors.

I have three main agenda. The first is violence and the killings, then the issue of land and leadership. Let me start from Sololo as a district. As a community, we were doing things together. I am 67 years old.

From the pre-colonial times, the people who lived here were pastoralists. I was born and brought up in the village. The people who lived in the forest kept animals. They were the Sakuye and Gabra while the Ajuran lived the other side. There was no other community that lived in Moyale. After Independence, they went back to North Eastern. When the indigenous people of this area speak, you will notice that they are different. They are triplets; the Gabra, Boran and the Sakuye. When they speak, they understand each other and they have never had any conflicts amongst them. They had been living in peace until they were incited from outside the community. That is what caused problems. This problem continued till war erupted.

From 1963 up to 1969, we had the Shifta war in North Eastern Province and this was as a result of politics. This is because the Boran had the NPUM and the Somali who had NPPP.

After the colonialist left, these people collided and started fighting. Those who were from the Somali border got firearms from the Somali Government and started mistreating us. That is how the first war broke out.

The second war started in 1974 to 1980. It was caused by the Jamin and the Gare Communities who came from North Eastern and Ethiopia. They were the worst shiftas. They burnt houses, raped women and killed people. The Government was not willing to unite people. The Boran are stupid because when they attack a community, they only kill people.

Let me go to item number two which is about my father's property. One thousand and one hundred camels were taken. The Government stepped in to rescue them. There were herdsmen who were killed and the Government did not take any step.

As I continue, when I go to item number 19, we have the Shamba la Bajanam, which is 12 kilometres from Isiolo Town and at that Manyatta, people were attacked from midnight till the following morning 10.00 a.m. From that day, it was the only battalion we had because the barracks were eight kilometres away. The Administration Police and the Regular Police never came until the next day at 11.00 a.m. When the General Service Unit battalion came, instead of attacking the shiftas, they did nothing. They saw people taking away our cattle but they could not help us. Twenty one people from our side were killed while twenty six were injured.

As I said earlier, we have identified some people's names and they are in the memorandum. But 15,000 cattle and 4,500 goats were taken away. Homeguards had 40

bullets each. After they exhausted, the bullets they were killed. The cattle were taken through the Ethiopia highlands to Ethiopia while our soldiers watched helplessly.

On item number 35, there was a District Commissioner (DC) who was here in Moyale. By that time, we were in Moyale. We had another chief security officer from Ethiopia in Moyale and all these people were in the same office here in Kenya. The DC phoned the District Officer to come and patrol the Eltibe area. He wanted him to take soldiers there. The DC laid an ambush the other side and six soldiers and one civilian were killed. Officers from the Government of Kenya never stepped there. We took the bodies of the soldiers to Sololo using traditional stretchers. We demonstrated for two weeks blaming the DC for neglecting us, and then the Government took some action on the DC who was known as Eshitemi.

As I go to another item, which is Item No.24, there was an army from the nearest country but they had their base here in Kenya. It was the responsibility of the Government to stop them from making their base in Kenya but the Government allowed them to build the base here and we were ordered to remove them out of the place. How could we remove them when they were armed? They were more than 1,000 and they had guns. More than 10,000 people were ready to die. How could we remove them from our land if the Government was not willing to remove them? The Government wanted us to remove them using chiefs. We had no food to feed them because they were more than 30,000. We had a chief in Galole called John Boiyo who was murdered and when the DC came, he saw the footsteps of those who murdered him. The killers crossed the border to kill the chief. The soldier could see the weapons that were used and how they fled to Ethiopia and they did nothing.

In 1997, the wife and servant of an assistant chief of Madiwadi known as Makati Sola were killed and their houses burnt. His elder brother and son were injured and his arm was amputated. The Government made a follow up and discovered the footsteps. The Ethiopian Government and the Kenyan Government did not take any step.

In 1985, we had some war which took place. There were rebels from Ethiopia who fought at a place called Adade. We had a young man known as Mburu Elili Eban, who was taken from here to Ethiopia while herding animals. To date, nobody has ever seen him and nobody knows where he went to or whether he is dead or alive.

Mzee Chagutani Gutote who is here was a chief of Gulan but now he is retired. He was told by these same people that if he left there, he would be killed. The old man migrated to Ethiopia where he has lived for seven years. The house of his assistant Chief, who was called Abalkan Jillo, was demolished. It was bombed by six grenades. By bad luck, everything in the house was destroyed. His wife and child were injured but the Government took no action.

In the year 2002, the Chief of Turbi took 30 homeguards that had unlawful arms. The chief led them to Nakumbi. They attacked the Manyatta and took 1,578 goats. Those who

attacked the Manyatta came from about four kilometres away. The Government advised the people to go and sit down and agree amongst themselves.

With regard to the border, we had a border with Moyale during the colonial period which went through Buna. It went beyond Bute, Birane and Griftu. All these places were in Moyale District. The residents were the Ajuran. All that area was taken to North Eastern Province.

The area covers Eltementu up to Turbi. The border passes from Turbi going to Marsabit. It is about 15 kilometres. But now Turbi has come in by fifteen kilometres and it was being done by Sololo people when they were forming that village. The area assistant chief was called Guracha Ayunta from Yulale. The District Commissioner who was called Ali Sheikh ordered the assistant chief to move from that place and start a new location because that area did not belong to them. That land was taken away. When these people started complaining, the Permanent Secretary wrote a letter and named it Fiakona Division and yet that land belongs to us.

The late Gurach Galgallo wanted to bring back the refugees who were in Ethiopia.

That land was taken away and when people complained, the Permanent Secretary (PS) wrote a letter after which it was announced to be a Maikona Division land, yet that land belongs to us. As we speak, we, men who are here, have a place known as “Olebintu”. The late Gurach Galgalo wanted to bring the refugees who were in Ethiopia, so that they could come and start their location here, so that it could be established as a polling station. As we speak, those people who were from North Horr have started their own location. They are now constructing a Chief’s Camp. The Government has brought all these problems to us, and they continue.

Secondly, the only thing we need you people to approve is the tribal clashes that were there. Previously, people were fighting outsiders but the people who are now planning these clashes are the ambassadors, who are here. They move from one place to another and wherever they go, they are given land without consultation with the area residents. We have the four locations in this area, which were given to the refugees. The people who were there had their water wells, health centre and everything else. When these people moved away, the other people came in.

This is something I would not want to talk about, because even if I complain as an Isiolo resident, or as a Wajir or as a resident of Marsabit, you should ask yourself why we are complaining. Even if you look at the existing maps of the area, you will realise that these people are found in Isiolo area. You will also establish that these people did not exist in Garissa District previously. People know the boundaries of these areas because there are maps on which it is clearly indicated which community inhabited which area. These people are not supposed to be given a location or a division or any land here.

Every citizen of this country has the right to own land, but if you are not a resident of this area, you should not come here and demand to be given a constituency or a division. For

instance, the people who live in Marsabit South are Samburu. There is no day the Samburu people will come to claim that the constituency belongs to them, because the Rendile are the owners of that area. It is not that the Rendile are against Samburus, but they know their rights. How can you go to an area in which you are non-resident and ask to be given a constituency? It is that kind of thing which brings about such crises.

The Government knows all this, and that such a thing is corruption, which has brought about the settlement of these people. Corruption has caused what is impossible to become possible. Through corruption, people are denied their rights. The Government knows very well that what it is doing is wrong, but it is using corruption as one of its ways of business.

This area is not a dump site. Government officers who are brought to serve in this area have serious previous indiscipline cases. Some of them are people who were kicked out of their previous offices. So, they are brought to serve in this area because this area is believed to be a dumping site for officers who have serious discipline cases. Once such an officer comes to this area, since he is very far away from the Government Headquarters, and because he is indisciplined, he can do anything. He can do what he wants to do. A poor officer comes to Moyale and after serving for one year or two, you find that he has two or three flats. They use this area as a market to build what they do not have.

We are only asking that if this is really a Commission for truth and justice, we want that kind of thing to be stopped, so that the people who are living here can have peace, and so that the children who live here can know peace. Even if I live far away from here, and my child has passed with grade “C+” or “C-“, if I have money, I can come here and ensure that my child gets a job which is meant for the local people. So, the poor people of this area do not get their rights. The rights are only for the rich people.

As I finish my submission, I would like to make one request, which is that the colonial border that is in place must be respected. The boundary should go back to where it was before. The borders that were there in pre-colonial days should be respected. We do not want the borders to be changed. It is better for people to move to new areas, but not for the border to move. The borders cannot be moved. Let the borders be respected.

Let people have their districts. If they are not satisfied with Sololo, let them go back to their districts instead of bringing about incitement and war. Let them go back to their former districts.

I want to complete with the case of Sololo. I am only asking for communication. I never went through. I want you to read this memo, which shows how things were and how things happened. We want the Government to do what it can do, in accordance with the recommendations of this Commission.

Mr. Patrick Njue: Thank you very much, Mr. Mohamed. I really want to appreciate your presentation and how much time you have put into it, especially when you said that

you had to burn the midnight oil to get this paper ready. I also wish to thank you for highlighting the various issues, which have clearly touched on all the issues albeit hurriedly; but since they are contained in the memorandum, I am sure that due regard will be given to them before the final report is prepared.

I want you to confirm that what I have here is a copy of what you have, or what you have talked about. Do you confirm that this is a copy of what you have?

Mr. Mohamed Garow Goru: Yes, I do confirm that.

Mr. Patrick Njue: Do you want to present it to this Commission?

Mr. Mohamed Garow Goru: Yes.

Mr. Patrick Njue: Hon. Commissioners, could this document be admitted?

The Presiding Chair (Commissioner Slye): It is admitted.

Mr. Patrick Njue: Mr. Mohamed, I would like to, again, thank you. The Commissioners may have a question or two to just clarify what it is that you talked about. I thank you for your time.

The Presiding Chair (Commissioner Slye): Thank you, Leader of Evidence and Mr. Mohamed. I would like to ask if my fellow Commissioners have any questions for you.

The Acting Chair (Commissioner Namachanja): Mine is just thanking Mr. Mohamed that he took the initiative of consulting his people even within such a short time. He got the issues from his people, and he has articulated them well before this Commission.

Thank you.

The Presiding Chair (Commissioner Slye): Mzee Mohamed, I want to join my fellow Commissioners in thanking you for your testimony and for the memorandum that you have submitted to the Commission. We will study it, and we welcome any additional information you may have. If anyone else in this hall has a memorandum and he would like to submit it to the Commission, we will receive it.

So, I want to thank you again for taking the time to come here and share the information you have, on behalf of your community.

I now request the Hearing Clerk to escort the witness back to his seat.

The Regional Co-ordinator (Mr. Abdinoor Dahir): Mzee Mohamed, TJRC workers, Kenya National Human Rights employees, and all invited guests, we have now come to the end of our hearing on Day Two here in Moyale. I want to also identify our visitors from the Ministry of Justice, National Cohesion and Constitutional Affairs, all the

employees of the TJRC, members of the Press, who have accompanied us all the way from Garissa to here, and who have done good work; ladies and gentlemen, may the peace of the Lord be with you!

First of all, I would like to inform everyone that we have come to the end of the hearings in Moyale today. We also had concurrent hearings for women at the ASAL Hall, because we know that there are so many issues, which affect women, and which are pertinent. We wanted women to air them.

I want to welcome Councillor Jarso Jillo to, on behalf of the people of Moyale, express himself briefly. Later on, we will call Mama Fatuma Yusuf, who will represent all the women. I will give you further instructions after that.

Please, Councillor Jillo!

Councillor Jarso Jillo: Commissioners, I thank you. As we come to the end of this hearing, I would like to point out that we have not been heard since 1963. I am very grateful. We really thank you, beloved Commissioners, for the great work you have done.

I want to tell you that you are serving the people. So, never give up. You have come to meet different people with different problems. Before we sum up, I just want to share with you a few things which have not been mentioned.

The first thing I want to share with you is on the last National Census that was carried out by the Government. There is no justice that prevailed among the people of this area, because it produced wrong results. The total number of persons that was mentioned therein was not correct. For example, if you look at Moyale District, you will appreciate that we have only one Member of Parliament. We are saying that it should be split into two constituencies, so that Sololo can become a different constituency from Moyale. This point was missed out. So, please, give special consideration to that.

The second is on the memorandum on the NFD issue, concerning Isiolo, Marsabit, Moyale, Wajir and Garissa, which was presented to you by our representative. When we got Independence, Moyale was demoted and Marsabit was elevated. To say the truth, all the representations were there except Moyale. We need justice through your very good Commission. We plead with you.

Another issue is unemployment. We have rarely been employed, compared to people in other parts of Kenya. You realise that people in other parts of Kenya are employed in large numbers, but we are not. So, we would like you to assist us in this regard.

We have written a book about the forgotten people, because we see ourselves as marginalised people ever since this country got Independence. You have been told about our infrastructure, water, security, food and other things. So, please, give special consideration to all those things that I have mentioned.

Dear Commissioners, I would like to tell you that other Commissions have come here before, but we have not seen kind Commissioners like you. So, we look at you in high regard. So, please, do not leave this place before you critically look at our problems, for both men and women. We will really appreciate if you address every aspect of our life. We are highly impoverished, and we need you to look into this issue critically.

Another issue I would like to highlight is that we do meet people from different tribes here, in Moyale. We have mentioned about various issues relating to the various tribes living here. We do not want to plant seeds of hatred. So, I urge my fellow Kenyans here, in Moyale, not to hate one another just because of what was said about the individual tribes.

Another issue I would like to highlight is on the submissions that were made to this Commission by the various individual tribes. People who came before you brought some statement forms which were not circulated everywhere. Only a few people were able to fill that statement form and got the rare opportunity of expressing them. I know that a report has come about two or three people who never articulated themselves. I know that after this hearing, we would like to express ourselves more clearly in the statement forms.

We know that we are having the closing ceremony, and we know that there is no other way by which we can prolong this session, because you came up with this schedule long before today. I want to tell you that you are exceptional Commissioners. You have done your work well. We have great faith in you, and we know that everything is going to work well.

Another very pertinent issue that is directed to the Government, which I would like to share with you, is that if there is no conflict between the Government and the people, then there will be peace.

If the local citizens do not have a direction on what to do, that causes the many critical issues we have talked about. The issue of the border should be taken seriously by the Government. For example, we have nearby districts like Bute and Moyale. Every district should be able to guard its border, so that the borders can be respected. People should not criss-cross the borders, because that is one of the causes of conflicts. So, we ask the Government to take care of this issue, through your good Commission.

In conclusion, I would like to thank you and tell you that I am greatly indebted by you, because of what I have witnessed you do here through the many people who have testified. Everybody in this hall, including you, was crying. Just look at a scenario where a grown up person sheds tears. That shows the level of trauma and pain that has been within us. If it is a disease, we have shared our problem with the doctor and the doctor has listened to us. So, in this case, you are our doctors and we are your patients. You know better how to treat us.

According to the programme, we are almost done. We have spent our time very well. The people of Moyale would like to welcome you again. We are happy that you have worked

with us well. As you leave, we say “goodbye” because we know that we will continue to talk to one another. We are in one Kenya. So, officially, we have closed our programme. On behalf of my people, I now wish to hand over to the Master of Ceremony.

Thank you very much. I appreciate all of you.

The Regional Co-ordinator (Mr. Abdinoor Dahir): Thank you very much, Councillor Jarso Jillo. We will put into consideration everything that you have shared with us. We are happy that you have been able to share with us, on behalf of the people of Moyale and others, what you have mentioned.

I now want to ask Mama Fatuma Yusuf who is representing the women, to also share with us a few ideas that she has.

Ms. Fatuma Yusuf: Brothers and sisters, our parents, our honoured guests, Asalaam Alaikum!

Commissioners, what I am going to say here is about women and children, and what has happened to us in Bute. I am going to narrate how the Government tortured us and took our children out of school. We lost our houses and husbands. We lost our wealth and our children became like monkeys in the mountains. They lost in terms of education. From there, we were taken to the AP Camp and, again, chased away from the AP Camp. We went to the Police Station, where we stayed for some time without food or water. Our children stayed out of school. Some were lost after following animals. We lost children and our husbands and the Government could not protect us.

The PC, the DC and the DO came to Wajir one early morning and called for a meeting, which went on up to 6.00 p.m. Those senior Government officials called us at night. When we came to them, they asked us: “What do you want?” When we said that we wanted to go back to our homes, they told us that there was no Government to take us back to our homes. So, we asked for security, and specifically for police reserves. They said: “You cannot go back to your homes. This is a police camp, and not your house. So, you will be kicked out of this place.” We said to them: “You are our Government. Please, do not do this to us.” They said: “You have to go.”

Three Government trucks were brought there. We were put on the vehicle and taken to the Banaba field. We stayed there for a week without food. The Kenya Army, Kenya Police Reservists and AP officers stayed there with us. After some time, they left. We lost our children at that time, whom we do not know where they are to date. I personally went to Garissa over this issue. I spoke to the Government in Wajir, but they could not help us. I went to Bute, but the situation was the same. Some went to Moyale; others, to Wajir; some to El Wak, while others crossed the border to Ethiopia. Up to now, the Government has not cared about our farms or our shops or our plots. People are now living on our plots. There is a Government building which was built just recently. I saw it on the day before yesterday and came back crying.

So, we are voiceless. The Government is mistreating us. The Kenya Army is mistreating us. So, if you are really looking for rights and justice, we want those issues recorded. We want justice to be done for us as our women were raped, our children killed and tortured. Our houses were burnt down. The children we have lost have no future. They left school. They are now just loaders and porters in town. You know very well that mothers are the ones who bring up children, whether we burn charcoal or clean other people's compounds or give porting services. However, we have lost our land, and we cannot work. I am now 61 years. I was born and brought up at Bute. I gave birth to 12 children at Bute. I do not know any other place. This is my identity card. I am now an old mother. So, we have been really tortured. We have been persecuted. If you are really for justice, the Government has to compensate us, because it has played with our land, we the Gare community. We really suffered there. That is what I am saying, and we want the Government to do something.

We saw our houses being burnt openly. Even the other day, I was at Bute and I saw people living on my land. So, we want the Government to remove this injustice. That is what I am saying, in short. Especially, women and children suffered the most. We have gone everywhere and tried to complain and agitate for justice, but we have not been heard. Wherever we went, nobody listened to us. The Kenyan Government has mistreated us so much in Bute. We lost our farms, plots, husbands, children and lives. That is what has happened to us.

Our children, who were in primary and secondary school, are now porters in town, even if they are still children. Some of them have even crossed the border to Ethiopia. We do not even know their whereabouts. So, that is what the Government has done to us.

Mr. Patrick Njue: Thank you, Mama Fatuma Yusuf. I would like the Presiding Chair, Commissioner Slye, to make a few remarks and also give us a summary of what has happened today.

Welcome, Prof. Slye.

The Presiding Chair (Commissioner Slye): Thank you. First, I want to thank Mama Fatuma Yusuf and Councillor Jarso Jillo, for those remarks. They emphasised a lot of what we found here yesterday and today; the issues and concerns you have raised, and the passion with which you have raised them. As you noted, this process, indeed, has been, and can be, very emotional. It is a process through which individuals come forward and reveal very difficult, personal and troubling things. We do not do that just because we want to hear people's troubles. We do not do it because we want to see people reveal traumatic events. We do it in order that all of us here in the room and others in Kenya, through the support of our partners in the media, can really start to hear and understand the experiences of people throughout Kenya. This Commission has been travelling throughout the northern region. We have been in Garissa, Wajir and Mandera. We are now here in Moyale, and we will move on to Marsabit and to Isiolo. After that, we will move on to other parts of the country.

Here, we have heard stories of marginalisation, violence both by non-state actors and by state actors. We have heard of systematic discrimination against individuals and groups because of ethnic differences of the people, and of violence against women. So, many of the things we have heard here are similar to things we have heard in other places. But some of the things we have heard here are very unique. We have heard things from individuals who have their own unique experiences. I want to honour those individuals who today have shared with us their experiences in addition to the last two speakers.

I want to honour the other individuals by naming them here. They are Guyo Roba, Adan Isaac Abdi, Wario Kontrolo Tari, Koromo Yatani, Hassan Maalim, Hussein Osman Robo and Mohamed Gato Boru. I want to thank these individuals for coming here and sharing their stories with us. I want to thank all of you for sitting here patiently, and respectfully, and listening to the stories of your fellow Kenyans.

I now just want to say; “thank you” and pass the microphone over to the Acting Chair, Tecla Namachanja Wanjala, for further remarks.

The Acting Chair (Commissioner Namachanja): Councillor Jillo, Mama Fatuma Yusuf, representatives from the Kenya National Commission on Human Rights, representatives from the National Cohesion Department of the Ministry of Justice, National Cohesion and Constitutional Affairs, TJRC Commissioners, the people of Moyale, ladies and gentlemen; we thank God that we have come to the end of our hearings in Moyale. We have heard from the Borana, the Sakuye, the Burji, the Gare, the Gabra and the Kona tribes on issues touching on marginalisation, torture, forced detention, mass rape, murders, extra-judicial killings, massacres like that of Bubisa and sexual violations that have occurred in this region, especially during the *Shift War*.

We were struck by the rape cases of the Ndabele women. Some of the young women who were raped at that time are now at the age of 72 years, yet they are still living in pain, solitude and stigma. The men also suffered and others lost their lives. We were also touched by the story of Kenyans living as refugees in Ethiopia. As your brothers and sisters, and also those from Garissa, Wajir and Mandera did, you too have defined the way forward. Some responsibility will lie with the Government. Indeed, we all need an assurance that the things we have heard shall never be repeated. We again salute all the witnesses, who have come forward and spoken eloquently and shared their painful experiences with the nation and the entire world.

To reiterate our commitment, as a Commission, to seeking the truth and facilitating the quest for justice, we leave here re-assured that there is a will, at least, at the level of the ordinary Kenya, for reconciliation.

Again, on behalf of my fellow Commissioners, I thank each one of you who has participated in our hearings. We are looking forward to meeting the people of Turbi, Marsabit and Isiolo, and other regions in the country.

Thank you and God bless you all.

The Regional Co-ordinator (Mr. Abdinoor Dahir): Thank you, Madam Acting Chair. Before we pray, there is a brother of mine who has just requested me if he can share with us a final word. I, please, request you to give me permission, so that we give him that one minute.

The Presiding Chair (Commissioner Slye): Very well.

Mr. Abdulhae: My name is Abdulhae, and I have been a teacher. Good afternoon! I really appreciate you, Commissioners of the Truth, Justice and Reconciliation Commission, especially Mr. Abdilahi and his team, who were here about four months ago, and who were doing their best. Mr. Abdilahi has really tried, together with all of you, from the Commission. Thank you for all the statements that you have taken from us and for everything we have done together. Everybody in town is ecstatic because of your presence and the work that you have done. We pray for you. May your objectives and everything that you have planned and put in your schedule come to pass!

That is all I have. Thank you very much.

The Regional Co-ordinator (Mr. Abdinoor Dahir): Thank you, Sir. I want to ask maalim to pray for us. We will close this session with our National Anthem. Please, stand up, so that we can pray and close the session with our National Anthem.

*(The Commission hearings ended at 1.35 p.m.
with a short prayer led by a Muslim cleric and the
singing of the National Anthem by the gathering)*