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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON SATURDAY, 30TH APRIL,
2011 AT MOYALE BOYS SECONDARY SCHOOL HALL, MOYALE**

PRESENT

Gertrude Chawatama	-	The Presiding Chair, Zambia
Tecla Namachanja Wanjala	-	The Acting Chair, Kenya
Berhanu Dinka	-	Commissioner, Ethiopia
Mohammed Abdinoor Dahir	-	Regional Co-ordinator
Belinda Akello	-	Leader of Evidence
Simon Njenga	-	Presiding Clerk

(The Commission commenced at 9.50 a.m.)

*(The Presiding Chair (Commissioner Chawatama)
introduced herself and other TJRC Commissioners)*

(Opening Prayers)

The Presiding Chair (Commissioner Chawatama): Good morning. On behalf of the Truth, Justice and Reconciliation Commission, we would like to welcome you to the first day of our hearings here in Moyale. Allow me to introduce the panel. Before we continue with the programme, please join me in thanking God. I am sure many of you have heard that we had an accident on our way here but we thank God that nobody's life was taken and the evidence of that is the presence of our Acting Chairperson WHO is here. We are happy that all is well and that we are able to sit this morning. We are going to hear from six elders from different communities who will talk about historical injustices that their communities have suffered. This will form a foundation for individual hearings where we will hear matters relating to rape, torture, degrading and inhuman treatment. Some witnesses will talk on matters relating to mass rape, torture, degrading and inhuman treatment. Some will talk on the issue of the *shifita* war and extra-judicial killings as well as land. One of the things that we will ask you, as a Commission, is to be patient and respectful of witnesses as they testify. You may not necessarily agree with everything that they say but all the same, please give them an opportunity to come and testify. I would also ask members of the audience, for those of you with cell phones, please switch them off. There will be no photographs taken during the time when witnesses are giving their testimonies. What you will see happen today is that the witnesses will take oath and they will give their evidence after which members of this panel will either ask for some clarifications or they will ask questions. We beg your indulgence. We have started a little bit late but we will try to make up for lost time. I would like the hearing clerk to administer the oath.

(Councillor Alio Tepo Apudo took the oath)

The Presiding Chair (Commissioner Chawatama): Leader of evidence, proceed! Inform us on which matter we are dealing with now.

Ms. Belinda Akello: Thank you very much Commissioners. We are dealing with the second matter in our Cause list. It is Councillor Alio Tepo who comes to represent the Sakuye community. Also, on a point of information, our first witness comes with an extra corroborating witness who is going to ascertain facts and issues that will come from the Commission and will be sworn in after the first one has given his testimony. I will proceed. Good morning Councillor Alio?

Councillor Alio Tepo Apudo: Hamjambo.

Ms. Belinda Akello: Kindly tell us your names?

Councillor Alio Tepo Apudo: My names are Alio Tepo Abudo.

Ms. Belinda Akello: Where do you stay?

Councillor Alio Tepo Apudo: I live in Dabel Location in Gubo Division in Moyale District.

Ms. Belinda Akello: What do you do in Dabel?

Councillor Alio Tepo Apudo: I am the elected councillor of Dabel.

Ms. Belinda Akello: I would like to remind you that in February this year, you recorded memoranda on behalf of the community. Would you like to inform us which community you have come to represent here today?

Councillor Alio Tepo Apudo: I am representing the Sakuye community who live in Moyale District but the Shako people are found in Marsabit District. At this moment, it is known as Sololo North or Sololo South but the people that I am representing are from Sakuye Dabel.

Ms. Belinda Akello: You wrote a memorandum and you presented it to the Commission. Would you kindly take the Commission through the issues that you would like to articulate on behalf of your community?

Councillor Alio Tepo Apudo: I want to speak on behalf of the Sakuye community and what happened to them. As I continue, I thank God for giving me this opportunity to be before this Commission. This is a chance that I have never ever dreamt of but I thank God. I pray to God who has given me this opportunity to be before this Commission. The Sakuye Community are Kenyan citizens that are not found in the neighbouring countries like Somalia, Ethiopia, Sudan and Uganda. However, God created and placed them to live in Kenya. They are found mostly in Isiolo, Wajir and Southern Isiolo and other parts of the country. This community is like any other community which is found in northern

Kenya. However, they are nomadic and their livelihood is their livestock. This is a tribe that is mostly known in Moyale District to be wealthy due to the large numbers of their livestock. The Sakuye Community is the genesis of Moyale District depending on the different perspectives. Before Kenya got independence, the Sakuye community has been in Moyale District and living in Golbo Division until now. It is a community that had its representatives even before Kenya attained independence. The Sakuye have been represented by four chiefs in different periods. During the leadership of chiefs, they had assistant chiefs or elders. One of them lived in Goran. Another lived in Ajawa. Another in Ambalo and the other two lived in Dabel.

Those chiefs had different responsibilities apart from maintaining peace. Moyale at that moment was known as one of the largest districts. That is from here up to the area known as Wajir North District which is known today as Wajir but it was in Moyale District. We have Gurad, Sololo, Bula and Moyale police stations. All those stations were mostly constructed from resources from the wildlife from Sakuye. The fetching of water was done by camels which belonged to the Sakuye. Besides that, the Sakuye Community was the one which was paying taxes in form of food and providing food to the soldiers who were in the police stations. During the rainy season, the colonial administration used to block roads but when soldiers went to check on the boundaries, they used the Sakuye camels as horses to ride on. For that case, Sakuye is a community that has participated in different development which has led to Moyale District. After independence, the Government of Kenya looked at Sakuye as a single-minded community. Two years later, the *shifita* war erupted. People from northern Kenya as a community joined the *shifitas* because of the troubles they were going through but the Government of Kenya looked at the Sakuye community as bad people and also as a foreign community. The community at that time was led by their chief, had their own land but they were illiterate. You know anybody who is illiterate and is a nomad cannot understand the new laws. Those people who were living next to the town used to lie to the community until it joined them. During that time---

When we had the *shifita* war in northern Kenya, Sakuye was also affected because the Government of Kenya thought that they were one of the *shifitas*. They were pushed from Agalo, Gural and Gulalo up to Tegula Location. Today, it is known as Bula Sub-Location. So, they were placed together with all the people who lived there. The Government considered these people to be very wealthy because they had camels. This is the case and yet you know that the people who have camels are always illiterate. The Government decided to finish these people economically. So, the Government decided to kill or finish any resources that they had. As a member of the Sakuye Community, there was no one in the Sakuye Community who was not touched in 1963 and 1964. The Government proclaimed the emergency period and it said that the Sakuye Community was to be placed under the Sakuye Concentrated Camp and finish their livestock. When the emergency period was proclaimed, the Government sent its army to look for the *shifita*, but instead of doing this, they attacked the Sakuye Community, burnt the houses, raped the women, beat and tortured men and injured them. They were looking for an elderly person known as "Chief." They never wanted to know that these people were just Kenyan citizens who were innocent. Even "Chief" was to be killed or arrested and

prosecuted. When his family was tortured, “Chief” decided to escape to Somalia. The community was then left without a leader and had nobody to guide them. So, they were left desperate.

Maybe, if the Government could have left them where they were; that is in the Gola Location, it could have been good. But the Government took them to Moyale Town and placed them in a camp. All the camels and cows they had were taken by the Government and the Sakuye community was left bankrupt; they had nothing. So, many things happened when they were in those camps. For example, their wealth vanished, poverty dawned on them and death visited them. The leader who could talk on behalf of the community was arrested and jailed. There was no way anybody could be asked why he said this or that. So, the poor Sakuye People just died like that. The only food these people could get was maybe, when they slaughtered a camel, but the camels were injected with poison and anybody consuming it, his or her body swelled and died at the end of the day. People from that community died until the Government decided to push them to Somalia and a majority of them died along the way. There is no record to show how many people and animals died because the Government never wanted to know anything of that sort of thing. They only cared about making their operation successful.

It is the same Government that ordered the soldiers to push these people to Somalia by trekking. Nobody has ever known the number of the people who died on the way. When the poor Sakuye people arrived in Somalia, they were not taken in as ordinary refugees. They were just taken as ordinary people who had been in that country and nobody cared for them. But remember that they came from a country which was independent – Kenya. I cannot finish the story as I represent the Sakuye Community in this Commission as an elder. The Sakuye Community tried to find the people who were taken to Somalia and brought them to Moyale where today, they are considered as the minority community in Moyale District. This situation has made the Sakuye feel as if they are not Kenyans.

As I read history, it is told that the Sakuye are not Kenyans, but hundreds of people have moved from Somalia to Kenya and, today, they do not have any identification documents or Government document that can identify them as Kenyans. Because the wealth of these people had been taken away and they were poor, they lacked the basic needs like education. Today, the Sakuye community has never tasted the benefit of the Government. You cannot get anybody from the Sakuye Community from the Government officials who come from Moyale District or from the Dabel Location. In Moyale District, there is no Sakuye or anybody from Dabel Location who works in the Government offices or heads any department in the Government.

Madam Presiding Chair, one way or the other, I cannot finish the story. But the Government of Kenya, which is and was independent when the Sakuye people were finished, tortured, killed and, maybe, ignored--- In the Borana Language, when we talk about these people who have been married, remarried and have herds of camels--- I have more than 104 families who were lost and they have no names today. Many women were raped and found in Dabel Division and today, others are here before this Commission. Their husbands rejected them since then and they were denied their conjugal rights and,

until today, some of them are not married. These women have undergone numerous problems because some of them were repeatedly raped by very many people; they became barren and cannot reproduce. As I speak today, some of the women who, maybe, aborted or miscarried, died because of the miscarriage or abortions as a result of the rapes. We have women who cannot give birth today. We have men who were hijacked when they were looking after their livestock and, until today, they have not been found. We are still searching for them as a family. Almost 15 of these people have gone and we are still searching for them until we get them as a family. Today, we have very many orphans; people are very poor because of poverty in the area and, so, these people have been traumatized.

Madam Presiding Chair, I take this opportunity to thank the Government that has formed this Commission. Maybe, I can say that the time is a bit short, but if this Commission is really for truth and justice, first, I want them to compensate us for all that has happened to us. Today, we have some Sakuye in Somalia, and I only ask the Government if they can arrange and have them brought back to this country so that they can be given their basic needs and those people who have lost their properties to be compensated because I have evidence that more than 100 families are still in Somalia. I would like those people who have been denied their right to be citizens of Kenya to be issued with identity cards so that they can vote or elect their leaders.

In conclusion, because we have been left behind and because we have been affected very much and the county governments are almost here and I am the only leader representative of the Sakuye--- I am the political leader of the Sakuye Community which before the colonial government had five chiefs but today, they are represented by one person. This is a community which, before, had six sub-locations but today, have only one location. I believe that this governorship of counties, when it comes, it will discriminate us and keep us aside because of poor representation in the Government and because when the Government will be dishing out the counties, it will be considering the population. If you go back to 1967, 1968 and 1969, you will find that these people were many, but because majority of them died, their population is now very low. The number or the position of the location could be bigger and, maybe, by this time, we could be having only one division. I take this opportunity to ask this Commission to find solutions for the Sakuye Community.

Madam Presiding Chair, I take this opportunity to hand in this memorandum that I have to the Commission so that they can consider the Sakuye Community left behind in terms of infrastructure because of the different development and procedures that have been in this Government. Maybe, women who have been raped and were found in Dabel Division should also be compensated. Because these women have not been receiving their basic needs, they have been denied their conjugal rights and cannot even marry because of this kind of situation; we want the Government to help them because of what they have gone through. Those people who have lost their livestock should be compensated. I want to request this Commission, because we do not have any leader to lead us because of poverty, all the youth from this area to, at least, be given scholarships by the Government so that they can have education. The teacher's colleges and medical training colleges

should be constructed in Dabel so that this community can benefit, because this community has been marginalized for long. I remember that some people even do not want to hear their names because in the Sakuye Community, when you call a name from the Sakuye Community, maybe, you will be rejected from the people. That has led some people not to come back to the community.

Madam Presiding Chair, as I finish, I want to thank you very much. Please, do not leave us behind and do not forget us as the Government has done to us. Please, just do your thorough investigations and go to Dabel Location to find out the true story about these people of Sakuye. This is because one person like me cannot finish or say all that the community needs.

There is also another story that I want to tell. When the Sakuye were removed from that camp on their way to Somalia, there is an old man – who is still alive today, and his wife is still alive – when they left for Somalia, they had two sons and one daughter. The wife took one son and the husband took another. The other daughter was taken and was carried by the elder sister. The mother or the wife in question was pregnant and, on the way, she delivered. The husband did not have the strength to carry the other daughter and the six-year old daughter was left behind.

The wife looked at that and said: “Leave this son behind.” The wife did not do that; she said: “I am going to struggle with her.” She carried the child up to Somalia and came back with the son. By bad luck, the son has not gone to school, but the Government took him as an armed forces personnel, and he serves in the 78th Battalion and he is still alive. The husband is still alive and even the daughter is still alive. The two can work together and support the family. So, this community is a very rare community and as their representative, I cannot testify all this. That is why I said that when I come here, I will appeal to this Commission so that thorough investigation can be done so that justice can prevail.

Madam Presiding Chair, with those few words, I do appreciate all of you that have listened to me. I have my witness here, who is going to support me. Thank you very much.

Ms. Belinda Akello: Thank you very much, Cllr. Tepo. I will just ask you a few questions and then, I will pass you over to the Commissioners, who will also ask for clarifications or questions, if they have any. In the memorandum that you have presented to this Commission, you indicated that during the militia and Shifta war, there was a lobby group that was set up to recruit these militia and the Shifta persons, and that they recruited everyone from every tribe. Did this lobby group have a name? Was it an official body; was it a government or a non-governmental agency?

Councillor Alio Tepo Apudo: That group was not from the Government. I think it was just a party that was from that Government; it is called NFD. I think it is called NPU and NPP. It is a registered party which operates in the northern districts; that is Isiolo, Moyale and even in the other areas of North Eastern Province like Wajir and Mandera.

Ms. Belinda Akello: Thank you very much. You also told us that the chief or the Sakuye leader went to exile in Somalia. Is he still alive and what are his names?

Councillor Alio Tepo Apudo: The person in question is today no more; he died. His name is Abdi Lafa Fana. He was an old man who, during the time when Kenya was getting its Independence, was the one representing this community. He came after Buku Sora because there was Sora Roba, then Ali Sora came, Buku Sora followed and then Abdi Lafa came as the forth one in that order. He was the one representing this Community.

Ms. Belinda Akello: Thank you very much. You also informed us that there is a mass grave near a mosque where people were buried. Where is this mass grave; is it in Moyale Town in Debel? Where exactly is this mass grave?

Councillor Alio Tepo Apudo: These mass graves, at that time, Sakuye did not have people who were free and could bury their people anywhere they wished, because all their leaders were in prison. But the official information we have, the mass grave is just near the big mosque, according to the information that I know and I have. Because there is no individual person of Sakuye who could do that, because the Government would be able to release a public works vehicle to be able to carry out the operation--- This was done in two main areas; one area is called Kausera or Kaushaba and the other area is at the old Mosque. That is where the mass burials were done.

Ms. Belinda Akello: Thank you very much. You also informed us that a big group of Sakuye Community are currently staying in Somalia and have not been able to come back. You have also stated that, as part of the recommendations of this Commission, to try and return these people back home. The people who are in Somalia, are they in a particular area and would you know, maybe, if they are collected, the number of families in Somalia that you would like to be brought back?

Councillor Alio Tepo Apudo: I strongly believe that a big percentage of Sakuye are in Somalia. The evidence that is very clear is that when I look at 2003, when President Kibaki took over and he said that the people that are outside Kenya should come back--- In July, 2004, I personally--- When the Sakuye Community came back, they came back through the area of Mandera. I personally went together with the Security Committee personnel of Wajir and Mandera and 60 people were able to come back in the Moyale office. So, this is a community that is known where it is; they live in certain areas in Somalia and I am sure a certain number of people can be known where they are in Somalia. For instance, people know that So and So lives in a certain town. So, this is a community whose whereabouts can be found.

Ms. Belinda Akello: Finally, we know about the Dabel wells, which are also stated in your memoranda and which has also been a significant fight of the Sakuye Community. Could you tell us about the Dabel Wells?

Councillor Alio Tepo Apudo: Thank you very much, Madam, because of this wonderful opportunity. I believe that this community was among the very wealthy communities. When you talk about camels, we are talking about 5,000 camels; 7,000 goats--- Sorry, pardon me. The camels were 3,600, heads of cattle were 5,000 and the goats were 7,000.

Ms. Belinda Akello: We are asking about the Dabel Wells. Are they there? Do they exist?

Councillor Alio Tepo Apudo: Those people were pushed from Dabel up to Moyale. Some certain atrocities that happened because of the state of emergency that was then declared during the--- All this happened at Dabel because they were in the environment of Dabel. When I talk of Dabel as of that time, Moyale District covered Wajir North of the present day, which we know currently as Bute District. It extends up to Hupudi Division. They were pushed all through to that stretch of Gula Location. All the houses that were burned and whatever was done to the women, all this, including even the best business people as of that time--- Everything that I have mentioned happened at the Dabel Location. But about people dying and being murdered, it started here in Moyale.

Ms. Belinda Akello: That is all from me, Commissioners. I will hand you over to the Commissioners for a few clarifications.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony. You are truly a leader of your people. Sometimes, it is not all the time that it is the numbers that count, because some instances, you may have ten leaders and they are poor leaders. But you have exhibited that as a councillor, you are a good representative of your people and you have knowledge about the experiences that your people went through. We thank you for sharing this experience.

I will now ask the Commissioners if they have any questions or clarifications for you.

Commissioner Dinka: Councillor Tepo, thank you very much for your testimony and for going through this terrible experience again in order to enrich the information that this Commission needs. Your people have gone through a very difficult time and the Commission empathizes with your people and the pain they suffered.

As a truth-seeking Commission, I have a few questions to clarify. Very interestingly, the Sakuye are very unique in the region because they do not have any relatives or relations or connections with Somalia, Ethiopia or anybody in the sub-region. They were born here; they are Kenyans and they have always been Kenyans. But you said that after Independence, the *shifita* War started – I do not want to go to the reasons why the Shifta War started – the Sakuye joined in, in demanding Independence or secession from Kenya. Why was it that this group of people who were so Kenyan in the situation joined that struggle? Can you explain to me?

Councillor Alio Tepo Apudo: Thank you, Mr. Commissioner. I will explain to you because as I had said earlier on, this community is pastoralist. This happened in the Government in Kenya; if somebody is a pastoralist, then he wants to hear something new. When all this was put across, then they believed that these people can be able to help us because the Government of that time did not involve us in that struggle to give them enough wisdom to govern themselves. When we referred to the Government that was in authority, it could have told them: “These people are bad, do not join them; remain in your location as this is going to be detrimental to them. So, do not join them.” But that never happened to the Sakuye Community only, because all the people that are in the northern Kenya- Rendile, Gabra, Borana, Ajuran, Degodia – just to mention but a few, all joined in that struggle because they are just amongst others that joined in that struggle. That is just an example from here in Moyale.

Also, this community is very illiterate. They do not know the difference between a good and bad Government. The colonial government at that time, every time used to call their chief and explain to him the policies of the current government, but the new government did not do that. So, the only option that they remained with was to join in the struggle, and they saw the old Government as a good one, but the new Government as not a friendly one.

Commissioner Dinka: Thank you, Councillor Tepo. My next question is that, first the Government of Kenya dislocated your people from the area of habitual residence into some camps in Gola and then, from there, they put you in some kind of protective villages. You said that from there, they actually told you to go to Somalia. How was that last instruction saying: “Go to Somalia” communicated to your community? Was it the Government, the military, DC or PC? How was it communicated? Why do you think the Government thought that your community should go to Somalia?

Councillor Alio Tepo Apudo: Thank you, Mr. Commissioner. That is the question which is, even to us, very important. I personally and even the entire community still do ask ourselves how come this Government, which knows that this is a native community of Moyale, should say that? The way they severed us, economically are the questions that lingered in our minds. Personally as a councillor, I cannot verify or confirm why somebody somewhere in the Government or, maybe, in the armed forces thought to say and do what they did. For example, the person in charge of security in the district together with the OCPD and the armed forces commanding officer; these are the people who had a sitting and passed that these people should be removed from Moyale. I cannot tell which reason it is that they thought about to want to remove us from Moyale. I really wonder why they thought about that because, maybe, they went to Somalia and saw that Somalia is not their country; they do not know about the whereabouts of the country; they do not know the language of the people who stay there and they decided to come back to their motherland; the Dabel area. But they were unable to stay in Gola because they believed that something must have happened in Gola – some certain issues, maybe superstition – because Gola has a lot of mysteries and superstitions. So, they did not want to go back to Gola. But they moved from Gola and reached Dabel, where we are talking about Dabel Trading Centre. They later settled there because if the Sakuye Community

believed that they were born elsewhere, then they could not have come back to the initial place, and that is why they came all the way by foot. So, I cannot believe, personally, that they did wrong to come back to their motherland. That was just the plan of the Government of the day.

Commissioner Dinka: Just in a few seconds, how was that instruction communicated to your community? Was it in writing, proclamation or through radio and how did the community know that the Government wanted them to go to Somalia?

Councillor Alio Tepo Apudo: If it was announced on radio, then it could have been known. People were dying every day and in large numbers. Maybe, they thought that we were going to make the environment dirty, so they decided to push us to another area so we can die there. I assure you that it was not officially announced because if it was, then we may have become refugees.

Commissioner Dinka: When your community reached Somalia, you said that the Somalis treated you as if you have always been there and not as refugees and they did not assist you. Is it correct that they did not consider you as refugees?

Councillor Alio Tepo Apudo: The community was just helped on humanitarian grounds because when you see your fellow human being suffering, then you must help him. However, they did not look after us officially as refugees from another Government. If you look at somebody and have mercy on them, then definitely, you are going to help that person. They decided to go back to where they came from so that they could be buried there and the wild fruit of that area would help us as a community. The environment then was very good and the bees would make honey. They did not look at us as refugees but they just helped us on humanitarian grounds.

Commissioner Dinka: When they returned from Somalia, did they just walk back or did the Government of Kenya encourage them to come back and what year was it?

Councillor Alio Tepo Apudo: The Government announced that the NFD war was over and it was announced everywhere that peace had prevailed. When the Sakuye community heard that in 1969, they decided to come back. In 1970, they reached Debe Location. The Chief and his representatives thanked the Moyale leaders for that. Mzee Guyo Ali, a Borana elder who lost quite a number of people took the people that were there to meet Government officials. The Government did not turn these people back because they knew that this was a community that had left Moyale. This information went all the way to the Office of the President and Mr. Mbiyu Koinange who was a Minister came and verified that this community was a Kenyan community from Moyale. The Assistant Chief for Debe Location took charge of them and this Assistant Chief died recently.

I want to thank the Borana leaders of that time who were not left behind. There is no boundary between the Sakuye and the Borana. They live in the same settlement and they

know each other. When they saw that these people had come back, the Government was able to settle them there.

The Acting Chair (Commissioner Namachanja): Thank you very much Councillor for sharing your painful story that affected you and your people. I know that this question has been asked but I want to ask it again for clarification. Before the Sakuye Community were ordered to leave Kenya and move into Somalia, was there any Sakuye community originally living across the border in Somalia?

Councillor Alio Tepo Apudo: There was no Sakuye community that lived on the border of Somalia except for those who are looking for pasture and water for their animals in Wajir North. Moyale District was then covering Wajir North up to the current Wajir West, so they are there within Moyale District but they are not on the border.

The Acting Chair (Commissioner Namachanja): Who visited the Sakuye community in Somalia?

Councillor Alio Tepo Apudo: I have personally not gone there but when they came back from Somalia, when they reached Mandera, they felt that the security officers did not believe that they were the Sakuye community. The security personnel in Mandera communicated with their counterparts in Moyale and I was the one who went to verify that they were indeed the Sakuye community and that is why I brought them to their current settlement.

Yesterday, somebody in Somalia heard that the TJRC Commission was around and he asked that their story be told when the Commission sits in Moyale so that they do not die in Somalia. There is somebody who lives in Moyale and whose brother has ten sons still in Korirole.

The Acting Chair (Commissioner Namachanja): Do you know under what status they are living in Somalia. Are they living there as refugees or what sort of identification do they have there

Councillor Alio Tepo Apudo: As I said earlier on, they do not live as refugees but the conditions they live in are pathetic. You know that whenever human beings live together, there are always disturbances. There is a time they were tilling their land and the crops were doing well and with such disturbances in Somalia, these people are told to go away with their land to Kenya. The man I mentioned who had ten children had a piece of land and just because of little disturbances, he was told to leave with his land and yet no one can carry land. They are living in pathetic and harsh conditions and that is why the ones, who returned on 19th July 2004, came from Somalia on foot because they encountered harsh conditions. They have settled in an area and they do not have IDs though they are free. They have their own land and they live amongst themselves. The ones who remained behind have no means of transport and even if they return, they may not have a way of earning a living. You know the way the Somali people live even today, so I cannot tell you anything more about that.

The Presiding Chair (Commissioner Chawatama): How old were you when the movement of your community to Somalia took place?

Councillor Alio Tepo Apudo: I was about six years old.

The Presiding Chair (Commissioner Chawatama): Do you know whether there is a living person or persons who experienced that move?

Councillor Alio Tepo Apudo: Everybody from Debel Location has stepped in Somalia including myself because as I said earlier on, the Sakuye community that is hiding in Kenya never revealed themselves as Sakuyes. I clearly remember the ones we used to pray together with are still living today and they can share their testimonies of how we went with them and how we came back with them. I returned when I was eight years old.

The Presiding Chair (Commissioner Chawatama): I felt that there were one or two gaps. Therefore, in order for you to help us, when you sit with members of the community, try to capture the experience of women and children. Women are very unique and, maybe, the hardships that took place as a result of the movement will not be the same as the men. I do not know whether there are any women who are being called to come and testify but if not, can you fill in that gap if it is not in the memorandum already?

Councillor Alio Tepo Apudo: It is in the memorandum because the women went through a different experience and there are so many mothers here who have been assaulted. They can speak before this hearing or privately. Their experiences are very different because at my age, I have never seen a woman being raped by ten men. But they are here and they can testify for themselves and tell you how they were tortured. More than 200 children have got lost, 350 capable men who could have helped the community are no more and 400 women have died. We sat down and asked which family is no longer there from the Sakuye community and I am certain that there are some families that disappeared.

We sat down and realized that several families were no longer there and as I look at these papers, there is someone whose family was well known and when he realized that the family is all dead, he lost his mind. As I speak today, his family was well known because of the wealth of camels and his father was born in a family of seven men and he went mad. He is still alive today and he can come before the Commission or you can conduct a private hearing with him but he lost his mind. When we say 200 children, that is not the actual number because there were no proper records but if we ask various women how many children they lost, then we may be able to have clear records.

My father and his brother died at that time and the armed forces took him, maybe, to Kamiti Prison. But where do we get these records from? We can never know their whereabouts, whether they were hanged or they got lost elsewhere and that is why I said

that a thorough investigation should be done in this location because it was hard to put together all that we are talking about today.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony. At this point, I would like to acknowledge the presence of the District Commissioner in our midst. We consider it an honour and a privilege to have you here in our midst and we benefited greatly from the meeting that we had with you. Please feel free to stay as long as you want because you are a leader and these are your people and it is important for you to know what is in their hearts. We have seen and heard that a lot of things have come up because of the Commission's sittings, things that people have not talked about in the past but they have now disclosed to the Commission. Your time here would be worthwhile and you are free to come every day as we are sitting and we thank you for your presence.

Leader of evidence, we have heard from this witness in great details. The second witness should collaborate anything that has been left out and not repeat what has already been said and that would be helpful.

Councillor Alio Tepo Apudo: As I finish, I did not know that the Moyale DC was around. The Sakuye Community has lost their citizenship because the most important thing that makes people to be citizens; the national ID. I know that the DC knows this information and it is not new to him; so, we want to work together with him because we have educated youth who are looking for employment but they do not have national IDs and their fathers do not have IDs either. Getting a birth certificate is also a problem. We talk to the DC and he knows that there is a Sakuye Community and I appreciate the service that he is giving us because he knows all our stories. Citizenship is something that is very important and the people who entered Debel have been there for more than ten years and they do not have national IDs. When this happens, our rights are infringed and I personally believe that I would not be able to participate in being a councillor if this is not done. I appeal to the DC to hear what I am sharing with you so that we can collaborate with him.

Ms. Belinda Akello: Honorable Commissioner, our scheduled collaborating witness was one Hassan Fofle. The reason and value of the collaborating witness was that he had worked as a chief before and a member of the Administration Police. Hassan Fofle was not able to come but has sent a representative, one Abdullahi Abdi Laffa, who by your permission, we are going to oath and enquire about why he is here.

Also for the record purposes, Hassan Fofle recorded some statements with the Commission which would be of vital importance if we read it out and confirm any other information that the said the representative could have.

The Presiding Chair (Commissioner Chawatama): Please go ahead. I think what is important to the Commission is if this witness has an ID. Could we have his ID and a copy of it?

(Mr. Abdullahi Abdi Laffa took the oath)

Mr. Abdullahi Abdi Laffa: My name is Abdullahi Abdi Laffa. I do not have my ID but I know my ID number. The number is 21377798.

Ms. Belinda Akello: Where do you live?

Mr. Abdullahi Abdi Laffa: I live in Debel and I am a politician and former councillor.

Ms. Belinda Akello: Do you know anyone by the name of Hassan Fofle?

Mr. Abdullahi Abdi Laffa: I know him. He was my former chief and he was also a police officer. We also lived in the same village.

Ms. Belinda Akello: Mr. Fofle gave a statement and he has sent you as his representative. Would you know why he was not able to attend today's session?

Mr. Abdullahi Abdi Laffa: He was sick and it has been raining, making the roads impassable. He is lame, so it is difficult for him to move about. That is why he sent me to represent him because I can answer some questions.

Ms. Belinda Akello: For the record, the witness actually has a limb and with your permission hon. Commissioners, I will take us through the statement. I will present it in verbatim.

I was an administration police attached at Moyale, recruited on the 1st of April 1965. Between 1965 and 1967, the Government of Kenya took Sakuyes including men, women and children and their animals, to Moyale. They were put behind the police station where they were tortured. I also remember that among the people taken was my sister; she was tortured and she died while still there.

Animals were taken and killed; they were injected with poison and subsequently fed to the people who were held at the police station. Approximately 20-30 persons died on a daily basis. Ministry of Works vehicles would carry the corpses and dump them somewhere. At the time, I was based at the AP line and because I am a Sakuye by tribe, I was not engaged in the operations that were going on and was even prevented from knowing what the plan of action was or the locations that were targeted.

The dead bodies were thrown into mass graves in three different locations. The first one was below the Kilta Hill, the second one was at the old road at Odha and the third place is on the way and I cannot remember the exact name. It was a Government directive to get all the Sakuyes on allegations that they were *shiftas*. At the time, Moyale was a division and the then DO was called Duncan (a Kikuyu), the OCS was called Mombo, the army general was called Kilonzo, the corporal was called Karu Gulet and Malicha Duba. I inquired about the killings and why Government vehicles were carrying the corpses but the then DO asked me to stop being nosy and stop prying into those operations. Three

people, myself, one Forr Duba and one Mohammed Rasa had our guns taken away; the three of us were Sakuyes. We were asking questions about the operation and all of us had lost relatives. The three of us were declared to be unstable, occasioning the taking away of our guns.

One time, the three of us were blind folded and taken to Loyiangelani through Marsabit. I stayed there for six months without a gun but on duty. The DC there, one Mr. Masinde later brought me a gun after six months and asked me to forget the past and be strong. Two years later, I was taken for training as a way to silence me.

Honourable Commissioners, that is the end of the verbatim report that was given and of relevance were a few facts that had already been brought out before about the poisoning of animals, identification of the three mass graves and officers who were on duty. At this point, I would like to present the witness to the Commissioners in case they have any questions with regard to the statement read, his position as he has stated and for any clarifications.

The Presiding Chair (Commissioner Chawatama): I think what is important to the Commissioners is the fact that the statement giver sent this particular witness to come and represent him. As to his knowledge of the facts, I think it would be very difficult for us to ask him questions unless the Commissioners have particular questions that relate to his own experience by way of backing the statement that has been read out.

What we would like to do as the panel is to thank Mr. Abdi for making himself available to come and represent Mr. Hassan and the fact that he has come here has made it possible for us to retain the statement given as part of the testimony to this Commission.

Ms. Belinda Akello: Honourable Commissioners, kindly allow me to give the memo that was presented by this entire community for the record.

The witness says that he has one point that he would like to clarify; please guide us.

The Presiding Chair (Commissioner Chawatama): One point of clarification only.

Mr. Abdullahi Abdi Laffa: Thank you Commissioners. As I represent the former chief, our situations are just the same. When these people were blindfolded, I remember because I was 13 years old and I know the people who were there. They were blindfolded and taken to Loyiangelani area where all these things happened because they knew that people had been killed at the police camp and they were taken by police vehicle to different areas and thrown away. As the Sakuyes, we were traumatized and the people who were killed could not be identified. It was a bit hard for us to explain. It was also hard to explain to the people who were living in Moyale to understand what was happening but the old men understood. That thing did not happen to the Sakuyes only. Even the Somalis who were there were beaten because they were told that they were not supposed to be there. This massacre did not just happen here but also in Moyale, Garba Tula and some other areas.

The Sakuye community is a minority community and we did not participate in anything and when the shiftas came, they took away our camels and goats and when the Government came, it attacked us. The Government thought that all the Sakuyes were shiftas. However, we are not Somalis and we cannot find Sakuyes anywhere else. The word Sakuye comes from the word Saku and Saku is an area in Marsabit. All these problems came because we lacked leaders. We are pastoralists and we have no one to represent us. That man who was mentioned here is also a pastoralist who did not understand anything and we believe that he may have led us not to be in good terms with the Government. That situation led us to be tortured, people were beaten, and some were taken and up to today, we do not know where they are. One family was taken and we still do not know if they still exist and my uncle and sisters died. Only one man was left with two children but the remaining eight children died in the police station.

From there, these people were pushed and forced to go through the hills to Somalia and at that time it was raining. They were forced to go to Tubute and, in-between, countless people died.

The Presiding Chair (Commissioner Chawatama): Thank you very much. We are saddened to hear of the trauma that your community went through and we thank God that you now have an opportunity to talk about what happened to your community. We have taken note and for us to be here is a sign of the seriousness with which we view what has happened to the people in this region.

Thank you for making time and for sharing your testimony.

(Mr. Guyo Halake took the oath)

Ms. Belinda Akello: Thank you very much. For the record, kindly, tell us your name.

Mr. Guyo Halake: My name is Guyo Halake.

Ms. Belinda Akello: Thank you very much for coming today. Kindly, tell us where you live.

Mr. Guyo Halake: I live here in Moyale in Butiye village. I am a retired civil servant and a former MP for this area.

Ms. Belinda Akello: Kindly, state in what capacity, you have come and on whose behalf.

Mr. Guyo Halake: First, I want to thank God for giving me this opportunity. I also thank the Truth, Justice and Reconciliation Commission for coming to hear what happened to us.

I am here on behalf of the Borana Community. Before I start, I want to tell the Commission that we, as the Borana Community, handed our memorandum here yesterday. I want you to confirm to me whether you received the memorandum.

Secondly, as an elder representing the Borana Community, we have brought our complaints because you have called us in three phases. The first thing is that Moyale Constituency has two districts, namely, Moyale and Sololo. People from Sololo had not received proper information. They are preparing themselves to come before this Commission to say their problems.

We have people from the Borana Community who were chased from Kenya and now live in Ethiopia as refugees. They are also here to represent their memo before you and they will come to speak.

Lastly, I want to talk about the Borana of Moyale. I want to tell the Commission that these things have been happening from 1963 to date. So, if I do not recall everything, my friends Mzee Hussein and Councillor Jillo will remind me.

Ms. Belinda Akello: With the permission of the Commissioners and the presiding Chair, kindly let me confirm to the witness that the elders did present a petition as was presented to you. It has been received by the Commission and it forms part of the record from the Borana Community.

I also want to clarify to the witness that we do have people from Sololo who are also going to speak to this Commission tomorrow. We thank you and kindly ask you to proceed with the permission of the presiding Chair.

The Presiding Chair (Commissioner Chawatama): My question is whether or not, the witness is satisfied that all the issues he has raised have been addressed by the leader of evidence.

Mr. Guyo Halake: Thank you for the clarification. As I said earlier, I want to start by telling you who the Boranas are, where they are found and who is their representative now and who was their representative before. The Borana people are pastoralist and they are found in Moyale District. The Boranas were living with communities called Saku, Gabra and small communities that used to do business called the Agi and the Burji. The Agi and Burji are only found in Moyale Township, but the Sakuye, the Boranas and the Gabras are found in other parts of Moyale. These are the people who were living here in Moyale even before independence. I want to talk about the deep rooted violence that has been here for a long time. Before independence, Moyale was one of the districts of Northern Frontier District (NFD), but immediately after independence some parts of Moyale were taken and put in North Eastern Province and it was made a division. There are two districts that are now in North Eastern Province which were part of Moyale. The districts are Wajir West and Wajir North, which is Bute and Buna. That was the beginning of the marginalization because we thought that life would change after

independence. During that time, the rights of our great grandfathers were violated and they were tortured.

In 1965, some people in the area that was under NFD wanted to be separated from Kenya, so that they could go to Somalia. That was when they started the *Shifita* movement. People were beaten and tortured and we were moved from our homes to other parts. We were pushed from Buna and Bute. The Sakuyes were moved from Debel and we were placed in a concentration camp. There was not a single Borana living behind these hills. Bute was constructed and all the Borana people were taken there and we only had two entries to the manyattas. We had no peace and when we went out to herd our cattle, we were abducted. When our people were killed we prayed that one day we would be compensated. Maybe these things were done to us to make us crazy.

One disappointing thing is that when cattle were taken from Butiye, we were told that they were lost. We do not know if that Government belongs to Kenya. The people who killed and raped girls in grazing areas just disappeared. It was a vicious circle because during the night, different groups could come three or four times and the same thing happened to the people who were living in Sololo. The Heillu and Butiye manyattas which are now sub-locations were mostly used as concentration camps for the Borana people. We thought that we were brought here to be guarded, but at exactly 6.00 p.m. in the evening, the *shiftas* would come and then at night the soldiers would come to ask where the *shiftas* had hidden. What we knew was that the *shiftas* would come during the day, kill people, take our animals and then leave. We did not get any assistance from the Government even though we were an independent country.

The law that was there to guide us was not the same law that governed the rest of Kenya. The policy for this area is different from the policy from the Kenya Government and you will agree that before the removal of Section 2 of the Kenyan Constitution, Moyale or any region in North Eastern Province was under emergency law. A person could be killed at will. We also used to have armed bandits who took that opportunity to torture and traumatize us because they knew our Government could not act. We are usually told that a Somali is a Somali and that it was normal for the *Warias* to kill each other.

Our problems started when all our grazing lands were taken away from here up to a place called Habijhan, about 200 kilometres from here. Up to now, we have not regained our lost territory. We have been tortured by the Kenyan Government for a long time. We cannot blame the *shiftas* because they were doing their job because we refused to be part of Somalia. If these people wanted to take us to Somalia by force, how has the Government helped us? Our people have been killed, women raped and cattle taken away. We underwent a lot of trauma during the *shifita* war. For us, the Borana Community, every time there was a problem in Ethiopia or Somalia, we were the first victims of the problems. People would come armed. If anybody wants to learn how to be a sharp shooter, then he comes to do it practically in Moyale.

The Government has betrayed and forgotten us. They have taken our land by force. There is nothing we can do. In the northern part of the Rift Valley, there is a place

known as Turbi. It used to be part of Moyale District until 1992 when a Permanent Secretary decided to make it a district. We have Turbi District. No one could raise objection because if you did, you were branded a *shifita*. I could not petition because I was afraid.

That is how dictatorial the Kenya Government has been to the people of Moyale. We could not even go to the DO's office to complain because we would be asked what crime we had committed. That dictatorial leadership has really destroyed us as pastoralists and we have nowhere to herd our animals.

People who had tried farming could not go to their farms. That was the genesis of their poverty.

The issue of prostitution was forced on us. Our people are religious. Our religion prohibits prostitution. However, since we have no other source of livelihood, some women decided to practise it. They went to the GSU, AP and Army camps to practice prostitution. They thought by involving themselves in this vice, their men would not be mistreated at night. If your wife spends a night with a soldier somewhere, automatically her husband and children will be known. These women resorted to prostitution with the aim of saving their families.

We had some white people who came from South Africa to Kolbo Plains and employed some youths to build dams. They would then tell the young men to go back home and then they would bury their equipment. We suspect that toxic substances may have been buried there, so that we could not graze our animals there. We started suffering from diseases that could not be identified in hospitals. The number of people dying from cancer also went up. We asked where our Government is because we did not have any security and nobody was there to protect us.

We do not have any infrastructural development in our area. When I want to go to Nairobi, I normally say I want to go to Kenya "B". From here to Isiolo, it is a distance of 530km. Since independence, we have never had any tarmac road. We do not have any water, we are not even asking for clean water, but any water. The dams that were built during the colonial period have all silted. There is no water in them. The Government is mistreating us because we do not get equitable distribution of the national cake in our area.

The Kenyan Government has only built one school. All the other schools have been built by missionaries and Non-Governmental Organizations. The Government is not concerned about the welfare of Boranas. In fact, the people of Moyale are behind in education.

We only have one hospital. It has good buildings, but it does not have medicine or an ambulance for emergencies. There are no doctors. The buildings are now collapsing because they are not being used. The Government that we fought for when we decided

not to go to Somalia is just looking at us as we are being mistreated by the security personnel. We are not getting any help from the Kenyan Government.

I have said that we had a secessionist war during the *shifita* period and another one after the fall of the Military Government in Ethiopia. We had armed ruffians called Oromo Liberation Front (OLF) coming to Kenyan soil to settle. These people have really given us a hard time. Kenya is a free country. We are not fighting for any liberation. We are only fighting ignorance and poverty. Because of that freedom, people come here to kill us. When the Ethiopian authorities follow those people, they beat and kill us. It is a pity that our Government seems to be helpless. These are armed battalions who came to settle here. Sometimes, they attack Ethiopia. That is how the Kenyan Government abdicated its cardinal responsibility of protecting lives and property of its citizens.

Moyale was placed under a curfew from 6.00 p.m. to 6.00 a.m. for seven years. If your animals were attacked by wild animals, you could not get out because if you did, you would be shot dead. At exactly 5.00 p.m., people would take their children to Ethiopia to seek refuge. This was because the *shiftas* could attack them at night. If the Ethiopian Government could protect its citizens, why did the Kenyan Government leave us to be killed by the *shiftas*? We have been neglected by the Government and that is why we are polarized and affected.

If the Commission had not announced yesterday about this hearing, we could not have known. I am not in a position to buy a booster so as to watch television. So, we do not get any information. We only get signal from one FM station here. We do not have proper means of communication. If the TJRC sends me a letter, I will get that letter three months later. We do not have effective postal services. The biggest problem we are facing is poor means of communication. We do not have telecommunication facilities and road communication. We are the people who are behind the curtain because we have been neglected and we cannot blame anybody else, except the Government. It is the responsibility of the Government to protect us and provide services to us.

I want to tell this Commission that I will not be able to read the list of the people who died, but the list is here with me. This list also shows the wealth we lost. I cannot tell who killed these people, but the list is in the memorandum. Those people who were killed, the houses that were bombed by OLF or Ethiopian security agents are because the Government of Kenya is not taking care of us. There is no way another Government can move to another country and attack people without the Government agents knowing. For example, you might get a poor woman who sells vegetables being shot just because there is a claim that she sold food to the *shiftas*. This woman is also paying tax just like other Kenyans.

As I wind up, I started with the land issue and it is the same issue that I want to conclude with. The creation of locations, divisions and wards is being done unprocedurally by the Government without involving the area residents. It is done in a corrupt and partisan way. For example, if I am a friend of the PC or a certain PS, I will only ask for a location to be created for my people. That is one of the reasons why our people continue fighting.

They fight for their rights. According to the Borana, it is the Government that is inciting people because we are not consulted as the indigenous community in that area where land issues are concerned. I am 62 years old. If I go to swear an affidavit and I am given a piece of land or I become a chief of that location, where does that leave the other people?

If a Borana has a son at Alliance High School, he will not be given an identification card in Nairobi where other people are getting theirs. He will be told to come back to Moyale to fill forms. This Government does not consider us, as Kenyans. There is still a question mark. There are people who are getting IDs without any problem. They get locations, sub-locations and wards, but as I said earlier, historically, this district belongs to different people. I know this country belongs to all of us. However, when you are denied your piece of land or when it is taken away from you, you will have to fight for it. You cannot subdivide my piece of land and you accept me not to raise a finger. That is why there has been tribal animosity and clashes. Our resources are not developed. We do not have water and enough pasture.

If there is anything I have forgotten, my fellow elders will add. My appeal to the Commission is to make sure that we get services just like other Kenyans wherever they are. Build schools for our children. Provide us with clean water and other basic necessities. We should also be provided with security. I also appeal to the Government to assist us to manage natural disasters.

If we are really Kenyans, let us be treated like other Kenyans. Let us get schools like others, let us get water and health facilities, let us be given security just like others and the Government should also attend to us when natural disasters like drought occur. What measures do we have in place to protect people from rape and other disasters?

On the porous border, guns come from Ethiopia to Kenya, Somalia to Kenya and they are used to kill us here. Here in Moyale we have the Kenya Army Barracks; we have the Kenya Police, the Administration Police and we also have the Kenya Wildlife Service rangers here. All these people are the security arms of the Government. Why are we left just there to decay? Why are they not protecting us? I want the Government to protect us, so that we can be given security. On land, there is no land that we can say is ours, because nowhere was the community given land which they can be proud of. That means somebody can say this land belongs to us; so, please protect it. People are always pushed from their ancestral land and then the land is given to other people, whom I do not know where they come from.

The very strong recommendation from our Borana people is, if we belong to Moyale County, we ask those people who are not from Moyale to go back to their land where they came from. Those people, who came from other countries, let them go back to their countries; let Moyale people remain here, and let the Government give us what we deserve according to the law and the Constitution. I think I will stop there. Thank you very much.

Ms. Belinda Akello: You would like to present this to the Commission? Hon. Commissioners please admit the memoranda from the Borana Community as presented by Mr. Guyo.

The Presiding Chair (Commissioner Chawatama): The memorandum is admitted as part of evidence to the Commission.

Ms. Belinda Akello: Hon. Commissioners, I have no questions for this witness. So, we can go on.

The Presiding Chair (Commissioner Chawatama): Ambassador Dinka, do you have any questions for this witness?

Commissioner Dinka: What year was the emergency law? You said it was for seven years, when did it start and when did it end?

Mr. Guyo Halake: The curfew existed from 1973-1980.

Commissioner Dinka: My last question is on your last statement. When you were talking about land in your recommendation you said people who have come from other regions, and have taken land in Moyale district should go back and the land be restored to its original owners. Do you mean that this should be the law for Moyale only or it should be the law for the whole region? This is very critical and could have a lot of consequences.

Mr. Guyo Halake: Thank you, I appreciate. What I think is that you can attempt. After the post-election violence, which occurred sometime back, there are some communities which were asked, "You sold these plots to other people; why is it that you are beating them again?" The answer to this was, "Indeed yes; we sold them the land but we have not said that you go and change the names of the initial owners of the land." Having said that and also being a Borana, and I wish to remind you that I still live with the Borana natives, the people that I used to stay with. After the influx of the different people, some from Ethiopia and some from Somalia--- They were not living in North Eastern Province, and that is why I was talking about the county. We have begun to have acrimony and that is why I said everybody should go back to their native land. The reason is when these people come they are better endowed, in terms of resources, than even the native people, who stay here and these are the people who corrupt the authorities.

The land we are talking about becomes their own property and I, who is proud of my district and saying that this is my beloved district, is discriminated against. All this happens because resources are scarce. This is because the Government has limited resources here. That is why we are fighting day and night.

The Presiding Chair (Commissioner Chawatama): I would like to thank you for your testimony. You touched on virtually all the aspects of the Commission's mandate. You touched on political and civil rights and you also touched on social and economic rights.

You articulated the problems facing your community, and I have two questions that I want to ask you. You spoke of an area in the Rift Valley that once belonged to your community; I think it is Turbi. Then you said in 1992 that became part of the Rift Valley. Is that correct? If it is correct, what became of the people who lived in that area?

Mr. Guyo Halake: Correction, Turbi is not an area of the Rift Valley; it is a part of Moyale District and---

The Presiding Chair (Commissioner Chawatama): But then you said it became part of the Rift Valley. You said that it was part of Moyale but then through a decision of a Permanent Secretary, it became part of the Rift Valley. Is that correct?

Mr. Guyo Halake: Up to date it never became part of the Rift Valley. It went to a new district called North Horr, which was curved from Marsabit District in Eastern Province. I was a Member of Parliament for this area, and it was part of my constituency. Whoever followed me in the Fifth Parliament had it within this constituency. After that, the first thing that I need to say is, I think it is good that ever since we got independence there has been no single day when we elected someone to go and represent us in Parliament with the--- Every now and again we are just given the post of an Assistant Minister which has no impact at all in the Government of Kenya. There is no time that someday from Moyale has ever been given the post of Permanent Secretary or even an ambassador. We have youth who are highly educated, yet we have no representation. There was a powerful Minister who wanted to expand his constituency, and that was Hon. Bonaya Godana. The DC wrote him a letter clarifying the boundaries of districts, but there is another letter that he wrote saying Turbi is not in Moyale; it is not in Sololo but in North Horr. I have to add this, because of those seeds of hatred that have been planted by the Government, as you have heard in 2005 there was the Turbi Massacre, where over 100 people died, because of a conflict over land. As I said earlier on we have been living with the Gabra Community since time immemorial, and we have never refused to live and co-exist with them, whether Turbi is in Moyale, Marsabit or North Horr. The occupants are Gabra, and we have no problem with that. The main problem is the Government, because it is now clear that the independent Government has never been able to ensure that there is equitable distribution of land; this has left people fighting.

The Presiding Chair (Commissioner Chawatama): You have said that people were made to question the position of the Government. Is it still the same or the situation has changed?

Mr. Guyo Halake: In these areas where we stay you know it is quite funny that when I am sent to you I fear telling you certain issues. If you ask me about certain issues I will not be able to answer you. The main reason is that Government officers who are deployed here, it is as if they are sent here on disciplinary grounds; so, they get here with a very negative attitude. Once they are here, they operate as if they have come here to command us and we are their subjects. When this happens, I am fearful and I cannot go to the DC's office to complain. Actually for me it is easy to do this but the ordinary member of the community will not be brave enough to go and complain.

We have several roadblocks, about seven of them. At these roadblocks you must hang your ID around the neck, which reminds us of the pre-colonial period. If you put your ID in the pocket and say, “I will remove my ID; please wait a minute”, you will have to bribe. I am asking why we should be treated like this.

The Presiding Chair (Commissioner Chawatama): Before I hand over to Commissioner Namachanja, please say something that the Government of Kenya has done in dealing with the OLF.

Mr. Guyo Halake: Occasionally we do the joint operations, but we have never seen their success or achievement. There is no single day when we have seen these joint operations apprehend all the bad people. The only thing we see is that our pastoralists are beaten up while our women are raped. It is all in my document here. Others miscarry because of torture and mistreatment. In my own opinion such operations are cosmetic. There is no achievement that we have seen.

I remember there were a time people from Ethiopia used to come and beat us here in Kenya. They used to arrest our chiefs and take our arms and detain them in Ethiopia for several months and then they bring them back. We have seen them with their arms, we do not know whether they are there. What I can say is if the Government did not allow the OLF to come and stay here, these Ethiopians could not have come to mistreat us. So, I think there is nothing that the Kenya Government has done, and I can say even today even if they say that these people are not there, I know the remnants are everywhere, even in Nairobi, and the Government knows about them. I know that the Government has done nothing about all this.

The Presiding Chair (Commissioner Chawatama): Thank you *Mheshimiwa* for articulating the issues within the recommendations by your community members. The memorandum we received is signed by six people, and we have twelve recommendations which I would like to go through. The first one is, develop favourable Government policies on resource exploitation and utilization, and this is livestock movement, for example. The second is proper representation in policy development both at local and national levels. The third is access to information and media networks at the district level. The fourth is that the Government should provide basic and mandatory services to the public without demanding unnecessary payments as enshrined in the new Constitution. We need education, health, water, security, transport and communication. The fifth is to open up the area to other parts of the country through tarmacking the Great North Road, that is the Moyale-Isiolo Highway, and upgrading other feeder roads without discrimination. The sixth is equitable distribution of national resources. The seventh is research, exploration and exploitation of available natural resources for the benefit of the district. The eighth is equalization of funds, which should be available to reduce the poverty level in the district.

The ninth is affirmative action to be given to the district in all sectors of development, while the tenth is that mechanisms for response to natural calamities must be developed.

The eleventh is market intelligence for both internal and external marketers. Markets need to be developed. The last is that local industries for processing of hides and skins, beef and other natural resources need to be established in the district.

Mheshimiwa are those the recommendations from the group that presented this?

Mr. Guyo Halake: *Ndiyo!*

The Presiding Chair (Commissioner Chawatama): So, the last one that you added about those from other counties to return to their counties is not part of this?

Mr. Guyo Halake: *Ndiyo!*

The Presiding Chair (Commissioner Chawatama): We thank you very much for testifying before us. Let the record show that we note other issues that we may not have questioned you on. One of these is the employment of the youth, who are believed to have handled toxic waste which was dumped, and the impact that waste has had on the lives of the people and the land. We also acknowledge the list of those who have died that you have handed over to us. I think for the time we have been sitting, you are the only person who has brought to light the issue of possible prostitution. This is very important to us; as the Commission, we are very keen to highlight the experiences of women and children. This is an issue that we will also look into as well as the other issues that you have raised.

We thank you so much. Hearing Clerk, could you take the witness to his seat. Will we continue with another witness?

Ms. Belinda Akello: Presiding Chair, it is now half past mid-day; we had indicated that we will work until 1.00 O'clock. We will stand by your direction.

The Presiding Chair (Commissioner Chawatama): I think the problem is whether we have a witness who will be brief.

Ms. Belinda Akello: Presiding Chair, I am informed that it might not be viable to finish by 1.00; so, maybe we can have a break a bit earlier and resume at exactly 2.00 p.m. We will re-energize ourselves.

The Presiding Chair (Commissioner Chawatama): If nothing stops us from starting with a witness, and then adjourning when the time comes, and then continue with that witness in the afternoon, that is okay.

Ms. Belinda Akello: If we have half an hour it is valuable time; we can start and then continue with the same witness after lunch.

(Mr. Abdullahi Ahmed Yussuf took the oath)

Ms. Belinda Akello: Hon. Commissioners, kindly note that our record shows that elder No. 4 will be a lady Fatuma Noor. The same has requested to speak at the women hearing tomorrow, and instead we have one representative from the corner tribe, whose names we are going to get on the record. He will present a memo on behalf of the corner tribe.

Please state your name for the record.

Mr. Abdullahi Ahmed Yussuf: My name is Abdullahi Yussuf, a retired teacher and I represent Somalis living in Moyale Township. During the colonial times, Somalis were the leaders of Moyale Township. We had chiefs during that time but when we got independence things changed.

Ms. Belinda Akello: Please can we have calm. Those who are leaving, please leave quietly so that we continue with our session. Thank you.

Mr. Abdullahi Ahmed Yussuf: This started in Moyale and spread in the then NFD as a whole. In 1967, when I was the headmaster of Moyale Township Primary School, in March all the Somalis were picked and put into jail. Then they were taken from here to different places without being allowed to pick anything; they went with only their shirts or bare clothing. Even school children were picked and I saw them driven away. The Abiadisha were taken to Isiolo, the Ogaden were taken to Garissa, the Degodia to Wajir and the Garre to Mandera. Even children were collected and taken away. All these four tribes were driven away without being allowed to take their property, including their herds of cattle, their shops, or their houses; they never carried anything with them. I was called by the security committee and I was told, ‘You are on the side of the Somali people and you are teaching the students how to fight in the *Shifita* War.’

Our former MP here was in standard six in 1966, and I was still there. After that I also taught them Physical Education lessons. They told me that I was teaching pupils about the *shifita* War, and they were going to apprehend me. In two weeks they would apprehend me. Luckily enough, I was able to get a telegram from the Isiolo District Education Officer.

In 1968 when I was at Isiolo I was also the choirmaster and the President of Zambia came to Isiolo; by then the *shifita* War was over. I applied to go back to Moyale and I was allowed to go back there. After that we had an MP in 1969 who was called Araru, and then we had Mohamed Osman. Today, hon. Commissioners, regarding the representation and political nomination in Moyale Township we wish to bring to your attention that the military communities of Somali, the Haji, Barawa, Ashraf and Arabs are known as corner tribes.

Today we are known as corner tribes and we have lived in Moyale District for generations. Over the years we have consistently been isolated to the extent that we have been marginalized both in administration and political representation. Currently, our population is between 2,500 and 3,000 and we live only in Moyale Township. Hon.

Commissioners, we had one chief in the township a long time ago and we have had MPs for almost 30 years.

Since then, we have had no single chief or assistant chief because of the influx of other communities into the township.

Hon. Commissioners, there are a few critical issues that show the seriousness of our appeal. These include the fact that we do not have a chief or an assistant chief in our locality. We are not represented in the Relief Food Committee. We are also not represented in the Vetting Committee that deals with registration of persons. We want the nominated councillor to articulate our issues at the county council. We have on numerous occasions brought this issue to the attention of the district administration without success. We feel that our human rights have been persistently violated. In the new political formula, we need creation of a special ward for our community, nomination of our community to the council and other forum and representation within administrative and governance system. We, therefore, believe that our suggestions will mitigate our political problems, and hope you will give it your kindest consideration. God bless you Commissioners.

Ms. Belinda Akello: Mr. Abdullahi, would you like to present this to the Commission?

Mr. Abdullahi Ahmed Yussuf: Yes. It is just a draft.

Ms. Belinda Akello: Commissioners, kindly accept this draft to be submitted.

The Presiding Chair (Commissioner Chawatama): Yes, it is admitted as part of the Commission's records.

Ms. Belinda Akello: Acting Chair, we have a few points that we would like the witness to clarify. Given the time now, with your permission, could we resume on the questions as the first thing at 2.00 p.m.?

The Presiding Chair (Commissioner Chawatama): We are happy to adjourn at this time. At least the witness has been able to give his testimony. When he comes back then you will put questions to him. We will do likewise.

[The Commission adjourned temporarily at 12.55 p.m.]

[The Commission resumed at 2.25 p.m.]

The Presiding Chair (Commissioner Chawatama): We welcome you back to this afternoon's session. We will continue with the witness who was testifying before lunch.

Ms. Belinda Akello: We welcome you back Mr. Abdullahi Yusuf. We would also like to remind you that you have presented a memo on behalf of the corner tribe. You have presented your memo to the Commissioners and it has been accepted. I will only have

two very short clarifications that I would like you to make, and, maybe, I get your opinion on.

You have said that Somalis, I want to believe largely the corner tribe, have not had a candidate for any elective post, and you also do not have any member in the Vetting Committee among other committees that are crucial. Has any candidate from the corner tribe been denied access or opportunity either to vie for an elective post or to sit in the Vetting Committee by virtue of them being Somalis or corner tribe members?

Mr. Abdullahi Ahmed Yussuf: No. They cannot get a chance to be an MP or councillor, because we are very few Other tribes from outside came and took our chances in the township. I cannot mention the names of the tribes but they have really taken all our chances in Moyale Township. So we do not even have an assistant chief, chief or even councillor. We have nothing.

Ms. Belinda Akello: Just to clarify, none of the people from Somali have applied?

Mr. Abdullahi Ahmed Yussuf: Never! No, before we applied for chief and assistant chief but did not get any.

Ms. Belinda Akello: For how many years were you a teacher?

Mr. Abdullahi Ahmed Yussuf: After my retirement, it is 11 years. I was a primary school teacher for 35 years.

Ms. Belinda Akello: Which school?

Mr. Abdullahi Ahmed Yussuf: Moyale Township, Isiolo Full Primary School, Marsabit Full Primary School, Wajir, Full Primary School, in Laisamis, Habaswein and very many places.

Ms. Belinda Akello: I say you must have been a very influential person.

Mr. Abdullahi Ahmed Yussuf: I used to advise only.

Ms. Belinda Akello: So, you can say the Somalis have also taken part in education and they also get chances to go to school?

Mr. Abdullahi Ahmed Yussuf: I was the first local teacher in Moyale. I was a local. My students are around here and they are old people now. I am very proud of them.

Ms. Belinda Akello: Thank you very much. I must say we are also very proud of you for what you have done.

That is all that I had for him. I will hand you over to the Commissioners.

The Presiding Chair (Commissioner Chawatama): Commissioner Dinka, do you have a question for this witness?

Commissioner Dinka: No.

The Presiding Chair (Commissioner Chawatama): Thank you. I just have one question; the boys you said were rounded up, your students, what was the age range? They were from what age to what age?

Mr. Abdullahi Ahmed Yussuf: Up to standard seven. They were picked from different classes. I was looking at the vehicle. It was in March 1967. They were thrown into the army vehicle. They were students in Standard One to Standard Seven.

The Presiding Chair (Commissioner Chawatama): If we were in Zambia, I would say thank you *kafundisha*. If I was in South Africa I would say *Umfundisi*. Since I am here I will say *mwalimu asante sana* for your testimony. We have enjoyed listening to you. The information you have given us is very useful.

Mr. Abdullahi Ahmed Yussuf: I have got one song jus to welcome you.

The Presiding Chair (Commissioner Chawatama): Please, could you sing for us that one song.

(Mr. Yussuf sung a song)

Asante sana. A song always brings joy, even if you do not understand the words; just by looking at your face I could tell it was a joyful song.

Hearing Clerk, could you call the next witness?

(Ms. Zainabu Hiyesa took the oath)

Ms. Belinda Akello: Good afternoon Zainabu. Please, just state your three names.

Ms. Zainabu Hiyesa: My names are Zainabu Hiyesa.

Ms. Belinda Akello: Thank you very much. Where do you live?

Ms. Zainabu Hiyesa: I live in the Dabel.

Ms. Belinda Akello: Have you ever met anyone from the TJRC before?

Ms. Zainabu Hiyesa: I have never seen them or met them. I live in Abadia.

Ms. Belinda Akello: Have you ever recorded a statement with an officer who came to you to say what happened to you some years back?

Ms. Zainabu Hiyesa: They have been to Dabel and I have seen them for three days. They called me and I came to them.

Ms. Belinda Akello: Thank you very much.

Ms. Zainabu Hiyesa: They took the statement from me and wrote my name too.

Ms. Belinda Akello: What you told these people from the Commission when they came to you, is it something you are able to repeat in front of everyone today? Are you comfortable to repeat it today here?

Ms. Zainabu Hiyesa: I can do it.

Ms. Belinda Akello: Thank you very much Mama Hiyesa. We will be very brief; we will particularly refer to something that took place in Dabel. It took place in 1965 when you were still a young lady. Some people came to where you leave. Can you please tell us something that happened around the fourth month of 1965?

Ms. Zainabu Hiyesa: I can say what the Government did. I can say it all affected women and children. I can say it.

Ms. Belinda Akello: Please, tell us what happened on that day from morning, and who came and what took place there.

Ms. Zainabu Hiyesa: We live in Gola. At that time four cars came. They took men away. They left the women. Most of them had one kid. The army took us away. They killed some. If you refused they took you by force. They took 15 women and another six. They took us to a place called Ndhidh Adhani for 15 days. One soldier held my right hand and the other one held my left hand and another held my left leg. They just raped us. They did not see us as dead but they just raped us for six hours. This was until midnight. At some moment they left us for a minute and then other people raped us. For the first five days, four people were unable to wake up, and one died. They brought a camel and took them away. Two of the women miscarried.

They took nine women from there. They were all sick. They could not even sit properly, because they had been raped so badly. Six of them got divorced because the husbands did not accept them back. I have given birth to one kid and from that day my husband left me, and up to now I do not have another kid. Twenty women were not able to give birth again. They usually chose the beautiful ones to rape. We passed through that and then they killed all the men and burnt them. They told the men to bring all the cattle. They torched all our houses and for five days, they raped us. They took us to their borehole and left us there.

The mothers of nine of the children were so sick, because they were raped. They were left there because they could not walk. They were not dead, but because they could not walk

and the men could not carry them, they left them there. We have never had somebody to tell this story. We lost everything.

Now that we have heard that you are here to hear from us, there is a Borana saying that if you are beaten and you see somebody whom you know, you will cry. Now we are crying out because you are here to listen to us. I feel like crying now when I remember those things. I am so sad that I feel like crying. All the women who went to fetch water, water the animals and fetch firewood were raped. All the Sakuye women were raped. All women were raped. Most of the women were raped and most of them died.

I do not have much to say. There is a saying in Borana that when a cow runs crying it cannot cry loudly because it is running. You can ask me what you feel like asking.

Ms. Belinda Akello: Thank you very much Mama Hiyesa. We know that this is very painful. We empathize with you and salute your courage. If you feel you need a break at any point you are free to inform us. If you would like to continue you also inform us.

Ms. Zainabu Hiyesa: I want to stop a bit.

Ms. Belinda Akello: You can console her.

The Presiding Chair (Commissioner Chawatama): Those in the front row, silence, otherwise I will ask you to leave!

Ms. Zainabu Hiyesa: I have to say this, all the women I am talking about are dead. All of them are dead and we have left them behind. My sister was among them. My aunt was there. All of them, we have forgotten about them. We have left them there.

We were taken to a place called Dhidhanani. We were taken from Gola to Dhidhanani. Our houses in Gola were torched. They burnt down all our huts. They raped us in a place called Dhidhanani. It has a water pan. They raped us at the water pan. They took three; two miscarried and one died immediately.

For the women who survived, nobody was able to give birth again. They were army men. They came in four trucks.

Ms. Belinda Akello: What was the reason for the army to come in four trucks to Dabel Was there any event or operation? Why did they come and take the men away?

Ms. Zainabu Hiyesa:: They were looking for *Shiftas*. We are the citizens who live in the bushes. We are not near a town. They found us in the bush where we lived. Buna Town is not near. They then asked us why we were living there. They told us to go and take all the cattle because they were moving us to Buna or Moyale. Now when men went away, they took all the women out. They chose some and took them. We were from six manyattas. They chose from the six manyattas. Some of them are here with us. We were together.

We have nine who survived, and we are with them here now. That is what the women went through.

Ms. Belinda Akello: Were there any *Shiftas* in your household.

Ms. Zainabu Hiyesa: None of them was there. None of them went to hospital. We did not know about hospital, because we lived in the bushes. We only knew about the animals and not anything else. Moyale was far from where we lived and we could not go there. The place called Dhidhanan was so far. We did not have any medication, but sometimes we slaughtered animals so that we drank blood. We were given some herbs and we did not go to hospital.

Ms. Belinda Akello: Presiding Chair, kindly guide us.

The Presiding Chair (Commissioner Chawatama): Let her give her testimony, so that when we ask questions either of them can respond.

Ms. Belinda Akello: Thank you very much Hiyesa. We are now going to swear Halima. You will sit where you are. We will ask Halima to also speak, and after that the Commissioners will ask you a few questions.

(Ms. Halima Martille took the oath)

Ms. Belinda Akello: Good afternoon. Please, tell us your names.

Ms. Halima Martille: My names are Halima Martille.

Ms. Belinda Akello: Where do you live?

Ms. Halima Martille: I live in Gola.

Ms. Belinda Akello: Halima, have you ever met any people from the TJRC, who came to see you in Gola?

Ms. Halima Martille: I have seen them. They asked us some questions.

Ms. Belinda Akello: These people came and asked you about the incident that Zainabu has just talked about. Are you comfortable to tell us in front of people what happened or you would like to do it in private?

Ms. Halima Martille: I can say it all clearly. Whatever Zainabu talked about I can say.

Ms. Belinda Akello: Can you take this Commission through what you remember happened in April 1965?

Ms. Halima Martille: I cannot say the year because I am illiterate; however, I can say what we went through. We went through a lot. They tortured us and traumatized us. They killed people. They torched our huts, took away animals and raped us. They came in four trucks. When they met us, all of them tried to rape us.

One pulled my legs and the other one pulled my hands. Some of us were not even able to wake up from there. Some of them died due to the rape. I miscarried a three-month old pregnancy. Up to now, I cannot even touch my stomach; it is so painful. Up to now I have not conceived. Even sitting in front of all of you here is due to what we went through because of the Government.

Ms. Belinda Akello: Do you know why the Government would do this to you?

Ms. Halima Martille: I do not know why. This was because we used to take our animals to the bushes. We were found fetching water and firewood, and taking the animals for grazing. They took everything. I cannot say why. They took us away in the four trucks and then raped us for five days.

On the sixth day they took us back to our place. Some of us were given blood and treated with herbs. Some died and others survived. We do not have lives. Up to now I have not conceived. Twenty women have not been able to conceive from that day up to now.

And they were treated with herbs. Some of them died but others survived. We do not have life. Up to now, I have not conceived. Most of us have not because 20 women were not able to conceive from that day up to now.

Ms. Belinda Akello: Ms. Halima Martille, were you taken to the same place as Zainabu?

Ms. Halima Martille: I lost my parents and sister. I lost all my relatives on that day. It is only that I survived. I am alone. I lost my descendants. I am under a lot of trauma, day and night. The Government of the day used force to torture and persecute me, but they never looked back at what happened to me.

Whoever has pain cannot explain properly what he or she is undergoing. We even forget what we have undergone. We have suffered a lot. Since then, I have never conceived. I feel pain in my abdomen. They separated us. Ten men sat on my head and legs. I could not look left or right. Some were even putting soil in our private parts saying: "Fill with soil". They filled us with soil and left us. We are human beings. We did not die, but we removed the soil and went away. We were smelly and dirty as a result of what they did to us. Some of our people were left to die in the bush while others walked long distances.

Nobody took us home. We were left several miles away to die. Some of us were carried on camels, but others died there. We feared that even our men would never come to see us. I have never seen my father since that day. I have never seen my brother since then. I have not seen my children. We have a lot of pain. We ran away to Somalia. We became refugees there. The Government of Kenya never cared about us. The other day we heard

that there are people who are willing to listen to our problems. They took our names and that is how we came here. We do not know what mistake we did to be tortured like that.

Ms. Belinda Akello: We know that this happened a long time ago but what would you want the Government to do for you today so that what happened does not happen again to your children or any other women? What do you suggest as your recommendation to the Government?

Ms. Halima Martille: I expect the Government to compensate all of those whose people were killed. We lost lives. We want the Government to compensate us. We want reparation.

Ms. Belinda Akello: What reparation, Halima?

Ms. Halima Martille: We do not know what they will give us, but we know it is only God who can fully compensate.

Ms. Belinda Akello: Zainabu, what is the one thing you would ask of the Government to help you and your children at home to help ease your suffering?

Ms. Zainabu Hiyesa: I am representing my tribe and all the women who were left behind. The dead are dead. I want all those who are alive to be compensated and given something. I have sisters and aunts. Nine of my relatives are dead. My mother died. I do not know what to say. Whatever my tribe will be given, I will be satisfied. The Government may not be able to compensate all of us, but they should give us something to relieve our pain. Whatever the Government gives us, I will take. It is only God who can fully compensate. We want justice to be done. God is with us because there are people who are hearing us. When people ask us what happened, it is like reliving the same day. It is like a person who suffers in the hands of strangers and then sees his own people. He cries the tears of joy. Those are the tears of joy I am crying. I leave the rest to the Government.

We had forgotten all these things. We are even wondering why we are being reminded of this kind of torture we went through. It did not happen to one or two people but to almost the whole of Sakuye Community. We need to conceive again because we do not have children at the moment.

Ms. Belinda Akello: Hon. Commissioners, let it be on record that the two witnesses gave names of 15 to 30 women who were raped. For purposes of confidentiality, we may not need to read the names.

Commissioner Shava: Leader of Evidence, perhaps, you could ask whether the nine women she came with would want to rise so that we acknowledge them. If they do not want, this could take place in the women's meeting. The choice is theirs.

Ms. Zainabu Hiyesa: One is here. The rest are in town.

Commissioner Shava: We would like to acknowledge one of the women who is in the crowd.

On behalf of the TJRC we would like to acknowledge the three ladies who are present. We acknowledge their suffering and pain. We thank you for your courage to come and testify before us this afternoon. We know that it has not been easy. You have expressed that this is pain that you forgot and we have reminded you. We are also aware that in a lot of instances, healing has not taken place. We are grateful that you have said that you feel better because you have spoken to us. May this begin the healing process in your lives. With everything in life, there is a time and a season.

In the Commission, we believe that when you heal a woman you heal a family, community and a nation. Your testimony is important because you represent a lot of women in this nation. Your testimony will help heal a lot of women. We are so grateful that you chose to give your testimony in public. This is because men need to understand some of the things that women go through, especially the pain that they suffer. Sometimes men forget that they are carried and delivered by women. You have reminded man that he is borne of a woman. You have reminded women that what happened to you could so easily happen to them and that they should share in your pain and pray that this does not happen again.

I will give a chance to the Commissioners if they have any questions or any words of encouragement.

Commissioner Dinka: I have no questions as such. I want to take this opportunity to thank the ladies for the testimony. I want to salute and encourage them. I want to empathize with the pain and suffering they have gone through. We are sorry that you have to remember this thing again. But we hope and pray that by talking about it today, your pain and suffering will lighten. Your voices will go out to the rest of Kenyans in the Republic so that they will know and familiarize themselves with your sufferings and do whatever they can, wherever they can, to make sure nothing like this happens again to any woman.

Thank you for enlightening us. Thank you for your courage.

The Acting Chair (Commissioner Namachanja): My aunties, Halima, Zainabu and the others, let me join my fellow commissioners to thank you for your courage by coming here to share with us your painful past. Some of the women were not able to see the children. Zainabu, your husband left you as if you are the one who invited the men to come and rape you. You have said that your tears are tears of joy. We feel honored that we are the ones who were to receive such tears of joy. It is the main reason why this Commission was set up. Kenyans like you have gone through a lot and you needed space to share. I am sad, but I am happy that you got a chance to share today. Some critiques have accused us of opening the wounds. As if the wounds were ever healed. The wounds were not healed. The wounds are full of painful pus like what Halima, Zainabu and other

women went through. Today they have burst the wound and the pus has come out. However, the wounds need cleaning and treatment. Some of the treatment they have prescribed themselves. I am happy that there is somebody from the National Cohesion and Integration Commission and the Ministry that will be in charge of ensuring the implementation of the recommendations of this Commission.

For both Zainabu and others to heal, they will need some little compensation for their people. Those are the recommendations that this Commission will come up with. We will not sit down and imagine recommendations and put them down. Each recommendation will come from the victims and we hope they will be respected.

We cry with you, but you are the ones who went through the pain. Thank you so much for appearing before this Commission.

Commissioner Shava: Leader of Evidence, we would want to shake the hands of these great women and then we shall proceed.

Ms. Halima Buru Ado: I have something little to say. I can say truly that there were four trucks and they took us for five days. I was raped by ten men. You can look at my leg. I have some scars which occurred when they were trying to rape me. I was strong. I was fighting, but they stepped on my legs. One was holding my head down. They tried to pierce me with some---

For five days they were raping us. They only gave us one hour. We were not able to sit or bring our--- I am sorry to say this, but I have ever seen a donkey do that, but not a man. They were forcing us to do things that I have never seen. They would beat us. That is what the Government did to us. I can say that it is the Government. Up to now, I can say we are refugees. We have come from Somalia and we do not have Kenyan identity cards. There is unemployment amongst us. As we sit here, if it were not for the Boranas, we would not have survived. We were being rescued by the Borana. We give thanks to the Borana. The Government has made us refugees. That is all I can say.

Commissioner Shava: Thank you very much. Next witness!

(Mr. Edwin Gababo Jilo took the oath)

Ms. Belinda Akello: Please, state your three names.

Mr. Edwin Gababo Jilo: My names are Edwin Gababo Jilo.

Ms. Belinda Akello: Where do you live?

Mr. Edwin Gababo Jilo: I live in Moyale.

Ms. Belinda Akello: Which community have you come to represent today?

Mr. Edwin Gababo Jilo: The Gabbra Community.

Ms. Belinda Akello: Since today morning you have seen the speakers who have been here and they have given us an elaborate history of Moyale and all the major seven tribes that we have been presented with. On behalf of the Gabbra, briefly state to us what has not been stated by the other elders since morning, especially issues that have particularly affected the Gabbra who live in Moyale.

Mr. Edwin Gababo Jilo: With regard to the brief history of the Gabbra, these are pastoralists who rear livestock. They are nomads and they move from place to place looking for pasture and water. They move depending on time. Almost 95 per cent are pastoralists. Before Independence, people were peacefully settled. It is during the pre-colonial period that the Gabbra had representatives in Chiefs. When Kenya got Independence, the Gabbra lost their representatives. There was no Chief or Assistant Chief in Moyale from the Gabbra community.

After Independence, war erupted. We had the *Shifita* War. In 1965, at a place called Kochore a manyatta was attacked by armed forces and five people were killed. Many others were injured. Instead of the Government protecting us, they started beating us up and torturing us. The women were raped. It became a double tragedy because the *Shifita* would come to take our property and the Government would attack us. We had nowhere to go. The first Manyatta that was attacked was called Kochore. By that time, it belonged to the Guracho Sacco of the people. There was another manyatta called Rabale. I think by then it was in Oda Location. It was attacked by the *Shiftas* and 20 people were killed and 30 injured. Some of those who were injured could be present here. Women were raped, men castrated and camels shot. It was difficult for us to take our camels out in the open. We kept our camels off the road. It was hard for people to access food and water. We depended on rain. Some people died of thirst.

When the *Shiftas* attacked people, we were forced to move to Oda where we settled for a while. The armed forces came there. All our wealth was taken away. People looking after their livestock were shot dead. It was alleged that anybody found out in the night was a *Shifita*.

In 1966 there was war. People came from the lower side of Butia and Helu. Our livestock got lost and upon reporting the matter to the police station, the police attacked us. These are the things I used to see. I was eight years old. In 1967 people were attacked. Men were castrated and women raped. We were taken at one place and all our animals were taken away. People were left very poor. Some people went to Ethiopia and others Somalia. Some joined other tribes and we cannot even recognize them.

In the 1970s, changes in the Government of Ethiopia brought other changes in our lives. When Haile Selassie was ousted in Ethiopia things fell apart. The *Shifita* came to attack us. The war begun in Ethiopia and came to our side. Instead of the Government coming to protect us, it came to torture and traumatize us. All the wealth we had collected from

1967 to 1973 was now taken away by the Government and some of it by the *Shiftas*. We reverted to poverty.

In 1973 a curfew was announced. All our livestock was taken to Nana. Almost 10,000 camels were taken to Ethiopia. The owners were imprisoned. Nobody was to get out after six in the evening. That is the time robbers attacked us. Things changed from bad to worse. There were elders who tried to question the situation. An elder from Borana called Sharam Ali was one of them. There was also Mzee Ali Hapi. They would question why we were being detained without charges.

We could not understand but we did not know what really happened. This is because by now life was changing; women were being raped, men were being detained. There was one day we woke up in the morning and almost 80 people were arrested and taken to prison. The women were raped while some people were locked behind the bars. We do know where others were taken to until today. The properties of the 80 people who were arrested and jailed were taken by people. Some of them could not know where their children were because the children ran away for their life. Some children ran to Ethiopia and that is where they are until today. They are traumatized by life in Ethiopia.

When these people came back from prison, because life had changed, they could not do anything. Even their children had run away and it was not easy to know where they had gone. That is what happened. You have to understand that when things happen like this and yet we have leaders, people develop hatred amongst themselves. This may arise when, for example, you have a neighbor whom you are not in good terms with. The unfortunate thing happens when tension develops between the family members or between the neighbours. So, instead of the Government trying to find out the truth of the matter, they decided to attack the other people who got injured to the extent that it becomes very hard to understand the motive.

Sometimes the Kenya Government fails to be in control because of politics. This is because people in position may not be members of the other community. For example, since Independence, the Gabra Community has never elected their own as a Member of Parliament. Any community that has not supported a person from the other community could be detained because of political reasons. So, the political differences are the ones which have brought all these, including the Shifta war. People were mistreated and tortured. We do not get time to express our frustrations. We are not given education and those who are educated are not given jobs. When the reign of Mengistu Haille Mariam of Ethiopia ended, life changed a bit.

When the elders asked for identification cards, they would be arrested and imprisoned and then they would never get identity cards. Anybody from the marginalized tribes could not be given identification cards because if they got, it would have been considered giving them liberty which was considered wrong.

Ms Belinda Akello: Is this what you are referring to?

Mr. Edwin Gababo Jilo: Yes, that is what I am trying to refer to. The ----.

Ms. Belinda Akello: And, the comment is that this person has not been able to get an identity card despite the fact that he provided evidence of having acquired the first Kenyan certificate of identity and his children have not been able to get the Kenyan identification card. Ungependa kupeana hii kwa Tume?

Mr. Edwin Gababo Jilo: Hii ninapeana kama ushahidi kwa Tume.

Ms. Belinda Akello: Kindly, admit the copy of the certificate of identity.

The Presiding Chair (Commissioner Chawatama): It is so admitted.

Ms. Belinda Akello: Councillor, you have also provided a written memorandum submitted by the Moyale Gabra Community elders to the Truth, Justice and Reconciliation Commission (TJRC), relating to the systematic deliberate atrocity and injustice committed against the Gabra community. Would you like to present this to the Commission?

Mr. Edwin Gababo Jilo: Ndiyo! Hiyo ninapeana kwa Tume.

Ms. Belinda Akello: Thank you very much. Commissioners, kindly note that this is a document that contains names of persons who were killed and they are in the statement that has been provided by the witness. Could you also admit the whole document?

The Presiding Chair (Commissioner Chawatama): The document is so admitted. Thank you.

Mr. Edwin Gababo Jilo: Due to the changes that came to erupt after the Government of Mengistu Haille Mariam of Ethiopia was ousted, we experienced some changes. There was war between the communities from both sides of the border. We had Gabras in Ethiopia and in Kenya, and the Borans in Ethiopia and also in Kenya. War erupted between the communities and the people fled from that area. This was in 1991.

Ms. Belinda Akello: The Gabra and the Borans across the border?

Mr. Edwin Gababo Jilo: We live on both sides of the border. We have the Gabra and Boran in Kenya and also in Ethiopia. So, when the war between the communities erupted, that is the time people killed each other. Their property was looted and then we had a lot of problems. That is the time the armed forces and Kenyan police raped women. It is not easy for the victims of rape to come out and say what happened to them. There are women who were tortured and were traumatized who ran into the forest. They did not know what was happening. We have an area known as Mokayo or Bokayo and another one called Isafaking where these people were stripped off their clothes. This is the area where people struggled over land. These people may be alive but they do not have information about the TJRC.

These 80 people were taken by the Kenya police. By that time the officer who was in charge was known as Nderitu. People were jailed for four years, others two years and one year. Others have not even come back.

We have an old man known as Olia Agar, who was over 70 years, even his children are here and they do not know where that old man is until this time. There is another one known as Bwanande Gale Hassan, he is a person who lived in the Manyatta of the Gudie. We do not know where he is until now. We have some women who have given birth in the prison with children who are emaciated and are not healthy. I could show you some of these people in Henu. I have relatives who have gone insane. Such are the kind of problems that came in.

The Presiding Chair (Commissioner Chawatama): Who was called Chief Ahmed Farah and also known as Wario Guracha?

Ms. Belinda Akello: You mentioned him in your memorandum, what did he mastermind or what did he do?

Mr. Edwin Gababo Jilo: He was a chief by that time. So many things happened which were blamed on him. When there was the issue of identification cards, he was the chief. All the properties which were taken from Nana were taken to him and we do not know who was given that property later on.

Ms. Belinda Akello: Are you ready for questions from the Commissioners at this point?

Mr. Edwin Gababo Jilo: Niko tayari.

Ms. Belinda Akello: Thank you. Hon. Commissioners, I have completed my questions.

The Presiding Chair (Commissioner Chawatama): We would like to thank you for your testimony. You have represented your community. I have briefly looked at the memorandum and it has very useful information. May be you could just answer one question on the experience of the children. You were a child then. When all this was happening, what went on in your mind at the age of ten years; as a child?

Mr. Edwin Gababo Jilo: First, it was very hurting, although it could not hurt me personally because I was young. When I saw women being raped, it hurt me. It also hurt me when I saw men being castrated. It was very painful to me. When I see such things happening now, it makes me feel pain. By that time I thought in my mind; where could we get justice so that such kinds of violations of human rights could be highlighted around the world.

The Presiding Chair (Commissioner Chawatama): We are here because we want the historical injustices to be addressed and there are a lot of Kenyans and members of the international community who will get to know your testimony and what happened. So,

you may see this time as an opportunity where outsiders will get to know what happened to your community; all the atrocities that you have suffered. So, what was just a thought or a dream has now come to reality. We were appointed for this very reason to come and, on this day, to listen to your testimony.

Thank you very much for sharing your testimony with us.

(Mr. Edwin Gababo was stepped down)

(Izaak Aden Kiti took the oath)

Ms. Belinda Akello: Kindly state your three names for the record.

Mr. Izaak Ahmed Kiti: My names are Izaak Ahmed Kiti.

Ms. Belinda Akello: Hon. Commissioners, the witness ----

The Presiding Chair (Commissioner Chawatama): My concern, leader of evidence is that we ask people to come in today and then we end up frustrating them by not hearing them. So, there always must be a reason why.

Ms. Belinda Akello: Can I proceed?

The Presiding Chair (Commissioner Chawatama): Please do.

Ms. Belinda Akello: Hon. Commissioners, this is Moyale 004; Izaak Ahmed Kiti. We shall proceed right now. Bwana Izaak, where do you live?

Mr. Izaak Ahmed Kiti: I live in Moyale Township.

Ms. Belinda Akello: Mr. Izaak, do you remember recording a statement with the Commission?

Mr. Izaak Ahmed Kiti: Yes, I can remember.

Ms. Belinda Akello: In November, 2010, you recorded a statement with the Truth, Justice and Reconciliation Commission (TJRC).

Mr. Izaak Ahmed Kiti: Yes, I can remember everything.

Ms. Belinda Akello: Please take the Commission through your statement.

Mr. Izaak Ahmed Kiti: I have a brief statement. The first thing I thank God the Almighty for enabling me to be here. Secondly I thank you all for being here to listen to us. Thank you so much for giving us a chance to talk to the Commission. Nine of us were caught in Moyale when we were sleeping. They took us to Meru for six months and up to

now, I am still sick. It was so cold in Meru. They used to lock us in a room while they drank too much. We were put in an enclosure and treated like hens. We used to sleep on the floor. It was so cold and yet we did not have anything to cover ourselves except the cloths that we were putting on. The cold made us sick. I have been to all the hospitals seeking treatment. We were tortured so much. They took then us to Isiolo and then brought us back here. They used to carry us like firewood. That is what we passed through. We are very sick! I have gone to all hospitals and ended up wearing my body out. You can even see it for yourselves that I have scars. Could somebody wake up and see? I have gone to all doctors and I have all the documents from the hospitals. I have attached a copy to the statement that I recorded.

My body was burnt with fire. I cannot go to the washroom without a stool because I cannot squat. I am usually on a wheelchair because I cannot walk; I am now crippled. I do not have a backbone or legs. If you look at my nails, you will wonder. Could somebody stand up and see?

(The Commissioners stood to look at Izaak's body)

I was unable to sleep on the cold floor. I have gone to all hospitals but the doctors have been unable to tell me what I am suffering from. I cannot walk; I use a wheelchair. I have been in this state for the past five years. In August last year, I was taken to hospital---

Ms. Belinda Akello: Hon. Commissioners, the witness has adduced twelve sheets as exhibits. These are receipts from hospitals and different medical institutions including the University of Nairobi Radiation Form. Kindly admit them as evidence.

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

Ms. Belinda Akello: Mr. Izaak, before we proceed, you did record two statements with the Commission. You have talked about the first statement where you have stated what happened to you. Before we ask you questions, kindly touch on the second statement that you wrote about your land and your house.

Mr. Izaak Ahmed Kiti: We were chased from Bute. Anybody who belonged to the Gare Community was evicted. I have eleven plots. The twenty rooms which I had built there had the iron sheets removed. That place is being occupied by different people. I am not the only one who lost land but the whole Gare community. I have lodged complaints with regard to the plots in court. The court is yet to set a hearing date.

Ms. Belinda Akello: When did you write the statement about your land?

Mr. Izaak Ahmed Kiti: On 20th of this month. It is not written; I just went there to confirm whatever had been passed. The issue is still under police investigation. It is only on one plot.

Ms. Belinda Akello: *(Inaudible)*

Mr. Izaak Ahmed Kiti: It is not the DC; it is the court and the police. When I went to the DC of Bute, whose name I do not know---

Ms. Belinda Akello: When you went to the DC in Bute, were you assisted?

Mr. Izaak Ahmed Kiti: I called the Chief who told me to go and talk to the DC and when I talked to the DC, he told me that he could not do anything. I went back to the Chief and told him what the DC had said. I just gave the Chief the statement and I left.

Ms. Belinda Akello: Hon. Commissioners, the witness has actually applied for a vacation order from his land and there is a certificate from the High Court whereby one Mohamed Ibro Godana was taken to court by the witness and a certain amount of money was paid. The witness did apply for an execution of decree, but I am assuming that an appeal was also lodged on the same and the case is still on-going in court. The witness has provided documents to the same effect and with your permission I would like to admit them.

The Presiding Chair (Commissioner Chawatama): The documents are so admitted and I suggest that a search is conducted at the courts so that we can find out the status of the matter.

Ms. Belinda Akello: Bwana Izaak, do you know the name of the person who took your house?

Mr. Izaak Ahmed Kiti: He is called Mohamed Ibro Godana.

Ms. Belinda Akello: Thank you very much. I just have one question and I am going to go back to the first statement that you gave the Commission about the torture and detention. While in detention, were you taken to hospital, or did you go to hospital on your own?

Mr. Izaak Ahmed Kiti: Nobody took us to hospital or gave us any medication.

Ms. Belinda Akello: The first time you were arrested you went to Timau and Meru. Others were taken to Meru you were taken to Nkubu. How many times were you arrested?

Mr. Izaak Ahmed Kiti: I was taken from Moyale, then we spent in Isiolo then from Isiolo, we went to spend the night in Timau and then we were taken to Meru. That was just like somebody who was being forced to travel.

Ms. Belinda Akello: Were you released from the cell or how did you get out of the cell?

Mr. Izaak Ahmed Kiti: Since there was no case to warrant us to be taken to court, we were just held in the custody of the police. We were not interrogated because we were innocent and then we were taken back.

Ms. Belinda Akello: Do you know a place called Bugane Field, as you have indicated in your statement?

Mr. Izaak Ahmed Kiti: Where is Bugane? I do not know Bugane.

Ms. Belinda Akello: You had indicated that after you were arrested and put in a cell, the Provincial Commission (PC), Koinange came for a releasing ceremony and you were all at a place called Bugane Field, where you were paraded. Is this a true statement of fact of what happened to you?

Mr. Izaak Ahmed Kiti: When the DC came, he said that we should be taken home. He queried why we were there. We were ferried by vehicle and left in Isiolo. He then brought us here, tortured us a lot and then released us. He is called Koinange.

Ms. Belinda Akello: Thank you very much for your statements. Hon. Commissioners, that is all from my desk. The witness did record two statements.

The Presiding Chair (Commissioner Chawatama): I guess the person who is seated next to him is his son and I thought that he could also testify so that we could question them once and for all.

Ms. Belinda Akello: Much obliged. Bwana Izaak, you have come with someone---

Mr. Izaak Ahmed Kiti: He will give his testimony because he was castrated. He will tell you his ordeal. He can talk.

Ms. Belinda Akello: Who is the person that you have come with Bwana Izaak?

Mr. Izaak Ahmed Kiti: He is called Mohamed Haji Izaak Ahmed.

Ms. Belinda Akello: Are you related in any way? How do you know him?

Mr. Izaak Ahmed Kiti: He is my son.

Ms. Belinda Akello: Could the hearing Clerk, please swear in the Witness.

(Mr. Mohamed Haji Isaac took the oath)

Ms. Belinda Akello: Thank you very much. Kindly, state your three names for the record.

Mr. Mohamed Haji Isaac: I am called Mohammed Haji Izaak.

Ms. Belinda Akello: You have come alongside your father as he has stated. You have heard about the events we have dwelt on before this Commission. Kindly give us any information you have that pertains to the matter that we have heard today?

Mr. Mohamed Haji Izaak: I am called Mohammed Haji Izaak. I was born in Moyale and I started my primary school in Moyale D.E.B in 1973. I went up to Standard Four in 1976 and because of these skirmishes and these attacks, I was injured.

I was kicked on my back until I felt that there was a dislocation on my back. During that time, we were even afraid of going to hospital because anybody who was found here was called a *shifita*. So, I came back home, where I was treated using herbs. The herbalist tried to carry out a minor surgery on my body to remove some blood. I could not go back to school after the holidays. I came to continue with studies here in the month of May. Before the term ended, my dad came back. During the third term, I went back to Mandera. That is where I completed my primary education, after which I joined secondary school there. That is how I got educated.

Due to the torture I went through, I got badly injured, but I did not understand what caused all this. In 1990, I went for scanning in Nairobi, and it was found that there was a dislocation on my back. The doctors told me that there was no way in which they could help me. They told me that there were dark veins on my back and, therefore, I could not be operated on. So, they advised me to continue living like that. They also advised me to reduce my weight. That is how I live. When my dad came back, life changed. I always tried to take him to Nairobi hospitals and Sololo Hospital. After every two years, I had to take him to a hospital in Nairobi. Lastly, I took him to Nairobi last year, in August. There is no hospital I have not taken him to. The only medicines they give him are painkillers.

He is now paralysed and is using a wheelchair I purchased for him. His life has totally changed, and it has become hard for him. He decided to go back to herbal treatment. He decided to massage himself using warm water, and he can now stand and try to walk. He has undergone all those problems but, personally, I have never complained a lot. I live in the village. He included me in a memo as a witness, so that I could come and explain what happened to us. That is why I am here today. He lives here while I live in another part of the country.

Ms. Belinda Akello: Were you ever able to find out why your father was arrested in the first time?

Mr. Mohamed Haji Izaak: At the time people were called *shifitas*. I think that was the only reason. He was a businessman. He has a shop here.

Ms. Belinda Akello: You said that currently, you live in Eldoret?

Mr. Mohamed Haji Izaak: Yes.

Ms. Belinda Akello: What do you do in Eldoret?

Mr. Mohamed Haji Izaac: I am a businessman.

Ms. Belinda Akello: You said that when you were informed about your father's arrest and came back, you were taken to the police station and arrested. For how long did you stay at the police station, during which time you were beaten?

Mr. Mohamed Haji Izaac: When I was arrested, they took me to the police station, where I was beaten up. I spent the whole night there. I was released on the next day.

Ms. Belinda Akello: The Commissioners will also want to ask you a few questions.

Commissioner Dinka: What was it that the police were asking you about when they took you to the police station and interrogated you? What exactly were the questions?

Mr. Mohamed Haji Izaac: In the night of the day I arrived from school for the holiday, they arrested me and took me to the police station. They said that I had come from the *shiftas*. That was the only reason as to why I was arrested. At that time, I was in Standard Six.

Commissioner Dinka: Which year was that?

Mr. Mohamed Haji Izaac: It was in 1978, during the April holidays.

Commissioner Dinka: There is a mistake in this document. It says "1997" for some reason.

Mr. Mohamed Haji Izaac: This is my statement.

Commissioner Dinka: So, this document should be corrected because in 1997, there was no *shifita* war. If it was in 1978, I can understand.

Mr. Mohamed Haji Izaac: Thank you.

The Acting Chair (Commissioner Namachanja): Mr. Izaac, in 1997, we had a general election. Did your family have any political ambitions?

Mr. Mohamed Haji Izaac: No.

The Acting Chair (Commissioner Namachanja): So, the arrest was never connected to the elections.

Mr. Mohamed Haji Izaac: In 1976, I was taken to school, in Standard Four.

The Acting Chair (Commissioner Namachanja): Thank you.

The Presiding Chair (Commissioner Chawatama): In relation to what happened to your father, we also seek a little bit of your help. In what year was your father taken away?

Mr. Mohamed Haji Isaac: I think it was in early 1978.

Commissioner Chawatama: Did your father ever tell you the reason as to why he was taken away?

Mr. Mohamed Haji Izaac: They were using the word “*shifita*” to arrest people. There was nothing else. At the time I was arrested, the late President Kenyatta was still alive. He was not dead. Kenyatta died while I was here on holiday, in the month of August.

The Presiding Chair (Commissioner Chawatama): When your father came back home, did anybody take him for medical treatment?

Mr. Mohamed Haji Izaac: I just took him to the nearby hospitals.

The Presiding Chair (Commissioner Chawatama): That was in 1978?

Mr. Mohamed Haji Izaac: Yes.

The Presiding Chair (Commissioner Chawatama): What did the doctor say was his problem in 1978 when you took him to the hospital?

Mr. Mohamed Haji Izaac: I cannot remember.

The Presiding Chair (Commissioner Chawatama): Have you ever compiled receipts to find out how much was spent on his medical bills?

Mr. Mohamed Haji Izaac: We have not compiled any documents because we have not been waiting for any case. I would just take him to hospital and that would be it, because we were expecting nothing like a case.

The Presiding Chair (Commissioner Chawatama): What were your father’s expectations when he gave a statement to the TJRC?

Mr. Mohamed Haji Izaac: I fear that if I say what my expectations are, I may be arrested. I cannot say anything. What I can say is that, for all the trouble I went through, I want compensation.

The Presiding Chair (Commissioner Chawatama): Thank you very much for sharing your experiences with us. It is also very sad to hear that, while you were a young boy, your father was picked up and then you were also brought into whatever problems that, as a young child, you probably did not understand. It has been important for us that we are able to capture the experiences of two generations – that is your father’s generation and

your generation – just to see how certain events can impact a family. We thank you very much for making yourself available, especially for having travelled all the way to this place to support your father.

Let me assure you that nobody will arrest you. This is a Commission which has been set up by the Government to look into past historical injustices, which includes the experiences that you went through, and there will be no arrest because you have been a witness of this Commission. We appreciate your testimony.

Thank you.

Hearing Clerk, can you, please, settle the witnesses and call the next witness?

Mr. Mohamed Haji Izaac: Can I now record my statement?

The Presiding Chair (Commissioner Chawatama): Yes, you can record your statement. You will be shown where to record your statement. We will then know what to do.

Mr. Mohamed Haji Izaac: In case of any inquiry, or in case you need me, I can use your office in Nairobi.

The Presiding Chair (Commissioner Chawatama): Thank you so much. We appreciate that. We actually have an office in Eldoret.

Ms. Belinda Akello: Hon. Commissioners, this is Moyale Witness No.3, Hassan Kuno.

(Mr. Hassan Kuno Ali took the oath)

Ms. Belinda Akello: Mr. Hassan, could you, please, tell us your three names for the record?

Mr. Hassan Kuno Ali: My names are Hassan Kuno Ali.

Ms. Belinda Akello: Where do you live?

Mr. Hassan Kuno Ali: I live in Dabel Town.

Ms. Belinda Akello: What do you do in Dabel?

Mr. Hassan Kuno Ali: I just do my homestead work.

Ms. Belinda Akello: Mr. Hassan, we are grateful for you for appearing before this Commission. We appreciate that you have been here since morning. You have heard the presentation that was made by the councillor since morning about the history of Dabel. You have come in the same light. So, kindly, tell us what particularly happened to you

without repeating what the councillor has said about the history of Dabel and the Sakuye community.

Mr. Hassan Kuno Ali: If I may start with 1963, when Kenya got Independence, in 1964 and 1965, there were several things I underwent. Whenever Government security agents came across the citizens, they tortured them. The people's livestock were taken away and killed. Their women were raped. Bullets were fired at everybody. We move from place to place in search of pasture. We were taken from the grazing fields and brought to Moyale Town. Our animals and human beings died. Many people died in the bush as a result of gunshot wounds they sustained. Some people were beaten with clubs.

Ms. Belinda Akello: Mr. Hassan, you need to restructure your answer. We need you to tell the Commission about what happened to you when you were 19 years old in June, 1965. You wrote a statement about what happened from 6.00 a.m., when you heard the sound of vehicles. So, kindly, inform the Commission what happened on this day and the subsequent events.

Mr. Hassan Kuno Ali: During the incidents that happened in 1965, I lost my brothers, mother and father. Seven of my siblings died in my full view. They were three boys and three girls. All our animals were killed. That is that I have said in my statement.

Ms. Belinda Akello: Who killed them?

Mr. Hassan Kuno Ali: They were killed by the Kenya armed forces.

Ms. Belinda Akello: You said that people came to your place. By what means did they come to your place? Were they on trucks or on foot? How many of those means did they use?

Mr. Hassan Kuno Ali: They came in trucks. I do not know where they came from. They just came by road. They parked the vehicles by the roadside, came out and started beating up everybody.

Ms. Belinda Akello: You have indicated that during those beatings, you lost your two brothers, father and mother. Where were you when the shooting was going on?

Mr. Hassan Kuno Ali: I was there. I tried to run as much as I could to hide myself.

Ms. Belinda Akello: Kindly, inform us what happened in December of the same year.

Mr. Hassan Kuno Ali: So many animals died.

Ms. Belinda Akello: You have indicated that you were detained in December. Why were you detained?

Mr. Hassan Kuno Ali: I was innocent. I had not committed any crime. All our people were called “*shifita*” at the time. They were also called “*maharamia*”.

Ms. Belinda Akello: Where were you detained? Was it in a police cell or in someone’s house?

Mr. Hassan Kuno Ali: I was not taken to someone’s house. I was not taken to a police cell for detention. I was just held in the field. My hands were handcuffed, and I was mistreated.

Ms. Belinda Akello: Were there many people, and was any of you released from that field?

Mr. Hassan Kuno Ali: Some people were released. Others ran away. I could not run away because my joints had been injured. Some were just left there to die.

Ms. Belinda Akello: Were there any deaths when you were in the field?

Mr. Hassan Kuno Ali: There were many deaths. Four people died on the spot.

Ms. Belinda Akello: Were you being fed when you were being held at the field?

Mr. Hassan Kuno Ali: No, what kind of food? We were not being given anything. We were just being killed.

Ms. Belinda Akello: You did indicate that some people were given poisoned meat. Is what you wrote true? Do you know about this?

Mr. Hassan Kuno Ali: It is true. When they came, they injected the animals with poison. They then slaughtered the animals and gave the meat to the people. When people ate the meat, they slept and could not wake up. They died.

Ms. Belinda Akello: Who poisoned the meat?

Mr. Hassan Kuno Ali: It was the police and the army personnel.

Ms. Belinda Akello: How did you personally leave that field?

Mr. Hassan Kuno Ali: People were dumped together at one place. Some were killed by rain and some died of the poisoned meat. Those who were very weak, like me, were left in the rain. There were women and children. We had no animals. Our animals had been taken away. So, we were brought here. We were told to walk. As we walked, the police beat us up. Those who could not walk properly were beaten and killed on the way. The old people who could not walk were left to die as we were being taken to Gurar.

Ms. Belinda Akello: Where is Gurar?

Mr. Hassan Kuno Ali: Gurar is in the North Eastern Province. It is on the other side of Bute.

Ms. Belinda Akello: Do you know a person called “Chief Bulu Golicha”?

Mr. Hassan Kuno Ali: Yes. The police left us at Chief Bulu Golicha’s place. If it were not for him, nobody would have survived. Everybody would have died. That chief was the one who saved us. He bought food and slaughtered a bull for us. He used his people to assist us. All those who survived that ordeal survived because of the help we got from that chief. Otherwise, nobody would be alive today.

Ms. Belinda Akello: Is Chief Bulu Golicha alive today?

Mr. Hassan Kuno Ali: Chief Bulu Golicha passed away. He was an old man. It is only his children who are alive.

Ms. Belinda Akello: Thank you for that information. After you left Gurar, where did you go to?

Mr. Hassan Kuno Ali: While at Gurar, that chief gave us food. We became stronger and then he told us “You can now go, because these guys have gone away.”

From there, nobody told the other where he was going. Everybody ran for his life. After that, we met at different places, but no Government has given us any support. We are hearing from today that the Government sent people to Somalia, but we were not taken to Somalia. We just left for “no man’s land”. The last Government official to deal with us was Chief Bulu Golicha. He was the one who helped us to regain strength and then he told us “You are now free to go.” We did not have anywhere to go. So, we went to unknown places. We did not even know Somalia at the time.

Ms. Belinda Akello: Did you physically go up to Somalia?

Mr. Hassan Kuno Ali: Yes.

Ms. Belinda Akello: For how long did you stay in Somalia?

Mr. Hassan Kuno Ali: I was there for four years. I was there like somebody who went there illegally. We were not recognised by the Government of Somalia as refugees. We just entered Somalia unlawfully and did manual jobs like tilling other people’s land and washing clothes for them. We could not stay there because we had no land on which to farm. So, after four years, we came back to our place.

Ms. Belinda Akello: Had you acquired an ID before you went to Somalia?

Mr. Hassan Kuno Ali: By then, I did not have an ID, but before Kenya became Independent, we used to have the colonial “Kipande”, but the Kipandes were confiscated by the Kenyan armed forces, who destroyed them.

Ms. Belinda Akello: When you left Somalia after four years, did you go straight to Dabel?

Mr. Hassan Kuno Ali: Yes, because that is the only place we know. So, we decided that we should go back to our place. We were about seven families. We carried our utensils with us. We went to the Kenyan Government at El Wak. We asked for food to enable us travel home. So, the CID officers at El Wak bought for us maize meal, sugar and oil, which enabled us to walk up to Dabel.

Ms. Belinda Akello: Do you know someone by the name “Chief Guyo Ali”?

Mr. Hassan Kuno Ali: Yes, I know him very well. He is the Chief of Butie. We came back to Dabel during the dry season. We had nothing. Luckily, there was wild fruit, which looks like honey. We ate that “honey” and stayed there. All the men came together and went to Chief Guyo Ali and told him “We were chased away by the Government, but we had no otherwise but to come back. As the Chief of Moyale, we are in your hands.” He then called the Burji, Somali, Boran, Gabra and all other tribes in Moyale, who brought food in two vehicles. They donated foodstuffs like maize, which was brought to Dabel. That was how we got relief food.

Ms. Belinda Akello: Thank you very much for that clarification. Do you know someone called “Mbiu Koinange”?

Mr. Hassan Kuno Ali: Yes, I know him. We stayed there for some time. There was a severe drought. It was in 1984. We were poor. One day, nine people became unconscious because of hunger. So, we appealed to the area Member of Parliament; the hon. Araro. So, Mbiu Koinange came to Dabel and talked to us.

Ms. Belinda Akello: So, he accorded you, people, some help?

Mr. Hassan Kuno Ali: Yes, he helped us a lot. He saw that we were poor and hungry. He saw that our chief and DO were in Moyale. So, everything that was meant for Dabel came straight to Dabel without going through Moyale. He ensured that we got food for about two years.

Ms. Belinda Akello: Thank you very much, Mr. Hassan Kuno.

Honourable Commissioners, having led the witness, I have clarified my issues. You can now have him for yourselves.

The Presiding Chair (Commissioner Chawatama): Thank you for your testimony, Mr. Hassan. It is so good to hear that there were times in your life when people came to your

rescue. You have mentioned the CID officers, who gave you *ugali*, sugar and oil. You have also mentioned the chief, who slaughtered an animal to feed you and the rest of the people you were with. You also mentioned Mbiu Koinange and another chief. These are some of the success stories we would also like to highlight – that despite the fact that there were some people who did a lot of harm to the citizens of Kenya; there were those who were humane enough to come to their assistance. If they were alive, they would have joined the TJRC in just thanking them for coming to your rescue. I will now ask the Commissioners if they have any questions to ask you.

Commissioner Dinka: Mr. Hassan, thank you very much for your testimony. You were one of the lucky people who were released after only three months of imprisonment. From what we have heard, most people were repeatedly arrested and imprisoned for longer periods and so on. You went into prison in 1965 and three months later, you were released. Having been released only three months after being arrested, it meant that you had no charges against you. What was the reason for leaving in the same year and fleeing to Somalia for four years?

Mr. Hassan Kuno Ali: It is true that I was released because there were no charges against me. I fled because the security personnel had scared us. We were actually chased away. After we were released, we could just have gone back home, but the security personnel said that we could all be killed. So, we had to run away.

Commissioner Dinka: You said that after you were released, you came back to your village, Dabel. Did the security personnel come back and try to threaten you personally or your community, to push you out of Kenya?

Mr. Hassan Kuno Ali: No. When we were released, our people were still in Moyale. Some of us were released, while others were left there. After we went to Somalia and came back, there was no further torture.

Commissioner Dinka: Thank you. I do not have any other question.

The Acting Chair (Commissioner Namachanja): Thank you, Mr. Hassan, for sharing your experiences with us. From which community do you come?

Mr. Hassan Kuno Ali: I come from the Sakuye Community.

The Acting Chair (Commissioner Namachanja): So, you are part of the Sakuye family members that went to Somalia?

Mr. Hassan Kuno Ali: Yes, I belong to that community.

The Acting Chair (Commissioner Namachanja): You said that you were abandoned on “no man’s land”?

Mr. Hassan Kuno Ali: Yes, we were just left in the wilderness, somewhere around Gurar.

The Acting Chair (Commissioner Namachanja): Would you remember how many family members crossed to Somalia?

Mr. Hassan Kuno Ali: I can remember many of them. I can remember that so many people died on the way.

The Acting Chair (Commissioner Namachanja): Were you just men in your group or did you also have women and children?

Mr. Hassan Kuno Ali: There were men, women and children, including babies on their mothers' backs. Except for those who died on the way, the rest of us reached Somalia, but several of them died on the way.

The Acting Chair (Commissioner Namachanja): Could you estimate the number of those who died on the way? Were they mainly women or children?

Mr. Hassan Kuno Ali: Except for those who were beaten up by the soldiers, those who died on the way were mostly women and children. Some men also died, especially old men.

The Acting Chair (Commissioner Namachanja): How did you deal with the dead?

Mr. Hassan Kuno Ali: We did nothing about those who died. They were weak. As we walked on, they were left behind. We were also so weak that we could do nothing for them. So, when we saw that one was dead, we just persevered and walked on. We did not even have the strength to bury them.

The Acting Chair (Commissioner Namachanja): Out of those who crossed over to Somalia, about what percentage returned with you to Kenya? Were any members of your group left in Somalia as you returned to Kenya?

Mr. Hassan Kuno Ali: Up to date, there are some who are in Somalia. The first group that came back to Kenya and returned to Dabel was only of 17 men. Others came back later in small groups at intervals of three months, five months, ten months, *et cetera*. Some came back through other communities like the Ajuran, the Degodia and the Gare. They just came back in disguised ways.

The Acting Chair (Commissioner Namachanja): For those who perished on the way, do you have any suggestions on how you would like us to remember them?

Mr. Hassan Kuno Ali: Yes, the problems they underwent were caused by the Government of Kenya. During that time, the Government did not treat us like human beings. We were treated like animals. We are citizens of Kenya, in Moyale District. We

were branded “*shifita*”. The Government did not differentiate between who was *shifita* and who was loyal citizen. Our women, children and animals could not have been *shiftas*. So, our people were deliberately tortured and killed. From the time we were being taken to the camps, people perished on the way. Therefore, if there is, indeed, going to be truth, justice and reconciliation, the blood of those people who perished as a result of those atrocities should be compensated.

The Acting Chair (Commissioner Namachanja): Thank you. I am sorry for what happened to you and your community. Thank you for sharing your testimony. I think I have only two questions to ask you. The first question is, after you lost your family; your brothers, mother and father, who took care of your needs? Who looked after you?

Mr. Hassan Kuno Ali: It was one of my sisters who had been left behind and she had children with another person. She also lost her children but was left with only two. She helped me until I started working on my own and fending for myself before I got another family.

The Acting Chair (Commissioner Namachanja): My second question is about how life was like for you in Somali.

Mr. Hassan Kuno Ali: Life in Somali was very hard because it is a place of tribalism and tribal discrimination. When we went there, we were very poor and weak; we had no strength. They started giving us millet like poor people. After we got strength, we started to look for work. Whenever we wanted to farm, they told us to step out of the land because it was not ours.

The Acting Chair (Commissioner Namachanja): I can only imagine. I know that it has been very difficult for you to give your experiences, but your testimony was necessary. As the Truth, Justice and Reconciliation Commission, one of the things that are motivating us, is that, with the hope of people such as yourselves talking to us, things that happened in the past will not happen again, hoping that it will be a better Kenya for all Kenyans to prosper. So, thank you for your courage and patience. Thank you for sharing your testimony with us. Hearing Clerk, please, attend to the witness and call in our last witness for today. Who is our last witness?

(Dr. Adano Diba took oath)

Ms. Belinda Akello: Thank you very much. Hon. Commissioners, the witness has presented the memorandum which is just being presented before you now.

Please, just for the record, tell us your names.

Dr. Adano Diba: My name is Adano Diba.

Ms. Belinda Akello: Dr. Adano, where do you stay?

Dr. Adano Diba: I live in Moyale.

Ms. Belinda Akello: Dr. Adano, what do you do for a living?

Dr. Adano Diba: I am a medical officer, administrative, in charge of Moyale District.

Ms. Belinda Akello: Thank you very much. Dr. Adano. Do you remember recording a statement with the Commission staff on the 9th month, the year 2010?

Dr. Adano Diba: I do.

Ms. Belinda Akello: And, you similarly presented a memorandum on the 30th April, 2011.

Dr. Adano Diba: Yes, I do.

Ms. Belinda Akello: Kindly, inform this Commission the contents of both the statement and the memorandum that you have presented.

Dr. Adano Diba: It was an incident that happened when I was a child. In Garbatula Town, Isiolo District, in the year 1968, during the Shifta War, whereby my father was killed by the Government of Kenya and, I believe he was innocent, but injustice was done to him.

I would like to read the memorandum I presented as follows:-

That, I Adano Diba Koti, to the best of my recollection, without any exaggeration or false addition, record the killing of the above named who is my father, by the Government of Kenya for a crime he never committed.

I was a boy of around seven years, on a date which I cannot recall, sometimes, in 1968, when the infamous Wagalla Massacre took place. This incident is still remembered in Garbatula up to now and the dates can be verified. Daba is a Boran word for concentration.

On that day, people were called together for a *baraza* by administration officials. I happened to be in the crowd. The security and administrative officials started calling names from a list. People were called to the dais and I saw my father among them. When his name was called, that was the last time that I saw him.

As a child of seven years, I was not following the proceedings but when I went back to where I lived, I remember telling people who were around me that I saw my father among the group that was called. I was then told that he had been killed by security forces. Later I gathered that the reason for his death was that his elder brother whose name is mentioned in the memorandum had joined the rebel *shifta* movement of the 1960s.

My father was a herdsman tending goats, sheep, cattle and camels. From what I remember, I had never seen him with a gun, even when the security forces took all our livestock, except two camels. He was always by my side and I lived with him up to the day of his death. There seems to have been temporary separation between my parents at the time.

From what I gathered, when he was approached by his brother to migrate to Somali, he declined and said that he had faith in the Kenya Government and so he saw no reason why he had to leave the country. My uncle later left and he is safe. His family is back in Kenya now.

The group that was called was ferried by trucks and shot dead outside Garbatula Town. I saw them board the trucks. None has been allowed to come back to date.

(The Witness broke down in tears)

Immediately after the victims were called, they boarded trucks. People were asked to leave and security personnel were manning the only gate that was there with whips. What shocked me, as a boy, was to see people opting to jump the acacia fence to get out as those who went through the gate were whipped. The memory still remains with me. I passed between the security forces although I was not touched because I was so young.

My father was relatively wealthy in terms of livestock but all of it was taken by security forces except for two camels. A couple of days after he was executed, I was alone sitting at the Garbatula Town water tank opposite Garbatulla Police Station and I saw our cows being driven away by the police. Immediately after my father's death, I was taken to another district to live with my other uncle. In the process, I got separated from my mother and I only saw her when I was in high school. Life after that was hard; it was all pain.

My uncle was a different person from my father with the right to his opinion and will. Whether he was right or wrong by joining the movement, that would have been sorted out between him, the Government, and the justice system of the country. My father committed no crime. If there was, he would have been tried and sentenced. But I know that he was never tried and yet he was executed. He believed in the system; he supported the Government as the protector of its citizens but that protector betrayed him by taking his innocent life.

I am a Kenyan, and within my soul, there have been injustices committed against me and my family. I am ready to forgive and participate in nation building like I am already doing. Equally, I demand justice to be done for my fallen father. Thank you.

The Acting Chair (Commissioner Namachanja): Leader of evidence, I think before you proceed, there is something that I feel, either by design or by omission, you did not read out. I think I would like to read it out, especially the last line.

As evidence of your strength and your courage and your dignity, the last sentence in this paragraph reads: “Life after my father was all pain...” You went on to state that: “I had no one to turn to when in need, pain or for advice. I moved on wearing a blank mask like nothing ever happened, even in the face of ridicule insults, *et cetera*, from other children in school”.

You went on to say: “Now that I am a parent, I know what I have been denied by the regime of that time”.

Proceed, Leader of evidence!

Ms. Belinda Akello: Thank you very much, Dr. Adano Diba. This has been a very moving statement. I am now raising just two clarifications to understand it a little better. At the time of the incident, what was your father’s occupation or profession?

Dr. Adano Diba: He was herdsman.

Ms. Belinda Akello: Was he ever involved in any other activity?

Dr. Adano Diba: He was a herdsman looking after his animals.

Ms. Belinda Akello: At the time, did you have any brothers and sisters?

Dr. Adano Diba: Well, my younger brother was not yet born. My mum was some months pregnant.

Ms. Belinda Akello: Thank you very much. That is the clarification that I wanted from the witness.

The Acting Chair (Commissioner Namachanja): Daktari, we thank you for your testimony and we thank you for sharing it with us with your heart. We also thank you for sharing with us your life. When we set off to do this work and we were sworn-in, I do not think we realized the extent of the heartache and the pain that we would find. I think your only consolation right now is that there are so many people who lost their fathers that way and the fact that you have spoken, it would bring some comfort to so many. Your father would have been very proud of you and all that you have achieved. And, you will talk to your children about your father and the great man that he was and that memory of your father should live on.

You not only lost your father but you also lost your inheritance. Your testimony is going to go down as one of those that will impact on children’s lives. I am sure they have so many questions that they want to ask their leaders on what really went wrong.

I will ask the commissioners if they have any questions to ask you or if they just have some words of encouragement.

Commissioner Dinka: Thank you very much, Dr. Adano. I have no question to ask you, but just to say that you are a living testimony that human beings cannot be crashed. I think we all in the name of humanity celebrate your achievements and how you survived. I also admire and salute your courage and your conviction when you said that you are ready to forgive and to continue building this nation for a better Kenya. I think everyone of us has a lot to learn from this. You are a great man and philosopher.

Thank you very much. I wish you great luck in your future endeavours.

The Acting Chair (Commissioner Namachanja): Any other commissioner who want to say something? Thank you, Daktari, for your testimony. When did you write this memorandum?

Dr. Adano Diba: This morning.

The Acting Chair (Commissioner Namachanja): How long did it take you to write?

Dr. Adano Diba: One hour.

The Acting Chair (Commissioner Namachanja): The people that you saw call out the names including that of your father, were you able to tell whether they were from this country or outside?

Dr. Adano Diba: I think at time, most of them were from our own country. Since they were officers of the Government, probably they were here on posting. So if I were allowed to continue, I would have loved to know who had issued that bad policy. I would have loved to hear the Government take the responsibility and apologize for those atrocities. I would have loved the Government to release those names to the public and say: "These are the people we killed". And, those district officials, I will also be happy, if there are those who are alive to come to Isiolo and face these people and apologize for whatever they did. In the name of forgiveness, if this is truth, justice and reconciliation, they should come and face the people of Isiolo and tell them the truth and release all those names without hiding.

The Acting Chair (Commissioner Namachanja): Is that the sort of justice you are asking for your fallen father?

Dr. Adano Diba: That is one. Any other compensation for the damages is supposed to be there. The Government must also come out and bring out the truth. We need to know the truth and we need to know who made the decision to kill people.

The Acting Chair (Commissioner Namachanja): Are you a medical doctor?

Dr. Adano Diba: I am a medical doctor.

The Acting Chair (Commissioner Namachanja): You are in which hospital?

Dr. Adano Diba: Moyale District Hospital.

The Acting Chair (Commissioner Namachanja): Are the people you treat among them from down country?

Dr. Adano Diba: Yes, there are. I have also worked most of time in down country. I have worked in Meru, Mombasa, and Kiambu and in Nanyuki. I do not segregate anybody.

The Acting Chair (Commissioner Namachanja): After having witnessed the way your father was killed, knowing that most of the local administration are from the down country, how do you objectively serve them in your profession?

Dr. Adano Diba: Well, as far as I am concerned, my profession demands that I give service to everybody, even if I know that you killed my father. Those people down there did not kill my father. There are individuals who came there and worked for the Government which brought out that policy. I have nothing against the people on the streets. They are as innocent as my father and as innocent as the other people who are here. I do not have any tribal connotation when it comes to service. But those individuals are the guys I want; those who are responsible for the real act.

The Acting Chair (Commissioner Namachanja): Your father was killed because of his brother.

Dr. Adano Diba: Yes, I think you will get this information. In Isiolo you will be able to confirm this.

The Acting Chair (Commissioner Namachanja): Thank you for being objective. Thank you for sharing with us your experience. You have opened up and it is going to be very hard for you to continue dealing with your emotions. I know you are a doctor. If you feel like continuing to cry, get space in your home and in your house, anywhere and deal with it. That is the starting point. Apart from the justice which might come later, very therapeutic tears are the medicine of the heart. Do not feel humiliated that you broke down as a doctor in front of people because that is human and we appreciate.

Thank you doctor and God bless you.

The Acting Chair (Commissioner Namachanja): Once more on behalf of the Commission, I just want to thank you for making yourself available and for giving us your statement and agreeing to testify in a public hearing. I think amongst a lot of things, in memory of your father's life is just to be an excellent father. Just be a good dad to your children. We thank you so much and wish you all the best in all that you do.

The memorandum is admitted.

Ms. Belinda Akello: Thank you madam presiding chair. We only have one more witness for today, but at this time, we are guided by your direction on how we proceed.

The Acting Chair (Commissioner Namachanja): I think the consensus is that we go ahead and hear the witness. So, let us proceed. The Hearing Clerk, could you, please, bring the witness forward and let him be sworn-in?

(Mr. Mohamed Hassan Gumo took the oath)

Ms. Belinda Akello: Thank you very much, Mr. Mohamed Sage Gumo. Please, for record purposes, tell us your full names.

Mr. Mohammed Hassan Gumo: My names are Mohamed Sage Gumo.

Ms. Belinda Akello: Where do you live?

Mr. Mohamed Hassan Gumo: I live in Moyale

Ms. Belinda Akello: Please, give this Commission your testimony.

Mr. Mohammed Hassan Gumo: --- *(inaudible)* I have even gone to Addis Ababa because of this one person. Since this man was elevated to the position of a chief, he has really traumatized my life. He has also battled me in all ways but I am an innocent man. These people have known me. They also know my plot. I have never tried to take anybody's property. These people came to my house and injured me because of my plot. They destroyed my property. I was jailed for two years.

I want to ask the Truth, Justice and Reconciliation Commission to review my complaint because this chief has really frustrated my life. Sometimes he beats me. He has beaten me twice and all this time, I lodged a complaint with the District Commissioner. This is what has made me poor. Rich men take people's property because they are rich. I used to work as a simple mason but now I cannot do that work because I have been injured. I have a son that I am trying to bring up despite the chief trying to destroy my life. I am only requesting the Commission to assist me.

I had mango trees and from one mango tree, I used to get Kshs10, 000 every season. Ten trees were destroyed and cut down by this chief. I sometimes ask myself, if at all there is justice in Kenya. I want this Commission to give me justice as a human being. This is because I am innocent and poor.

We should go to court so that we can talk about injustice not just this place. We should go to court so that justice prevails. This is because they have destroyed my property. I want this Commission to do some justice to me. I do not have much to say.

Ms. Belinda Akello: Which year was it when your land was taken away?

Mr. Mohammed Hassan Gumo: It is there in the memo that I wrote. I have forgotten because I am old. If they check in my memo, they will see the date.

Ms. Belinda Akello: His statement and memo indicate that it was 1985.
Mr. Mohamed, what was the name of the chief?

Mr. Mohammed Hassan Gumo: He was known as Mohamed Shire.

Ms. Belinda Akello: What was the name of the Arab man?

Mr. Mohammed Hassan Gumo: It was Mohamed Abdi Shire. He was a Burji. The Arab was Hassan Said Bamraga.

Ms. Belinda Akello: The Arab, Hassan Said Bamraga came and took your land. You went and complained to the police and the chief.

Mr. Mohammed Hassan Gumo: I took my complaint to the chief, the DC and also to court. The court saw the damage caused on my land but they decided to throw me out saying that I destroyed somebody's property. Then they jailed me for two years under probation.

Ms. Belinda Akello: You did a letter which to the District Commissioner with the reference to an aggressive and hostile chief in Manyatta Location. Is this the letter that you provided to the Commission?

Mr. Mohammed Hassan Gumo: I sent that letter and the one from the District Commissioner here. I have brought the letters here.

Ms. Belinda Akello: When you went to the DC and also wrote a letter after going to the chief and assistant chief, were you assisted?

Mr. Mohammed Hassan Gumo: They never assisted me. To date, I have not got any assistance from the DC because the chief is under him. Even trees, mangoes and cassavas in my farm were destroyed. They said that this property belonged to the chief and that is why I was jailed for two years. The first judge was Kalkano. The other one was a Kisii but I cannot--- When the judge came, I was mistreated like somebody who had no parents. That was the Government of Moi.

Ms. Belinda Akello: Did you ever seek assistance or help from the village elders with regard to your administration or ownership of your land?

Mr. Mohammed Hassan Gumo: Even the councillor called "Jillo" appeared as a witness before the court and said that there was no piece for the Bamraga. Maybe he was given some money. Even the Clerk of the court said that I would be imprisoned and I could not do anything at that time.

Ms. Belinda Akello: When you went to court, did you go for the traditional system? Did you approach these elders whom you are saying came to court as witnesses? Before you went to court, did they make a ruling about the ownership of your land?

Mr. Mohammed Hassan Gumo: The old men know my land. They know that the land belongs to me, because I pay rent. Even the Commission took my land because they had been paying rent to me. The land belongs to me and it is my right.

Ms. Belinda Akello: Did you get any medical attention?

Mr. Mohammed Hassan Gumo: I even have a medical letter here. I have not written the expense there but I have used a lot of money to treat myself. I was mistreated like that because there was no justice by that time.

Ms. Belinda Akello: Is Shire still alive?

Mr. Mohammed Hassan Gumo: He is alive. I would like him to come before the court so that we can talk.

Ms. Belinda Akello: Is Bamraga also in Moyale now?

Mr. Mohammed Hassan Gumo: He is still alive and in Moyale. They just took my right away because I did not have money. They said that I am useless. I said before God that I was born in 1933. I am over 70 years old and I cannot destroy somebody's property. I am just a mere mason. I have a very small piece of land and somebody just came and took it. They beat me and I was jailed. I am lucky to be still alive. If there is justice, then let it prevail.

Ms. Belinda Akello: Lastly, Mr. Mohamed, are you still under probation as it was directed by the court?

Mr. Mohammed Hassan Gumo: I want the Commission to witness this. If there is any evidence that can show--- People can say that this land belongs to me. I want the Commission to determine who is wrong. If they have taken my land, then they should return it and compensate me. This is because my body has been injured. I cannot even construct houses. I cannot do anything because I was injured. They just jailed me. I only want him to stand here so that I can talk to him face to face.

Ms. Belinda Akello: Commissioners, that is all from my desk. I would like to hand over the witness to you.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony. Calm down and just give me quick answers. Your answers are going to give us a better picture. Can you remember the year that you settled on this land?

Mr. Mohammed Hassan Gumo: I have lived on this land since 1982.

The Presiding Chair (Commissioner Chawatama): So, you have lived on this land since 1982. How did you acquire this land? Was it customary land? How was it allocated to you?

Mr. Mohammed Hassan Gumo: I was given this shamba by the elders who were there. These are the people who were allocating land to people and not the chief. We had a commission that was allocating land to people.

The Presiding Chair (Commissioner Chawatama): Did they enter anything in a book when they allocated you the land?

Mr. Mohammed Hassan Gumo: It is there in the county council where I paid rent. I have been paying rent for this shamba. There is a commissioner who came and I even showed him the rent that I paid. I have the documents.

The Presiding Chair (Commissioner Chawatama): Can we, please, have those documents of the rentals? Up to date, are you still paying rent for that land?

Mr. Mohammed Hassan Gumo: I still pay rent. I have given those letters to the Commission. There is a lady who appeared before you and I gave her the document. I gave them the photocopy of the rent that I pay.

The Presiding Chair (Commissioner Chawatama): Could we also have the photocopies? Who is living on that land right now?

Mr. Mohammed Hassan Gumo: I live there.

The Presiding Chair (Commissioner Chawatama): So, what about the claim by the chief and this Arab? This Arab does not have access to that land.

Mr. Mohammed Hassan Gumo: The Arab never inherited my land, but after taking the neighbour's land, they also wanted to take mine. They said that this land also belongs to them. Even the commissioners can come and see the boundary of the land. I have not touched their land.

The Presiding Chair (Commissioner Chawatama): I understand that our officers have been to see the land. If we are able to, we shall let you know. What you want us to do is also very clear. I just wanted that particular information so that I know. We would also like the details of your court records. That will also be very helpful.

Mr. Mohammed Hassan Gumo: I have documents from the court and hospital. Everything is here.

The Presiding Chair (Commissioner Chawatama): Even a copy of the probation order from the Government and the general outpatient record of the witness. Is there a number of the court record for us to be able to trace the record, so that we can find out what happened?

Ms. Belinda Akello: Yes, Madam Presiding Chair. It does have the criminal case number. It is also evident that the probation did expire in 2001. It is possible for us to follow since he says that he was in court until recently.

The Presiding Chair (Commissioner Chawatama): Thank you very much. We will carry out our own investigations to find out what really happened.

Ms. Belinda Akello: Hon. Commissioners, kindly admit these two documents; the general outpatient record and the probation order.

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

Mr. Mohammed Hassan Gumo: There are some people who are also complaining about land. There is Hussein, Sharif and Madero who have a case similar to mine.

The Presiding Chair (Commissioner Chawatama): They can just prepare statements tomorrow.

Ms. Belinda Akello: Hon. Commissioners, those other people already did record statements which can be availed to the commissioners and panelists for decision.

Hon. Commissioners, that is our last witness for today. We stand guided by your directions and further action.

The Presiding Chair (Commissioner Chawatama): Thank you very much. We have had a very fruitful day today. We have heard nine listed cases. We have heard a testimony from Councillor Alio Tepo Apudo, Mr. Abdulahi Abdi Laffa, Mzee Guyo Tikan, Mr. Abdulahi Ahmed, Mr. Hursa, Ms. Halima, Ms. Halima Buru Ado, Gababo Gillo, Izaak Ahmed Kithi, Mohammed Isaac, Hassan Kuno, Dr. Adino Seba and lastly, Mohammed Gumo. We have had a very fruitful day. We thank members of the public who have been very patient.

The cases stand adjourned until tomorrow morning, at 8.30 a.m. when we shall meet again.

Thank you.

(The Commission adjourned at 6.00 p.m.)

