

12-9-2011

Public Hearing Transcripts - Rift Valley - Kajiado - RTJRC09.12 (Kajiado ACK Church) (Women's Hearing)

Truth, Justice, and Reconciliation Commission

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

Recommended Citation

Truth, Justice, and Reconciliation Commission, "Public Hearing Transcripts - Rift Valley - Kajiado - RTJRC09.12 (Kajiado ACK Church) (Women's Hearing)" (2011). *I. Core TJRC Related Documents*. 100.
<https://digitalcommons.law.seattleu.edu/tjrc-core/100>

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

**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION HELD ON FRIDAY, 9TH
DECEMBER, 2011 AT KAJIADO ACK CHURCH**

(Women Hearing)

PRESENT

Gertrude Chawatama - The Presiding Chair, Zambia

(The Commission commenced at 11.55 a.m.)

Ms. Medline Njeri: I would like to welcome our Commissioner who is called Judge Chawatama. She will introduce herself.

The Presiding Chair (Commissioner Chawatama): Good morning everybody. My name is Gertrude Chawatama. I am one of the international Commissioners and I come from the Republic of Zambia where I sit as a high court judge. I have a lot of experience in dealing with women affairs because in my work, I deal with issues of inheritance, cases of divorce, maintenance, custody and other matters. I have had an opportunity to work with widows and orphans and I believe that is part of my calling. I am happy to be here with you and I hope that we will have some fruitful discussions on some issues that affect you as women. I look forward to hearing your recommendations because it is important for us to hear recommendations because that will form part of the report of this Commission. The recommendations will have to be acted upon by the Government. So, this is your opportunity. We are here to listen to you. We have a number of staff from the Truth, Justice and Reconciliation Commission who will assist you and we will also have some fun. We are also allowed to cry but in all that we do, we will remember that there is a God who watches us and who cares for us. I am happy to be here. Thank you.

Ms. Medline Njeri: I would also like to introduce a lady from the Kenya Human Rights Commission. Her name is Edna and she deals with human rights as a whole and women specifically. We welcome you Edna.

Judge, just to keep you up to speed, there are certain issues that we have covered. We have briefly discussed health issues and land issues where women are not allowed to inherit or they have very little say in the sale of land that belongs to their fathers and husbands. The issue of the girl-child in regard to education has also been discussed. Girls are not encouraged to pursue education. There are also early marriages. Another issue was female genital mutilation and lack of shared responsibility in the homestead where a man's responsibility is only to sire children and then all other issues to do with the home are left to the woman. We also spoke about lack of unity especially when it comes to women trying to win political seats or any seats of power and other women do not support. Maybe, we can start from the top and run it.

Ms. Agnes Kaskai: My name is Agnes Kaskai. The main issue that I want to talk about is medical services or health care that is being given to the Maasai people. You will find that most of the people in the interior do not have access to medical services that are needed. Mothers are forced to give birth at home and then come to the hospital when there is a complication with the baby. Sometimes, the baby dies in the womb and the woman undergoes many problems when she goes to the hospital.

Another issue is about HIV/AIDS. You will find that a husband comes to town and when he gets infected, he does not tell the wife who is back in the village taking care of the family. You will find the woman suffering without knowing the kind of disease that is affecting her and she keeps thinking that she is suffering from malaria and that becomes difficult.

Another issue is children immunization and pregnancy. You will find that the woman has no knowledge about these issues. All she knows is that if she delivers, she has to take the child to hospital. The roads that the women are supposed to use from the interior to town are not passable and there is no means of transportation. This makes it difficult for the women to access the medical services from their homes. Thank you very much.

Ms. Medline Njeri: Commissioner, might you have any question for her?

Ms. Grace Mainga: My name is Grace Mainga. I reside in this area of Kajiado. I have one issue concerning land. Most of the land has been sold and the women are not involved by their husbands in the sale of the land. Sometimes, the farm is so big and the husband has sold it all and when the woman asks the husband not to sell the land, the elders will sit in the *barazas* and the woman does not have a voice. I have seen women struggling to ensure that they report to the chief, but they will never know what transpires. They just find the farm already sold. That case also applies to the widows. When the husband dies, the farm is sold by the brothers of the husband and the widows do not have a voice. I want to ask TJRC to help us because all the farms are being sold. Our husbands keep selling the land and there is nothing productive they are doing. They do not educate the children once they sell the land. All they do is come to town and buy cars and in the end, there is nothing productive they do.

The Presiding Chair (Commissioner Chawatama): I would like to ask some questions please. The land that is often sold, does that land have a title deed?

Ms. Grace Mainga: Yes, it has a title deed.

The Presiding Chair (Commissioner Chawatama): Is it only the husband's name that is on the title?

Ms. Grace Mainga: Most of the title deeds have the names of the husband. If it is a family, it is in the father's name. So, you will find that the wife has no say because her name does not appear on the title deed.

The Presiding Chair (Commissioner Chawatama): Have you heard of any cases where women have tried to challenge the sale of land and have been successful?

Ms. Grace Mainga: I have not come across any successful case because they take time. They hold meetings and issues are postponed and when it is sold, you will never know. You will just see people measuring and putting beacons and it is over. The problem with the women at home is that they are illiterate and they cannot persist for long. She will try to struggle and because she is not strong enough she cannot manage and, at the end of the day, she fails.

The Presiding Chair (Commissioner Chawatama): You have talked about land that is left by a husband. But can a woman inherit land from her father?

Ms. Grace Mainga: I have not witnessed that because the father leaves the land to the sons. When the father dies, it is the sons who are counted. The daughters are not involved anywhere.

The Presiding Chair (Commissioner Chawatama): Thank you. We will come back to you.

Ms. Medline Njeri: Another issue was concerning the girl-child.

Ms. Teresia Naisei: I want to speak concerning the girl-child. The girl-child has been oppressed for long because when there is no money, the girl-child is not educated. The parents care about the son and the girl does not go to school. At home, the girl-child does not get a good place to sleep and when visitors come, the girl is told to move away from home and look for a place to sleep. When they go to look for a place to sleep, they become pregnant because there are enemies outside. When the enemy finds that this girl does not have anyone to defend her, the girl is raped. There is no one concerned about her. Later on, this girl is taken and married off to an old man who does not care for her. When she gives birth, she takes care of her children on her own and sometimes, the girl could even be 15 years when she becomes a mother. There is no one to take care of her and her children. The community is languishing behind because of this problem.

I also have a land issue that concerns me. My father in-law died and the farm was divided and his four widows did not get anything. They have many children and getting food is a big problem. There was no one to support them and the land was subdivided. It has now been over ten years since they have been following up on the land issue and no title deed has been released. The small amount of money that they contribute has not helped them and the farm just stays idle. I also have a problem because my husband who was the first born in the family also left for Tanzania. I have not gotten a title deed for the farm that was given to me and I was told that since my husband was still alive, I do not have the responsibility of taking care of that farm. Thank you.

The Presiding Chair (Commissioner Chawatama): How long has your husband been away?

Ms. Teresia Naisei: My husband has been away for 18 years. He left me with children and I have brought them up singlehandedly and there is nobody to assist me. When a person does not have anybody to defend her, even accessing the CDF funds becomes difficult because the fund is given out to people who can support themselves. I have not gotten any assistance.

The Presiding Chair (Commissioner Chawatama): Do you hear from your husband? Do you know if he is alive?

Ms. Teresia Naisei: He is alive and the children have even gone to look for him but he has refused to come back home. He knows the problem that is in the family is big and he did not even have a job. So, he cannot come back.

The Presiding Chair (Commissioner Chawatama): The land which you said was given to you and you do not have a title, who apportioned you that land?

Ms. Teresia Naisei: I was given that particular parcel of land by Keen just like the one of my father and both parcels have not been accorded a title deed. They are pending and most of the times we are told that if we do not pay a certain amount of money that is needed, then it will be sold. We have not got any support.

The Presiding Chair (Commissioner Chawatama): Apart from a title deed, is there any other document that you can get to show that this land is yours?

Ms. Teresia Naisei: Yes. It is written by the elders of the community and they know the whole area. They know that, that parcel of land is there but because I am a woman, I do not have that opportunity to go and tell them to give me the title deed because they said that my husband is still alive. I do not know what will happen if he dies.

The Presiding Chair (Commissioner Chawatama): That is not the law. That is not what the law says. The law does not say that because your husband is alive, you cannot get a title deed. If the land is yours, you are allowed to have that land by virtue of the fact that you are a Kenyan and you are a human being. Have you tried to approach Government offices to find out about your rights?

Ms. Teresia Naisei: We have tried with people from the side of my husband so that the women can get their parcel of land. Mine is there and I am also trying to follow up on the issue.

The Presiding Chair (Commissioner Chawatama): What is the current position that you find yourself in? If you had to pass away, would your children be allowed to inherit that land?

Ms. Teresia Naisei: I do not think they will inherit because if, at the moment, I have not been given and I am the one who is married there, how would the children receive that parcel of land. I do not think it is possible for them to inherit.

The Presiding Chair (Commissioner Chawatama): Thank you very much. Edna, I think this is something that we should look at and, maybe, use her particular case to see whether or not we can resolve other issues surrounding ownership of land. A lot of times people take traditions, culture and policies as if that is the law and they block the women when the law clearly provides for the fact that they can get title deeds for their land. Could you please take up this particular issue?

Ms. Teresia Naisei: Most of the time, they tell us to contribute a lot of money and we do not have the capacity to pay. I want to ask the Government to take care of the widows and the vulnerable people.

The Presiding Chair (Commissioner Chawatama): What is your name?

Ms. Teresia Naisei: My name is Teresia Naisei.

Ms. Esther Daniel: My name is Esther Daniel and I come from Namanga. I am a Maasai. I wanted to talk about the issues of the girl-child. In the Maasai community, we have the tradition of FGM and in that process, we face difficulties. In our traditions, it is a must that a girl has to be circumcised but now we are being enlightened by the church and the Constitution and it is no longer being practised much. We also have organizations that educate us on the dangers of FGM.

To add on land issues, I also have an issue on land that I followed up as a woman. The vice chair of the group grabbed my land and said that my husband sold it to him. When I followed up on the issue, they did not listen because in the Maasai community, women are not taken to be important. I tried to follow up the matter with the lands office but the vice chair came with a title deed besides the one that I had. He said that the title deed belonged to him and up to now, I am still following up the issue.

The Presiding Chair (Commissioner Chawatama): On the issue of land, have you thought about taking the matter to court?

Ms. Esther Daniel: No.

The Presiding Chair (Commissioner Chawatama): Do you have a court here?

Ms. Esther Daniel: Yes there is.

The Presiding Chair (Commissioner Chawatama): What has stopped you from going to court?

Ms. Esther Daniel: We went to an elders' forum where they said that my husband had sold that particular parcel of land and they said that I did not have any land. That is when they started stressing us by bringing a group ranch. I went to the registrar but they have not assisted me in any way. Recently, I went to the registrar but he just told me to persevere.

The Presiding Chair (Commissioner Chawatama): How did you and your husband acquire this land?

Ms. Esther Daniel: We were allocated by the Oldonyo Orok Scheme when it was subdivided. We were given a portion that was 144 acres and we irrigated five acres.

The Presiding Chair (Commissioner Chawatama): When you went to a meeting with elders, did the person who said that your husband has sold him the land produce any documents signed between him and your husband to show that this land had been sold to him?

Ms. Esther Daniel: There was no document because I went to the chief's office and I met the DO who asked for the documents but they were not available. That is when we went to the registrar.

The Presiding Chair (Commissioner Chawatama): What did your husband say to you concerning the sale either before or after? Did he admit to you that he had sold the land and that he had received money for it?

Ms. Esther Daniel: I asked because I had heard it from people. He explained to me the whole issue.

The Presiding Chair (Commissioner Chawatama): Where are you and your family currently staying?

Ms. Esther Daniel: We are staying in a small parcel of land in Namanga.

The Presiding Chair (Commissioner Chawatama): What did he do with the proceeds from the sale of the land?

Ms. Esther Daniel: There is nothing he did.

The Presiding Chair (Commissioner Chawatama): What impact has this had on your family and the way you are living?

Ms. Esther Daniel: There are a lot of challenges because our land has been sold, there is no money and the children are living a very poor life.

The Presiding Chair (Commissioner Chawatama): When you say that your children are living in a poor life, how are they living? Are they able to go to school, are you able to take them to hospital when they are sick or are you able to feed them and clothe them?

Ms. Esther Daniel: I cannot manage to educate them. After school, they joined polytechnics. I have one who managed to go up to Form Four because I went to the CDF and my brothers assisted me and that is how she got educated.

The Presiding Chair (Commissioner Chawatama): As a mother of daughters, what is your recommendation on FGM and were you able to protect your children from the cut?

Ms. Esther Daniel: Yes. That is because we are saved and there is no place that is mentioned that a girl should be circumcised. So, we went with the church.

The Presiding Chair (Commissioner Chawatama): In your experience as a woman and a mother, what would you say are some of the disadvantages of FGM?

Ms. Esther Daniel: The first thing is that they use the same equipment to circumcise two or more girls and I told them that, that way of sharing tools can cause the spread of diseases that can affect the child. The child can also bleed a lot and those are some of the dangers I tell people when I speak about FGM.

The Presiding Chair (Commissioner Chawatama): What about the experience at child birth?

Ms. Esther Daniel: Yes, that also has its own effects because we were taught that there is a danger of circumcising a girl.

The Presiding Chair (Commissioner Chawatama): Is your community aware that it is now an offence under the law?

Ms. Esther Daniel: Yes, we have been educated and there are some women committees going round conducting civic education and sensitizing people and this is good because they understand.

The Presiding Chair (Commissioner Chawatama): Thank you very much. We will have an opportunity to interact with you again. We have heard the challenge you have experienced personally on the issue relating to land.

Ms. Teresia Monthea: My name is Teresia Monthea. I want to speak about how the women are being oppressed by the men who are not responsible at home. After men marry and they make their wives pregnant, that is the only responsibility they have. The woman is left behind to feed, clothe and educate the children. Most of the men are employed but they just use the wages they get from the casual labour in luxury. The woman is left behind struggling with casual labour and all the household chores.

Another issue is that we are being oppressed when the man goes to town and leaves his wife behind to take the responsibility of the house. The husband goes to town and remarries and sometimes you are chased away and told that, that is not your village and all the wealth that you had generated in that family is left behind and you are told that you have no rights. Those are some of the problems that we are undergoing. Thank you.

The Presiding Chair (Commissioner Chawatama): What are some of the reasons that are causing men to go into towns?

Ms. Teresia Monthea: They say that they are going to look for jobs.

The Presiding Chair (Commissioner Chawatama): Once they go in search of jobs, do they send money back to the family and do they come and visit?

Ms. Teresia Monthea: Some of them misuse the money they get from employment in town and they say that there are cows that you can milk. Their money is personal and the woman does not even have the authority of selling the cows. The woman's work is to sell the milk or to burn charcoal.

The Presiding Chair (Commissioner Chawatama): I would like to hear what happened so that I can understand what happened to the Maasai community. I would like to hear from an elderly woman to explain to us whether this is how life has always been or whether there are certain things such as the high rise in unemployment, lack of education and so on. Do we have an elderly lady in audience who could speak to us about how they lived before?

Mrs. Juliet Yraie: Thank you, Commissioner. Truly speaking, it is a very difficult question but I will try. I will give an example that I understand. My father was married to more than one wife. I am the eighth born in the family of 19. My mother gave birth to 19 but only 11 survived. When we were growing up, I saw my elder sisters get circumcised because my father had not yet gone to church. At that time, not many women had jobs like now. My mother was only selling firewood to survive. The issue of men running away from home started sometimes back but now the situation is worse due to western civilization.

What has brought the problem in our community is the issue of selling land. They sell land and go away to look for other women. When he comes back he has nothing. There is a man who sold everything and went to live with prostitutes. In the process, he lost everything. That is what women undergo. When a man sells everything, you are left behind without anything but God created us in a different way because we welcome them back. There is somebody in our family who died and he had to be buried at the mother's place. So, I asked the elders why they did not include women in their consultations. When they decided to bury him at the mother's place, she took the responsibility to go to the elders but she found that all the arrangements had been made. That issue brought many problems. She stood firm and declined that the dead person will not be buried in

her land. The husband had agreed but the woman refused. The brother to the deceased said that he will take the body and bury it. The burial was then carried out. My question is why can they not inform women about decisions they make? Most of the time, we do not have a say. I am appealing to you that you should look into the concerns of the women. Women undergo a difficult time because we do not have any right about our land.

Another issue that I wanted to address earlier is that we are enemies of ourselves. If this meeting had been announced earlier, there could be very many women here. I only heard about it this morning. The people who arrange these programmes should inform us in time. If we get information on time, we will be able to list down the issues that affect us. As women, we share the same problems. If there is an important issue concerning women, you should tell us in time so that we can come and discuss. We have very many issues that affect us. You should come back so that we can discuss more. I would like to say again that as women, we do not love each other. If you can get a mother who is educated and is vying for a post, most women will not vote for her. Even those who have been elected are not respected. If women can unite and be one thing, we can get a woman president in 2012. I am praying that we all get saved so that we can love each other. I also ask that the Commission should give us more time so that we can express ourselves. We have a lot that goes on in our lives. Even regarding the issue of female genital mutilation, it is the women who make their husbands circumcise their girls. We are the enemies of ourselves. We are the ones who tell people that the girl is now old enough to be circumcised instead of protecting her and encouraging her to get education.

There is a movie called “The Plight of a Daughter” where a girl underwent a lot of problems because she wanted to get education and yet the father wanted wealth. It appears that the life of a girl-child is nothing. If we can unite then we can go further. So, let us unite and leave behind the issue of Female Genital Mutilation (FGM). I always ask whether somebody who has been circumcised has identification on the forehead. Who can see whether I am circumcised or not? Even those who are not circumcised are sweeter than those who were circumcised because when you are circumcised, it is cut off and there is nothing left. God did not create us so that we can be cut. When a man makes love to you he finds that it is just a throughway road. The woman who is not circumcised gives birth easily but the one who is circumcised gets problems. Women really undergo a lot of pain and it is us who collaborate with men on some issues. We should get saved and help the girl-child get education. May God, bless you.

The Presiding Chair (Commissioner Chawatama): I really thank you for your frankness. Sometimes when we discuss things we skirt around the issue and not get to the main point. This is what women often do. So, you have opened the door and I encourage all the women here to take seriously what has been said and to think about it. We should think about the issue of unity and support for those who want to vie for leadership. If you have people to speak on your behalf on issues whether it is at the council level or Parliament, you will benefit. For those who are vying for leadership, they go there and forget why they are there. This causes women more pain. So, there must be high levels of commitment and you must understand that leadership is a calling and that you are called to serve. If you do not have anybody that you are serving then you are not a leader. Thank

you very much, Mama, for helping us understand a lot of issues and for sharing with us your personal experience in your family.

Thank you. Could we have the next speaker, please?

Mrs. Jenipher Muyaki: My name is Jenipher Muyaki from Kajiado. I am a human rights activist and a women trainer on their rights and especially the Maasai women. I would like to repeat the question that had been asked earlier. As Maasai women when we see our men go to town, I think we contribute towards that. I have experience of 12 years in the field. I have stayed with women, girls and so on. Sometimes, when I talk to the women, they tell me that their husbands are not there. I discovered that we do not understand the men and we might be contributing a lot to their predicament. I am married and I have three children. I know about domestic violence because I have gone through that. There is a time that a man comes home and he does not even want to speak to you. Sometimes, this leads to a lot of confusion.

I live in Narok, Loita community and there are things that I have seen that make me cry.

The Presiding Chair (Commissioner Chawatama): Sorry! Could you speak a little bit slowly so that she can interpret and I get to understand what you are saying?

Mrs. Jenipher Muyaki: I am talking about domestic violence and other forms of physical abuse. There is always a report about a woman having been killed. I have facts. There is a place called Irikeini Loita where a woman was beaten. Her husband followed her to the river and tied her hands. She was seven months pregnant. He then tied her on a tree and battered her until she died. She was then left there. As women, we are oppressed so much. Men beat us every day but when someone asks about it, they deny. This is because the women want to cover up the matter in the name of maintaining the marriage. There are women who have lost their teeth due to violence. There are a lot of things that women have gone through. Women are aware about their rights now but we have a problem with implementation. There are some cases about succession and inheritance that we reported to the District Commissioner (DC) and the District Officer (DO). Initially, women did not have the right to inherit. I followed up the cases and made sure that the women have inherited what they deserve.

The other issue is about land. There is a case where my father is a drunkard and my mother does not know about the land issue. They went to solve the land dispute in the offices in Kajiado but there is a lot of corruption there. I am bitter because my mother went to those offices and was told to give a bribe of Kshs10, 000. The people who get oppressed, intimidated and discriminated are the Maasai women. We are voiceless. When I attend a *baraza* I am not given a chance to say anything. I will be told to sit on the grass while the men occupy the chairs. In the land board there is no woman who is a member. So, when you go there with a case you will be taken around until you get tired. There is one woman who will help us.

In terms of politics, I vied for a seat in Kiserian Ward. That is when I knew that a woman from Maasai does not have the powers to vie for a seat. I am not empowered economically. I do not have anything to give. I cannot inherit a cow or land from my father. I am asking the Truth, Justice and Reconciliation Commission (TJRC) to highlight the issues of women because we have many problems. When they form land committees, women are not involved. It is the men who handle the issues of land. I am the one who gives birth so why should I not be involved? We want to be given a chance so that we can handle the problems affecting women.

I want to look into the issue of early marriages. It is the women who will first say that the daughter is old enough to be circumcised and be given away. The person who circumcises the girls is not a man but a woman. Is that not true? The person who is going to summon the circumciser is a woman. Are the men there when we do all these issues? At times, let us not put blame on the men. We have alternative rites of passage. Let us be wise like Delilah. Let us know about property rights. When my husband dies, his brothers or relatives come and ask how the vehicle will be sold. So, is there a law that can help me when my husband dies? I should be comfortable without being disturbed. That issue is a problem to women.

I want to talk about decision-making mechanism in the Maasai community. We are not part of the decision-making process. When a cow is sold the women are left behind and they cannot ask questions. They do not have rights to question. I want to know why I cannot be involved in decision-making in my own house. Why can I not be involved in the selling of land? The reason why Kajiado is poor is because women are not involved in decision-making. I know that a woman cannot sell her own land. I want a title deed to be issued in the name of a woman. Men sell land and go to town to marry another woman. The fact that I am married to him gives me the right to inherit his property. Land is sold up to near the river banks. When we sell up to the watering points, the buyers fence the land and the women lack water. We want to know if there is a criteria used to sell land. A river point should not be sold so that we can get water. Rivers are natural resources and if denied it can lead to conflicts in the community. Also a person should be allowed to cultivate on the river banks.

Since Independence in 1963 the Government has turned its back on us. Our issues are not addressed. There is no single university in Kajiado. Is it that we do not pay taxes? Why can we not be included in the development agenda of the country? Kajiado is the richest cosmopolitan county and that is the reason why the Government should look into our issues.

Thank you and welcome once again.

The Presiding Chair (Commissioner Chawatama): I think I am going to throw this question at all the women in the hall. One of the things that I have heard from time to time is that the circumcision of the girl-child is necessary because that is the rite of passage but in order to take something away you must replace it with something else. In your discussions as women, what are some of the things that you discussed so that a girl

can go through the process? I know that where I come from there is a process but it is not circumcision. What are some the things that can replace circumcision?

Mrs. Jenifer Muyaki: As a human rights activist, we have alternative rites of passage. We have come up with a strategy. These days, we do not involve the Maasai. It is the women who call the circumciser to their homes. It is the women who organize these things. When the girl has been circumcised the mother takes her outside after three days. Then after that they will perform all the rituals that the Maasais do. So, we are working on alternative rites of passage and we are succeeding.

The Presiding Chair (Commissioner Chawatama): Thank you.

Mrs. Sara Kuiyo: I greet you all. My name is Sarah Kuyo and I come from Kajiado Central. On the issue of girl-child problem, I feel like I am the one being touched. I have been working for and fighting against the oppression of the girl-child in Kajiado. I will give you my history shortly.

Before I became a community social worker in Kajiado, I can also say that I have gone through a lot as far as the culture and traditions of the Maasai are concerned. This issue touches my heart because the Maasais who are at home today use culture and traditions, ignoring rights of individuals. They know about the rights but they are rigid and do not accept the truth.

Let me start by analyzing who a Maasai woman is as far as culture is concerned. I can say that a Maasai woman is a worker, an asset in the home where she can be sold off, a maid who does not have a voice, she is regarded as a child and that is why she is not included in the decision-making mechanism. They ask what a woman can say in front of elders. A Maasai woman is somebody who is told things but does not have a voice to say anything. She cannot express her feelings. We have spoken about Female Genital Mutilation (FGM) for many years. In my home we have three girls and my relatives from my mother's side said that they should be circumcised. Since we did not have a voice at that time, I had to go through FGM. When I grew up, I started fighting for the rights of the two younger sisters and they have not been circumcised. I thank God for that. I started educating the community about FGM.

But these days, they are doing it the other way round. We do not meet the traditional rights. This is because when a girl attains a certain age, say, 18 years, she has matured. That is the time she is talked to and circumcised. After that, she gets married. But these days we circumcise, children as early as eight or nine years old. Why are you circumcising such a child? It becomes difficult to understand and that is why we have many school dropouts. If you go to primary schools, you will find that children leave school because of pregnancy. When a girl is circumcised, she is told to rise up because she has become an adult and yet she is nine years old. Therefore, she will have the mentality that despite the fact that she is in Standard Four, she is an old woman and so, she can do anything that other women do. So, instead of concentrating on education, she will start asking: "What other things do women do?" That is when she will start engaging

in relationships that she does not understand. This is because she has not yet received her menstrual periods. She will be pregnant if she engages in sex. There are several cases where a girl is told that she is pregnant and she denies it. They believe it when she goes to the maternity ward and she is told that she is going to deliver. There are some who get shocked and traumatized, because it is something that they were not expecting at that time. So, as far as the traditions and culture of the Maasai is concerned, we have gone astray. This is because our children are going astray.

In terms of HIV/AIDS and its spread, it is more prevalent among the young people because they have not been taught about safe sex. There will come a time when some age sets will not have people because of HIV/AIDS and other diseases that occur because of circumcision. For example, when the old Maasai women used to be circumcised, they used to stay near their mother-in-laws during pregnancy so that they could be monitored. She could deny you food so that you could give birth to tiny kid whose survival rate is below 50 per cent. These days, the girls are circumcised and get married. They do not even have time with their mother-in-laws because some of them have jobs. So, when it comes to delivering, they develop many complications because they are not denied food. That is why there are many caesarian cases when giving birth. If you explain Female Genital Mutilation (FGM) to women who are the age of my mother, they will not understand because they used to be denied food.

Also, when girls are circumcised, they are not told that a certain section of their private parts will be cut. They are told that there is something that is going to be done by a certain woman, after which they will become adults. So, they will experience the cut when it is taking place. Otherwise, if you knew where they were going to cut and what was being cut, I do not think that you would wait for them to do that. The key people who push for circumcision are women. Men just provide the basic necessities like food which would be eaten that day. When you ask the men what is done to the girls in terms of circumcision, they do not even know, because they are not there when it is being done.

We have heard about other issues like maternal health care among the communities in Kajiado. It is because of lack of know-how. They do not have people to educate them. They also do not have access to necessary information. Children who are born are not taken to clinics because they live very far from them. You will find a woman walking for more than 15 kilometres to get a BCG injection.

There are many cases of death because of malnutrition and lack of food. I went to a meeting where we were discussing why the Maasai give birth to many children and yet their population is low. This is because children die at a tender age. So, we should find a voice to help the women so that they can know their rights. Our children should also be educated on their rights. This is because when they know the truth and their rights, they will be able to defend themselves from an early age. There is no way women will be silent if they know their rights. If we get three or five women who can speak on behalf of the Maasai women, we will move forward.

There are not many women in this meeting because when you invite someone, you have to explain a lot of things about the meeting. That is why women will continue to lag behind because we do not love one another. Let God help us to reach there.

Thank you.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your contribution. One of the things that I have seen from the women who have spoken is that you are capable of bringing a lot of awareness. I do not think that you should get tired of speaking. You should arrange for meetings where you talk to women often. Even if you just win one or two people, they will also spread the news. We are encouraged by some of the things that we are hearing, although most of them are very distressing. Thank you for speaking. We will be able to make meaningful recommendations that will help the women from the Maasai community.

Could we have the next speaker, please?

Ms. Medline Njeri: I would like to highlight some of the issues that we have heard so that we do not repeat them. They are land, paternal health care, FGM, domestic violence, education for the girl-child and the need for unity among women. So, when you stand to speak, please, let us concentrate on issues outside these ones which have been spoken about. Also, keep it brief if you can.

Ms. Emily Sendeo: My name is Emily Sendeo. We have been told not to repeat what has been said, but there are issues that are really affecting me and I would like to speak about them.

I am one of the people who have been oppressed. In 2007, I contested in Town Ward as a councillor and won the nomination. But since I was a woman, when we went to the ballot, I could not manage. I tried my best but I was defeated by 11 votes. So, you can see that the Maasai women still have a problem in leadership.

The other issue is on my personal life. I am the first born in our family. My father married two wives. My father separated with my mother about 25 years ago and he remained with my step-mother. In terms of inheritance, my mother's side did not inherit anything, except one of my brothers who was given a small parcel of land. Three of us did not receive anything. There were seven children in the other house and all of them were given pieces of land. When my late sister died, the children were given their right. What is really painful is that in the Maasai culture, when you have a sister or brother who does not have children, a person who has given birth gives out a child. In that situation, my sister was given a sister by my father. I am married and I have five children. My father and the younger wife took the bride price and my mother did not get even a single cent. I have also not been given any land. My father wants to give it to us but our step-mother has refused. We even went to the lands board at Isinya and had a discussion with the District Officer (DO) and other officers. We found that our step-mother had already put caution on the land and the DO was not ready to listen to us. I went back and told the DO that what he had done was not right. He told me to go and look for people from my clan so that we could have a discussion about those issues. I tried to mobilize elders from

my clan but they did not come. They told me that people who are married are not supposed to follow up on land inheritance. I asked: “If we do not have a right, why does the other house have a right to be given land?” So, the Maasai daughters are not considered. We are just like assets to be sold, but when it comes to inheritance, we do not have anything. How will we be assisted?

The Presiding Chair (Commissioner Chawatama): The issue of inheritance is a very sore one. This is because there is a clash between cultural practices and the law. I believe that like in any Commonwealth country, Kenya must have a Succession Act, so that in the absence of somebody writing a will, there must be a law - and Edna, I need your help on this – that determines how the property of the deceased is going to be distributed. It will say who the beneficiaries are. So, I do not know why within certain communities the cultural practices seem to take centre stage at the expense of the law that has been passed by Parliament. I do not know whether this is out of ignorance or because when you are oppressed, you find yourself in a very helpless situation.

Maybe Edna should be given the microphone.

Ms. Edna: Thank you very much, Judge. We have the Succession Act which provides equally for both male and female children. The problem we have is that there is lack of awareness. The Succession law that we have in this country recognizes the rights of both male and female children. We also have a vibrant Judiciary which has been trained by the International Women Judges Association. I am a member of that association. The judgements that are coming from the Judiciary are providing for the rights of both male and female children. Maybe what needs to be done in Maasai land is massive civic education on the rights of women and children and inheritance. Also, the Government needs a policy that specifically states that no transaction in land will be dealt with unless a woman agrees that... Even the children should be consulted because we also have a vibrant Children’s Act which also provides that the views of children have to be taken into account. With the current reforms in the Judiciary, we have very many women who have been appointed judges. All that we need to do is to take our matter to court and you will be granted the orders.

Thank you very much.

The Presiding Chair (Commissioner Chawatama): Edna, I think it is one thing to do civic education and another thing for people to see something in practice. Do we have a women’s legal aid clinic that could possibly come and take up some of these cases and deal with them in court, so that women do not just hear that there are certain things that are possible? Is there a section of women lawyers who take up cases like these who we can involve?

Ms. Edna: Yes, FIDA and Kituo Cha Sheria have the legal aid scheme. As the Judiciary goes on with reforms, those who are very poor will be allowed to file their cases without making payment. But, again, the civil society on the ground needs to collect some of these cases and take them to FIDA, Kituo cha Sheria or the Kenya National Commission

on Human Rights, so that they can be aware that this is happening on the ground. The High Court has the land, environment and family divisions. If these cases reach the courts, they will be able to give orders as requested. But if the cases are not taken to court, then the court cannot grant any orders.

The Presiding Chair (Commissioner Chawatama): Thank you very much. I think that is why it is important that women came today. This is because we have to find ways and means to bring certain practices to an end. We also have to find ways and means to bring awareness to women on some of the things that they are entitled to do or can do. We are going to make recommendations, as I said earlier on, which are going to be mandatory. What this means is that every six months the Minister for Justice, National Cohesion and Constitutional Affairs will report to Parliament how far the Government has gone in implementing the recommendations of this Commission. This is the first time, I believe, that as a country, you have a Commission that enjoys such powers.

So, if we recommend, for example, that there needs to be a policy change or introduce a policy that no land transactions shall take place without the consultation of women and children, really what we are trying to do is to preserve the family unit. This is because from what I am hearing from you, the family is not united. The men are not behaving like the heads of the family that God intended them to be. The role of a woman is to be a help mate and not be the one who provides. So, we can make recommendations to pass a policy or change laws. These recommendations are going to be mandatory. So, your contributions to this Commission are not in vain. This Commission enjoys immense powers. What you have done today is to equip us to make recommendations that will make a difference in your lives as women. You will also have a role to play. You will have a role, once the report is out, to read it and look at the recommendations and findings of this Commission. This will ensure that you put pressure on your leaders and lobby them to make sure that our recommendations are implemented. This is because you are the ones who are going to benefit from it.

As Edna has said, even as a person who is not a Kenyan, I am greatly impressed with the reforms that have taken place and the work that is being done by the Judiciary. I am also impressed by the contents of your Constitution. So, take advantage and make sure that your voice is heard. If you identify the leaders amongst you, they are the ones who will open the door for many opportunities. When you came in, you found that door behind you open. It is not 100 people who opened that door. It just required one person to open it and you all came in. It is the same with choosing good leaders. One good leader will open a door and many of you will benefit. Opportunities will be created and your voice will be heard. Even if you start with one leader, you will continue to grow and encourage one another. That will make a lot of difference.

I do not know if there is one pressing issue that has not been addressed, that somebody feels that if she does not speak she will not go back home with it. Is there an issue that has not been addressed?

There is one hand at the back. We will hear what the issue is and then wrap up.

Ms. Anne Jillo: How are you? My name is Anne Jillo. I am a resident of Kajiado but I was born in the Coast. Women have the biggest responsibility in the community. There are house chores and other issues. In 2000, the Government retrenched very many people. They were given Kshs40, 000 and told to go home. Even if you applied for a job in the Government sector, you could not be employed. If a woman is retrenched, it is like the whole community has been slashed. The Government was not right to retrench people because they are now struggling. I feel that the Government has really done me wrong. I see people saying that they are proud to be Kenyans and wonder how that is possible when the Government, which is our father, can do such a thing to its people.

That is the issue that I felt I should speak about.

The Presiding Chair (Commissioner Chawatama): You have brought up an issue concerning employment. I would like to know the circumstances surrounding this retrenchment that took place.

Ms. Anne Jillo: It was said that the Government had employed many people. I do not know whether there was no salary to pay them. So, the number had to be reduced.

The Presiding Chair (Commissioner Chawatama): Do you know how many people were retrenched?

Ms. Anne Jillo: They were very many. I cannot really ascertain the number. But what I can remember is that at that time they had promised that people would be given Kshs240, 000, but they were given only Kshs40, 000.

The Presiding Chair (Commissioner Chawatama): You said that this took place in 2000. Do you know whether the majority of those who were retrenched were women or was it almost an equal number between men and women?

Ms. Anne Jillo: They did not specify, but in Kwale District, majorities were women of a tender age. I do not know whether the same applied to the rest of the country.

The Presiding Chair (Commissioner Chawatama): Have you been able to find a job from that time?

Ms. Anne Jillo: No, I have not found a job. Somebody told me that if I was retrenched, I will never get a job and yet we were just retrenched without doing anything wrong.

The Presiding Chair (Commissioner Chawatama): Were you prepared adequately for what was to come because to have a job, earn and plan and that job is taken away from you causes a lot of hardship? Were you given sufficient notice of the retrenchment?

Ms. Anne Jillo: We were told that the number of employees would be reduced. Those who wanted to go on retirement were asked to volunteer. Some volunteered but others

did not. They said that, that number was not enough. I do not think that we were prepared enough.

The Presiding Chair (Commissioner Chawatama): From the time you heard that the Government was going to reduce the number of its employees to the time when you were sent home, was it days, weeks or months that passed?

Ms. Anne Jillo: It was like one year.

The Presiding Chair (Commissioner Chawatama): Thank you very much. What we will also try to find out through our research unit is what prompted the Government at that time to retrench people and then we will have a full picture. But, thank you very much for bringing it to our attention, because we did not have an issue of employment or unemployment.

Ms. Anne Jillo: I would like to appeal to the Government to consider the women because they have a lot of responsibilities in the community. When they employ people, they should ensure that women are the majority.

Ms. Medline Njeru: Thank you.

Ms. Edna: I just wanted to tell you that you should not be afraid of taking your matters to court. This is because under the jurisprudence of equality project, all judges and magistrates have been trained that in case of a divorce, a woman's unpaid labour, for instance, sweeping the house, milking the cows and carrying a pregnancy for nine months, is taken into account. So, a man cannot say that she was unemployed.

I want to throw a challenge back to women. When somebody asks you whether or not you work, what do you say? You wake up in the morning before everybody, sweep the house, milk the cow and take the milk to the market. You also go to the shamba. If that work was to be paid, how much do you think that you would earn? So, do not be afraid of taking your matters to courts, so that the clan cannot come during inheritance and say that you were not working. If that labour was valued, you may be shocked to find that your worth is Kshs100, 000 per month. So, if you have lived with a man for about ten years and he is selling the property and saying that you were not working, if it was to be valued, ten years times Kshs100, 000 times 12 months, how much money is that? So, the property will have to be distributed equally between the woman and man.

Thank you.

The Presiding Chair (Commissioner Chawatama): Thank you very much, Edna, for that contribution. I agree with Edna 100 per cent. Even as courts in Zambia, this is what we are doing. Those are the questions that we ask men who appear before us. They say that the woman contributed nothing. We ask: "Did she wash for you and bear your children? If you had employed her how much would you pay her?" This has helped and even when there is a divorce, it is 50/50 because the contribution of the woman is recognized.

So, one of the things that I would like you to do is to put value on yourselves. I know that when a person is oppressed, that person's worth even in their own eyes is extremely reduced. But you need to get to that place where you see yourselves as human beings who deserve a better life and have a worthwhile contribution to make. You contribute in your father's and husband's homes and surely, you should be able to inherit what you have worked so hard for.

We have heard many issues that have been raised. It is sad to hear the levels of domestic violence. There are very many ways of resolving issues. God gave us men to be loved and cared for and not to be abused. We have heard numerous examples of inheritance, FGM and the difficulties faced by women in accessing health and to some extent justice. This is because if women saw many examples of other women going to courts and succeeding they will be encouraged. Thank you, for your contribution today. When you pick our reports next year, you will see your stories and our findings and recommendations. My prayer is that these recommendations will impact your lives and bring about the change that you desire.

Thank you very much for your contribution and patience. I wish you God's blessings.

Ms. Medline Njeri: Thank you very much, Commissioner. Thank you everyone for coming. We would like to release our commissioner so that she can attend to something else.

(The Commission adjourned at 1.55 p.m.)