

11-14-2011

Public Hearing Transcripts - Rift Valley - Rumuruti - RTJRC14.11 (Rumuruti Catholic Church Hall)

Truth, Justice, and Reconciliation Commission

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

Recommended Citation

Truth, Justice, and Reconciliation Commission, "Public Hearing Transcripts - Rift Valley - Rumuruti - RTJRC14.11 (Rumuruti Catholic Church Hall)" (2011). *I. Core TJRC Related Documents*. 84.
<https://digitalcommons.law.seattleu.edu/tjrc-core/84>

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 MONDAY, 14TH
NOVEMBER, 2011, AT RUMURUTI CATHOLIC CHURCH HALL**

PRESENT

Gertrude Chawatama	-	The Presiding Chair, Zambia
Berhanu Dinka	-	Commissioner, Ethiopia
Ahmed Sheikh Farah	-	Commissioner, Kenya

(The Commission commenced at 10.20 a.m.)

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

(Opening Prayers)

The Presiding Chair (Commissioner Chawatama): On behalf of the Truth Justice and Reconciliation Commission, we would like to thank you sincerely for your attendance for today's hearings. We thank you for your participation. For those of you who gave statements, we thank you very much. For those of you who accepted to come and testify before us, we thank you very much. Your participation is very important to this Commission because at the end of our hearings, we will come up with a report in which we will state our findings and in which we will make our recommendations. It is our hope that as a result of the work that we are doing, we will endeavour to ensure that the truth comes out, that justice is seen to be done and the promotion of reconciliation, national healing and national unity is achieved. So, your participation in this process is very important to this Commission and to this wonderful nation.

So, we are privileged to have before you, not only people who have come to love this nation, but people of great experience.

This is how we will proceed. We will call witnesses who will share with us their testimonies. During this time, we ask you to be quiet and to give respect to the witnesses as they speak. We have noticed through past hearings that people still suffer from a lot of pain because of the very painful experiences that they have gone through. Some have lost loved ones; some have lost property and we are aware that we are re-opening wounds. So, we beg for your sensitivity and respect as witnesses testify. We ask that if you have cell phones, please, switch them off. Once a witness is called, he or she will be sworn in. The Leader of Evidence will guide that witness and ask questions. Later, the Commissioners will be given an opportunity to either ask questions or seek clarification. It is also our hope that even though not all of you will be given an opportunity to speak, but that you will be able to identify with what is being said today. We tried as much as possible to ensure that the testimonies that are heard today are representative of the experiences of the communities in this particular part of Kenya. We thank you for your

attention. We proceed and ask the Leader of Evidence to ask the hearing clerk to swear in the first witness.

Ms. Belinda Akello: Presiding Chair, we pray that the witness is allowed to swear while seated as he is on a wheelchair. He is a disabled person.

The Presiding Chair (Commissioner Chawatama): Please, go ahead.

(Mr. Joseph Wamathanga Mundia)

Ms. Belinda Akello: Presiding Chair, this is Witness No.2 on the list. His memorandum is attached here.

Mr. Mundia, we thank you for coming. For purposes of record, kindly, state your three names.

Mr. Joseph Wamathanga Mundia: My name is Joseph Wamathanga Mundia.

Ms. Belinda Akello: You do recall that you did provide a statement to this Commission?

Mr. Joseph Wamathanga Mundia: Yes.

Ms. Belinda Akello: For purposes of record, maybe you would like to inform this Commission where you live.

Mr. Joseph Wamathanga Mundia: I live in Nanyuki, Laikipia East District, Laikipia County.

Ms. Belinda Akello: What do you do for a living?

Mr. Joseph Wamathanga Mundia: I am a businessman and I also represent persons with disability.

Ms. Belinda Akello: Do you have any particular role or any scope of responsibility with regards to people living with disability in Laikipia?

Mr. Joseph Wamathanga Mundia: Yes.

Ms. Belinda Akello: What is your level of responsibility?

Mr. Joseph Wamathanga Mundia: I tell them the truth. I teach them that they have the right to live. They have every right like every other Kenyan citizen.

Ms. Belinda Akello: Have they come together in a group? Do you have a group of an outfit through which you operate?

Mr. Joseph Wamathanga Mundia: Yes. The disabled come together. They might have groups and we have organizations that we work with. In Laikipia, we have more than 60 organizations for the disabled. They are the ones that try to sensitize them on their rights.

Ms. Belinda Akello: Today, you speak as the chairperson or the secretary? In what capacity do you speak?

Mr. Joseph Wamathanga Mundia: I am the Chairman of the United Disabled Persons of Laikipia.

Ms. Belinda Akello: Kindly, proceed to tell this Commission the contents of your statements on behalf of all the persons who you represent today.

Mr. Joseph Wamathanga Mundia: We, the disabled people, have had problems in the past years because we were not recognized by the Government and society. Even some of our parents used to discriminate against us. Since we started these organizations, we teach each other and know that everybody has the right to live, the right to education and the right to own property like any other Kenyan.

Our organization has started seeing the injustices that we were suffering before. Some parents would murder their disabled children because they saw them as a burden. There are some who lock them up in homes, so that they cannot be seen and they also see them as a burden. These are some of the challenges we have had in the past.

In terms of education, we have free education, but the disabled children do not go to school because some of the schools do not have any equipment for the disabled. They do not have specialized teachers to teach them.

As an example, here, we have sign language interpreters who is helping the other people understand that when you go to primary schools where the Government has given free education, we do not have such teachers.

Some of the disabled people may go to special schools, but these special schools are not free. They have to pay for them. Most parents feel that there is no point in educating disabled children because they do not see the reason for that. So, they discriminate against them. They leave them in the houses and they are not able to do anything. Eventually, they die in those houses. Some people come to know much later during the burial that there was a disabled child in that family. This is because this child was denied the chance to interact with other family members. In most cases, they are kept away from the rest of the people.

The other challenge that we have is transport. As you can see, I am on a wheelchair. When I try to get into a *matatu* or bus, I am forced to pay for the extra seat like everybody else. It is as like a normal person having to pay for his legs separately from the rest of the body. So, when a *matatu* crews sees that you are on a wheelchair, they will do

not allow you to board it. You are left there and you ask yourself why you were born that way.

If somebody is involved in an accident, and there are so many accidents in Kenya now, when the case goes to court, it stays there for a very long time. So, by the time it is resolved, you find that maybe the victim would have died by then and his benefits go to other people and not even the next of kin.

When he comes out of hospital, he is forced to use a wheelchair like the one that I use now but wheelchairs are very expensive. Most members of the society cannot afford this. Some of them have fundraisers. During the time they try to raise the funds, this person is forced to crawl and creep, looking for help.

The disabled people do not have the right to inherit land. Most of them are not bequeathed land by their parents or their siblings. So, they are denied the right to own land. They have to live in abject poverty.

The other challenge that we face is that when somebody goes to hospital, most disabled people are not able to pay hospital fees. When they go there, they are expected to pay their hospital bills. In Laikipia County, most of the places are like a jungle. Most of these people are unable to access hospitals, so they end up dying in their homes.

I would like to ask our Government to start taking the interests of these people into consideration, most of who think that there is no point in living, so that they can live a more meaningful life. Most of the parents who have disabled children are single women. Once the men find out that they have disabled children, they abandon them. So, the mother is left to bring up this child single-handedly. When they are not able to fend for them, they look for ways of getting rid of them. Those who stick with their children are unable to remarry because of that. That is why sometimes they lock up the children and look for another man in the process of trying to fend for these children. So, they cannot afford to live without doing that. Most of them live in abject poverty. As a result, their problems are just compounded.

It is a very sad situation for the disabled women because whenever a case comes to court, maybe rape, it is very hard to get any justice. If the lady unfortunately was pregnant and maybe she is deaf or blind, according to the law in this country, she has to give that information. Somebody might be mentally challenged and they are unable to give sufficient evidence and the case is thrown out. So, the problems of these people are compounded.

I have had such cases in Laikipia. Some of them are thrown out. Whenever there is a problem, our security forces cause disability. Recently, somebody was shot by a policeman because they were fighting over a love triangle affair. The man cannot walk now and he is mentally unstable at the moment. The case was thrown out of court.

We have some disabled people who may be mentally disabled. Most of them are simply dismissed as mad people. We have been in very many towns and these are Kenyans like any other Kenyans. The hospital facilities are available for them, but instead of the Government giving them this kind of help, they are just abandoned and left on their own. The society shuns them because they think that they have had a problem. They deprive somebody of their property and refuse to pay dowry.

Women end up sleeping in trenches. They might conceive more children in those trenches.

The other thing that I would like to mention is that I would like to ask the Government to address the problems of the disabled persons as soon as a child is born. The Government should know whether the child could be categorized as disabled and where they would be taken to make sure that they can access treatment healthcare and education.

It is possible for the Government to reassess all the disabled persons and to carry out a census, so that it can fund and look for ways of looking after them. There is a Bill of 2003 that was assented to by the President which has not been implemented up to now. I would like to urge our Government to put in place systems to make sure that this Bill is implemented and it is supported and that it works for the disabled people.

There should be ramps for the disabled children in school. There should be special toilets for people who use wheelchairs. Even if there is a ramp heading towards the toilet, you find that most people with wheelchairs are forced to relieve themselves outside of the toilet. This does not give them the right to the privacy that they require. In most cases, you realize that most of the disabled people are told that even if there is a ramp, they would need to be helped. This in itself does not guarantee them their security. Some of them end up getting deprived of the little property that they have like money or anything else.

I would also like the Government to educate and sensitize communities in general and show them that the disabled people have every right to live. In Uganda, they thank God for the disabled people. However, in Kenya, they are seen as a curse and people would laugh at them. That is why I feel very bad when I hear that there are communities that kill disabled children. They kill these children instead of allowing them the right to life. Some of them are left to live in problems until they die. I would like our Government to know that the parents who have these disabled children should be taught on what the law says that they should take care of these children because they are human beings just like any other human being. They should be allowed to inherit land.

We have seen recently on television of a family that sold land and even demolished a house belonging to a disabled woman because they thought that she had no right to inherit that land. So, the Government should make sure that everybody, whether disabled or not, has the right to live and they have equal access to education and health care.

In Laikipia, we have a lot of pastoralists who move around looking for pasture. We should have a kind of a rescue care or schools much close to them whereby even if they go to look for pastures, they will come back and find their children safe.

Ms. Belinda Akello: Thank you very much for your articulation of your issues. We have noted the number of recommendations that you have made. Before we start with questions, we could just ask you to read through the recommendations that you have given, so that we have them as part of our record.

Mr. Joseph Wamathanga Mundia: Our organization for the disabled would like the Disability Act of 2003 to be implemented in order to take care of the interests of the disabled people.

We would also like our Government to consider the criminal cases that involve disabled people, accidents or rape or locking up disabled children. The hearing and determination of these cases should be expedited, so that justice is seen to be done.

I would also like the Government to look into the issue of education. Most of our schools do not have facilities for the disabled, for instance, sign language interpreters. Children should be given access to this from Class One because they are discriminated against. Some people see them as people who are unable to access education. So, they are not treated like normal human beings.

The other thing I would like to urge the Government to do is that public service vehicles should have a carrier where the wheelchair can be put, so that the disabled people are not discriminated.

The Government should also find out what organizations can produce materials for making wheelchairs, walking sticks and hearing aids for persons with disability. If the Government does not charge tax on this, it might be possible for us to afford them.

I am told that the National Council of People with Disability has a fund to assist the disabled. In every county, there has to be a place where the disabled or their parents can go there and get funds even if it is in the form of a loan to put up small livelihood projects, for example, selling vegetables or fruits. This is the only way we can fend for our families and probably, pay school fees for our children. This is because when a disabled person goes to a bank to ask for loans, it is very hard for them to get it to be able to run businesses or educate them.

Hospitals should be quite close to where people are because this might also end some of the cases of disability when people are able to access healthcare in good time. The buildings should also have access for the wheelchair or crutches in the forms of ramps or even lifts, so that we have writing even if it is a question of Braille so that even the blind can access those services.

I have spoken about health services. We should try to identify disabilities early enough. I would also like to say that registration should start as soon as the children are born, so that they are known. It is known that in a certain county, there are many disabled people and what kind of help each one of them needs. There is also the issue of security. Most disabled people do not have security. That is why you see that our girls are raped. Even when we go to court, the perpetrators are left to go scot free.

We also want to talk about human rights. The disabled people should be able to inherit property, whether it is land or animals from their parents. If each one of them would be given, say, livestock, a house or whatever it is, it would help them. Sometimes some organizations claim to be helping the disabled people and collect money on their behalf, but the money actually does not trickle down to the real disabled people.

I would also like the Government to consider the disabled when it is planning. There are commissions that come here and they do not bother to listen to the disabled. So, I would like to thank the TJRC for being able to listen to us.

Every organization or NGO should involve the disabled because they are the ones who understand their problems. When they explain them in a forum like this, then the public can understand the challenges that these people are facing.

I would like to thank the TJRC for giving me the chance to come and explain our problems. I know that God will bless you. Thank you.

Ms. Belinda Akello: Maybe just a few clarifications. In your organization, United Disabled Persons of Laikipia, how many are you? What is the membership?

Mr. Joseph Wamathanga Mundia: At the moment, there are more than 500 members. There are many organizations. There are those who have not joined this organization. So there are very many who are disabled, but now we have more than 500 members.

Ms. Belinda Akello: What are the different forms of disabilities amongst your membership in your group?

Mr. Joseph Wamathanga Mundia: The kinds of disabilities covered under my organization are the blind, the deaf and those who have mental disabilities. They are regarded as being mentally retarded, but I do not like that term. I would rather use the term “mentally challenged”. Then we have those who have physical disabilities like mine. I am on a wheelchair. There are those who use crutches. We have multiple disabilities. There are some who have a lot of challenges where you find that somebody is blind, deaf and physically disabled. When a parent has such a child, it becomes a burden for these people. That is why we have come up with this organization to see if we can help and encourage them.

We also have epilepsy. Some people call it *Kifafa* in Kiswahili. We have other people who have mental problems. They are sometimes locked up or chained at home. This is not madness or anything that we can understand, but they just want to move out.

Ms. Belinda Akello: How many schools for the disabled are there within Laikipia?

Mr. Joseph Wamathanga Mundia: There are four of them here in Laikipia. There is Muthengera, Kwa Njora, Liki Special and another one whose name I cannot remember, but it is within this area.

Ms. Belinda Akello: As the chairperson of this group, have you ever approached the Provincial Administration and maybe requested for some of the fees to be waived from the Government institutions such as hospitals and schools? Have you ever requested for those fees to be waived as a group from the Provincial Administration?

Mr. Joseph Wamathanga Mundia: That is something we have tried. I had forgotten to mention that when these parents have their children in secondary schools, they ask for bursaries, but they do not succeed. When the mothers of the disabled children request for bursaries, they are told that it is not the child that is disabled; it is the mother. So, we would like the Government to intervene.

Ms. Belinda Akello: What about healthcare? How do you access it?

Mr. Joseph Wamathanga Mundia: We have had many hospital cases. It is not easy to have anybody waive maternity bills, especially if it is a disabled mother having a baby. They say she had nine months to plan for this and, therefore, we should not try to intervene that they should have their bills waived. So, most hospitals do not accept the fact that a disabled person should have a child. So, you find that the doctors will ask you who was it that made this lady pregnant. It is as if they have no right to procreate. We have these problems in the hospital.

Ms. Belinda Akello: That is all.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony, Mr. Mundia. I will ask Commissioner Farah if he has any questions for you.

Commissioner Farah: Thank you very much, Mr. Mundia, for your good presentation. Just a clarification. Are you properly registered with the National Council of People with Disabilities?

Mr. Joseph Wamathanga Mundia: Yes, we are registered with the National Council for Persons with Disabilities.

Commissioner Farah: Do you receive any assistance from them?

Mr. Joseph Wamathanga Mundia: This organization was established just recently. This is the time they are asking for our proposals. Recently, we put up a building in Nanyuki which is the Centre for Persons with Disabilities. We received a donation of Kshs1.1 million to put up the building.

Commissioner Farah: That is all. I thank you for your good presentation.

Commissioner Dinka: Thank you, Mr. Mundia, for your testimony. As the Chairman of the United Disabled Persons of Laikipia, you have represented the group very ably and in a very articulate manner. I think what you said and what you recommended, the challenges faced by people with disabilities, the recommendations you have made, apply not only to your group in Laikipia, but I think to all people with disabilities in Kenya and even beyond. So, I thank you very much for your testimony. I have only one or two questions. Among the persons living with disabilities, is the disabilities mostly of natural causes or is it accidental or is it caused by smallpox or blindness or polio or other viruses? Which is the majority of cases? Is it as a result of accidents or natural causes or viruses like polio and diseases like smallpox?

Mr. Joseph Wamathanga Mundia: For instance, mental disability comes as a result of not accessing healthcare very quickly. It is brought about by prolonged labour during childbirth. When a child is being born and the mother is unable to push as required, mental disability starts from there. Physical disability, on the other hand, was as a result of polio. However, polio has now been eradicated. There are very many accidents. People are involved in accidents every day. You find that people are amputated or they end up with spinal injury or other problems because of accidents. So, if the accidents can be reduced, there will be reduced cases of disabilities.

The others come in when people are already grown up. It might be as a result of illnesses like meningitis or untreated sexually transmitted infections which might lead to diseases. These can be mitigated if there is quick access to healthcare.

Commissioner Dinka: Mr. Mundia, you made a number of recommendations. Do you think the full implementation of the Disabilities Act of 2003 will answer some of your recommendations? Will it respond to your demands?

Mr. Joseph Wamathanga: To be honest, if it is implemented, and strictly followed, it can address all our issues.

Commissioner Dinka: Thank you very much. I am not a Kenyan, and I do not understand Kiswahili Language. You mentioned some words that some people use when referring to people with disabilities like kiwete and kipofu. Are those indigenous local words or Kiswahili words? What do they mean?

Mr. Joseph Wamathanga: These are terms that are used. They are Kiswahili words. They are annoying terms because they dehumanize the people. For instance, if you call somebody kiwete, it is dehumanising. Kiwete is just like an object that is used to fetch

water. In my mother tongue, it is more derogatory. We use the term “kionje”. Kionje is incapable of doing anything on his own. I know that when people are seen as human being, and not dehumanized, they might feel that they have a right. For instance, if you call a woman prostitute, even if, indeed, she is a prostitute, it does annoy her. So, when we are called kiwete, which means a lame person, or kipofu, which is a blind person, we feel so bad.

Commissioner Dinka: Mr. Mundia, now to prevent this kind of reference to people with disabilities, basically, it must have its basis on ignorance. Could your organizations put some kind of pressure or petition local and national Government to undertake civic education among the population to give them some kind consciousness raising not propaganda, but civic education regarding people with disabilities? Will that help?

Mr. Joseph Wamathanga: I am sure that it can help in a very big way because some people say it out of ignorance and others say it out of spite. But if the Government takes it upon itself to educate people that these are not acceptable terms and prosecutes them for using these terms, it can stop lowering the dignity of the people with disabilities.

Commissioner Dinka: Thank you, Mr. Mundia, for your testimony. I have no further questions.

The Acting Chair (Commissioner Namachanja): I join the other commissioners in thanking you, Mr. Mundia, for your testimony and very clear recommendations. However, I have three questions that I wish to ask you. The first one relates to the question that was asked by the General. You mentioned the fact that there is a centre that has been built. I want to know the benefits of the centre to the people in Laikipia.

Mr. Joseph Wamathanga: The centre is still under construction. We call it Ecotourism and Tourist Disability Centre. We have Maasais who could bring in their beeds work. We would try to market them on their behalf. Ladies can be taught tailoring or spinning. We can give them professional training. We want to make them understand that they can do a good work and earn a living rather than depending on begging. At the moment, we do not believe handouts can help us. Handouts are killing us. Show us how to fish instead of giving us cooked fish.

The Acting Chair (Commissioner Dinka): Amongst the things that you talked about, I do not recall that you mentioned the issue of employment or unemployment directly. What are some of the challenges that disabled people face in the employment market? Would you like to address that issue?

Mr. Joseph Wamathanga: I had mentioned the Disability Act of 2003. I have said that if an employer employs people five per cent should be people with disabilities. This has not been done.

When the Government is recruiting people into the forces, they always talk of employing people who are physically fit. I know even in the military, there are other duties like cleaning. These people should get a chance to get employed there. I would like when

other are being employed, or if somebody loses an arm or a foot, they are sacked. They are not seen as being productive enough to their organizations. I believe our Government and even the TJRC, if somebody is injured at work, instead of getting sacked, they should look for alternative work they can do within the same organization. When the military is recruiting people, they should employ people with disability as well. Sometimes, they look and they see that they are unable to do any work and yet, we are educated. I know I cannot move around very much, but if I am given office work, I will stay there and work. This is because I will not go out to receive a phone call. So, whether it is an operator or a secretary, a disabled person, can work there. So, I would like the Government to make sure that the disabled people are employed just like any other Kenyans.

The Acting Chair (Commissioner Namachanja): In trying to motivate young disabled children, do you have examples of role models who have succeeded and who can motivate the young people in the society? If so, what are some of the examples you give to motivate young disabled persons?

Mr. Joseph Wamathanga: That is a good question. We have examples of people who have worked so well in this country. I would like to give an example of our President. When he took over, he was on a wheelchair. However, his work is appreciated by Kenyans. We had hon. Asinyo who was a Nominated Member of Parliament. She was blind, but she performed so well. Her work for ten years while she was in Parliament speaks for itself. I do business of making bands. Am I not working? There are some who work in offices, but the society feels they are not doing a good work.

The Presiding Chair (Commissioner Chawatama): I would like to thank you, Mr. Mundia, for your testimony. We are grateful that you appeared before us today. Indeed, you have educated us and believe that there will be a portion in our report, where we shall address the challenges that are faced by the disabled persons. We shall make our recommendations accordingly. Thank you very much for your contribution.

Leader of evidence, you may swear in the next witness.

Ms. Belinda Akello: The current witness is No.3 on your list, and the memoranda are attached.

(Mr. Jack Kaguo Githae took the oath)

Ms. Belinda Akello: Good morning. Welcome to this session. For our records, kindly, state your three names?

Mr. Jack Githae: My name is Jack Kaguo Githae.

Ms. Belinda Akello: Which name do you like us to refer you with during the session?

Mr. Jack Githae: Githae is my name.

Ms. Belinda: Thank you, Mr. Githae. Where do you live?

Mr. Jack Githae: Currently, I live in Nairobi.

Ms. Belinda Akello: What do you do for a living?

Mr. Jack Githae: I am a traditional medicine practitioner and consultant.

Ms. Belinda Akello: For how many years have you done this business?

Mr. Jack Githae: I have done traditional medicine for the last 40 years.

Ms. Belinda Akello: Mr. Githae, you did record a very elaborate statement and testimony with the Commission. Could you, please, briefly go through your testimony and statement before today's session?

Mr. Jack Githae: My statement to the Commission revolved around violation of my fundamental human rights which go back to quite a number of years. I was a victim of the 1992 post-election violence. I was also a victim of the 1997 post-election violence. I was also not spared in the post election violence and displacement of 2007.

I started my practice in Kinangop where I was displaced by petty politicking. I ran to Rumuruti where I thought I would, probably, settle and do my practice freely without any interference. I moved to Rumuruti in 1987 and established a botanical garden of 200 acres. I had my factory. I had a unit of livestock, dairy cattle, dairy goats, and poultry. But as I started expanding my institution, we were raided in 1992. I had to run away with my family to Nyeri. I thought it was a temporary. I went back to the same place and settled there. But in 1997, again, we were affected and displaced. I lost everything that I had invested at Rumuruti.

I tried establishing myself at Nakuru ASK Show Ground where I wanted to set up my school on traditional medicine but there again, I did not fair very well. I had the railway stand to start the school. I advertised my school and I received very many applicants. We interviewed them and shortlisted them. I invited those who succeeded. However, before they reported, the NARC Government came into power. All agreements between individuals and Kenya Railways Corporation were suspended.

My five year leasehold with railways was rubbished. I was not allowed to use my stand at the ASK Show Ground, Nakuru. I was in a total mess. I hired a neighbouring ex-power and light stand, and started rehabilitating it, so that it could accommodate the school and some of the activities that I wanted to do. But before I went very far, I was told the stand had to be demolished to pave way for the expansion of the members' car park and gate. Again, that put me off balance.

I thought now that I cannot survive on leased premises; I would go back to Rumuruti to start rehabilitating our property at the Gatundia, Kirimandia Estate. I started doing what needed to be done with the hope that soon or later, I would have institutional framework

that would get the training, factory and all those. But before we went on then, in April and May, my place in Rumuruti was raided, and the entire infrastructure was destroyed. I consulted the police and the Provincial Administration. I even wrote to the Commissioner of Police. I went to the CID. I wrote to anybody that I thought had mandate to protect me. However, I did not get any protection. The entire premises were destroyed. To date, it is completely empty. Our 200 acre botanical garden was cut down. Some of the materials split into timber, majority of them were burnt into ashes. Even as we talk, the stumps that remained are being dug out and burnt as charcoal. It is a pity that what was once a botanical garden is completely destroyed. These events, of course, resulted into economic crisis and made it difficult for me to do my normal practice and consultation.

I have a network of 15 clinics all over Kenya from Mombasa to Nairobi, Embu, Meru, Nyeri, Nyahururu, Kericho, Kisii, Migori and Malaba. The post-election violence made me literally suspend all of them. Even as I speak now, we are just surviving with a little practice at Nairobi. We have remnants of our factory where it has not fared very well.

In 2006, I was implicated to a *mungiki*. My place was raided in my absence. My strong room was broken into and they stole my valuables. I was arraigned in court as a *mungiki*. For three years, I was dragged to a court of law as a witchdoctor. This completely ruined my integrity as a professional medical practitioner, a healer and as a Kikuyu elder.

My statement revolved around the crisis I am in, as an IDP, a veteran Mau Mau, practitioner of indigenous knowledge and traditional medicine, areas that truly have not been addressed by our Government to date. Most of the IDPs in the Rift Valley are living in Laikipia, Nyandarua and Eldoret. Most of them ended up there, because they lost their land during the struggle for Independence. So, when they were told that they were strangers in Rift Valley and displaced, it was a double calamity and very traumatizing for them. When you talk of being a citizen of an independent country, a country that values democracy, a country that respects all charters of international human rights, but you cannot live in that country peacefully and do what you think is best for you, then there is a problem. I think this is a problem that has lingered on for a long time. It has affected me. It has also affected other people who may not have the opportunity to express their frustration.

My appeal to this Commission and the Government is to take care of war veterans in this country. A colleague of mine died a beggar at age of 80. He was buried three weeks ago. Literally, we had to do a harambee to get his body from hospital and to bury him.

Another one died the day before yesterday at the age of 96. He died a destitute and a frustrated man. I am not hungry and destitute, but I feel for them. When such people are also victims of 1992, 1997 and 2007 as I am, then I am appealing to this Commission to look into this matter very seriously because it is jeopardizing the integrity and reputation of this country in the eyes of the world. Even as I talk here, my fellow neighbours in Laikipia, ordinary citizens of Laikipia, Eldoret, Kitale and wherever we have had post-election violence, most of them have no malice against their neighbours. From my own

experience here in Rumuruti and Kinangop, it is our politicians who are using desperate, hungry and poor people to accomplish their selfish interests.

I also appeal to this Commission to do what it takes to make sure that those whose rights were violated before and after Independence, and who are still alive, their rights are addressed.

I am also appealing to this Commission because I am an IDP. The other day, I went to one of my DO, and I told him I am an IDP. He said I am not IDP. IDPs are in the camps. I thought she needs a definition of IDP. IDP is about displacement from where you belong or from where you are supposed to be to places where you do not belong. I am appealing to this Commission that the fate of IDPs be addressed. The Kshs25, 000, and Kshs10, 000 that they were given is not enough. I would not even go for it. What can it do? Most of them had their own properties. They have their own land and their own descent buildings. They are still in tents four years down the line. The fact that I as an IDP, vocal as I am, has not been supported in any way, it means our governance has a problem.

The mandate of this Commission is to see to it that those who are supposed to do what needs to be done would address human rights violations, do it in good time. Most of the Mau Mau veterans who lost their property and became IDPs are dead. They died out of shock. They could not bear what they were subjected to.

I left Nairobi today at 3.00 a.m. I was supposed to come here last night, but I could not make it. My vehicle, which is a junk, broke down. We had to go back to Nairobi. I woke up at 3.00 a.m. and I have not had a cup of tea. I had a fleet of vehicles which I bought with my own resources to serve me and my people. The fact that I cannot go to Eldoret or have clinic at Malaba is very distressing. This is a violation of the rights of the people. It violates the rights of the people of Eldoret who were enjoying my services. I believe they are entitled to my services. It is not my rights alone that are violated. When I cannot manufacture my herbal medicine, when I cannot develop traditional medicine to the next level, because I was crippled, the Government has failed; the human rights of my people and my human rights have been violated.

I also articulate indigenous knowledge in its wider spectrum. We have been researching in indigenous knowledge, traditional medicine, indigenous clergy and I initiated the Mt. Kenya Inter-faith shrine strategy. My people were arrested. I was almost arrested. The freedom of worship is clearly enshrined in our Constitution. Even as we talk now what we started in Mt. Kenya cannot go on because somebody does not believe in it.

I am appealing to this Commission to take us seriously because it is the right of the African people to remain Africans. It is the right of the African people to articulate their Africanism. It is the right of all ethnic groups of this country to articulate whatever tradition and culture that has kept them going. I am appealing to this Commission, even as we reconcile and heal our people, that we be facilitated to be ourselves. The problem is not tribes. The problem is not ethnicity. Ethnicity is a genetic phenomenon and

ecological. We must respect that people are the way they are. They eat what they eat because that is what grows where they are. When they are prevented from growing what they grow, the problem of starvation will be endemic in this country.

Cultural practice as enshrined in the rights of the people should be articulated. Indigenous knowledge and traditional medicine is one of those areas that are grossly marginalized, neglected and sabotaged. I am appealing to this Commission to see to it that the little that is enshrined in our Constitution is articulated, so that our people of Kenya can be themselves, and be proud of their ethnicity and their origin.

Ms. Belinda Akello: Thank you very much, Mr. Githae. Presiding Chair, this witness has provided 17 letters. We pray that the same be admitted as part of the record of the Commission.

The Presiding Chair (Commissioner Chawatama): Admitted as prayed.

Ms. Belinda Akello: Mr. Githae, maybe for your clarification, in your statement you have indicated that there has been conspiracy of your elimination. Do you know by whom or why anyone would want to have you eliminated?

Mr. Jack Githae: Yes, I know. I have been practising traditional medicine for 40 years. Traditional medicine has the potential of making this country self-reliant in medicine. We have all the tradition material and knowledge that we need to address most of the diseases that afflict our people. But it happens our new colonial set is such that we are market for other people. We are a market for international drug manufacturers who make billions out of the drug they bring to this country. In my own view, and for my own observation, the international drug manufacturer, they use their local network to eliminate any barriers that may prevent them market their products here. I happen to be one of the most prominent traditional medical practitioners in Kenya and Africa. I am an advisor with WHO and I also consult for UNESCO. My status and determination to elevate traditional medicine to the next level cannot be challenged by anybody. I am a threat to international drug manufacturers. I am a threat to local conventional medical practitioners. They use ethnicity to fight me. They can use thugs on the road and do anything to eliminate me. Luckily, I believe in God. All healing comes from God. When you are genuine and committed to God, He will always protect you.

So, we have various examples. Even before my boma in Rumuruti was raided, there were three foreigners who were spotted going round my compound. Earlier on, I had advised people who wanted to buy it to establish a traditional medicine factory. Even as we blame the local communities and our neighbouring tribes, we must address what is ailing our people. Most of our young men are idle and they can do anything that can cause conflict among communities. If we are not careful, it may be very difficult to address them.

Ms. Belinda Akello: Thank you very much. You also indicated that you had 13 or 15 clinics within the country and all these clinics run simultaneously. Where did all the offices go?

Mr. Jack Githae: I opened a network of 15 clinics, after I was overwhelmed with the turnover at Kinangop. We used to get over 2,000 patients a day. They used to come from Tanzania, Isebania, Ethiopia and all over, and my place was too small there. Roads were very bad then, I did not have adequate shelter them to queue and wait to be treated. So, it turned to be unhygienic and unhealthy. I thought, perhaps, I would provide them with service.

So, I organized a strategy of travelling on daily basis. I was servicing these 15 clinics; some in the morning and others in the afternoon. I want to stress here that I treated everybody. I treated all tribes of Kenya. Even at Kinangop, I had all the tribes come over for treatment. I did not turn people away because of their tribes. Even at the pick of 2007 post-election violence, I treated Luos, Kalenjin, Luhyas and anybody else who came to seek medical attention at my clinic in Nairobi. I know ordinary mwananchi at grassroots level has no malice or any ill-feelings for this or other tribe. It is the political class that messes up this country, especially during the election year.

I opened the network of my clinics in those areas where I thought I would get many people. It is the patients themselves who located the venue and even helped me to start new branches. I survived narrowly in 1992 when Kikuyus were being thrown into the river in Eldoret. In 1997, there were skirmishes and I survived narrowly. At my age, I cannot run as first as I used to do. I suspended those clinics until the environment is safe enough for me to partner with those communities to give them what is rightly theirs, and what is my right to give.

Ms. Belinda Akello: Mr. Githae, you have been very articulate. Maybe, do you have any recommendation to make?

Mr. Jack Githae: The most important recommendation I would like to make to this Commission, and to all other human rights fraternity, is that we embrace the international human rights statute in this country. I have written several letters to Commissions for human rights. It is either they are not facilitated to do what they are supposed to or they do not have the capacity to help us. I am saying my recommendation is: Let all people of Kenya be treated like people regardless of their ethnicity, belief and religion. Let those whose rights are violated be addressed in a court of law, or through whatever mode of arbitration. There must compensation for violation of human rights.

It is embarrassing to note that from 1992, those who are displaced and those who lost their land, buildings and properties are yet to be compensated.

It is also surprising to note that the veteran Mau Mau, those who are living, those brought us the freedom of gathering as we are gathering today, those who gave us the freedom the forum as like this one, have not been recognized, appreciated, rewarded or at least, compensated. This tarnishes the image of this country. It also tarnishes the image of our past, current and future leaders. Let us live to our era of democracy and human rights where all are equal before God. Let our Government treat us equally.

Ms. Belinda Akello: Thank you very much, Mr. Githae. Presiding Chair that is all from Leader of evidence.

The Presiding Chair (Commissioner Chawatama): Thank you very much, Mr. Githae, for your testimony. We have heard you on many issues.

Your testimony reminds me of a woman who complained before us how she established a business and was handling millions of shillings, and now she is reduced to washing clothes for other people. So, there are events that take place in nations and people's lives that really cause a lot of harm and trauma to them. We thank you for taking time to address us. I would ask the commissioners if they have any questions, maybe we start with Amb. Dinka.

Commissioner Dinka: Thank you, Mr. Githae. You have presented your case very clearly and successfully. It is very straightforward. You suffered in 1992, 1997, and 2007 and your property was destroyed. But the most important thing is that you are still hanging there, trying to rebuild what you have lost and what the people of Kenya lost.

You said that the remnants of your factory are still working. What about your botanical garden, is it completely destroyed?

Mr. Jack Githae: It is completely destroyed. It has to be redone afresh.

Commissioner Dinka: Are you trying to redo it?

Mr. Jack Githae: With these rains, I am doing small scale farming in Nyeri. I cannot survive without farming. I have seven acres farm.

Commissioner Dinka: Have you gone back to the area which you left?

Mr. Jack Githae: I cannot go there because it is not safe.

Commissioner Dinka: It is unfortunate that this thing is happening and I really admire and salute your sense of being a true African and the way you maintain the African tradition, knowledge and wisdom. I just want to encourage you to continue doing it. You will still meet challenges, but that is the story of existence. You have to meet challenges, overcome them and go on. I am sure that as far as the Commission is concerned, we will look at this matter very seriously and we will give it due consideration. We will also see what kind of recommendation we can come up with in the final analysis.

Is there a law in Kenya that protects ventures like yours; people who are trying to establish some kind of revival of African tradition, knowledge and African wisdom, including herbal medicine?

Mr. Jack Githae: Thank you, your honour. The provision is there in law, and even in the old Constitution. Intellectual property right is a resource a nation should be proud of; the wisdom, the knowledge, and the materials!

In other countries; Africa and abroad, a place that I live in should have been a place of national importance and should be accorded protection. In fact, when I went to the provincial Commissioner and others offices, I thought I would get some protection. I thought somebody would come there to protect us because it was a most elaborate traditional medicine factory in Africa. I have travelled the whole world, I go to the South Africa and West Africa and I know there are very few people who have done what we were able to do.

I even went to NEMA when my trees were cut and my riverside was left bare. When I saw that erosion will sweep away my soil, I wrote and went to NEMA. I even went and talked to the DC and to the District NEMA office and nothing happened. It is only that those who are supposed to articulate those provisions are not doing it. I think they should be held accountable.

Commissioner Dinka: Thank you very much. I wish you all success in your attempt to resurrect your project. I hope you will succeed.

Mr. Jack Githae: Thank you, your honour.

The Presiding Chair (Commissioner Chawatama): Commissioner Farah, the floor is yours.

Commissioner Farah: Dr. Githae, let us separate the Post Election Violence (PEV) and go back to your enterprise. In Rumuruti, you have two hundred acres of land. When did they start cutting trees; was it before or after the PEV?

Mr. Jack Githae: The cutting of trees started after I was displaced in 2007. During the 1992 violence, I was able to put some people there. I had guards who were guarding the trees and they were able to keep off those who wanted to destroy them. They went on and I consulted the police and everybody and I was able to sustain, at least the botanical garden and the infrastructure.

In 1997, I was also able to sustain the botanical garden and the basic infrastructure; although the doors and the windows had been destroyed. It was in 2007 when the entire botanical garden was systematically cut, over a number of months. The building was systematically destroyed and the materials were carried away; the timber, iron sheets and doors. I went to the police even when the destruction was going on and the culprits were still on the roof. I went there with the police and pleaded with them. I even fueled the police vehicle and we went and found the people on the roof top destroying the garden. The police did not do much, they fired into the air and the culprits were literally escorted into the bush. I could not talk because it was too tense. I valued my life as I pleaded and nothing happened.

I went to the Director of Criminal Investigation Department (CID) to protest. I even took to the Director of CID a list of where my properties were and in the process, we even arrested somebody with the material and he was arraigned in court. The witness and I testified, but the police refused to testify and the case was quashed.

Commissioner Farah: Okay. So, that was after 2007 elections?

Mr. Jack Githae: Yes. That was after 2007 elections!

Commissioner Farah: Here, in your statement you say: “The unabated invasion, destruction and immediate occupation and use of my land, including my leasehold and riparian land access rights at Nyeri, Rumuruti, Kinangop, Nyahururu and Nairobi.”

Mr. Jack Githae: Yes.

Commissioner Farah: One would expect these to be areas where PEV was minimal. Why would they destroy your property?

Mr. Jack Githae: It happened because the Government was involved and members of certain ethnic counties in the Government were articulating their ethnic interests in the areas they were assigned. That is what happened in Kinangop and the interference with my family. It was sabotage!

I was targeted in Nyeri. Why would anybody think I was a *Mungiki*? With my tight schedule, do I even have time for *Mungiki*? As WHO consultant, what would I go to get in Mungiki? They knew I was not! It was a way of scandalizing me and ultimately even eliminating me!

Commissioner Farah: So, you think that the Government in cahoots with international drug manufacturers was involved in the conspiracy; which you have proved over time?

Mr. Jack Githae: Yes, I have and that is why even in court--- Why would the police not testify with the witnesses that they had? There were exhibits in court, my witnesses had testified. Why, if the police were not partisan? Why not?

Commissioner Farah: Okay, thank you. We do not want names mentioned in our hearings because it is not right. But you mentioned that the politicians were involved. Do you think the police were given money by the drug manufacturers to add up to the problem?

Mr. Jack Githae: I think so because a politician in African--- I am articulating an element of Africa that is proving that Africa, indeed, is the cradle of humanity and a cradle of very senior intellectual prowess. Why would a politician who is supposed to be the eye of others chase me from Kinangop? I was chased away from there and they almost killed me. I shut down my farm and my practice and ran away to Rumuruti

because it was not sustainable there. I reported the matter to everybody and nothing happened.

Commissioner Farah: Where in Kenya are you a little bit safer in the practice of your profession?

Mr. Jack Githae: Nowhere, your honour. I am only safe as long as I remain close to my God.

Commissioner Farah: Even in Mombasa? You are not safe in Mombasa?

Mr. Jack Githae: No! The enemies I am dealing with are too powerful. Unless the Government accepts to protect me, I am too small to freely survive anywhere. What I am articulating and sitting on is worth Billions and Trillions and international drug manufacturers know it. Unless the Government partners with me so that we first protect it and then share it with the community, it will be pirated and the issue is piracy. Taking this knowledge and resources to probably the better people so that they can come to us in the ratios they want and when they want it---

Commissioner Farah: Do you have the list of the traditional medicinal trees in this country that we can look at, or it was destroyed?

Mr. Jack Githae: Your honour, I do. It is here, all the trees are in the list.

Commissioner Farah: Can you share the information you have with the Commission?

Mr. Jack Githae: I will have to make a summary of it, your honour. I am writing a practitioner's encyclopedia and we are calling it a comparative practitioner's encyclopedia of medicinal plants of the world.

I have really been searching for medicinal plants for thirty years. I have twenty thousand prime medicinal plants of the world, comparing one against the other. They are used in China, India, Japan and Africa. I thought it was necessary, even as we exploited what was available here, we would do away with those that are threatened; we go to the weeds and some other less threatened medicinal plants. We can only do that if we compare them. And, indeed, of the weeds that we burn and some of those we feed livestock are very good for medicine. If they were used, we will save very many other threatened medicinal plants.

Commissioner Farah: Thank you very much. I have no further questions to ask you but only to add that you are a man of good profession. But, unfortunately, you were being hunted wrongly by people who should have benefited from your knowledge.

Mr. Jack Githae: Thank you, your honour.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony. I would like you to address two institutions; namely the police and the court; based on your experience and the reforms that are taking place in this country and above all based on the new constitution which was overwhelming supported by many Kenyans-- -. As a way forward, based on your experience with the two institutions, how would you rate the police and the courts' performance in future?

Mr. Jack Githae: Your honour, we must depoliticize the police force. I found it very unfortunate that the police openly participated in the ethnic conflict, particularly on the 2007 PEV. They actually did almost everything which; internationally was grossly unethical and a violation of their professional ethics; whether it was in the reform. I think, unless we depoliticize the police or strengthen that profession and get people who have a calling in that line, I think we are in a mess. I have witnessed total mess in the police force and I say it knowing that I have some individuals and friends who have helped me. But in general it is very messy.

Your honour, when it comes to courts, in the process, I have had more than fourteen cases in court; in Nairobi, Nakuru and Nyahururu. It is very frustrating to have a case in court because both the lawyers, the articulator of justice; the magistrate and the rest--- There has been lack of professionalism that has been apparent and that has made very many people lose property and others die out of shock.

Your honour, we have to rehabilitate the law enforcement organs in their entirety and streamline the Judiciary; depoliticize it and address the issue of corruption and ethnicity in those institutions. They should be the last to be involved in corruption and they should be the last to manifest any ethnic inclination because it is on them that we depend on. It is on them that our governance will thrive and prosper.

Thank you, your honour.

The Presiding Chair (Commissioner Chawatama): I join my fellow Commissioners in thanking you for taking time to come and testify before us. I know that you have taken a keen interest in our work. We also thank you for the confidence that you have shown in this Commission and it is my prayer that as we come up with the report and the recommendations, your contribution will clearly be seen in our report.

I thank you and wish you a good day.

Mr. Jack Githae: Thank you, your honour.

The Presiding Chair (Commissioner Chawatama): Leader of evidence, stand down the witness and usher in the next.

Ms. Belinda Akello: Madam Presiding Chair, the next witness is number four in your list. We plead that you allow the witness, plus the lady accompanying her; representing Laikipia, Pokot and Samburu to speak briefly. They have just produced documents that they wish to rely on.

The Presiding Chair (Commissioner Chawatama): I will allow that and we thank the witnesses for making themselves available this morning.
Please, proceed.

(Ms. Elizabeth Okiel Rumero took the Oath)

Ms. Belinda Akello: Presiding Chair, we shall first make reference to the hand written documents that you have.
Ms. Rumero, welcome to today's afternoon session.

Ms. Elizabeth Okiel Rumero: My name is Elizabeth Okiel Rumero.

Ms. Belinda Akello: Which name would you like us to use while referring to you during the session?

Ms. Elizabeth Okiel Rumero: Rumero is okay with me.

Ms. Belinda Akello: Madam Rumero, where do you live?

Ms. Elizabeth Okiel Rumero: I live in Rumuruti, Laikipia West. I am in a group that represents women in development. I am also a member of a group that stands for peace in the district and a community representative of women from Rumuruti and Laikipia areas.

Ms. Belinda Akello: What issues affecting women would you like to present before this Commission?

Ms. Elizabeth Okiel Rumero: I would like to address different issues that affect women in this district and Laikipia County. There are issues concerning the women who go out of their homes due to lack of security and as a result of domestic violence from their husbands, making them leave their homes to seek refuge elsewhere. Therefore, we are appealing to the Government to enact a law that can safeguard women from communities that are still rooted in traditional cultures to leave them.

There is also the issue of poverty whereby very many women are depending on their husbands while the same husbands have left their responsibilities and indulged in alcoholism. All this has been brought about due to lack of education amongst the women and poverty that has made women not to have anything to depend on.

We are appealing to the Government to look into the issues of Law that affect women. The Government should also prosecute and arrest the people who are making illegal brews that are making men to leave their responsibilities thus making women and the children to suffer.

Concerning leadership, women have been marginalized because they have not got equal opportunities on leadership as men have. For sure, on issues of leadership from the grassroots up to the national level; women have not been given equal opportunities like

the men have in different organizations. All those are being brought about due to different cultures and traditions amongst pastoral communities.

We are asking that women be looked into on when enacting laws that safeguard women so that they can be given equal opportunities like men. Also the girl-child should be given equal opportunities like the boy-child.

The other issue is about inheritance. We have come to discover that many of the women when their husbands die, they do not get a right to inherit property. They are being violated by the family members of their husbands. So, we are asking that a law be enacted to safeguard the right of women on inheritance. Also widows should be given opportunities to make decisions on their own to which side they should belong.

On education, the women have been marginalized and very many women in Laikipia County are lagging behind on issues of education because of lack of security in our county. When parents are insecure the girl-child cannot get opportunities to go to school because in this county, most of the communities are pastoralists so it forces the children to move from one place to the other, therefore, denying them the opportunity to attend school. So, we are also appealing to the Government to look into the issue of security in our county.

On education, we are appealing to the Government to provide education opportunities because the foundation of the family is the mother. For example, the late Wangare Maathai was a role model in the community as a mother.

Early marriages are also really affecting the girl-child as the foundation of the family. Those issues are also being caused by poverty whereby women find themselves being misused by people who are using their finances and others use immorality to give out the girls when they have not matured enough. Those are also being brought about by culture and the traditions. We are also appealing to the Government to take action so that such cultures are left out because they are affecting the girl-child.

On the side of employment, our girls are really misused because they are just left out as house wives to take care of the house. We are appealing to the Government to enact a law that can safeguard the employment of the children.

There is also the issue of rape. Women have been raped and young girls defiled. At times, incidents of rape on women come in one way or the other. For example, in Laikipia North, this was perpetrated by the British Army whereby very many women were raped. There are women who were raped by the British Military men and they gave birth to children because of such heinous acts.

Also the young girls have been defiled by members of their families, relatives and others. Parents also defile the girl-child. So, we are really appealing that there should be a law that would look into the rights of the women.

There are also issues of killings; for example, here at Lolora, when there were fights between the Pokot and the Samburu, women suffered in one way or the other, because when we say that people died, they do not count women. An example is when they say that certain people have been killed, they come and count the number of men killed and then they say: "In addition, there were women and children." So, they come to discover that the women have not been identified as human beings. There are people who lost their lives when there were fights; the conflicts between the two communities who have been fighting for grazing land or property. So, we are appealing to the Government to look into the issue of security and to bring in reinforcement to look into the security of the people because there is lack of security.

When there is a disarmament exercise, it should be done in a good way so that the people who are using illegal guns should be traced and, not only in Laikipia but in the neighbouring districts as well. When the Government decides to do disarmament, it should be done between the neighbouring districts because when you do it in Laikipia some of them run to Samburu and when disarmament is over, they come back to Laikipia with the arms. So, we are appealing to the Government that when disarmament is being done, it is done simultaneously in the neighbouring districts and in every community, and not just in a single community.

Ms. Belinda Akello: Thank you very much for your testimony Madam Rumero. With your permission Presiding Chair, we now invite the next witness.

The Presiding Chair (Commissioner Chawatama): Because we were not guided on the areas in which the first witness was going to address, the second witness should confine herself to areas that have not been touched.

Thank you.

Ms. Belinda Akello: Much obliged.
Good afternoon, Ms. Putunoi?

Ms. Jane Tingis Putunoi: Good afternoon madam.

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

Ms. Jane Tingis Putunoi: My name is Jane Tingis Putunoi.

Ms. Belinda Akello: Which name would you like to be used when referring to you during the session?

Ms. Jane Putunoi: Tunoi!

Ms. Belinda Akello: Welcome. Where do you live, Madam Tunoi?

Ms. Jane Tingis Putunoi: I live in Doldol, Laikipia North.

Ms. Belinda Akello: What do you do for a living?

Ms. Jane Tingis Putunoi: I run an NGO called Centre for Maasai Development and, I am the Director.

Ms. Belinda Akello: Madam Tunoi, as you have very well heard from the Presiding Chair, kindly make a presentation that is limited to issues and areas not covered by the first speaker. Please, explain to this Commission the contents of issues that you would like to present.

Ms. Jane Tingis Putunoi: Because my colleague has already mentioned on issues that are affecting women and the challenges women are facing in Laikipia, mine is to give a recommendation on things that we want addressed by the Government. Most of the issues that she has mentioned are social, political and economic. So, because she has already mentioned what we need to be addressed, mine is just to give a recommendation.

Under social problems faced by women, there is only one thing that she did not mention and that is lack of social amenities like health facilities. For instance, the maternity facilities are lacking in this county because when a mother is delivering a baby, she has to go to distant places to get the maternity services.

The other thing under social challenges is lack of education characterized by poor access to education. Therefore, many problems are coming in, especially on what she has mentioned on education. When one is not educated, cultural barriers come to pose a great impediment to women in the participation in either political leadership or just economic empowerment. If women are educated, they can make their own decisions.

Many of the problems that the first speaker mentioned are more of culture than anything else. In terms of political representation, we have many women who may want to venture into political leadership. But with lack of empowerment for women because of gender discrimination which we have witnessed, not only here in Laikipia, but all over in the country, women are faced with a lot of challenges.

The third thing about economic empowerment is that women are underprivileged. For example, they may want to do businesses, but they do not have opportunities of accessing loans to do small business enterprises (SME). Eighty per cent of our women are poor just because they have not been economically empowered.

So, the recommendation that I want to make is that there is need to continuously empower our local women to participate in decision making and contest for elective positions because we have been given that opportunity. So, we need a lot of civic education to let our women know that there are these positions which are coming and, therefore, they should brace themselves to contest for them.

Civic education in the community is another thing. There should be continuous civic education so as to raise awareness on pertinent issues affecting women as well as critical issues hampering human development. We need to develop and nurture good working relationships now that our County Governments are coming into place to promote the inclusion and participation of local women in the new constitution and in the decision-making processes.

Women should lobby for mainstreaming gender equality because the cause of many problems, as my colleague mentioned, is more or less culture based. If we can have gender equality and civic education on gender equality, as our communities here are diverse--- We have differences in culture among communities but because of lack of education, many women here are not empowered because of gender inequality. We need to support local women to establish and run their own independent income generating activities so that we empower them economically because when we empower our women we would have empowered the whole society.

When we will have the County Governments, we need to develop a system where we can have empowerment centres and also increased educational facilities that can empower women in terms of culture so that we can maintain our positive culture because we have positive culture that can be incorporated in education and, therefore, have economic empowerment on our women.

Those are the few recommendations that I suggest.

Ms. Belinda Akello: Thank you very much, Madam Tunoi. Presiding Chair, also for clarification, the first speaker ideally represented the Turkana and the Pokot Communities and the second speaker was representing the Samburu Community; all of them were speaking on women.

The Presiding Chair (Commissioner Chawatama): But I will also like to know, maybe from the second speaker before you ask your question. If you say that the first speaker represented the Laikipia and Turkana, does the second speaker agree that what the first speaker said also applies to the Samburu women?

Ms. Jane Putunoi: I said that I am representing Laikipia County women. I am not representing one ethnic Community; so my recommendations are overall on the issues affecting the women of Laikipia.

Thank you.

The Presiding Chair (Commissioner Chawatama): Carry on, leader of evidence.

Ms. Belinda Akello: I have one clarification or question to the first speaker. Based on your recommendation, Madam Rumero, how is the reporting of gender-based violence to the police? Is it a common thing for women to report cases to the police?

Ms. Elizabeth Okiel Rumero: Most of the issues that affect women are reported to the police and they are in the police records.

Ms. Belinda Akello: Are there gender desks in this area?

Ms. Elizabeth Okiel Rumero: Yes, there are gender desks in the police stations.

Ms. Belinda Akello: Do you also work in corporation with the District Children officer or any other children organizations within the area? This is in relation to early marriages and child labour issues that you have mentioned.

Ms. Elizabeth Okiel Rumero: Yes.

We know there are challenges that pastoralist communities face on daily basis. For example, repugnant culture which prohibits them from doing so many things that are done by men. There is a lot that is yet to be done to get our people from this entrapment of culture.

Ms. Belinda Akello: Rumero, there is also one issue that you mentioned that has always captured the national interest. That is the issue of rape of women by the British army officers. Did your organization or any organization that you know of ever try to combine statistics to know the number of women who were raped by the British army?

Ms. Elizabeth Rumero: There is an organization that is pursuing that matter in Laikipia. We know there are children who were conceived as a result of women being raped by British army officers.

Ms. Belinda Akello: What is the extent of this by means of numbers?

Ms. Elizabeth Rumero: They could be approximately 50 women.

Ms. Belinda Akello: Presiding Chair that is all from Leader of evidence.

The Presiding Chair (Commissioner Chawatama): Thank you very much, Leader of Evidence. I would ask the Commissioners to ask the witness questions and clarifications. This time we would start with General Farah.

Commissioner Farah: Thank you very much, Elizabeth and Jane, for your good presentation of women issues in your respect areas. I know that there are a lot of cultures, which in your own words, you described as repugnant cultures. That is witnessed all over the country. For example, forcing girls to marry before they mature or complete their education. There are men who leave their women to do all chores as they sip their drink under a tree. When they come home, they start abusing and beating them. There are other traditions which favour men when it comes to inheritance and disinherit women. As we all know, there has been a lot of cases of cattle rustling between Samburus and Turkanas. What role do women play, particularly the elderly ones, who may be listened by men, to bring this culture and traditions to an end?

Ms. Jane Tunoi: I am a Samburu, but married to a Maasai. This culture of cattle rustling has been perpetuated by these two communities for a long time. They take it as way of life. To them, it is not really a crime. Poverty and economic hardships are two major factors that drive morans to do cattle rustling. Sometimes they raid other people's bomas to replenish their stocks.

Secondly, the Maasai and Samburu cultures are deep rooted. It is not really easy to make them change. Culture is a people's way of life. However, cultures can only be slightly changed through education.

We have to educate them on good virtues so that they see cattle rustling as a crime. As things are now, they do not view it as a crime. They see it as activity that will help them be economically endowed. Livestock is their way of life. It is the only way of getting economic empowerment. That is the only thing they know. So, for me, when these morans or girls are educated, they can engage in other economic activities and see cattle rustling as a crime. It is against the law to steal animals or anything else from other communities. This is the only way we can change their lifestyle. I know this will take a long time to change, but it is possible to do so.

Just to give an example of what happened to me. It was not very easy for me to be educated up to this level. I was able to overcome cultural barriers. If God did not help me through, I would have been married when I was young. Probably, I would not be here today to address this Commission. Since I am educated, I can now make my own decision. So, I am just saying that through education that is the only way the society can change its lifestyle.

Commissioner Farah: Thank you, Ms. Tunoi.

Ms. Elizabeth Rumero: My fellow lady has talked about the issues in depth. Mine is just to encourage the issue of education among these communities, so that they can change their perspective in life.

Commissioner Farah: I want to congratulate you for the good presentation that you have made. I am sure the other Commissioners may have other words of advice.

The Presiding Chair (Commissioner Chawatama): Ambassador, any question?

Commissioner Dinka: Ms Elizabeth, and Ms Tunoi, I would like to thank you very much for your testimony. You have represented the women of Laikipia very ably.

To me, whether it is economic and social marginalization of women, or representation at the National Assembly, or even at the civil service and political appointment, it is only education that can open all those doors for them.

The new Constitution is a very good Constitution, especially as far as gender equality and women's empowerment are concerned. It is very good even in terms of representation, politically, and in the civil service appointments. It is very strong in terms of regional and gender representation. So, the key is education.

For example, according to the new Constitution, whether it is at the national or county level, one does not have to become a Member of Parliament to join the Cabinet. However, to fulfil the requirements of gender and region, one must find a pool of educated people from women and also from regions. Appointments both in the cabinet and civil service are very competitive. Even for a President or a County Governor who is committed to the cause of gender equality, he/she will find it very difficult to fill those positions because most women are not educated enough.

So, your campaign or point of focus must be on education. We can empower women through education. Now my question to you is; when we talk about representation in Parliament, what surprises me is that in many countries, majority of our people are women. Yet, it is that majority which says they are excluded in decision making process in their countries. Why is it that the women do not organize themselves properly? Why should they allow men to exclude them from public appointments or parliamentary presentation, yet they are the majority in the society? I do not mean that you exclude men, but vote more women to national Parliament. What is the difficulty that prevents women from carrying out that kind of project?

For us, unless we really know whether it is cultural or something else, we cannot help. Yes, we all want to help. Could you, please, explain to me?

Ms. Jane Tunoi: You have asked me a very difficult question. We know as we implement the new Constitution there are many positions which will be created. These opportunities are enshrined in the Constitution. Representation ratios of both gender at county level or National Assembly are well stipulated in the constitution. So, I think what bars women from taking up these positions is the repugnant culture.

It is culture because if I give an example of where I come from, if I wake up today, and say, I want to vie for an office; my community may not take it nicely. If I am elected into that position, I may end up becoming more powerful than my husband. So, not so many husbands, probably, may encourage their wives to vie for those positions. It will be difficult for them to hold campaigns at night. So, it is more of culture than anything else. That is why I am recommending that we need lot in civic education here for both men and women. We want these positions that are put aside for women, they get them. So, we need just to do a lot of civic education, so that our communities and husbands can agree that we go for these positions.

The other thing is economic. The cost of running a campaign is huge. With poverty, most, probably, you would face a lot of challenges.

The other thing is lack of the pool of educated women. We know that these positions are there. However, those ones who are vying for them are very few. Why? So, we lack people coming over. Even later on, when we are talking about two-thirds, it will be a challenge to get women to be nominated either because of lack of knowledge on what the Constitution provides, or the problems I have just alluded to.

Commissioner Dinka: Thank you very much. I think you have got the key which is education; both civic and formal education. Probably, that is where your focus should be in the next few years. Of course, that does not mean you should be excluded from county governance or national governance. Every effort should be made to bring in as many able women as possible. In Europe and America, if you see it is only after the education of women and also the education of men, has spread to such an extent that practically everybody is educated, as much as he or she wanted. Even the right for women to vote was granted. If you look at Switzerland which is a very advanced country, it is only in the 1960s that they allowed women even to vote. Not to be voted, but to vote. But today, anywhere in Europe, the United States of America, including Switzerland, not only women have the votes, but men find it unusual not to vote for women.

Women are the majority in most cabinets today in Europe, particularly in Scandinavian countries. So, the whole thing really boils down to education. Therefore, your fight must, while not forgetting the rest, concentrate on education for your people. It is only the civic education that can moderate the cultural impediments that exist. Otherwise, we are all with you. Also, in your campaign and mobilization, do not forget to include men to support you. Men are not necessarily anti-women. This is my advice to you, and I wish you success.

The Presiding Chair (Commissioner Chawatama): Thank you very much, ambassador for those words of wisdom and encouragement. I can see on the look on the faces of both women that they have really understood.

As a follow up on the question asked by Ambassador, I would like to know whether or not women in this area, exercise their right to vote? Do men folk interfere with the voting? Are women free to vote in candidates of their choice?

Ms. Elizabeth Rumero: To answer your question, women are different. Although we come from Laikipia County, as I said, cultures are a big problem in the pastoralist communities. I know that there are women even whose identity cards are kept by their husbands. We are happy that the new Constitution has been passed. It highlights the rights of women. We do hope that our men will one day understand and respect the law. As the Constitution stipulates women must be given their rights to make their own decision without being compelled to do “a”, “b”, “c” and “d”.

The Presiding Chair (Commissioner Chawatama): But do men interfere with the women? Do they tell them as a family, they have to vote for this or that person? Ms. Jane, please, tell us?

Ms. Jane Tunoi: Yes, that is a problem because men have really a big say when it in terms of politics. Where I come from, the Samburu community, men carry the identity cards of their women in their wallets throughout, especially at the time when the voting is almost. So, I do not think that culture has been left. There is still that challenge.

The decision that will be made by women solely depends on the decision made by men. It is the men who tell their wives which candidate to vote for. They even keep in safe custody of identity cards and voters cards of their wives. So, it is a problem and we should not run away from it. So, a lot of civic education has to be done to members of these communities.

The Presiding Chair (Commissioner Chawatama): I have a few questions to ask. It is always good when women testify. I know that we have women's meeting, where we would talk only to them. However, it is also important that men also understand some of the things that women are going through.

So, I would ask a few questions and, please, be very specific with your answers, so that we move on. The first question relates to early marriages of girls. You have said that women and girls are the foundation of any community. I cannot remember which one of you said that. So, if they are seen as a foundation, what encourages them to enter in early marriage life?

Ms. Jane Tunoi: I think I am the one who talked about early marriages. The first thing that I talked about early marriages is the tradition and cultures that our people hold so dear. As I said, some of these cultures are outdated. I know that we have some communities that believe that when a girl is born, she gives a sign that indicates that she will be a wife of somebody in future.

Economic hardship contributes a lot in them getting married at an early age. Life in village is very difficult. They are forced into early marriage life by circumstances.

The presiding Chair (Commissioner Chawatama): Thank you very much. In our past hearings, we have also heard that times are changing. It is actually girls who are looking after their parents more than the boys. Men abandon their families. It is the women who feed their children and take care of their parents. I am sure maybe that might also be the trend here.

You have said that the Government should look into various things. You mentioned child labour, rape, and defilement. What you implied is that there should be good laws. The Sexual Offences Act is there. We have seen in the papers that people are being sent to prisons to serve up to 30 years. But the practice has not stopped. So, is it really having laws that will punish, or is it the people? Why has rape and defilement still continued despite the good laws that are in place?

Ms. Jane Tunoi: I was talking about the issue of education, because when we talk of a culture, it is a lifestyle of the community. It takes long to change lifestyle even if we do a lot of civic education right now.

The Presiding Chair (Commissioner Chawatama): Is it a cultural practice for a man to defile his daughter? Is that what you are saying?

Ms. Jane Tunoi: No, it is not. But there is an issue among the Samburu. It is called moranism. If a small girl of nine years is beaded by a moran, then the community assumes that she will have sexual relations with him. So, it is a form of early marriage. That girl will be bonded to that man, and so will not have the opportunity to go to school. Eventually, she becomes a mother at an early age. So, it becomes very difficult for her to be empowered. I think that is how they are captured. When you go to these other sides of the Samburu, and Laikipia, Maasai, the enrolment of girls is very good at the lower level. As they progress to Standard Four, they start dropping out and very few get to Standard Eight. So, it is really a problem. It is a cultural problem.

I do not know how these children can be motivated to continue with their education. There is need for civic education for both men and women. We must make sure that we do away with the repugnant cultures that are barriers for their advancement. For example, putting beads is a positive thing to do for our girls. However, morans should not bead them and force them to early marriage. Is there a way we can make these girls to come to school with their beads on so long as they read and write? We motivate and counsel them. We create awareness on these other entire social problem, so that we are able to capture them away from such traditions. We want many of them to go to secondary school. So, there should be a way to keep them in schools.

An issue that keeps them away from school is FGM. We should address ourselves to it and come up with an alternative rite of passage.

The Presiding Chair (Commissioner Chawatama): On behalf of the Commission, I would like to thank both of you for your contribution. At the same time, we also extend an invitation for you to come to the women's hearings tomorrow. I think someone will tell you the time and the venue, where we can continue to have these discussions. Thank you very much.

Ms. Belinda Akello: Presiding Chair maybe before we step the witness down, there are other women in the hall who did come with the women, and maybe we can ask them just to stand.

The Presiding Chair (Commissioner Chawatama): Yes, could you ask the women that you came with and I believe that every woman, so that we can just celebrate the women who have attended this hearing. We can acknowledge their presence and if they could stand up.

Ms. Belinda Akello: Please, all the women representing Laikipia County to stand up, so that they can be acknowledged.

(Several women in the hall stood up)

Presiding Chair we do note the time. We have three more witnesses to go, and there is one who is approaching the desk. So, we stand guided by you in order to proceed.

The Presiding Chair (Commissioner Chawatama): We shall continue.

Ms. Belinda Akello: On that note, this is Witness No.13.

(Mr. Godfrey Nyingi Wanjohi took the oath)

Good afternoon, welcome to the session. Kindly, tell us your three names.

Mr. Godfrey Wanjohi: My name is Godfrey Nyingi Wanjohi. You can use Wanjohi. I live in Nanyuki, which is in Laikipia East, Central Division, Nanyuki Location. I am a businessman and a farmer.

Ms. Belinda Akello: Do you recall that you recorded a statement with the Commission.

Mr. Godfrey Wanjohi: Yes, I can remember.

The first thing is that we were displaced from where we live in a village called Kwa Mbuji. That is the first violation, because we were removed in an unusual way. The second thing is that there is no respect in regard with what had been discussed earlier. No respect for high ranking leaders. Fourth is not following Government instructions in the Kenya Gazette, which represents Kenya. So, I represent Kwa Mbuji squatters at this sitting today.

Your honour, I have the history of the way we lived at Kwa Mbuji. The land parcel involved is LR No.54. It is located within Nanyuki Municipality, Ward 2, Mt. Kenya Ward, Laikipia East Constituency, Laikipia County. The land borders the army barracks to the north, Benedict monastery to the east, KWS in the west, and Nanyuki River to the north. The river occupies a total of 450 acres. At the time of our eviction, a total of 925 households, 9 public facilities and 15 churches occupied the land.

In 1955, Nanyuki Urban Council and Aberdares County Council passed a by-law restricting all persons living within Nanyuki Township from keeping goats without a written permit. Time progressed and the population increased. The number of livestock within the township also grew. After attaining independence in December 1963, the council decided to reallocate residents who were keeping livestock in the township. They were taken somewhere outside the township where there was ample grazing land so that they could honour independence as true and committed citizens. LR 54 was identified

and named Kwa Mbuji. Between 1964 and 1965, all residents who had livestock within Nanyuki Township were relocated to Kwa Mbuji where they lived harmoniously and developed the land. As time passed by, other people were brought in by the Provincial Administration through the DO and the chiefs and the number grew bigger. Also note that Kenyatta visited Nanyuki Barracks and he said that Kwa Mbuji people should be allocated land permanently. After that, in early 80s when people started settling in former white settler's land, some residents also moved prompting the number of residents to drop drastically. During the time of eviction in January 1990, only 925 households were in occupation. In the 1970s, the KWS also found an area to build their offices. In the early 80s, the Kenya Army expressed interest to expand their land and with that move, Kwa Mbuji village, for purposes of operation called for a meeting held on 9th February, 1984 and it was chaired by the then DC Abuyo. There were other representatives from other departments; from the Department of Defence, Lands, Physical Planning, Provincial Administration and Nanyuki Municipal Council. In that meeting, the resolutions were:-

- That the military camp be expanded to Kwa Mbuji after funds are available to resettle Kwa Mbuji residents elsewhere.
- It was also said that no allocation of plots should be carried out in that area until further discussions.
- That a sub committee on the genuine land residents of Kwa Mbuji and means of getting funds to resettle them elsewhere be formed. But that did not happen.

Through that meeting, the Chairman Mr. M.O Abuyo was to appoint a person who could assist the committee but that never happened. After the meeting, no committee was formed at that time. On 20th October 1989, during Kenyatta Day national celebrations at Nanyuki Municipal Council stadium, the issue of Kwa Mbuji took a U-turn this time for the worse. That is my history and I would like to raise a few questions just from the issues.

The allocation of land in Kwa Mbuji to the residents was done legally and we are asking ourselves why we were evicted in an inhuman way while we have rights guaranteed by the Constitution through the international instruments. We are also asking ourselves, during the time of eviction, we had stayed there for over 27 years. We are wondering why that was not considered. There are other heads of state who have already ordered and the said people of Kwa Mbuji should be allocated that land. PDPs were prepared and the Kenya Gazette Notice but nothing was done by the Provincial Administration. We are asking the TJRC to come and help this community that has been living in an inhuman way. Those people are roaming around in Nanyuki Town. They have nowhere to stay and they have missed a lot of land issues just because they knew that, that was their land.

Finally, I want to make this recommendation. I would kindly ask the TJRC to intervene in this matter, look at it keenly and recommend that those people should be taken back to

their land because it is their right. This land has been grabbed several times and we have indicated all the plans that had been done earlier and we are wondering what is actually happening because there is nobody who is bothered. Whenever we go to the offices, nobody is bothered with what we are claiming. The land that we are claiming still remains the way it was because we have been keeping vigilant so that nobody interferes with it. We are asking the Government and the TJRC to intervene to make sure that the land is allocated as agreed from the Office of the President and the Provincial Administration. Thank you.

Ms. Belinda Akello: Thank you very much Mr. Wanjohi for your testimony. Are there any documents that you would like to produce before this Commission?

Mr. Godfrey Wanjohi: I have a few documents. I have a Kenya Gazette Notice that was prepared back in 2006, there is a plan that was drawn on that day but these things were not done.

Ms. Belinda Akello: Presiding Chair, the witness has produced a plan of the land, Kenya Gazette Notice No.11 of February 2007. The witness has also produced a press statement, newspaper cuttings of various dates and correspondence between the Office of the President and supporting affidavits. We pray that the same be admitted as part of the records for this witness.

The Presiding Chair (Commissioner Chawatama): The same is admitted and forms part of our evidence. Thank you very much leader of evidence, I will ask Ambassador Dinka if he has any question for this witness.

Commissioner Dinka: Mr. Wanjohi, thank you very much for your testimony. You have explained quite well your problem. My question is: The residents of Kwa Mbuzi have they ever received a letter of allotment or some kind of title deed to the land?

Mr. Godfrey Wanjohi: They have not received any because during the allocation in 1963, that is what we were waiting to get. The land office was committed to allocating people their land in a good way just like the other citizens.

Commissioner Dinka: And President Kenyatta had decided to give the land to the residents?

Mr. Godfrey Wanjohi: President Kenyatta and also the current President.

Commissioner Dinka: Is there a letter from the President or something because I do not see it here?

Mr. Godfrey Wanjohi: There is no letter but a meeting was held in Nanyuki Town and I am referring to my document here which indicates very well that on 27th January 2006, he gave orders that Kwa Mbuzi people should be allocated land and it was put in the *Kenya Gazette*.

Commissioner Dinka: The *Kenya Gazette* giving that land to the residents?

Mr. Godfrey Wanjohi: Yes.

Commissioner Dinka: Your appeal against the District Commissioner's eviction order to the Commissioner of Lands went unanswered?

Mr. Godfrey Wanjohi: I had made an appeal and reported to the Commissioner of Lands. I have also gone to the physical planning department and even the DC who are there but they do not give us any good response. They just tell us that we have nothing to do with the land. We do not know anything and they just keep quiet.

Commissioner Dinka: So, what finally happened? Have they given you another area to settle permanently?

Mr. Godfrey Wanjohi: No.

Commissioner Dinka: Where are you settled now?

Mr. Godfrey Wanjohi: We are just scattered all over the town living in the slums.

Commissioner Dinka: So, in actual fact, you are by some definition IDPs?

Mr. Godfrey Wanjohi: We were pronounced as squatters. After we were evicted, they started calling us squatters.

Commissioner Dinka: You remain on the same land then?

Mr. Godfrey Wanjohi: There is nobody there. It is just an empty land and that is what we are claiming now. I think they are scared because there was a directive from the President that we should be allocated that land again.

Commissioner Dinka: Same land?

Mr. Godfrey Wanjohi: Yes.

Commissioner Dinka: And what have they done with it after you left?

Mr. Godfrey Wanjohi: Nothing.

Commissioner Dinka: So, after everybody was evicted, the land just lies there idle?

Mr. Godfrey Wanjohi: I will tell you something that is in my documents. They were trying to demarcate that land for other people and I have proof that I have already submitted to the TJRC.

Commissioner Dinka: Thank you very much. Unfortunately, I do not have those documents. We will study the documents carefully and we will reach the necessary conclusion.

Commissioner Farah: Mr. Wanjohi, why did it take you so long to go to lands office and try to acquire your title deed? You said it was gazetted?

Mr. Godfrey Wanjohi: Yes it was gazetted.

Commissioner Farah: Then from gazettment you go for the letter of appointment.

Mr. Godfrey Wanjohi: We were to follow the channels through the lands office. Since it was a directive from the President, we are sure that there was an amount of money that was allocated to demarcate the land and draw a plan that I am showing here. It is good for you and the media to see the work that was done. We are even wondering why they have taken all that time to demarcate the land. We are also worried because when this plan was drawn, we were not invited as the residents of that area and so, we do not know whether it was meant for us or it was meant for other people.

Commissioner Farah: Have you gone to the Ministry of Lands in Nairobi to check?

Mr. Godfrey Wanjohi: We have gone there several times.

Commissioner Farah: And what do they say?

Mr. Godfrey Wanjohi: They do not say anything. They say that they do not have anything to say and that we should just keep waiting.

Commissioner Farah: Rumour has it that, that land has now been allocated to the military.

Mr. Godfrey Wanjohi: It has not been allocated to anybody. It is just that the army was to be allocated but we have documents showing gazettment of a piece of land that was being sold in that area. We told those people who were allocated land that, that area belonged to Kwa Mbuzi people and it should not go to anybody else. When they heard that they disappeared.

Commissioner Farah: So, you have, at least, managed to keep at bay the would be grabbers?

Mr. Godfrey Wanjohi: Yes.

Commissioner Farah: You should fight for your entitlement, collect a little bit of money amongst yourselves, go to lands office and get your letter of allotment. That is my advice.

Mr. Godfrey Wanjohi: We shall do that.

The Presiding Chair (Commissioner Chawatama): I am so sorry that I missed most of your testimony. I would like to ask if what you sought at the Ministry of Lands in trying to establish whether that land is free or not. Did you obtain a search?

Mr. Godfrey Wanjohi: We are aware because we have a document that was signed by our former Lands Commissioner, Mr. Gachanja and I have it here with me. The land does not even belong to the Kenya Army as they say. The land is not meant for anybody. We belong to this country and we have equal rights. So, we are appealing to the TJRC to intervene so that those people are settled once again on their land.

The Presiding Chair (Commissioner Chawatama): Experience has also shown us that the impact on communities that have been displaced varies. What impact has there been in terms of education for the children?

Mr. Godfrey Wanjohi: We had a very hectic time during eviction because some of our children were married early because they had nowhere to go. We also have young children roaming around in town with their mothers up to today. We have been witnessing many deaths out of malnutrition and poor food.

The Presiding Chair (Commissioner Chawatama): I think in one answer you have answered all the questions that I was going to ask on the impact that this has had on the community. We will take time to study the documents that you have presented before us and to make the appropriate recommendations. I think what will help us and I hope this will be in our findings, is that this land has not been allocated and it will make our work a lot easier. Thank you so much and have a good day. Stand down the witness and would you, please, swear in the next.

Ms. Belinda Akello: Presiding Chair, this is witness 5 on the list and with your direction, he has come with someone else and both of them wish to make a presentation.

The Presiding Chair (Commissioner Chawatama): Is there a general agreement between the two witnesses on who is going to touch on what because what we do not want is the same testimony being repeated? We would want to know what the first witness will focus on and what the second witness will take up.

Ms. Belinda Akello: Presiding Chair, they have divided what they are going to cover and there will be no repetition.

*(. Samuel Egialan and
John Aruma took the oath)*

Ms. Belinda Akello: Good afternoon and welcome to this session. Kindly state your three names for the record.

Mr. Samuel Egialan: My name is Samuel Ekiru Egialan.

Ms. Belinda Akello: Where do you live?

Mr. Samuel Egialan: I live in Gatundia village in Laikipia District.

Ms. Belinda Akello: What do you do for a living?

Mr. Samuel Egialan: I am a farmer at my father's home.

Ms. Belinda Akello: As has been directed by the Presiding Chair, kindly take us through the part of the testimony that you are going to present.

Mr. Samuel Egialan: I just want to talk about injustices that have affected the Turkana community since 1963, especially in Laikipia. I am here with my colleague and I would like to open with the preamble of the memorandum that we would like to present.

Ms. Belinda Akello: Please tell us your three names.

Mr. John Aruma: My name is John Ekale Aruma.

Ms. Belinda Akello: Which name would you like us to use to refer to you during this session?

Mr. John Aruma: Aruma

Ms. Belinda Akello: Where do you live?

Mr. John Aruma: I live in a village called Kachakur.

Ms. Belinda Akello: What do you do for a living?

Mr. John Aruma: I am an electrical engineer.

Ms. Belinda Akello: Mr. Aruma, you did come before this Commission in your capacity as one of the elders presenting the Turkana community? I am sure you have followed what the Presiding Chair has indicated. Shall you be the first speaker? Kindly take us through your first statement.

Mr. John Aruma: Presiding Chair and Commissioners, the following have been the issues affecting one community in particular Turkana in Laikipia West and in Laikipia in general.

The Turkana community in every part of this country especially in Laikipia do hereby want to raise the historical injustices that have befallen them having been in this county before independence. Due to lack of self awareness or probably ignorance, the

Government and communities in Laikipia have exploited the naivety of this forgotten community to their own advantage. This is a community with appalling poverty rates as reflected from the Kenya National Bureau of Statistics. The same marginalization that has been perpetuated nationally is reflected in Laikipia County. Someone may ask why there is ignorance or lack of self awareness. During the colonial period, the Turkana community was the herders of the white men and their departure was replaced by the black men. The people who bought land in Laikipia were hoarding other land. The smart communities went to offices in Nairobi or Nyeri to get title deeds, kept them for at least ten years and later, through the chief and the DOs, evicted the community from their communal or land. According to the natural law of justice, who should be the bona fide owner of the land? By extension, the injustices were many and Mr. Ekiru will go ahead and list them. I will give the recommendation on some of them.

Mr. Samuel Egialan: These are some of the issues that have affected the Turkana community. What has really affected the youth, the elders and our parents is that the Turkana in Laikipia District have never acquired land and they are all squatters. Those people have never had the right to own land in Laikipia. After the post election violence, they graduated and became IDPs as well. The land that the Turkana have owned in Laikipia is mainly due to the Catholic Church and some well wishers who sat down and looked for some empty field which was about one acre and settled about 100 people there. Another issue that has affected the Turkana community in Laikipia is torture, brutal killings and human rights violations because they are not educated and all those who are in this area are squatters. They did not have any access to employment. When any work is done in the offices, they have a problem of getting to know exactly what is happening in the Government. With regard to employment, the residents of Laikipia, especially those in the Government, have never recognized that there is a Turkana community within Laikipia. I am personally affected together with my brothers and my parents since the time that our parents came down from Lodwar; we have been affected in two ways. Our property was taken away, we left and went to Baragoi and from Baragoi our property was taken away from us again. We went to Samburu and our property was taken away from us and we ran away to Laikipia to look for more peaceful settlement. When we came here after the general elections, those of us in Gatundia, Rugongo, Dangara and Kambi Simba had our property burnt and our community has never been recognized. Those who suffered personal loss in the farm belonging to LMD - I have a witness here who was arrested after his homestead was burnt down. I would like to request him to stand up so that he can be recognized. His name is Mr. Lochi Irungu and he was arrested.

I would now like John Ekale Aruma to pick up from here to talk about what is affecting the Turkana community.

John Aruma: Presiding Chair and the Commissioners, the following are the injustices that have been committed against the Turkanas. I will just briefly list them since you have all the facts and information in the documents that you have. One is education. Due to skewed and biased education resource allocation, if somebody was to pinpoint why we have poor standards or illiteracy rates in this country, it would be because of where pastoralists or the Turkana probably live. It is not by coincidence because these

communities have schools that are not equipped. A case in point is the population of a place having 20,000 to 30,000 people but they will not have a well established primary school. Somebody would be wondering who really caused these issues. The Government is part of the problem because when somebody is illiterate, you will be able to dominate him because he or she is ignorant. They cannot speak for their rights. I can convincingly say that probably this is a strategy of the political class since the issue of education has been a concern. It is only the current MP who has given a considerable number of bursaries to the Turkana kids but the previous political class or elites have never done anything to that community. Another problem is caused by the white farmers and settlers. It is not surprising to find that the people that are working on their farms are illiterate. They cannot build schools on those settlement farms or ranches. They cannot have ECD schools in their places and those people are illiterate. They are perpetuating illiteracy in the community.

We have the issue of discrimination and marginalization which causes unemployment. It is very unfortunate that when you go to these offices--- According to the population census, the Turkana are probably the second largest group in Laikipia. But the number of Turkana people who are employed is not rational to the statistics of the people who are employed in the offices. This tells us that there is a problem somewhere and nobody can speak for those people. This is the right forum for the TJRC to know the facts befalling Laikipia County. We have been to Mr. Kibunja's office and we told them the facts and I hope you people will also forward the recommendation to them so that this issue is corrected.

The issuance of IDs and vetting is another issue. It is very unfortunate that the Turkana community is the only community in Africa which is vetted. Somebody should come with a circular and tell us whether we have Turkanas in another continent or in the whole of Africa. We have Luhya in Kenya and Uganda, we have Teso in Kenya and Uganda, we have Luo and Acholi in Uganda, are they vetted? Are the Maasai and Samburu vetted? Why should Turkana in Nyeri, Laikipia, Nyeri and Narok be vetted? They should vet in the border district. Why should they be vetted in inner districts? That is what we need to find out.

Finally, with regard to the issuance of IDs, we as a community have cases where issuance of IDs has been pending for more than two years. The fact is that we have serial numbers of the IDs that we were supposed to forward to the Ministry of Immigration. Why do the minority communities experience delays in the issuance of IDs? Why should there be delays when somebody from a marginalized community applies for an ID and it does not happen to people from other communities. Is this a political game?

TJRC is supposed to get the truth, you get the views of this community and know whether this is valid concern or not.

Finally, with regard to insecurity and cattle rustling, it is very unfortunate that Laikipia is a cosmopolitan county where we have many tribes. When a cow is stolen from any community around, the first suspect is a Turkana. If a Turkana escapes this, it is a

Samburu. Do the Turkanas have to adopt others people's way of life because they would fear to keep cows? How did you travel from Turkana and Samburu to bring your cows to Laikipia? How logical is that? This is just like saying that because one community, who are my friends, eats *Githeri*; they will stop eating *Githeri* because someone will fart at night. That is not logical. What caused all these are political incitements?

The Presiding Chair (Commissioner Chawatama): I am sorry witness. There is noise coming from the audience. I would like to encourage the audience to listen to the testimony in silence. I would also like to encourage the witness to speak a bit slowly. Have a moment to calm down a bit and then speak slowly for purposes of interpretation because it is important that your evidence is captured. It is also important that those in the audience hear what you have to say.

Mr. John Aruma: Thank you Madam Chair. I oblige. For the record, I was not mad but was just trying to be very precise and to the point. Thank you very much. The perpetration of this problem should not be directed to a certain community. First, we should start with the Government. If we list down the number of sheep in this county, with minorities and from this particular tribe, you will see that they are numbered, meaning that if there is an issue with a particular tribe, nobody can take them to a higher office. Unfortunately, the few who may be learned are probably chiefs, whereby we have one or two senior chiefs from Laikipia and a few assistants. We may not rely on them fully because they are the only people who can inform the administration about the concern of the community. Through the Government machinations our animals are taken away. For instance, when a cow is stolen, they come with a chief and Administration Police to a Turkana Village and claim that our cows belong to those who have lost theirs. It is like jungle law because this person whose cow is taken away does not know his right and has no one to speak on his behalf. These people end up revenging and that is where the problem lies. So, we are here to tell you that the problem has been like a time bomb. There is nobody to speak on your behalf and so you take the law in your hands. This is very unfortunate, illegal, but they have no choice. This is a choice of somebody who has nothing else they can do.

Other groups which have been causing problems to people, probably, are the neighbouring communities. Somehow, they have been hostile but most of them are friendly. However, due to the way their lifestyles are, they are not welcome. Of course politicians are playing a greater role because they do not care. If they cared, what would they do?

Finally, just to give you a suggestion on the way forward, the Government should acquire land to resettle IDPs. It should audit all the land, know absentee landlords and get land for the people who are landless and IDPs. The IDPs should be settled like other communities. The opportunities in Government offices must be availed to all communities equally. The civic education must be done to all these communities to co-exist. The circular of vetting of Turkanas should be made public and the Human Rights Commission must investigate these ills. The Government should treat Turkanas as equal citizens of this country. If disarmament has to be done, it has to be done equally.

Politician's hate speech has been too curtailed and we are happy about the new constitution because that will be taken care of.

Compensation of all IDPs must be done and full enforcement of labour laws must be applied to everybody in this county. Thank you very much. Perhaps, we have taken more time but if we had more time, we could have told you everything.

Thank you, Madam Chair and all the Commissioners.

Ms. Belinda Akello: Thank you, Mr. Aruma. Presiding Chair, I have no questions for these witnesses.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony and the representation that you have made. We have heard you especially on the resettling of IDPs and education and the biases in resource allocation. We have also heard you on discrimination and marginalization and employment. We have also heard you on issuance of IDs and on issues of insecurity and stigmatization. Your memo to us is very clear. We thank you for your recommendation in the third column. This is what we will find helpful as we make recommendations of what goes into our report and the type of recommendations that we will make. We do not have further questions but would like to thank you.

Mr. John Aruma: Thank you Commissioners. Thank you for coming to Rumuruti and getting our views. We hope that this is a positive step towards Laikipia County and our country.

Ms. Belinda Akello: Madam Presiding Chair, we have two witnesses who should present their memos. We stand directed by you whether we should have a small break or whether they should proceed.

The Presiding Chair (Commissioner Chawatama): We have conferred and the decision is that we continue with the two witnesses.

Ms. Belinda Akello: Much obliged. The witness on the stand comes to represent witness number nine on your list. Since this witness, Jane, is not here, she was to come and speak on gender violence, the person with us helped her to write the memo that has been presented before this Commission and he is only here to present this in one or two words for the record.

The Presiding Chair (Commissioner Chawatama): For the record to be complete, you will guide the witness to inform us the role that he played and the reasons why the witness who was to be before us is not here and why he also feels he is in a better place to represent the witness.

Ms. Belinda Akello: Much obliged, Chair. It is on record that the witness is supposed to fly out of the country but it is good if he can also say it.

(Mr. Solomon ole Pusi took the oath)

Ms. Belinda Akello: Welcome to this session. Kindly, tell us your three names.

Mr. Ole Pusi: My name is Solomon ole Pusi from Doldol, Laikipia North.

Ms. Belinda Akello: Thank you. What do you do for a living?

Mr. Ole Pusi: I work for an organization known as Laikipia Paralegal Association and I am the organizing secretary.

Ms. Belinda Akello: How would you like us to refer to you?

Mr. Ole Pusi: I would like you to refer to me as Solomon.

Ms. Belinda Akello: Do you know one Jane Naini?

Mr. Ole Pusi: Ms. Jane is leaving the country today and it was not possible for her to appear before this Commission.

Ms. Belinda Akello: For credibility and purposes of record, could you state which country she is going to?

Mr. Ole Pusi: She is going to the UK.

Ms. Belinda Akello: So, we will assume that she is aware that you are representing her before this Commission?

Mr. Ole Pusi: Yes, she is aware that I am representing her. We have been working together.

Ms. Belinda Akello: Since it is now on record, you will take us through what she is talking about and give us the recommendations that she is expecting from this Commission.

Mr. Ole Pusi: First of all, she would have wanted to tell this Commission about the women who were raped by the whites. This happened for a period of 30 years. It has been a long time. The women who brought the case were about 650. In 2003, we brought forward a case against the British Army. We engaged a lawyer from Britain, Martin Day and Company.

He pursued the matter for a long time. The British sent in people from the Royal Military Police who came to our area in Laikipia and Samburu to carry out investigations with regard to the cases. They carried out investigations from 2004 to 2006. The Royal Military Police were from the UK and they are the ones who brought about the case. When they finished, they went to Britain and up to now, we have not received any report

from them. As we speak today, as an organization, we sat down to find out what happened because the case has been pending for very long. There is no case that takes that long without results. So, the lawyer we engaged has never come back to explain to these women what happened to the case. They went and the women are still trying to find out their fate with regard to the case. When they got to know that we had put together this memorandum, those on the ground made sure that their representatives went to give a letter saying that the case had been dismissed. That is because they knew that we had written this memorandum to present to the TJRC to say that the case was pending. This was simply because they knew that we wanted the Commission to look into this.

As we speak now, there are some women who have not had children due to the injustices of rape. There are women who have been divorced by their husbands because they were raped by the British Army Soldiers. We thought that it was good if we went through this Commission to see how we could get some assistance. They have tried to use other avenues but nothing has gone through. I am reading these recommendations from the memo that you will be left with. We would like the Ministry of Defence in the UK to release the report that was handed to them by the Royal Military Police that was shelved. They used documents from these women. Some women had evidence from hospital and from police report books.

The Royal Military Police and the Kenya CID may have collaborated and women would have known what to expect. We are asking the TJRC to ask the lawyer, Martin Gay to come before the Commission and explain what has happened with regard to this case and to go to Samburu and Laikipia. Every woman raised Kshs1, 000 for the case and the lawyer also got a lot of money from the Government. So, he should have taken the responsibility of coming back to explain what could have happened. You cannot expect a thief to be the one to investigate himself and to write an objective report to say I am a thief and this is what I have stolen. So, we did not like the idea that the investigations should be left to the Royal Military Police.

The next recommendation is that the then Minister of State for Provincial Administration and Internal Security, hon. Chris Murungaru, should come before the Commission to explain the Kenya Government's position on this case. He seems to have been suppressed by this Government. The next recommendation is that in areas where the Army comes for their training, in Samburu and Laikipia, where we know there is environmental degradation, we would like the Minister of State for Provincial Administration and Internal Security to get help so that he can mitigate this position. Grass cannot grow and there are diseases which are affecting the livestock. Probably it is because of the weapons that they use there.

We presented this to the African Commission in Zambia and we wanted the African Commission to help us with the issue of the Government, the Police and the CID Report because the case had gone on for so long. We thought that was the only way of getting justice but now we are happy that we are being listened to here. We also want the Kenya Government, together with the British Army, to explain why the Maasai-Samburu case suddenly went dead.

Ms. Belinda Akello: Thank you for representing Jane very ably. You have articulated issues that she wanted articulated, quite well. Presiding Chair, we also pray that this document is admitted as part of our records.

The Presiding Chair (Commissioner Chawatama): We are satisfied, upon looking at the memo, which reflects your name as well, Solomon Ole Pusi, as the Secretary of this organization. So, we are satisfied that you are able to submit this memorandum as part of the evidence.

Ms. Belinda Akello: Thank you Presiding Chair. Since our witness has come in place of another, the Leader of Evidence has no questions to this person and finds the memorandum well presented.

Commissioner Dinka: Thank you Ole Pusi. Your memorandum is very clear. However, there is one question that has bothered me. Why do you think, in your opinion, that the Government of Kenya does not want the report to come out?

Mr. Ole Pusi: Thank you for that question. Going back to what I mentioned, when this case started off, people from the Royal Military Police came to us and we did not have any representatives from the Government. The second thing is that there are some documents that the women had from the hospitals like treatment notes after they had been raped by the soldiers. There are those who had reported to the police and those documents were taken away. We have tried following them but we can never get them. Nobody explains to us anything. We believe that all these were hidden because we believe that the Royal Military Police were taking documents from any woman who had evidence. Why were they going with it and yet it is a personal document belonging to somebody? They should have left them with her so that they can be used as supporting documents. So, we believe that the Royal Military Police came to suppress the case. We believe that our Government should have taken the duty to see that the report for the case comes out but this has never happened.

Commissioner Dinka: So, do you think that the Government had access to the Royal Military Police Report? Did the Royal Government give them a copy?

Mr. Ole Pusi: Since I have worked for this organization, I know that whites work very closely with the Government because they still carry out their training and military exercises in Kenya. So, I believe that the Government must have been privy to that report. But, as an organization, the lawyer we had engaged from the UK did not get a copy of the document. So, we would like to have that report. We would like to have the report released so that we can move on. This week, they have been issuing letters to suppress the case because they knew we were bringing a memorandum before the TJRC. This is something that should be looked at keenly because it seems like there is an obstacle somewhere.

Commissioner Dinka: Thank you very much for your testimony. I have no further questions.

The Presiding Chair (Commissioner Chawatama): Just a follow up to the last answer. Who is giving out the letters?

Mr. Ole Pusi: As an organization, we say that it is the lawyer who is giving out. There must have been some discussions between him and the UK Government. That is our lawyer who should be briefing women on the case and yet he has gone and kept quiet. The letters have a heading from his law firm because he has somebody locally on the ground, who does the work for him and who may have briefed him that we were approaching the TJRC. So, they have brought the letters.

Commissioner Dinka: Do you have a copy of that letter?

Mr. Ole Pusi: We have a copy of that letter but I left it in Nanyuki. I will make sure I send a copy to the Commission. We have a copy of that letter.

The Presiding Chair (Commissioner Chawatama): In your testimony, you have said that as a result of the rape women were divorced, their husbands left them and, secondly, for some they were unable to conceive thereafter. Do we have evidence of children who were born as a result of this incident and do we have the number of children that were born?

Mr. Ole Pusi: First of all, to explain, there is one lady who is about 60 years at the moment and has no child. She was a victim of gang rape. She can talk and present the evidence herself. Also, among the children, we have records that we can send even give copies to the TJRC. We will make sure that all documents are forwarded. We have somebody who does that. The statement taker of the TJRC will make sure that we give the statement even tomorrow.

The Presiding Chair (Commissioner Chawatama): We will also be grateful if that woman, so desires, can come to the meeting and discuss her issue with us. My last question is that there are very many incidents that have taken place where Governments have shown a keen interest and have followed. Many organizations have also shown keen interest. We are seeing some compensation for some people and we are seeing some movement with others. Is this because it was women involved in this incident that it did not receive the due attention that should have been given to this matter?

Mr. Ole Pusi: In my opinion, a women's case would have spoiled the reputation of the British Army all over the world. This is because you cannot go to another country and rape people there instead of carrying out the duties that took you there. My opinion is that they managed to find ways of suppressing the case because this would have created a negative picture of the British Army worldwide. Women also have a right to be heard and the case should not be suppressed because they are women. There is a case of people who were paid some compensation. Most of them were men as a result of exploded landmines that had been left open. Some pastoralists had been injured. The women's case would completely shatter the image of the British. As Africans, we are not interested in the image and we want this injustice to be made public so that women can attain justice.

Commissioner Dinka: My last question is that you mentioned that the Royal Military Police cannot investigate, honestly, their own misdeeds. But, at the same time, you people hired Mr. Martin Day as your lawyer. Why did you not go for a Kenyan instead of Mr. Martin Day? There are so many brilliant lawyers. We have seen, in the ICC, Kenyan lawyers arguing brilliantly their cases. Do you think you made a mistake?

Mr. Ole Pusi: To answer the question with regard to the Royal Military Police, when we engaged the lawyer, we said that it was part of the UK law for them to carry out investigations first to prove that there is, indeed, a case. I think that is normal with all cases. That is why the whites wanted to bring their own British people who are the Royal Military Police to carry out the investigations. Secondly, we could not engage a formal lawyer because this was in the form of legal aid. In legal aid, you write to the Government. A lawyer can write to ask for legal aid from his country and get money for his work. As an organization, we were unable to afford a brilliant lawyer because they ask for a lot of money. As an organization, we could not afford legal aid. This is the same person who pursued the case for the bomb victims and he succeeded in getting them compensation. So, we thought we could use the same lawyer. We did not have much of an option but we thought we could use the same lawyer.

Commissioner Dinka: Thank you for that answer. Another question, could you, or your organization mobilize support within the society to put pressure on Government to fund that kind of legal thing on behalf of their citizens?

Mr. Ole Pusi: Thank you very much. On behalf of the organization, I would like to say that when you look for assistance, you do not know whether you will get it. You write a proposal and get funding. As an organization, we would not know whether if we went to our Government, we would get that kind of funding to pursue our Government for which they have close bilateral relations. We thought that if they went to our Government, they might not fund this because they have their own bilateral agreements that we know very little about with regard to training and many other forms of cooperation. So, we thought that the Government could not fund us. We tried approaching some international organizations like the International Working Groups for Indigenous Affairs who gave us money to do some work in the field and go around with the Royal Military Police. We had more resources and could have carried out our own mobilization before them.

Commissioner Dinka: Thank you very much.

Commissioner Farah: Solomon, one question has come up to me. Sometime back, the UK Government paid some money. You said it was for people who had been affected by landmines. I also remember, in the Press, a lot of half-cast children being paraded, who were born out of wedlock, through rape. That time, I think money was paid. Why can you not follow the same method if they were fresh new cases?

Mr. Ole Pusi: Thank you very much. To answer that question, the ones who were paid are victims of the unexploded mines. They were paid some compensation by that

Government. However, these women and children born outside wedlock have never been paid any form of compensation. This is because these children, who look white, have never been compensated in any way. It is only bomb victims who were paid. So, the women's case was completely different.

Commissioner Dinka: Is it because it is very difficult to prove, probably because the children were born at different times and the lawyers could easily argue that they were born out of mutual consent or whatever it was?

Mr. Ole Pusi: I cannot explain that because if I am told that a woman has been raped, I would not know whether there was any agreement. The British Government has a way. They could carry out DNA tests to know who the parents are. They would know whose child each one of them has. This is also about the image of the Government. Once the term "rape" is used, for instance, if a British soldier rapes a Maasai or Samburu Woman, that would go to Pakistan and all over the world. We thought they would want to suppress that to ensure that their image is not shattered. Even if not all the women were raped, there might have been two or five who may have been raped.

Commissioner Dinka: Since the British are still training in the area, has the matter stopped or it is still continuing?

Mr. Ole Pusi: Thank you. At the moment, we have started advocacy against the British and they have been very careful. When they go for training, they go together with our Kenyan soldiers. Nowadays, they have rules and they know there are some organizations that are following up with the problems that their victims have experienced. Secondly, their training areas have moved to private ranches. They go to private ranches and pay money. They no longer come to the community ranches. Private ranches have electric fences and they stay in there.

The Presiding Chair (Commissioner Chawatama): Thank you very much for your testimony. Even if these women were not raped, but if children were born, then there is still an obligation for maintenance if it can be proven that they are the fathers of these children. It is not necessarily that we have to prove the offence of rape, but it is also their responsibility because if you bring a child into the world, the issues of care and provision for that child are paramount.

Thank you very much for making time and presenting this memo and bringing to light this issue. As a Commission, according to our Act, we are empowered to look at reports and, indeed, this is a report that we will keenly pursue and get. We hope and pray that justice will surely be done.

Ms. Belinda Akello: Chair, I first pray that there is a memo presented by the Samburu County, titled; "Memoranda to the Truth, Justice and Reconciliation Commission", relating to the gross violation of the rights of the Samburu community. It has been compiled for the community by one Fred Lesakale of ID. 0289166. We pray that the

same also is admitted as part of the records for today's hearing even though we may not be able to sit through the presentation of the same memo.

Finally, we seek your indulgence on also admitting a memorandum by the Laikipia Maasai Lead Agency and it is a memorandum on land dispossession by the British and independent Governments of Kenya. A same copy has been presented before you and the memorandum has five recommendations. We are guided by you on whether we can have the author of this document just read the recommendations or we shall just admit the documents on the face of it.

The Presiding Chair (Commissioner Chawatama): The documents are admitted as prayed. Is the witness someone who has been in the witness chair before?

Ms. Belinda Akello: No he has not been on the chair before.

The Presiding Chair (Commissioner Chawatama): We will allow him three minutes of just reading the recommendations. We will read the memo but because of his efforts, we will allow him three minutes of reading recommendations only. Do we have a number for this witness?

Ms. Belinda Akello: This is not a listed witness.

(Mr. Manasseh Ole Matunge took the oath)

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

Mr. Manasseh Ole Matunge: My name is Manasseh Ras Ole Matunge. I live in Laikipia North at a place called Doldol.

Ms. Belinda Akello: What do you do?

Mr. Manasseh Ole Matunge: I am a retired teacher and pastoralist.

Ms. Belinda Akello: Which level of responsibility do you hold with regard to the memorandum that is before us or in the community? Are you in any organization and what level of seniority are you?

Mr. Manasseh Ole Matunge: I was elected chairman of the Paralegals called Laikipia Paralegal Organization (LAPO)

Ms. Belinda Akello: Please just read the title of your memorandum and your recommendations as directed by the Presiding Chair.

Mr. Manasseh Ole Matunge: I am presenting a Laikipia Maasai memorandum to the Truth, Justice and Reconciliation Commission relating to land dispossession by the British and independent Governments of Kenya.

Recommendations to the TJRC

Based on the foregoing, we the Laikipia Maasai having come together and learnt from history; threatened by the rate at which we are losing our land, and livelihood; recognizing that we have been victims of historical events; further threatened by the kinds of political systems and practices furthered by the dominant communities; and, convinced that this is the right time to put forward our historical claims on land loss through dispossession, make the following proposal to the Truth, Justice and Reconciliation Commission on land and natural resources;

1. That the Commission should investigate land acquired illegally or through misappropriation in Laikipia County.
2. Any land of the Maasai previously allocated to outsiders and foreigners should be returned back to the Maasai.
3. Land that is not possible to return to the community must be adequately compensated accordingly in relation to the market rate.
4. The Commission to help in changing those policies that contribute to the marginalization of communities in all areas of development.
5. The Commission to help in bringing those responsible for the killing and maiming, to face the law and compensation for the loss suffered.

Lastly, I am very grateful to this Commission. We have a lot of hope in this Commission and we expect that the recommendations we have given will be keenly addressed because we are sitting on a time bomb. We do not have any other hope in our lives except through this Commission and maybe God coming down and so I pray for that.

Thank you.

Ms. Belinda Akello: Presiding Chair, the memorandum has been admitted for your direction.

The Presiding Chair (Commissioner Chawatama): Thank you very much, Mr. Manasseh for taking time to present this memo. I do not know whether or not there are any questions. Because we only got the memo now, we have not had an opportunity to read through. We do not have any question but the mere fact that we have admitted it, it forms part of the records of this Commission and rest assured, as a Commission our objective is to promote peace, justice, national unity, healing and reconciliation in all that we do. As we look at your memo, we shall bear these things in mind and it is my prayer that peace will continue to reign and that appropriate recommendations will be made and that the community that you represent will get some satisfaction.

Thank you very much.

Ms. Belinda Akello: Presiding Chair, this is our last witness for the day.

The Presiding Chair (Commissioner Chawatama): Thank you very much Leader of Evidence. Generally, we will thank the witnesses who have appeared before us and then we will then close.

Commissioner Farah: Thank you very much Presiding Chair. Because you cannot pronounce the names, I shall read them on your behalf. Today, we have heard from the following; Joseph Wamathanga Mundia, Dr. Jack Kaguo Githae, Elizabeth Rumeru, Jane Tutunoi, Godfrey Wanjohi, Engineer John Arumo, Samuel Egilian, Solomon Ole Pusi, Manasseh Ole Matunge and Fred Lesakale.

Thank you very much.

The Presiding Chair (Commissioner Chawatama): Thank you very much Commissioner Farah. As we come to the close of today's hearing, I will call upon the regional coordinator who will let us know what will take place tomorrow in terms of the women's hearings and the venue and in terms of the public hearings.

Ms. Ann Kiprotich: Thank you Presiding Chair and Commissioners. Members of the public, I would like to take this opportunity to thank you for staying all that long and for the respect that you have shown up to the end of the hearing today. I have one announcement about tomorrow's hearings; at 9.00 am, we will have the women forum in the County Council Social Hall and all the women are welcome to come and address your issues to your fellow women.

Also, tomorrow in this hall, we will have public hearings and they will start at 9.00 am. As we close today's hearing, the pastor will wind up with a word of prayer and after the prayers, I will ask you to remain standing so that our Commissioners can leave.

Thank you very much.

(The Commission adjourned at 2.35 p.m.)