

3-21-2012

Public Hearing Transcripts - Thematic - Attempted Coup (1982) - RTJRC21.03 (NHIF Auditorium) (Attempted Coup Attempt)

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 - Thematic - Attempted Coup (1982) - RTJRC21.03 (NHIF Auditorium) (Attempted Coup Attempt)" (2012). *I. Core TJRC Related Documents*. 148.
<https://digitalcommons.law.seattleu.edu/tjrc-core/148>

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 ON WEDNESDAY, 21ST
MARCH, 2012, NHIF AUDITORIUM, NAIROBI**
(Kenya Air force – Aborted Coup Attempt)

PRESENT

Berhanu Dinka	-	The Presiding Chair, Ethiopia
TeclaWanjala Namachanja	-	The Acting Chair. Kenya
Tom Ojienda	-	Commissioner, Kenya
Emily Kimani	-	Leader of Evidence

(The Commission commenced at 9.50 a.m.)

(The National Anthem was sung and prayers said)

The Presiding Chair (Commissioner Dinka): Good morning. The Truth, Justice Reconciliation Commission (TJRC) has been holding thematic hearings in the last few weeks in Nairobi. Today, we are interrupting that and will be listening to some individual statements. We have a number of them to listen to. I would like to ask the audience to switch off your mobile phones and also listen as diligently and with the necessary decorum that the witnesses and testimonies deserve. Those who want to take pictures can do so, but when the testimony is going on, please, do not use flashlights on the witness. You can take the picture of the witness with flashlights after the witness completes his or her testimony. During this testimony, you might hear something you agree with or violently disagree with. In all cases, please, remain calm and give the witness the opportunity to complete his or her testimony with dignity and decorum.

Having said that, the procedure is, as you know, the witness will take an oath to tell the truth and then he or she will give the testimony led by the Leader of Evidence. Then the Leader of Evidence will ask questions, after which, the commissioners, if they had any lacuna to fill, could ask some questions also.

Having said, that I would like to introduce myself and the commissioners who are here.

(The Presiding Chair (Commissioner Dinka) introduced himself and other Commissioners)

I would like to ask the Leader of Evidence to call the first witness.

Ms. Emily Kimani: Thank you very much, Presiding Chair. Before we proceed with our theme for the day, which is the 1982 coup, on my immediate right is Mr. Abjata Khalif, who wishes to make a statement.

The Presiding Chair (Commissioner Dinka): Okay, you may go on!

(Mr. Abjata Khalif took the oath)

Ms. Emily Kimani: Mr. Abjata, how are you this morning?

Mr. Abjata Khalif: I am fine.

Ms. Emily Kimani: Kindly tell us your full names for record purposes and also what it is you do for a living.

Mr. Abjata Khalif: I am Abjata Khalif from Wajir County. I am here today because I received a summons from TJRC to appear in person, based on an affidavit which was taken to the High Court, regarding one of the Commissioners, which was filed in 2009. It was thrown out of court, but it has resurfaced again in one of the weekly newspapers called *Truth Weekly* which did not put the matter straight. It was showing that the matter is still fresh in court. It showed a quarter of the affidavit instead of publishing the full affidavit. They went against the media ethics of contacting the victims because that affidavit was taken to court by the victims. In that affidavit, it showed that one of the Commissioners, Farah, was involved in Wagalla Massacre of 1984. Due to all that, I received the summons to put the matter straight. Here is my statement that I want to give to the Commission.

I, Abjata Khalif, of Post Office Box 24, Wajir County of Kenya received a summon to appear in person in front of the TJRC hearing regarding an affidavit sworn by me on 13th October, 2009, in the High Court Judicial Review application No.470 of 2009, that the information contained in the affidavit was prepared in my capacity as Chairman of Wagalla Centre for Peace and based on information the organization collected through documentation and community postmortem sessions, to discuss the massacre; that the affidavit linked the Commissioner Maj-Gen (Rtd) Ahmed Sheikh Farah, with the heinous act that took place in Wagalla Airstrip and the military operation that flashed innocent population out of their homes to the airstrip; that the affidavit stated that Maj-Gen (Rtd) was present in the operation area during the period that the massacre took place; that the affidavit stated how the massacre occurred and violence meted on the population and how they were flashed from their villages, beaten, raped and taken to certain points before being taken to the airstrip; that retired Maj-Gen (Rtd) was involved in the conspiracy and planning of the massacre and participated in person and was physically in the site where people were being flashed, beaten and taken to the airstrip. Based on these findings, I wish to put the following record straight.

I am a victim of Wagalla Massacre having lost relatives in the massacre while others have been left with lifetime scars and living without any support, rehabilitation and avenue to justice, apart from TJRC. Before the TJRC was formed, I and other human rights activists, through Wagalla Centre for Peace, documented the massacre and interviewed dozens of victims who were left by the military and assumed dead, only to be saved by an Italian missionary nun. Others managed to escape the military when they could not hold anymore due to exhaustion, hunger and thirst, and made their way to

neighbouring villages and were accommodated by other locals. Others were left half-dead and thrown into the wilderness for hyenas to feed on them. They were saved by the Italian nun and other volunteers. The documentation that we undertook on the massacre covered all above mentioned groups who survived the massacre. The finding covered their ordeals, violations, gang rape, large scale operation and individual case on what happened during the period and the suffering that the victims underwent.

Parts of the documented cases were published by *Reject Magazine*, published by African Women and Child Future Service based in Nairobi. When the TJRC was formed and commissioners were appointed, the community discussed the way forward and carried a postmortem of the just formed Commission. Some victims showed misgivings and fears with its composition. One individual claimed that one of the appointed commissioners participated in the massacre and is not supposed to be in the Commission. During the postmortem session in Wagalla village, victims were overrun with emotions as they remembered what happened to them and their expectation from newly constituted TJRC. Some victims also stated that the massacre was undertaken by the military and appointing a retired military officer to the Commission might prejudice its outcome. In the period of September, 2009, some human rights activists and other concerned Kenyans decided to challenge the composition of TJRC and some of its appointed officials. They contacted various human rights activists and organizations based in rural areas of Kenya in a bid to share information on violations and reactions of victims of human rights violations.

I shared with them the concerns, fears and misgivings of some of the victims and their relatives. I also shared with them the views of other victims and people who welcomed the formation and composition of the new TJRC. An affidavit was taken to court to exclude the retired General from the Commission. A claim was made by one of the victims during the community postmortem session in Wagalla area on Commissioner Farah. This formed the basis of the affidavit which was presented to court. The matter was later thrown out of court. The TJRC visited Wajir and all the victims that participated in our documentation presented the same evidence they gave during documentation to the commissioners. None mentioned Maj-Gen (Rtd) Farah. The victim whose statement formed the basis of the case which was presented to the court failed to mention this allegation on Commissioner Farah to the Commission which was sitting in Wajir County. He informed me and other human rights activists from Wagalla Centre for Peace that he saw a Somali military official who participated in the brutality and was told by other victims after the massacre that it was Maj-Gen (Rtd) Ahmed Sheikh Farah and that he was not sure 100 per cent if he was the one. The moment the anomaly was realized, the case which used the victim's account was thrown out of court.

I, therefore, wish to summarize with the following accounts. Maj-Gen. (Rtd) Ahmed Sheikh Farah was not in Wajir District or its vicinity when the massacre occurred, nor did he participate in its planning, organization and mobilization of armed forces in the said area where the heinous act was perpetrated and carried out. After the anomaly from the victim, I realized that Maj-Gen. (Rtd) Ahmed Sheikh Farah was in Mombasa and not northern Kenya or Wajir by then. He was serving in the Kenya Navy and not Kenya Army who were allegedly accused of perpetrating the massacre. The victims presented

their grievances to the Commission sittings in Wajir County and Commissioner Ahmed Farah was present. No community member raised an issue concerning him or questioned his suitability in the Commission. The article appearing in *Truth Weekly* was over-carried by events as the case No.470 of 2009 which implicated Commissioner Farah was thrown out of court. We do not know the reason behind the revival of that affidavit. *Truth Weekly* published the article without seeking comments from the people mentioning the said affidavit. I telephone the above paper, which is, *Truth Weekly*, on 20th March, 2012 at 10.01 a.m. and they informed me that they got the affidavit from court. They failed to inform me the reasons they did not contact the victims on the same and why they did not state that the case was thrown out of court some years back.

Statement made by Abjata Khalif, dated 20th March, 2012.

End of statement.

Ms. Emily Kimani: Thank you very much, Mr. Abjata, for taking time to be before us this morning. I want you to have a look at this and confirm to us if it is the affidavits that you have talked about in your testimony and that you are actually the deponent.

Mr. Abjata Khalif: Yes, this is the affidavit.

Ms. Emily Kimani: I also want you to confirm that you had been furnished us with these documents; certificate of service, further back, which buttress what you have testified before us, that Maj-Gen (Rtd) Farah was in Mombasa at the time the Wagalla Massacre occurred.

Mr. Abjata Khalif: I have gone through it and it confirms the testimony that I have given.

Ms. Emily Kimani: Thank you very much. I have no further questions for this witness. I only pray that the documents be admitted to form part of the Commission record.

The Presiding Chair (Commissioner Dinka): Leader of Evidence, has this affidavit which you have just read been signed?

Ms. Emily Kimani: Yes, he will be signing it.

The Presiding Chair (Commissioner Dinka): Can he sign it now?

Ms. Emily Kimani: It is a statement. He has done so and I pray that the same as well as the other documents that I highlighted be admitted to form part of the Commission record.

The Presiding Chair (Commissioner Dinka): So, that statement has been signed now?

Ms. Emily Kimani: Yes.

The Presiding Chair (Commissioner Dinka): It is so admitted. Thank you very much, Mr. Khalif, for your testimony. I will now ask my colleagues if they have any questions.

The Acting Chair (Commissioner Namachanja): Good morning, Mr. Abjata.

Mr. Abjata Khalif: I am fine. Thank you.

The Acting Chair (Commissioner Namachanja): Thank you so much for coming before this Commission to put the records straight concerning the allegations against one of our commissioners, Commissioner Ahmed Farah. This Commission is about the victims and people of Kenya. As commissioners, we are there to protect the process. The people from *Truth Weekly* have been calling and really bothering us about this case. This is just one of the cases. They have others and maybe Kenyans have read concerning allegations of financial mismanagement. Coming at this time, I thought that one way or the reason, maybe, behind all this is to discredit this Commission. That is why we left this matter the way it is. We needed to put the records right and that is why we summoned you to come and help us correct the situation. Thank you for correcting that situation. Did you make this statement out of your own willingness without any force from any quarter?

Mr. Abjata Khalif: I was not forced by anyone to make this statement and there is nobody who forced me to take that case to court. My attention was brought to the article which appeared in *Truth Weekly* showing that I was the one who gave them the affidavit. They have put my name, “Abjata Abdi Khalifa” on top of that affidavit. Everybody started calling me from Wajir, Garissa, Mandera and Nairobi. They were asking: “This issue was taken to court and thrown out. Why is it coming back again and with your name?” I left Garissa and came to Nairobi and bought the newspaper yesterday. I went through it and saw the errors and irregularities, but I did not know why it was coming up right now and why it was not given such publicity when I took the case to court. I called them and the person I talked to was very rude to the extent that he hang up the phone. After that now, I received a call from TJRC and asked to furnish them with my contacts, so that I could receive a summon. They told me the that summon was based on what appeared in the media, which showed that the TJRC had not given me and the victims enough room to give our views on matters concerning Commissioner Farah. I said that I was ready to participate and asked them whether they were behind the article in *Truth Weekly*. They told me that they thought that is was I who was behind it. This matter has been brought to the public domain and so, I saw this as a very good avenue of giving the side of victim and how the case was built up from the victims’ chronology of events after the Commission went and sat in Wajir; when the case was thrown out and how it is coming back right now. I am happy that now I have set the record straight.

The Acting Chair (Commissioner Namachanja): We called you because we just wanted to ensure that the process of TJRC is fair, free and transparent. That is why Commissioner Farah could not sit with us when we are questioning you; so that you tell us the truth concerning this. I am happy that you have put the record right.

Thank you. I have no further questions.

Commissioner Ojienda: Thank you very much, Abjata, for your testimony and the explanation that you have given us on the involvement of Maj-Gen (Rtd) Farah in the Wagalla Massacre. The first question I want to ask you is whether you will be prepared to make this statement on oath or swear an affidavit in the same manner as you did in the affidavit that you swore in Case No.470. Are prepared to swear an affidavit to adduce your statement on affidavit?

Mr. Abjata Khalif: Yes, I am.

Commissioner Ojienda: At the time you made the affidavit, you stated in paragraph 16 – if you look at the affidavit – that Maj-Gen (Rtd) Ahmed Farah, one of the military officers, was involved in the massacre on 10th February, 1984. That statement is untrue.

Mr. Abjata Khalif: If I take you back, you will see---

Commissioner Ojienda: Paragraph 16!

Mr. Abjata Khalif: That is number one.

Commissioner Ojienda: Paragraph 16 says: “I am a Kenyan citizen, holder of National Identity Card No. --- chairman of Wagalla Centre for Peace and Human Rights and competent to swear to the affidavit.” So, in that capacity, you say at paragraph 16 that Maj-Gen (Rtd) Ahmed Farah was involved in the Wagalla Massacre.

Mr. Abjata Khalif: Based on the account we got from the victims. I mentioned Wagalla Centre for Peace and Human Rights.

Commissioner Ojienda: So, do you admit that, that statement is untrue?

Mr. Abjata Khalif: It became untrue from the information we got from the same victims who gave us the first information.

Commissioner Ojienda: Mr. Abjata, the truthfulness of a statement is not variable. The Wagalla Massacre occurred in 1984 and you swore this affidavit in October, 2009. So, this was an untrue statement. Is it not?

Mr. Abjata Khalif: First, you must understand where we got the information from. It is not a personal statement that I made; that he was in Wagalla. I made it as the Chairman of Wagalla Centre for Peace and Human Rights, based on the documentation we got from various victims and later on, we realized that, that information was untrue and even the victim was not ready. When the case was being prepared in Nairobi, those victims could not be transported to Nairobi, because we had to cater for their transport, logistics and everything. The other human rights activists mentioned in the affidavit could not pay for

all those costs. So, I came and gave them the information and it was prepared based on that.

Commissioner Ojienda: I just want to hear from you that you are retracting paragraph 16 of the affidavit and your entire affidavit sworn on 13th October, 2009. Are you retracting or disowning the entire affidavit?

Mr. Abjata Khalif: I am not retracting the entire affidavit because there are some sections here which are still valid, like---

Commissioner Ojienda: Tell us what paragraphs you are retracting.

Mr. Abjata Khalif: Just a minute. Let me go through it.

(The witness perused through the document)

That is numbers 16, 17, 18 and 19.

Commissioner Ojienda: Mr. Abjata, you see how expensive or difficult it is to swear statements on oath which you have not verified. Do you realize that because of failing to verify the information that you were given, you swore a false affidavit? Do you know how serious that is?

Mr. Abjata Khalif: Well, I know that it is bad to give false information. But the other issue is that we did documentation and you cannot force a victim to give you information. You have to document what he or she gives you. We prepared the documentation based on that. In the documentation, one of them mentioned Maj-Gen (Rtd) Ahmed Farah. Based on that, it was in the documentation. I shared with the other human rights activists and asked the victim again. But when the Commission went round, the same victim appeared in front of the Commission and gave an account of what happened and mentioned a Somali military official who was short, huge and brown. He said that he thought that it was Maj-Gen (Rtd) Ahmed Farah. He told us again in the documentation that he was told by other victims that he was the one, but he was not sure. He went back and asked them again whether they were sure he was the one. They said that he was not the one because they had come before the TJRC in Wajir District.

The second thing is that when we presented that side of the story to the group who were compiling a case against the TJRC, I thought that the matter will be taken before a court of law and then we look for a way of mobilizing resources to pick up the victims and bring them to the High Court so that they can give their side of the story and they tell the court whether they made that statement to us. From there, they will inform the court whether they saw Commissioner Farah or not. But, unfortunately, the matter was thrown out of court.

Commissioner Ojienda: So, we proceed. Your statement was as a result of rumours and misinformation, and because of your own testimony, I want to ask you whether you want

to openly apologize to this Commission and Maj-Gen. Farah for the inaccurate statement that eventually ended up in an affidavit filed in court, and which has turned out to be false against a person who served in the forces for many years with dignity. Do you want to offer that apology now?

Mr. Abjata Khalif: Yes, I am ready to offer that apology.

Commissioner Ojienda: Apologise!

Mr. Abjata Khalif: Yes, I am apologising to the TJRC, the Commissioners before me and others who are not before me; and Commissioner Ahmed Sheikh Farah for the inaccurate information which was collected from the victims in Wagalla Area which form the basis of that affidavit and which built case No.470 of 2009. I beg to apologise.

Commissioner Ojienda: You are forgiven. Thank you.

The Presiding Chair (Commissioner Dinka): Thank you very much, Mr. Abjata. It takes quite some courage to make a mistake and then to come and publicly admit and apologise before us. I think this is, in fact, a very good example and a model to be followed by anyone who had given his testimony against anyone for any reason at all. What you have done is very courageous and very decent. As the Presiding Chair of this session, I honestly would like to thank you very much and encourage others to follow your example.

I have no further question for you. Leader of evidence, step down this witness and call the next one.

The Acting Chair (Commissioner Namachanja): Let me just check with the witness. Are you willing to meet Maj-Gen. Farah so that you can also talk to him for purposes of reconciliation if this Commission facilitates that?

Mr. Abjata Khalif: Yes, I am ready and I am more than willing to meet him.

The Acting Chair (Commissioner Namachanja): Okay; thank you. We shall ensure that, that happens.

Thank you very much.

The Presiding Chair (Commissioner Dinka): Thank you very much, Mr. Abjata. Thank you.

Ms. Emily Kimani: Commissioners, our first witness in today's theme of the 1982 aborted coup is Maj. Irungu. He is listed first on today's cause list.

(Maj. Josphat Nathan Irungu took the oath)

Ms. Emily Kimani: Mr. Irungu, how are you this morning?

Maj. Josphat Nathan Irungu: I am fine.

Ms. Emily Kimani: I welcome you to our session. Thank you in advance for taking time to appear before us. Before we proceed further, could you tell us your full names and what you do for a living for the purpose of our records?

Maj. Josphat Nathan Irungu: I am Maj. Josphat Nathan Irungu. I worked in the Department of Defense (DOD) in that particular year; 1982, as a military secretary.

Ms. Emily Kimani: What are you doing currently?

Maj. Josphat Nathan Irungu: Currently, I am a businessman.

Ms. Emily Kimani: During our regional hearings in Marsabit, Kisii, Bungoma and Kisumu, we heard a lot about the 1982 aborted coup, the main reason why you are seated before us this morning. You will be presenting a memorandum on the same. Kindly give us your view and I am going to ask you questions on the same.

You are most welcome.

The Presiding Chair (Commissioner Dinka): Excuse me, Maj. Irungu. I would also like to welcome you and emphasize that the evidence just mentioned, we have heard in a number of cases, the 1982 Air Force problem; the coup and what happened to your colleagues. So, we have full information. Today, you are presenting the memorandum on behalf of your colleagues on the 1982 coup and we would like to listen to you as it will freshen our memories. You will leave your memorandum with us later on and I would like to appeal to you to try and finish your presentation in 15 minutes so that we can hear the others also because there are quite a number. I particularly emphasize on the recommendations as to what you expect from this Commission.

Thank you.

Maj. Josphat Nathan Irungu: Thank you, Mr. Presiding Chairman, Sir. I will start with the introduction. We are here today for a very special and worthy cause; an occasion designed to do our presentation as a follow up to our memorandum handed over to you on 18th January, 2012, which had narrated our woes and the historical past of the Kenya Air Force, trends and growth, coupled with overtures and the heinous crimes committed to us – its own personnel – and that is very unfortunate. This could have been preventable by those in authority and previously made aware of the impending coup before it took place. This was not an act of God. Therefore, those culpable in the top hierarchy should have been made accountable; if not then, held responsible for wrongful decisions they made.

We were mentioning nations like Germany, Uganda and South Africa, where situations had occurred in the past and, in those nations, people were given reparations. It is not easy to soothe so many years of pain, trauma and suffering, and we do appreciate us being ushered into your Commission. We are really appreciative.

Most of us who were in prison at that particular time when the Kenya Air Force was disbanded and its place, a new body was founded; our attention is drawn to the former Air Force commanders who have had discussions about ethnic cleansing which ended up in disagreement that perhaps ended the career of this man. For a new force to be created legally, some steps were too important to be left out. So, the Armed Forces Act must have been handy as it provides a legal framework and the steps necessary to create a new force. The legal minds which crafted and produced this worthy book had in mind order from top to bottom. If the law being used required care and experience in the particular force, then the implementing officer would be guided with all information concerning possible application likely to attract redress. These learned men knew that a besieged President could go out of his way to form an illegal outfit to carry out his bidding; from using the Exchequer and have his way illegally. So, that is why the creation of a force was pegged on statutes, including the approval of Parliament and the subsequent gazettelement.

We would humbly like to inform this Commission that the laid down steps were never executed when the 82 Air Force was formed. Let us take a look at the Armed Forces Act, Cap.199 of the laws of Kenya in comparison to what was done to the KAF Members. In carrying out what they did, the following sections were never applied, construed or just ignored by the 82 Air Force Commanders when dealing with the Kenya Air Force (KAF) personnel.

I have articulated sections that were not followed, and one of them was Section 3, dealing with establishment and employment of armed forces. Section 5 deals with the establishment of Defense Council, Chief of General Staff and Commanders. Section 48 deals with the irregular arrest and confinement. Section 53 - False evidence as perfected by the 82 Air Force. Section 63 - Ill-treatment of subordinates. Section 65—false accusation; Offences under Section 25 and 26 which deal with mutiny and failure to suppress mutiny, falsely construed and anchored under Section 68.

Section 68 was used inadvertently under wrong offence---

Commissioner Ojienda: Mr. Irungu, you are advancing very interesting arguments. I just want you to--- Are you moving to your recommendations? Will you be asking the Commission to find that the 82 Air Force as currently constituted is illegal or was not formed in line with the law?

Maj. Josphat Nathan Irungu: I intend to move into that direction and I was just about to start going to the disbandment of the KAF.

Commissioner Ojienda: Can I suggest that you then go to those firm recommendations that you want us to consider?

Maj. Josphat Nathan Irungu: I would think that may be, with your permission, I read the part I have here about the KAF having been nicknamed as an alias of Kenya Air Force.

The Presiding Chair (Commissioner Dinka): You may go ahead but, please, keep in mind about the timing.

Go ahead!

Maj. Josphat Nathan Irungu: Thank you very much. While agreeing with Justice Nyamu that judges do not make orders in vain, we equally note with dismay that orders Justice Bosire and Justice Mwera made in respect to the effect that resulted in serious absurdities when they declared that the 82 Air Force was a nickname or an alias of the KAF. What we know is that nickname or alias usually will don the character and nature of the mentor. But looked at it in this sense, 82 Air Force, indeed, deviated from that norm by any standards because they changed the following. Service numbers, uniform from blue to beige; the flag, vehicle numbers, renamed the headquarters to 82 Air Force Headquarters, the Armed Forces Standing Orders were changed and sections dealing with Kenya Air Force training were changed to reflect 82 Air Force. So, we were asking that this cannot be a nickname if it changes all that.

Perhaps now because I was warned about time, I should read the section that deals with the--- Or, maybe, I explain off the cuff that the Kenya Air Force existed up to and including 31st July, 1982. The Kenya Air Force had been established under an Act of Parliament. Now, the strange thing is that when the 82 Air Force was created, they did not follow the same process. We would rather say that, that was a bush air force because it never existed in accordance with the law. This is because the 82 Air Force Commander is the one who decided to recommend to the Defense Council and made some draconian dismissals. Because of his membership to the Defense Council, any decision that was made therein, therefore, became contaminated because of this illegality. The judges and lawyers who were hearing the court Martials, we also fought them because they should have known that 82 Air Force never existed. The court Martials should have been stopped until the illegality was corrected. So, the trials were illegal and we do insist that for those who respect the law, any wrong that was done to members of the KAF by those who were concerned, they should be called upon to answer to those irregularities.

Let me go to my findings. You will find here that Gen. Mulinge; we have faulted him because he was the General in charge of the Armed Forces and when the coup was going on, he was found jogging at his Kathiani Farm. What is ironically intriguing to a man who is accused of exercising a hands-off leadership style and hence cowardice in the whole saga; and made Lt. Gen. Sawe to fill in that vacuum.

Going to Lt. Gen. Sawe, this man had little passion for this country and its people because his leadership was based primarily on position, authority and lacking empathy, which given a long period of time, would prove ineffective. Similarly, let us examine the decision he made and appraise the same.

The Presiding Chair (Commissioner Dinka): Excuse me, Major. You are mentioning names and I think we should have had the memorandum earlier so that we could send for those people to be present also to defend themselves. Therefore, because we did not do that, I would like you not to mention names.

Maj. Josphat Nathan Irungu: I will follow that.

Now, let us just go to the recommendations. A number of these senior officers who participated in these illegalities through various ways, we demand an unequivocal public apology. They are still culpable because of the pain they caused to very many men and their families. There should be a mechanism to promptly curb any future irregularity and provide urgently reparations to the victims where state officials have acted retrogressively to trample on the rights of the citizens by allowing themselves to act on advice that was illegal. The purported process was actualized during these horrific moments at the behest of the architects of the 82 Air Force; circumventing the due process of the law, the disbandment and the court martial leading to illegal jailing and dismissals. All the family members of the purported culprits should have been given and accorded respect because they had not committed any offense, but they were thrown out of the married quarters together with their siblings and they were dumped in town. They wasted public funds by executing money wasting strategies because the already implemented popular plans were not in tandem with the Kenya Air Force long-term strategies. This is because we were told that there was a desire to mainstream the Air Force. But at the same time there was a contradiction because at that time the Air Force used to have a Major-General, and having trimmed three-quarters of them, then they created the position of Lieutenant-General and the equipment remained intact. I do not see the logic there. So, this really would go back to phasing and quite a number of our people were thrown to prison naked. This evidence will reveal itself in the subsequent hearing from the other categories.

The political class who organized demonstrations against Kenya Air Force for political expediency that those demonstrations were even done by parents because they did not even understand. There was falsehood under the circumstances and we would like the political figures today to go and reverse that because this portrayed a very damaging picture that our people could not get jobs; their children could not go to school and, therefore, relegated them into oblivion forever.

The judges and advocates who were in charge of the court martial authenticated an illegality. They should have advised the Armed Forces lawyers that the steps they had taken were contrary to the Armed Forces Act---

Commissioner Ojienda: I am sorry, Maj. Irungu. I think you probably do not understand what recommendations are. Recommendations are what you want the Commission to do for you. Findings are what you made in your research. Stick to the recommendations. So far, you have spoken about two main recommendations; public apology and reparations for victims. What else do you want this Commission to do for those members of the armed forces whose term of service was terminated when the 1982 coup happened? It is simple. Do not go into those stories that you are telling us at this stage.

Thank you.

Maj. Josphat Nathan Irungu: First and foremost, the people who were terminated have been ostracized in the society and we prefer that once the truth has come out as well as having given them reparations, we would recommend and ask the Commission to think about these children who were denied education and lost opportunities. We would also like to recommend that if a situation like this happens---

We would like it to go on record that if a situation like this happens again, legal processes need to be followed and particularly so an inquiry should have been established to vet and re-employ those who had been cleared.

Ms. Emily Kimani: Thank you, Maj. Irungu. I would like to ask you a few questions. About how many officers were affected by the aborted coup?

Maj. Josphat Nathan Irungu: According to Maj-Gen. Musonga, he said that the officers who were sacked and yet they did not know anything about the coup were three-quarters of the force. However, according to our own estimation they were roughly, 1,500.

Ms. Emily Kimani: Were all the 1,500 officers you are talking about given any benefits?

Maj. Josphat Nathan Irungu: There are some who were given. They have joined those who were not given because the armed forces employ people on contract. Their contract was stopped rudely and they are in court for that reason.

Ms. Emily Kimani: You faulted the court martial for some of the suffering that you underwent. Could you briefly give us your experience at the court martial? Were you given your right to defend yourselves?

Maj. Josphat Nathan Irungu: I think that is the main problem that we have. It is very disheartening to realize that even the Judiciary did not involve itself to address these heinous crimes. First and foremost, there was the court martial convening order. That order is supposed to contain the names of the presiding officer, three members and other junior officers to understudy. Besides that there must be a judge advocate. I fail to understand if the Armed Forces Act was meant for the Kenya Air Force how was the convening order--- It must have been written "82 Air Force". Was it changed contrary to the Armed Forces Act? That is where we started missing it all.

Ms. Emily Kimani: What recommendations do you give with regard to restructuring of the court martial?

Maj. Josphat Nathan Irungu: First and foremost, the law must be followed to the letter and fear should not govern the lives of our people. The court martial was a puppet and that is why we are blaming the lawyers in the armed forces. I know they were following orders. However, sometimes orders could be misleading. There are situations where you are told to do it and argue later.

The Presiding Chair (Commissioner Dinka): Can you, Maj. Irungu, give us one recommendation how, for example, reforms could be made within the judge advocate in the military? You are now talking about the military court procedure not being fair. What is the recommendation you have on how to reform the court martial system in the Kenya Armed Forces. Tell us exactly what you want to be done.

Maj. Josphat Nathan Irungu: What I feel was that there is no total briefing and the offence must be established. If you go by the historical facts about what has been happening in the armed forces, you will realize that no evidence is given. Officers are eventually given harsh sentences.

The TJRC should insist that the officers to serve on court martial should be given two weeks to prepare. These should be qualified personnel and not the ones who are in the armed forces because those ones are infested with fear and it will be difficult for them to go against their Generals. Maybe the LSK can help handle that situation by also producing a representative in the court martial. That might now rectify the situation a little bit.

Ms. Emily Kimani: I know you have talked largely about the court martial and the fact that you did not get a fair trial. Who do you blame for all the sufferings that you and others have undergone?

Maj. Josphat Nathan Irungu: What I think is that there was that mass condemnation. As I said earlier, the intention of cleansing never changed. That is how we were put in Kamiti. Finally when we came from Naivasha we were told to go home even without trial. What does that mean?

Ms. Emily Kimani: When you talk of cleansing, are you talking of ethnic cleansing? What kind of cleansing are you talking about?

Maj. Josphat Nathan Irungu: We picked this one from the court proceedings involving Maj-Gen. Kariuki. When he arrived in the operations room at DoD Headquarters, he found the Generals there talking about cleansing Luo and Kikuyu officers from the Kenya Air Force. Hence there was need to create a new force and that was why the law was never used.

Ms. Emily Kimani: Thank you for your testimony. I can see you have a written memorandum. I do not know if you wish to share the same with us to form part of the Commission's record.

Maj. Josphat Nathan Irungu: I would gladly give a copy of this because our intention is to help the Commission to see the facts as they were and, maybe, the country and the armed forces will be progressive.

Ms. Emily Kimani: Presiding Chair, I pray that the memorandum be admitted as part of the Commission's record.

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

Ms. Emily Kimani: I have no further questions.

The Presiding Chair (Commissioner Dinka): I would like to thank Major Irungu. I will give a chance to my colleagues to ask you questions if they have.

Commissioner Ojienda: Thank you, Major Irungu for your testimony. I will ask you a few short questions. The first one is on your recommendation on public apology. Who do you consider as the culpable officers who should apologize to you?

Maj. Josphat Nathan Irungu: The senior officers in the armed forces, including Brigadier Githiora for not having advised the Kenya Air Force Commander. I believe he is the one who advised how the convening orders for the court martial should be commenced. General Mohammed was a layman. The Kenya Air Force did not have lawyers. So, he was the architect of all these irregularities.

Commissioner Ojienda: But he was not from the Kalenjin Community. You talked about cleansing. It is a contradiction.

Maj. Josphat Nathan Irungu: I do not think there is a contradiction because I indicated that we captured that statement from the judgment of Maj-Gen. Kariuki.

Commissioner Ojienda: The decision was about the status of 1982 Air Force and the Kenya Air Force. Is there not a decision of the court on this issue? And are you not asking this Commission to overturn this decision that the 1982 Air Force was created out of the remnants of the Kenya Air Force?

Maj. Josphat Nathan Irungu: If that was so, then they should not have reverted to Kenya Air Force. They created 82 Air Force without following the law. As they learnt through mistakes, they reverted to Kenya Air Force.

Commissioner Ojienda: I am interested in the recommendations you made on reparations. You have said that the children of the officers of Kenya Air Force be

compensated for loss of changes and that those who lost their jobs be compensated. What kind of compensation do you recommend?

Maj. Josphat Nathan Irungu: For those who are already aged, they should be considered for projects. For those who can continue with their education, they should be uplifted and given financial assistance.

Commissioner Ojienda: To the main question now, you said that there were architects of the 1982 Coup and some of you were merely victims. Who were these chief architects of the 1982 Coup?

Maj. Josphat Nathan Irungu: Let me say this with due respect. I for one was working in the Ministry of Defence. I was the Military Secretary there. If you look at the records of those who were dismissed, you might wonder if I was sacked because of my uniform. I was not working in the Kenya Air Force.

I was just housed at Kenya Air Force staff quarters, but I was working in the DoD on daily basis from 1980 after having been posted from Nanyuki. Back to your questions, we are aware just as many Kenyans are that the coup was being organized by one person. I for one did not know him. I just heard the name later, Ochuka and his henchmen who were about three. That is why we are talking about wastage of finances. We are aware that in 1971 there was a coup and the people who were dealing with that matter were just a few. The Kenya Air Force at that time was never disbanded.

I will also take you backwards a little bit. There is also a misunderstanding. People coming from the army think that a unit is equivalent to a service. If you take 1KR, it is not in the books of law, rather it is a unit. If you go to Section 3 of the Armed Forces Act, you will find that there shall be established and maintained a Kenya Army, Kenya Air Force and Kenya Navy. Those are services and cannot be equated to a unit. 1KR can be removed and be called 11 KR today without the matter going to Parliament, but it will be very difficult to change a service which belongs to the people of Kenya, for example, Kenya Air Force and substitute it with another one without creating impunity and without going to Parliament. If this went to Parliament, particularly, if there had been a Parliament, it would not have gone through. Parliament would have wanted to know the motive. Then, 82 Air Force was created to carry out atrocities. After it had finished what their mission was, that is, atrocities, they reverted to Kenya Air Force.

Commissioner Ojienda: *Bwana* Irungu, what I understand you to be saying is that there is a distinction between victims and perpetrators, that is, those who were responsible for the coup. You want to make that distinction.

Maj. Josphat Nathan Irungu: Absolutely.

Commissioner Ojienda: There are also those innocent people who were in the streets and elsewhere who died in the coup. Are you seeking reparations for everyone or only for families and officers like yourself who lost out, but were not involved in the coup?

Remember it is an offence to seek to change Government through unconstitutional means. I do not know whether you consider a person involved in that process a victim.

Maj. Josphat Nathan Irungu: I for one do not subscribe to that kind of shortcut or backdoor taking of Government. However, I would think that all who were in the Armed Forces, particularly in the higher echelons who have been mentioned by Major-General Kariuki were aware because they had been told and thus should be accountable for the mistakes that followed. For those who were planning to overthrow the Government illegally, it was not right for them to do that. They made other people who were innocent suffer. But we now know that they were discovered and imprisoned. Above that, they were executed.

The Presiding Chair (Commissioner Dinka): Thank you, Major Irungu. We have one Commissioner to ask you questions.

The Acting Chair (Commissioner Namachanja): The memorandum that you have presented to us you have done it on behalf of VOCA. What does VOCA mean and what are its objectives?

Maj. Josphat Nathan Irungu: VOCA represents the victims of the 1982 Coup. Since we belong to the same fold and have been craving to get employment, we thought that if we had an organization such as VOCA we would be helping our people to get employment.

The Acting Chair (Commissioner Namachanja): Thank you very much. On behalf of the Commission I want to thank VOCA because it was through your network that we were able to reach out to some of the members who were in the rural areas. Without your support, they would not have come to this Commission. I wonder if there are any of them now in the public so that we could recognize them. They could stand up, please.

(Members of VOCA stood in their places)

The Acting Chair (Commissioner Namachanja): Thank you. And I want to presume they walked from various places of this country. In your testimony you made a statement that I would like you to explain a little bit more. You said that the 1982 aborted coup should have been prevented. Could you talk a little bit about this?

Maj. Josphat Nathan Irungu: The coup had been reported officially by the late Col. Njuguna of Kenya Air Force, Nanyuki. He reported the matter to the Commander of Kenya Air Force, General Kariuki who reported the matter to Lt-Gen. Sawe. Both of them went to see Maj-Gen. Mulinge. So, according to the judgment that we are reading, when they were three in the DoD, they thought it wise to give this matter to the intelligence people. The late Kanyotu was the head of the Special Branch and he was made aware of this. Our intelligence team also dealt with this matter. Maj-Gen. Mulinge thought that it would be wise that the matter be left under him for further direction. Later,

it appeared that Mulinge told Kariuki to ensure that a Lt. Mwamburi would be arrested and taken to the court martial.

It was a Friday and so the officer was to be arrested on Monday. Kariuki thought that investigations should go on. The officer to be arrested would help with investigations. That Monday never came to be because the coup took place on Sunday.

The Acting Chair (Commissioner Namachanja): Is this the reason you think the high ranking officers should have been held accountable for the coup and not the majority of the people seated here, the victims?

Maj. Josphat Nathan Irungu: Absolutely yes. The late Kanyotu sent his team from Nakuru. There were CIDs and forces from Nanyuki. They were sent to arrest the plotters. Those officers waited to arrest the plotters, but their mission aborted. So, somebody must have told them to withdraw and the matter was left hanging. So, the people in the high echelons did not do their jobs. They were not assertive. They should have shown leadership because this country was about to be thrown to the dogs. We had very good officers. There were those from Nanyuki, pilots, who had been tasked to bomb certain areas. Those officers did not do it. They went back to Nanyuki having thrown the bombs at Mt. Kenya. Had the coup succeeded I think those officers would have been hanged. We recommend that those officers should be commended with meritorious medals. That did not happen.

In the absence of that it demoralizes other people who would have done good. So, commendations and punishment in the Armed Forces go hand in hand. All that we are demanding is that these people apologize to Kenyans. We reckon some of them are now old. If they can apologize that will be a commendable thing.

The Acting Chair (Commissioner Namachanja): Thank you, Major Irungu. I have no further questions.

The Presiding Chair (Commissioner Dinka): Thank you. As a foreigner, I have been learning. I want to ask you a few questions. Can you give us the names of the three officers who dumped the bombs at Mt. Kenya? These people need to be commended. How can they be contacted? Are they alive?

Maj. Josphat Nathan Irungu: It is good to give you their names despite the fact that those three are no longer there but if they are commended, many will appreciate. They were Captain Barasa, Captain Mugwanja and Major Mutua who was the leader of that mission.

The Presiding Chair (Commissioner Dinka): Thank you very much; Leader of evidence, I hope you have taken note of the names and the spellings. My question is that as a foreigner I have been reading a lot of these events and one of them that I read about was the attempted coup of 1982. If you look at the environment in Kenya at that time, there was a very divided political class, and an ever shrinking democratic space. People like

academics and students were taken and imprisoned because there was the fear that *Mwakenya* and others were trying to do something against the Government. At the same time, the Opposition was operating in this very shrinking space; it was trying to increase space or open up as much space as possible to operate in. It was in that climate of mistrust and fear on both sides that the attempted coup took place. Do you agree with me that this was a kind of clash of fears between the State and opposition and other progressive parties, and then they came to this very unhappy climax?

Maj. Josphat Nathan Irungu: I think I agree with you entirely in that the Government that was there inhibited the political space. Even the politicians in the Opposition at that time were never facilitated to participate in political activities; elections are very important and if they are going to happen and there is rigging, then it will not make sense. There will be those many groups emerging with their own philosophies. You cannot put in one place all the political people who are disagreeing with you; I do not think they can fit in the prisons.

The Presiding Chair (Commissioner Dinka): That is correct. Looking at what happened at the air force, you will find that it was not only a service but it was also about individuals who reflect the society. They had their own political views and career outlook and must have contacts with different people and groups in the society; they will definitely participate in all kind of tensions. From what I have read, a movement within the air force started in 1979 with a man called Dianga who held meetings with different groups in the air force, which were disgruntled and the economic situation at that time was not good as well. Do you know of this Mr. Dianga or is there anything that you can tell us about him? Many people do not mention him? At some point his name appears as coordinator of disgruntled units within the air force in 1979 when he was arrested.

Maj. Josphat Nathan Irungu: At that particular time I was in Nanyuki and Nanyuki Air Force was busy. People loved their job. A majority of them had been taken abroad for training. On returning home, they wanted to serve their nation. I think that the leadership which was given promotions--- It is very important that people are vetted properly because when you give a person a rank of lieutenant general and then he does not take that responsibility seriously the way it should be, then there will be loopholes within the unit. The military is a place where people should not be idle, because the moment you keep them idle, their minds are going to be a workshop for the devil; that is why there are always activities which are so important, so that in the evenings people are not idle. They do not discuss their personal egos. The commanding officer in the armed forces should make sure that the channels of command involve delegation; there must be a meeting with the juniors and their representatives every month. You are likely to filter--- You are going to get a lot of information that the officers are oppressing their juniors. You will know some bit of information that maybe you will not have known because you associate yourself with those groups of people. You must institutionalize those meetings every one month and there must be a feedback from their sections. When they come, they do so with agenda from their sections. Also, they must have picked the agenda from their colleagues so that the leadership within there can reply and take action.

The Presiding Chair (Commissioner Dinka): Thank you. That is enough. I want to ask my last question now. Since you have been involved in this thing from the beginning and also in court cases, do you know if there is any report which exists either from the air force intelligence people or the Special Branch that investigated the matter? Have they presented any reports and have you had access to such reports?

Maj. Josphat Nathan Irungu: It is quite unfortunate that Kanyottu died with that information. In addition to that, and maybe this is a recommendation, the people who should be appointed in the military intelligence must be taken through thorough training. It should not be given to idle officers. You can be idle and be taken to that department. It is a very serious business where you are dealing with the information mill which should be checked to determine its truth or falsehood. The other thing is that speed is of essence to those generals when they get information, they should not sleep on it. They knew the six culprits. They should not have waited for Kanyotu to come and arrest them. The armed force has its own mechanisms. They should have arrested them and taken them, or maybe vetted them, so that they reveal more, but you cannot condemn people *en masse* and without evidence.

The Presiding Chair (Commissioner Dinka): Thank you very much, Major and I have no further questions for you. I would like to thank you for your presentation. You have represented your colleagues, victims of the 1982 attempted coup. You have talked of the subsequent victimization that took place; you have also given us very good recommendations. I hope that the final report of the Commission will have a very good chapter or section on this issue; it will come up with appropriate findings and recommendations.

Leader of evidence, you can step him down and call the next witness. I also hope that since Maj. Irungu has elaborated on issues, the subsequent speakers will take that into account in their presentations, and only emphasise on what he has not said and give recommendations that he might have forgotten, so that we can deal with as many people as possible.

Ms. Emily Kimani: Commissioners, our next pair of witnesses are listed second and third as per the programme and they are both victims of the 1982 aborted coup.

(Mr. George Ndambuki Makosi took the oath)

(Mr. Calvin Okeyo Ogutu took the oath)

A very good morning to you both, I welcome you once again to our session. As the Presiding Chair said, Mr. Irungu has laid a very good foundation by giving us an overview of the aborted coup. I would like you to give us your particular story. Kindly bear in mind that fact. Just allude to what Mr. Irungu has left out, how the coup started and your families and then the recommendations. We will start with Mr. Ndambuki, and you will start off by giving us your full names.

Mr. George Ndambuki Makosi: My full names are George Ndambuki Makosi, Warrant officer I at the time. I had been enlisted in the Kenya Air Force on 18th November 1966; up to the date I left the Kenya Air Force, I had served the KAF and the Government for that matter for the last 16 good years and 118 days. On 1st August 1982, I was very active in the KAF. I was attached to the KAF Technical College as the warrant officer in charge. Unfortunately, on 1st August 1982, while I was in my house, I heard some commotion from outside as I was asleep. I woke up and listened to somebody who shouted outside my house. The statement I got from that person was “You should not wait until a father is killed before the children.” I was worried but as a soldier, I had to change into uniform and quickly go to the offices. I walked to the office to find out what had gone on. Before I got to the offices, I was arrested by a team of camouflaged officers. I was sandwiched between three Land Rovers. I was beaten and ordered to lie flat in a Land Rover. Then I was taken to the armoury where I was forced to arm myself. Without asking, I tried to look around and get more information from my friends. There was nobody to let me know what was going on except that there was one officer, the late Col. Kiluta who tried to whisper to me and also ask me what was wrong. Then we could not communicate very properly. I was driven outside the station and taken outside towards Pangani area. At that particular place, the soldiers were armed and they were shooting in the air. I could not talk to one because I was forced to lie low with my eyes shut. Though I had been given an arm with 28 rounds, I wondered what I would do because I should have received instructions from my senior officers. I kept the arm properly like a soldier. I was driven around up to Westlands while still guarded and then I thought of an escape. While at Pangani near the police station, I escaped by giving those soldiers a false order and telling them to take cover. As usual trained soldiers will obey the order. I knew they would not bother about whose mouth the order came from because they looked drunk and disorderly. As a trainer, I jumped outside the Land Rover and tried to get back to the police station. That was when I was arrested by the army officers. I did not know what was wrong neither did I have any chance of being explained to.

After that, I was arrested. I was put under arrest, beaten, stripped and put under the sun from 9 O'clock in the morning up to 3.00 p.m. in the afternoon. From there, with other people who were dead and others who were still breathing like me, we were tied with ropes and then we were taken to Kahawa where another thorough beating was meted on us. We were put behind barbed wire. We stayed there for some time. From there we were taken to Kamiti. We stayed in Kamiti until 11th of the same month. That was the time interrogations started. Questions which were asked did not pertain to what had happened to me at that particular time. I was worked up by the questions. I also found some officers who were not qualified as far as I was concerned – people who were working in the armed forces as educationists. I met them in that interrogation team and they were asking me questions like: Where have you married from? I was surprised about how my wife was related to war. I was not pleased and I told them that I was not going to answer if they were going that way. I was given a red card and transferred to Naivasha. I stayed in Naivasha from 11th until 14th March 1983. From there, I was taken back to Kamiti. From Kamiti, I was released on the 15th. There was no case against me. I was not taken to court martial. Then I was paid Kshs20. That was my transport from Nairobi to Machakos because that was the rate at that time.

I left the armed forces through the allegations that there was a purported coup but as far I was concerned, there was not anything like that because I had been in the service for 16 good years. There could have been other problems arising between the soldiers and their employer but these were controlled. There was nothing to make these people shout and spoil the lives of people like me. After that, I was thrown outside where I am. That is the reason why we are here; the law was not followed. As Maj. Irungu has said, it is true there was a mistake either unintentional or intentional.

My request through the TJRC, and as a lover of this country, is that I know there was a mistake. We cannot solve a problem by causing more problems. Somebody like me had been given a long service good conduct medal that I never saw. I was not paid anything in regard to my pension or my benefits. Many of us who are outside are languishing in problems and we were not considered as Kenyans, and as people who served the nation; we have been left to suffer up to now. I know this is not the end of what happened and it is true because the air force, army and navy are still there. Is that the end of it? Are there soldiers? What character do they have? If anybody like me who has attained a long service good conduct medal can be punished without following the law, what type of soldiers is working now in Kenya? That leads to a very big question. Whoever planned for what happened in 1982, I kindly request he should be sought and be advised that we love our country, and that is why we have never been involved in any stupid acts. We were trained as soldiers and we were not farmers and we had to control our minds. It is not fair to see their families suffering for 30 good years. These people eat. There is a law. What action has the Government taken and why has it taken 30 good years?

Every soldier wishes to educate their families. He has the right to eat, dress and enjoy. The time a soldier will enjoy is when there is no war. At this particular time, after 30 good years, what do you think as a human being these soldiers have been doing? We do not want this to take place at all, or a similar thing taking place in our country. That is why we insist that orders should be followed and soldiers should be treated as people belonging to this country. In addition to taking orders from their senior officers, they should be respected for what they do. You cannot lead a nation without soldiers. Security is very important and we need it. An amicable solution should be sought. I recommend that families at the moment--- The soldiers who are still alive should be called for an address. Nobody was sacked following the laid down procedures. Why can they not be addressed and told that something went wrong? They should be paid. It is true orders have to be followed. The truth is there, on that particular day nobody was working on 1st August 1982.

We appreciate what the TJRC has done. We are convinced there is a way out and our country is taking the right direction. Thank you so much. We trust that change in the lives of these soldiers who are suffering is about to take place. Thank you.

Ms. Emily Kimani: Thank you very much, Mr. George Ndambuki Makosi for your testimony. I now invite Mr. Okeyo to present his testimony.

Mr. Calvin Okeyo Ogutu: Thank you very much Commissioners for giving us this opportunity, because for 30 years we have kept mum and some people have been telling our story.

This is the first time that we have been given an opportunity to say exactly what happened, and especially those things that affected us. Being the third person, I seek your indulgence to correct an impression that was made by the translation. I am not very good in Kiswahili but I could pick one which was about what Maj. Irungu said. In English, it was “order!” but the translation was showing that it was “*amri*”. I think he was talking about “*mipangilio ilio kamili*” So, for those who are going to air this in Kiswahili, it is worth noting, it was not “order” to mean “*sheria ama amri*” but it was “*mipangilio ilio kamili*” because he was talking about the Armed Forces Act.

As regards the group that I represent and looking at the whole affair of what happened to us in 1982, I can summarize about five people who seriously lost in that saga. The first group is our children, wives and mothers and parents. They saw what happened to their children. Sometimes, it is difficult to say using words of the mouth because that saga has gone on for too long. Unfortunately, some of our kin have passed away leaving the issue pending and they have been crying: “When shall we get a solution? When shall we get comfort? When will somebody realize the problems we are facing?” The second loser in our saga is the Exchequer. This is something that has been ignored for quite a while. Nobody wants to talk about the funds that were wasted; that because of that issue, a lot went on and huge losses were incurred. Sometimes, it has been difficult to explain why the Kenya Shilling depreciated against the dollar and moved from Kshs70 to Kshs85. It started from Kshs35 going upwards. The Pound was only Kshs22 but now it is Kshs130. But nobody will explain that except an economist. Perhaps, nobody will be willing. So, we are turning to the Commission to look at some of the issues concerning the devaluation of our Shilling and relate this to some of the problems we have.

The third loser is our country. We should not close our eyes and think that everything went on normally because there were many wasteful moments and a lot of manpower was just thrown away. If we are to achieve Vision 2030, then it is good to look at the problem in that dimension. We are sure that there are many things that our country is looking forward to. But which donor or agency will want to deal with a Government that does not care about its manpower and its trained personnel. This is giving us a very important challenge to ask the Commission to digress and look at some of those effects.

The fourth one is the military. It is not easy to lose three quarters of your trained personnel and assume that things are normal. That is because you must re-train, reorganize and spend money. That means you are spending money twice. So, our military lost in that saga. What do we do as a country if we want to industrialize? What do we do as a country if we have a vision we would like to accomplish?

The fifth loser is a victim like me. I was only 26 years old and that is the prime age that I was productive. But I have spent those years in incarceration and some hustling. So, if you look at me together with my contemporaries, you will realize that I am far from

achieving what I intended to do. So, you will realize it is not easy to quantify such suffering.

When most officers and servicemen aimed to be achievers and focused on retiring, then the deadly thing struck. They all pleaded their innocence but nobody cared; let alone ready to listen. The answer was the same: "Throw them in jail! Throw them away!" But today we are asking: "Who will redeem us from this wretched life full of humiliation?" I think the answer lies in this Commission; to make sure that you get the true picture of what I am talking about. Let me go to my history and the history of my colleagues.

On 1st August, things changed and life became unbearable. What happened? There was an announcement. I did not have prior knowledge and so, I decided to go to the camp because that was the right thing to do. But little did I know that I was making myself a victim. I arrived at the camp at 10.00 a.m. but when I reached there, all fortunes had changed. All people in the Air Force group were rebels and they were being pursued left and right and the town was so small. There was nowhere to hide. So, upon arriving there in my uniform, I overheard that we were targets for elimination. I stayed in the camp until the following day. When I surrendered to the authorities in the camp, I was stripped naked, beaten thoroughly and placed somewhere in the holding ground. So, everybody who was reporting was coming there and I have described the place. It had tall grass and was wet because it was raining. It was chilly. I stayed there for almost nine hours. That afternoon, I was taken to Kamiti. Many stories have been told about what happened to us there but what I would like to talk about--- This is because the life in jail has not been covered. I want to digress to the life in jail. In jail, I was given a discharge book that had very little to do with any recommendations. There were some people who were assigned to give opposite recommendations anywhere we looked for jobs. So, everywhere we went, there was somebody else behind you going to give a counter-recommendation. I am saying that because it happened to me. It was at the Exam Council where I had written a letter and I told the secretary that before the coup, I had sat for two papers as exams. The other papers were to come later in November and so, I requested for permission to complete my course. I said the reason for that was because I was in jail. If you read my statement and the letters that I have attached, it will be surprising what happened. So, all along, we have been having that hide and seek problem. We are qualified and can work. The country has a vision to move forward. What is stopping us from being considered as people, so that we can get jobs and our talents utilized elsewhere away from the military?

I am praying for this Commission to look critically at the documents we have presented and look at some of those critical issues that we have mentioned. Some of them can move things forward for years to come and bring cohesion. Some of them can also bring true reconciliation and take care of those who have suffered. We thank you for giving us an opportunity to be heard.

Ms. Emily Kimani: Thank you. I have some questions and I will start with Mr. Ndambuki. When you were explaining to us the interrogation process, you mentioned that you were "red carded". Was it a figure of speech or was it something that was literally happening during that process?

Mr. George Ndambuki Makosi: This was happening during the interrogation. There was an interest after I realized and I asked somebody why our wives or relatives were sought to be known. I realized we had some relatives in the prisons, like a brother in law to Mr. Mulinge and he was close to the cell I was taken. Fortunately, we happened to share one room after those questions were directed to me. Then he was picked up at night, set free and I realized a big party was thrown at his home. This was after he had been picked up from the same room we were sharing. Then I knew why the questions were being asked. He was set free and paid while we were left out.

Ms. Emily Kimani: I think you missed my question. I talked about the red card. Were cards being showed to you or what did they mean?

Mr. George Ndambuki Makosi: There was a physical card, a piece of paper, and mine was red meaning the category I was put in was highly suspicious.

Ms. Emily Kimani: What about the other cards? What were their colours and what did they denote?

Mr. George Ndambuki Makosi: There were blue, yellow and red cards. Those are the three cards I saw and I knew the meaning of mine. I was a dangerous person who was supposed to be taken straight to prison.

Ms. Emily Kimani: You did not come to find the meaning of the blue and yellow cards?

Mr. George Ndambuki Makosi: No, I did not.

Ms. Emily Kimani: Thank you. I have no further questions for you. My question now goes to Mr. Okeyo. You have told us about the impact of the 1982 Coup on you as the victim, family and what the country has lost. Have you, as a group, gone to court to try and seek justice for what happened?

Mr. Calvin Okeyo Ogutu: Yes, we have gone to court and there are several cases pending and two have already been determined. We hope that others will be determined. I went through the Court Martial in Langata and I was given four years and taken to Shimo la Tewa. While in Shimo la Tewa, after one year, I was given an opportunity to appeal against my sentence and conviction but after writing my appeal, for some reason, it was not taken to the High Court. After some delay, my appeal was taken to the Court of Appeal. It is a known fact that Court Martial cases are adjudicated by the High Court but mine was taken to the Court of Appeal. I did not know why but when I went to court, the Chief Justice who was the Chair told me that the Court of Appeal does not have jurisdiction. But they did not give me any direction to go back to the lower court. So, instead, they told me that they were going to talk to other departments of the Government especially the Prisons to give remissions to those already serving. I have no clue why I was not given the hearing that I had requested. But now I have a case pending in court

which has been there since 1995. So, we are still hoping that a determination will be given.

Ms. Emily Kimani: Thank you very much the two of you for sharing with us your testimony. Mr. Chairman, I pray that their statements and other documents form part of our records.

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

Ms. Emily Kimani: I have no further questions.

The Presiding Chair (Commissioner Dinka): Thank you both of you for giving us this briefing. Although we had heard that story several times, every time we hear it, we get a new angle as well. We empathize with your pain and I assure you that the Commission has taken very good note of what you have said and will do its best to reflect this thing in the final report. You have been clear and on point and we have no further questions. We will make appropriate recommendations and findings.

Leader of evidence, you may call the next witness.

Ms. Emily Kimani: Before us is Capt. Victor Laban Wamugunda.

(Capt. Victor Laban Wamugunda took the oath)

What do you do for a living?

Capt. Victor Laban Wamugunda: I am currently a small-scale peasant farmer.

Ms. Emily Kimani: The reason why you are before us today is to narrate how you were detained, vetted and reinstated without benefits. Please give us your testimony and recommendations.

Capt. Victor Laban Wamugunda: Thank you for giving us this chance to express and clarify some of the issues which have been said here and there against us in the Air Force.

I was recruited when I was just about 18 years old and trained first on basic military drills and later on as an accounts clerk. When we were still at basic training, I realized that the route I had taken would not go faster up the ladder because some of my classmates who had been through cadet would be officers while I went through the ranks from a corporal, senior private upwards. However, I managed to go through all the ranks from corporal to warrant officer before I was commissioned in 1978. In between, I did several courses in administration and accounts. That is how I got into the Air Force.

I will also try to clarify what had been mentioned about 1979 and 1980 about Corporal Dianga. At that time, I was based at the Air Force Headquarters, Eastleigh and some of the people under Maj. Ogutu including Dianga had tried to form something to agitate for

certain changes and they wanted to influence Maj. Ogutu to be part of the team. Maj. Ogutu was my friend and boss and we grew up together in Mombasa. When he talked to me, I told him that it was not safe and it was better to bring out the matter. He reported the matter and those guys were arrested and court-martialed. In 1982, I was transferred to Nanyuki around June. When I reached there, I realized that Mwambura was also there. I understand Giriama and being one himself, he mentioned to me what was going to transpire. So, I told him that if he had already informed the Military Intelligence then he had no problem. In early July, there was an exercise going on and I was appointed to be the administration officer to be based at Kisumu then. We had aircraft under Maj. Mutai. We continued with the exercise until 31st July. When it ended, we were preparing to move out of the camp either on 1st Sunday or 2nd. At around 7.00 a.m. we heard news that the Government had been overthrown. After discussing with Maj. Mutai – it must have been around 10.00 a.m. – we saw it fit to try and get in touch with the Kenya Air Force Headquarters, but we could not go through. We also tried to get the DoD but we did not manage. I suggested to Maj. Mutai that we try to get through to the Police Headquarters and that is what we did. We talked to the person we got there and explained to him where we were and our predicament. He advised us to hold the line as they would get back to us. We stayed until around 2.00 p.m. when we received a call from the DoD. We told them what we were doing in Kisumu and whatever we had there. So, he advised us to close the camp and nobody should go out or go in and that is what we did.

We stayed there for about 10 days. Before this, the DoD advised us that the aircraft should be released to go back to Nanyuki. I cannot remember how many days we were there, but it must have been before we left there.

Before those 10 days were over, an army unit came. Personally, I approached them. I think it was a major who was the commander. I told him we are here. They told us that we were all under arrest. When I asked him why, he slapped me. It was bitter because we had done nothing. We were peaceful and I used to contact the administration. The DC Maurice Makhanu was the one who assisted us to get food because we had no food. We used to keep him informed of what was going on. So, I believed the authorities knew our movement and knew what we were doing.

After a few days later, we were escorted to Lanet. That time, we were told to remove our uniform and wear our civilian clothes. When we reached Lanet, we were separated. I think we were just three officers. The rest airmen were technicians and the other support staff. This is where we were interrogated and we were told that if there was anything, we would be informed when we reached KAF headquarters.

About two days later, we were escorted by the army, the same unit, the same company to the Kenya Airforce Headquarters. We reached the Kenya Airforce Headquarters towards evening and there were a lot of other people. When we reported, I personally talked to Colonel Kamunyu who was actually an airforce officer and told him that we had come from Kisumu and we did not know what next. He ordered some officers there that we should be included with the other groups. I did not know what the “other group” meant, but we were escorted to Kamiti. The following day, we were called by a person in the

army unit. He told us that we were not supposed to be there and that we should get in the vehicles. We got into the vehicles and we were escorted to Nanyuki. We went to Nanyuki. I found the room which I was staying in had been broken into and everything was scattered. I did not get some of my books and certificates. We stayed there. Sometimes in September, I was called and told that the forces did not require my services anymore and that I should pack and go. So, I was taken by Land Rover and I was dumped at Nanyuki Town. My family was still in Nairobi. I came to Nairobi and never went back to any military camp until 1983 when I came to DoD and tried to inquire what happened. I was denied entry. But luckily, I was standing at the gate and one senior officer - I cannot remember his name - stopped and asked me: "What is wrong, Mr. Wamugunda?" I told him: "I have come to check about my case because I had been told I would be contacted and nobody had contacted me. So, he told those *Askaris* to let me in and escort me to the personnel department. When I went there, I was told that my services were no longer required and that I was retired. I was told that my monies would be paid. I was paid. Even today, I still receive about Kshs1, 200 as my pension.

When I look at my promotion, I rose very fast to the position of captain. I rose through all the ranks. Some of my colleagues and even my juniors by the time they retired, some were colonels. Somebody like Gen. Mutahi who was still a junior to me by service, Gen. Tangai who became Airforce Commander, he was junior to me. So, I feel I was denied a chance to progress in a career which I had chosen. I was not the only one. I believe several people were denied a chance to rise up. As a result of that, to change the military mindset in your head is difficult and a lot of people have suffered. This has affected their families. I know of some people who died because they ended up being alcoholics.

In 1984, I nearly became a drunkard of *chang'aa* because I was idle. I was doing nothing and nobody wanted to employ me. I used to attend interviews, but when they asked me about my experience and I told them that I was an ex-air force officer. They believed I was a rebel and I had problem with the Government.

We would like such cases to be looked into and see how much we have wasted and lost---

The Presiding Chair (Commissioner Dinka): Excuse me. Could you go to the recommendations on that basis?

Capt. Victor Laban Wamugunda: I believe that the army should be compelled to consider compensating us for all those years which we lost up to the retirement time. The people who refused, as Maj. Irungu said, all those senior officers who failed to take action should be forced to apologize. Where possible, our pension should be calculated at the rate which is being calculated at the moment. So, those are my two recommendations. Thank you for giving me this opportunity.

Ms. Emily Kimani: Thank you, Capt. Wamugunda, for your testimony. Earlier on, you had furnished us with a writer-up which you are referring to today. Do you wish that the same forms part of the Commission record?

Capt. Victor Laban Wamugunda: Yes, Presiding Chair.

Ms. Emily Kimani: I pray that the written presentation by Capt. Wamugunda be admitted to form part of the Commission record.

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

Ms. Emily Kimani: Thank you very much for taking time to appear before us today. I have no further questions for you.

The Presiding Chair (Commissioner Dinka): Thank you, Capt. Wamugunda. I will now ask if my colleagues have any questions for you. I will start with Prof. Ojienda.

Commissioner Ojienda: I just want a few clarifications. You were one of those “lucky soldiers” who at least received their benefits because most of the victims did not receive any benefits. It is a small amount of Ksh1, 200. Did you challenge the manner that was used to arrive at that sum? Did you file any suit or any case as yourself against the pension that was given to you?

Capt. Victor Laban Wamugunda: I would like to clarify further about that. The calculation or the pension at that time was much lower. I understand now it has been improved and it is much better. What I am recommending is today including my colleagues here who did not get anything, that if they will be awarded any monies, it should be calculated at the current rate. At that time, a corporal, senior private or sergeant was earning Kshs1, 000. If it is calculated at that previous rate, I can assure you he will not get more than Kshs500 per month. What will Kshs500 do now? People have wasted their 20 years. Calvin has said here that he became a victim at the age of 26 years and now he is about 56 years. These are 30 years down the drain for a mistake he did not commit. I think this is not fair.

Commissioner Ojienda: But you did not challenge the process in court?

Capt. Victor Laban Wamugunda: It was not possible.

Commissioner Ojienda: But you want in our recommendations that we are able to ensure that every person is treated justly?

Capt. Victor Laban Wamugunda: Yes.

Commissioner Ojienda: I just want to find out, you were not imprisoned. They only transferred you to Nanyuki and you were discharged?

Capt. Victor Laban Wamugunda: When we went to Lanet, it was like we were in prison. We were denied movement. You could not go anywhere.

Commissioner Ojienda: You describe yourself as a civilian.

Capt. Victor Laban Wamugunda: No, I was not a civilian.

Commissioner Ojienda: You said you were an administrator and not a soldier.

Capt. Victor Laban Wamugunda: I was a soldier, but I was an officer.

Commissioner Ojienda: You were in Kisumu at the time?

Capt. Victor Laban Wamugunda: Yes, we had a military detachment.

Commissioner Ojienda: How many other officers were serving with you in Kisumu went through the same fate as yourself?

Capt. Victor Laban Wamugunda: I cannot remember exactly who was serving there, but most pilots are officers. When they were going back to Nanyuki, most of the officers went by air. Since I was the administration officer, there is no way I would have left the men to come alone.

Commissioner Ojienda: I empathize with your situation and with the situation of the members of VOKA. I read the memorandum of Irungu in detail and I know it has been a very painful experience. In spite of the difficulties, what have you done with your life since you left the force, because you cannot just tell us that you just sat down and waited for time to pass until now. What have you been doing?

Capt. Victor Laban Wamugunda: One, I went back to school and I have worked until 2009. I have worked for about three companies and I was not at peace because I still felt I should have been in the Air Force. I lost my chance in the Air Force. I would have been a senior officer by now. Maybe I would be a general.

Commissioner Ojienda: I think I understand your pain; lost opportunity and future.

Capt. Victor Laban Wamugunda: Exactly.

Commissioner Ojienda: I hear you. We will do what we will to make recommendations.

Capt. Victor Laban Wamugunda: I am not alone. We have another officer here, Capt. Mwangi---

Commissioner Ojienda: When we make recommendations, they will apply to all persons in that capacity because I know that it is not just you; it is members of VOKA who are present here, their families and other people who are victims. Thank you.

The Acting Chair (Commissioner Namachanja): Capt. Wamugunda, when you say an army unit came for you, you are talking of how many officers?

Capt. Victor Laban Wamugunda They must have been about 50. All of them were armed.

The Acting Chair (Commissioner Namachanja): They were to come and pick how many people?

Capt. Victor Laban Wamugunda I think we were about 60.

The Acting Chair (Commissioner Namachanja): And the officer that slapped you, if you compare with your rank, was you able to tell whether he was your senior or junior?

Capt. Victor Laban Wamugunda I think he was a major. He was my senior.

The Acting Chair (Commissioner Namachanja): At what age were you laid off?

Capt. Victor Laban Wamugunda When I was 32 years.

The Acting Chair (Commissioner Namachanja): At a prime age. I am sorry for what you went through. I have no other questions.

The Presiding Chair (Commissioner Dinka): Thank you very much, captain. I have no further questions for you. I do understand and empathize with you, especially that you lost opportunity at that early age of your career. You wanted very much to pursue your career, but you were dismissed. That is a very sad story for a person who was dismissed from his career without any due process of law. So, I feel sorry for you, but as my colleagues have said, we have heard you and you have presented your case properly.

Capt. Victor Laban Wamugunda Thank you.

The Presiding Chair (Commissioner Dinka): Leader of Evidence, you may call the two ladies now. How many people do we have now?

Ms. Emily Kimani: The two ladies and a gentleman; that is Mr. Masara.

The Presiding Chair (Commissioner Dinka): First of all, let us hear the two ladies because their case is a bit different. Welcome, ladies.

(Ms. Ruth Wangui Gatua took oath)

(Ms. June Ndambuki took oath)

Ms. Emily Kimani: I thank the two of you for taking time to appear before us today. You are here to give us the gender perspective on the trials and tribulations that the families of the victims of the 1982 coup have undergone since that event took place. We will start with you Ms. Gatua. You will give us the impact of the 1982 aborted coup on the families with Mr. Okeyo having also touched on the same. You could further add to

what he told us. You can start off by telling us your full names for record purposes after which you will proceed with your testimony.

Ms. Ruth Wangui Gatua: My name is Ruth Wangui Gatua. I am from Kiambu. I am a retired teacher and I am a farmer now. I was married to Samuel Ndung'u Gatua who was an army officer and who really suffered. He was taken away. On 1st August, 1982, we were asleep and around 3.00 a.m., we heard shot gun sounds outside our house. So, I asked my husband what was going on and he told me he did not know. So, I told him I wish you could call Col. Wachira to tell us what is going on. He was a friend and I thought he was a soldier who could tell us what was going on. Everything calmed down and we slept. But in the morning, I had visitors; it was a Sunday. I had to wake up early to prepare for the visitors. When I was doing that, I turned on my radio, but it was silent. I went outside and saw one of the soldiers and asked him what was going on. You are all busy? I asked them what had been happening at night. Do you not know that the Armed Forces have taken over the country? I could not believe it. I started crying. I prayed and told God: "No, no." I told my husband: "Come out. The Armed Forces have taken over. You want us to be like the other countries." It was terrible. We started seeing lorries coming from outside full of things. We did not know what they were ferrying. Everything was in confusion. The whole day on Sunday, we could not do anything. The children were there. I told my husband; you had better go out and join the others. You will be killed here because they are coming with guns. Nobody could talk to you. He tried to refuse, but my daughter, my son and I told him: "You have to go, but we do not know where." Outside there was a total confusion. The army officers were saying all those men who were in the house were to be killed together with their wives and children. So, he went. We do not know where he went. He stayed up to lunch time and he came back for lunch. We tried to cook. At around 3.00 p.m., I do not know whether the military had taken over power. He went again. That was the last time I saw him until sometime in March.

During the time we were left alone, there we had a lot of problems with the men from the armed forces. They were doing anything they wanted with the wives and children who had been left behind. But I thank God that one of the men told me: "Mama, I can see you are a teacher. What do you want us to do with your children?" I told them, take them to River Road where my dad was. He was kind enough. I thank God for him but we suffered. Women were raped and beaten. Our property was destroyed because they were saying we looted that property. I was learning how to make coats as a teacher. So, when they came, they said the material was looted in town. I also thank God because there were some girls that were making table clothes for them. So, they did not take them away. They were taking the best. Anyway, we suffered the whole time we were there. After that, it came the day for them to tell us to go. They had chosen the best things from our houses. I lost my *sufurias* which I had bought in AFCO. I had bought them because I knew one day, I would leave the Air Force and I could not leave that place empty handed. So, I bought so many things and I used to keep them in the ceiling. I left them all there. I do not know how much they are worth today, but it is a lot of money. I left plates, cups and such things. I know most of the women were doing the same. We were told to pack.

We had nobody to help us to pack those things. Our husbands were not there. These people from the army---

Interpreter: Leader of Evidence, there is a technical problem. Kiswahili channel cannot go on the Floor. Maybe you can stop the witness and then we continue later.

The Presiding Chair (Commissioner Dinka): There is a technical problem with interpretation. Technical people, could you, please, fix it very quickly?

(The technical problem was fixed)

The Presiding Chair (Commissioner Dinka): You may continue now.

Ms. Ruth Wangui Gatua: After they told us to pack, they brought us small Land Rovers to put our things. I had bought so many things from the Air Force because I knew that one day, I will leave that place. So, they brought us those and they told us we had to go three of us in one vehicle. Whatever I was able to take out, it could not fit in the Land Rover. So, they provided me with a lorry and used a lot of abusive language towards me. They told me that I was not thinking of anything else apart from buying things. There was nothing that my husband even bought for me.

After that, we were taken to any place. My husband was from Elburgon. So, I was asked, do you want to go to the bus station in Nyamakima or where do you want to go? I told them to take me to River Road because I knew somebody there who would help me. That is where I was dumped. All the other women were dumped anywhere by those soldiers.

From there, we had to look for somewhere to stay. I can say God was good to me because I was teaching at Kariobangi. I had a small house there. That is where I went with two of my friends; Mrs. Gathachi and Mrs. Omolo. That is where we went to stay until my husband came and he was given only Kshs30. I even wanted to carry his picture when he came because I told him to have a photo taken but I could not get it. Otherwise, we thank God because he has taken care of us. We suffered enough. I do not want to talk more because I will shed tears. Our children suffered. I had my son who was very bright, but he could not make it. He even became terrified. It is only God who knew. Otherwise, I thank God for this opportunity to appear before you. May God bless you so much for availing this opportunity.

Ms. Emily Kimani: Thank you very much. I am very sorry that I have taken you back to those very unfortunate events. I pray that God may give you strength. I now invite June Ndambuki who will be giving us her perspective and give us the recommendations of the families of the victims of the aborted coup of 1982. You can start off by telling us your full names, what you do for a living and then proceed with your testimony.

Ms. June Ndambuki: For a very long time, I thought I overcame this, but I think it is still fresh in my mind. My name is June Ndambuki. I work for Face of Kenya which is an initiative that is giving Kenya a new face after the post-election violence. I love this

country and that is the reason why I am one of the people who started this organization. Some of the problems that we went through as we were growing up because my father was a soldier could be similar problems that people are going through today who were affected by the post-election violence.

I represent children of the soldiers who were in the forces in 1982. I was schooling in the Armed Forces Primary School which was the Airbase Academy. This school was a very unique school and now you can imagine a child coming from an academy like that and being taken to the rural community and being forced to adjust. We adjusted, but it can never be the same. We lived in a very prestigious estate in the forces. When this happened, we had to relocate to other communities. Our family had to go to the village. Later on, my mother was able to bring us back to the city, but we ended up living in the slums. We had to adjust to a different lifestyle more than two times; from a rural village to a slum. Later on, things changed when our father came back.

I know this is the same for many other families because we are still in touch with them. Some of our parents got into drug addiction because of hopelessness. Has justice been delayed? If our parents committed a crime, why have they not been taken to court and a solution arrived at? When will this happen? I say this because our parents have been back and forth in the city looking for a good lawyer to address their issue. My siblings and I have personally contributed towards paying for the court cases that my father has been involved in.

We have been in a sandwich generation.

May I say that we have been in a sandwich generation whereby I have my own family, but I still have to take care of my parents because they left the Armed Forces unceremoniously without any benefits? So, I have to care for my own children and my parents as well. This is the same case for many other families because they were affected in the same way. Hope got lost completely and I think our parents were not oriented nor prepared for this kind of life. My dad, Mr. Ndambuki, just spoke a while ago.

We would love to see and we would be very happy to see what happens. We lost a lot of opportunities as children because my dad had to balance to take care of us and to take us to school. Of course, he wanted us to go to the best schools in the nation but that was not possible because he went from one job to another, at one point, he had to start a business, which did not take off because he was not prepared for it. Just like the Swahili people would say: “Maji yakimwagika, hayazoleki or spilt milk can never be recovered.” We cannot recover!

Even if we asked for compensation as children, we cannot be compensated for the opportunities we lost. I am sure reconciliation can be reached, but who is to blame? Can they come into public and apologize and even explain to us why all these happened? I hope bringing these issues to the TJRC; I believe reconciliation is a process. Can we start somewhere by understanding who is to blame and then move forward to the next level?

Thank you so much.

Ms. Emily Kimani: Thank you very much, June and mama Wangui, for your testimonies. It is very painful to remember those things and to recall how life changed after that unfortunate incident to your respective family members. I have no questions but to thank you for your courage and willingness to participate in this process.

May God give you strength and bless you in your endeavours.

Thank you and I wish you well in your endeavours.

The Presiding Chair (Commissioner Dinka): Thank you very much, Leader of Evidence. I would like to thank you, Mama Wangui Ndambuki, and your daughter for your testimonies. I would like to ask my colleague, the Acting Chair, Commissioner Wanjala, if she has any questions for the witnesses.

The Acting Chair (Commissioner Wanjala): Let me join the Presiding Chair to thank Mama Wangui and June for their testimonies. A lot has been told about the *coup-de-tat*, but we have not heard from the gender perspective, especially how mothers struggled with the children after losing either their breadwinners or their husbands having lost their jobs. We are here to represent that struggle.

Mama Wangui, I am sure you did your best to support your children with your salary as a teacher. I know it was never the same. You would ask: If he continued being there with his job, may be he could be supportive.

To June, thank you so much for having adjusted and moved on. Others would have just given up or would have refused to go to their rural home, after living and attending prestigious schools. But you struggled on and may be that is the reason why you are struggling with this organization and you are trying to show us a new face, after Post-Election Violence (PEV). Mine is just to encourage you to move and continue supporting your family. We will take the recommendations that you have shared with us seriously.

The story of 1982 *coup-de-tat* would not be complete without the input from women which you have done. You have represented the women very well.

Thank you so much.

Ms. June Ndambuki: Thank you too.

The Presiding Chair (Commissioner Dinka): Thank you so much both of you. I think you are a great example of the refusal to be defeated and also the resilience of the human spirit. You have gone through hell and you are back. I am sure your future is great because nothing would worry you or nothing like this would happen to you again. I hope and pray.

We thank you very much of coming and giving us this new perspective from the point of view of the families of those Kenya Air Force officers; men and women who had been victimized by the *coup-de-tat* and the consequences thereafter. You suffered but you have survived.

Like they say, you should not ask where somebody has fallen but how he got up.

Thank you so much. We are all indebted to you.

Leader of Evidence, you may step down the witnesses and call the last witness.

Ms. Emily Kimani: Thank you, Presiding Chair. About our last witness who was to be Mr. Masara, it has been brought to my attention that he will not be able to make it for the hearing today. Therefore, from the LOE Desk, that is all we had.

The Presiding Chair (Commissioner Dinka): So, are these the last witnesses?

Member from the Audience: He is here!

Ms. Emily Kimani: Sorry, that was a miscommunication.

The Presiding Chair (Commissioner Dinka): Is he there?

Member from the Audience: Yes, he is here!

The Presiding Chair (Commissioner Dinka): Please then, come over. I am sorry for the mix-up.

(Mr. Wilson Masara took the Oath)

Ms. Emily Kimani: Good afternoon, Mr. Masara?

Mr. Wilson Masara: I am fine.

Ms. Emily Kimani: Again, I apologize for the mix-up to the Commission that we were given about your absence. We thank you for being with us this afternoon. If you do not mind, please, tell us your full names for record purposes and also what you do for a living.

Mr. Wilson Masara: My name is Wilson Masara. I used to work with the Kenya Air Force as a Supplier Grade I. Up to now; I am trying to be a farmer.

Ms. Emily Kimani: Thank you for that information. A lot has been testified about the aborted 1982 *Coup-de-tat* from our regional hearings across the country.

I, kindly invite you to give us a brief testimony, your personal experiences and the recommendations thereto.

You are most welcome.

Mr. Wilson Masara: I will start by thanking the TJRC for giving me this opportunity so that I can also be able to explain what I went through; especially my fellow brothers who have just left here; Major Irungu, Makosi, Major Okeyo and the rest.

They were working on different categories. I also want to start by explaining on another category for those who were taken to prison without being tried before court.

When this happened, I was in Nanyuki and I used to have a small cube outside the camp. But at that time, at about dawn, we heard a siren from the camp and it was your responsibility if you are outside the camp or inside the camp to run the best you could to know what is happening. That morning, I left and went to the camp. On reaching at the main gate, I was arrested by gate wardens and I was thrown to a certain room. While there, I met so many people inside who had also been thrown there. That is when I realized that they were just gathering people who were coming from outside, those who had not responded to the siren immediately. They thought that there were people who were coming to work with them.

I came to realize that there were people who had knowledge about this and those who did not want to come and gather with them were taken as people who had mistakes. So, we were taken into this room up to around 11.00 a.m., when people from KA1 came to our camp. That is when we saw those people who had some knowledge about what was happening. They came and opened for us and told us that everyone should be armed.

Each one of us took a gun and we were there. The rest of us did not know what to do. So, we were asking ourselves: "What do we do? These ones have come and have taken the guns, do we start fighting and why are we fighting? We did not know what was going! We waited for others to come near and then they came and told that us: "You are under arrest, so, surrender you guns." Then we were put together and told to sit down and the others who were standby with the plane.

These people who were there had knowledge of what was going on. When they were told that, if you see anyone who is going to go against the orders, coming from any other unit or who wants to fight us, you can also attack them. So, they did not do that. They also surrendered because they did not do as they were ordered to do. People from the army arrested us and took us to King'ong'o Prison. When we reached there, we were stripped naked before police women and men and we stayed there for three days and then we were taken to Naivasha.

When we were at King'ong'o, we were in three groups. While in those three groups, I realized that I had been put in a group of the Red Card Group. So, when we were taken to King'ong'o, we had again been put---

In Naivasha, we were really beaten and were put in house full of water, which was bad and we were to stay in that water for four days. We could not walk but we came out of that water.

Thereafter, we were not taken to any court. After three months, we were told that, we were under detention. So, we stayed in detention for two years. That was when we came to meet a panel that had been formed that used to come after six months. The panel said that it had been sent by the President to come and see if we had changed. It would interview us; ask us whether we had really wronged the Government. We were asked whether we wanted to apologize. We did not know why we were apologizing because we did not do any wrong to the Government. We were not given any freedom to talk to our families and we were not given any chance even to write a letter home to say where we were. We stayed under torture as time went by, but afterwards, we were set free. When the panel came to interview us, it used to take recommendations and two or three people could be set free. I also got some lucky because after five years, I was set free.

What I can say is that where I was at the Kenya Air Force, I left my Academic certificates there and I never got them.

What I can remember too is concerning the *coup-de-tat*. The Government knew about it because when there was an Agricultural Show in Nyeri District, some of our drivers took our bosses there. When they came back, they told us that the President said there was rumour that there are people who wanted to spoil this country, but the Government was keeping watch.

I want to say that the Government was aware that there was a *coup-de-tat* that was looming. Why then did they not take action?

I want to say again that, if really we wanted to overthrow the Government and if we had prepared ourselves because we were army people at that time--- I want to tell you that the Kenya Air Force has planes and if a plane carries missile and it wants to throw it somewhere, all people down there would perish. What could have prevented us from overthrowing the Government if really we had prepared to do so? If we really wanted to fight people who came to fight us---

We did not know anything, we wanted peace and we were just confused because we did not know what was going on. That is why all those pilots who had been told to go and bomb somewhere did not understand where they were going to bomb and who had done any wrong to be bombed. So, we had everything we could use and we were able to attack anyone who would come to our camp to attack us. But we did not want to do that because there was no reason for us to do that.

I want to say again that if someone is put to detention like my group did, and then you are set free without going to court, that is to say that I did not do anything wrong because if I had wronged anybody, I was supposed to go to court.

By then there was a lawyer; Mr. Khaminwa and Mr. George Anyona Moseti, who were in Naivasha Prison and they were released without charges. If someone has done something wrong, he is supposed to be taken to court to be proved guilty. In the absence of that, then it means we were not guilty because we were set free. We were also put in detention and we were not charged. We were not taken to court, so we did not have any wrong and, therefore, the Government spoils our lives and our careers for no good reason.

Even if we want to look for a job anywhere, we do not have certificates. Our children do not go to school yet we were officers who were working for the Government. But now even at home when a cow dies, we are hired to bury it. We are so useless in the family. If somebody wants to split a log, he calls you and says: "Look at these people, they used to say that they are officers." Everyone looks down upon us.

So, I am praying to the Government, if it can - I am trying to talk about this Government because the past Government did wrong to us and it looked down upon us. It set us free without any charges. This Government should think about us. Even if we said that we go back, we cannot work because we are now old. Let the Government just compensate us so that we can do something else.

I also want to say that the papers I have here shows that I had been dismissed. It shows that I was dismissed in August, 1982, when the coup-*de-tat* took place. So, I am asking: When did they sit down to prove that we were wrong and at the same time, they sent us home?

That is all I have.

Ms. Emily Kimani: Thank you very much, Mr. Masara, for explaining to us the difficult event that happened in 1982. We are very sorry for what happened.

I just have one question from what you have explained to us. In your testimony, you have told us that while you were in jail during the second year, there was a panel that came to see whether you had changed. This panel comprised who and who?

Mr. Wilson Masara: I can remember there was Philip Kilonzo who was one of them, Justice Miller and the others. It was a panel of seven people. Their work was just to come and see whether you had changed your view and perspective. I did not understand whether we had a bad intention to the Government.

Ms. Emily Kimani: Thank you very much for that answer. I do not have any other question. Commissioners, please!

The Presiding Chair (Commissioner Dinka): Thank you very much for your testimony. We also thank the Leader of Evidence.

Madam Acting Chair, do you have question to ask?

The Acting Chair (Commissioner Namachanja): No, Presiding Chair.

The Presiding Chair (Commissioner Dinka): I have no question either. Your case is straightforward. You have told us what happened to you and we empathize with your suffering and with the pain your family went through.

As I mentioned to the witnesses ahead of you, the Commission has taken very clear note of your complaints about victimization and your recommendations.

We will do everything possible and make appropriate recommendations in our final report. Thank very much for coming.

Leader of Evidence, is there another witness right now?

Ms. Emily Kimani: No, Presiding Chair.

The Presiding Chair (Commissioner Dinka): In that case, I would like to thank all our witnesses this morning to start with---

I hope you will read for me. I do not want to mispronounce names. I would like the Acting Chair, Commissioner Namachanja, to pronounce the names for me.

The Acting Chair (Commissioner Namachanja): Mr. Abujata Abdi Khalif, Major Josephat Nathan Irungu, George Ndambuki, Makosi, Kelvin Okeyo, Ogutu, Capt. Victor Laban, Wamugunda, Madam Ruth Wangui, Gatua, June Ndambuki and Wilson Masara.

The Presiding Chair (Commissioner Dinka): Thank you very much, Acting Chair, for that assistance. I would like to sincerely thank all those whose names have been read out and who came before the Commission this morning and afternoon and gave us your testimony.

We are very sorry to take you through those very tragic days and to remind you of your suffering again. But we hope that in some way, it has contributed to the relieving of some of your pain and suffering.

Hopefully, it will help you to find, at least, partially some kind of soother to the tragedy that befell you and your families.

I would also like to thank all the staff that has taken part in the preparation of this meeting today, particularly the interpreters, cameramen, secretaries, the Leader of Evidence, of course, and the Evidence Clerk, whom Commissioner Ojienda preferred to call Mr. Ocampo.

I would like to thank all of you. Without you, nothing could have been done.

Last but not least, I would like to thank all the audience members who patiently and sadly listened very carefully with all the dignity that the witnesses and their testimonies deserve.

With that, I now declare this session adjourned. I would like to call the co-ordinator to take over from here.

(The Commission adjourned at 2.20 p.m.)